

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Room E1.016  
Capitol Extension  
1100 Congress Avenue  
Austin, Texas

Friday,  
December 17, 2010  
10:30 a.m.

MEMBERS PRESENT:

C. KENT CONINE, Chair  
LESLIE BINGHAM ESCAREÑO  
TOM H. GANN  
LOWELL KEIG

MICHAEL GERBER, Executive Director

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<i>Texas Homeownership</i>	
b) Presentation, Discussion, and Possible Action to Submit an Application to NeighborWorks America for the National Foreclosure Mitigation Counseling (NFMC) Program - Round 5	--
<i>Multifamily Division Items - Housing Tax Credit Program</i>	
c) Presentation, Discussion and Possible Action regarding Housing Tax Credit amendments	--
d) Presentation, Discussion and Possible Approval of Housing Tax Credit and Exchange Program Extensions	--
<i>Multifamily Division Items - Private Activity Bond Program</i>	
e) Presentation, Discussion and Possible Action for the Inducement Resolution Declaring Intent to Issue Multifamily Housing Mortgage Revenue Bonds for Developments Throughout the State of Texas and Authorizing the Filing of Related Applications for the Allocation of Private Activity Bonds with the Texas Bond Review Board for Program Year 2011, Resolution No. 11-014	--
f) Presentation, Discussion, and Possible Action on the Release and Termination Agreement for Multifamily Housing Revenue Bonds Sphinx at Delafield Series 2004, Resolution No. 11-016	--

*HOME*

- g) Presentation, Discussion and Possible Action to Ratify HOME Program Reservation System Participants approved by the Executive Director --
- h) Presentation, Discussion, and Possible Action on Multifamily Development Award Recommendations --
- I) Presentation, Discussion, and Possible Action to Approve for publication in the *Texas Register* final order adopting amendments to the HOME Program Rule, 10 Texas Administrative Code, Chapter 53, Subchapters B, C, D, and H --

*Office of Colonia Initiatives*

- j) Presentation, Discussion, and Possible Action on the appointment of new Colonia Residents Advisory Committee (CORAC) members for Val Verde County --

*Program Services*

- k) Presentation, Discussion, and Possible Action on Department policy on "HUD Section 3" (to comply with 24 CFR 135) --

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*Community Affairs*

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3. Report on the Natural Disaster Housing Reconstruction Advisory Committee --

EXECUTIVE SESSION 55

1. The Board may go into Executive Session pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

2. Pursuant to Texas Government Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:

a) *The Inclusive Communities Project, Inc. v Texas Department of Housing and Community Affairs, et al. filed in federal district court, Northern District of Texas*

b) *Caroline Miller, et al v State of Texas, et al, filed in District Court for Travis County*

c) Claim of Gladys House filed with the EEOC;

3. Pursuant to Texas Government Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Texas Government Code, Chapter 551; or

4. Pursuant to Texas Government Code §559.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person

OPEN SESSION 56

ADJOURN 57

P R O C E E D I N G S

MR. CONINE: Good morning, and welcome to the December Board meeting of the Texas Department of Housing and Community Affairs Board. Happy Holidays and Merry Christmas. I just hope everybody is enjoying the festive mood. We had -- as a Board we an opportunity this morning to have a little Christmas celebration with our wonderful TDHCA staff and share a few moments with them.

And I'll just say that we as a Board are exceptionally proud of the work Mike, you and all the staff people do. It's been an interesting year, it's been a hard year. People have done -- the staff have done work over and beyond the call of duty either due to our United States Congress, or some other factors that have caused that.

But I want to say that we're exceptionally proud of what the Department has accomplished this year, and it could not be without our hardworking staff responding to the challenges they have, responding to the development community as they have, and responding to the various legislatures and state officials that we have to respond to, so for that I'm exceptionally thankful.

And hopefully everyone here will have a wonderful holiday season.

Let me call roll right quick.



Leslie Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. CONINE: Kent Conine here.

Tom Gann?

MR. GANN: Here.

MR. CONINE: Lowell Keig?

MR. KEIG: Here.

MR. CONINE: Juan Muñoz?

(No response.)

MR. CONINE: Gloria Ray?

(No response.)

MR. CONINE: We've got four here, which gives us a quorum.

Off the top of the bat, I want to thank Lowell Keig especially for being here today; his wife had surgery yesterday. And we are also sorry that Ms. Ray is not here; she's pretty much got pneumonia, I think, and is feeling pretty down. And Dr. Muñoz had some scheduling issues.

So we are going to have what I'll call an abbreviated Board meeting today. We're going to try to get -- fast track as many agenda items as we need to get approved in the month of December, and we're going to push off some items to the month of January, and we're going to allow Mr. Keig to get out of here and go back to take care

of his wife, which is where he needs to be.

So I would ask those of you that signed up for public comment to take that into consideration. We also need to have to -- as a Board need to have an Executive Session, and I told Mr. Keig we'd be out of here in an hour or so. And so for those of you that need to make any other plans, plan accordingly for that time frame, if you will.

With that, let's see, we want to go to the consent agenda first before we do public comment?

MR. GERBER: We can, yes.

MR. CONINE: I think I'd rather do that, and then we'll open it up to public comment before the agenda -- before the -- the specific agenda items will be later on, but why don't we go straight to the consent agenda, if I might.

Mr. Gouris?

MR. GOURIS: Tom Gouris, Deputy Executive Director for Housing Programs.

There are a number of items on the consent agenda. The one that I want to bring to your attention for clarification the Item 1(d), and in that -- embedded in that are some requests for -- well, they're -- these are extensions and some of the extensions come with them potential penalties for future years. And there are requests within those to waive those penalties.

What we're asking you today to do is just to look at the extension itself and approve the extensions as a whole and that the waivers can be addressed at the next meeting when applicants who have new deals next year request those waivers for these circumstances, so we'll address them at the next meeting.

MR. CONINE: Okay. So for Item 1(d) on the consent agenda, our understanding is we're just going to deal with the extensions and put the waiver decisions off until January.

MR. GOURIS: That's correct.

MR. CONINE: Okay. Is there any questions of the Board of Mr. Gouris? I have some public -- witness affirmation forms for Agenda Item 1. Hang on just a minute, let me make sure I'm doing this right. Are there any other items on the one -- we'll leave one like it is.

Okay. Dan Allgeier, speak or not speak.

MR. ALLGEIER: Speak, real quick.

MR. CONINE: Okay.

MR. ALLGEIER: I'll be too quick. My name's Dan Allgeier, New Rock Companies, and this is regarding a waiver of the fee. 1(d) is an extension of a cost certification deadline, the project is Residence at Onion Creek, it's in Austin. The delay was beyond our control. We paid the \$2500

fee for the cost certification extension.

Austin had a drought last year, they had watering restrictions, we couldn't build our pool because you couldn't fill it, you don't build a pool if you don't fill it, it'll crack. That delayed submitting the cost cert because, one, we couldn't get our final inspection because that's an amenity and you've got to show the amenity; two, we couldn't complete our audit because we didn't have costs; and, three, we couldn't do an as-built survey because there's not a pool to put on the survey.

The result of all of that is after the watering restriction went away, we built the pool, we submitted the cost cert. We paid a \$2500 fee for the extension, cost certification extension. It's on the agenda, consent agenda; staff's recommended approval. We just would like consideration because of the drought. We paid 2500 bucks, we wouldn't mind getting it back. Thanks.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Robert Onion?

MR. ONION: Actually, Melissa Adami was next.

MR. CONINE: Excuse me. Melissa Adami.

MS. ADAMI: If you guys don't have any further questions, I think we agreed on a January 30 extension date.

Is that correct?

MR. CONINE: I think that's a different agenda item than this one, is it not?

MS. ADAMI: Is it?

MR. GOURIS: That's correct.

MR. CONINE: Or am I missing --

MS. ADAMI: Is it? Okay.

MR. GOURIS: This is an extension for the -- they have two items on this for the same transaction, this is an extension for the tax credit. And, again, we're just -- we're agreeing to extend the date without addressing the waiver of any penalty points until the next meeting.

MR. CONINE: And what is the date we're extending that to?

MR. GOURIS: There's a couple of days -- they've submitted it already. They didn't submit it on time, we talked to them, and they submitted it a couple of days later. So they've already submitted it --

MS. ADAMI: Yes, it was the day after.

MR. GOURIS: Yes, I think the --

MR. CONINE: Okay.

MR. GOURIS: -- extension is one day.

MR. CONINE: Okay. Thank you.

Make sure I read this right. Casey Bump?

MR. BUMP: Mr. Conine, Casey Bump and Barry Palmer. We signed up to speak about the same issue, but it's related the waiver of penalties, so if that's going to be pushed off till the January meeting, then --

MR. CONINE: Push it off till January. Okay. Hang on, let me get my paperwork done here.

MR. GOURIS: Mr. Conine --

MR. CONINE: Yes, Mr. Gouris.

MR. GOURIS: -- if I might just clarify the waiver that we were talking about pushing off is the waiver of the penalty points for a future application. We weren't -- you know, we normally charge the fee, we collect the fee, and we weren't expecting that anyone would fuss about a fee. So to be clear, we're not talking about waiving any fees at this point.

MR. CONINE: Right.

MR. GOURIS: Those are the fees that have been charged and collected.

MR. CONINE: Yes, we've only had one guy begging for them already.

MR. GOURIS: Right.

MR. CONINE: That's okay.

MR. GOURIS: Right. I don't want to confuse that issue with the waiver of penalty points in --

MR. CONINE: Right.

MR. GOURIS: -- next year's application.

MR. CONINE: Okay. We understand that. We also have retroactive capacity up here, so --

MR. GOURIS: Sure.

MR. CONINE: -- we'll deal with that next month.

John Henneberger.

MR. HENNEBERGER: I'm John Henneberger, Texas Low Income Housing Information Service. I'm here to talk about the Section 3 plan that's in your board book, and I would just like to, for the record, say that I believe that the Section 3 plan the state has adopted is -- falls short of what the standards should be for a Section 3 plan. Section 3 is the program that mandates that contracts of up to \$200,000, that there be efforts to employ the residents of the housing and other low income people for the program.

The Board's being asked to adopt the program -- a Section 3 statement. There wasn't one on file. We understand the need to do expeditiously in order to meet HUD's monitoring requirements, but we expect the -- and hope that the Board would take a careful and thoughtful look at the requirements of Section 3 and make sure that the Department is in full compliance with the HUD standards in the near future. Thank you very much.

MR. CONINE: Thank you.

Any response to that, Mr. Gerber?

MR. GERBER: I would just say we're obviously watching what HUD's doing closely. We've had pretty significant HUD training where HUD's fair housing staff came and gave us an extensive training. About 100 people participated in that in Houston. There's a lot going on here.

We do need to get a statement on file, which I think John's correct. We're trying to do it today. But look for additional expansion of this policy coming to the Board within the next several months.

MR. HENNEBERGER: Thank you.

MR. KEIG: I have --

MR. CONINE: Mr. Keig.

MR. KEIG: -- a question. Mr. Henneberger, did you say 200,000?

MR. HENNEBERGER: Yes, sir.

MR. KEIG: In the policy in front of us it's 100,000, or are we talking about subcontracts versus contracts?

MR. HENNEBERGER: Yes, there's -- the language in the statute is -- there are certain instances where there's a \$100,000 trigger and there's other instances where there's \$200,000 trigger, then there's guidance to consider



aggregating multiple contracts. It's very confusing.

I don't have any reason to believe that what the Department has proposed is not in conformance with the standard. It's the statutory standard. I believe it's going to be a bit -- falling short in terms of the guidance which HUD is in the process of providing the state.

And so my concern has to do not with the technical compliance of the statement that you're adopting, but with the need to meet a more -- a new and more aggressive HUD standard, which is being rolled out right now.

MR. KEIG: And we can always amend after --

MR. HENNEBERGER: Yes.

MR. KEIG: -- those regs come out.

MR. HENNEBERGER: And that's what I believe you should do.

MR. KEIG: Okay. And one question for staff is, I brought up a question about the next to the last sentence of the policy maybe being a little confusing, about either removing it or revising it. Does staff have a recommendation to that effect?

MR. GOURIS: Yes, and I apologize. This is one we meant to pull off the consent agenda to address that one -- that last paragraph. There's some concern now that there's -- that it confuses the issue on the 100,000 and which

ones we're going to do, and so staff's recommending that we pull that last paragraph out of the Section 3 policy. The rest of the policy stands as it is, and then we'll come back with additional adjustments as we hear what HUD has to say in more detail in the future.

MR. HENNEBERGER: Thanks.

MR. CONINE: Okay. So now we're taking the last paragraph off of this --

MR. GOURIS: Yes, sir.

MR. CONINE: -- in addition to the penalty decisions --

MR. GOURIS: Yes, sir.

MR. CONINE: -- there being a difference.

MR. GOURIS: Yes, sir.

MR. CONINE: Okay.

MR. GOURIS: Anything else on --

MR. HENNEBERGER: No.

MR. GOURIS: -- that one?

MR. CONINE: Any other questions of Mr. Henneberger?

(No response.)

MR. CONINE: Thank you.

That's all the witness affirmation forms I have. Any other questions from the Board for staff or anything?

(No response.)

MR. CONINE: Then I'd entertain a motion for the consent agenda, as amended.

MS. BINGHAM ESCAREÑO: Mr. Chair, do -- I can make the motion to approve the consent agenda. Should I ask to pull (k) if we're going to change something on that --

MR. CONINE: Just --

MS. BINGHAM ESCAREÑO: -- on Section 3, or just amend?

MR. CONINE: I think just as amended.

MS. BINGHAM ESCAREÑO: Very good. Move to approve the consent agenda with Item (k) amended as staff recommendation.

MR. CONINE: Okay. Any other -- do I hear a second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

We probably ought to go to the -- just the general public comment right now. Let me do that right quick and get those out of the way. Again, those of you that are signed up, if you'd please keep time under consideration, I would appreciate it.

Elizabeth Mueller. And she's got --

MS. MUELLER: Good morning.

MR. CONINE: -- some extra time from Mr. Henneberger.

MS. MUELLER: Okay. And I realize time is short, I'll try and go quickly.

My name is Elizabeth Mueller, and I'm a professor of community and regional planning at the University of Texas at Austin. I'm here today to talk about a report prepared by doctoral student Katherine Howell and myself for the Texas Low Income Housing Service about the location in Texas of affordable housing produced using federal low income housing tax credits administered by TDHCA. I believe you have a copy of the report which gives you a lot more detail. I'm just going to talk about highlights here.

The location of affordable housing is particularly important in light of extensive evidence showing a connection between neighborhood characteristics such as the rate of

poverty and the well being and economic mobility of residents.

Children living in racially and economically segregated neighborhoods are exposed to higher levels of crime and have poorer health and education outcomes than their suburban counterparts.

Recent research has focused on the way that neighborhood location blocks facilitates access to opportunity through the quality of public schools or public services, including schools, availability of job opportunities, transit access, and exposure to environmental hazards.

Most important is the way that location relegates some children to extremely poor quality public schools. The risk that children in low income households will be relegated to poor quality schools is especially high in Texas. A recent Harvard study found that Texas schools were the seventh most segregated in the nation for black students and the third most segregated for Hispanic students.

So low income Texans face two difficult challenges, first, finding a home they can afford, and second, finding an affordable home in a good neighborhood.

As you know, tax credits are awarded to proposed projects after being scored on a number of criteria. Some of these criteria relate to the location of projects. In

2005 criteria were added to the list aimed at encouraging development in high opportunity areas. We were interested in learning what types of neighborhoods were home to tax credit developments in Texas, and whether the new criteria added in 2005 were fostering a shift in locational patterns in favor of high opportunity areas.

We focused on patterns for properties awarded tax credits from 2004 to 2009. This allowed us to observe patterns both before and after the changes in scoring criteria meant to encourage location in high opportunity locations were made. We focused on six urban areas in the state.

To determine the location of tax credit properties, we relied on the log of projects maintained by TDHCA to determine the demographic characteristics; of residents of tax credit housing we relied on the housing sponsor reports that contain data submitted by property developers; to determine what kind of neighborhoods properties were located in, we relied on census data at the census tract level for the year 2000; to determine the quality of schools near to tax credit properties, we relied on school rating data from the TEA.

All of these data sources presented challenges in the form of incomplete data, outdated data, or poorly tracked data. Our report includes recommendations for ways

that TDHCA might improve the accuracy and completeness of the information that it compiles and tracks in order to ensure it is more complete and accurate.

Using this data, we identified several things about who lives in tax credit housing. Residents are more likely to be black or Hispanic than the state population overall. Hispanics are most likely to live at properties where they form the majority, and properties that were not targeted as elderly populations were on average majority/minority properties. In contrast, elderly properties, on average had minority populations of only between 20 and 22 percent.

In terms of the neighborhoods where tax credit properties are located, we found that tax credit properties are under-represented in white neighborhoods, and disproportionately concentrated in poor and minority neighborhoods in Texas cities. And the patterns vary by cities. This pattern was most pronounced in San Antonio. And this pattern -- we compared this pattern to the general pattern for rental housing and found that it was quite different, so it's not explained by where rental housing is located.

Tax credit properties were under-represented in low poverty neighborhoods and over-represented in high

poverty neighborhoods when compared to patterns seen for rental housing in general. The gap between overall patterns for rental housing and tax credit properties was sharpest in Dallas where only 7 percent of tax credit units were in neighborhoods with poverty rates under 10 percent, while 35 percent of all rental housing was found in these same neighborhoods.

While we were not able to easily compare crime data across cities, we were able to identify patterns through mapping, and you have these maps in the report. In Houston, Dallas and Ft. Worth in particular, and we found that tax credit properties including children were often located in areas of high violent crime.

In terms of access to good schools, we found that tax credit developments including children were more likely to be located close to academically unacceptable schools than were senior developments. The pattern we found was that access to exemplary schools was lower than for county residents as a whole, and again, this varied by city.

We next looked for changes over time to see if we could find evidence of the changes in scoring criteria made in 2005 had had an effect. We found only modest changes in the degree of racial and ethnic segregation of



neighborhoods where tax credit projects were located, and the direction of changes was not consistent. We found a modest but consistent increase in the share of projects being developed for seniors.

So overall we found no evidence that the changes made to the scoring criteria in 2005 have had an effect on the location of tax credit properties. Instead, the ongoing pattern of locating properties in areas more likely to be racially and economically segregated has continued.

We suggest several reasons for this ongoing pattern. First, the scoring criteria related to location are contradictory, with some criteria awarding points for locations in poorer areas and others emphasizing high opportunity areas. No consistent message is conveyed to developers through the scoring system regarding the types of locations that would benefit residents.

The maximum points for location in a high opportunity area are only six of a total of 218; not enough to sway where a property will be located.

MR. CONINE: Ms. Mueller, I'm going to have to ask you to wrap up if you would, please.

MS. MUELLER: Okay.

MR. CONINE: Sorry to do that, but we --

MS. MUELLER: All right.

MR. CONINE: -- have -- you're five minutes have expired.

MS. MUELLER: Oh. All right.

MR. CONINE: So just wrap it up for the final --

MS. MUELLER: All right.

MR. CONINE: -- if you'd like.

MS. MUELLER: All right. So we recommend that TDHCA take a look at how the scoring criteria work in relationship to areas that we think would reinforce the benefit that is provided by access to tax credit affordable housing.

MR. CONINE: All right. I have a question for you, and I have not read your report, and thank you for -- again, sorry for the hurried Board meeting, thank you for the report, I'll have fun reading it over the holidays, I'm sure.

Is embedded in the report is the RFP that -- or the instructions that you were asked to look at the tax credit program, is that in here, or can we get a copy of that so we can see --

MS. MUELLER: It is not. We can get -- yes, we could provide that.

MR. CONINE: I'd like to see what you were asked to do so I can figure out what you did.

MS. MUELLER: Okay. We can --

MR. CONINE: If that's okay.

MS. MUELLER: -- provide that, yes.

MR. CONINE: Can you do that? And if we could get it before the holidays --

MS. MUELLER: Okay.

MR. CONINE: -- I'll take it with me in my little reading stack for the holidays, and that'll be great.

Any other questions of the witness?

MR. GERBER: Yes, I would just add that we'll certainly look forward to using some of the data that Dr. Mueller collected as part of our AI process as we look to the statewide -- to the balance of state analysis to impediments, and also I think this information will be very helpful and --

MS. MUELLER: Okay.

MR. GERBER: -- we'll probably be having our housing resource folks get in touch with you --

MS. MUELLER: Yes, I'd be happy to provide --

MR. GERBER: -- to put everything else --

MS. MUELLER: -- any other information --

MR. GERBER: That's great.

MS. MUELLER: -- you need.

MR. CONINE: Let me ask you one other question.

Did you interview any developers for this study?

MS. MUELLER: No, this was purely data analysis.

MR. CONINE: Okay.

MS. MUELLER: We were just looking at patterns.

MR. CONINE: And there's probably a lot of folks in this room that could tell you why certain projects --

MS. MUELLER: Yes.

MR. CONINE: -- went where.

MS. MUELLER: Yes.

MR. CONINE: Okay.

MS. MUELLER: I'm sure.

MR. CONINE: All right. Thank you.

MS. MUELLER: Okay.

MR. CONINE: Appreciate it.

Let's see, are there any other public comments.  
Marc Eichenbaum.

MR. EICHENBAUM: Good morning. I'll be brief. My name's Marc Eichenbaum, and I'm the Public Information Officer in charge of Inter-government Relations and Public Affairs for the city of Houston's Housing and Community Development Department.

On behalf of the city, the Director, Jim Noteware, and the Department, I'm here to briefly inform you of an exciting honor and opportunity for the city of Houston. The

city was picked to be one of four nationwide to be an Urban Land Institute Rose Fellow. Specifically named as Fellows was Mayor Parker, the director of the Housing and Community Development, the head of Metro, and the city's chief economic development officer.

As a UIL Rose Fellow, that means that the Urban Land Institute will dedicate its staff, its experts and resources to work with city officials, the community and other stakeholders to examine deteriorating neighborhoods. And not just brainstorm and come up with solutions, but actually employ solutions in an effort to revitalize these neighborhoods and needs.

Specifically in Houston the Rose Fellowship program is looking at two specific areas, that's the Antoine-DeSoto corridor and the Broadway corridor, which many of you might be familiar with, if you come from Hobby Airport and get to 45, it's that corridor you have to drive through.

In fact, these experts two weeks ago spent an entire week in Houston on a site visit, and through that one site visit there's been lots of issues that have come to bear which will signal a paradigm shift in how the city approaches affordable housing and community development.

The first one is being more strategic and pragmatic in selecting which projects to fund and their locations.

Instead of a haphazard scattered approach to its projects, the city's really going to look at where can it concentrate its projects to spur private development which it hopes to spur community development and redevelopment.

An example of this is on the Antoine corridor. The city has put money into rehabbing two apartment complexes.

Through those rehabs, now private investors and developers have purchased properties in that are to rehab themselves.

And that's the type of community development that the city is looking for.

The second one has to do with the multifamily policy. We've looked at many of these areas, and there is just market saturation of multifamily housing. Lots of them have 80 percent or below occupancy rates. They're over-built and they're old. And so the big thing is that when it comes to building new units, especially special needs units, no more vanilla type housing.

And what that means is really two things. It means first really looking at the design and the built structure, to use that as a tool to spur private development. But it also means looking at investments beyond housing. What investments can be made in these specific areas to spur community development. Those are just two examples of what has come out from working with the Rose Fellowship program.

We look to having other cities come visit our city, more experts coming in, and visiting other cities as well, and we'll keep you informed. Thank you for your time.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Good luck to Houston on that effort. Steve Moore.

MR. MOORE: My name is Steve Moore. I was going to make this short, but what I'm going to say connects with what the two previous speakers said. I'm the developer for Premier Apartments in Houston, Project 09919. We plan to begin moving in our first residents into renovated buildings this year.

We are on schedule to finish next September, just 14 months after funding. We are on budget, and in addition to doing the extra -- everything promised, we plan to have two extra handicapped units, and most importantly other important features designed to make Premier Apartments not just affordable units, but a community.

Our goal for Premier Apartments remains unchanged since we first applied two years, to become your poster child for spending renovation dollars in the middle of low income

neighborhoods. By becoming a strong positive influence on the surrounding Westwood neighborhood, we will be benefitting many thousands of low income residents for the cost of renovating just one property.

Now, let me say a little bit more. I don't have the academic numbers, but typically every Sunday I drive to Houston, and along with most of my staff, I live on site, on the property. I could tell you plenty of stories. It's sort of like when Jesus ate with the sinners, I guess. That's where the work needs to be done.

I totally disagree with the lady who spoke two times before me, and I couldn't agree more with the gentleman who just spoke before me, and I will try and make Premier Apartments proof of that point, just give me a chance.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Appreciate your testimony.

Michael Marz?

MR. MARZ: Mr. Chairman, members of the Board, I'm Michael Marz with First Southwest Company, and I also represent Plains Capital Bank. We were the warehouse provider on the single family program, I think it's Action Item 5(f). Appreciate the opportunity to the Department and



hopeful that we'll be able to extend that program, and I'm available if any questions arise.

MR. CONINE: Great. Appreciate your efforts. Just tighten the spread a little bit, that'll be all right.

(General laughter.)

MR. CONINE: Okay. That's all the public affirmation forms that I -- witness affirmations I have -- forms I have for the public comment. We'll now move to Item 2.

MR. GERBER: Mr. Chairman, Item 2 is the ARRA accountability and oversight status report. I'm going to defer to all our Board members to take a look at that on their own, and if you have questions about it, please let staff know.

So moving to Item 3(a), which is a presentation, discussion and possible action on several multifamily appeals, the first one is Washington Hotel Lots. This appeal is in reference to the penalties set forth in the Department rules for development awards that are returned after the submission of a carryover allocation. The original award date was made in 2008, which required the owner to place the development in service by December 31, 2010.

MR. GOURIS: I think they --

MR. GERBER: Have they withdrawn?

MR. GOURIS: -- they would like it to be postponed because --

MR. CONINE: They're snowbound.

MR. GOURIS: -- they're snowbound.

MR. GERBER: Fair enough. The end of January.

Moving on to Magnolia Place Apartments. This appeal is also in reference to the penalties that are set forth in the Department rules for development awards that are returned after the submission of a carryover allocation.

Magnolia Place Apartments is second in line in the Ike area on the 2010 waiting list. The principal for -- the Magnolia application was also attached to the Park Lane Apartments application that received an allocation in 2009.

The principals of the Park Lane application were notified that the city of Houston was going to acquire the property through eminent domain. The principal notified the Department of the issue and wanted a determination of the penalty for the 2010 application if the 2009 credits were returned. The principal was instructed to return the credits and any determination of penalties that require Board approval.

The Board would have good cause for waiving the penalty because the ability for the development to move

forward was eliminated by the taking through eminent domain by the city of Houston, which is clearly beyond the applicant's control. So staff is recommending approval of Magnolia's appeal.

MR. CONINE: Okay. I do have one public comment. Bert Magill.

MR. MAGILL: Thank you, Mr. Chairman, Board. I really don't have a whole lot more to add to Mr. Gerber's comments. I will say that we did receive the '09 156 Park Lane commitment, we paid our commitment fee, almost \$100,000, we did meet carry over in a timely basis.

We convened our development team, we were preparing construction drawings, went to the city of Houston, visiting with the city of Houston regarding those construction drawings and the process of getting building permits. And after that meeting, nothing was mentioned about the eminent domain.

Our seller of the land received the eminent domain notice. We've been working with the city to see if that's really what they wanted to. It is apparent, as of November 5, that this is really what they wanted to do was to eminent domain that for a drainage project, so we are -- we didn't have much control over that, and our tremendous time and expense. We ask that you waive our penalties for Magnolia

Place, 10290.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

MR. MAGILL: Okay.

MR. CONINE: Do I hear -- Tom, staff  
recommendation was to waive the penalties. Is that correct?  
Is that what I heard you say?

MR. GOURIS: That's correct.

MR. CONINE: Okay. Any further discussion?

(No response.)

MR. GANN: I so move if you'd like --

MR. CONINE: I'll entertain a motion by Mr. Gann.  
Do I hear a second?

MS. BINGHAM ESCAREÑO: Second.

MR. CONINE: Second by Ms. Bingham. Any further  
discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor  
signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Tom, are there any other appeals? Why don't you go ahead and present Item 4.

MR. CONINE: Item 4, Mr. Gouris.

MR. GOURIS: Item 4 is a ratification of issuance of awards for the tax credit -- off the tax credit waiting list. Mr. Chairman and Board, since the July meeting, the Department has received 6,768,642 in annual tax credits returned from previous years or applications that have received awards at the July meeting and returned their 2010 award for the remaining exchange funds.

Funds returned from a sub-region are returned to that sub-region to fund the next application in the sub-region. However, funds that are returned that were part of the exchange funds were returned to the exchange -- to the statewide pool.

And funds that are insufficient to fund the next deal in the sub-region go to the statewide pool as well. If we had allocated the funds from exchange back to the sub-region, we believe we would have double-funded that sub-region, that's why it went to the statewide collapse.

Therefore, we are recommending that credits where there are no other funds in the sub-region -- where there are no other applications worth 2,813,000 were returned to the statewide pool, while 3,955,000 was returned to the Ike

region areas because they were Ike credits that were returned.

So staff's recommending funding these additional transactions before the end of the year. In fact, we ready to issue notices, in one case I think we've already issued a notice for ratification, so.

MR. CONINE: And would you read the name of those just so we'll all know, please? Entities one, two, three, four, five, projects I'm looking at?

MR. GOURIS: Yes. Do you have them?

MR. CONINE: Orchard at Westchase, Magnolia Place, Timberland Trails Apartments, Sulphur Springs, Pioneer, and Ashton Senior Village?

MR. GOURIS: Those are them, sir.

MR. CONINE: Great. I feel like Santa Claus almost.

(General laughter.)

MR. CONINE: All right. Anything else --

MR. GOURIS: That's it.

MR. CONINE: -- from staff? This is -- no witness affirmation forms.

Could I get a motion?

MR. KEIG: So move.

MS. BINGHAM ESCAREÑO: So moved.

MR. CONINE: Motion by Mr. Keig, seconded by Ms.

Bingham. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Item 4(b).

MR. GERBER: Mr. Chairman and Board members, we are very excited to inform you that all 100 percent of the \$594 million in exchange funds have been committed, and 89 transactions have been fully closed.

(General applause.)

MR. GERBER: This exchange portfolio is the largest in the country, and the 89 transactions represent more than 8,000 total units and approximately 9,300 jobs for the housing industry that is clearly struggled during the down turn in the economy.

Tom, why don't you report on the NOFA with the remaining 16 million and what we did, and we'll get the Board's approval and hopefully ratification of those too --

MR. GOURIS: As you recall, there were some additional funds that were left over at the last Board meeting,

and two transactions fell out, two more came in, and we were able to close those. So we closed five transactions prior to the December 1 deadline.

Of the five transactions, three were USDA and exchange transactions, and staff would like to thank the USDA for -- and the lending community for working so diligently with us, and the legal community as well. We wouldn't have been able to get this done with all the support and all the efforts that were out there, and the developers as well. They had some obvious motivation. Everyone else helped us too.

The exchange program has been very difficult and challenging at times, but in the end the state was able to place the largest amount of exchange funds and help strengthen Texas economy. It's the biggest exchange program in the country by a bit, biggest syndication group of two.

And so as of last Friday I'm pleased also to report that \$240 million of the total has been drawn. That means money out the door. It's 40 percent. And also, the other concern we had for the exchange program was meeting the 30 percent test. Those were due on the 15th, and as of the 16th all of them had submitted their 30 percent test, which means all of them have claimed and said that they've met the 30 percent test. We're really excited about that. That's a



home run.

MR. CONINE: Squeaky clean.

MR. GOURIS: Squeaky clean. It's out of the park home run.

MR. CONINE: There's got to be some sort of award that the NCHHJ -- we ought to investigate that, because you guys deserve -- in addition to not getting paid for it, you guys deserve some special recognition.

MR. GERBER: We think we deserve it once in a decade from NCHHJ.

MR. CONINE: Yes, that's about the annual -- once a decade.

MR. GOURIS: Staff has run a long time on the knowledge of good job, well done. So we would like to recommend finally that these two last transactions, River Place Apartments and Guadalupe Crossing be ratified. We've closed them, but we would like your extra blessing to ratify that closing.

MR. CONINE: I would assume that you would. I've got one witness affirmation form. Mr. McDonald.

MR. McDONALD: Pass.

MR. CONINE: Pass. Good decision.

(General laughter.)

MR. CONINE: Any other discussion?

(No response.)

MR. CONINE: May I hear a motion?

MR. GANN: I so move.

MR. CONINE: Motion by Mr. Gann.

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. Any further discussion?

(No response.)

MR. CONINE: All those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: I want to thank the -- you, Board members, for your vote of confidence in the staff. I mean a lot of this has been on trust, and we've had to do some pretty out-of-the-box things to get this across the finish line, so we appreciate your confidence in us to get the job done well.

And again, my congratulations to those who've just worked extraordinary hours and put, you know, their back bone into getting this across.

Item 5 is bond finance, and, Mr. Chairman, for each of these items we'd like to handle them as a group. There are a number of different items here that we had intended to have a more full discussion about, and we will do that in January to give everyone a sense of where we are going with our bond finance program, both in locking down additional dollars for mortgage credit certificates, as well as additional dollars for the next tranche of funds for our first time homebuyer programs.

Suffice it to say that all are moving very, very well. We can answer some specific questions on each of the resolutions that have been placed before you, but I think in general we're looking to simply clean up some of our -- to clean up some of the different programs, move dollars forward and allocate more funds through the Bond Review Board for, again, our first time homebuyer low interest mortgage programs and for our mortgage credit certificate programs.

If there's specific questions -- or, Tim, if you'd like to add anything to the mix, but otherwise we'd like to handle these in block and ask for your consent for all the items under Item 5.

MR. CONINE: Okay. Can I get a motion on Items 5(a) through (f), and whoever makes the motion please read those four resolution numbers -- or five resolution numbers

so that the general counsel can rest at ease.

MS. BINGHAM ESCAREÑO: Move to approve the items under -- the sub-items under Item 5, bond finance, including Resolution Number 11-013, 11-009, 11-010, 11-011, and 11-012.

MR. CONINE: Motion by Ms. Bingham. Do I hear a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Item 6.

MR. GERBER: And just to confirm with bond counsel, does that do the job?

FEMALE VOICE: That takes care of it.

MR. GERBER: Okay. Moving to Item 6, we had also intended to do a briefing for you all on community affairs.

We're going to reserve that for January as well, but there are several items that we do need to move forward and would

ask for the Department's -- the Board's approval of those four items handled again in block.

MR. CONINE: Do I hear a motion on Item 6(a) through (d), please?

MR. GANN: I so move.

MR. CONINE: Thank you, Mr. Gann.

Is there a second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Item 7.

MR. GERBER: Item 7, Mr. Chairman, is our disaster recovery items. I'm going to let Sara Newsom come forward and present those items. We're going to do a quick version of these.

MS. NEWSOM: Good morning.

MR. CONINE: Good morning.

MS. NEWSOM: Sara Newsom. 7(a) is a request from the city of Houston to extend their contract under Ike I funding to allow them to do an RFP for their rehab, reconstruction single family program.

MR. CONINE: Can I ask a quick question? Are we taking these all as one, or are we going to do them independently?

MR. GERBER: We'll do these independently.

MR. CONINE: Okay.

MR. GERBER: Do you want to mention Harris County?

MS. NEWSOM: And Harris County is also asking for an amendment to their contract that would adjust the cap for their homeowner assistance, the buy out and their down payment assistance to consider some costs that were not originally considered in their estimates of a cap. The cost that they had not anticipated were the lead-based paint assessments, asbestos assessments, inspection costs, appraisal, and hazard and flood insurance.

So it's asking for an increase to cover those items, and they are asking for the funds that were used -- that were going to be used for some slum and blight be eliminated, so they do not anticipate that any -- that the number of assisted people will be affected.

MR. CONINE: And, Ms. Newsom, what -- the staff

recommendation is?

MS. NEWSOM: The staff recommendation is to both -- to approve both of these items.

MR. CONINE: Okay. Any questions of Ms. Newsom on Item 7(a)?

(No response.)

MR. CONINE: If not, I'll entertain a motion.

MS. BINGHAM ESCAREÑO: Move to approve.

MR. CONINE: Motion by Ms. Bingham to approve, second by Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: And, Sara, let me present Item 7(b), which is the -- giving me the authority to approve the disaster recovery housing program guidelines. As you know, under the conciliation agreement we had to go out and develop extensive guidelines.

We've worked with a task force and have had numerous meetings. We received a fairly large volume of

public comment that was provided to the Department, and we feel confident in what we've received and the changes that have been made, and that we have a conciliation agreement compliant set of housing guidelines, and we feel like the subrecipients out there can work within those guidelines, and have been very much part of this process. So we're asking for your approval today of those guidelines.

MR. CONINE: Any discussion?

(No response.)

MR. CONINE: I'd entertain a motion.

MR. KEIG: So move.

MR. CONINE: Motion --

MR. GANN: Second.

MR. CONINE: -- by Mr. Keig, second by Mr. Gann.

Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. NEWSOM: Item 7(c) is the authority to conditionally approve the applications for Round II Phase



I of the Ike disaster recovery funds. We have seven subrecipients that have applied for funds to conduct needs assessment studies, and we recommend approval of those seven.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: No question about the need down there, is there.

MS. NEWSOM: There's no question. Correct.

MR. CONINE: I'll entertain a motion.

MS. BINGHAM ESCAREÑO: Move to approve.

MR. CONINE: Motion by Ms. Bingham.

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: I might mention that several of our partners are here today. I saw Ken Jones and I saw folks from DET COG and some other of our partners, and we appreciate

all their work to move these programs forward. These are hard programs and a lot of technical assistance is going to be provided by TDHCA to help get these partners across the finish. So look forward to much work to come.

Marina Landing?

MS. NEWSOM: Marina Landing, we're -- 7(d) is an approval to increase the interest rate for Marina Landing.

We originally did this as a grant, and the lender and syndicator are requesting an interest rate. We're recommending a 1 percent interest rate increase from the grant, and to close on or before January 31.

MR. CONINE: Of 2011.

MS. NEWSOM: 2011.

MR. CONINE: Okay. Any questions -- I do have a witness affirmation form here. Any questions of staff?

MR. KEIG: Just a quick question is, when do we anticipate completing our underwriting review?

MS. NEWSOM: The underwriting review has been done and part of that recommendation is that we defer the principal to year 30 and defer the interest to year 16 when it will be paid on a cash flow basis.

MR. KEIG: So we're going to change the staff's recommendation this morning?

MS. NEWSOM: We're changing the staff's --

MR. KEIG: Okay.

MS. NEWSOM: -- recommendation.

MR. CONINE: Okay. John Shackelford.

MR. SHACKELFORD: I can waive my time.

MR. CONINE: Okay. Thank you.

Any further discussion?

(No response.)

MR. CONINE: I'll entertain a motion.

MR. KEIG: I move staff's recommendation as amended.

MR. CONINE: Mr. Keig makes a motion. Do I hear a --

MS. BINGHAM ESCAREÑO: Second.

MR. CONINE: -- second? Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Item 8(a) is a presentation, discussion and possible approval of an agreed order --

MR. CONINE: Thank you, Ms. Newsom.

MR. GERBER: Thank you, Sara.

-- for the debarment of David Starr, our chief of compliance, to refer David Starr to the Review Committee with a recommendation of debarment based on the extensive and continuing non-compliance of a development, Marbach Manor, which was controlled by him.

Marbach is located in San Antonio and received tax credits in 1996, and the property has been secured and unoccupied since 2006. Significant additional investment is needed in order to bring the physical condition of the development into compliance, and Mr. Starr believed he could accomplish this with a third-party investment that he had arranged, but the necessary restructuring of that development, ownership structure to secure the funding was unsuccessful and the property was foreclosed by its lender on February 2, 2010.

With resolution no longer possible, the staff and Mr. Starr have negotiated a five-year agreed debarment, with the ability to seek readmission for eligibility after four years, subject to providing the Department with suitable security for any financial for performance issues, and the agreed order is presented as recommended in your book.

MR. CONINE: I have no witness affirmation forms.

There's a question. Mr. Keig?

MR. KEIG: At an informal conference with David Starr, there were several individuals that attended as well with the attorneys. Can you give me just a connection of these individuals: Jonathan Starr, Becky Starr, John Condit, Mike Goodwin, and Louis Saenz? Why were they there?

MR. IRVINE: This is Tim Irvine, Chief of Staff. I believe that Matthew and Jonathan Starr are related to Mr. Starr; I believe they're sons. They were involved in several aspects of the general Starr operations, including their affiliate -- or not affiliate, but including another entity, Agape. Mr. Condit had been counsel in advising them, and also I believe Mr. Saenz was present as counsel.

MR. KEIG: Mike Goodwin? Do you remember who that was?

MR. IRVINE: Patricia remembers Mike.

MR. CONINE: He came in off the street. Just didn't have anything else to do.

(General laughter.)

MS. MURPHY: Patricia Murphy, Chief of Compliance. I believe Mike Goodwin works for the management company and was there to address some of the compliance issues.

MR. KEIG: And was exclusion considered for any of those individuals, or was their role much more minor than

David Starr's?

MS. MURPHY: I haven't considered recommending them for debarment, till you mention it, but --

(General laughter.)

MS. MURPHY: No, I have not. David Starr was the individual that was responsible for the compliance of this property.

MR. KEIG: And in control of the decision-making phase.

MS. MURPHY: Yes.

MR. KEIG: Okay. And another question is, what other properties is David Starr involved in, and what capacity?

MS. MURPHY: In the TDHCA portfolio there are no other properties that David Starr is affiliated with at this time.

MR. KEIG: So he can come in, even under this agreed order of debarment, and come in and do other programs other than low income housing tax credit?

MS. MURPHY: Prior to --

MR. KEIG: It's not a total debarment.

MS. MURPHY: Prior to the approval of an ownership transfer, or approval of any funds, a previous participation review is conducted and this property is in material

non-compliance, which will prevent him from participation in any other programs, unless he requests a waiver under the compliance monitoring rules, in which case this Board could grant that.

But at the staff level, for at least a three-year period he's not eligible for participation, and then the debarment will be for five years for the housing tax credit program with that four-year provision in there.

MR. KEIG: No further questions. I move that we approve the agreed order.

MR. CONINE: Motion by Mr. Keig. Is there a second?

MR. GANN: Second.

MR. CONINE: By Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, I propose we go into Executive Session, and it's my belief that we're not going

to be making any decisions that would require -- when we come back to the meeting, we'd be adjourned at that point.

MR. CONINE: Okay. Again, I want to say before we go into Executive Session, thank you, to Mr. Keig for going above and beyond today. By the way, those were good questions. Appreciate your activity on the Board.

Thanks to everyone here for coming today, and I apologize again, it was last minute notice that we knew we were going to be shorthanded on a quorum today. But I hope each and every one of you here has a great holiday season, and look forward to seeing you next year in 2011.

Let's go into Executive Session.

MR. GERBER: Mr. Chairman, on this date, December 17, 2010, at a regular meeting of the Governing Board of TDHCA, the Board adjourned into a closed Executive Session as evidenced by the following: a) an announcement by the presiding officer's designee that the Board will begin its Executive Session today, December 17, 2010 at 11:25 a.m.; b) the subject matter of this Executive Session deliberation is the following:

1. The Board may go into Executive Session pursuant to Texas Government Code 551 for the purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment, duties,



discipline, or dismissal of a public officer or employee;

2. Pursuant to Texas Government Code Section 2306, to meet with the internal auditor to discuss issues related to fraud, waste, or abuse;

3. Pursuant to Texas Government Code Section 551, to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including, a) *The Inclusive Communities Project, Inc. v TDHCA, et al.* filed in federal district court; b) *Caroline Miller, et al v State of Texas, et al.* filed in District Court for Travis County; c) claim of Gladys House filed with the EEOC;

4. Pursuant to Texas Government Code Section 551, for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Texas Government Code, Chapter 551; or

5. Pursuant to Texas Government Code Section 559, to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person.

(Whereupon, at 11:30 a.m., the Board adjourned the open meeting and reconvened in Executive Session.)

MR. GERBER: -- Department of Housing and  
Community Affairs on December 17, 2010 at 12:12 p.m.

MR. CONINE: Any other business to come before  
the Board?

(No response.)

MR. CONINE: Seeing none, we stand adjourned.  
Merry Christmas to all.

(Whereupon, at 12:12 p.m., the meeting was  
concluded.)

CERTIFICATE

MEETING OF: TDHCA Board of Trustees

LOCATION: Austin, Texas

DATE: December 17, 2010

I do hereby certify that the foregoing pages, numbers 1 through 59, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing & Community Affairs.

12/23/2010  
(Transcriber) (Date)

On the Record Reporting  
3307 Northland, Suite 315  
Austin, Texas 78731