

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

Capitol Extension Auditorium
Capitol Extension
1500 North Congress
Austin, Texas

Thursday,
July 25, 2013
9:00 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice Chair (Absent)
LESLIE BINGHAM ESCAREÑO, Member
TOM GANN, Member
J. MARK McWATTERS, Member

TIMOTHY K. IRVINE, Executive Director

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P R O C E E D I N G S

1
2 MR. OXER: Good morning everyone. I know you
3 heard that. So welcome. I would like to welcome
4 everybody to the July 25th Board meeting of the Texas
5 Department of Housing and Community Affairs Governing
6 Board. I will start, as we always do, with the roll call.
7 So Ms. Bingham?

8 MS. BINGHAM ESCAREÑO: Here.

9 MR. OXER: Mr. Gann.

10 MR. GANN: Here.

11 MR. OXER: Professor McWatters.

12 MR. McWATTERS: Here.

13 MR. OXER: Dr. Munoz is off duty today. I am
14 here. And that gives us four. We are in business. We
15 can conduct business. So with that, we will stand and
16 salute the flags, please. Tim, please lead us.

17 (Whereupon, the Pledge of Allegiance was
18 recited.)

19 (Whereupon, the Texas Pledge of Allegiance was
20 recited.)

21 MR. OXER: Most of you have seen the agenda,
22 and recognize what our agenda consists of. I will point
23 out for those, just as a comment that was made to me
24 recently, there are public comments regarding issues that
25 are not listed on the agenda. We will make time at the

1 end of the meeting to receive those, accept those
2 comments.

3 Our thinking on that is, we have got a lot of
4 work to do. We would like to get that through. And we
5 can't actually respond to or deal with any of the comments
6 that are brought up in the public hearing.

7 So those are there for us to use to develop our
8 future agenda. So as to complete this agenda, they will
9 be the last item always on our agenda is to take public
10 comment on any item that anybody would like to speak on
11 regarding the efforts and issues that we are dealing with.

12 Okay. I have the consent agenda. We will
13 start with the consent agenda very quickly. But then when
14 we get to our action items, I will have -- there are a
15 couple of things we want to get into that real quick.
16 Tim.

17 MR. IRVINE: Mr. Chairman, with respect to the
18 consent agenda, staff is not recommending any action with
19 regard to Item 1(f). That was sort of a provisional
20 posting. And as regards to the Report --

21 MR. OXER: Wait.

22 VOICE: We can't hear you.

23 MR. OXER: Yes. Get closer to the mic, or do
24 something here. I can't really hear him, and he was
25 sitting next to me.

1 MR. IRVINE: Is it not on?

2 MR. OXER: There it is.

3 MR. IRVINE: Okay.

4 MR. OXER: We need the volume up. Whoever is
5 handling audio, can we get the volume up on these mics?
6 Can everybody in the back hear this, hear me?

7 VOICE: No.

8 MR. OXER: Okay.

9 MR. IRVINE: Everybody can move up front.

10 MR. OXER: Yes. It's not like church. We are
11 not going to pass out a plate. All right. Is somebody on
12 audio?

13 (Simultaneous discussion.)

14 MR. OXER: All right. Tell us if you can hear
15 us here. Is that better? Is that better? Okay. Good.
16 Thanks. All right.

17 MR. IRVINE: Thank you.

18 MR. OXER: Now back to you, Tim.

19 MR. IRVINE: Thank you. Can you hear me back
20 here?

21 VOICE: Yes.

22 MR. IRVINE: Okay. Excellent. Staff is not
23 recommending any action with regard to Item 1(f). Also,
24 if you would like to hear the report from the Audit
25 Committee, you would need to take that item off the

1 consent agenda. And I believe Brooke Boston has several
2 corrections and clarifications she would like to advise
3 you of before you take action.

4 MR. OXER: Okay. Brooke, let's hear from you
5 first.

6 MS. BOSTON: Thank you.

7 Brooke Boston. First up, Item 1(c), which is
8 our PHA plan. We submit that annually to HUD. This
9 relates to oversight of our Section 8 program.

10 And Section 10 of that plan, we are going to
11 remove the word elderly. It is relating to the Project
12 Access program, which is not for only elderly.

13 And it is for all low income persons with
14 disabilities. So we are just going to remove that to make
15 it consistent with the way we already operate the program.

16 MR. OXER: Okay.

17 MS. BOSTON: In 1(d), relating to our program,
18 Year 2014, Homeless Housing and Services Program awards,
19 that was the program created during the 81st legislative
20 session. And we operate it to fund homelessness related
21 services for municipalities that have a population of over
22 280,500.

23 Right now, there are eight of those. We just
24 were appropriated \$10 million for that. We have done a
25 repost of this item with an adjusted formula. We want to

1 clarify that in the reposted version, there is a column
2 called biennial award. And that should not have been in
3 there.

4 Today, we are only approving the first year of
5 the biennium, for fiscal year 2014. So for 2015, we will
6 update the demographic data and bring it back next year,
7 in anticipation of the second year of the biennium?

8 MR. OXER: So this is a clarification, and not
9 really a big change on that item.

10 MS. BOSTON: Correct.

11 MR. OXER: Okay.

12 MS. BOSTON: Next, on Item 1(e), which is
13 relating to the 2013 emergency solutions grant awards. We
14 had indicated that the awards are conditioned on getting a
15 letter of award from HUD. We actually have now received
16 that. And so we are removing the conditional nature of
17 the recommendations. We received the letter on July 22nd,
18 from HUD.

19 I would also like to point out and clarify that
20 the write up correctly identified the funds as 2013.
21 However, the posted agenda identified the funds as 2014.
22 So I just want to clarify that.

23 MR. OXER: Okay.

24 MS. BOSTON: Tim already addressed 1(f). And
25 then that is it for consent.

1 MR. OXER: All right. Are there any items that
2 any member of the Board would like to pull from the
3 consent agenda?

4 (No response.)

5 MR. OXER: I would like to hear. I would like
6 to pull 1(a), because I would like to hear the Audit
7 Committee's report. Any other comments from the Board on
8 the consent agenda?

9 (No response.)

10 MR. OXER: With that, I will entertain a motion
11 to consider.

12 MS. BINGHAM ESCAREÑO: I will move approval of
13 the consent agenda. Can you hear me? Good morning. I
14 will move approval of the consent agenda, with staff's
15 recommended changes or clarifications to Item (c), (d) and
16 (e). The removal of Item 1(f). And pulling Item 1(a) to
17 the regular agenda.

18 MR. OXER: Do I hear a second?

19 MR. McWATTERS: Second.

20 MR. OXER: Second by Professor McWatters.
21 Public comment?

22 (No response.)

23 MR. OXER: Okay. For our housekeeping item, we
24 will start again. Let's start with -- let's see. It is a
25 little difficult to get to the podium, if you are sitting

1 in the front row, to whip back around.

2 So we will start, Jeff and Sandy, once we hear
3 your report. Yes. We will use those four chairs over
4 there, four, five for the folks that want to speak.

5 Okay. So you will line up over there. And
6 then we are like, those who would like to speak. No
7 comment? No public comment on the consent agenda?

8 (No response.)

9 MR. OXER: Motion by Ms. Bingham, second by
10 Professor McWatters to approve the consent agenda as
11 modified. All those in favor?

12 (A chorus of ayes.)

13 MR. OXER: Opposed?

14 (No response.)

15 MR. OXER: There are none. It is unanimous.
16 Okay.

17 Sandy, you are first. Let's get the consent
18 agenda out of the way. We won't have it later.

19 MS. DONOHO: Ready?

20 MR. OXER: Go.

21 MS. DONOHO: Good morning, Chairman Ozer, Board
22 members. For the record, I am Sandy Donoho, Director of
23 Internal Audit. We had a fast and furious Audit Committee
24 meeting this morning; probably more fast than furious.

25 This morning, we talked about a minor change to

1 our Audit Work Plan and it was approved for our fiscal
2 2013 plan that we are currently working on. We moved 175
3 hours from a non-audit project that is no longer feasible,
4 to the tracking, follow up and disposal of fraud
5 complaints. We made this change because of time
6 constraints, in the Information Systems Division and the
7 need for additional hours for our fraud complaint
8 investigations.

9 We have completed and reported on four of the
10 audit, of the six audits on our Work Plan for this year.
11 We are writing the report on the Compliance Audit. We
12 hope to present that in September.

13 And our final project, which is loan
14 processing, started the field work last week. We are also
15 working on our annual risk assessment that we used to
16 develop the 2014 Audit Work Plan. So you will be hearing
17 from me soon about financial audits for next year.

18 There have been ten external audits or
19 monitoring visits scheduled or completed during the
20 current fiscal year. That is about average for this point
21 of the year.

22 We received reports on six of these. We are
23 awaiting final reports on three more that were recently
24 completed. And we also received two additional reports
25 for monitoring reviews conducted in 2011 and 2012.

1 And of the eight reports that we talked about
2 this morning, I think all of them were good news. There
3 was really nothing significant in any of those reports.

4 We are currently tracking 35 prior audit
5 issues. Thirty issues were recently reported by
6 management as implemented. We are working on verifying
7 and closing those right now.

8 And there are five issues that are still
9 pending. We will verify and close those once they are
10 reported as implemented. So those are mostly issues over
11 the last year.

12 In 2013, up to July 15th, we received 75 fraud
13 complaints. There were 56 calls received on our hotline.

14 Nineteen complaints received from other sources. Forty
15 eight of the 75, which is about 64 percent were not under
16 the Department's jurisdiction.

17 We investigated, closed or referred to
18 oversight agencies another 25 complaints, I am sorry, 26.

19 And we have one complaint that is still pending. Are
20 there any questions regarding the Audit Committee meeting?

21 MR. OXER: It sounds like we are keeping our
22 head of steam up in dealing with this pretty aggressively.

23 MS. DONOHO: I think so.

24 MR. OXER: Yes. Okay. The Audit Committee is
25 made up of everybody else up here except me. I assume

1 that you guys had a chance to comment on this, and are
2 satisfied. So Leslie, you chair the Audit Committee. Do
3 you have a comment?

4 MS. BINGHAM ESCAREÑO: I have no additional
5 comments.

6 MR. OXER: Great. Thanks for your report,
7 Sandy. I just wanted to make sure that that was on the
8 record. Okay.

9 We have, as we do, we are going to offer our
10 Representatives and their staff an opportunity to speak.
11 We have Kelly Barnes here, who is Chief of Staff for State
12 Representative Travis Clardy. So Kelly, would you like to
13 come up?

14 We understand that the Representative is busy,
15 and that means that you are busy. So we are here in your
16 house. So we want you to get back to work, frankly.

17 MR. BARNES: Thank you, Mr. Chairman and
18 members. I will read this letter from my boss,
19 Representative Travis Clardy.

20 Chairman Oxer and members of the TDHCA Board, I
21 am writing to you today to express some strong concern
22 over the administration of the scoring item in this year's
23 tax credit application cycle. The Legislature has created
24 a competitive scoring process that ensures that public
25 funds are allocated in a fair and equitable manner, based

1 on the merits of these applications.

2 I am concerned because the process appears to
3 have been circumvented by TDHCA staff through their
4 discretionary authority, delegated by you in 2013
5 Qualified Allocation Plan, the QAP. In particular, there
6 is an application filed in my district that will not
7 receive funding this year, by virtue of a staff ruling on
8 a competing application that appears to be inconsistent
9 with the rulings of the Board throughout this prior tax
10 credit rounds.

11 In this particular case, the competing
12 application made an error that should have resulted in the
13 application receiving fewer points than claimed in its
14 original application. Specifically, the application
15 claimed points for income levels of tenants, where 15
16 points were awarded, based on 20 percent low income units
17 serving tenants at or below 50 percent of the area median
18 income.

19 The application met the scoring item, and there
20 is no question, the points should be awarded. However,
21 the application also claimed nine points for rent levels
22 of the tenants, where points were awarded for combining
23 7.5 percent of all low income units at 30 percent median
24 income, when the QAP clearly states that these units must
25 be in addition to those claimed for income levels of the

1 tenants to qualify for points.

2 The application did not provide the additional
3 30 percent units necessary to claim points for this item.

4 Rather than appropriately reducing the score for the
5 application during its initial review, staff issued an
6 administrative deficiency to allow the application to make
7 material changes to its application in order to achieve
8 the points requested. Specifically, taking four units
9 that were designated as serving persons at a 60 percent
10 rent level and redesignating them as 30 percent units.

11 Subsection 11.9(a) of the QAP states that
12 applicants that elect points where supporting
13 documentation is required, but fail to provide any
14 supporting documentation or fail to submit supporting
15 documentation in good faith will not be allowed to cure
16 the issue through administrative deficiency. I hope you
17 will agree that in this case, supporting documentation for
18 these points was not provided.

19 Yet, the opportunity to cure was, despite the
20 direction laid out in the QAP. Whereas staff is allowed
21 to make, in its discretion and its interpretation of what
22 constitutes an inconsistency, as opposed to a failure to
23 provide proper documentation, this instance obviously
24 lends itself to a failure to provide documentation.

25 I am aware that the Board has maintained a

1 clear and firm message to the developing community that it
2 is their sole responsibility to comprehend the rules and
3 submit an application that meets those rules, or face the
4 loss of points that result from such errors. I realize
5 the position taken by the Board must at times seem harsh
6 and difficult to administer.

7 But due to the competitive nature of the
8 program, it is necessary to keep the field level and just.

9 Since the Board has the power and the authority to direct
10 staff to amend the previous ruling and ensure the same
11 standards are applied equally among all competing
12 applications, I hope you will make that directive in the
13 spirit in which all other decisions regarding matters of
14 this kind have been made.

15 At this point in the application process, it is
16 also appropriate for the Board to amend staff's
17 recommendation by removing this application from the
18 recommended list, prior to approval, since the application
19 scored as originally submitted is not competitive in the
20 region. Thank you again for your service in Texas and
21 your stewardship of this vital program. Respectfully,
22 Representative Travis Clardy. Thank you.

23 MR. OXER: All right. Thank you. I hope you
24 will give the Representative our best regards.

25 MR. BARNES: I will do it.

1 MR. OXER: Thanks. Cameron.

2 MR. DORSEY: This was an issue that was brought
3 up in a challenge. And so it was -- we followed the
4 challenge process, and it went through. It arose again.

5 Well, we had previously, before the challenge
6 was submitted, we had previously already cleared up the
7 issue through an administrative deficiency. And so then,
8 when the challenge came in, we were able to look at it.

9 We came to the same conclusion. Issued our
10 opinion in the challenge log that was posted to the
11 website, and that appeared as a report item at the last
12 Board meeting. Subsequent to that, some other changes
13 happened in the region.

14 And the folks that had submitted the challenge
15 felt that now that they were in striking distance of an
16 award, and so they contacted us again, and asked us to
17 look at the issue again. We looked at the issue again,
18 with Tim, with Barbara, and came to the same conclusion.

19 Basically, it boils down to, there is two
20 primary pieces of supporting documentation necessary to
21 prove up these points. There is a discrepancy in that
22 supporting documentation.

23 We allowed it to be clarified through an
24 administrative deficiency. That clarification directly
25 addressed the issue that was a problem. And it did not

1 require significant reevaluation of the application.

2 It was relatively minor in scope, at the end of
3 the day. So in terms of consistency, I would suggest that
4 over the years, in my time with the Department, this has
5 been the type of issue that is pretty common.

6 And it has routinely been allowed to make these
7 kinds of minor changes after the application is submitted.

8 Change is the wrong word; clarifications. Because again,
9 it was a discrepancy between forms.

10 And so, I think it is a remarkably consistent
11 decision, actually. I think the characterization of it as
12 inconsistent arises only when one compares this particular
13 issue to other issues that are subject to completely
14 different sets of rules.

15 I think that that was the initial concern
16 expressed by them. And it is simply not really relevant
17 to compare the issue that they were concerned about, that
18 occurred last year, to this particular situation.

19 MR. OXER: And at all times along this process,
20 in this sequence, there was an opportunity for either side
21 to appeal the decision.

22 MR. DORSEY: Well, challengers can submit a
23 challenge. However, statute does not allow a competing
24 applicant to appeal a decision, particularly related to
25 scoring.

1 MR. OXER: With respect to a challenge as
2 opposed to a waiver or an appeal.

3 MR. DORSEY: Right. The challenge process
4 allows, you know, folks to express concern. Staff takes a
5 look at that challenge, allows an applicant to respond to
6 that challenge. But an actual appeal by a challenger is
7 not compliance statute.

8 MR. OXER: Okay. Good. Thanks. All right.
9 Let's move to the action packed action agenda today. We
10 have a series of report items that have been taken care
11 of. So, Community Affairs. Brooke.

12 MS. BOSTON: Hello again. Brooke Boston. Item
13 2, this action is approving an amendment to the State
14 Department of Energy Weatherization Assistance Plan. We
15 had brought this plan to you guys in February, and you
16 approved it.

17 However, in June, we just got notification from
18 the Department of Energy of our actual allocation amount.

19 And pleasantly, it is more than we had anticipated. And
20 so, we are doing an amendment to the plan today.

21 And the other clarification I would make on
22 this one is, we had indicated in the last whereas of the
23 resolution that this meeting was serving as a public
24 hearing on the amended plan. However, we are not having
25 this meeting serve as that hearing. We will actually be

1 doing a separate additional or a separate hearing.

2 So we would recommend striking that whereas.
3 And of course, we still totally encourage anyone who is
4 here for this to give comment right now. But we are also
5 going to have a kind of more formal public hearing.

6 MR. OXER: So we will have a specific public
7 hearing on this issue, that will invite public comment.
8 Anybody that wants to comment today, even though we are
9 not having the formal certified public hearing today, we
10 are welcome to comment on it now.

11 MS. BOSTON: Yes. And I think we would include
12 that to the extent that we find that we need to pass along
13 the comment to the Department of Energy, if it is
14 substantive, we would still include what is heard today.
15 We just would give people an additional opportunity at the
16 public hearing.

17 MR. OXER: All right. We are going to give a
18 little detail about this. Go through the resolution and
19 just read it like you wanted it to be said. Do you have
20 it with you?

21 MS. BOSTON: Yes.

22 MR. OXER: Okay. Do that.

23 MS. BOSTON: Okay. Whereas the Department
24 develops and submits a state plan to the Department of
25 Energy by March 31 of each year, to administer the

1 Weatherization Assistance Program; whereas in anticipation
2 of State Plan development guidance from the Department of
3 Energy, the Department presented the draft program year
4 2013 DOE WAP State Plan at the December 13, 2012 Board
5 meeting for publication in the Texas Register for public
6 comment;

7 Whereas DOE released the State Plan development
8 guidance on February 14, 2013, and the Department
9 presented the final program year 2013 DOE WAP State Plan
10 for submission at the February 21, 2013 Board meeting;
11 whereas the funding opportunity announcement, including
12 final state allocation was not released by DOE until June
13 21, 2013; whereas the Department has amended the final
14 program year 2013 DOE WAP State Plan to increase the award
15 amount and to increase the number of subgrantees;

16 Now therefore it is hereby resolved that the
17 program year 2013 DOE WAP state plan in the form presented
18 to this meeting is hereby approved, and further resolved
19 that the Executive Director and his designee and each of
20 them be, and hereby are authorized, empowered and directed
21 for and on behalf of the Department to submit such plans
22 together with such grammatical and non-substantive
23 technical corrections as they deem necessary or advisable
24 to DOE.

25 MR. OXER: So you recommendation is the

1 resolution as described.

2 MS. BOSTON: Correct.

3 MR. IRVINE: Brooke, question. If there is no
4 substantive public comment, would this come back to the
5 Board?

6 MS. BOSTON: No, it would not.

7 MR. OXER: That being the case, we have to act
8 on it, to engage the public hearing.

9 MR. IRVINE: Once we have had a motion to
10 consider, then the public that is here could comment on
11 it. The record would treat that as public comment on the
12 proposal. But we will also hold a separate hearing.

13 If, at the end of both this current meeting,
14 and the subsequent hearing, if there is no substantive
15 public comment that would necessitate responses to address
16 it, then the plan would be submitted, as approved at this
17 meeting. If there are substantive issues --

18 MR. OXER: Then it comes back to the board.

19 MR. IRVINE: Then it would come back.

20 MS. BOSTON: Yes.

21 (Simultaneous discussion.)

22 MS. SYLVESTER: It is my understanding, Megan
23 Sylvester, Legal Services. It is my understanding that
24 the plan has to be submitted to DOE by August 21st. So if
25 there is public comment that would generate a change, we

1 would not have an opportunity to bring it back to the
2 Board before that deadline.

3 MS. BOSTON: I would say, we have the authority
4 consistent, and have used it in the past to make
5 amendments while the plan has already been approved, and
6 then we ask for subsequent amendments. We did that with
7 our Recovery Act weatherization as well.

8 And I would say, I think we did hear something
9 significant, we would not disregard it, because we had
10 already submitted the plan. We would submit the plan and
11 then determine whether we thought an amendment was
12 warranted. And then we would proceed with that outcome.

13 MR. OXER: Okay. Good. Okay. Any questions
14 from the Board? I have a motion to consider?

15 MS. BINGHAM ESCAREÑO: Mr. Chair, I will move
16 to resolve as it was read into the record by staff.

17 MR. OXER: Motion by Ms. Bingham as Brooke told
18 us.

19 MR. GANN: Second.

20 MR. OXER: Second by Mr. Gann. Is there any
21 public comment? Anybody interested in this?

22 (No response.)

23 MR. OXER: Okay. Well, you also have an
24 opportunity with this public hearing. For the record, how
25 much extra did we get?

1 MS. BOSTON: Approximately 4 million. We had
2 thought it would be around two. So we got almost double
3 what we thought.

4 MR. OXER: So we were looking for four, and we
5 got another four. So we got eight?

6 MS. BOSTON: No. Excuse me. We thought it was
7 going to be around \$2 million and we actually got four.

8 MR. OXER: Okay. So what was the original
9 grant amount?

10 MS. BOSTON: Well, it wasn't an original. We
11 had just anticipated that it would be approximately \$2
12 million.

13 MR. OXER: Okay.

14 MS. BOSTON: And then we actually got the
15 allocation letter from the Department of Energy with
16 around \$4 million.

17 MR. OXER: Okay. So essentially what we got
18 was twice what we expected.

19 MS. BOSTON: Correct.

20 MR. OXER: This is a good thing.

21 MS. BOSTON: Yes.

22 MR. OXER: Okay. That was all the questions I
23 have. Motion by Ms. Bingham, second by Mr. Gann. No
24 public comment. All those in favor, aye?

25 (A chorus of ayes.)

1 MR. OXER: Opposed?

2 (No response.)

3 MR. OXER: There are none. It is unanimous.
4 Okay. Thank you. It looks like you are up, Cameron.

5 MR. DORSEY: That was fast. Cameron Dorsey,
6 Director of Multifamily Finance. All right. Item 3(a),
7 the first application reflected, these are 4 percent tax
8 credit obligations. There are three of them reflected on
9 the agenda.

10 The first one in line, 13408, Tidwell Lakes
11 Ranch is being pulled from the agenda today. Anticipate
12 it possibly appearing at a future meeting.

13 So, William Cannon Apartments and Parmer Place
14 Apartments, these are two transactions both located in
15 Austin. Travis County Housing Finance Corporation is the
16 issuer of the bonds.

17 These are fairly large deals; 252 units each
18 and new construction. We have completed our full review
19 of the 4 percent application and are recommending approval
20 of determination notices for both of these transactions.

21 Let's see, Parmer Place, the recommendation is
22 for \$1,055,197 in 4 percent tax credits. And for William
23 Cannon, it is \$1,353,902 in 4 percent housing tax credits.
24 Staff recommends approval of both of these.

25 MR. OXER: Motion to consider. Are there any

1 questions of Cameron from the Board?

2 (No response.)

3 MR. OXER: Motion to consider.

4 MR. GANN: I move staff recommendation.

5 MR. OXER: Okay. Motion by Mr. Gann.

6 MR. McWATTERS: Second.

7 MR. OXER: Second by Professor McWatters.

8 There appears to be no public comment. Okay. Motion by
9 Mr. Gann and second by Mr. McWatters to approve staff
10 recommendation. All those in favor, aye?

11 (A chorus of ayes.)

12 MR. OXER: Opposed?

13 (No response.)

14 MR. OXER: There are none. Thanks, Cameron.

15 MR. DORSEY: Sure.

16 MR. OXER: Okay. Item 3(b).

17 MR. DORSEY: All right. This is the big annual
18 award item -- what is that?

19 MR. OXER: The middle ring in the circus today?

20 MR. DORSEY: I am sorry?

21 MR. OXER: The center ring in our circus.

22 MR. DORSEY: Right. There were some handouts
23 out at the front table that you all got those handouts.
24 Those are, I believe, really for just informational
25 purposes. We are trying to make some of the numbers a

1 little bit bigger on those sheets of paper.

2 The supplement is, what is in the Board
3 supplement is what staff is recommending. What is
4 reflected in those handouts, there is one little
5 difference that I will describe to you real quick.

6 There was a USDA application where the
7 underwriting report was just recently posted. It reflects
8 the updated recommended number, which is about \$25,000
9 less than they requested. They still have appeal rights.

10 So that is why I say, it is reflected that way in the
11 materials that were out there.

12 But in the supplement, what we are doing is, we
13 are recommending the full \$212,000 request subject to
14 underwriting, underwriting again. It has been posted.
15 But they still have some appeal rights, and we don't want
16 to, you know, act before those rights have expired.

17 There are a couple things I will walk you all
18 through. There is this spreadsheet right here. This
19 is -- you all probably remember that presentation I did
20 last year on the original allocation and how that worked.

21
22 This is kind of our accounting summary that
23 lays out kind of what happened at each stage. It reflects
24 our initial total allocation that we got for 2013. That
25 is \$58,633,207. That is a calculation done based on

1 population figure that is released by the Treasury and
2 IRS.

3 And then, a factor that you multiply that
4 population by to get to that figure. Then you see, in the
5 next column, returns - tax credits. These are tax credits
6 that were awarded in prior years to competitive 9 percent
7 tax credit applications.

8 And through cost certification and completion
9 of the transaction and everything, they have either
10 returned some credits at that stage, or sometimes, returns
11 have been at earlier stages. And so, we have gotten a
12 total, the total of the returns thus far this year is
13 \$471,591.

14 When those credits are returned, as you may
15 recall, they go back to the region from which they came.
16 Basically, the idea there is they were awarded from that
17 region originally.

18 And that transaction, those credits weren't
19 utilized in that region. They were returned. So we are
20 going to put them back in the region they came from.

21 That gives us a total amount of credit to
22 allocate of \$59,104,798 in credits. It is a little
23 increase over last year. I think it was somewhere in the
24 58 million range.

25 We had a little bit more returned last year.

1 But it is pretty, it is in the same ball park as what we
2 had last year to allocate. We are recommending awards
3 that total \$57,863,665 today. Again, conditioned upon
4 underwriting and those other things that may need to occur
5 to ensure that all of these applications meet all of the
6 program requirements.

7 That \$57 million figure I just stated leaves
8 about -- well, not about, exactly \$1,241,133 in credits.
9 That is a pretty big residual amount to have right now.

10 But that is because the next application on the
11 waiting list, or that would be in line for recommendation
12 is just slightly higher than that amount reflected there.

13 So it is about 1.25 million. We are somewhere in the
14 realm of 8,000, 10,000 credits short.

15 To the extent that that application I mentioned
16 earlier still has appeal rights chose not to appeal, then
17 we would have those credits, and that would go back to the
18 pool. And we could allocate from the waiting list.

19 So we will see what happens in the coming days
20 there. For today, though, we are recommending 64
21 applications. Again, totaling \$57,863,665.

22 MR. OXER: It is 635.

23 MR. DORSEY: It is?

24 MR. OXER: But who is counting.

25 MR. DORSEY: Okay. This reflects, the

1 recommendations reflect several things. One is, we are
2 under the average set-aside of 15 percent, the minimum
3 there. But we are recommending every application that
4 remains active.

5 So from that perspective, you know, we are
6 meeting the requirements laid out in statute. A similar
7 thing goes for the USDA set-aside. I think we are just a
8 little bit under there. However, we are recommending
9 every application that remained active that submitted
10 under the USDA set-aside.

11 On the non-profit set-aside, our
12 recommendations are going to reflect around 15 percent of
13 our allocation going to non-profit qualified non-profit
14 transactions. That is about 5 percent higher than
15 required by the federal requirement.

16 And then the rest of the awards are being made
17 out of the specific regional pools. Again, 64
18 applications in total. That is an increase over last
19 year.

20 Last year, I believe we had 56, including
21 forwards. One ended up returning in whole, after the end
22 of the year. And that is not reflected as being deducted
23 from that number. So 56 were awarded from last year's
24 ceiling.

25 And this year, again, recommending 64 with a

1 high likelihood that we will be able to accomplish at
2 least one more transaction with that residual amount.
3 Likely you know, some of that has really to do with some
4 of the incentives in the QAP related to development size.

5 When you look at it on a per unit basis, we are really
6 spending a little bit more per unit, per tax credit unit
7 in credit in these recommendations.

8 But we are dealing with an overall smaller
9 transaction size. Just slightly. We are going from a
10 little over 100 units, about 107 units down to an average
11 of 94 or so units per transaction.

12 A lot of work goes into producing these
13 recommendations every year. You know, there were a lot of
14 reviews. There is a lot of divisions involved. You know,
15 just recognizing briefly, some of the folks involved in
16 this effort.

17 Because Jean and I you know, end up standing up
18 here the most. But there is a whole ton of people that
19 really support -- everything we say up here is based on
20 what our staff has accomplished and what the staffs in
21 other divisions have accomplished.

22 Real estate analysis is the obvious group.
23 Britt somehow continually evades having to stand up here.

24 But he is sitting right over there. And so his group
25 does a phenomenal volume of work.

1 And in terms of number of hours that those guys
2 put in, I think it is the highest of any division in the
3 Department at this time of year. I can walk in on Sunday
4 on my way to Barton Springs to get my sunglasses out of
5 the office, and there is three or four of them over there
6 working on underwriting reports. So I am basking in the
7 sun, and they are working.

8 Our Legal Division is incredibly instrumental
9 in this process. Barbara in particular is wonderful. I
10 love working with Barbara.

11 You know, she sometimes provides me a little
12 therapy, when I am getting down or getting uncertain about
13 taking a specific action or what have you. So I really
14 always appreciate having Barbara.

15 MR. OXER: Decidedly different from the cattle
16 prod that I usually have over on my side.

17 MR. DORSEY: Tim obviously, as well. And I
18 think if I were to say that he is in charge of steering
19 the ship, I think he would say no. I let you guys do
20 that. But you know, Tim provides a great amount of
21 flexibility and for us to accomplish our jobs and you
22 know, allows for a lot of self determination which, it is
23 great to work for Tim.

24 The Compliance Division does participation
25 reviews. This is the highest volume of previous

1 participation reviews that are done each year. That is a
2 pretty big undertaking. So, let's see.

3 Elena, you know, and Michael Lyttle, who deal
4 with some of the you know, political stuff that naturally
5 results from awarding what is effectively over half a
6 billion dollars in tax benefits, tax credits. So you
7 know, Elena is a great person to have on our team.

8 I think Elena, of anyone in the Department, and
9 I think I have said this before, but Elena of anyone in
10 the Department knows probably the most about the most
11 stuff that we do. I mean, if you are trying to figure out
12 what one division or another does, like Community Affairs.

13 I have no idea what those guys do.

14 Elena does. And she knows what we do. It is
15 unbelievable. She is a fantastic person to help with a
16 bunch of queries from legislative folks and whatnot. So
17 just really appreciate all of those folks who are you
18 know, working long at Barton Springs and don't get the
19 opportunity to be seen up here.

20 Although, I am not sure they are jealous of me,
21 to stand up here with appeals and whatnot. So a nice
22 round of applause for all those guys.

23 (Applause.)

24 MR. OXER: I had an opportunity some months ago
25 to be at an opening down in San Antonio. They asked me to

1 make some comments. And I said, now I know what this is
2 like. I know this is hard. I helped make it that way.
3 So I know it is hard for you and staff, because we help
4 make it that way.

5 So the spikes only hurt when they start going
6 through. When they get all of the way through, the
7 spikes, it doesn't hurt that much. Good work. I have a
8 couple of questions.

9 MR. DORSEY: Okay.

10 MR. OXER: First of all, are there any
11 questions of the members of the Board, of Cameron?

12 (No response.)

13 MR. DORSEY: Can I recognize one more group?

14 MR. OXER: Sure.

15 MR. DORSEY: How about the developers in the
16 room that continually and annually --

17 (Applause.)

18 MR. OXER: Yes. There is one that we recognize
19 that we make this hard. But we like to think that the
20 blade only gets sharper when you rub it against a hard
21 rock. Okay.

22 So that is a process we will continue to
23 refine. And I am sure that our development community is
24 going to continue to get better, and continue to up their
25 play. I had a couple of questions, unless the Board --

1 does any of the Board have a question?

2 (No response.)

3 MR. OXER: Okay. The credits that were
4 returned, from each of the regions, they are returned into
5 that region to be allocated under this year's QAP. In the
6 event that they are not exercised under that, then they go
7 into the statewide collapse for this. Is that correct?

8 MR. DORSEY: Yes. Rural residual first goes
9 into the rural collapse. And that is required by statute.

10 And we allocate all of those credits and make
11 our best attempt to allocate those credits to rural deals
12 in other regions that are most underserved. And then, all
13 of the residual that may be remaining from that rural
14 collapse, as well as from all of the urban regions gets
15 collapsed into the statewide.

16 MR. OXER: But, yes.

17 MR. DORSEY: Yes.

18 MR. OXER: And those that are unused or are
19 returned or not used start off in the region from which
20 they were no longer used.

21 MR. DORSEY: Exactly. And frequently, they do
22 end up flowing through. At least some of them flow
23 through to the statewide collapse and end up getting
24 awarded out of the statewide collapse.

25 MR. OXER: All right. We have got the 64

1 projects, and that represents how many actual units. 64
2 times your 94?

3 MR. DORSEY: It is 5,000 -- let me see the
4 numbers here, 5,009 tax credit units. 5,992 total units.

5 By the way, that is the most market rate units I think we
6 have probably ever had, or at least in the last, well, at
7 least since I have been here, in seven years. So, yes,
8 5,009 tax credit units. And again, 5,992 total units.

9 MR. OXER: So that adds -- is Patricia here.
10 So that adds to our total inventory, making the total
11 inventory approximately what? Do you have that?

12 MR. DORSEY: I think it is a little over
13 200,000 units.

14 MR. OXER: 200,000 that are currently in the
15 monitoring program. And those are the ones that are
16 currently monitored and does not include the ones that
17 were built in the middle 80s that are -- not fallen off,
18 but no longer under the monitoring compliance.

19 MR. DORSEY: That is right. These are the ones
20 that are actively subject to a tax credit LURA. Yes. So
21 a pretty darn big portfolio if you ask me.

22 MR. OXER: Yes. Okay. Any other questions
23 from the Board?

24 (No response.)

25 MR. OXER: Ms. Bingham, I will entertain a

1 motion to consider.

2 MS. BINGHAM ESCAREÑO: It would be my honor to
3 move to staff recommendation for the Competitive Housing
4 Tax Credit allocation.

5 MR. OXER: Okay. Motion by Ms. Bingham. I
6 will exercise the Chair's discretion for the one time a
7 year I get to do this. I will second the motion. We have
8 a comment on this item. Annette, do you have a letter to
9 read in?

10 MS. CORMIER: Annette Cormier, TDHCA staff.
11 The following individual would like to provide her opinion
12 on Item 3(b), project number 13077. Barbara Thomason,
13 position is to deny approval of the project for the 2013
14 Housing Tax Credit waiting list.

15 MR. OXER: Okay. Thanks, Annette. Michael, do
16 you have a letter?

17 MR. LYTTLE: Michael Lyttle, TDHCA staff. This
18 is a letter addressed, sent to you from State
19 Representative Marissa Marquez. It reads as follows.

20 Dear Chairman Oxer, my office has been working
21 closely with the City of El Paso and also the El Paso
22 Community Foundation on a project that will help the
23 tremendous revitalization of our downtown currently
24 underway. I have previously submitted a stout letter of
25 support for the Artspace Project at 601 North Oregon

1 Street, application number 13166, and would like to share
2 some further insight into this proposal.

3 I have enclosed a letter from Mayor John Cook
4 regarding some promises made at a special City Council
5 meeting on November 5, 2012. Subsequently, some private
6 developers rescinded their commitment.

7 And I want to ensure the Board has the most
8 accurate information. I have also enclosed here for you a
9 link to the segment of the special meetings, so that you
10 can view this exchange for yourself.

11 Thank you for your service to the great State
12 of Texas. It is truly an honor to represent El Paso in
13 Austin. Please do not hesitate to call on me if I may be
14 of further assistance. Yours truly, Marissa Marquez,
15 State Representative District 77, Texas House of
16 Representatives.

17 MR. OXER: Good. Thank you. Okay. We have a
18 motion by Ms. Bingham and a second by the Chair to approve
19 staff recommendations for the current list on the low
20 income Housing Tax Credit program. Is there any public
21 comment?

22 MR. LILLY: Good morning. My name is Bill
23 Lilly, and I am from the City of El Paso Community
24 Development. I am just basically here to express concern
25 regarding award points for local commitment for projects

1 in Region 13.

2 And the reason I express that, on August 30,
3 2012, the City Council at a public meeting had a
4 discussion with regard to tax credit projects for the 2013
5 round. At that particular meeting, or at that meeting, it
6 was publicly disclosed that the City would only support
7 one project, and that is the Artspace project. That it
8 would not provide any support, be it through moral support
9 or financial support to any other projects.

10 However, subsequently, there were several
11 projects that actually claimed the points for local
12 commitment. The City subsequently sent correspondence.

13 And let me say, and you really have to thank
14 Mr. Irvine and Mr. Dorsey and Ms. Latsha, they have been
15 very responsive to the City's concerns. In fact, I called
16 a month or so ago, calling Mr. Irvine's office.

17 He actually answered the phone himself. I
18 mean, how often does that happen? It is a privilege.

19 MR. OXER: I do it all of the time, actually.

20 MR. LILLY: Okay.

21 MR. OXER: I think it has got something to do
22 with Caller ID.

23 MR. LILLY: Okay. The City also recognizes
24 that the state has a QAP, Qualified Allocation Plan and
25 that sets all of the rules for which the points are

1 awarded for projects. But the City does express its
2 concern whether those points should be allowed for that
3 particular project.

4 Also going forward, we realize that we probably
5 need to be more involved in the 2014 QAP process. We
6 intend to be. We believe that the local government should
7 have input to what projects are awarded in a community.

8 Having said that, again, I appreciate Mr.
9 Irvine and Mr. Dorsey and Ms. Latsha's responsiveness.
10 But we simply like for the record to express our concern
11 that points are being awarded to a particular project.

12 The other part of that is, on November 5th, and
13 there are three primary developers for tax credits in El
14 Paso; Tropicana, Investment Builders and the Housing
15 Authority. And there was publicly discussed that this was
16 the project, that everyone agreed that this project was
17 one, the Artspace project, that the community supported.

18 They actually agreed that if in fact, they
19 outscored that project, that they would withdraw and allow
20 that project to be funded. Having said that, that has
21 changed.

22 It wasn't in writing. So the City does express
23 its concern about commitments were made and haven't been
24 kept. So thank you.

25 MR. OXER: Okay. I mean, we appreciate your

1 comments. Are there any questions from the Board or any
2 comment?

3 (No response.)

4 MR. OXER: Yes. And I think, I hope it is
5 apparent that with the local resolution issue having been
6 addressed by the Legislature this year, while we
7 appreciate that there are some discussion in the El Paso
8 or in this particular case any location within the state,
9 our position is that it has to be that any properly
10 developed and submitted application has to be considered.

11
12 If there is a local discussion about project
13 preference, that is a local discussion that my own
14 personal preference or recommendation is that it not be
15 refereed here, but be refereed locally. And I think the
16 local resolution component that the Legislature added to
17 our rule in 2306 is intended to address at least that in
18 some measure.

19 And hopefully, what we are trying to do is come
20 up with a rule that supports that and gives a lot more
21 voice to the local elected government. So that it is not
22 the single individual there, but a representation of the
23 community about their consideration and regard for the
24 project.

25 MR. LILLY: I understand.

1 MR. OXER: Okay. We are getting there.

2 MR. PEARSON: Speaking about the same project.
3 My name is Eric Pearson. I am the President and CEO of
4 the El Paso Community Foundation which is a partner with
5 the City of El Paso and Artspace project, a national non-
6 profit.

7 I just wanted to really reiterate what Mr.
8 Lilly said, that we had a concern about awarding of points
9 for community support. And I would urge you to really
10 think about it, especially moving forward. This is the
11 community will.

12 Community Foundation is a large player in
13 bettering the City of El Paso. The City is our partner.
14 We see this as a precedent. You will have Artspace
15 applications in the coming years for the Dallas, I believe
16 Austin and San Antonio.

17 And so this is the trend. And there is an
18 opportunity to set precedent for building a community, not
19 only doing low income housing but having residual
20 community benefits. It is very important to the
21 communities involved, in creating the fabric of what we
22 consider a strong community.

23 And so just that in your consideration. I
24 understand that the process is pretty stringent in terms
25 of points. But I just wanted to make those comments.

1 Thank you.

2 MR. OXER: Yes. We appreciate your comments.

3 (No response.)

4 MR. OXER: Good. I would offer to the two of
5 you here in the front, be certain to sign in. Make sure.

6 We have to have that for the record. Any other public
7 comment?

8 (No response.)

9 MR. OXER: I guess everybody showed up here to
10 this one. Right? That is what you are here for?

11 (No response.)

12 MR. OXER: All right. We have a motion by Ms.
13 Bingham, second by the Chair. Approve staff
14 recommendation for the competitive 9 percent low income
15 Housing Tax Credit awards for the 2013 State Housing Tax
16 Credit ceiling.

17 All those in favor, aye?

18 (A chorus of ayes.)

19 MR. OXER: Opposed?

20 (No response.)

21 MR. OXER: There are none. So let's
22 everybody --

23 (Applause.)

24 MR. OXER: I would like to point out that just
25 from the Chair's position that this is hard work. We make

1 it hard work, but everybody in this room is to be
2 congratulated for their contribution to this effort.

3 You know, it is a good thing that we do. It
4 provides opportunity to a lot of people that need the
5 effort, need the support. So I compliment each of you.

6 We appear to be at the end of the formal
7 agenda. We will -- is there any public comment on any
8 item that has not been considered?

9 (No response.)

10 MR. OXER: Don't everybody run up here
11 together. Okay.

12 MS. LEDBETTER-PARHAM: Hi. My name is Amy
13 Ledbetter-Parham. I am the Executive Director of Habitat
14 for Humanity of Texas. And I appreciate you being here,
15 and thank you for your service as well.

16 On the evening of May 15, a couple of months
17 ago, I was on the phone with my mom, who was in a cast-
18 iron bathtub with two Chihuahuas, one in each arm, and two
19 Labs peeking over the edge of the bathtub, as a one-mile
20 wide tornado approached her house in Cleburne, Texas. And
21 the power was out, so I was watching the Weather Channel
22 while my mom was in the bathtub.

23 When a survivor from Hood County was
24 interviewed on TV and said, a tornado just wiped out a
25 Habitat neighborhood. And that was the neighborhood of

1 Rancho Brazos near Granbury of 120 homes. Sixty were
2 Habitat homes.

3 And of the 60, 58 were damaged or destroyed.
4 Over 20 were completely destroyed by that. In the weeks
5 that followed, we mobilized relief efforts that
6 included -- well, at first it took two days just to see if
7 any of the fatalities that were in that neighborhood were
8 Habitat homeowners. They were not. But it took two days.

9 Affiliates from around the state organized tool
10 drives, because the buildings that were -- there was one
11 home that was only two days away from being dedicated.
12 And the tool trailer that was onsite was blown away. So
13 Habitat affiliates got together and they organized tool
14 drives.

15 And we organized fund drives for the Hood
16 County affiliate, and went to tarp the houses that were
17 left, and hopefully salvageable for some of the partner
18 families that lived there. And that day that we found out
19 that no partner families were among the fatalities were
20 the day that the funding requirements for Texas Bootstrap
21 were released.

22 And I didn't want to let the time pass. I know
23 that that was on the consent agenda for your last Board
24 meeting in June. But I wanted you to know how important
25 the Bootstrap program is to affiliates around Texas.

1 And there was a decrease in funds from \$10.4
2 million to \$6 million. The best part of Bootstrap, the
3 best part of Habitat is you get your funds back when you
4 donate to the Bootstrap with the repayment for the
5 mortgage program.

6 And I would like to ask you to direct staff and
7 work with us to see if there are opportunities available
8 to increase the funds for the Texas Bootstrap program.
9 Affiliates use it. When you put money in the Bootstrap
10 program, it can be spent and will be spent and then you
11 will get it back, which is the best news.

12 So thank you for your support. And if you
13 can -- if you wouldn't mind directing staff to see if
14 there are other opportunities available to increase those
15 funds we would certainly appreciate it. And I will be
16 back in September to see if anything can be had.

17 MR. OXER: Okay. Thanks for your comments
18 today. Any other comments?

19 (No response.)

20 MR. OXER: Is there any other comments from
21 staff?

22 (No response.)

23 MR. OXER: Jeanette? We are good. No comments
24 from staff, no comments from the public. Is there any
25 other comments from the Board or the members of staff at

1 the dais?

2 (No response.)

3 MR. OXER: Okay. Mr. ED.

4 MR. IRVINE: Yes. I really appreciate Cameron
5 thanking his teammates and recognizing them for their
6 contributions here. And we all certainly thank Cameron.

7 Every time a controversial issue comes to
8 staffs attention in the tax credit program, Cameron is the
9 guy that mobilizes the discussion. And I want you all to
10 know that each of the controversial issues that we have
11 wrestled with over the past cycle has probably resulted in
12 literally days of collected time, as Cameron has pulled
13 together the folks from real estate analysis and asset
14 management, compliance and legal and DPPA, that is public
15 affairs. And even me, now and then.

16 These issues are not taken lightly. We always
17 look at every issue from as many perspectives as possible.

18 We look at it from the developer or applicant or
19 consultant perspective.

20 We look at it from the staff perspective that
21 has obviously precipitated the conflict. We look at it
22 from a public policy perspective. And always, our last
23 touchstone, and the one we always make sure we are
24 sticking to is the law, the statute and rule.

25 And you know, there is an awful lot of work

1 that goes into each of these tough issues. And you know,
2 you talk about knocking the rough edges off of the
3 program. I think this has been a very good year for
4 having good rich dialogue on issues like local political
5 subdivision support and so forth.

6 And you know, the instant the gavel hits, we
7 start the next one. And we will be working on developing
8 the next Qualified Allocation Plan.

9 And I really want you to know that there is an
10 awful lot of engagement and discussion that has got us to
11 where we are, and we will be building on that. And we
12 really, really sincerely solicit your input.

13 I would also like to say with regard to the
14 tornado which was so devastating in Granbury, this is the
15 tax credit meeting. This is the one where we are talking
16 about the 9 percents. And they obviously absorb a huge
17 amount of the Board's time and attention.

18 But I don't want it to ever go unnoticed, the
19 incredible work that the community action agencies do in
20 being the front line responders when disasters occur.
21 They do amazing work. They not only help with the
22 immediate needs of shelter and stability, but -- for
23 example, in the Granbury area, I know that they are
24 pulling together to be able to offer longer term housing
25 recovery and rental assistance.

1 So a big shout out to them. They are too busy.
2 They spend too much time responding to disaster, but we
3 are so glad they are there.

4 MR. OXER: Okay. The things that we do are
5 important to the State of Texas. So I congratulate
6 everybody here. And I appreciate the effort. The things
7 we do make Texas better. So I will entertain a motion to
8 adjourn.

9 MS. BINGHAM ESCAREÑO: So moved.

10 MR. OXER: Motion by Ms. Bingham to adjourn.

11 MR. McWATTERS: Second.

12 MR. OXER: Second by Professor McWatters. No
13 question is necessary. We stand adjourned.

14 (Whereupon, at 11:05 a.m., the meeting was
15 adjourned.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: July 25, 2013

I do hereby certify that the foregoing pages, numbers 1 through 49, 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 and Community Affairs.

(Transcriber) 07/31/2013
(Date)

On the Record Reporting
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