

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

Capitol Extension Auditorium  
1500 North Congress  
Austin, Texas

Thursday,  
September 12, 2013  
9:00 a.m.

MEMBERS :

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

TIMOTHY K. IRVINE, Executive Director

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- b) Report on Request for Proposal for Program Administrator for the Single-Family Mortgage Loan and Mortgage Credit Certificate (MCC) Programs
- c) Status report on the HOME Program Contracts and Reservation System Participants through August 2013
- d) Executive Report of Multifamily Program Amendments, Extensions, and Ownership Transfers
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P R O C E E D I N G S

1  
2 MR. OXER: Good morning everyone. And I can  
3 see you are all sitting and quiet already. So that is a  
4 good start. You have learned how we do this.

5 Before we get started this morning, I would  
6 like to welcome you all to the September 12 meeting of the  
7 Texas Department of Housing and Community Affairs  
8 Governing Board. For those of you listening at home,  
9 there will be a transcript of this made available in a  
10 couple of days after this.

11 The first thing I would like to do today is to  
12 welcome our newest member of the TDHCA Board, Mr. Robert  
13 Thomas of Austin, here. He is a very successful attorney  
14 and businessman.

15 We are fortunate and thankful to the Governor's  
16 Office to have him to serve with yet another member who  
17 has an impressive resume, far in excess of what I could  
18 offer up. I am glad to have somebody here who can pedal  
19 faster than I can.

20 Robert has been sworn in and trained. And if  
21 he was like me, he got sworn at right after he got here.  
22 And he is ready for action. So I would like you all to  
23 join us in welcoming Robert to the group.

24 (Applause.)

25 MR. OXER: Robert, if you have any comments you

1 want to make, you are welcome to make them now. And as  
2 you will find, this will be a good chance to say anything  
3 you want to get off your chest.

4 MR. THOMAS: No, sir. I am happy to be here  
5 today.

6 MR. OXER: Great. All right. Good to have you  
7 on board. At this time, we also want to do something very  
8 special, recognize a very special person who has served  
9 this board and the agency for a very long time.

10 And I have to tell you, if it weren't for that  
11 we are about to identify and recognize, you know, my life  
12 here would have been far more difficult than it has been.

13 Several weeks ago, Michelle Atkins announced that she was  
14 going to retire from state service and from TDHCA.

15 I think everybody in this room knows that she  
16 served this Board in a variety of roles, and has really  
17 been the glue that holds things together during most of  
18 these meetings, including, as I recall, exactly two years  
19 ago this month, you know, offering me, what was it, 142  
20 requests for public comment that we had in this building?

21

22 I recall -- yes, who was counting at that  
23 point? You know, it looked like a phone book. So anyway,  
24 we have a proclamation from the Governor, which I would  
25 like to have Michael read.

1           And, Michael, take it away.

2           MR. LYTTLE: Okay. This is a proclamation  
3           dated August 20, 2013. It reads as follows: "Greetings  
4           to Michelle Atkins. Congratulations on your well deserved  
5           retirement after 25 years of service to the people of  
6           Texas. Public service is an honor, for its foundation is  
7           in the public trust.

8           "Daily state employees earn this trust,  
9           demonstrating dependability, initiative and wise  
10          stewardship of public resources. Their endless dedication  
11          highlights that this State's greatest asset lies with the  
12          people who call it home.

13          "First Lady Anita Perry joins me in sending her  
14          best wishes for an enjoyable and fulfilling retirement.  
15          Sincerely, Rick Perry, Governor, State of Texas."

16          (Applause.)

17          MR. OXER: Those of you who don't know Michelle  
18          and the work that she does, really don't know why this  
19          whole organization runs as smoothly as it has. So, I  
20          don't know who is going to take your place. But it may  
21          take two or three Micheles' to do that. So at any rate.

22          Also, we would like to thank Senator Tommy  
23          Williams, who is the Chair of the Senate Finance  
24          Committee, for making sure that we were able to have the  
25          Capitol Extension Auditorium today. Thank you to the

1 Chairman.

2 And I think, is Jose Menendez here today? Yes?

3 He and a representative from Senator Van de Putte's  
4 office are here. And I believe -- I think Jose will be  
5 here in a bit.

6 And we would like to -- we have a comment. So  
7 do we have Mr. Bill Wilson here? Oh, yes. We have to do  
8 that. Oh, we have got to do something official here.  
9 Hang on a second. I am getting far ahead of myself, Bill.

10 All right. Now that we have the amenities out  
11 of the way, we will go through the formal and official  
12 start, which is essentially the roll call. Ms. Bingham?

13 MS. BINGHAM ESCAREÑO: Here.

14 MR. OXER: Mr. Gann.

15 MR. GANN: Here.

16 MR. OXER: Professor McWatters.

17 MR. McWATTERS: Here.

18 MR. OXER: Dr. Munoz is not here. I am here.

19 And Robert Thomas, our newest member is here. We have  
20 five present. That gives us a quorum. We can conduct  
21 business. So with that, let's stand and salute the flags.

22 Tim.

23 (Whereupon, the Pledge of Allegiance was  
24 recited.)

25 (Whereupon, the Texas Pledge of Allegiance was

1 recited.)

2 MR. OXER: Okay. We are formally in session  
3 now.

4 So Mr. Wilson. Now, please.

5 MR. WILSON: Good morning, Mr. Chairman,  
6 Committee members. I appreciate this chance to address  
7 the Commission, the Board, and read into the record this  
8 letter sent just a few days ago by my boss, Senator  
9 Leticia Van de Putte. And for the record, my name is Bill  
10 Wilson, and I work for Senator Van de Putte.

11 "Dear Chairman and Board members, I am  
12 respectfully asking the Texas Department of Housing and  
13 Community Affairs to consider not awarding any additional  
14 housing credits in 2013 cycle until after current  
15 commitments have been met. This will provide time to  
16 fully assess the impact of the tax credit cycle on Urban  
17 Region 9, and Senate District 26.

18 "I recently learned that Urban Region 9 may be  
19 considerably underfunded by nearly 45 percent this cycle.

20 I also understand tax credits that could potentially  
21 support housing needs for the City of San Antonio may be  
22 reallocated for use in other areas of the State, when  
23 there are regional eligible applicants that should be  
24 considered.

25 "In 1999, as a member of the Texas House of

1 Representatives, I collaborated with fellow legislators to  
2 enact the Regional Allocation Formula to provide an  
3 equitable distribution of tax credits. Because there was  
4 a great concern that the City of San Antonio have been  
5 significantly and traditionally overlooked in Texas'  
6 allocation of Housing Tax Credits. And it became  
7 imperative to find a way of allocating valuable housing  
8 resources outside the scope of Dallas, Houston and Austin.

9 I am respectfully asking the State to see if commitments  
10 are returned, and then assessed, how each of the uniform  
11 state service region is allocated. They are over- or  
12 underfunded, so that the tax credit cycle could be fully  
13 evaluated with regard to regional allocation. Should the  
14 TDHCA award additional tax credits before commitments are  
15 returned, our concern is, Urban Region 9 will be adversely  
16 affected for the coming year. Thank you for your  
17 consideration. Signed, Senator Van de Putte."

18 MR. OXER: Thank you, Mr. Wilson. Any  
19 questions from the Board?

20 (No response.)

21 MR. OXER: Great.

22 MR. WILSON: Thank you for your time.

23 MR. OXER: Please give our regards to the  
24 Senator. Okay. Is Jose here? Okay. In that case, I  
25 think we have someone that wanted to speak on the Consent

1 Item 1 zero, or 1(o).

2 MR. SISCO: Good morning. My name is Robin  
3 Sisco. And I represent Grantworks, Incorporated, and we  
4 do extensive work with TDHCA's HOME program.

5 I am here today to let the Board know how  
6 supportive we are of the proposed changes in the HOME  
7 rules. The changes proposed will make this program less  
8 burdensome for homeowners assisted with HOME funds, and  
9 for the cities and counties that administer these  
10 projects.

11 We are especially appreciative to Jennifer  
12 Molinari and the HOME staff for the rules changes they  
13 proposed, and for all the hard work they do each and every  
14 day to keep this much-needed program running well. Just  
15 wanted to let you know that.

16 MR. OXER: So you are saying good things about  
17 the staff, and giving compliments to the Agency?

18 MR. SISCO: Absolutely.

19 MR. OXER: You come to speak any time you would  
20 like to.

21 MR. SISCO: Okay.

22 MR. OXER: Thank you very much.

23 MR. SISCO: Thank you.

24 MR. IRVINE: Any other staff clarifications  
25 regarding the consent agenda?

1 MR. GOURIS: Tom Gouris, Deputy Executive  
2 Director for Assets Analysis and Management. I have two  
3 clarifications on Item 1(j), the consent agenda.

4 It is for number 100-14, Artisan at Port  
5 Isabel. We accidently identified it as being in the City  
6 of Mesquite. And it should be listed as in the City of  
7 Port Isabel. The agenda is correct. It is just one of  
8 the references that says Mesquite. I want to make sure  
9 there was no confusion on that.

10 And the second item is item 1(t) on the consent  
11 agenda. It is regarding the repeal and proposed  
12 replacement of 10 TAC, Chapter 10, Uniform Multifamily  
13 Rules, Subchapter D, concerning the underwriting policy.  
14 The attachment there to the Board writeup has language in  
15 it which --

16 MR. OXER: Hold on a second. Which, was it P  
17 or T?

18 MR. GOURIS: D. I'm sorry, Item 1(t).

19 MR. OXER: T.

20 MR. GOURIS: It is Subchapter D of the rules.

21 MR. OXER: Okay.

22 MR. GOURIS: It is the underwriting rules. And  
23 in the attachment, we had included the report language  
24 that we used last year. And it incorrectly identified  
25 what we were repealing. The language in the body and the

1 reference in the report writeup is correct.

2 But in the attachment, we had included the  
3 wrong repeal language. So we are in fact repealing the  
4 existing Subchapter D and replacing it with the new  
5 Subchapter D, not repealing a chapter that doesn't exist  
6 any longer.

7 (Pause.)

8 MR. OXER: All right. Is there anything that  
9 we need to -- does anything need to be read into the  
10 record for that, Tom? Or can we --

11 MR. GOURIS: No. I don't think so.

12 MR. OXER: Move by reference.

13 MR. GOURIS: I just wanted to make sure it was  
14 clear, and that we were going to -- that the attachment  
15 would be corrected when we submit it to the *Texas*  
16 *Register*.

17 MR. OXER: Okay. Good. Thanks. Peggy, you  
18 have some more corrections to make? Okay.

19 MS. HENDERSON: Peggy Henderson, TDHCA.  
20 Registering comment/opinion for Lucilla Torrez, for Agenda  
21 Item 1(j), project number 100-14, Artesian at Port Isabel  
22 for staff's recommendation. And the second item is for  
23 Edgar Sandoval, again, Agenda Item 1(j), project 100-14,  
24 for staff's recommendation.

25 MR. OXER: Okay. Any questions from the Board?

1 (No response.)

2 MR. OXER: Okay. Thank you.

3 MS. DEANE: I have one clarification on 1(e),  
4 the presentation, discussion and possible action on the  
5 2014 audit work plan. And Sandy or the Audit Committee  
6 members, be sure to chime in if I say this wrong.

7 The Audit Committee members on that one had  
8 asked during the Audit Committee meeting that because the  
9 plan, as it is presented right now, the scope of it, and  
10 by scope, I mean the items that are determined to be  
11 placed in the audit. Exactly what the scope of the audit  
12 will be. Not just in terms of time, but in terms of  
13 subject matter and so forth, what will be audited.

14 It is impossible to determine and to put in the  
15 plan at this point in time. But it will be forthcoming.  
16 And so the Audit Committee members asked that they be  
17 provided with that information from the internal auditor  
18 so that they would have an opportunity to look at that.

19 It is possible that they might ask that it be  
20 put on a future agenda. But at this point in time they  
21 are looking for information on that. And so the approval  
22 of the audit, the 2014 audit work plan is subject to that  
23 proviso.

24 MR. OXER: Does anybody have any contributions  
25 or any comments?

1 MS. BINGHAM ESCAREÑO: I was looking over at  
2 Sandy also. But I think that accurately represents the  
3 Committee's recommendations.

4 MR. OXER: Okay. Good. That is the  
5 modification in the consent agenda as shown. Is that  
6 correct, Counselor?

7 MS. DEANE: Yes. That is correct.

8 MR. OXER: Okay. Eric. Good morning.

9 MR. PIKE: Eric Pike, Director of the  
10 Homeownership Division. I had a clarification on one of  
11 the report items. I actually have two report items today,  
12 which typically are taken up with consent.

13 The first report item is for our Master  
14 Servicer Contract for our mortgage loan portfolio. That  
15 contract is being, or has been awarded to U.S. Bank, who  
16 is our current servicer. We also have a second report  
17 item, which is the award for our program administrator.

18 When the Board book was published, the master  
19 servicer item was posted twice, and the program  
20 administrator item was omitted. And so what we have done  
21 is, each Board member was provided a copy of the writeup  
22 for the program administrator. And there were copies  
23 provided to the general public out front.

24 For the record, the program administrator award  
25 has been made to Housing Development Services, Inc. And

1 they are our current program administrator, and have been  
2 since 2011. So I just wanted to bring those two items to  
3 your attention.

4 MR. OXER: Good. Thank you.

5 MR. PIKE: Thank you.

6 MR. OXER: We had a little turbulence in the  
7 consent agenda in the last week. Okay. Anything else?  
8 Anybody else?

9 (No response.)

10 MR. OXER: In that case, I would entertain a  
11 motion to consider the consent agenda.

12 MS. BINGHAM ESCAREÑO: Mr. Chair, I will move  
13 to approve the consent agenda with clarification for items  
14 1(t), 1(j), 1(e), and the third item A and B as  
15 recommended by the staff.

16 MR. OXER: Does that include everything?

17 MS. BINGHAM ESCAREÑO: Yes.

18 MR. OXER: Okay. All right. There is no other  
19 public comment required or requested?

20 (No response.)

21 MR. OXER: Okay. Motion by Ms. Bingham. Is  
22 there a second?

23 MR. McWATTERS: Second.

24 MR. OXER: Second by Professor McWatters.

25 There is no public comment. Is there any other questions

1 from the Board?

2 (No response.)

3 MR. OXER: All in favor of the motion as  
4 memorialized by Ms. Bingham?

5 (A chorus of ayes.)

6 MR. OXER: Opposed?

7 (No response.)

8 MR. OXER: There are none. It is unanimous.  
9 Good. Thanks. Okay. Let's jump right into it and be  
10 about our work, here. I think we are going to do -- we  
11 are going to -- we can do one or two items. (Perusing  
12 document.) Hang on just a second.

13 (Pause.)

14 MR. OXER: All right. We are going to -- I get  
15 to exercise the Chair's prerogative and reorder the  
16 sequence here. We are going to take up 5(f) and 5(g)  
17 here, Pecan Grove in Mission, Del Rio. Teresa, I think  
18 you are leading the fray on this one.

19 MS. MORALES: Chairman Oxer and members of the  
20 Board. Teresa Morales, Manager of Multifamily Finance.  
21 Items 5(f) and (g) represent the remaining multifamily  
22 bonds restructuring transactions with Centerline Capital  
23 Group, who represents the investor limited partner. You  
24 may recall late last year that staff brought a series of  
25 these Centerline restructuring transactions before you.

1           Homes at Pine Grove in Mission Del Rio are the  
2 remaining properties in the portfolio and are requesting  
3 the Department's consent regarding changes to some of the  
4 terms identified in the original bond documents.

5           The first one, Item 5(f), Homes at Pecan Grove,  
6 was originally issued multifamily bonds by the Department  
7 in December of 2005. The owner is requesting the  
8 Department's approval for modifications to existing bond  
9 covenants. Specifically these modifications include  
10 changes to the redemption provisions, stabilization  
11 requirements, and the final maturity date. Essentially,  
12 these changes will improve the overall financial strength  
13 of the property, the reduction in the principal balance of  
14 \$250,000 of the bonds will decrease debt service and  
15 reduce the properties' ongoing operating deficit. Staff  
16 recommends approval of resolution 14-001.

17           MR. OXER: Okay. We'll take these one at a  
18 time here. Okay. All right. Are there any questions  
19 from the Board?

20           (No response.)

21           MR. OXER: Do I hear a motion to consider?

22           MR. GANN: I so move.

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

24           MS. BINGHAM ESCAREÑO: I will second.

25           MR. OXER: A second by Ms. Bingham. Is there

1 any request for comment?

2 (No response.)

3 MR. OXER: No request for public comment.

4 Okay. All in favor?

5 (A chorus of ayes.)

6 MR. OXER: Those opposed?

7 (No response.)

8 MR. OXER: There are none. Thank you. Five G.

9 MS. MORALES: Next item, Item 5(g) again, is a  
10 multifamily bond transaction that was originally issued  
11 bonds in 2005. The owner is requesting similar  
12 modifications to that of Pecan Grove that include  
13 redemption provisions, stabilization requirements and the  
14 final maturity date.

15 However, where this transaction differs from  
16 Pecan Grove is that the original development plan called  
17 for the construction of 240 units. However, only 180  
18 units were ultimately built.

19 This development is located along the San  
20 Antonio River, about a mile and a half south of downtown.

21 The reduction in the amendments is the result of a  
22 condemnation of approximately two acres of the site by the  
23 San Antonio River Authority who had plans to use this land  
24 to restore the San Antonio River.

25 The ongoing litigation over this specific

1 parcel resulted in a delay of the commencement of  
2 construction. This delay and ultimate condemnation of a  
3 portion of the site created changes in the site  
4 configuration, the building and unit count, and created  
5 additional site work. The additional costs were the  
6 result of the new requirements at the time from the City  
7 of San Antonio and prompted Centerline to contribute  
8 approximately 3.5 million in order to complete  
9 construction.

10 The proposed principal reduction of  
11 approximately 2 million includes the condemnation  
12 proceeds. It will reduce the property's ongoing operating  
13 deficit and will alleviate Centerline's obligation to  
14 continuously fund deficits. Staff recommends approval of  
15 Resolution 14-004.

16 MR. OXER: Any questions from the Board?

17 (No response.)

18 MR. OXER: Okay. A motion to consider.

19 MS. BINGHAM ESCAREÑO: Move to approve staff  
20 recommendation.

21 MR. OXER: Motion by Ms. Bingham to approve  
22 staff recommendation.

23 MR. McWATTERS: Second.

24 MR. OXER: Second by Professor McWatters.

25 There appears to be no request for public comment. All in

1 favor of the motion?

2 (A chorus of ayes.)

3 MR. OXER: Opposed?

4 (No response.)

5 MR. OXER: There are none. It is unanimous.

6 Thank you, Teresa.

7 MS. MORALES: Thank you.

8 MR. OXER: Just as a point of housekeeping, we  
9 will keep our first row up here available for those who  
10 would like to speak. We have got a pretty busy agenda  
11 today, once we get into this. Really, and grinding.

12 So for items where there are a number of people  
13 who want to speak, we are going to have to run a clock,  
14 just so we can -- we are going to have a three-minute  
15 limit on speaking. So when it comes your time to speak,  
16 then you can come up here, and we will start the clock on  
17 you back here.

18 So all right. Let's go to the first item.  
19 Okay. Straight into the action agenda. Sandy. There  
20 have been some modifications as identified.

21 MS. DONOHO: Okay. Good morning, Chairman  
22 Oxer, Board members. For the record, I am Sandy Donoho,  
23 Director of Internal Audit.

24 We had an Audit Committee meeting this morning.  
25 We talked about and approved the fiscal year 2014

1 Internal Audit work plan. You also just approved that  
2 plan on the consent agenda.

3 As Barbara mentioned, the Audit Committee asked  
4 for a little additional information, which I have provided  
5 in the past. And then we kind of stopped doing, because  
6 there wasn't a lot of interest in it. So now I am happy  
7 to do that again.

8 At the end of the planning period for every  
9 audit, we provide management with -- we have a meeting,  
10 and we provide management with some information which we  
11 also follow up and give them in writing, which is, here is  
12 the objectives we have identified for this audit. Here is  
13 the work that we are going to do. Here is the time period  
14 we are going to look at.

15 And you know, here is when we expect to have  
16 the report. And more details about what we are going to  
17 do, and how we are going to do it.

18 And then, sometimes management will come back  
19 and say, you know, I am not really sure that that is going  
20 to be feasible, and here is why. And then we kind of go  
21 back to the drawing board and rewrite the objective, or  
22 change our testing plan.

23 We used to, on the front end, on the audit  
24 plan, just say, here is what we are going to audit. But  
25 then, because TDHCA is sort of a living being in some

1 regards, it was like hitting a moving target.

2 We are going to audit this section of this  
3 division, and then it would move. Or their functions  
4 would change, or something like that. And then we would  
5 have to go back to the Board and say, well, okay, now we  
6 can't audit that. We need to do it this way, or we need  
7 to do this.

8 So we decided that it was easier just to say,  
9 okay. We are going to audit the HOME Division. And we  
10 have an idea of what we are going to audit HOME. But then  
11 we will do a risk assessment once we have gained an  
12 understanding, and decide what we think are the highest  
13 risk areas, and then that is what we will audit.

14 So what the Audit Committee asked, and I am  
15 happy to do, is to provide them with that end of planning  
16 information of here is, you know, our objectives. Here is  
17 what we are going to do. And then if any of the Board  
18 members would like for us to put it on the agenda for the  
19 Board to discuss further, or have some input in that, I am  
20 happy to do that as well.

21 MR. OXER: Okay.

22 MS. DONOHO: So the annual plan is required by  
23 the Texas Internal Auditing Act, which is the statute that  
24 governs our audit functions. The plan outlines what we  
25 are going to do to take in the coming year. We do this

1 based on a complex and lengthy agency-wide risk assessment  
2 that is not always apparent on your end.

3 It includes surveys of pretty much all of the  
4 directors and managers in the Agency. Interviews of  
5 executive staff. Research into statutes, federal  
6 regulations, any changes. Detailed reviews of program  
7 information. Reviews of statistics and you know, numbers.

8 We also considered input from the Executive  
9 Director. So I sit down with Tim, and we talk about what  
10 he thinks is important. That is factored in.

11 And then, it goes to the Board to look at. And  
12 I send out an email to the Board saying, here's some  
13 areas; you know, what would you like for us to audit?

14 And the Board, I think, is kind of the check on  
15 that process. Because ultimately, you are the most  
16 accountable for what happens in the Agency. So your  
17 decision on what you think we should audit overrules  
18 everybody else's, including mine and Tim's.

19 For this year, we have six audits on the plan.

20 Four of these, which are HOME, manufactured housing,  
21 titling, LIHEAP and financial administration are bigger  
22 audits. We have two smaller audits, in specific areas,  
23 ethics and the Annie Young program.

24 In addition to our planned audits, we set aside  
25 10 percent of our available hours, in case we have a

1 special request from the Board or from executive  
2 management. We haven't had very many of those. So this  
3 year, we are allocating a tentative audit of performance  
4 measures to those hours. So what we will do is, at the  
5 end of the year, if we haven't had any special requests,  
6 we will go ahead and do performance measures.

7 Our plan is somewhat aggressive. And it will  
8 have a carry over project, which is a project that carries  
9 over into the next fiscal year. The reason we do this is  
10 so that today, September 12th, we are approving a plan.

11 If we finish the plan at the end of 2013, my  
12 staff would be sitting around for a couple of weeks until  
13 the next plan is approved. So having a carryover project  
14 or two gives us an insurance that we have some work to do  
15 until the plan is approved.

16 Another question someone asked, is the timing  
17 of this. We have a statutory requirement that we produce  
18 an annual report that goes to the Governor's Office, the  
19 LBB, Sunset and State Auditor's Office every year on  
20 November 1st. That requirement includes the next years'  
21 plan.

22 So if we don't have our plan approved by  
23 November 1, then we have to let those folks know that the  
24 plan will be coming later. So it is easier to get the  
25 plan approved, so that we can meet our deadline for

1 getting that report in.

2 We have an audit for manufactured housing on  
3 the plan. And I am sure many of you know, because it is a  
4 time commitment. They have a separate board. So when we  
5 do an audit in manufactured housing, we report the results  
6 of that audit to their board. But because it is a time  
7 commitment, they provide funding for one of -- part of one  
8 of my staff.

9 We put that on our plan, so that you guys know  
10 how we are spending that time. We also have some special  
11 projects and other tasks that are required by state law,  
12 or by our auditing standards. And those also go on our  
13 plan every year.

14 On 2013, we had six audits on that plan as  
15 well. We reported on four of those. We have one that we  
16 talked about this morning, which was compliance  
17 monitoring.

18 We also have completed the field work on our  
19 final audit, which is loan processing. And we are in the  
20 process of writing that report. So the Audit Committee  
21 will hear about that at the next Audit Committee meeting.

22 We had ten external audits or monitoring  
23 reports last year, which is slightly less than average.  
24 In 2012, there were 14, for example. This time, we talked  
25 about two external auditor monitoring reports that we

1 received.

2 One was a DOE onsite monitoring in the  
3 Weatherization Assistance Program. And they had no  
4 findings or concerns on that audit.

5 There was also a Workforce Commission Civil  
6 Rights Division review of our personnel policies and  
7 procedures. It was a compliance review, to determine if  
8 we were in compliance with the Human Rights Act. And the  
9 Department was certified as compliant.

10 We talked about the 29 prior audit issues that  
11 we were tracking; 23 were recently reported as  
12 implemented, and we are working on closing those. Fifteen  
13 of them, we are holding, because they are NSP. Just to  
14 wait until that program closes out. There are six that  
15 are pending, and we are researching those right now, so we  
16 can hopefully close those.

17 We talked about Fraud, Waste and Abuse  
18 complaints. In 2013, we received 79 complaints. In 2012,  
19 it was 80. So that is pretty consistent. Fifty-three of  
20 the 79 complaints we received were not under the  
21 Department's jurisdiction.

22 And the 26 complaints that we did receive, ten  
23 were closed. Nine were unsubstantiated. Seven were  
24 referred to the State Auditor's Office, or other oversight  
25 agencies. And we had no pending fraud complaints. Are

1 there any questions regarding the Audit Committee meeting?

2 MR. OXER: Questions from the Board?

3 (No response.)

4 MR. OXER: Ms. Bingham, as the Chair, is there  
5 any comments you would like to make?

6 MS. BINGHAM ESCAREÑO: I think Sandy summarized  
7 the priorities.

8 MR. OXER: Good. Thanks. Okay. This is a  
9 report. Essentially, there is no action required.

10 MS. DONOHO: Yes. No. Yes. You already  
11 approved the plan on consent.

12 MR. OXER: Good. Thanks.

13 MS. DONOHO: Thank you.

14 MR. OXER: Okay. Just for the record, you  
15 folks in the back here, for this microphone, is this up  
16 loud enough?

17 (No response.)

18 MR. OXER: Okay. All right. Item 3. Brooke,  
19 I think you are up.

20 MS. BOSTON: Hi. Brooke Boston. I am one of  
21 our Deputy Executive Directors. I am actually here today  
22 to kick off the new monthly item we are going to be  
23 having.

24 You consistently get to hear certain activities  
25 of the Department through the off comments and on issues

1 and challenges of policy considerations. Envision Cameron  
2 and Jean and Carrie before you. However, as you can  
3 imagine, as a significant body, work at the Agency that  
4 never really rises to the level of requiring Board action.

5 Or if you do see it, it may often be a specific contract  
6 extension or award.

7 I think I see that our infrequency of needing  
8 to come for a lot of these programs is a good indicator  
9 that we are doing a great job. So I don't necessarily  
10 want to have to come back more.

11 But I do think an unfortunate consequence of  
12 that is that we don't necessarily get to share with you  
13 some of the great things that are going on. So on behalf  
14 of my management team, I wanted to try each month to share  
15 a few of those with you.

16 So for today, the brags to the Board are, in  
17 our Housing Trust Fund, in the Office of Colonia  
18 Initiatives area, we have released an additional \$500,000  
19 of Indian burial removal funds. That was already  
20 authorized under our trust fund plan, to do that, if we  
21 had excess funds come available.

22 And the entire amount was reserved in 90  
23 seconds. Which means, our subrecipients were totally  
24 ready, lined up with their setups. Hit a button, and it  
25 was gone. So that is something internally we are just

1 thrilled about.

2 MR. OXER: The dashboard process is working,  
3 then. Right?

4 MS. BOSTON: Yes. And it shows that our  
5 reservation system is really working.

6 MR. OXER: Really.

7 MS. BOSTON: And it is, you know, I think it is  
8 a program that, they had a little bit of a rocky start.  
9 But it is one that we created ourselves. It is not a  
10 federal passthrough. And so it has turned into a  
11 resounding success.

12 MR. OXER: I will, let the record reflect that  
13 I had the opportunity to pass and didn't make any comments  
14 about federal rocky programs, rocky federal programs. So  
15 please continue.

16 MS. BOSTON: All right. For our HOME program,  
17 a federal program, we are in one of the best positions we  
18 have been in, in years. I have been here twelve years,  
19 and I have never seen us in such a good position.

20 You will hear more about this, at the October  
21 meeting. We are going to do a HOME-specific presentation.

22 But a couple of things that have just gone amazingly well  
23 in the last few months.

24 We have exceeded our federally required  
25 commitment deadline by more than \$3 million. That is a

1 deadline that we historically just scrape by, by the skin  
2 of our teeth. So that was huge.

3 We have already served 730 households this  
4 year, for where we are in our year to date. We have  
5 committed funds in excess of our annual allocation from  
6 HUD, which was done through the obligation of funds from  
7 prior years. So that puts us in a position for one of the  
8 first times in years, of actually having sufficient demand  
9 for the program for us to keep needing to release more  
10 money.

11 And HOME is one of those funds that we were  
12 always like, take it. Take it. So we are in a very  
13 unique position. And we are really excited about that,  
14 and very grateful for our subrecipients. Because  
15 obviously, they are doing the work in the communities.

16 As some of you may know, we have a requirement,  
17 legislatively, to work on our contract for deed  
18 conversions. That was something that was in our Sunset  
19 report. So we have made a lot of efforts to try and work  
20 on that.

21 Finally, in a joint effort between the Housing  
22 Trust Fund and the HOME program, we have found a way to  
23 leverage the funds from the HOME program by adding a  
24 little bit of trust fund money. Not much. But that helps  
25 the administrator be in a position to spend the extra time

1 that is required to actually make these conversions occur.

2 So we historically have done maybe one a year.

3 We were lucky if we could spend \$100,000. Last year,  
4 that is what we had hit. And this year already, we have  
5 hit \$631,000 and finally have some subrecipients who are  
6 in a great place, and trained to be able to keep doing  
7 more. So that is wonderful.

8 In our Texas Homeownership Program,  
9 occasionally you will hear some resolutions that occur on  
10 the MCC program; our mortgage credit certificate program.

11 And I just wanted to mention, that program switched from  
12 MIDAS, which is kind of -- or a legacy program, to E-  
13 Housing in July.

14 And that required really extensive training for  
15 our lenders and staff. We had to create new program  
16 guidelines. All new program documents. But that has gone  
17 through and is in effect.

18 And our MCC program is one of the largest in  
19 the country. Through the third quarter of 2013, we have  
20 done 2,265 loans through the MCC program. So big kudos to  
21 Eric, Cathy, Dean and Schwab for their work on that.

22 And last but not least, and this is more of an  
23 internal thing, which you hear even less about, are the  
24 support areas of the Agency. And one of the areas I  
25 oversee is our Information Systems. Go figure.

1           But I wanted to point out that in our  
2 Information Systems area, the support team is kind of the  
3 unsung heroes that keep all of the rest of us in a  
4 position to be able to do what we do. And just from  
5 September of '12 until probably even just a day ago, they  
6 have completed over 9,500 work orders.

7           And every one of those work orders could be  
8 anyway from a 15-minute request to a 49 hour-request from  
9 staff. So it could be, hey, my printer doesn't work, all  
10 the way up to, hey, can you make some tweaks in the  
11 system. So those are vast.

12           And they just go through that. And in the  
13 meantime, we are still doing all of their other system and  
14 network requirements. And in the midst of that, they  
15 dealt with it, in air conditioning being broken in our  
16 server room.

17           So I just wanted to tell you guys some of those  
18 positive things. And I am hoping to do that with you each  
19 month. And if you ever are interested in hearing about  
20 specific programs, we can do it that way, too. But  
21 everybody is doing a wonderful job at the Agency.

22           MR. OXER: Don't go away yet. Owing to the  
23 fact that we are typically dealing with issues that fall  
24 between the cracks, and we are always dealing with -- I  
25 mean, if it was already clear, it is like I told Cameron.

1 If he already knew what to do, he wouldn't have to come  
2 ask us what to do, when we come down to it.

3 So we are always happy. And I think I can  
4 speak for the rest of the Board. We are always happy to  
5 hear good news. Things are going well, going smoothly.

6 Congratulations to the staff for all of those,  
7 and actually to the Executive Director for the efforts  
8 during the last session to make sure that we got through  
9 the Sunset, and now have another twelve years to exercise  
10 these programs. It sounds like you have done a great job  
11 in creating and structuring an opportunity.

12 Structuring a program and then marketing that  
13 program to the community action agencies. And then  
14 training them to be able to implement those efficiently  
15 and expeditiously.

16 As Tom Gouris would love to hear me say, yes.  
17 That one is improving, too. Okay. It is a tractor thing.

18 Okay. So those of you who have been here before would  
19 recognize that.

20 So, all right. Any questions from the Board?  
21 Any comments from the Board?

22 (No response.)

23 MR. OXER: I think kudos go to the staff.  
24 Thanks very much, Brooke.

25 MS. BOSTON: Okay.

1 MR. OXER: Good.

2 MS. BOSTON: I think I'm next up.

3 MR. IRVINE: Yes. I would especially like to  
4 say that the kudos should go largely to Brooke as well,  
5 just because she is such an incomparable planner and  
6 organizer, and she brings her teammates together so  
7 effectively.

8 And she is just always focused on -- this isn't  
9 about signing contracts and you know, putting things in  
10 the system. This is about moving money to serve people.  
11 And you guys really do it well.

12 MR. THOMAS: Mr. Chairman?

13 MR. OXER: Indeed. Mr. Thomas.

14 MR. THOMAS: Is there an opportunity to get --  
15 well, first a question. You have indicated that there had  
16 been a marked improvement in the awards under the HOME  
17 program. Did I understand that correctly?

18 MS. BOSTON: Not necessarily in the number of  
19 awards. The number I had referenced was the number of  
20 households being served so far this year. Which was 730,  
21 I think is what I had said. And then, we also have  
22 increased how much we are committing.

23 MR. THOMAS: And I think I am referencing, you  
24 said that before you had to be encouraging people to  
25 apply.

1 MS. BOSTON: Yes. Yes.

2 MR. THOMAS: And I was wondering, what is the  
3 distinction? What did you change that allowed that to see  
4 such a marked difference?

5 MS. BOSTON: Yes. I think a variety of things.  
6 I think, over the last few years, there has been a lot of  
7 good collaboration between the Agency and consultants and  
8 administrators trying to really home in on what is  
9 problematic, and trying to work through those issues,  
10 balancing that with what is ultimately in the benefit of  
11 the tenant at the end, the tenant or homeowner.

12 I think also, we switched to a reservation  
13 system, which is where it is first come, first served. We  
14 say, here is an amount of money that is available for XYZ  
15 activity.

16 You come in first served, and they don't come  
17 in and kind of put their hold aside money in the system,  
18 until the household is ready. And then they only have a  
19 limited time to actually move that money. And if they  
20 can't do it, then it frees it up, and it can go to someone  
21 else.

22 So it is very much a first come, first served,  
23 do it as you have it. And so that has been a big help. I  
24 think also, we have been marketing certain aspects of it.

25

1           For instance, in our tenant-based rental  
2 assistance activity of HOME, we have worked more closely  
3 with entities who serve people with disabilities.  
4 Trying -- that is a good program for that. So it is kind  
5 of a little bit of everything.

6           And then, I think also freeing up older  
7 contracts that had balances has helped. Because we are  
8 trying to clear out the old stuff. And if a provider, for  
9 instance, from a prior year, hasn't finished something,  
10 instead of dragging that out, and tying up the money and  
11 never being sure if we will get those units, we just kind  
12 of put it behind us.

13           Told them they could still access the  
14 reservation program. So we aren't cutting them off from  
15 the program. We just kind of move them into kind of a  
16 more modern way of doing it.

17           MR. THOMAS: Right. Thank you.

18           MR. OXER: In the reservation system, Brooke,  
19 when you said that you had, what was it, \$500,000 that you  
20 essentially cleared or reserved in 90 seconds.

21           MS. BOSTON: Uh-huh.

22           MR. OXER: Were you able to watch the ticker  
23 change?

24           MS. BOSTON: A little bit. It was so fast that  
25 it was more like --

1 MR. OXER: Preserve 500.

2 MS. BOSTON: Yes. I mean, it was so fast, we  
3 couldn't even tell. Like, literally the moment that we  
4 checked, in the system, there were people who at two  
5 minutes were denied. So the system keeps up with that  
6 fast. But we aren't visually watching it.

7 MR. OXER: Yes. I was just curious. It would  
8 be interesting to watch that.

9 MS. BOSTON: Yes.

10 MR. OXER: It sounds like you have a good  
11 program going. Everybody up here appreciates the efforts  
12 that you make on that.

13 MS. BOSTON: Yes.

14 MR. OXER: And I think it is fair to say that  
15 the budget expectations and agency operations and budget  
16 expectations of the future are probably not going to be  
17 going up aggressively. So, to the extent that we can  
18 figure how to do things more efficiently, and  
19 expeditiously, it is always going to be to our collective  
20 benefit. So thanks from me.

21 MS. BOSTON: Definitely.

22 MR. OXER: Okay. I think -- did you want to  
23 take Item 4 also?

24 MS. BOSTON: Sure. This item relates to our  
25 Section 8 housing choice voucher program. As you may

1 know, TDHCA is actually a public housing authority. And  
2 as such, we administer, we don't do public housing. But  
3 we do do the Section 8 housing choice voucher program.

4 And in a nutshell, what that is, is we get  
5 authority to give funds to, or commit funds to a  
6 household, so that they can go find a unit of their own  
7 choice. And then we make payments to the landlord for  
8 that household. Our relationship is both with the tenant  
9 and the landlord.

10 We have about 870 of those vouchers right now,  
11 with about a roughly annual allocation of 5.6 million.  
12 This was a very meaty writeup. It is very rare that we  
13 bring Section 8 issues to the Board. It is historically,  
14 it has been a program that kind of moves along.

15 We have made a lot of policy and procedural  
16 changes internally that have helped to make it far more  
17 efficient. But we are kind of on the cusp with the way  
18 HUD instituted sequestration, with this position of  
19 needing to just kind of make a general policy decision  
20 about where do we want to see this program going?

21 I can go through some of the writeup if you  
22 like. But I know it is very meaty. And I actually wanted  
23 to talk about a clarification or two.

24 MR. OXER: Get the clarification first.

25 MS. BOSTON: Okay. First is just a simple

1 clarification, which, in the writeup, I had indicated that  
2 future conversations with HUD regarding absorption of some  
3 of the smaller PHA vouchers, the conversation would be  
4 with the Fort Worth HUD office. I want to clarify that we  
5 actually would be having those conversations with not only  
6 the Fort Worth HUD office, but also the San Antonio and  
7 Houston HUD office. Each of those three offices oversees  
8 a kind of a portfolio of public housing. And so we would  
9 be wanting to talk to all three.

10 We do have our first conversation set up with  
11 the Fort Worth office on the 17th. But, and this  
12 clarification doesn't require a change to the resolution.

13 I just wanted to make sure we were clear about that.

14 I also have a suggested revision to the  
15 resolution section. And this is a little meatier. We are  
16 actually suggesting that you remove or delete the second  
17 paragraph of the resolution, which is the paragraph  
18 relating to Navasota vouchers.

19 We have gotten some newer information that we  
20 think that makes the recommendation to the Board no longer  
21 the best thing to do right now. On Tuesday of this week,  
22 we were able to speak to some more senior folks at HUD and  
23 got some different information than what we had, at the  
24 time we wrote this up.

25 And so what we would like to do. First of all,

1 I apologize to the extent that there was miscommunication  
2 between us and HUD, you know. Definitely, I hate to pass  
3 that kind of misinformation along. So this is to clarify  
4 that and make sure that we are only having you guys look  
5 at something that is fully informed.

6 A couple of the things that came up, so you  
7 know why the staff recommendation changed. Is first, a  
8 big part of what we had recommended to you guys for the  
9 Navasota transfer was that they had told us there were  
10 going to be 50 vouchers and 15 of those were occupied.  
11 And the remaining 35, we would be able to use the funding  
12 associated with those vouchers to pull into our program.

13 And thereby, because we have a preference for  
14 Project Access, which we had talked about in the writeup,  
15 we would essentially be able to put about 35 units' worth  
16 of money into the Project Access vouchers. And that is  
17 something we really were attracted to.

18 What has come to be more clear is that HUD will  
19 only be giving payments associated with the 15 occupied  
20 vouchers, and not the excess for the 35. So that -- the  
21 reason HUD had referenced 50 units is, there is a contract  
22 each year, that each PHA executes with HUD.

23 And in that agreement, it alludes to kind of a  
24 maximum you can do. It is theoretical. They don't  
25 necessarily give you the money to do that. So in this

1 case, Navasota had the ability or permission to go up to  
2 50 but did not have the money to do that.

3 MR. OXER: So it is essentially an IDIQ cap.  
4 Indefinite delivery, indefinite quantity cap for federal  
5 contracting.

6 MS. BOSTON: Yes.

7 MR. OXER: Trust me. That is what it is.

8 MS. BOSTON: Yes. Okay. It is aspirational.

9 MR. OXER: A much better term.

10 MS. BOSTON: So in fact what would be happening  
11 is, we would be taking on administration of the 15  
12 vouchers. And the only way Project Access would  
13 ultimately benefit is, as one of those vouchers vacated,  
14 we would then be able to reprocess it, not into Navasota  
15 but into our preference in our plan, which would be  
16 Project Access, and that is a HUD-approved preference.

17 So that, as you can imagine, made it a little  
18 less attractive. HUD also in our call had mentioned that  
19 they suggested that we perform an audit of the PHAs  
20 programs and vouchers before we accept.

21 And we said well, what are you aware of? And  
22 they didn't divulge much. But they were pretty firm that  
23 they thought we should do an audit. We asked if they  
24 would pay for the audit. And they said no. And so this  
25 is a program already, you can tell from the writeup, that

1 just barely operates on its own. And so having to absorb  
2 the cost of an audit, to take on vouchers that are already  
3 occupied is, again, less effective.

4 One other thing that really raised another  
5 concern for us is, after further discussion with them, we  
6 are worried that the fair market rents and utility  
7 allowances that were used by Navasota to calculate the  
8 payments the households are making right now, and the  
9 amounts that are going to the landlords were not used  
10 appropriately.

11 And so I think what we would need to do is go  
12 in and research that. And to the extent that any of the  
13 fair market rents or utility allowances were incorrect, we  
14 would need to make an adjustment.

15 That adjustment could either hit TDHCA by  
16 putting us in a deficit position with our housing  
17 assistance payments from HUD. Or potentially it could be  
18 a hardship on a household. Neither of which are  
19 attractive options.

20 All that said, I also don't want to walk away  
21 from doing it categorically. That is also in a very  
22 negative -- but you know, there is something to be said  
23 for having the goodwill relationship with HUD. And there  
24 is also something to be said for getting those project  
25 access vouchers even far more incrementally instead of in

1 a big push.

2 So what we would like to do is strike the  
3 resolution for this month, and let staff do quite a bit  
4 more research and try and see what we can find through the  
5 reports and audits that have been done in the past for  
6 that housing authority. Try to figure out if we actually  
7 think the FMRs and utility allowances were correct. And  
8 we will come back, if indeed, it looks like that is  
9 something that we would like, we would suggest that the  
10 Board do.

11 MR. OXER: Essentially, we are going to table  
12 this item and come back.

13 MS. BOSTON: Just the paragraph. I would still  
14 like you all to act on paragraph 1 and 3 of the resolution  
15 section.

16 MR. THOMAS: Mr. Chairman. For clarification,  
17 was that item -- under the "resolved" section, paragraph 1  
18 and then paragraph 3, "further resolved"?

19 MR. OXER: We're only reading just the first  
20 "resolved."

21 MS. BOSTON: Correct.

22 MR. OXER: All right. Anything else from the  
23 Board. Does the Board have any further -- do you have any  
24 questions for Brooke?

25 (No response.)

1 MR. OXER: Okay.

2 MS. BINGHAM ESCAREÑO: I'll move to approve  
3 staff recommendation for the resolution as clarified by  
4 the removal of the second paragraph until there can be  
5 further research and brought back to the Board next  
6 meeting.

7 MR. OXER: Okay. Motion by Ms. Bingham to  
8 approve staff recommendation as modified. Is there a  
9 second?

10 MR. GANN: Second.

11 MR. OXER: Second by Mr. Gann. Public comment.

12 MR. HENNEBERGER: Good morning. My name is  
13 John Henneberger. I am the codirector of the Texas Low  
14 Income Housing Information Service. We are an  
15 organization, a nonprofit organization that works on the  
16 behalf of extremely low income Texans and their need for  
17 housing.

18 I am here today to support whatever part of  
19 this that the Board sees fit to pass, and to make the  
20 comment that I believe that this is one of the most  
21 critical unaddressed issues facing the Board, is the  
22 future of its role as a public housing authority: your  
23 annual plans, your state low income housing plan and your  
24 reports to HUD constantly identify the population between  
25 zero and 30 percent of median family income as the most

1 underserved by many factors of the populations that are  
2 present in the state.

3           The Section 8 program is the program which is  
4 designed to address these needs. The Legislature many  
5 years ago designated the Texas Department of Housing and  
6 Community Affairs the ability to serve as a statewide  
7 housing authority.

8           I would ask that the Board consider directing  
9 staff to examine the appropriate role of the State of  
10 Texas and the TDHCA in regard to the continuing reductions  
11 in funding that are going on in the Section 8 program  
12 across the state.

13           There are hundreds -- several hundred local  
14 public housing authorities, many of which are in the same  
15 position that the Navasota Housing Authority are in. If  
16 they do not renew their Section 8 certificates, if they  
17 are not able to issue those certificates, they will be  
18 lost to the citizens of Texas, and people in those  
19 communities will not have access. The poorest people in  
20 those communities will not have to affordable housing.

21           I recognize this is a business decision as well  
22 as a mission-driven decision, and it must work  
23 economically for this Department. And in a state the size  
24 of Texas, managing scatter public Section 8 units is an  
25 extremely daunting task. So I understand the need not to

1 go into this blindly.

2 But I also understand that the Legislature had  
3 decided that this Department would play the role of the  
4 backup to the local housing authorities. And when they  
5 can administer this program, they absolutely should  
6 administer it, at a local level. So this is an extremely  
7 important issue from the standpoint of the poor. It needs  
8 to -- the Department, I think, is very wise to take this  
9 issue up. And I just urge you to look at it very  
10 comprehensively. Thank you very much.

11 MR. OXER: All right. Mr. Henneberger, I have  
12 another comment or question here. So your position is  
13 that you are advocating on behalf of the citizens who  
14 would benefit from this program, rather than it being a  
15 critique of what the Agency is doing? -- because we are  
16 trying to look at ways to provide this efficiently. There  
17 are a number -- and as the Board liaison for the strategic  
18 planning, as we modified our Committee structure, I had  
19 this conversation with the staff.

20 And one of the questions I had was, for  
21 something like this, is there a way to more efficiently  
22 provide this service to the community that needs to be  
23 served through a way that engages some of the larger PHAs?

24 I know there is another very long conversation we could  
25 all have about ways to get these PHAs together to make it

1 efficient, provide those services efficiently and not just  
2 on the surface of things. It is an obligation that we  
3 have as an Agency to provide this service.

4 But if we have 870 of these vouchers scattered  
5 across the state, that amount to 5.6 million, it just  
6 seems on the surface that we ought to be able to figure  
7 out a way to provide them more efficiently. So my comment  
8 about the cost of services and the funding that is  
9 available and such, tapering off in the future, applies to  
10 all of this.

11 We are trying to figure out how to make this,  
12 how to provide this in a much broader, more efficient way  
13 so that you get more of that money going into the services  
14 for the individuals that need it, rather than the program  
15 administration. So I hope I echo your comment and  
16 sentiments. We agree that that needs to be provided to  
17 those communities, or those members of the community that  
18 are in need of it. We are trying to figure out a way to  
19 do that without having HUD take all the money away because  
20 they don't like the way we are doing things. So does any  
21 member of the Board have a question of Mr. Henneberger?

22 (No response.)

23 MR. OXER: Okay. Thanks, John. Wait.

24 MR. THOMAS: I have a quick question. Of the  
25 870 vouchers that TDHCA handles, what percentage of the

1 total vouchers would that be?

2 MR. OXER: Of the total vouchers of the State.

3 MR. THOMAS: Of the State.

4 MR. OXER: The total vouchers. Do we have  
5 anybody --

6 MR. THOMAS: I mean is -- I assume it is a --

7 MR. HENNEBERGER: I assume it is three per  
8 county. We have 254 counties -- 870 would be 3.6 per.

9 MS. BOSTON: I wanted to introduce you guys  
10 anyway. I meant to do this at the beginning. We have a  
11 new Section 8 manager, very new for the month, last month.

12 Andre Adams. And we are thrilled to have him. And I  
13 know he is doing his research still.

14 MR. OXER: Welcome aboard, Andre.

15 MR. ADAMS: Thank you. Could I have your  
16 question one more time?

17 MR. THOMAS: Yes. Of the 870 vouchers that  
18 TDHCA handles for Section 8 purposes, what percentage of  
19 that is for the total Section 8 vouchers in the State of  
20 Texas?

21 MR. ADAMS: It is only about 5.4 percent.

22 MR. THOMAS: Okay. So it is a small number,  
23 right.

24 MR. ADAMS: As far as the State of Texas, only  
25 5.4 percent.

1 MR. THOMAS: Okay.

2 MR. ADAMS: And it is only in 21 counties.

3 MR. THOMAS: Okay.

4 MR. OXER: We actually, we are squeezing to get  
5 this, to offer this service to a little tiny sliver. And  
6 there is a lot of other folks that are providing these for  
7 that other 97 or 95 percent that are out there.

8 MR. ADAMS: That is correct. That is correct.

9 MR. OXER: Okay.

10 MR. ADAMS: There are some areas that do not  
11 have a PHA. And there is no housing assistance in those  
12 areas as well.

13 MR. OXER: Okay. Well, obviously, this is  
14 going to be an issue we are going to have some more  
15 conversations and discussion on. Okay. Is there any more  
16 questions for --

17 MR. McWATTERS: One more.

18 MR. OXER: Go ahead, Professor.

19 MS. BOSTON: Luckily, one of our audience  
20 members -- because there's roughly 100,000 more vouchers  
21 in the State, and we have less than 1,000, it is less than  
22 1 percent.

23 MR. McWATTERS: Okay. Well.

24 MS. SYLVESTER: We will make the clarification.  
25 The difference in numbers is also the difference

1 between -- Megan Sylvester, Legal Services, the difference  
2 between project-based vouchers and tenant-based vouchers,  
3 which is TDHCA administers.

4 MS. BOSTON: So they are both right.

5 MR. McWATTERS: Okay. But is it fair to say  
6 that what TDHCA does is a small percentage?

7 MS. BOSTON: Yes. Definitely.

8 MR. McWATTERS: That is my point.

9 MS. BOSTON: Yes.

10 MR. McWATTERS: Now what follows from that is  
11 in the question. And I don't expect this to be answered  
12 right now. But if TDHCA is doing such a small percentage  
13 of it, is TDHCA the best group to be doing this now?

14 MS. BOSTON: That is a good question. The way  
15 the PHAs are set up, and this is more just in my  
16 conversations with HUD, and there may be other people in  
17 the room who know this in far more detail than I do. Each  
18 PHA has a jurisdiction.

19 So there are parts of the state who don't have  
20 coverage at all, or there are some PHAs who are very  
21 small. So 870 is small. There are some who have 15 or  
22 30.

23 So HUD's thought for combining them is to add  
24 their jurisdictions that are very small into our kind of  
25 balance of state type jurisdiction. We do only --

1 MR. OXER: We get the "and everybody else"  
2 part.

3 MS. BOSTON: Yes. So I think it is a great  
4 question. I think because of where some of these smaller  
5 PHAs are, there is not necessarily an adjacent PHA who  
6 would be in a position to absorb them.

7 Which is kind of exactly what Mr. Henneberger  
8 is talking about. Because if in fact, they decided not to  
9 continue those vouchers through attrition and did not  
10 replace them in that community, they get rolled back up  
11 into like a federal number, and then would be reallocated  
12 wherever they see the most demand. And if that greatest  
13 demand is somewhere else nationally, that is how they make  
14 their decision.

15 MR. OXER: Use it or lose it, in this  
16 particular case.

17 MS. BOSTON: Correct. And I actually had asked  
18 the HUD office for Navasota, or the HUD office who we  
19 spoke with regarding Navasota what would happen to those  
20 vouchers if we did not step up.

21 Because I did not want to see them lost. And  
22 in that case, they did say they thought they would be able  
23 to find an adjacent provider.

24 MS. SYLVESTER: Yes.

25 MR. McWATTERS: Okay. Well, my comments are

1 driven by efficiency standards and not duplicating  
2 administrative costs. So if there is a way to do this  
3 more efficiently, it would be great.

4 MS. BOSTON: Definitely. I am with you.

5 MR. OXER: Okay. Back to our -- back to the  
6 item at hand.

7 MS. BOSTON: Okay.

8 MR. OXER: We have a motion to consider by Ms.  
9 Bingham. Staff recommendation as modified. Second by  
10 Professor McWatters. No other public comment on this  
11 item?

12 (No response.)

13 MR. OXER: Okay. All in favor?

14 (A chorus of ayes.)

15 MR. OXER: Those opposed?

16 (No response.)

17 MR. OXER: There are none. Good. All right.  
18 I get to exercise the prerogative of the Chair and welcome  
19 Representative Jose Menendez. He is one of the guys that  
20 we hope folks to give us money every year, we let him talk  
21 early.

22 MR. MENENDEZ: Thank you.

23 MR. OXER: Good morning, sir.

24 MR. MENENDEZ: Thank you. Good morning,  
25 Chairman Oxer and members of the Board and Tim. Good

1 morning. Thank you for your service to the State of  
2 Texas.

3 And you know, driving into Austin today, it was  
4 nice to be able to say I have been gone for a while. And  
5 I am sure that many people in the room can --

6 MR. OXER: Understand. We confirmed that. We  
7 were glad you were gone for a while, too.

8 MR. MENENDEZ: Yes. That is where I was going.  
9 You just beat me to the punch. I am sure that a lot of  
10 people in this room that feel the same way.

11 I have a letter that I would like to read into  
12 the record. And then a few comments. And so this letter  
13 begins, "Dear Chairman Oxer. I am very disturbed to learn  
14 that the Board is considering Agenda Item 5, a  
15 presentation, discussion and possible action on the awards  
16 of competitive 9 percent low income tax credits from the  
17 waiting list of the 2013 Housing Tax Credit application  
18 round for application number 13-109, Homestead Apartments,  
19 Austin Region."

20 And let me say that I have nothing against this  
21 application. I really know nothing about that particular  
22 application. But my reason for my concern is that it is  
23 being considered ahead of any other region, particularly  
24 regions that have been known and had a history to have tax  
25 credits being returned, and qualified projects that are

1 waiting to be funded in that region.

2 "I fail to understand what would prompt the  
3 staff to make such a recommendation for Board  
4 consideration. And I ask that they be directed to provide  
5 formal justification of why the statutory and or current  
6 Department rules that allow for this apparently  
7 unprecedented action.

8 "My concerns are exacerbated by the fact that  
9 the award of these credits will seriously risk further  
10 degrading regions, which have historically been  
11 significantly underserved by the tax credit allocation  
12 formula used by the Department. Over the past decade at  
13 least and through several legislative sessions, reforms  
14 for the formulary have been discussed and legislation  
15 considered.

16 "I see this as an example of situations that  
17 members from underserved regions, including El Paso, San  
18 Antonio and the Valley have brought to this Board's  
19 attention in the past. And it is also why some continue  
20 to give serious consideration to statutory procedures to  
21 remedy the endless rule challenging or changing that has  
22 such a serious impact on some of the neediest parts of our  
23 state.

24 "I would like to strongly recommend to the  
25 Board that you may table this item and reconsider the

1 award of the return tax credits to qualified projects in  
2 all of the respective regions before using those credits  
3 for other areas that may be better served in the state. I  
4 further recommend that a serious consideration be given to  
5 the total amount of credits originally allocated to each  
6 region, including and especially any residual amounts that  
7 were redirected in the initial awards, and if any of the  
8 redirected amount and the return amount would fund the  
9 next qualified project in that region, the award should be  
10 made to that application.

11 "I appreciate the many challenges presented by  
12 the tax credits housing program presents to this Board and  
13 to the staff. But it is situations such as this that give  
14 me pause and concern for the transparency and the fairness  
15 of the whole process."

16 And this is no indictment on you or the staff,  
17 but it is a situation that needs to be resolved, whether  
18 it is the legislation's ambiguity or the QAPs. We have to  
19 address this.

20 "Unfortunately, it is these problems, much like  
21 the seemingly ever changing rules of the application  
22 process that make it difficult to not consider simply  
23 legislating the program and making federally necessary  
24 confirming adjustments every two years during session."

25 That was a strong direction we were going at

1 one time, before we decided that the Board was doing such  
2 a good job that we could give you guys the necessary  
3 latitude to make the adjustments. I hope we don't have to  
4 go that route.

5 And at this time, I would like to answer any  
6 questions. And I have copied on this letter, the Speaker  
7 of the House and my Senator, and the Honorable Ken  
8 Armbrister in the Governor's Office.

9 I also want to say that it has come to my  
10 attention that some people say well, there is a  
11 possibility that the application that has originally given  
12 the awards could receive the zoning change. Well, I have  
13 a copy here of the official action by the City of San  
14 Antonio on September 5th, where there was a motion made to  
15 deny zoning in San Antonio for the case where the credits  
16 are being considered to take away.

17 And they say, they still have the credits until  
18 the 15th of September. Well, the councilman for that  
19 district made the motion. He received unanimous support  
20 to deny the zoning. And City rules state that you cannot  
21 reapply for twelve months.

22 So it confuses me to think that there is any  
23 possibility that they could somehow come back and still  
24 use the credits. So I don't understand if the credits  
25 were meant for Region 9, why they should be leaving the

1 region to go to a different place. I think there are  
2 other applicants that are in the region that could use  
3 them. And I think we should move forward in that  
4 direction.

5 I think the leadership of this Board has -- and  
6 I know that this Board will consider that every region  
7 should be treated fairly. And those allocations for those  
8 regions are theirs.

9 And so even if a request for an extension was  
10 made to this Board for an October meeting, even if  
11 technically that could be the case, there is no way the  
12 applicant can obtain the zoning. Therefore the argument  
13 will stand that there would be no waiting list. The  
14 awards can be made until and after that time. Certainly  
15 not using those credits as a source of funds for an early  
16 award.

17 So allowing the use of those funds now or at a  
18 later date in a different region -- San Antonio added  
19 nearly 45 percent margin underserved. Far behind the  
20 level of Austin's region, even before the waiting list.

21 You know, you are the Board. You are the  
22 policy makers. You are the people who need to decide how  
23 we are going to treat these credits, and how they are  
24 going to treat the whole state. And it is my opinion that  
25 you have done a very good job of wanting to treat the

1 state, the entire state fairly.

2 And so this happens to be the region where I  
3 serve. I would hope that any Representative or Senator  
4 would be here speaking if their region were losing their  
5 credits as well, and they were going somewhere else when  
6 there were eligible applications waiting in the wings.  
7 And it is a clear cut case.

8 There is no way that the applicant that  
9 received the awards could use them. It is clear cut. So,  
10 I don't know what else to say. I will answer questions.

11 I think the newest Board members have every  
12 right to deny, to do what you need to do to make sure that  
13 the Legislature and the Governor's Office can make sure  
14 that they feel that all of this is being done in such a  
15 way where the whole state is being treated fairly, which  
16 is why we have the regional allocations to begin with.  
17 And I will answer any questions, if I can.

18 MR. OXER: Thank you, Representative Menendez,  
19 Jose.

20 MR. MENENDEZ: Absolutely.

21 MR. OXER: I will first say that I appreciate  
22 you coming here and making your comments known. So are  
23 there any questions from the other Board members?

24 (No response.)

25 MR. OXER: I think I understand the sensitivity

1 to what you are saying. But then, Cameron, do you have a  
2 comment that you could -- we are going to get into this  
3 item. This is 5(a), which I think is next, anyway; it's  
4 just appropriate timing.

5 MR. DORSEY: Should we go ahead and move right  
6 now --

7 MR. OXER: We are at it, anyway.

8 MS. LATSHA: Jean Latsha, Housing Tax Credit  
9 program manager. And I was just about to present this  
10 item anyway. So I can explain a little bit about what is  
11 going on. So this recommendation and this Board item is  
12 for an award of 1.252 million in tax credits to Homestead  
13 Apartments.

14 That is located here in Austin, in Region 7.  
15 You heard the previous comment. And we will hear  
16 additional comment, because another application in Region  
17 9 in San Antonio was unable to get zoning approval last  
18 week.

19 So staff is asked to assume that there will be  
20 a credit return in Region 9. And when taking that current  
21 remaining balance without the Homestead Award, and the  
22 future return into account, that has not happened yet,  
23 that Region 9 would then be the most underserved region;  
24 approximately 45 percent underserved.

25 So their argument is that at the end of the

1 day, at the end of cycle that this is not the outcome that  
2 we want. That we don't want a subregion that is 45  
3 percent underserved. However, this is not an atypical  
4 result.

5 For example, in 2011, there were four  
6 subregions that were over 45 percent underfunded. I know  
7 we all remember 2012, where there were some regions that  
8 were 100 percent underfunded.

9 So I just want to get that clear to that -- it  
10 is very possible that whether it is this region or another  
11 region that -- at the end of the day, on December 31, we  
12 could very well be in that position where we have a  
13 subregion that is as much as 45 percent underfunded. That  
14 is just the way the wrap works.

15 So I want to read the rule that is the basis  
16 for this recommendation for this award; 11.64 reads, "The  
17 applications that do not receive an award by July 31st and  
18 remain active and eligible will be recommended for  
19 placement on the waiting list. Applications on the  
20 waiting list are selected for an award" -- this is the key  
21 part -- "when the remaining balance of tax credits is  
22 sufficient to award the next application on the waiting  
23 list."

24 Now on July 25, we came to you. And we had  
25 estimated we had 1.24 million left in credit. About

1 10,000 credits short of this recommendation.

2 On let's see -- at that same time, actually,  
3 there was an underwriting report for another application  
4 that included a \$25,000 credit cut. But that application  
5 had appeal rights.

6 And so we were not comfortable assuming that  
7 that applicant was not going to appeal that underwriting  
8 report. And we were not comfortable assuming that we were  
9 going to have that 25,000 in credit to allocate to the  
10 next application. So we didn't.

11 But on July 29th, those appeal rights expired.  
12 We did have that credit available. And so staff made the  
13 recommendation for the award to Homestead Apartments. We  
14 issued this letter on July 29th to them. I will skip part  
15 of it. But basically, staff -- let's see.

16 "Awards are going to those applications on the  
17 waiting list when the amount of remaining credit not  
18 previously awarded reaches a level sufficient to fully  
19 fund the next eligible application on the waiting list.  
20 The application to receive an award from the waiting list  
21 is selected in accordance with the allocation process  
22 reflected in Section 11.6 of the QAP.

23 "Staff has confirmed receipt of sufficient  
24 Housing Tax Credits to select a 65th application for an  
25 award. Homestead Apartments, number 13-109 was determined

1 by staff to be the next eligible application located in  
2 the next most underserved subregion in the state, and is  
3 therefore eligible to receive an award.

4 "The application reflects a credit request of  
5 1.252 million. Please accept this letter as confirmation  
6 that Homestead Apartments will be placed on the next  
7 available Board meeting agenda." And it goes on from  
8 there.

9 But again, this recommendation was based on  
10 credits that were available on July 29th. So it has been  
11 suggested that we award, that we not go through with this  
12 award right now. That we wait until after commitments.  
13 But we wait until when?

14 Cameron could come and tap me on the back right  
15 now, and tell me that we just got credits returned. Or I  
16 could sit down and check my email on my phone and get a  
17 credit return.

18 So is it now? Is it in five minutes? Is it  
19 tomorrow? Is it after Monday? Is it after we have  
20 reviewed a couple of commitment packages? Because that  
21 takes some time as well.

22 No. The rule states, it is when the credit is  
23 available. And it was available on the 29th to award  
24 Homestead Apartments. And the fact is, as much as I know  
25 that Cameron would love to speak, he is not tapping me on

1 the shoulder with a credit return.

2 We don't have one. And there are rights to the  
3 other applicant in Region 9. The commitment expiration  
4 date is Monday. We do not have a return of credit in  
5 house. And that applicant also has the right to an  
6 extension.

7 And I understand the comments that we heard  
8 about the zoning process. But despite those comments, the  
9 fact is, city councils change their minds. Developers  
10 often find ways to work through restrictions placed on  
11 them by local governments.

12 And most importantly again, this applicant's  
13 right to request an extension has not expired. So I could  
14 answer to a couple of comments, I guess, what would prompt  
15 this recommendation would be the award.

16 But I also want to make clear that we are not  
17 left to using credits from Region 9 to award the Homestead  
18 application. Again, I don't have those credits from  
19 Region 9 that are supposedly coming my way Monday,  
20 Tuesday, in a month. I am not sure.

21 These credits were made available through our  
22 initial exercise, as running through the regional  
23 allocation formula and awarding according to the rules.  
24 And so if you all have any other questions for me, I am  
25 happy to answer them.

1 MR. OXER: Are there any other questions of  
2 Jean?

3 (No response.)

4 MR. OXER: It all seems enormously complex.

5 MR. MENENDEZ: Mr. Chairman?

6 MR. OXER: Yes, sir.

7 MR. MENENDEZ: I would just like to rebut a few  
8 points. The issue at hand here is not extensions versus  
9 award now. Those, in my opinion, apples and oranges.

10 The issue is, for you the Board members, the  
11 policy makers, whether or not credits should be used first  
12 in the regions through the application cycle. If not,  
13 maybe we need to come back and address that.

14 But the issue is for us, that the regional  
15 application, the regional formula was made so that regions  
16 could each be assured. Whether or not regions in the past  
17 have been so severely underfunded through the previous  
18 formula, then the formula needs to be adjusted going  
19 forward.

20 We have, you have -- it is kind of like being  
21 aware of a problem. You are aware of a problem. You are  
22 also aware that the City Council, through its own  
23 ordinance may not go back and revisit this matter for  
24 twelve months. It is stated clearly in their code, and if  
25 you would like a copy of it, we can get you a copy of the

1 Unified Development Code of the City of San Antonio.

2           It is done. Twelve months. So knowing that  
3 there is no way that those credits can be used by that  
4 applicant that received them, to me, it seems that now  
5 that we have put you in a position to know what the facts  
6 are, that you can act on those.

7           There is no nebulous nature as to whether or  
8 not you are going to receive them, or when you are going  
9 to get them back. And I guess, they could apply for the  
10 extension, but to what end? Just to keep them from  
11 someone else using them?

12           And see, that is where I think the rules  
13 really -- you know, sometimes the question is between  
14 doing what is right versus doing what is technically  
15 correct. And I think that is why we have a Board.

16           Because if we didn't have, if we didn't need to  
17 know people to say yes, I understand this was what the  
18 rule says. But now, here is a situation where we  
19 understand, they were denied, and the clock is ticking.  
20 And that region is going to lose those credits if we don't  
21 reapply them.

22           So to me, it just makes -- I understand and I  
23 appreciate the fact that staff has to read the rules and  
24 say things are what the rules are, and I don't fight them  
25 for that. But that is why we have the Board, a policy

1 making Board. It has oversight that can see extenuating  
2 circumstances.

3 And it has been done many times over and over,  
4 where a recommendation has been asked to be tabled. And  
5 then you can come back and move forward in doing the right  
6 thing. Because you know that they are not going to be  
7 able to use the credits. There is no way. It is twelve  
8 months. It is a hard black line.

9 There is no reconsideration process on behalf  
10 of the City. This is not the zoning commission making a  
11 pay recommendation. This is the city council making --  
12 and the city councilman has verbally committed, said to  
13 me, there is no way, that he is -- the petition was done  
14 to recall him over this issue.

15 And so there is no way that he is going to  
16 change his mind on that. And so I understand. I think we  
17 should stick to what the rules say, and what the facts  
18 are. There are extenuating circumstances outside.

19 And I think you as policy makers are put in a  
20 position to weigh those, and say what is best for the  
21 whole State of Texas. And I think that you would believe  
22 that the best thing is that every region feel that it has  
23 access to the allocation of the credits that it deserves.

24 That is has been awarded through the formula.

25 Because if not, the Legislature has to come

1 back and say well, the Board wouldn't step up. We will  
2 have to step in. And it is not a threat. I mean, it is  
3 just what would happen.

4 And many of you know that there are many of my  
5 colleagues who rather not even see the program around.  
6 And I have fought them off for years. And I see myself as  
7 an ally of this Agency and of this Board.

8 And so I just want to see what's done correctly  
9 for the region that I represent. And so if there are not  
10 any questions, I will sit down. Thank you.

11 MS. LATSHA: I would just like to clarify one  
12 point very quickly. Even if we did have that credit  
13 return at hand, our recommendation would be the same.

14 And for this reason. Because it is the timing  
15 of when those credits were available. And the fact is, we  
16 have credit available on July 29th to make this  
17 recommendation.

18 Now if it is later on September 5th, today, I  
19 find out I have additional credit available, then I look  
20 at that scenario again. I am not quite sure how else to  
21 explain just -- not only do we not have the credit, but  
22 even if that credit return had happened, it happened after  
23 the other credit was available.

24 MR. OXER: So it is a sequencing problem, is  
25 your position.

1 MS. LATSHA: Yes. And there is a reason for  
2 that. The timing is important. If we were to continually  
3 go through this process, then we would get to the end of  
4 the year and we would not have allocated all of our tax  
5 credits.

6 MR. OXER: Cameron.

7 MR. DORSEY: Barbara asked if I would just  
8 explain. Cameron Dorsey, Director of Multifamily Finance.  
9 Just explain a little bit about the operation of the RAF  
10 and the timing issues.

11 Last year, when we did the allocation process,  
12 I did that presentation. We didn't go into a lot of  
13 detail about exactly what happens with the waiting list.  
14 And what happens after post late-July Board meeting, when  
15 those major awards are made.

16 So let me talk through a couple of examples,  
17 and talk through kind of why that timing is important. I  
18 think Jean alluded to some key issues. But one of the key  
19 things I want to address is the 1.252 million that is  
20 being recommended for Homestead, and Jean did mention  
21 this, but it does not include any of the funding that is  
22 contemplated to be returned at a future date from this  
23 other transaction in San Antonio.

24 When that credit is returned, it will go back  
25 to that region. Now, the next deal in line, the applicant

1 for the next deal in line has looked at that, and  
2 recognizes that the amount returned is slightly less than  
3 what they need for their deal.

4 So what they are asking for is, and what they  
5 see is, that if we did not award Homestead, then what  
6 would happen is, those credits, after, on the date of  
7 commitment for example, assuming that we get this credit  
8 back from San Antonio, that we will be able to combine it  
9 into the pot, because we have the credits go back to San  
10 Antonio first.

11 We don't have enough to do the next in line.  
12 But it would flow through to the statewide collapse. And  
13 then in the statewide collapse, we would say, all right.  
14 Which region is the most underserved.

15 And they are anticipating that the answer would  
16 be, if we didn't do this, San Antonio would be the most  
17 underserved. I actually don't know what that answer would  
18 be. I could have returns from four other regions, that  
19 may make those credits go to other regions that are more  
20 than 45 percent or so underfunded.

21 I could have any number of scenarios play out.

22 I could have that at commitment. I could also have that  
23 happen after November 1st as a result of carryover.

24 So the question I think is, is it appropriate  
25 to make determinations with regard to the waiting list

1 applications when the credit is returned and the amount is  
2 sufficient to allocate, based on at that point in time,  
3 which is the next most underserved region. Also, just to  
4 let you know, Austin is about 37 percent underserved  
5 before the Homestead transaction would be allocated.

6           Folks are anticipating that San Antonio will be  
7 more underserved. But like I said, I could have something  
8 November 1 that is 80 percent underserved. The reason we  
9 allocate as the credit is returned and becomes sufficient  
10 to do the next underwriting risk is, we would have kind of  
11 a never ending process. And we would all kind of be bunch  
12 all of the waiting list awards up in December, right at  
13 the end of the year. Which would be quite problematic for  
14 I think, just the development process, and for the  
15 carryover process, which is how we ensure that we are  
16 meeting our federal obligations to allocate these credits  
17 before the end of the year. So you know, the other thing  
18 I think that is important to talk about is, why does  
19 credit ever flow from one region to another region? It  
20 doesn't so much flow from one region to another region.  
21 It flows from regions to a statewide pot which then  
22 allocated to the most, the next most underserved  
23 subregion.

24           That is key. It is never we take money and  
25 just allocate it to a different region, or something like

1 that. It is a process by which we take the residual  
2 amounts that are insufficient to utilize to fully fund the  
3 next deal in every subregion, and we collapse those into a  
4 pot.

5 And the reason we collapse them is because,  
6 like I said, if for example, the next deal in line is a  
7 \$500,000 request, and we only get \$100,000 in credit  
8 available in that region left to fund that application, we  
9 can't fund it.

10 That would, number one, likely be an infeasible  
11 transaction. And it requires a bunch of changes to the  
12 application to make it fit within \$100,000 allocation. It  
13 would require a whole host of activities that we have  
14 crafted an allocation process that utilizes this most  
15 underserved methodology to accommodate the fact that the  
16 amounts we make available don't line up perfectly with the  
17 amounts that are requested for specific applications. So  
18 those are some of the dynamics that we have to deal with.

19  
20 MR. OXER: So part of what is making this  
21 apparently problematic is that, in your example you used,  
22 there was 100,000 extra available, and it was a \$500,000  
23 deal. In this particular one, there was \$1.24 million  
24 that were returned. And it is a \$1.252 million deal. So  
25 just a fraction under 1 percent differential that just

1 barely didn't fit.

2 MR. DORSEY: And in some cases, we have large  
3 amounts where we could fund probably almost 100 percent of  
4 the allocation. But not quite there.

5 The allocation process provides that those  
6 funds would go down to the statewide collapse and then be  
7 allocated to the next most underserved subregion. The  
8 other thing I did want to just briefly note is --

9 MR. OXER: Underserved-ness is defined.

10 MR. DORSEY: As a percentage of what was  
11 originally made available to that region in the first  
12 place. So we don't do it by dollar amount, to make sure  
13 that we are not inadvertently giving greater weight to  
14 larger regions or those types of things.

15 We do it on a percentage basis to make sure  
16 that it is fair and transparent. If we did allow things  
17 like adjustments to credit amounts within the region and  
18 these types of things, there would be a whole lot of  
19 discretion that would be exercised in that process.

20 We would have to address questions like, can an  
21 application be amended to fit the amount remaining in  
22 the -- remaining available within that region, and a whole  
23 bunch of issues like this. So we have created a process  
24 by which we select the most underserved subregion. And we  
25 do so as we have sufficient credit available to fund that

1 next deal in line.

2 And that kind of protects the -- it protects  
3 both the development community and the Department and the  
4 objectivity of the allocation process, and the certainty  
5 involved with it. These guys, after the end of July, have  
6 to decide whether or not they are going to maintain site  
7 control.

8 They have to decide whether or not they are  
9 going to put down additional earnest money. They have to  
10 make a whole bunch of financial decisions. And so having  
11 the process, it is really objective and fair and  
12 transparent, is quite important for all involved.

13 So that is -- you know, our recommendation  
14 today is, you know, firmly grounded within the statute and  
15 the rules that we have for administering and regionally  
16 allocating these funds. Any questions?

17 MR. OXER: Are there questions from the Board?

18 (No response.)

19 MR. OXER: From a process, timing standpoint,  
20 and I understand this may have an impact on the way some  
21 costs, is there anything that would prevent us from  
22 putting this off until October, so we can get a good  
23 handle. I want a better handle on the sequence and timing  
24 on the dates on this.

25 MR. DORSEY: That would be a question for the

1 applicant. The recommendation today is simply --

2 MR. OXER: It would be -- is there anything  
3 from a procedural standpoint, in the process of the  
4 allocation and the process that we are going through, that  
5 keeps us from doing that?

6 MR. DORSEY: Technically, no. I think that the  
7 timing of bringing this to this meeting is, the first  
8 Board meeting after the amount is sufficient to award the  
9 next application, which I think, us voluntarily, staff  
10 voluntarily choosing to delay it to a future meeting would  
11 not probably be fair for an applicant in line that is  
12 relying on us to administer the rules appropriately. You  
13 all would have the discretion, if you wanted to table it,  
14 to do that. But again, I would defer on -- you know, to  
15 the applicant as well.

16 MR. OXER: Okay. So the procedure would be --  
17 Jose, I understand you have a rebuttal to that. So I  
18 would be happy to hear from you right now, if you like.

19 MR. MENENDEZ: Here is the question that I have  
20 for the Board. I still haven't heard the real reason or  
21 the rationale for the urgency of the matter. I think the  
22 question was to your staff, is there anything that could  
23 impede this from going forward, whether it is today or a  
24 month from now? I didn't hear a no. I heard a  
25 technically, it could be fine.

1           Well, fine. You are the Board. You are the  
2 Board that approves the rules, that changes the rules,  
3 oversees the rules. You are the policymakers for the  
4 Agency. Is that correct? I believe that is correct. Is  
5 that not still the case? The Board members oversee the  
6 Agency. Correct. So the question is -- my understanding,  
7 and this question hasn't been asked yet, is the \$300,000  
8 of credits came out of our region, Region 9. And usually  
9 in residuals; \$300,000 that have already come out that  
10 haven't been brought back. They were dropped in because  
11 of the -- after the awards were made. So we have already  
12 kind of put in some credits into the game, in my opinion.

13       So now, I think that we should put it off for the 30 days  
14 for your next meeting to see when their credits are  
15 returned, what else you can fund in our region. And that  
16 is why. And I think the \$300,000, I don't see the  
17 rationale for having to rush through to do this. Because  
18 I think things may shake out differently in Region 9 with  
19 our credits. And so there is no need to get in a rush to  
20 do this. I understand there is a desire to do this, based  
21 on rules that the staff has presented, and you have  
22 adopted. But those are the same rules that you can change  
23 and amend, because you are the policy makers. And so I  
24 don't see the harm in a small delay. And if things are  
25 still playing out as well as they have been presented to

1 you, then you can adopt them at that time.

2 MR. OXER: Thanks, Jose.

3 MR. MENENDEZ: Thank you.

4 MR. OXER: Any questions?

5 MR. THOMAS: For Representative Menendez?

6 MR. MENENDEZ: Yes.

7 MR. THOMAS: Just for clarification, you don't  
8 dispute that the rules as defined by staff are clear and  
9 unequivocal. Is that right?

10 MR. MENENDEZ: I don't understand them. My  
11 understanding is that, I was having difficulty  
12 understanding why this particular item, the Austin item  
13 was more important than any other item on the waiting  
14 list. Why did it have to come up today, ahead of, to me,  
15 it seemed ahead of other items.

16 Now what I heard presented by staff is that  
17 they feel that the reason it should happen is because the  
18 rules that they have explained to us, is that it should be  
19 allocated at the time that those credits were available.  
20 Is that not correct, what we heard? I think that is what  
21 we heard.

22 I wish I had a few minutes to go and review.  
23 Not that I dispute what they are saying. But I think we  
24 can all sometimes read things differently, and interpret  
25 things differently.

1           My first and foremost priority here is that  
2           Region 9 not be underserved any more than it has been.  
3           Mr. Thomas, I have been in the Lege now, this is my 13th  
4           year. And when I got here, Region 9, or before we had --  
5           San Antonio has been traditionally underserved.

6           We are behind other regions. And I am still  
7           playing catch up. And so what I am doing here is coming  
8           to you, the Board and saying give us a little time and  
9           make sure that we don't get underserved again, when we  
10          have the facts in front of us, that this one is not going  
11          to be able to move forward. We know it.

12          So why present this -- whether or not this  
13          Austin award, the one that you have on your agenda today,  
14          does not impact Region 9, then what is the problem? Why  
15          not wait?

16                 MR. THOMAS: I guess my question --

17                 MR. MENENDEZ: I have not read the rules, so I  
18                 cannot tell you without a doubt, unequivocally, that I  
19                 believe they are exactly as they are represented.

20                 MR. THOMAS: You understand what I am saying.  
21                 If the rules are clear and unequivocal, then it becomes a  
22                 fairness issue. And there is multiple readings of that.  
23                 Then there is an absolutely different issues that needs to  
24                 be involved.

25                 Are you, as our representative, who is

1 fundamentally aware of these issues, are you asking the  
2 Board then to use its -- to disregard the rule. I was  
3 trying to understand where you needed us to be.

4 MR. MENENDEZ: I would like for you to look at  
5 the facts, and say, there is a dispute. There is a  
6 question here. And if the applicant in Region 9 had been  
7 able to get its zoning, we wouldn't be having this  
8 conversation. But they are not. And so we know for a  
9 fact that the credits are coming back.

10 So then, what other applicants in Region 9 can  
11 use them? And my concern is that today's waiting list  
12 item, on number 5, the agenda item that you have can  
13 somehow impact my region. And that is the reason that I  
14 am here.

15 I understand that there was some residual  
16 already taken from Region 9, that helped to make them  
17 available. I don't have a spreadsheet in front of me that  
18 says yea or no to that fact. I just am going to come here  
19 and draw a line, and say, I want to make sure it doesn't.

20

21 And so I am asking you to step in and say, as  
22 the judge, why don't we just take it back, take a moment  
23 and look at everything, and make sure that no one is being  
24 treated unfairly. No region of the state. Because you  
25 oversee the whole state. That is where I am.

1 MR. OXER: Thank you.

2 MR. MENENDEZ: Thank you.

3 MR. OXER: Thanks, Jose.

4 MR. MENENDEZ: Thank you, Chairman.

5 MR. OXER: Are there any questions for the  
6 Representative?

7 MR. THOMAS: Would it be an appropriate time  
8 to --

9 MR. OXER: That would be a motion to table?  
10 That would be a motion to table until October.

11 (Simultaneous discussion.)

12 MR. OXER: Everybody calm down. Take a deep  
13 breath. We will all be okay. Okay. So your point? Did  
14 you have a question for Jean?

15 MR. GANN: I think the --

16 MR. OXER: You are offering representative  
17 Menendez the courtesy as a legislator to speak at his  
18 discretion for public comment. You make -- staff makes  
19 the presentation. And the motion. And then there is  
20 public comment. So Jean, would you like to address  
21 anything that Representative Menendez brought up?

22 MS. LATSHA: No.

23 MR. OXER: That was a good answer to that, by  
24 the way.

25 MS. LATSHA: The only clarification I would

1 make is that yes, this recommendation is based, firmly  
2 grounded in the rules. This is a tricky timing issue. We  
3 had these credits available on July 29th, which is why we  
4 made this recommendation.

5 As of right now, we still don't have those  
6 credits available. I am not willing to concede that  
7 point.

8 But even if I were to concede the point that  
9 there was an additional return made available, as of  
10 today, the recommendation according to the rules would  
11 still be the same. So staff's recommendation is an award  
12 to the Homestead Apartments.

13 MR. OXER: Thanks.

14 MR. GANN: You are saying it would be the same  
15 now as it would be next month?

16 MS. LATSHA: Not necessarily.

17 MR. OXER: This is an important issue. And I  
18 think we need to take a deep breath and think. At least,  
19 I want to spend some more time and go through this.

20 MR. GANN: I'll move, make a motion to table.

21 MR. OXER: Okay. Motion by Mr. Gann to table  
22 this until the October meeting. Is there a second?

23 MR. McWATTERS: Yes. I will second.

24 MR. OXER: Okay. Second by Professor  
25 McWatters. Now you get to speak.

1                   Walter, do you want to be first?

2                   MR. MOREAU: Walter Moreau, Director of  
3 Foundation Communities. I appreciate the chance to speak.

4                   I didn't know this was going to be an issue at all until  
5 this morning. I don't have my State Representative here  
6 to argue our case.

7                   I think this is really simple. Please just  
8 follow your rules. Not just in the QAP, 11.64, but you  
9 adopted wait list rules at the last meeting on how the  
10 process should work.

11                   We were \$10,000 in credits short of an award at  
12 the last meeting, even though we knew there were going to  
13 be credits coming back from underwriting. Not a week  
14 later, those credits were available. The rule says,  
15 applications on the wait list are selected for an award  
16 when the remaining balance of tax credits is sufficient to  
17 award the next application on the wait list.

18                   We got a letter from staff. It said,  
19 Congratulations, there's enough credits now available to  
20 make your award. We will bring it to the next Board  
21 meeting for your approval. We moved ahead and spent over  
22 \$4 million to buy the land. We closed our City of Austin  
23 bond for \$2-1/4 million.

24                   I know we took some risk because we are still  
25 waiting on Board action. But this Board has always

1 consistently proven itself to be fair and followed clear  
2 and consistent rules.

3 Many awards remained at the end of last month.

4 San Antonio was over 90 percent funded and Austin was  
5 only 60 percent something funded. That is why we are next  
6 on the wait list.

7 For whatever reason, the City Council in San  
8 Antonio turned down the zoning on their project. So now,  
9 they are only maybe going to be 45 percent funded. And  
10 they want to argue they should get the next project.

11 There is no provision in your rules to hold  
12 back and wait and see what plays out in some other region,  
13 to then adjust the results to help another project get  
14 funded. So I guess I am in shock. I am surprised.

15 We moved in good faith. Homestead is going to  
16 be 140 apartments, 14 for families that have been  
17 homeless. We have a 6,000-square-foot learning center.  
18 It is a 29-acre piece of land with 500 oak trees. It is  
19 in a very high opportunity area near Bowie High School in  
20 Austin.

21 We are super-excited about the project. We  
22 have moved ahead in good faith to follow exactly what the  
23 rules are. Tabling this will then bring it back to the  
24 next meeting. Where you will get strong lobbying that you  
25 should, contrary to your rules, jump our project, seeing

1 no credits were available to us on July 29th.

2 And today, your rules are, if credits are  
3 available, then the next project on the wait list is  
4 awarded. And that is the status today. That was the  
5 status on July 29th.

6 Who knows what the status will be in a week or  
7 a month. I would be happy to answer any questions. It is  
8 just me this morning. I don't have any lawyers. I don't  
9 have any representatives. I just have the rule book and  
10 the rules you approved at your last meeting.

11 MR. OXER: I know, Scott. We understand that.

12 I am trying to make sure that we are -- I have to admit,  
13 frankly, I am trying to make sure that I get the timing  
14 and the sequence and the rule and the interpretation down  
15 and correct too, myself.

16 So, Jean.

17 MS. LATSHA: Yes. Walter touched on one thing  
18 that I would like to point out about tabling this item.  
19 Is that come October, whatever the meeting date is, it is  
20 very possible that we would be in a very similar situation  
21 where another applicant maybe down the road, it looks like  
22 they might be returning credits, but they haven't yet.

23 And we could be having this very same  
24 discussion, which is precisely why we recommend those  
25 awards exactly when those credits become available. I am

1 not sure.

2 And if we don't do it that way, then I think we  
3 would have to have some other firm date to look at, to  
4 make those recommendations. Or we would end up in a  
5 situation where we are constantly changing those  
6 recommendations.

7 MR. OXER: Mr. Thomas.

8 MR. THOMAS: I'm sorry, sir. Your name again?

9 MR. MOREAU: Walter Moreau.

10 MR. THOMAS: Mr. Moreau, is there any risk to  
11 your project if it is tabled today? If we table this  
12 award today?

13 MR. MOREAU: The biggest risk is that you will  
14 make a different choice next time, and pick the other  
15 project, or some other combination of projects, contrary  
16 to your rules. And then we could be out \$4 million on  
17 purchasing the land and all the due diligence and work  
18 that we have done.

19 We are trying to get our site plan submitted  
20 October 1st, so that we can get through the City of Austin  
21 permit process, which is notoriously long. Yes, there is.

22 MR. THOMAS: Is there any other interest rate  
23 risk or any other potential risk of losing funding if this  
24 is tabled today.

25 MR. MOREAU: Rates are rising. So the sooner

1 we get our project underway, the better. We are reviewing  
2 equity and debt proposals now, trying to make those final  
3 decisions. We have pending grant requests, we are funding  
4 these communities as a charitable nonprofit.

5 So we have grants, both pending and ready to go  
6 in the hopper. It is completely unfair to me that you  
7 would break your own rules to delay what really is kind of  
8 a pro forma thing.

9 And in the past sometimes, it has never even  
10 come back to the Board. It is just, the rules say, the  
11 staff had the authority to go ahead. And credits are  
12 available. They pick the next project off the wait list.

13 MR. THOMAS: Who is your state representative,  
14 Mr. Moreau?

15 MR. MOREAU: We have communities throughout  
16 Austin, so the whole Austin --

17 MR. THOMAS: Okay.

18 MR. MOREAU: For this project, I believe it  
19 is --

20 MR. THOMAS: Donna Howard?

21 MR. MOREAU: Donna Howard. Yes.

22 MR. THOMAS: Thank you.

23 MR. McWATTERS: Let me ask you a question, sir.  
24 Did you say you had already closed the purchase of the  
25 land?

1 MR. MOREAU: We did not have many options to  
2 extend. Yes, sir.

3 MR. McWATTERS: When did you close that?

4 MR. MOREAU: Officially, it funded on Tuesday.

5 MR. McWATTERS: Is that before or after you  
6 received the correspondence from staff.

7 MR. MOREAU: Substantially after we received  
8 staff correspondence on July 29th.

9 MR. McWATTERS: And that correspondence said  
10 you would be awarded? You would receive an award?

11 MR. MOREAU: Yes.

12 MR. McWATTERS: And then after --

13 MR. MOREAU: There were some caveats, that it  
14 still had to come back for approval by the Board.

15 MR. McWATTERS: Okay. But you received  
16 correspondence from the staff saying that you would  
17 receive the awards subject to conditions subsequent?

18 MR. MOREAU: Correct. According to the wait  
19 list rules, chapter and verse: Congratulations. We are  
20 pleased to tell you that you are next on the list. Jean  
21 has the letter.

22 MR. OXER: Close enough. That is the date we  
23 were concerned about.

24 MR. McWATTERS: So for clarity in the record,  
25 you acted in reliance on the letter and proceeded to

1 close, or would you have closed regardless?

2 MR. MOREAU: We would not have closed without  
3 knowing that we had gotten this letter. I think we closed  
4 on the confidence of, not just this letter, but the rules  
5 in the QAP, the wait list rules that were adopted by the  
6 Board at the end of July, and this Board's consistent and  
7 careful fair reading of those rules.

8 It would be the first time that I can recall in  
9 a year or more beyond that this Board somehow went against  
10 the very rules that you have adopted. The rules are so  
11 refined when it comes to the regional allocation and the  
12 wait list, to precisely make sure that every region is  
13 treated fairly.

14 So, I understand Representative Menendez is  
15 fighting for his district and his region. The rules in  
16 place are so calibrated to make sure all the regions are  
17 treated the right way.

18 MR. OXER: Okay. Thanks, Walter.

19 MR. McWATTERS: May I ask -- Jean, may I ask  
20 you a question?

21 MS. LATSHA: Sure.

22 MR. McWATTERS: Is there any interpretation of  
23 the rules, a fair reading, an objective reading of the  
24 rules that would lead to an arguable claim for an outcome  
25 other than what you have recommended to the Board?

1 MS. LATSHA: I can't read it any other way.

2 MR. McWATTERS: Yes, sir. Please.

3 MR. PALMER: Barry Palmer with Coats Rose on  
4 behalf of the next applicant in line in San Antonio,  
5 Region 9. There has been a lot of talk about the rules.  
6 But there hasn't been much talk about the statutory  
7 provisions that you are required to follow.

8 And the statutory provisions require that you  
9 allocate the credits on a regional basis and stick to that  
10 regional allocation as close as you can. Here, we have a  
11 situation where we know that San Antonio is going to be  
12 under-allocated by 45 percent.

13 And what that means is, there was roughly \$4  
14 million allocated to San Antonio. And instead, they are  
15 only going to get a little bit over \$2 million. So that  
16 is the statutory requirement is that you try to make that  
17 not happen.

18 Now, we heard Jean earlier say, well, we have  
19 done worse than that in the past. The regions in the past  
20 have been more than 45 percent underallocated. I don't  
21 think any of us think that that is acceptable.

22 And in fact, this Board changed the QAP in a  
23 number of ways this past session to try to make that not  
24 happen; to try to reduce situations where some regions got  
25 way more than their share, and other regions got way less

1 than their share. So what we are asking you to do today,  
2 is to try to follow the statutory requirements, that you  
3 allocate these credits as best you can on a regional  
4 basis.

5 Now, you allocated 64 deals in July. The first  
6 big deadline is coming up on Monday, September 16th, when  
7 the credit people have to show zoning. They have to show  
8 that they have got their local political subdivision  
9 funding. So there are going to be some credits coming  
10 back.

11 So all we are asking is that you table this  
12 until next month, and take a new look for next month's  
13 Board meeting as to who is the most underallocated. And  
14 to try to follow the statutory provisions by allocating  
15 the credits so that no region ends up 45 percent  
16 underallocated.

17 MR. THOMAS: Chairman?

18 MR. OXER: Yes, sir.

19 MR. THOMAS: Mr. Palmer, I have got 11.64 of  
20 the QAP. Can you give the cite for the statutory  
21 provisions you just referenced?

22 MR. PALMER: I don't have the cite here. But,  
23 yes.

24 MR. THOMAS: 2306(k). I mean, what?

25 MR. OXER: 1-11.

1 MR. THOMAS: 1-11.

2 MR. DORSEY: And I think 2306.1-114 might also  
3 have some information.

4 MR. OXER: All right. We need to do some  
5 research on this. And it is getting into the middle of  
6 the day. And we have been sitting here for a couple of  
7 hours. This is all going to go better if we stand up and  
8 get a little blood in our heads.

9 MR. PALMER: Mr. Chairman, we have one more  
10 speaker on the issue.

11 MR. OXER: I am getting there.

12 MR. PALMER: Okay.

13 MR. OXER: But thanks for letting me know,  
14 Barry. Let's come up.

15 MS. GUERRERO: Chairman Oxer and Board members,  
16 my name is Deborah Guerrero, and I am with the NRP Group  
17 out of San Antonio, Texas. And again, we are not here to  
18 speak specifically for or against one project.

19 I am just here to ask you to just table this  
20 item, because of the statutory requirements. The Regional  
21 Allocation Formula back in 1999, as Senator Van de Putte  
22 and Representative Menendez and others have stated, is  
23 that it really was about equitably distributing tax  
24 credits. When you start talking about the rules and  
25 implementing the statute, you all do.

1           This is a bigger policy issue. And ultimately,  
2 at the end of this cycle, you do not want to have any  
3 region underfunded, subregion underfunded. And actually,  
4 Cameron made our case, in that they will -- there may be  
5 others that are even more underfunded than the Austin  
6 region now, the San Antonio region as we now see it.  
7 There could be other subregions.

8           So why not take 30 days. Why not take the  
9 opportunity, like you took last year to look at your  
10 rules, to determine whether it is in the best interest of  
11 making sure the tax credits are equitably funded across  
12 the State of Texas. That is all we are asking you to do  
13 today, as policy makers, is to really take a step back.

14           Let's see how everything shakes out, just days  
15 from now. So that at the end of this year, at the end of  
16 this cycle, you will have that opportunity to make sure  
17 that no region is drastically underfunded. Thank you.

18           MR. OXER: Yes. Thanks. Is there any  
19 questions for Debbie?

20           (No response.)

21           MR. OXER: Okay. We need some more thought on  
22 this. I would like to ask Mr. Gann if he would consider  
23 amending his motion to table this until after lunch.

24           I would like to go into Executive Session for a  
25 couple of other reasons. We have some other things to

1 talk about. But this is something I want some counsel  
2 with Counsel.

3 MR. GANN: I so move.

4 MR. OXER: Okay. So I assume your second still  
5 applies, Professor McWatters?

6 MR. McWATTERS: Yes. It still applies, but  
7 with the caveat that this is not intended to be any  
8 indication that we are not following the rules carefully.  
9 I don't want to leave that impression.

10 Nor do I want to leave the impression that the  
11 rules that we do have are not a good faith, best effort to  
12 follow the statute. So with that, the second stands.

13  
14 MR. OXER: Okay. All right. It is just a  
15 little afternoon. We are actually going to go -- if we  
16 have our Assistant Attorney General is here. I want  
17 everybody to sit still and be quiet. Sit still and be  
18 quiet please. Please. I have to read this into the  
19 record, and everybody to be able to hear, so don't make  
20 any noise, okay.

21 The Governing Board of the Texas Department of  
22 Housing and Community Affairs will go into closed session  
23 at this time, pursuant to the Texas Open Meetings Act to  
24 discuss pending litigation with its attorney under Section  
25 551.071 of the Act, to receive legal advice from its

1 attorney under Section 551.071 of the Act. To discuss  
2 personnel matters under Section 551.074 of the Act. To  
3 discuss certain real estate matters under 551.072 of the  
4 Act. And to discuss issues related to fraud, waste or  
5 abuse under Section 2306.039(c) of the Texas Government  
6 Code. Closed session will be held in the Banquet Room in  
7 the Cafeteria. Today is September 12, and the time at  
8 this moment is 12:02. Let be back here at 1:30, back in  
9 our chairs.

10 MR. MENENDEZ: Mr. Chairman, I have to run to  
11 San Antonio. The one last thing I want to say is the  
12 rules -- the last allocation formula identified that the  
13 San Antonio region was underfunded.

14 The irony is that potentially the way the rules  
15 have been presented, it could cause us to be underfunded  
16 once again, even after the credits you have allocated to  
17 the region. So that is where the dilemma occurs, in my  
18 mind. Thanks.

19 MR. OXER: Thanks, Jose. All right. See  
20 everybody at 1:30.

21 (Whereupon, the Board recessed into Executive  
22 Session at 12:02.)

23 MR. OXER: All right. Good afternoon again,  
24 ladies and gentlemen. The Board is now reconvened in open  
25 session at 1:36. We had Executive Session. No decisions

1 were made.

2 We received counsel, legal advice from our  
3 General Counsel. Those of you who know what we have going  
4 on here, we are -- we have several legal issues boiling.

5 So with that, we will -- let's get back to the  
6 item we are on here, number 5(a). Barbara, would you like  
7 to -- can we get a summary, or is it the appropriate time  
8 for a request of summary of discussions on the rule on  
9 that?

10 MS. DEANE: I could not give a summary of  
11 discussions that we had. If you were asking me what I  
12 would say in terms of the application of the rule, and our  
13 statute, and some issues that were brought up earlier.

14 In my opinion, staff is applying the rule as it  
15 was written. And also, in light of the resolution that  
16 the Board passed at its last meeting, guiding staff in  
17 terms of how they would -- I was at the last meeting --  
18 about the resolution they passed, about how to apply to  
19 the waiting list.

20 And of course, our rule was duly adopted by the  
21 Board. It is in accordance with statute, and is a  
22 reasonable interpretation and implementation of the statute  
23 as it is written in the Regional Allocation Formula.

24 And so I believe that staff is following what  
25 the Board has indicated they need to do. And they are

1 following our rule, and they are following our statute, in  
2 terms of how they are applying the allocation formula and  
3 the collapse and so forth to the Homestead project.

4 MR. OXER: Okay. We began with staff  
5 presentation. Come up, come on, Jean. We began with  
6 staff presentation on this. We had at that time, a motion  
7 to table.

8 There has been public comment. So far. We  
9 will have additional comment here in a minute. So we are  
10 still technically under the public comment period.

11 So do you have anything else to add to it,  
12 while we are at it, Jean, or would you like to summarize?

13 MS. LATSHA: I would have to summarize it, if  
14 you would like to invite me to. I think one thing I would  
15 like to say is that we personally and that staff also has  
16 a great amount of respect for Representative Menendez's  
17 office, although had a little bit of a disagreement on how  
18 to apply the rules. That is certainly no reflection on  
19 the Representative's office.

20 MR. OXER: Reasonable people can still  
21 disagree.

22 MS. LATSHA: Yes, sir. To summarize really, it  
23 is as simple as that: We are recommending Homestead  
24 Apartments for an award of \$1.25 million in tax credits  
25 based on 11.06 of the --

1 MR. OXER: Okay. Thank you. I understand we  
2 have Representative Howard.

3 Would you like to make a comment? We would be  
4 delighted to hear from you.

5 MS. HOWARD: Thank you very much. I appreciate  
6 the opportunity to come before you. This was just brought  
7 to my attention, and so I quickly pulled a page together.  
8 Thank you.

9 MR. OXER: I'm sorry to interrupt you right  
10 now, Representative, to do a housekeeping check here. We  
11 had some issues with the mics not being loud enough.

12 Can you guys hear us in the back? Everything  
13 okay? Good. Okay. Can you hear the podium mic? Okay.  
14 All right. I'm sorry. Please continue.

15 MS. HOWARD: Thank you very much. I am  
16 actually very pleased to be able to be here on behalf of  
17 my district, and the Austin area. Walter Moreau and  
18 Foundations Communities is an integral part of the fabric  
19 of our community and a very well respected group that has  
20 done very much to improve the affordable housing situation  
21 in our community, and we were all very excited about the  
22 awarding of the Homestead project.

23 So my understanding is that there was some  
24 confusion today about what might happen and how this might  
25 proceed. And I am here, I guess, I would say specifically

1 to testify on behalf of supporting the staff  
2 recommendations and against the motion to table.

3 I do understand that this Board has been very  
4 diligent about following the rules and making sure that  
5 things are done according to what the rules and the  
6 statute says. And you ought to be commended for that.  
7 And I appreciate that that is how you are doing it.

8 Obviously, we need to have a very fair process  
9 in place, so that the entire State of Texas benefits from  
10 the decisions that are made. My understanding is, and  
11 what I just heard from your attorney, I believe is that  
12 the staff has been applying the rules, as they are  
13 written.

14 And based on last month's waiting list  
15 resolution, that their recommendation is in line with  
16 that, which from my vantage point means that there does  
17 not appear to be a reason to delay. That delaying would  
18 actually hurt the Foundation's community project, and most  
19 importantly, the people that this project will serve.

20 I understand that my colleague and good friend  
21 Representative Menendez is representing his area, and  
22 wanting to make sure that they are served. And I totally  
23 understand that. That is what we are elected to do.

24 But certainly, asking the Homestead project,  
25 which is already being awarded to wait for some other

1 things to occur after the fact, after they have already  
2 gotten the congratulatory letter, congratulations, you  
3 have been awarded this, to me is not in the best interest  
4 of my district. And so as I believe Representative  
5 Menendez would do for his district, I am here to stand in  
6 support of mine.

7 You know, I could probably say a few more other  
8 things. You all know a whole lot more about what is going  
9 on here, than I do, in terms of the specifics. But, and I  
10 can talk about whatever you would like. And I can try to  
11 answer any questions.

12 But the main thing that I really do want to say  
13 is that it does appear that the rules are being followed.

14 That this is something that should be moved forward with.

15 That it would be setting an unnecessary precedent to have  
16 a delay like this, when you have been so good about  
17 following the rules that you have established.

18 So really, that is the main thing I want to  
19 say. I would like for you to consider not tabling this,  
20 and moving forward with the staff recommendations, which  
21 are based on how you have been applying your rules. And I  
22 am happy to answer any questions.

23 MR. OXER: Good. Thank you. Are there any  
24 questions of Representative Howard from the Board?

25 (No response.)

1 MR. OXER: Okay. Thank you very much for  
2 coming to see us.

3 MS. HOWARD: Thank you very much.

4 MR. OXER: Okay.

5 MR. IRVINE: May I make a comment?

6 MR. OXER: I believe you could, Mr. E.D.

7 MR. IRVINE: I would just like to comment that,  
8 Representative, you didn't have the benefit of hearing  
9 Representative Menendez's remarks. I think that the true  
10 spirit of them goes to that there is a policy, and it is  
11 enunciated in statute.

12 And it says, that we will use the Regional  
13 Allocation Formula. We will make sure that the regions  
14 receive their proportional share of this incredible  
15 resource. And reality is, although it might theoretically  
16 be possible, it likely will never occur that we will have  
17 applicants apply for deals that line up exactly with the  
18 way that that formula would allocate the funds.

19 Therefore, there will always be a difference in  
20 the regions, between what we have available to allocate  
21 and what people seek. And what we have done, I believe,  
22 in this current year's rule is to put forward a very well  
23 developed, well thought out, rational methodology for how  
24 we deal with that difference.

25 And I think that what Representative Menendez

1 was speaking to was, perhaps food for thought, as we  
2 develop the policy in subsequent QAP. And whether that is  
3 the best way to allocate.

4 But for right now, as our General Counsel said,  
5 you know, it was a properly adopted rule. It was crafted  
6 specifically to carry out this legislative mandate for  
7 regional allocation. And staff is committed to following  
8 its rules.

9 MR. OXER: Good. Thanks, Tim.

10 MR. GANN: Mr. Chairman. If there is no  
11 further public comment, I would like to withdraw my motion  
12 to table.

13 MR. OXER: Professor McWatters, did you care to  
14 withdraw your second?

15 MR. McWATTERS: I will. I will on the basis  
16 that this discussion has been helpful to me, to listen to  
17 both sides, then to reflect upon the fact of our mission  
18 here is to have transparent, well vetted rules that are  
19 consistently applied.

20 And I have heard nothing from either side that  
21 tells me that we have something to the contrary. So  
22 accordingly, I withdraw the second.

23 MR. OXER: Mr. Gann, I think it is now your --  
24 now.

25 MR. GANN: Now what?

1 MR. OXER: Now you get to withdraw the motion,  
2 after the withdrawn second.

3 MR. GANN: Okay. I will withdraw the motion to  
4 table.

5 MR. OXER: Okay.

6 MR. THOMAS: Mr. Chair?

7 MR. OXER: Mr. Thomas.

8 MR. THOMAS: I would move to approve the staff  
9 recommendation on this particular item.

10 MR. OXER: Okay. Motion by Mr. Thomas to  
11 approve staff recommendation. Do I hear a second?

12 MR. McWATTERS: Second.

13 MR. OXER: Okay. Now is there any other public  
14 comment?

15 (No response.)

16 MR. OXER: Very well. All in favor?

17 (A chorus of ayes.)

18 MR. OXER: Opposed?

19 (No response.)

20 MR. OXER: There are none. Breathe, Walter.

21 (Simultaneous discussion.)

22 MR. OXER: Well, let's see. There was lunch in  
23 there, somewhere, I think. Are we done with that. We are  
24 done with that one. Item 5(b).

25 MR. IRVINE: Mr. Chairman, if I might present

1 Item 5(b) instead of the multifamily staff, because I  
2 actually have some background on Item 5(b). This is the  
3 Galveston housing initiative item.

4 This is a matter that involves the development  
5 of public housing to replace housing that was destroyed by  
6 Hurricane Ike. And it is funded with a combination, or  
7 proposed to be funded with a combination of CDBG, disaster  
8 recovery funds and other funds, including assistance that  
9 we would make available in the form of 4 percent tax  
10 credits.

11 I would recall that there is a lot of history  
12 about how we got to this point. And that history involves  
13 among other things, there was a Fair Housing complaint  
14 made against the State of Texas with regard to the  
15 disaster recovery funds. And that complaint was made by  
16 Texas Low Income Housing Information Service and by Texas  
17 Appleseed.

18 And we, the State, represented by people from  
19 this agency, represented by the Texas Department of Rural  
20 Affairs, which was helping to administer the disaster  
21 recovery and, with other advisors and high-level policy  
22 participants, entered into good faith conciliation  
23 negotiations. And that resulted in May 2010 of a  
24 conciliation agreement that we entered into. And it was  
25 approved by HUD.

1           Since that time, responsibility for  
2 administering the disaster recovery program has been  
3 transferred to the General Land Office. So TDRA which no  
4 longer exists is not involved in this. And the Department  
5 of Housing is now reinolved in this, because of the issue  
6 regarding the 4 percent credits.

7           So the history of how we got here is, we  
8 entered into a conciliation agreement. And as we have  
9 excerpted in your Board materials, that agreement did  
10 provide among other things, the one for one replacement of  
11 public housing units that were destroyed in Galveston.

12           We have not been participatory in the processes  
13 that have gotten this particular deal to this current  
14 configuration. But I believe that this particular  
15 proposal is very clearly tied to that conciliation  
16 agreement requirement.

17           There are a lot of people who are genuinely  
18 engaged and interested in this process. Folk from  
19 Galveston have got concerns. I think that John  
20 Henneberger and Maddie Sloan are here; they can certainly  
21 voice their opinions.

22           This is a contentious issue. There is no way  
23 around it. And we have in good faith tried to put  
24 everything we could out there. There was information  
25 coming in very late. So we did supplemental postings and

1 included what we could in the supplemental postings.

2           There was a letter from the Complainant's  
3 counsel, Michael Allen of the law firm, Relman, Dane,  
4 Colfax, I believe that was not done in time to make it  
5 into the supplemental. But we thought it was sufficiently  
6 germane that we made copies. All of you have received  
7 copies of that. The public attending the meeting has  
8 access to copies.

9           And we are not really making a recommendation  
10 at this point, because frankly, there are things that we  
11 do in our orderly processes that have not yet been done.  
12 We have not completed our customary real estate analysis.

13  
14           There are a couple of necessary waiver issues  
15 under our Qualified Allocation Plan. One relating to  
16 floodplain elevations and the way that it impacts the  
17 parking in this development. One relating to the fall  
18 zone of, I believe, an electrical wire.

19           Anyway, we just wanted to position this, so  
20 that there could be a good opportunity for the public to  
21 provide their views and thoughts and weigh in on this.  
22 Help formulate the basis for the best possible decision.

23           MR. OXER: Okay. Given that preface, Cameron,  
24 I have a question on this one. Is there an action item on  
25 this, or is this informational?

1 MR. IRVINE: He's just walking to the  
2 microphone. It is posted, so that you legally could take  
3 action if you decided to, but there is none proposed and  
4 none specifically needed at this particular meeting.

5 MR. OXER: Okay.

6 MR. DORSEY: What Tim said.

7 MR. OXER: Yes. First you say and then some,  
8 right. All right. Well, it is an issue that has more  
9 than modest relevance to what we are doing.

10 So I would like to open it up for public  
11 comment on this. Owing to the fact that we are not  
12 required to take action today, and that there is no  
13 resolution recommended, or action recommended by the  
14 Board, we will not require a Board motion before we  
15 receive public comment.

16 So with that, I will take public comment.  
17 Antoinette, you get to be first.

18 MS. JACKSON: My name is Antoinette Jackson,  
19 Coats Rose. I am just here to actually just kind of set  
20 out what we are doing as Mr. Irvine had said. We are  
21 actually just here to provide some comments to you in  
22 preparation of hopefully next month's recommendation to  
23 the Board for our item.

24 We have a couple of waivers that we want to  
25 explain to the Board because we have come before this

1 Board before, and they are complicated issues. So  
2 McCormack Baron Salazar, our developer, is going to bring  
3 forth information regarding that.

4 You are also going to hear from the Executive  
5 Director for the Galveston Housing Authority simply again,  
6 asking for your support. And then I am here in the event  
7 that you have any questions regarding some of the issues  
8 that Mr. Irvine has very nicely laid out for you.

9 But we do also have other supporters here from  
10 the Galveston community and from Lone Star Legal and low  
11 income housing advocates. So I just wanted to set that  
12 out for you. Thank you.

13 MR. OXER: Great. Thanks, Tony. Okay. Now  
14 for the record, when you guys get down here, you know the  
15 rules here. Left to right, so that we can -- it is fine.

16 I am happy to see you there. But those who want to  
17 speak, get in order from left to right in front of me  
18 here. Okay.

19 MS. MANLEY: Good morning. Thank you all for  
20 this chance to be before you today.

21 MR. OXER: Good morning

22 MS. MANLEY: My name is Meg Manley. I am the  
23 Senior Vice President with McCormack, Baron, Salazar. We  
24 are the developer of these potential sites here, Terrace,  
25 the one we are speaking of today, the one that will be

1 coming on a little bit later. Magnolia the development,  
2 that is a couple of more meetings down the road.

3 Yes. This has been a very long process to get  
4 here. I would say that perhaps this project has more  
5 stakeholders than any project that I have ever had the  
6 good fortune of working on to date, in my history.

7 I have been a houser, a developer of affordable  
8 housing for about 17 years. And with McCormack, Baron,  
9 Salazar, we have developed 16,000 units in 35 cities in 14  
10 states. We are very adept at dealing with public housing.

11 It is one of our specialties. Not everybody combines  
12 public housing with tax credits.

13 So this has been a very long process. Among  
14 the stakeholders, our partners at the Housing Authority,  
15 GLO, McCormack, Baron, HUD, the City of Galveston, the  
16 TBRB and hopefully soon, TDHCA, should we be able to get  
17 awarded these credits.

18 This has been probably one of the more  
19 difficult processes to get through. But one of the things  
20 that is at our core and our foundation of our company, the  
21 reason that we were founded, almost 40 years ago, was a  
22 motto of no return to the past.

23 So we have tried very hard to listen to that  
24 message that we have heard from the community in Galveston  
25 to make something completely different. To do a mixed

1 income development here that will be 49 percent market  
2 rate and 51 percent public housing replacement units.

3 I am sure you all are very familiar with the  
4 deal. It is 122 units. And so I am trying to stay within  
5 my three minutes, I think I will just summarize the  
6 waivers for you real quickly.

7 MR. OXER: Please continue.

8 MS. MANLEY: Okay.

9 MR. OXER: Thank you for recognizing that.

10 MS. MANLEY: The one is very -- the flood  
11 elevation issue is actually relatively simple. The entire  
12 island is only about six feet above the floodplain. And  
13 the base flood elevation is at twelve feet. We will be  
14 constructing all of our units at that twelve-foot level.

15 So we will be raised up on a podium, so all  
16 living space will be twelve feet off the ground. Your  
17 Board packet mentions that the parking will be twelve feet  
18 below the base flood elevation. It will actually only be  
19 six. So the items that -- the waiver is not for the units  
20 themselves, but simply for the parking that will be below  
21 the floodplain.

22 MR. OXER: I think the intent on that one was,  
23 it wasn't going to be twelve feet below the flood line,  
24 but twelve inches. It may have been a typo.

25 MS. MANLEY: Yes. That may have been a typo.

1 Yes. I thought it said -- it says here that parking will  
2 be twelve feet below the flood line. So I think it was  
3 supposed to be six.

4 MR. OXER: You all parking submarines over  
5 there these days.

6 MS. MANLEY: Yes. That would be a little  
7 expensive. So at any rate, we are only seeking the waiver  
8 for the parking. It would be virtually impossible to  
9 create ramps and take parking up six feet.

10 We would never meet existing grades. You would  
11 have lifts or ramps. And there wouldn't be enough room.  
12 So that is what that waiver is. And we see that one as  
13 being relatively simple.

14 The second waiver, Sara, if you could just  
15 point to these four poles. There are four transmission  
16 poles on this site. They are actually in the right-of-way  
17 offsite. There are no easements that run across our site.

18 The Board packet mentioned that the easements --

19 MR. OXER: Let me ask you this right quick.  
20 Was this information available outside to everyone?

21 MS. MANLEY: No. We were told that if we put  
22 it on boards, we could show those in the room. No?

23 MR. OXER: Yes. I am just making sure of that  
24 when Sara gets to showing it.

25 MS. MANLEY: Yes. Show it to the room. Yes.

1 So there is four poles that impact the site. They are  
2 not -- there are no easements for these poles on the site.  
3 The poles are located in the public right-of-way just  
4 outside of our property line.

5 So Mike, if you could just turn that site plan  
6 around perhaps. So there is two. There is one here, up  
7 in the right-of-way. One here, and then one here.

8 What I would say about this condition on this  
9 site is, the rules speak to the fact that if there is a  
10 site that has ongoing public assistance from HUD or the  
11 U.S. Government, and the redevelopment of that site is  
12 exempt from the undesirable site characteristics, the  
13 language and requirements. There seems to be an  
14 implication there to me that you understand that there are  
15 certain restrictions that we have with these public sites  
16 that have government assistance.

17 So for example, as a developer, we didn't have  
18 the liberty of choosing these sites to conform with the  
19 rules. These sites had public assistance before the  
20 hurricane. And they will continue to have public  
21 assistance after the hurricane.

22 We have sealed it. It puts them relatively  
23 within the spirit of the exception from the undesirable  
24 site characteristics. But at the very least --

25 MR. OXER: But the exceptions were -- as I

1 understand it, were intended to apply to greenfield  
2 projects.

3 MS. MANLEY: It is in 10.101 of your rules  
4 provide that rehabilitation developments that have ongoing  
5 and existing federal assistance from HUD or USDA can be  
6 redeveloped, irrespective of the presence of undesirable  
7 site features. So we feel that while these units were  
8 demolished, we very much fit in that profile of a site  
9 that had ongoing federal assistance, and will continue to  
10 have such once the site is redeveloped.

11 I am going to reiterate, the Board packet  
12 mentioned there were easements that run across the site  
13 there, are in fact not. Again, these poles are in the  
14 public right-of-way outside the property lines.

15 MR. OXER: And those easements were  
16 preexisting. The right-of-ways were pre-existing.

17 MS. MANLEY: That is correct. That is correct.  
18 That is Church Street, and Ball Street. And Sarah has  
19 pictures showing that the power lines, that is the power  
20 lines running along the site when the former public  
21 housing was there. Just demonstrating that the condition  
22 that existed prior to the hurricane, and not a terrible  
23 amount that we can do with it.

24 And as you so adeptly pointed out, Mr. Irvine,  
25 we are in a unique situation by virtue of the conciliation

1 agreement. There is a lot of masters that we are serving  
2 here in an attempt to redevelop these sites pursuant to  
3 that agreement.

4 MR. OXER: There is a lot of stakeholders in  
5 this. And we feel like half of them are trying to put  
6 them through our hearts, is the problem.

7 MS. MANLEY: I understand. I understand. So I  
8 don't want to belabor this. We think it is relatively  
9 simple. I would say that while I appreciate there is no  
10 staff recommendation right now for approval of this  
11 project, and allocation of credits, we would very much  
12 appreciate approval of the waivers today, if that were  
13 possible.

14 MR. OXER: If there -- please remain for a  
15 moment. Are there any questions from the Board?

16 (No response.)

17 MR. OXER: With respect to the parking level  
18 being below the flood grade, we have taken this up before.

19 Specifically, on this project. And a question that I  
20 would like to have answered is, what signage, training,  
21 exposition, notification will be made to the residents  
22 that the parking level is underneath this flood grade?

23 MS. MANLEY: There will be --

24 MR. OXER: What I am trying to do is get to the  
25 point that we are avoiding somebody saying, I went down to

1 get my car, and somebody drowned trying to help me. You  
2 know, we didn't know it would be underwater.

3 MS. MANLEY: Absolutely. It will be part of  
4 our standard lease packet with every resident, that we  
5 will have a firm explanation of this condition on site.  
6 We will also have a firm and very well laid out evacuation  
7 plan with instructions of what we do. There will be  
8 further instructions to residents that they shouldn't be  
9 storing down in these garages anything other than outside  
10 items, bicycles, lawn chairs, things of that nature. That  
11 this is not an area to store items that could be damaged  
12 in any way. So there will be -- every tenant will be  
13 walked through the requirements, the conditions, why  
14 Galveston is unique. Why this parking is below grade.  
15 That will all be part of their -- sort of their education  
16 as they come into the community.

17 MR. OXER: And there will be some signature  
18 required on their part.

19 MS. MANLEY: Yes. There will be.

20 MR. OXER: Certification that they received  
21 that instruction?

22 MS. MANLEY: Yes. There will be, Mr. Chairman.

23 MR. OXER: Okay. With respect to the waivers  
24 for today. Since we have -- there is no staff  
25 recommendation, the staff has not yet completed, as I

1 understand it, has not completed the underwriting. Is  
2 that correct? Okay. They haven't completed the  
3 underwriting. It would be inappropriate to offer the  
4 waivers right this very minute. Not to say that won't  
5 eventually happen. But right this second, with  
6 underwriting incomplete and no recommendation for a  
7 resolution from the staff, we won't do that today.

8 MS. MANLEY: Okay.

9 MR. OXER: Okay. But we would like to continue  
10 to hear from everyone.

11 MS. MANLEY: Okay.

12 MR. OXER: Is there any other questions from  
13 the Board?

14 (No response.)

15 MR. OXER: Do you have anything else?

16 MS. MANLEY: One other thing I would just add  
17 is that we -- our philosophy as a company is, we spend a  
18 lot of time on the front end with the various stakeholders  
19 in any community. So this project started with a very  
20 elaborate process, where we invited all of the local  
21 stakeholders, community groups, human rights groups,  
22 everyone who wanted to participate in the planning process  
23 was welcome in an open door.

24 And that went all the way up to the police  
25 department, government. So I just, I want to make that

1 very clear, that this process, we never walk into a  
2 community and say, this is what we think we should build.

3 This is what we think is good for you.

4 We find that to be a very inappropriate  
5 approach. So I wanted to also make that point. That this  
6 was a very collaborative process from its inception with  
7 the community in Galveston.

8 MR. OXER: Good. Thanks for your comments.  
9 Who is next?

10 MS. PURGASON: My name is Mona Purgason. I am  
11 the interim Executive Director of the Galveston Housing  
12 Authority. I appreciate the opportunity to speak to you  
13 today.

14 I am here to read a statement into the record  
15 on behalf of the waiver requests for application 13-418 --

16 MR. OXER: Can you hold -- can you bring the  
17 microphone a little closer to you so the folks in back can  
18 hear you?

19 MS. PURGASON: Absolutely. I am here to speak  
20 on behalf of the waiver requests for application 13-418,  
21 Galveston Initiative II, in Galveston, Texas.

22 According to the rules regarding the request of  
23 a waiver found in 5016 of the 2012 Qualified Allocation  
24 Plan, the Board in its discretion may waive any one or  
25 more of the rules if the Board finds that a waiver is

1 necessary to fulfill the purposes or policies of Chapter  
2 2306 of the Texas Government Code. The Galveston Housing  
3 Authority and its partner, McCormack, Baron, Salazar  
4 believe that GHA's development plan is in line with the  
5 purpose and policy of Chapter 2306 to provide for the  
6 housing needs of low, very low and extremely low income  
7 families while redeveloping neighborhoods and communities.

8 As you know, actually tomorrow is the five0year  
9 anniversary of Hurricane Ike, which struck Galveston  
10 Island, leaving more than 75 percent of the cities homes  
11 damaged or destroyed, including many of GHA's public  
12 housing units. The development plan calls for the  
13 redevelopment of 529 public housing units as a result of a  
14 conciliation agreement between the State, housing  
15 advocates, and HUD, which stipulates a one-for-one  
16 replacement requirement of the units that were lost as a  
17 result of the hurricane.

18 To that end, GHA and the State had entered into  
19 a subrecipient agreement for the replacement of 282 units  
20 within mixed income developments. The need for quality  
21 affordable housing is great on the Island.

22 Employment opportunities are largely tourism  
23 based and typically do not offer high wages. An analysis  
24 of data reveals that in Galveston, 35 percent of the total  
25 number of households earn less than \$19,999 annually.

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As of August 2013, Galveston Housing Authority had 1,222 families on its public housing waiting list and 2,334 families on its closed HCV or Section 8 housing waiting list. This translates into 3,556 households in Galveston who are awaiting housing assistance. CDM, the formal contractor with the City, of the City reported in a 2010 housing study that there are 12,074 renter-occupied units in the City. Approximately 5,800 of these households paid more than 30 percent of their income towards rent.

The study indicated that 50 percent of all renters were burdened by housing costs, and average rents have continued to increase, post Hurricane Ike. It should also be noted that the study reported 44 percent of the City's housing stock was built before 1960, and only 10 percent has been built since 1990. Galveston Initiative II --

MR. OXER: Continue.

MS. PURGASON: Okay. I am almost finished. Is the first phase of GHA's replacement housing plan. The site at 2914 Ball, formerly known as Cedar Terrace, will be a 122-unit development of which 62 will be affordable and 60 will be market rate units.

This site was devastated by Hurricane Ike and

1 was subsequently deemed uninhabitable and dangerous which  
2 led to the City's requirement that the site be demolished.  
3 Single family type dwellings that surrounded the site  
4 were also heavily impacted.

5 So this Initiative II will help to  
6 redevelopment the entire neighborhood. It will spur  
7 private investment, replace government assisted housing  
8 occupied by individuals and families of very low and  
9 extremely low income. Galveston Initiative II will  
10 advance the Legislature's policy to provide safe, decent  
11 and affordable housing in this neighborhood.

12 By granting this waiver, the Board would be  
13 working with GHA to achieve common goals of the State and  
14 of HUD. GHA will be able to provide desperately needed  
15 affordable housing to the low income families in the City  
16 of Galveston.

17 MR. OXER: You are in favor of granting all  
18 waivers required for the project?

19 MS. PURGASON: Yes, I am.

20 MR. OXER: Good. All right. Any questions  
21 from the Board?

22 (No response.)

23 MR. OXER: Everybody don't forget to sign in  
24 when you are up there. Very well. Anything else. Terry,  
25 do you want to ask anything?

1 MS. PURGASON: Thank you very much.

2 MR. OXER: Okay.

3 MS. JOHNSON: I just came back to sign my name.

4 MR. OXER: All right. I think that is -- is  
5 there any other public comment? Mr. Henneberger. Nice to  
6 have you, sir.

7 MR. HENNEBERGER: Good afternoon. My name is  
8 John Henneberger. I am the codirector of the Texas Low  
9 Income Housing Information Service.

10 Five years ago, Hurricane Ike devastated  
11 Galveston Island. By requirement of the City Council, the  
12 Housing Authority demolished every single public housing  
13 unit that was available for families on the Island. The  
14 elderly units were not demolished.

15 The Housing Authority entered into a voluntary  
16 agreement with the legal representatives of the tenants,  
17 the public housing tenants who lived in the demolished  
18 units to rebuild all of the family units one for one.  
19 Subsequent to that, my organization and Texas Appleseed  
20 entered into a conciliation agreement with this Department  
21 and the State of Texas requiring the one-for-one  
22 reconstruction of public housing in Galveston.

23 The requirement here, and the proposal here,  
24 through this request, and through subsequent requests  
25 would be only to do that. To rebuild what the Government

1       tore down. Not to build one additional unit beyond that.

2       It is one for one replacement. It is not additional  
3       units.

4                 Under the Fair Housing Act, HUD is charged with  
5       enforcement of the Fair Housing Act and with the  
6       implementation of the Presidential Order requiring that  
7       activities undertaken by HUD subrecipients "affirmatively  
8       further Fair Housing."

9                 HUD is the entity which is charged under both  
10       the Presidential Order and under the law with making those  
11       interpretations. We worked closely with HUD to craft an  
12       agreement. The City Council one year ago approved the  
13       agreement to reconstruct these units, of which this  
14       application is part.

15                The Housing Authority one year ago approved the  
16       activity which is before you for consideration. The  
17       conciliation agreement requires that the public housing be  
18       rebuilt within 24 months of the date that funds are  
19       available under the Round II program.

20                That date is rapidly approaching. And we ask  
21       your consideration in complying with the conciliation  
22       agreement. Thank you very much.

23                MR. OXER: I have a question. That means that  
24       the construction is to begin as opposed to completed by  
25       the 24 months. Is that correct?

1 MR. HENNEBERGER: I believe so. Yes, sir.

2 MR. OXER: Okay. Right. Is there any  
3 questions from the Board?

4 MR. IRVINE: Do you know exactly when that date  
5 is?

6 MR. HENNEBERGER: There are people from GLO  
7 here. They would have to -- I wouldn't want to give you  
8 the wrong exact day. But it is important that we move  
9 forward.

10 I would also point out that it has been five  
11 years since the public housing, since any family in  
12 Galveston has been able to occupy public housing. 569  
13 units were torn down. Five years. Thank you.

14 MR. OXER: Thank you, John. Okay. Any  
15 comments from the Board on this issue, or this item?

16 (No response.)

17 MR. OXER: Okay. As I said, we have taken  
18 public comment. We have more. Oh, a whole row of them  
19 over there. Well, okay.

20 MS. SLOAN: Good afternoon. My name is Maddie  
21 Sloan. I am a staff attorney with Texas Appleseed. As  
22 John said, we have worked together on disaster recovery,  
23 in fact, since Hurricane Rita, and particularly on  
24 Hurricanes Ike and Dolly.

25 You have the letter from our attorney, so I

1 will spare you reading that into the record. I just  
2 wanted to reiterate a couple of points really fast.

3           You know, one, there is a comprehensive plan to  
4 rebuild all of these units on Galveston. It has been  
5 approved by HUD, by the General Land Office. By the City  
6 Council. By the Housing Authority. It has support from  
7 local community groups. It has support from John and I.

8           And it is -- and everyone has approved this as  
9 consistent with the City's obligations to affirmatively  
10 further Fair Housing. The letters in opposition based on  
11 the supplement in the Board book present the same  
12 arguments we have seen at every decision point on this for  
13 five years.

14           There is nothing new here. And they present no  
15 alternative to rebuilding this housing. They simply seek  
16 to prevent rebuilding and to prevent the return of these  
17 families, that as John said, have been displaced for five  
18 years.

19           Appleseed and Texas Low Income Housing consider  
20 any actions by the State that would prevent the rebuilding  
21 of public housing on Galveston to be a breach of the  
22 conciliation agreement. But that said, we are fully  
23 confident that the staff and Board of TDHCA deal with  
24 these issues all of the time, and that you will analyze  
25 this application on the merits and act in a manner

1 consistent with your own Fair Housing obligations. Thank  
2 you.

3 MR. OXER: Great. Thank you. Any questions  
4 from the Board?

5 (No response.)

6 MR. OXER: Okay. Gentlemen, who is next?

7 MR. DENSON: My name is Richard Denson, and I  
8 am from Galveston. You all were all provided one of those  
9 packets. And I would ask that if you all could get them  
10 out for a second, so I could go through some of this with  
11 you real quickly. On the front page, it says Carrington  
12 Courtyard Apartments. They actually had sent this letter  
13 in, and it was sent back, returned to sender. And so she  
14 really begged me to get this to you all, so that you all  
15 could see this. So it was very important to her, because  
16 she doesn't keep up with technology to let you all know  
17 this. And this is, this letter was from her. So I have  
18 done that part.

19 The second letter in the packet is from the  
20 Galveston County Apartment Association.

21 MS. DEANE: Mr. Chair, could I ask a question  
22 real quick?

23 MR. OXER: Indeed.

24 MS. DEANE: This packet, is it as part of the  
25 Board posting?

1 MR. DENSON: Yes, ma'am.

2 MS. DEANE: All right. Thank you.

3 MR. OXER: I do know that.

4 MR. DENSON: One hundred forty, I think it was,  
5 copies for outside. Yes, ma'am. The Galveston County  
6 Apartment Association wrote a letter. They represent 135  
7 communities, 16,823 units.

8 And they are asking you all, over 6,000 in  
9 Galveston. They are asking you to not grant any more  
10 Housing Tax Credits on Galveston Island, because you all  
11 have given an inordinate amount of tax credits over the  
12 last five years on Galveston, and it has suppressed our  
13 rents greatly.

14 The next two letters, we can just go by. There  
15 are other people who are opposed to this development.

16 On page 5 of the handout, you are going to see  
17 photographs. I want you to look at these photographs. It  
18 is very important that you see where you are asking them  
19 to build this. On the western side of this plat is a  
20 water treatment plant that takes up the entire western  
21 side of the border of this development.

22 If you look down below that, you will see  
23 blighted structures that take the south and east portions  
24 of this development. On page 2, you will additional  
25 pictures of blighted structures. These structures are

1 mainly used by drug dealers and prostitutes at the current  
2 moment to provide services.

3           And if you will look at the bottom two pictures  
4 on page 2, you will see that the northern part of this  
5 development borders the Port of Galveston, and Port  
6 Industrial Highway, which is a five lane highway, which  
7 traffics container in and out of that port. It is loud  
8 all day, all night. Has very bright lights for when they  
9 are unloading cargo, et cetera.

10           The next page after that, you will see an  
11 analysis done by Dr. Kirk McClure, who is a professor of  
12 urban planning at the University of Kansas. He is called  
13 on quite often by the federal courts around the country to  
14 testify and prepare reports as an expert witness in Fair  
15 Housing cases.

16           He laughingly says, when he is not working with  
17 HUD, he is usually testifying against HUD. And beating  
18 them, because they are constantly saying that their places  
19 are in the area that will affirmatively further Fair  
20 Housing when the courts find that they are not.

21           If you go to page 2 of his report, it says, the  
22 research question, where should 529 housing units be  
23 located in order to affirmatively further Fair Housing?  
24 Well, since I am very limited on time, I will go to the  
25 end of this report.

1           In conclusion, what he gives as an expert  
2 witness in this is, given the availability of high  
3 opportunity neighborhoods in Galveston County, there  
4 appears to be no other locations for assisted households  
5 that is found with the location for proposed project  
6 generally known as Cedar Terrace and Magnolia Homes. Now  
7 that is a man who does this all of the time for a living.  
8       I trust his analysis, because he is one of a handful of  
9 people the courts call on to ask their testimony.

10           Now as far as the conciliation agreement goes,  
11 Mr. Irvine brought up the point, it sounded like the  
12 conciliation agreement is demanding this being rebuilt on  
13 these sites. There is no place in the conciliation  
14 agreement that says you have to rebuild on these sites.  
15 There is no place in the conciliation agreement that says  
16 you have to provide any tax credits. There is no place in  
17 the conciliation agreement that says there has to be  
18 market rate units included.

19           It simply says you have to replace 569 units.  
20 Forty have been replaced. There are now 529 units that  
21 have to be replaced. It is important to understand that  
22 the conciliation agreement does not in any way endorse,  
23 mandate or demand that you provide tax credits to this  
24 development. That is very important for you to  
25 understand.

1           Just recently, the GLO here and the Jay  
2 Patterson did an RFP, a Request for Proposal for 390  
3 units, starter site units to be built around Galveston.  
4 They have been awarded. Do you know, if you simply asked  
5 for another 139 or so units, that would fulfill the  
6 conciliation agreement requirement. And more importantly,  
7 the scattered sites integrate people into the community,  
8 and they don't segregate people from the community. You  
9 are being asked to give tax credits to a census tract that  
10 is the poorest census tract in all of Galveston County,  
11 not just the Island, the entire county. It is 61 percent  
12 impoverished census tract. Look at those pictures I gave  
13 you. You wouldn't let your dog live there. You are  
14 asking people to live there. The poorest people. Where  
15 there are no services. There are no jobs. There is  
16 nothing there except horrible elements. Why would you ask  
17 that to happen. You are going to guarantee generational  
18 poverty on these people, and you are going to put them in  
19 an area of hopelessness and despair. And when they act  
20 out, I have trouble blaming them. I blame you for putting  
21 them in that situation.

22           MR. OXER: I am going to have to ask you to  
23 recognize the measure of decorum that we ask for in this.

24           MR. DENSON: All right. There are three  
25 reasons that you all say you deny the 4 percent tax

1 credits. One is the financial feasibility. Well, you are  
2 not sure what the financial feasibility is, because we  
3 don't know what the remediation costs are going to be on  
4 the incredibly bad soil contents that came back of  
5 arsenic, lead, mercury, poly, aromatic, hydrocarbon, other  
6 stuff, I can't even pronounce.

7 But the SEI Engineering said, soil samples  
8 collected from this site exceed the regulatory threshold  
9 for residential developments. And they say, you could  
10 take twelve inches off and cap that with fresh soil, and  
11 then build. But they are not sure.

12 They haven't gotten any kind of comfort letter  
13 from the TECQ on it, nor have they done detailed studies  
14 on it, to be able to say whether it is even safe for  
15 children to be raised in. They don't know. So if the  
16 remediation costs \$6 million, does that affect the  
17 financial feasibility of the project? My banker would say  
18 yes.

19 The demographics of the area, well, they speak  
20 for themselves. They fail miserably. The census tract of  
21 the proposed area speaks for itself. It fails miserably.

22  
23 You know, I go to a lumber store in Galveston  
24 quite often. And it has a great sign behind it. It says  
25 poor planning on your part does not constitute an

1 emergency on my part.

2 We have had a very long time to prepare all of  
3 these waivers they are asking you for, to do these  
4 samples. To get the TCEQ down there to be able to do a  
5 proper analysis. And they haven't.

6 And now they are trying to get to you rush  
7 through something that is a very poor plan. We can obey  
8 the conciliation agreement but there is nothing in that  
9 says we have to do it in this way.

10 I am a resident of Galveston. I have been  
11 there 15 years. I own property there. And I pay lots of  
12 property taxes. And I am a member of the community.

13 And I do not wish to see the Galveston Housing  
14 Authority put the poorest people in the poorest section of  
15 town and warehouse them, and say good luck. You are not  
16 building the safety net that you and I -- I know we agree  
17 on that. I believe in helping people. I believe in the  
18 safety net.

19 But when you build a spider web, and you trap  
20 them like in South Chicago and other areas, where there is  
21 just in an area of hopeless despair, that is just wrong.  
22 It is morally, it is ethically wrong, and we shouldn't  
23 treat people that way. We just shouldn't. Thank you.

24 MR. OXER: Any questions from the Board? Any  
25 other comments?

1 (No response.)

2 MR. OXER: Thanks for your comment.

3 MR. IRVINE: Richard, you need to sign in.

4 MR. MCINTRYE: My name is Steve McIntyre. I  
5 live in Galveston also. I am a volunteer with Gulf Coast  
6 Interfaith.

7 Well, first off, I want to support the waivers  
8 being granted today if you can do it. And certainly  
9 support the granting of the tax credits, whenever you get  
10 around to it. I don't know whether or not I try to  
11 respond to Richard or something else.

12 MR. OXER: You can do whatever you want, but  
13 you have got three minutes.

14 MR. MCINTRYE: Right. On August 28th, the  
15 country celebrated the 50th Anniversary of the March on  
16 Washington. In Galveston, we celebrated the day after, on  
17 August 29th. We celebrated by meeting at Ashton Villa,  
18 where on June 19, 1965, the Emancipation Proclamation was  
19 finally read in Texas.

20 About 200 people marched from there over to  
21 Avenue L, Missionary Baptist Church, the oldest African  
22 American church in Texas. And those 200 people were met  
23 by a couple of hundred more, I guess. Because when we  
24 went inside that church, it was packed. There was nowhere  
25 left to sit.

1           We had people standing in the back. We had  
2 people up in the balcony. And it started with a prayer.  
3 And after the prayer, Council member Cornelia Banks, a  
4 long supporter, a strong supporter for public housing on  
5 the City Council, went up the front to read a proclamation  
6 from the City Council.

7           And Council member Terrilyn Tarlton was sitting  
8 off to the right, because she is the next speaker up. The  
9 Mayor was standing in the back, because there was no room  
10 to sit. I believe Council member Marie Wall was standing  
11 beside him.

12           So we had a majority of the City Council there.

13           And Cornelia, Council member Banks read a proclamation.  
14 I am going to read a couple of little paragraphs out of it  
15 to you.

16           Whereas, Galveston civil rights, faith-based  
17 and minority community organizations joined by people of  
18 all races and ethnicities and backed by the federal and  
19 state government have demanded for five years the  
20 rebuilding of all the homes that were destroyed by  
21 Hurricane Ike, and whereas all members of the Galveston  
22 City Council support the Fair Housing laws of Texas and  
23 the United States, and the obligation of the City of  
24 Galveston to affirmatively further Fair Housing.

25           And the City Council now supports the

1 rebuilding of mixed income and scattered site housing as  
2 set forth in the September 28, 2012 plan submitted to the  
3 Texas General Land Office, and whereas the work to rebuild  
4 Galveston for all our people, regardless of their race,  
5 national origin or income is a continuation of the  
6 struggle for freedom and civil rights and that Galveston's  
7 commitment to the dream is to rebuild it for all.

8 And there are some more whereases. And then it  
9 says, we pick up, August 29th, as Galveston and the State  
10 celebrate the March on Washington. Going back to one of  
11 those whereases. We now support the rebuilding of mixed  
12 income.

13 The mixed income plan that was submitted was  
14 hammered out through negotiations for days, and finally  
15 submitted to the City Council on September 28th. It was  
16 approved in the afternoon.

17 It was emailed to the GLO immediately. And  
18 that was done. That mixed income plan is Cedar Terrace  
19 and Magnolia Homes. Cedar Terrace is in front of you  
20 today. You can listen to Mr. Denson, or you can listen to  
21 the City Council.

22 And the City Council voted back on September  
23 28th to approve that plan with mixed income, and  
24 everything that is needed to get it, which is low income  
25 tax credits, which is those waivers that we need to get.

1 And this City Council is sitting inside that church just  
2 two weeks ago, where all these whereases were read, still  
3 backing mixed income.

4 I would encourage you all to not pay attention  
5 to all of the negative comments that has been submitted to  
6 you in the Board packet. I would encourage you all to  
7 grant those waivers today, if you can.

8 And I would encourage you all to grant these,  
9 or award these tax credits to these folks so they can get  
10 on to building. Thank you.

11 MR. OXER: Thank you.

12 MR. CAMPION: Good afternoon. My name is Joe  
13 Campion. I am a leader with Gulf Coast Interfaith. I was  
14 born on the Island. And I still have family members and  
15 property there on the Island. I am much involved.

16 I wanted to -- I love the passion of Mr.  
17 Denson. He is always a person who stands up. As there  
18 was a comment previously made, reasonable people can  
19 disagree.

20 And that is where we are at here. And I  
21 respect him for his positions. But I do have a short  
22 story to tell. He talks about -- and every time I hear  
23 it, it gets me going.

24 But for circumstances, my mother and father  
25 would have been living in Magnolia Homes. When my father

1 relocated from Fort Bend County to Galveston as a young  
2 carpenter, joining the Union, there was no place else to  
3 go. Ultimately, a family member was able to locate a  
4 garage apartment not far from Magnolia Home where they  
5 ultimately lived, and where ultimately, after I was born,  
6 that is where we lived there.

7 But yet, one block from Cedar Terrace, this  
8 particular tax credit development that you are considering  
9 today, my great uncle lived there, lived in a home that he  
10 bought after he relocated there to work for the railroads.

11 And in that home of his, he raised six young men and  
12 women there. And all of them successfully, ultimately.  
13 Well, half of them dead now.

14 But all successfully developed their own family  
15 lives, in what was considered the poor part of Galveston.

16 It was in effect that other side of the railroad.

17 From Magnolia Homes, from Cedar Terrace, there  
18 are many examples of successful individuals. Former  
19 Senator Gonzalo Barrientos, a product of Galveston, a  
20 product of the public housing. Former State District  
21 Judge Lupe Salinas, a product of public housing.

22 Other individuals going on to become lawyers  
23 and doctors in our community. There is a way to provide  
24 for an individual to better their lives, as long as there  
25 are affordable housing opportunities.

1           So I urge this Board to ultimately approve the  
2           waivers of the developer, and then next month, to approve  
3           the tax credits that are being asked by NBS. And thank  
4           you for your time.

5           MR. OXER: Thank you, Mr. Campion. Are there  
6           any questions from the Board?

7           (No response.)

8           MR. OXER: Okay. Is there any other public  
9           comment? The real estate analysis and underwriting is  
10          incomplete at this point. Do I understand that correctly,  
11          Cameron?

12          MR. DORSEY: Yes. That is right. It is not  
13          complete yet. But it most certainly will take into  
14          account things like the soil conditions. We require a  
15          Phase One environmental site assessment and you know, we  
16          are completing all of that due diligence and ensuring that  
17          it meets all of the Department's standards.

18          MR. OXER: What is the -- hang on a second.  
19          Let me find something right quick. What is the  
20          probability that is going to be complete by next meeting,  
21          the next Board meeting? Is it likely to come up in  
22          October?

23          MR. DORSEY: Brent just gave me a thumbs up. I  
24          was going to say I'd bind Brent --

25          MR. OXER: Try answering that.

1           MR. DORSEY: All right. There is a good, a  
2 very good likelihood. I think we have been working with  
3 them on some construction cost issues -- not so much  
4 issues, just, it is a unique construction style and it  
5 requires a lot more communication than a more conventional  
6 type transaction.

7           MR. OXER: Okay. But this is a full-extent  
8 deal, so it is -- the scheduling is not as critical as it  
9 was when we were --

10          MR. DORSEY: It is pretty critical for these  
11 guys. I can let them speak to that. I know that we have  
12 heard from both them and we heard from GLO that there is  
13 definitely some urgency behind this.

14                 I don't think that it is an enormous  
15 insurmountable issue if the award recommendation, whether  
16 it be positive or negative, goes to the next meeting. But  
17 I think further delays may create some insurmountable  
18 issues.

19          MR. OXER: Right. Okay. Well, we have a  
20 process for evaluating these sorts of things, and that is  
21 underway. It is midway. You know, I don't think anybody  
22 in here wants to short circuit that or get ahead of the  
23 process and do something that can't be sustained or  
24 supported by what we find.

25          MR. DORSEY: To be fair, I think Mike may have

1 wanted to say something a little bit more on the subject.

2 Did you?

3 MR. OXER: Mike. Yes.

4 MR. DUFFY: Since I enjoyed the floodplain  
5 waiver discussion last year, I let Meg do it this year. I  
6 appreciate that -- just to talk about findings. Mike  
7 Duffy, Senior Vice President of McCormack, Baron, Salazar.  
8 I'm the finance guy.

9 Specifically with respect to Cedar Terrace, we  
10 do have a bond into Texas, a bond inducement. And there  
11 is a 150-day closing time frame. That would be December  
12 19th. And so, no, it would be perfectly fine to have the  
13 credits awarded at the October meeting, and won't affect  
14 the critical path, as we say, to get to closing.

15 MR. OXER: Okay. Good. All right. Any  
16 questions from --

17 (No response.)

18 MR. OXER: All right. Good to see you back  
19 again.

20 MR. DUFFY: Thank you.

21 MR. OXER: There was no action required on this  
22 item as I recall. Okay. This is information to get us  
23 ready to get into this, so we can preface it for the next  
24 meeting. Is that right, Cameron?

25 MR. DORSEY: [inaudible].

1 MR. OXER: Okay. Anything else, Mr. E.D., on  
2 that one?

3 MR. IRVINE: [inaudible].

4 MR. OXER: Okay. Right. We will take up Item  
5 5(c). Cameron gets another one. And in the meanwhile,  
6 those of you that have been here Mike Sugrue -- is Mike  
7 here today? I thought he was here. He skipped out on us  
8 here.

9 As I recall, he had invited you to be a member  
10 of the Brotherhood of Facial Hair last time we were here,  
11 Cameron. That was a couple of months ago.

12 MR. DORSEY: That is correct. I am actually --

13

14 MR. OXER: I noticed you are somewhat different  
15 from what you were yesterday, or the day before yesterday  
16 when we met.

17 MR. DORSEY: Well, you know --

18 MR. OXER: Does that stuff get hot in the  
19 summer or what?

20 MR. DORSEY: I kind of caved. I just, you  
21 know, recognized that I was inevitably either going to  
22 look like Woody, or I was going to look like Tom Hanks  
23 from --

24 MR. OXER: Castaway.

25 MR. DORSEY: From Castaway. So you know, I am

1 just a Tom Hanks parody. He did the voice of Woody.

2 MR. OXER: Those of you who didn't get a good  
3 look at you the day before, I will suggest that he was  
4 getting ready for a Duck Dynasty cameo, okay.

5 (Simultaneous discussion.)

6 MR. DORSEY: I am going to --

7 MR. OXER: Before you start, I have got  
8 something to say about you, okay. Don't worry. It is  
9 good. I always like to say good things about the staff  
10 when they have achievements.

11 So Cameron has been named one of the seven  
12 awardees nationwide of the Affordable Housing Finance 2013  
13 Young Leaders Award. And it is a trade publication that  
14 many of you here I am sure, know. Because it is in this  
15 industry, so he gets the award in November. And is that  
16 here, or do you go someplace to get that?

17 MR. DORSEY: It is in Chicago. But I will not  
18 be using TDHCA funds to go there.

19 MR. OXER: You would have needed that here.

20 MR. DORSEY: I am using my personal money if I  
21 want to go.

22 MR. OXER: All right.

23 (Applause.)

24 MR. DORSEY: I really appreciate the support.  
25 If there is anyone I owe most at the Department, it would

1 be Tom Gouris. He has been my mentor.

2 He hired me into the Department and he taught  
3 me probably too well, because now I can beat him in  
4 arguments periodically. Which he may or may not regret.  
5 But anyhow, thank you, Tom for being my mentor.

6 MR. OXER: Congratulations from all.

7 MR. DORSEY: I am going to defer to Teresa on  
8 the next few items, and I am going to get up here on the  
9 rules. We kind of took a divide and conquer, as there is  
10 quite a bit of multifamily stuff at this meeting. So a  
11 divide and conquer approach will make for more informed  
12 presentations.

13 MR. OXER: Okay. Thanks.

14 MR. IRVINE: Divide and address.

15 MS. MORALES: Next on the Board agenda is Item  
16 5(c). Item 5(c) relates to a 4 percent Housing Tax Credit  
17 application with bonds being issued by the Port Arthur  
18 Housing Opportunity Corporation.

19 The development, Park Central, is to be located  
20 in Port Arthur and proposes the new construction of 184  
21 units serving the general population. Staff recommends  
22 approval of \$656,590 in housing tax credits subject to the  
23 conditions as noted in the real estate report on the  
24 website.

25 MR. OXER: Are there any questions from the

1 Board?

2 (No response.)

3 MR. OXER: Okay. Motion to consider?

4 MR. GANN: I so move.

5 MR. OXER: Okay. Motion by Mr. Gann to move  
6 staff recommendation. Do I hear a second.

7 MR. McWATTERS: Second.

8 MR. OXER: Second by Professor McWatters. Is  
9 there any public comment?

10 (No response.)

11 MR. OXER: There appears to be none. All in  
12 favor of the motion as made by Mr. Gann?

13 (A chorus of ayes.)

14 MR. OXER: Those opposed?

15 (No response.)

16 MR. OXER: There are none.

17 MS. MORALES: Okay. Item 5(d) represents bond  
18 preapplications that were submitted to the Department,  
19 approval of inducement resolution number 14-002, will  
20 allow these applicants the ability to proceed with the  
21 submission of a full application to the Department for  
22 housing tax credits and private activity bonds.

23 Once staff has performed its more detailed  
24 evaluation and due diligence associated with these  
25 applications, they will be brought back before the Board

1 for consideration for the 4 percent housing tax credits  
2 and bonds. These applications include Peoples El-Shaddai,  
3 and St. James Manor.

4 These two are proposed rehab properties in  
5 Dallas. And Decatur Angle Apartments is a proposed new  
6 construction development in Fort Worth. Staff recommends  
7 approval.

8 MR. OXER: This is a question of the Chair. Is  
9 this is single resolution for all three at once?

10 MS. MORALES: Yes. That is correct.

11 MR. OXER: Is that correct? Okay. Any  
12 questions?

13 (No response.)

14 MR. OXER: Motion to consider? You can't make  
15 Tom do all the work, you know.

16 MR. THOMAS: So moved.

17 MR. McWATTERS: Second.

18 MR. OXER: Okay. Motion by Mr. Thomas and  
19 second by Professor McWatters.

20 You weren't fast enough, Tom.

21 Okay. Any public comment?

22 (No response.)

23 MR. OXER: There is none. All in favor of the  
24 motion by Professor McWatters?

25 (A chorus of ayes.)

1 MR. OXER: Opposed?

2 (No response.)

3 MR. OXER: There are none. Next.

4 MS. MORALES: Okay. The next one, Item 5(e)  
5 involves an amendment to a bond preapplication that was  
6 previously induced by this Board last September. However,  
7 due to changes in the financial structure, they were  
8 unable to move forward at that time.

9 Resolution 14-003 simply amends the previously  
10 approved resolution to allow a little bit more flexibility  
11 in the submission of that application to the Bond Review  
12 Board for a volume cap. Staff recommends approval.

13 MR. OXER: I have a question.

14 MS. MORALES: Yes.

15 MR. OXER: What is the flexibility that we are  
16 asking for?

17 MS. MORALES: We are asking to amend the prior  
18 resolution to allow us to submit the application to the  
19 Bond Review Board later this year, in the 2013 program  
20 year or the 2014.

21 MR. OXER: The latitude is in the time line.

22 MS. MORALES: Either year. Yes.

23 MR. OXER: Okay. Give us either year to come  
24 into it.

25 MS. MORALES: Correct.

1 MR. OXER: Okay. Any questions?

2 MR. THOMAS: Yes.

3 MR. OXER: Okay. Mr. Thomas.

4 MR. THOMAS: The resolution is limited to --

5 MR. OXER: Do you care to modify the --

6 MS. MORALES: In the resolution, the beginning  
7 paragraph, it is amended with that additional language to  
8 allow flexibility. It doesn't specifically say the 2014  
9 program year.

10 MR. OXER: Wait a minute.

11 MS. DEANE: Is the bond counsel here?

12 MR. IRVINE: She left.

13 MS. MORALES: She was here earlier for single  
14 family but Elizabeth must have left. The original  
15 resolution is still intact.

16 There is just an amendment to one of the  
17 sections in that resolution that allows us the ability to  
18 submit the application in either program year. It doesn't  
19 specifically say 2013 or 2014.

20 MR. OXER: Okay. I want to make sure we got  
21 the resolution correct. Is that correct, Tim?

22 MR. IRVINE: Yes. Under 1.1 of the resolution,  
23 it is not limited as to year.

24 MR. OXER: Okay.

25 MS. MORALES: The prior resolution that this

1 Board adopted in 2012 was specific to that program year,  
2 which is why we are offering an amendment to that  
3 resolution, to allow us to move forward.

4 MR. OXER: So it is an amendment to the former  
5 resolution.

6 MS. MORALES: To the former resolution.  
7 Correct.

8 MR. OXER: Does that satisfy your question, Mr.  
9 Thomas?

10 MR. THOMAS: Yes, sir. Thanks.

11 MR. OXER: Great. No public comment, or there  
12 seems to be none. All in favor? Is there a motion to  
13 consider?

14 MR. McWATTERS: So moved.

15 MR. OXER: Motion by Professor McWatters.

16 MR. GANN: Second.

17 MR. OXER: Second by Mr. Gann. No public  
18 comment. All in favor of the motion by Professor  
19 McWatters and second by Mr. Gann to approve staff  
20 recommendation?

21 (A chorus of ayes.)

22 MR. OXER: Opposed?

23 (No response.)

24 MR. OXER: There are none. Thank you. So you  
25 divided them, and she got the easy ones, and you got the

1 rest of them, Cameron? Is that what it was?

2 MR. DORSEY: Well, there is one more item here  
3 related to the HOME NOFA. And then, I am doing the  
4 multifamily rules. So yes, after the compliance ones, as  
5 Patricia reminded me and for the fourth time.

6 MR. OXER: There is a reason we call her Chief.  
7 You know that, don't you?

8 MR. DORSEY: All right. So Item 5(h) is the  
9 presentation, discussion and possible action concerning a  
10 2013 HOME multifamily development program Notice of  
11 Funding Availability.

12 This NOFA has some unique aspects to it. I am  
13 going to lay out some of the basic information and then  
14 kind of remind you of some history that precedes this  
15 NOFA, but affects the drafting of this particular NOFA.

16 First is the funding that is reserved for this  
17 NOFA. We have -- are recommending the programming of  
18 \$15.7 million in our general set-aside. That is distinct  
19 and separate from what we call the CHDO set-aside which is  
20 reserved for transactions with a sponsor that qualifies as  
21 a Community Housing Development Organization. That is  
22 CHDO.

23 CHDO is short for Community Housing Development  
24 Organization. The amount in the CHDO set-aside we are  
25 recommending is \$6 million. These amounts include funding

1 that was unused from our previous 2012 Notice of Funding  
2 Availability.

3 It was a fairly small amount, so we chose not  
4 to come out with a new NOFA early in the year with that  
5 very small amount, at least in the general set-aside. It  
6 also includes funds from our 2013 allocation of HOME funds  
7 which we just very recently got.

8 And which normally, we would approve this type  
9 of NOFA much earlier in the year. And typically, we  
10 receive our HUD grant agreements earlier in the year.  
11 This year, it took quite a bit longer.

12 So we are bringing this -- this is the first  
13 meeting subsequent to the execution of that grant  
14 agreement which included about \$24 million or so in it.  
15 The funds here, like I said, are part of the 24, as well  
16 as older funding.

17 The 2013 funding was divided up between single  
18 family activities and multifamily activities. That is  
19 done through our one-year action plan which was previously  
20 already approved and laid out, what money would be  
21 designated for single family versus multifamily  
22 activities. So that is the funds that will be in this  
23 NOFA.

24 This NOFA already has effectively pending  
25 applications under it. Let me kind of explain how that

1 works. Because that is kind of unusual.

2 We, back in December of 2012, we recognized  
3 kind of proactively that we were very unlikely to be able  
4 to release the NOFA prior to the March 1 deadline for the  
5 2013 9 percent tax credit cycle. And in recognizing that,  
6 we decided that it made a lot of sense to bring to the  
7 Board a policy with an attached resolution that would  
8 allow 2013 tax credit applicants, 9 percent applicants  
9 specifically, to go ahead and apply for HOME money at  
10 their own risk, to the extent that it might become  
11 available in the future and be programmed in a NOFA.

12 And so that process occurred. We received 24  
13 applications back in late February of last year. For the  
14 HOME money, again, those were in conjunction with 9  
15 percent Housing Tax Credit requests. Those 24  
16 applications requested somewhere north of \$18 million.

17 And we currently have remaining pending about  
18 23 of those applications. One you have awarded. The bulk  
19 of our 9 percent housing tax credits. We weren't at the  
20 July meeting able to award the HOME money because we  
21 hadn't gone through the process of putting it out in a  
22 NOFA and all of that kind of good stuff. So it is a  
23 little unusual in that way.

24 In that policy that was adopted back in late  
25 2012, we also included an intent to, if possible, program

1 specifically \$5 million and make that available for 4  
2 percent tax credit applications that may need gap funding.

3 And so this NOFA also does that.

4 About 5 million of the 15.7 of the general set-  
5 aside will be reserved for 4 percent applications. For a  
6 period of time. It is laid out in the NOFA.

7 So that is kind of in a nutshell what this NOFA  
8 does. I think in all likelihood, you know, a much smaller  
9 number of 9 percent applications that had HOME requests in  
10 will ultimately receive HOME awards. And that relates to  
11 the fact that the 9 percent cycle is technically still  
12 ongoing. We didn't award all of those 9 percent  
13 applications that requested HOME funds.

14 Currently, if we were to take a snapshot today,  
15 about \$8 million of the 15.7 could be recommended for  
16 those 9 percent applications, except that we didn't have a  
17 NOFA at that time, et cetera. So that is subject to  
18 change as we enter into the commitment phase of the tax  
19 credit process, et cetera.

20 That is in a nutshell kind of what the NOFA  
21 does. And I will take questions if you all have any.

22 MR. OXER: Thanks, Cameron. Any questions?

23 (No response.)

24 MR. OXER: Okay. So the recommendation, the  
25 resolution is --

1 MR. DORSEY: Staff recommends approval as laid  
2 out in the Board materials.

3 MR. OXER: Okay. Motion to consider?

4 MR. THOMAS: So moved.

5 MR. OXER: Okay. Motion by Mr. Thomas to move  
6 staff recommendation as listed. Second?

7 MR. GANN: Second.

8 MR. OXER: Second by Mr. Gann. There appears  
9 to be no public comment requests. All in favor?

10 (A chorus of ayes.)

11 MR. OXER: Opposed?

12 (No response.)

13 MR. OXER: There are none. Okay. That was the  
14 last one under action item 5. Is that correct, Cameron?

15 MR. DORSEY: That is correct.

16 MR. OXER: Okay. All right. We have got some  
17 substantial rules to get to. Patricia, let's take the  
18 first one. I am heading towards taking a break right  
19 around 3:00, so we -- okay.

20 MS. MURPHY: Right. Patricia Murphy, Chief of  
21 Compliance. Item 6(a) is the compliance rules. These  
22 represent a pretty comprehensive rewrite of the existing  
23 rules that we have in effect right now.

24 They take into consideration a lot of public  
25 input that we have received. We had online discussion

1 forums and round tables and conference calls and there is  
2 quite a few new concepts in here.

3 One is the concept of a Compliance Committee.  
4 We all joke around about Patricia says no, and my big red  
5 No stamp. And this does provide owners some options to  
6 have issues vetted with some different ways to have their  
7 options looked at, including the creation of a Compliance  
8 Committee, where they can go and have issues discussed.

9 It also changes the requirements about a form  
10 that is used to collect demographic data that we report to  
11 HUD. It changes the timing of the Fair Housing disclosure  
12 notice, and provides options for correction.

13 It incorporates changes to the federal HOME  
14 rule. And it formalizes the process for an owner to  
15 request an adjustment to the uniform physical conditions  
16 standards inspection score. Staff is recommending  
17 approval as presented in your Board book with one  
18 recommended change.

19 That change would be in 10.613 about lease  
20 requirements. And I am going to read in what we recommend  
21 in subparagraph J.

22 "It is a development owner's responsibility at  
23 all times to know what it has agreed to provide by way of  
24 home amenities, unit amenities and services. A  
25 development owner shall at the time of execution of an

1 initial lease, and whenever there is a subsequent change  
2 in common amenities, unit amenities, or required services  
3 provide each household a written notice describing those  
4 amenities and services.

5 "The notice required must also contain the  
6 following; the Texas Department of Housing and Community  
7 Affairs Department is responsible for monitoring this  
8 development for compliance with any land use restriction  
9 agreement setting forth the required common amenities,  
10 unit amenities or services in connection with the programs  
11 administered by the Department. The Department may be  
12 reached at the Texas Department of Housing and Community  
13 Affairs, P. O. Box 13941, Austin, Texas 78711-3941, and  
14 have a reference to our website."

15 In addition, we are recommending a little  
16 change in the chart. The events of non-compliance on page  
17 40 of 43. That would change to include reference to this,  
18 to say that, it would be non-compliance with lease.

19 And we would insert the words, and notice  
20 requirements described in Subsection 10.613 of this  
21 subchapter. And if any of you guys have any questions, I  
22 would be happy to answer them. It looks like we have some  
23 public comment.

24 MR. OXER: Okay. Are there questions from the  
25 Board?

1 (No response.)

2 MR. OXER: Okay. Just remind me one more time  
3 here. We were basically holding some of this  
4 noncompliance issues being held in abeyance until we get  
5 some rulemaking in place.

6 MS. MURPHY: There is two things right now.  
7 There is the Fair Housing disclosure notice, and that is a  
8 form that is required through the remedial plan, the SEP  
9 remedial plan. And so we are monitoring for the  
10 requirements as they are outlined in our current rule.  
11 But we will find properties in or out of compliance based  
12 on final adoption of these rules.

13 MR. OXER: Right.

14 MS. MURPHY: So right now, the rule requires  
15 that that form be presented to households no more than 30  
16 and no less than three days before they move in. And this  
17 rule would change it to they are presented the form any  
18 time, 120 days prior to move in.

19 MR. OXER: Okay.

20 MS. MURPHY: And the other one is that form  
21 that you used to collect the demographic data. We said  
22 that you have to use the specific agency form. And this  
23 new rule would say that owners have options of a number of  
24 different forms they could use to collect the data.

25 MR. OXER: So ostensibly, this provides some

1 more latitude to owners?

2 MS. MURPHY: It does.

3 MR. OXER: Okay. Any questions of the Board?

4 (No response.)

5 MR. OXER: Okay. Motion to consider?

6 MR. McWATTERS: Move staff's recommendation.

7 MR. OXER: Okay. Professor McWatters moves  
8 staff recommendation to approve. Is there a second?

9 MR. GANN: Second.

10 MR. OXER: Second by Mr. Gann.

11 Barry, would you like to say something about  
12 this?

13 MR. KAHN: Good afternoon. Barry Kahn,  
14 developer in Houston. First of all, I would like to thank  
15 the staff for all the work they did, getting people  
16 together, getting more public comment.

17 We got rid of -- or they helped get rid of the  
18 point system, which I think will be helpful for everyone  
19 in the industry. There is a couple of other things that  
20 are still open and I think if the Board could possibly do  
21 a little bit of encouraging to bend some rules in this  
22 case, you would make the development community a lot  
23 happier.

24 MR. OXER: There are a lot of people who would  
25 be a lot happier if we would bend some rules. Okay. And

1 I hope that you will recognize that some of those that  
2 work in this building would have been happier too, but we  
3 didn't bend those, either.

4 MR. KAHN: At any rate, it really stems around  
5 tenant housekeeping. And it is something beyond the  
6 landlord's control, yet the landlord is responsible. And  
7 it is punitive to the landlord, because the landlord has  
8 to expend funds the landlord needs for general operation  
9 and maintenance of the property.

10 The purpose of our program is to create safe,  
11 decent, habitable affordable housing. It is not to be the  
12 residents' maids. And in effect, with these inspections,  
13 it is almost what we feel like at times.

14 And I have met with staff extensively. And  
15 they feel that they have a requirement under the Internal  
16 Revenue Code to strictly enforce everything. Well, the  
17 Internal Revenue Code -- and the reason they feel that is  
18 because there is a guide called the 8823.

19 And it is a guide. It is not a law. They are  
20 being told to comply with the guide. I am not trying to  
21 get them in any trouble with the IRS or create any issues  
22 with the program.

23 At the same time, the program has never said,  
24 except reiterate, we have a requirement for tenant  
25 housekeeping. So recently, we have started inquiring with

1 other states on what they are doing. And I am just going  
2 to make some comments.

3 And I don't want to pick on any state, because  
4 a couple of them have provided this information saying,  
5 they don't want to be the target of an IRS investigation  
6 or anything. But at the same time, they are sensitive to  
7 this situation. And what I am really trying to do is seek  
8 some sensitivity while providing safe, decent habitable  
9 housing.

10 Like, one state says, if it becomes serious,  
11 like a severe health and safety issue, then yes, tenant  
12 habitation issues, or tenant housekeeping issues are  
13 significant. Others look for habitability, proper working  
14 conditions of the unit, like appliances, HVAC, other items  
15 in good working condition. You know, ceilings being whole  
16 and that sort of thing.

17 I mean, little pencil marks that kids do,  
18 making holes in the wall, you know, fingerprints on the  
19 walls, I mean, it is an unnecessary burden on a landlord  
20 to have to incur the expense to take care of that. You  
21 know, another state says --

22 MR. OXER: I have a question, Barry. And these  
23 would be occurrences that were during occupation, not  
24 between transitions of occupation?

25 MR. KAHN: Correct.

1           MR. OXER: I can see how it would be a  
2 substantial issue to leave those sorts of things untended  
3 when the unit is vacated.

4           MR. KAHN: Oh, absolutely. And that is not  
5 even part of the discussion.

6           MR. OXER: Point of clarification.

7           MR. KAHN: And let's face it, if we don't have  
8 the units in decent condition when people want to move in,  
9 they aren't going to move in. People are pretty sensitive  
10 to these types of things, and raise hell when they can.

11           Another publishes in its unit inspection guide  
12 that inspectors are not to evaluate housekeeping or  
13 discuss other resident issues. Another defines, creates  
14 what they call a maintenance list. A deferred maintenance  
15 list.

16           In other words, items that are of a  
17 housekeeping nature, that is tenant created. It doesn't  
18 affect the habitability of the unit. They make note of  
19 it, and deliver that to the landlord. But they do not  
20 report it to the IRS, and they don't take any other  
21 further enforcement action.

22           So yes, it is noted. Yes, it is something that  
23 the landlord should address in due course. Yes, the  
24 landlord needs to address it, as you noted Mr. Oxer, when  
25 the resident moves out. But again, it is not a matter of

1 record, of permanent record.

2 And the thing is, with a lot of this, if it  
3 isn't corrected, if it is not correctable, and some issues  
4 aren't correctable because the Department might define  
5 some items the tenant owns. Unfortunately, we went  
6 through this experience recently, with a piece of broken  
7 mirror.

8 It was important to the tenant, wherever he got  
9 the mirror. It wasn't from the unit. But he used it for  
10 shaving every day. And you know, we got noticed.

11 How can we force somebody to get rid of  
12 something that they feel is important? I mean, if they  
13 have a loaded AK-47 on their coffee table, we can't make  
14 them get rid of it. That is definitely more dangerous.

15 The point is, there is only so much we can do  
16 as a landlord. We should not be penalized in any way. It  
17 goes on our record if we aren't able to correct something.

18 And let's work on trying to do what we are supposed to do  
19 in a more partnership type basis.

20 And I am hoping the Board can offer staff a  
21 little more flexibility around some of these issues, or  
22 try to find some other solution than what we are otherwise  
23 facing.

24 MR. OXER: Good.

25 MR. KAHN: And I would be happy to answer any

1 questions.

2 MR. OXER: Okay. Any questions of the Board?

3

4 (Pause.)

5 MR. OXER: Mr. Thomas.

6 MR. THOMAS: Have you made a suggestion, a  
7 written recommendation or a suggestion to staff to  
8 consider the exact items you are talking about?

9 MR. KAHN: Well, we have made a variety of  
10 requests. And the response has basically been, we have  
11 got to comply with IRS requirements.

12 MR. IRVINE: If I might interject, Patricia  
13 knows way more about this than I do. And she is probably  
14 an even better person to fill this out.

15 We have been through the Uniform Physical  
16 Conditions Standard, which is a HUD-adopted protocol. And  
17 we follow it down the line. We have specific on point  
18 written direction from the Internal Revenue Service  
19 saying, if you identify anything in accordance with UPCS  
20 standards, we want you to report it to us, period. No  
21 exceptions.

22 We report matters to HUD. And to the best of  
23 my knowledge, nobody has had HUD come back and say, gee,  
24 we want to reclaim credits or whatever because you know,  
25 there was a tenant issue within a particular unit or

1 whatever.

2           On the side of the world where it impacts  
3 funding decisions or award decisions, I can understand  
4 completely why Barry has got some real sensitivity to  
5 this. Because I think historically, the point structure  
6 that we had said that if you crossed one of these magic  
7 thresholds, you are deemed to be in material non-  
8 compliance, and you are simply ineligible for funding.

9           Now, we have frankly a much more, I think,  
10 difficult, but ultimately I hope, better process, where  
11 what we are going to do is have our Executive Award Review  
12 Advisory Committee, EARAC, get the compliance histories of  
13 potential applicants, and they are going to assess this,  
14 and they are going to make a documented recommendation to  
15 you regarding funding allocation decisions.

16           And I sit on EARAC. I even get to chair it  
17 sometimes. And frankly, I would be pretty astounded if  
18 EARAC couldn't find its way to say, Gee, this is a matter  
19 that needs to be addressed, but it is not of the dignity  
20 that it should require a recommendation not to fund  
21 somebody.

22           So I am completely sensitive to the issues you  
23 are raising. And I am hopeful that in this new process,  
24 there will be a lot more deliberative approach to these  
25 kinds of issues and common sense will prevail on at least

1 the avenue of making funding allocation recommendations.

2 MR. KAHN: And I agree with you to a large  
3 degree. The question that is going to start getting  
4 raised though, at the EARAC and above level, is someone  
5 has 15, 18, 20 tax credits allocations in the past, and  
6 you know, a small one is here. A small one is there. All  
7 of a sudden, all those add up. And over time, the small  
8 becomes large.

9 And I have no doubts that you know, it is a  
10 small item or two, it is going to be overlooked. But it  
11 stays on the record. It never goes away. So as I say,  
12 over time, you know, as people have more and more  
13 properties, it can become a larger and larger compliance  
14 issue.

15 MR. OXER: So you are asking to have a cure  
16 period or a cure capacity in these?

17 MR. KAHN: Or a limit where it does go away  
18 perhaps. You know, if it goes away after a couple of  
19 years.

20 MR. OXER: Okay. Mr. Thomas?

21 MR. THOMAS: I was going to say, I didn't get  
22 to finish my question. But I think what I would like to  
23 say is, that I am very sympathetic to what you are saying.

24 And I know our staff, just because of the amazing  
25 training that they have given me, are very passionate

1 about making sure that they can work with all of our  
2 constituencies.

3 But I am very concerned about the idea of  
4 regulation tail wagging the objective dog. So in that  
5 context, I would like to understand better, maybe it could  
6 be delivered through our staff appropriately, the kinds of  
7 issues you are specifically talking about, so that our  
8 Chair and our Board can understand whether or not there is  
9 a way for us to work with our staff to help you.

10 MR. KAHN: Well, thank you. One of the things  
11 is, there is different ratings on certain violations.

12 And one of the things with one state is, they  
13 take everything that is like an L-1, and certain few other  
14 items. And they deem those as not to really rise as the  
15 level of L-1. A lot of this is a matter of definition.

16 HUD, on its website for USPC shows pictures. I  
17 mean, the pictures aren't anything like what staff is  
18 dealing with in most of our properties. I can't say all,  
19 because I have no idea.

20 But they show like, on blocked egress, windows  
21 being boarded, not just a piece of furniture in front of  
22 the window. They show a hole in the wall. Not a pencil  
23 hole, but a six-by-eight section of sheetrock missing.

24 I mean, what they show on their website clearly  
25 is a violation. What we are trying to get around are the

1 minor issues. And I appreciate your comments.

2 MR. THOMAS: I think it is the slippery slope.

3 And like I said, I don't think it is potential to address  
4 all of the issues here. But as part of my steep learning  
5 curve on these nuanced issues, I would love some support  
6 from our constituents and our staff.

7 MR. KAHN: And there is something I would like  
8 to add that ties to all of this. Something that I found  
9 out this summer going to the Census Bureau, is we have  
10 seen over the past ten years our rents barely go up 1  
11 percent a year. Underwriting is based on 2 percent a year  
12 increases. And that is a risk we take as a developer. I  
13 mean, I am willing to accept that.

14 The thing is though, is part of the reason we  
15 have only seen this 1 percent increase is the way the  
16 census bureau and HUD is getting the demographic  
17 information. Area median income as we use in our  
18 profession for rent increases is tied to families.

19 Well, let's get into the definition of  
20 families. That excludes young couples living together,  
21 who have some of the highest income growth in the  
22 population. It excludes gay couples because they aren't  
23 deemed families. Yet, a retired couple whose income  
24 generally drops is often, is more often than not, a  
25 family.

1           So those incomes are dropping. People where  
2 incomes are increasing aren't being included. In fact,  
3 there was an article that just came out in the paper. I  
4 would be happy to make it available to anyone, that says  
5 basically, less than 50 percent of the families in this  
6 country are being included for income purposes.

7           So we are facing the dilemma, particularly with  
8 older properties of having the shrinking income level with  
9 our expenses going up faster than our income. And that is  
10 in large part why I keep harping. Because I know  
11 everybody has heard me, except for you, Mr. Thomas, on  
12 this issue, of getting around the, you know, tenant  
13 habitation issues when it comes to housekeeping.

14           MR. OXER: I have to ask you to close it up  
15 here, Barry. Sum it up. We are looking at the UPCS  
16 aspects of it.

17           MR. KAHN: Okay.

18           MR. OXER: Anything else you would like to say  
19 on it?

20           MR. KAHN: If anybody has any more questions.

21           MR. OXER: Okay. I am sure we will have.

22 Granger.

23           MR. IRVINE: And for the benefit of the general  
24 public --

25           MR. KAHN: And again, I would like to thank

1 everybody.

2 MR. IRVINE: For the benefit of our new member,  
3 I want to point out although we have had a tremendous  
4 amount of activity with regard to the development of this  
5 rule, it is actually upon Board action that we formally  
6 begin the process. Because this rule will be going out  
7 for public comment and everybody's comments are welcome.

8 And we have to make reasoned responses to those  
9 public comments. So to the extent that people can focus  
10 on these issues and offer constructive suggestions on ways  
11 to improve language, it is always welcome.

12 MR. OXER: Good. Granger.

13 MR. MCDONALD: Granger McDonald, Kerrville,  
14 Texas. Three quick things. One of which is, I would like  
15 to make sure that the point scoring or whatever the EARAC  
16 uses arbitrarily, if you say you have 50 more items, you  
17 get the hook.

18 Well, if you have got 5,000 or 6,000 units like  
19 we do, you can get 50 pretty quick. And if you have got  
20 two projects and you have 50, well, that is pretty  
21 egregious. So there needs to be some ratio, some balanced  
22 based on the size of your portfolio.

23 Second of all, within the Sunset legislation as  
24 well as individual legislation this last year, the right  
25 to cure was passed. Thirty days on documentation, 90 days

1 on other items, except for health safety violations.

2 And I would like to make sure that we keep that  
3 in the forefront. I think that everybody that is a good  
4 developer wants to fix what is wrong. And if they don't,  
5 they need to get the hook, and that is fine. But we need  
6 to make sure we keep the right to cure up front and in the  
7 middle of the procedure.

8 And finally, I think we also ought to realize  
9 that the tenant has rights. They have the right to  
10 peaceful enjoyment of their property that they have  
11 leased. And we shouldn't be doing anything more to a  
12 tenant in a tax credit property that we would in a  
13 conventional property.

14 We have both conventional and tax credit  
15 properties. And I am telling you, we become sheriffs on  
16 our tax credit properties and make people do things,  
17 knowing about the inspection process that we don't do on  
18 our market rate properties.

19 And I have a little bit of a problem with that.  
20 I think we are almost penalizing people because they are  
21 in affordable housing. And I think that could be a real  
22 issue that we need to be careful of. Thank you.

23 MR. OXER: Thanks, Granger. Any comment on  
24 that item, or a thought on that? The monitoring  
25 requirements are there, as best as I understand, to make

1 sure that these units are available and maintained in good  
2 order.

3 So that is a responsibility of the tax equity  
4 investor on these to see that these are maintained in good  
5 order, so that they continue to have the revenue generated  
6 for more attractive properties. So with that, Patricia?

7 MS. MURPHY: Yes. Like Tim said, Patricia  
8 Murphy, Chief of Compliance, we monitor for compliance  
9 with the Uniform Physical Condition Standards.

10 And Mr. Thomas, to your suggestion. There have  
11 been some UPCS workgroups that have been formed. And some  
12 of those workgroups did try to come up with a list of  
13 specific UPCS deficiencies that they believed were  
14 entirely a deficiency caused by the tenant. And TDHCA  
15 doesn't create the UPCS protocol that, like the Treasury  
16 regulation refers to in the HOME final rule refers to.

17 We don't create it. So perhaps if the industry  
18 or one of these workgroups came up with a list of  
19 deficiencies then perhaps we could forward that to the  
20 Real Estate Assessment Center, part of HUD to say, you  
21 know that these are some things that members in Texas  
22 believe should be, you know, re-looked at or reconsidered.

23

24 I am not sure I would agree with the list that  
25 they come up with. And I think that part of the

1 preservation of housing is that we are on these tenant  
2 issues. And it is these little small things that all add  
3 up.

4 And, you know, I would really appreciate Mr.  
5 Kahn's concern with his resident that had that broken  
6 mirror in their unit. And you really looked at the new  
7 rule and saw this kind of an issue, how would this work  
8 with the new rule?

9 And I gave him the long explanation about the  
10 options and where they could go with that. So I think  
11 this new rule really provide a lot of other ways to look  
12 at this issue.

13 And, you know, we could ask the IRS, you know,  
14 do you think it is a sufficient correction for the owner  
15 of the property to say, hey. You shouldn't have this  
16 broken mirror in your unit. Would that satisfy you as far  
17 as correction, IRS kind of thing. So just some comments  
18 on comments.

19 MR. OXER: Good. Thanks, Patricia. We have  
20 one more comment?

21 MS. JOYCE: Hi. Jen Joyce with Capstone  
22 Management. We are a third-party management company. And  
23 I was a part of the Committee that Patricia is speaking  
24 about. We went through the entire UPCS protocol.

25 We spent a full day in Houston, Texas, doing

1 that, going line item by line item and trying to come up  
2 with what we identified as tenant issues, primarily  
3 tenant-caused issues, things that we would like to see  
4 taken out of what was the material non-compliance score.

5 So I was just going to mention that we would be  
6 happy to provide that list again. But I would make the  
7 recommendation that that list could somehow be made public  
8 before other people to comment on. Just because it was  
9 used.

10 We came up with it, with the intent of  
11 commenting on material non-compliance which is no longer  
12 applies. So maybe the list could be considered a  
13 preliminary recommendation for what not to be required to  
14 for owners to pay for during a UPCS inspection. So then  
15 it wouldn't be then carried on in the 8823 process.

16 And while I am up here, I just wanted to also  
17 say that I thank you, Patricia, staff and everybody on  
18 staff so very much for allowing us to be involved in the  
19 compliance rules. We have had many day-long sessions  
20 where staff showed up, that were, you know, at TAAP and  
21 then also sessions that they formally gave us an  
22 opportunity to participate in.

23 So while not everything that I particularly, I  
24 know the group wanted is not necessarily in the rule, they  
25 certainly made an attempt to put it in the rule, and we

1 appreciate that we have further opportunity to comment  
2 later on. And that openness has also kind of transcended  
3 on how they do their day-to-day activities there in the  
4 compliance department. I work with a lot of states, and I  
5 really appreciate their openness on a general basis.

6 MR. OXER: We appreciate that compliment to the  
7 staff. So Patricia, one more quick shot and we will get a  
8 resolution on this. We are initiating this rule process,  
9 or is this a rule that is going to go into effect?

10 MS. MURPHY: It is just going out for public  
11 comment.

12 MR. OXER: Right. Going out for public  
13 comment.

14 MS. MURPHY: Right.

15 MR. OXER: So that means that everybody that  
16 spoke here will have another opportunity to make all of  
17 these things known, and the previous speaker will be able  
18 to add those comments into the record at that time, also.  
19 Is that correct?

20 MS. MURPHY: Correct.

21 MR. OXER: Okay. All right. There is no more  
22 public comment. Let's see. There was a motion by  
23 Professor McWatters and a second by Mr. Gann to approve  
24 staff recommendation as listed in the Board book. All in  
25 favor?

1 MR. IRVINE: As modified by Patricia.

2 MR. OXER: As modified by Patricia as defined  
3 in the transcript. Is that clear enough? Okay. All in  
4 favor?

5 (A chorus of ayes.)

6 MR. OXER: Opposed?

7 (No response.)

8 MR. OXER: There are none. Okay. It is a  
9 quarter after 3:00. We have been here an hour and 45  
10 minutes. We are going to take a 15-minute break and be  
11 back in your seats at 3:30. We will get the rest of the  
12 rules taken care of after that. See you in 15 minutes.

13 (Whereupon, a short recess was taken.)

14 MR. OXER: Okay.

15 MS. MURPHY: Yes. Patricia Murphy, Chief of  
16 Compliance. The next rule is the previous participation  
17 rule. This rule also reflects a pretty substantial  
18 rewrite of our existing rule. And it takes into  
19 consideration some recent legislative changes.

20 One thing that has not changed is our enabling  
21 legislation requires a compliance assessment before a  
22 project is approved by our Board. And I put 2306.057 in  
23 your Board writeup. The difficult, the really difficult  
24 part to get over is, Subparagraph C, which says the Board  
25 shall fully document and disclose any instances in which

1 the Board approves a project application despite any non-  
2 compliance associated with the project, applicant or  
3 affiliate, which is a pretty high bar, if there is any  
4 non-compliance.

5 So ten years ago, we created this material  
6 noncompliance methodology that you have heard some people  
7 talk about, where there were points, where we literally  
8 valued some events of noncompliance more than others. We  
9 have used that system for ten years.

10 And we have come to the conclusion that another  
11 approach is needed to evaluate compliance and to ensure  
12 compliance. And it takes into consideration these recent  
13 changes to our legislation which instruct the staff to not  
14 consider events of noncompliance that are corrected during  
15 the corrective action period.

16 So there has always been a corrective action  
17 period. But now it is in 2306, that it is 90 days for --  
18 actually, it is file or physical condition violation. And  
19 it is 30 days for failure to turn in your annual owners  
20 compliance report.

21 So whether you have a file review or a physical  
22 inspection, there is now a 90-day corrective action  
23 period. Not three months which we learned in our internal  
24 audit. So we will be sure it is the full 90 days.

25 And what the person's, applicants' compliance

1 history now will be is events of noncompliance that are  
2 not corrected, and things that were not corrected within  
3 the corrective action period. And Barry mentioned that at  
4 some point, those things need to drop off. And in the  
5 proposed rule, they do.

6 So in the proposed rule, we are suggesting that  
7 three years after something has been corrected, that it  
8 will no longer be reported to EARAC. So the new concept  
9 is, we are done with material noncompliance, which was a  
10 pretty black and white pass or fail.

11 And we are turning to a report to EARAC, that  
12 executive award review advisory committee that is  
13 referenced in 2306. And it will provide information about  
14 uncorrected events of noncompliance, things that weren't  
15 corrected within the corrective action period.

16 It will report about any financial  
17 delinquencies with the Department. If you owe us any  
18 fees, if you are past due on loan payments, things like  
19 that. And there would be a report from our asset  
20 management section that would have any workout deals or  
21 troubled kinds of projects that you are affiliated with.

22 And this report would go to EARAC, who would  
23 then make a recommendation to the Board as part of the  
24 projects approval. And we recommend staff approval.

25 MR. OXER: And for the benefit of the record,

1 describe and define EARAC.

2 MS. MURPHY: Okay. EARAC is shoot -- it is --

3 MR. IRVINE: It is created by statute and it  
4 involves me, the head of Compliance, the head of our  
5 multifamily --

6 MS. MURPHY: Multifamily.

7 MR. IRVINE: Housing finance-type programs,  
8 head of real estate analysis. We have our lawyer there,  
9 his advisors. It is a pretty high level cross cutting  
10 group of management.

11 MR. OXER: Okay.

12 MS. MURPHY: So before a project is brought to  
13 this Board or gets on the agenda, EARAC meets and looks at  
14 the underwriting and any issues associated with the  
15 project. And the applicants' compliance history is also  
16 going to be reported to EARAC now, as part of that project  
17 approval.

18 MR. OXER: Okay. All right. Any questions?

19 (No response.)

20 MR. OXER: Motion to consider.

21 (No response.)

22 MR. OXER: I can't make it, guys.

23 MR. GANN: I don't want make the motion,  
24 because she's written too many letters.

25 (Simultaneous discussion.)

1 MR. GANN: I will make the motion.

2 MR. OXER: He is trying to make up. You  
3 understand that, don't you?

4 (Simultaneous discussion.)

5 MR. OXER: You know Patricia, what goes around,  
6 comes around here. So you have got to be careful. All  
7 right. There is a motion by Mr. Gann to support staff  
8 recommendation on this item. Do I hear a second?

9 MR. McWATTERS: Second.

10 MR. OXER: Second by Professor McWatters.  
11 There appears to be no public comment. All in favor of  
12 the motion by Mr. Gann and second by Professor McWatters  
13 in favor?

14 (A chorus of ayes.)

15 MR. OXER: Opposed?

16 (No response.)

17 MR. OXER: There are none. Good job. Long  
18 memories. Long memories up here, okay.

19 (Pause.)

20 MR. DORSEY: All right. Cameron Dorsey,  
21 Director of Multifamily Finance. The next item on the  
22 agenda is the draft Qualified Allocation Plan. That would  
23 be for the perfected 2014 tax credit cycle.

24 MR. OXER: Michael.

25 MR. DORSEY: Some provisions also in the QAP

1 also apply to 4 percent tax credit deals. They have a  
2 less defined cycle. But first off, I just really want to  
3 thank Teresa Morales in particular.

4 Teresa stood up on the 4 percent item. I  
5 expected this to happen here, with people gathering. Come  
6 on. Teresa is critical, is a critical person in the  
7 development of our rules. It is a big tough thing to  
8 manage. And she is incredibly organized.

9 Jean and I are not near as organized. And so  
10 Teresa has to deal with Jean and I running around like  
11 crazy people. And she does a phenomenal job of it. Every  
12 year, she says, I am not doing that again. But she still  
13 does it, and thank God. Because she is brilliant at doing  
14 it.

15 MR. OXER: Actually I said that after my first  
16 meeting as the Chair too, but I got roped back into it.  
17 Okay.

18 MR. DORSEY: I also just wanted to mention, one  
19 of my staff, one of my multifamily staff is leaving to  
20 actually go work for DMA, Diana McIver. And his name is  
21 Valentin DeLeon. And Val is a great staff person until  
22 Monday, when he goes over there, then you know. He did  
23 some really great stuff in the last year or so.

24 He created the application, basically from  
25 scratch. The application that we used this last year. It

1 had a phenomenal effect on the number of administrative  
2 deficiencies that on average that an application in the  
3 2013 cycle had.

4 And he has been a -- he is a great philosopher  
5 and thinker. And comes up with phenomenal ideas to  
6 improve things. And he is moving on. And I am really  
7 excited for him. He is going to learn some great stuff  
8 working with DMA.

9 And anyhow, so I just wanted to just recognize  
10 him real quick. Because he won't be here on Monday, and  
11 he will be my mortal enemy. Just kidding. That is a  
12 joke. That is a real joke.

13 All right. The process. So to date, we have  
14 gone through several kind of iterations already. We start  
15 effectively real quick.

16 The reason I got that big beard is, I was in  
17 the QAP cave. Where we were writing, you know. I didn't  
18 even have time to shave. And, you know, so on August  
19 20th, we released a staff draft of the QAP.

20 We like to release a staff draft, because it  
21 helps give the development community an idea of where  
22 staff is thinking about, you know, how staff is thinking  
23 about things. Where things could end up going. And so we  
24 can get a good amount of comment prior to the Board  
25 approving the draft. And that is phenomenally valuable

1 process.

2 Because what is in the Board approved draft  
3 matters a whole lot. Because it determines what can  
4 ultimately be in the final version that is ultimately  
5 approved.

6 For example, if we don't include a -- if we  
7 wanted to in November, wanted to include some major  
8 concept, and it wasn't a logical outgrowth of something  
9 that was already imbedded in the Board approved draft,  
10 then we wouldn't be able to accomplish that. And given  
11 the time frames we all know we have on the QAP, we have  
12 got to get the QAP approved by the Board by November 15th.

13 And then ultimately signed by the Governor by December  
14 1st.

15 So it is just really critical that we start  
16 interfacing with the development community and  
17 stakeholders very early on, even before the draft that is  
18 posted in your Board book now. So on August 20th, we  
19 released that draft. We also made active an online forum  
20 for comments.

21 The forum hasn't been quite as active this  
22 year. I think it is because we approached it a little bit  
23 different. But we have done some comment on the forum.

24 And we have gotten a whole lot of comment in  
25 writing already as well. And we have kind of prioritized

1 that comment, making sure that we address major items that  
2 really we would probably need to address in this draft,  
3 such that they could be part of the final version if we  
4 ultimately decided, if the Board ultimately decided that  
5 they wanted it to be part of that final version.

6 We held a round table on August 26th. We had  
7 at least 120 folks in attendance. Probably closer to 150  
8 or more. We had to even switch rooms in the middle of the  
9 round table to go get a bigger room. I think it was a  
10 really great productive round table. We got a lot of good  
11 feedback.

12 And on September 5th, when we posted the Board  
13 book, we obviously posted the draft QAP that is part of  
14 the Board book that you have in front of you. And it is  
15 informed, like I said, by the staff drafts that originally  
16 we made available for the public and the changes we were  
17 able to process and digest prior to the Board posting.

18 Just to make clear, the public comment that we  
19 have received thus far is not part of the official record  
20 of the rule approval process. That official, in order for  
21 the public to make sure their comments are part of that  
22 official record and they are able to get a reasoned  
23 response to each of the comments that they make, they  
24 would need to comment during the official public comment  
25 period that let's see, it is October 21st.

1           When does it start, Teresa? September 27th. I  
2 left off the two, and I knew seven was wrong. September  
3 27th to October 21st is the official public comment  
4 period. And hopefully, we would then bring back a final  
5 version at the November Board meeting.

6           Data availability, I want everyone to -- the  
7 QAP keys off of a lot of data. The American Community  
8 survey provides a whole lot of the data we use for things  
9 like the opportunity index, and economically distressed  
10 area, and all kinds of elements that are really important  
11 for the public to digest these rules. We are going to try  
12 and make sure we release a draft based on the Board  
13 approved version, hopefully that we get today, in the next  
14 week or so.

15           I didn't want to release it before the Board's  
16 approval, because I was worried that that we would just  
17 have too many versions kind of floating around out there,  
18 and confuse folks. So we do intend to try and make that  
19 available for everyone to kind of see how everything  
20 functionally, you know, works, that is approved.

21           We are going to run through a couple of  
22 acronyms that we might hear today. HOA, high opportunity  
23 area, that we use sometimes interchangeably with the  
24 opportunity index. EDA, economically distressed area.  
25 That is a term that is used in the statute. And we have a

1 scoring item related to location in an economically  
2 distressed area. So EDA.

3 LPS is local political subdivision. That is  
4 one of the top ten scoring criteria. It is actually the  
5 fifth highest scoring criteria is a commitment of  
6 development funding by local political subdivision.

7 UGLG or U-G-L-G is unit of general local  
8 government. That is a term that no longer appears in the  
9 QAP. It was in previous versions. And that concept in  
10 its most used form relates, was replaced with LPS or local  
11 political subdivision.

12 And CDBG DR, you already have heard plenty of  
13 discussion about CDBG DR funds. But those are Community  
14 Development Block Grant disaster recovery funds. So those  
15 are just a few acronyms I thought I wanted to throw out  
16 there before hear all of the public comment and the three  
17 letter acronyms start flying.

18 So I am going to walk through some of the major  
19 changes that we have this year from last year. And as we  
20 all know, we have concluded the 83rd Legislative Session,  
21 and our Sunset Bill was passed. House Bill 3361 and the  
22 Sunset Bill included a number of statutory changes as well  
23 as a couple of other bills.

24 There was House Bill 429 and House Bill 1888.  
25 And I am going to talk through that. But I am going to

1 run through the remedial plan and the TDHCA annual plan  
2 that we have to submit to the court, and some of the  
3 changes that might necessitate a court approval. And then  
4 I will run through some other key changes before I kind of  
5 lay out the recommendation and then we can let the public  
6 comment fly.

7           So statutory changes. The first thing we will  
8 talk about is the definition of at risk. This is House  
9 Bill 1888. It expanded the list of at risk qualifying  
10 subsidies.

11           Just to remind you all, the definition of at  
12 risk is very important and relevant for 9 percent tax  
13 credit applicants because 15 percent of our annual  
14 allocation is reserved for the at risk set-aside. And you  
15 must qualify as an at risk development in order to  
16 participate in that set-aside.

17           So funds administered under Section 9 of the  
18 Housing Act of 1937 were added. It is a little bit more  
19 complex. Because it contemplates the potential for  
20 various scenarios where Section 9 funding is utilized.  
21 But a real key -- and that definition is in 2306.6702.  
22 The tax credit specific subchapter of our statute.

23           That definition, definitional change is really  
24 important for public housing authorities. There are a  
25 number of public housing authority representatives in the

1 audience today. And there is another critical kind of  
2 piece of the change that was made to the definition. And  
3 that is in 6714.

4 And that piece of the definition effectively  
5 says that in order for a Section 9 qualifying subsidy to  
6 allow a development to qualify as an at risk development,  
7 that subsidy must be retained. I'm sorry. A public  
8 housing operating subsidy must be retained and some  
9 portion of the public housing units must be retained on a  
10 going forward, meaning that they were previously and  
11 presumably continued to be there after the allocation of  
12 credits. And for the benefit of those tenants.

13 That, there is some concern in the industry and  
14 among public housing authorities because HUD has created a  
15 relatively new program. It is sort of a demonstration  
16 program. It is called RAD. It is short, another acronym  
17 that is used to describe that program.

18 And the RAD program converts Section 9 subsidy  
19 over to Section 8 subsidy. And it keys off of elements of  
20 the Section 9 subsidy calculations. But it is  
21 fundamentally, we are worried about it being a different  
22 subsidy. And there is some concern about whether or not  
23 it would qualify as at risk.

24 We have not drafted the QAP to specifically  
25 preclude RAD from counting. But we do have a concern that

1 RAD may not qualify under the statutory changes that were  
2 made. We are still doing some investigation into whether  
3 or not that can count.

4 We have a call scheduled with a HUD  
5 representative to talk about this issue, et cetera. But  
6 you will hear from the public on that issue. So that is  
7 one statutory change that is being implemented in the QAP.  
8 And a concern with respect to that change.

9 The definition of a rural area is slightly  
10 different. In the previous definition, we had a  
11 component, I call them prongs. There are kind of three  
12 prongs to it.

13 If you are outside an MSA, then you are rural.

14 But if you are in an MSA, then you kind of have a -- you  
15 had a two factor test. One was, are you in a place that  
16 has under 25,000 in population and not adjacent to another  
17 rural or not adjacent to another urban area.

18 And the other prong was, if it is an area  
19 eligible for USDA funding. That provision caused a little  
20 bit of heartburn for a number of folks. One, because USDA  
21 doesn't have -- doesn't just fund in rural areas. And so  
22 you ended up with USDA can technically fund in the middle  
23 of McAllen and larger cities in a lot of cases. And so  
24 that caused some concern.

25 So that third prong was removed, and replaced

1 with a provision that simply allows existing USDA  
2 properties to effectively be kind of grandfathered, and  
3 participate as rural developments in the USDA set-aside.  
4 And so that was a change made through House Bill 429.

5 In our Sunset Bill, we had a few key changes.  
6 The Sunset Bill, House Bill 3361. Added 2306.67071. And  
7 this was a notice of public hearing and local resolution  
8 requirements as a threshold requirement for 4 percent tax  
9 credits applications.

10 That, the implementation of that in our rules  
11 is technically in Subchapter C of Chapter 10 which is the  
12 subsequent item on the agenda. But I felt that it was  
13 appropriate to mention it now as it was part of the Sunset  
14 Bill changes.

15 And we have provisions in that subchapter to  
16 implement that portion of this statute. In 2306.6710, we  
17 had a couple of changes. This has long been known as the  
18 top ten.

19 It is the statutorily designated top ten  
20 scoring items that must remain the highest weighted  
21 scoring items in that order, from one to ten. It is now,  
22 and from now will be referred to as the top eleven.

23 So there was an addition of one item that was  
24 not previously in there, in really, any form. And that is  
25 input, the second spot, which used to be input from

1 neighborhood organizations moved down to the tenth spot.  
2 And it was replaced with a new item. It is input from a  
3 local government.

4 So it is similar to the threshold requirement  
5 for 4 percent deals. This would allow scoring for local  
6 resolutions of support or no opposition to tax credit  
7 applications to score quite high, as it is the second  
8 highest scoring item of all the scoring items now. As I  
9 mentioned --

10 MR. OXER: Question, Cameron.

11 MR. DORSEY: Yes.

12 MR. OXER: Does that require a local resolution  
13 in support, or just the absence of opposition?

14 MR. DORSEY: It -- the statute I think doesn't  
15 specifically read to require support. I think it is an  
16 input from local -- I have got it here.

17 The no opposition was added. I will tell you  
18 that. The idea of the no opposition was one Tim had to  
19 just provide an alternative option if they didn't feel  
20 that support was something that they could offer.

21 MR. THOMAS: Right here are 17 points for a  
22 resolution, the resolution be voted on and adopted by the  
23 body, it looks it is encouraging a vote and over that  
24 comment.

25 MR. DORSEY: Yes. Definitely. So in the rule,

1 the implementation of the statutory requirement has points  
2 associated with support, a resolution of support and a  
3 slightly lower threshold of points for a resolution of no  
4 opposition to the tax credit application. However statute  
5 says quantifiable community participation with respect to  
6 the development evaluated on the basis of a resolution  
7 concerning the development that is voted on and adopted by  
8 the following as applicable. And it lays out the  
9 different bodies. But it is just -- it's quantifiable  
10 community participation. And so we have implemented that  
11 to --

12 MR. OXER: Quantifiable participation by an  
13 entity that represents an elected council of some variety  
14 on behalf of the community?

15 MR. DORSEY: That is right. It would be either  
16 the City Council or the County Commissioner's Court or  
17 both.

18 MR. THOMAS: Just a point of order real quick.  
19 I just wanted -- I just pointed that out so that you  
20 wouldn't think maybe I wasn't paying attention.

21 (General laughter.)

22 MR. OXER: That would have done that.

23 MR. DORSEY: Okay. So there were those couple  
24 of changes. Okay. So there are those couple of changes.  
25 The previously second highest item is now the tenth item.

1       And we have got that new resolution of support item from  
2 local government, and it is the new second highest scoring  
3 item.

4               The sixth spot, which was previously input from  
5 a State Representative or a State Senator has moved down  
6 to the number eleven spot, which is the last in that new  
7 top eleven. And it also eliminates any points associated  
8 with a letter from a State Senator.

9               And this was very deliberate product of the  
10 legislative process. The Senate effectively decided that  
11 they didn't as a whole want to weigh in on the process.  
12 But there were State Representatives who would want to  
13 continue to weigh in. And so that change is reflected in  
14 here as well.

15               So those are the key changes resulting from the  
16 83rd Legislative Session. In addition, we have got, we  
17 are under a court order in a five-county area up in Region  
18 3, which is the Dallas-Fort Worth area, as you all know.  
19 And we have a remedial plan that was approved by the court  
20 for the 2013 cycle.

21               And at the end of each cycle, the court  
22 requires that we provide a report, an annual report that  
23 effectively assesses the performance in achieving the  
24 court's order of basically trying to balance our portfolio  
25 and have more transactions in high opportunity areas and

1 the like. We have to submit that annual report to the  
2 court on November 22nd.

3 And the timing is interesting, because the  
4 Board will have probably taken action, hopefully taken  
5 action on the final QAP prior to that. Now, it is still  
6 prior to the Governor either making changes or rejecting  
7 it or approving it by December 1. But it is quite late in  
8 the process.

9 And so we have been very careful. We first of  
10 all think our performance has been phenomenal in the 2013  
11 cycle in achieving the goals. And we are being very  
12 measured and careful about requesting too many changes  
13 that might cause uncertainty if the court ultimately  
14 determines that other remedies are necessary or simply  
15 doesn't like the changes that we are requesting.

16 I think we can't provide -- I know the  
17 development community would love to have some definitive  
18 feedback on exactly how that would occur, if the court  
19 ended up wanting to go in a different direction or  
20 ordering us to go in a different direction. And I have  
21 talked to Barbara some about it. And it ultimately would  
22 come down to literally the wording of whatever documents  
23 that the court put out.

24 So it is really difficult to really assess at  
25 this point in time what that might look like in the

1 future. But we are very cautious in understanding that  
2 changes, you know, if the court came out with changes,  
3 that were necessary in January, that could be pretty tough  
4 for folks that were out finding sites and had already  
5 submitted preapplications.

6 So we are sensitive, and we are trying to be  
7 very deliberate and measured in requesting changes.  
8 However, we will, we have, we are recommending changes to  
9 a couple of specific items that will require the court's  
10 approval. And I want to just note those right now.

11 The school ratings that we will be using to  
12 determine if an application scores on the opportunity  
13 index and in the educational excellence scoring item  
14 are -- we feel that staff, we are recommending that we  
15 update to the new school rating system and the previous  
16 rating system was 2011. We are quite a ways down the road  
17 now, and entering into 2014. And there were no ratings in  
18 2012.

19 So we have got the '11, or we have got the 2013  
20 new rating system utilized. And we think we have got a  
21 really good approach to utilizing the 2013 ratings to  
22 continue to accomplish the court's objectives.

23 Other key changes, the program calendar has  
24 changed some. Specifically for 9 percent deals, we moved  
25 the preapplication acceptance date to January 16th. It

1 provides effectively another week in early January.

2 We felt like it would be quite helpful to a lot  
3 of folks to finish some end negotiations on site control  
4 or what have you with enough kind of buffer from the  
5 holiday season. We originally thought the 23rd might make  
6 some sense, because we were able to put out application  
7 logs very quickly.

8 Now, part of the development community felt  
9 kind of as a whole, and as a product of the round table,  
10 we pared it back to the 16th. So it provides a little bit  
11 more time, but not so much, not so much more time that  
12 they are really kind of running into needing to pay for  
13 third-party reports to get done for the full application,  
14 that is going to be due February 28th.

15 So that is one key change there. Market  
16 studies is one element of the program calendar, the change  
17 when the due date for market studies is. We had kind of  
18 ratcheted that back from April 1, up to when the  
19 application is due on February 28th. There are a number  
20 of reasons that we are recommending that.

21 One is that we would like, and it became  
22 evident from this legislative session that elected  
23 officials would really like to have access to information  
24 where they can really sift through and give their kind of  
25 final best judgment on whether a proposal makes sense to

1 support. That is not just State Representatives but that  
2 is also local governments that may want to do more robust  
3 underwriting this year.

4 We talked to the City of Houston for example,  
5 and they would like to be able to do a little bit more  
6 underwriting of these applications before they provide a  
7 resolution for support, for example, for points. And that  
8 support resolution is due April 1. So that market study  
9 being due late February aligns with that to some extent.  
10 Sure.

11 Again, we did move that date for a local  
12 resolution out. In our original proposal we had that due  
13 February 28th. But we aligned that with when the State  
14 Representative support letters are due because it makes  
15 good sense to allow those folks to have access to some of  
16 the application materials and ask staff questions if they  
17 have questions, which we do get questions sometimes.

18 We also have a limitation on the development of  
19 properties that are restricted to that have age  
20 restrictions for qualified elderly properties,  
21 effectively. This was a very -- we did a lot of kind of  
22 research on this issue.

23 It is kind of a hot button topic. You know, it  
24 doesn't elicit the greatest responses all of the time.  
25 But I want to be clear. What we are recommending is that

1 we place limitations on developing deals that will have  
2 age restrictions.

3           It does not mean that folks that would qualify  
4 for an elderly property wouldn't have access to a general  
5 property or a unit in a general population property. And  
6 the methodology behind the limitation is, we look at two  
7 levels. We look at the county level and we look at a  
8 regional level. And what we are looking for is areas  
9 where our existing units serving elderly versus those  
10 serving the population at large is not in alignment with  
11 the demographics of the area. For so example, if there  
12 was a county and 55 percent of the households in that  
13 county would qualify to live in an elderly property, and  
14 our portfolio showed that 70 percent, and I don't think  
15 that this is the case anywhere, this is an example, 70  
16 percent of our units in that county had age restrictions  
17 for elderly households, then we would ratchet back and say  
18 all right.

19           We would really like to incentivize development  
20 of general population deals without age restrictions.  
21 There is a lot of background for why this is the case.  
22 The Fair Housing Act has protections for families, and  
23 protects the ability for families to have access to  
24 housing.

25           The Fair Housing Act has an allowance for age

1 restrictions under specific parameters. But it does not  
2 have a specific age protection. So we have to make sure  
3 that we are proactively looking at our portfolio and the  
4 distributions and insuring that the units on the ground  
5 are there to serve folks that are protected by the Fair  
6 Housing Act.

7 MR. OXER: So this becomes a midcourse  
8 correction in the long-term trend, just to make sure they  
9 balance out, so everybody --

10 MR. DORSEY: That is right. We looked at both  
11 a five-year trending and we looked at the portfolio as a  
12 whole for the area. And I could give you a quick example.

13 Last year we had, I think, five out of seven of  
14 the applications approved in Region Six were elderly  
15 transactions. And that trend can be -- you can see that  
16 kind of trend developing over time. And so we are taking  
17 steps to address that developing trend proactively.

18 There are several counties in several regions  
19 that would not be eligible for qualified elderly  
20 development next year under this threshold provision. And  
21 there are three regions that would not be eligible for  
22 qualified elderly developments next year.

23 And we would reassess after next year, look in  
24 the portfolio alignment with the inclusion of all of the  
25 units that are approved next year, and kind of do that

1 test again. And we might be in a different spot. So that  
2 is that provision.

3 Portability and the at-risk set-aside is  
4 another key change that we made. I think that I still  
5 absolutely want some feedback. It wasn't part of the  
6 original staff draft. It was something that developed out  
7 of comment from public housing authorities and others.  
8 And so we might need to do some adjustment there.

9 And so I am definitely looking for some  
10 feedback from the community on that portability of those  
11 vouchers or those subsidies. That is going to be really,  
12 I think, a good change for the at-risk set-aside.

13 Historically, you have had to redevelop units  
14 on the same site. This would provide the ability to  
15 participate in the at-risk set-aside and move that subsidy  
16 to an alternative site, hopefully in a better location, to  
17 the extent that the current one is not a great location.

18 A couple of other changes real quick. The  
19 local political subdivision funding item, we note a change  
20 from the unit of general local government funding item.  
21 They are both the same thing.

22 If you hear people talking about them  
23 interchangeably, they are effectively the same thing. We  
24 just wanted to go back to using our statutory, the  
25 statutory term. It is not defined, but the statutory term

1 is local political subdivision.

2 We got an AG opinion. There was a request for  
3 an AG opinion on this year's, the 2013 rule. The 2013  
4 rule related to development funding from a local political  
5 subdivision.

6 And the ultimate result of that opinion is  
7 that -- it was very supportive of the authority staff had  
8 and the Board had to draft the item in the manner it did  
9 and, you know, kind of codified the idea that there is  
10 some discretion that the Department has in developing the  
11 parameters surrounding the implementation of those top ten  
12 items.

13 That was very supportive of the previous  
14 conception of the development funding from local political  
15 subdivisions. But I think you may hear some comment on  
16 that item.

17 Development costs per square foot was almost a  
18 complete rewrite. Jean worked really hard on this item.  
19 We are still doing some research into effectively, you get  
20 points for having a cost per square foot that is relative  
21 to some other figure.

22 In the previous year, we used this kind of idea  
23 of deviation from the mean. So if your application  
24 proposed a deal that was X dollars per square foot and the  
25 mean was X plus 15 percent, then you may not get points.

1 But if it was X plus 8 percent you would qualify for  
2 points. And that was kind of the concept last year.

3 This year, we have kind of reintroduced the  
4 idea we had a couple of years ago and it has been more  
5 consistently, the drafting of this item over a number of  
6 years. And that is to have basically kind of threshold  
7 caps. If you are under a certain cost per foot, depending  
8 on what type of property you are, et cetera, then you  
9 would qualify for points.

10 Like I said, we are still looking at what those  
11 levels are. We are doing some research, looking at cost  
12 certifications that are coming in to make sure that we are  
13 coming up with levels that are reasonable and what have  
14 you.

15 Section 811 funding is kind of a whole concept  
16 in and of itself. We received an award of funding from  
17 HUD. It is called the Section 811 program. And HUD has  
18 kind of -- it is a demonstration program.

19 We are running it as a demonstration program.  
20 It is only going to be available for folks in certain MSAs  
21 of the state. But we have incorporated a scoring item  
22 that incentivizes an applicant to participate in that 811  
23 program.

24 The 811 program is kind of an interesting  
25 concept that was adapted from some programs in North

1 Carolina and some other states. And it provides project-  
2 based rental assistance for properties and specifically  
3 units that serve persons with special needs. And it is  
4 much more detailed than that.

5 And there is a lot of stuff we still have to  
6 learn. The development community has some concern about  
7 kind of the stage we are at in developing the 811  
8 program and whether it is appropriate to incorporate it as  
9 a scoring item in this year's QAP.

10 We are very aware of those concerns, and we  
11 have some similar concerns and we are working through  
12 those. And still kind of digesting the feedback we are  
13 getting on the development on this item and whether or not  
14 it is a good idea to have it in this QAP or perhaps  
15 implement it in a subsequent year or what have you.

16 We also have a new introduction of a scoring  
17 item for location outside of areas considered food  
18 deserts. Those are food desert -- we use the definition  
19 that the USDA has defined. They have a very easy to use  
20 and accessible map on line.

21 And the idea there, is looks at access to a  
22 vehicle. At census tract level, it looks at percentage of  
23 households that have access to vehicles, how far a drive  
24 it is to the closest grocery store, and some factors like  
25 that. It was developed relatively late.

1           We introduced it as a one point item. And we  
2 would love to have some feedback on it. We are still  
3 doing some research on that ourselves. And we would love  
4 to hear from the development community on that.

5           And lastly, I will touch on the definition of  
6 economically distressed area. The folks that were -- the  
7 Board members who were here during this year's cycle  
8 probably remember some of the discussions surrounding the  
9 economically distressed area. We had a whole lot of  
10 appeals related to it.

11           And we weren't in sync with the Texas Water  
12 Development Board. We have developed a different  
13 definition. We have talked to the Texas Water Development  
14 Board.

15           They like the concept, and we don't expect to  
16 have any issues this year in the implementation of the  
17 newly conceptualized item. So do you all have any  
18 questions before I read the recommendation and then we do  
19 public comment?

20           MR. THOMAS: On the scoring --

21           MR. OXER: Mr. Thomas.

22           MR. THOMAS: I'm sorry. Thank you. Is there a  
23 distinction between the top eleven and the bottom eleven,  
24 where they both have a -- the bottom eleven opportunity  
25 index starts with number eleven as well? In other words,

1 is that just a typo, or do you merge those two together?  
2 How does that work?

3 MR. DORSEY: It might be a typo. Let me look.

4

5 MR. OXER: While you are looking for that,  
6 Cameron, that gets to the point -- midway in the formal  
7 process, we are taking public comment on this. This is  
8 not anywhere near being finalized.

9 And there will be many more opportunities to  
10 take. Because I think last year, we went through seven or  
11 eight iterations, at least six.

12 MR. DORSEY: It feels like we go through that  
13 many every year. Yes.

14 MR. OXER: I just would hasten to point out to  
15 everyone that this is not the last opportunity to make  
16 comment.

17 MR. IRVINE: Well, that is true. But legally,  
18 it is becoming much more constrained. We are beginning  
19 the formal rulemaking process, putting this out for  
20 comment. And what that means is, that whatever the Board  
21 approves today sets the parameters, the boundaries of what  
22 can be introduced.

23 New concepts cannot come in after today. There  
24 is the ability to take things out. There is the ability  
25 to make some modification to the items that are included.

1 But it has got to be a logical outgrowth, something  
2 that -- we can't put new issues in play, things that  
3 affect new parties and so forth.

4 MS. DEANE: Right. You know, let me just say  
5 that you know, we got with the proposed rule. And  
6 normally, under most normal rulemaking situations, if you  
7 put a proposed rule out there, and some new concept came  
8 in that you decided that the public didn't have sufficient  
9 notice of, and of course, that is the whole thing, is  
10 making sure that everyone has notice of what you are going  
11 to do in your rule, what you are going to adopt in your  
12 rule. The normal route would be to republish it, and  
13 start your comment period all over again, and so you could  
14 go through several different processes, several different  
15 versions of your QAP. The big problem we have here is the  
16 statutory deadline that we need to finish within. So you  
17 know, I would reurge kind of what Cameron mentioned when  
18 he first started speaking. That is, to try to go out  
19 broadly with this proposal. If there is concepts that  
20 might be included, go ahead and put them in. It is easier  
21 to pull something back that you have put in, that to try  
22 to introduce a new concept. Because if it is too new, or  
23 it affects new people it didn't affect before, it affects  
24 them in a whole new way than what it affected them before,  
25 you could find yourself in a situation of having to go out

1 for publication again. And we just don't -- we are  
2 probably not going to have time.

3 MR. OXER: The schedule doesn't accommodate the  
4 time for that.

5 MS. DEANE: The schedule is not going to  
6 accommodate that.

7 MR. OXER: Okay.

8 MS. DEANE: So if you hear concepts today that  
9 you want to put in, think broadly and err on the side of  
10 loading in the concept and pulling it out later. Because  
11 you are not going to be able to put it in later unless --  
12 because of the time constraints.

13 MR. OXER: Okay. Cameron?

14 MR. IRVINE: And if I might just offer a  
15 practical example of the concept. It was in there, but we  
16 want to change it.

17 We talked about the submission of market  
18 studies. And everybody knows that the issue of market  
19 studies is an issue that would be involved in the  
20 proposal.

21 But it is possible that when you go through  
22 final adoption, you could say that based on all the  
23 comment we have received, we want to move the market study  
24 submission date to something other than what was in the  
25 proposal. That is possible.

1 MR. DORSEY: And the answer is yes. It was  
2 just an error. It should start at those below the item  
3 quote unquote scoring items should start at twelve now.

4 MR. OXER: Okay. Any other questions of the  
5 Board?

6 (No response.)

7 MR. DORSEY: I will give a recommendation. I  
8 have a slight amendment to what appears in our staff  
9 recommended amendment to what appears in our Board book.  
10 So I will go ahead and read that in.

11 And I will kind of take notes as we are going  
12 through public comment as well, where there is reasonable  
13 changes that we can make now or larger concepts that you  
14 all may want to incorporate as well. So here goes.

15 Staff recommends approval of the QAP as  
16 presented in the Board materials with the following, and  
17 as outlined in the resolution with the ability to make  
18 minor changes, with the following amendment. Occurrence,  
19 each occurrence of the phrase, and has achieved at least  
20 95 percent on the total system safeguard in Sections  
21 11.9(c)(4) and 11.9(c)(5) of the QAP is hereby amended, is  
22 amended to read, and has achieved a 77 or greater on Index  
23 1 of the performance index related to academic  
24 achievement.

25 Okay. Now that is the recommendation. That

1 sounds like a different language for some folks. This is  
2 within the opportunity index scoring item.

3 There is a phrase, and it relates to the metric  
4 used to determine if the school in which the development  
5 sites attendance zone, where the development site is  
6 located in the school's zone, whether that school would  
7 qualify, help the development qualify for opportunity  
8 index points. We have kind of gone back and forth and  
9 tried.

10 We read a whole lot of data on this. And we  
11 simply couldn't get it in the draft for the Board posting.

12 MS. DEANE: Let me add to what Cameron just  
13 mentioned as the staff recommendation; and the repeal of  
14 the old one.

15 MR. DORSEY: Yes.

16 MS. DEANE: It is in your resolution.

17 MR. OXER: So it is and the repeal of the old  
18 one.

19 MS. DEANE: And the repeal of the old one.

20 MR. OXER: Okay.

21 MS. DEANE: We have to publish that as a  
22 rulemaking as well.

23 MR. OXER: Okay. Yes. Okay. Do I hear a  
24 motion to consider?

25 MR. GANN: I'll make the motion to consider

1 staff recommendation with the correction or amendment.

2 MR. OXER: Modification.

3 MR. GANN: Modification.

4 MR. OXER: Okay. Motion by Mr. Gann to  
5 consider staff recommendation as modified by Cameron.

6 MR. McWATTERS: Second.

7 MR. OXER: Second by Professor McWatters.

8 MR. IRVINE: Excuse me. It is not just  
9 considering. It is approving us going forward with  
10 publishing this to the *Texas Register* for public comment.

11 MR. OXER: Well, it is not to consider, it is a  
12 motion to consider, which is in the resolution is to  
13 approve this documentation. So that is -- all right. We  
14 have apparently abundant public input.

15 Owing to the hour and to the magnitude of the  
16 contribution that everybody -- the number of people we  
17 have to make comment, and the fact that this is not a last  
18 chance, okay. I am going to ask everybody, because we are  
19 looking at 15 to 18 people here on this item alone. So I  
20 am going to ask you to please respect our three-minute  
21 drill here.

22 If you have got things to add to this, throw it  
23 out there. And put it into it. And we'll take it, as Tim  
24 said, we will add things to it. But we are going to try.

25

1 I want to make sure that everybody gets heard,  
2 and we have another fairly contentious item to bring up,  
3 or a detailed item to bring up after this. So the first  
4 thing I want to do is have Michael read in a couple of  
5 letters from the Legislature. Michael.

6 MR. LYTTLE: Okay. We have two letters  
7 received from state elected officials. The first is from  
8 State Senator Judith Zaffirini, District 21.

9 "Dear Chair Oxer and Board members, Thank you  
10 for your leadership and addressing the housing needs of  
11 all Texans. This is to respectfully request that the  
12 Board revise the 2014 draft qualified allocation plan, as  
13 it relates to Section 11.9 competitive HTC selection  
14 criteria funding by local political subdivision to  
15 redesignate public housing authorities as local political  
16 subdivisions that are authorized to provide funding for  
17 which points are awarded and to remove references to  
18 related party from the same section.

19 "The Laredo Housing Authority has issues  
20 regarding rule changes that impact negatively their  
21 services to low income families in the City of Laredo, my  
22 home town. Until 2013, PHAs were considered LPS by TDHCA.

23 "This designation authorized PHAs to make  
24 funding available for the development of low to moderate  
25 income housing. In the 2013 QAP however, TDHCA removed

1 PHAs designation as LPS, preventing them from making use  
2 of this important funding mechanism.

3 "The Laredo Housing Authority is an essential  
4 housing resource for South Texas, providing quality  
5 housing opportunities and related services for those in  
6 need. As Chair of the Senate Committee on Government  
7 Organization, I would appreciate your Agency's taking this  
8 action to ensure that PHAs throughout Texas have the  
9 competitive advantages they need to support Texas with  
10 limited incomes.

11 "May God bless you and inspire you to agree  
12 with my perspective. Very truly yours, Judith Zaffirini."

13 MR. OXER: It sounds very legislative.

14 MR. LYTTLE: I wish I would have written that.

15 Okay. The other letter comes from State Representative  
16 Richard Raymond from District 42, addressed to Tim.

17 "Dear Mr. Irvine, I am writing a comment to the  
18 2014 draft Qualified Allocation Plan as it relates to  
19 Section 11.9, Competitive HTC selection criteria, funding  
20 by local political subdivision, and the removal of the  
21 related party language in this section. Through 2012,  
22 TDHCA included a public housing authority as an LPS, that  
23 could provide funding and the related application would be  
24 awarded points by an LPS.

25 "In the 2013 QAP, TDHCA excluded funding by

1 PHAs as funding by an LPS. TDHCA removed the ability for  
2 PHAs to contribute funding to transactions in which they  
3 were involved using the justification that it was 'self-  
4 dealing.'

5 "PHAs are public entities and have unique  
6 resources that can only be provided by them. These  
7 resources are regulated by HUD, are restricted to  
8 affordable housing use by both HUD and Texas law. And I  
9 can assure you that self dealing by a PHA is prohibited by  
10 HUD. PHA resources are specific for the purpose of  
11 building and operating low to moderate income housing.

12 "PHA funding is also limited to transactions  
13 where the PHA participates. This use of funds allows the  
14 PHA to meet its public mission of providing low to  
15 moderate income housing.

16 "When a PHA participates in a transaction, it  
17 procures the services of a private for profit development  
18 and forms a public-private partnership. The other  
19 participating entities include the general contractor,  
20 architects, engineers, market study analyst, appraisers,  
21 material suppliers, subcontractors, environmental  
22 specialists, lenders and the private investors who provide  
23 the funding to finance the development.

24 "In accordance with federal and state  
25 procurement laws, PHA procurement is publicly advertised,

1 providing an open and equal opportunity for any developer  
2 wishing to participate in the transaction. Funding  
3 provided by PHAs in the form of a loan repayable by the  
4 tax credits entity to the PHA.

5 "I am not aware of any statutory provisions, of  
6 any statutory provisions or recent changes that prohibit  
7 PHAs from providing funding as an LPS. I noticed in the  
8 draft 2014 QAP that should the LPS, i.e., city or county  
9 borrow funds in order to commit funding to the  
10 development, the applicant or related party to the  
11 applicant; e.g., a private developer can provide  
12 collateral or guarantees for the loan.

13 "The LPS assures repayment of its funds to the  
14 guarantees made by private developers. Why does TDHCA  
15 make this exception. I ask that you reconsider your  
16 decision to exclude PHAs from designation as local  
17 political subdivisions, in the proposed draft Qualified  
18 Allocation Plan. Sincerely, Richard Pena Raymond."

19 MR. OXER: Thanks, Mike.

20 Okay. Public comment. And I will run the  
21 clock on everybody. So listen to the beep.

22 MR. DIETRICH: Good afternoon, Mr. Chairman,  
23 ladies and gentlemen. My name is Steve Dietrich. I am  
24 the Director of the Mainstreet program and the Heritage  
25 Preservation Officer for the City of Corsicana.

1           And I come before you to speak in favor of a  
2           modification to the Qualified Allocation Plan that would  
3           level the playing field for redevelopment of historic  
4           properties. Low income housing tax credits are vital to  
5           these projects, which often must also layer tax credits,  
6           EPA brown fields, clean up grants and local financing,  
7           just to be feasible.

8           Mr. Dorsey made reference to the remedial plan  
9           which favors the high opportunity areas, basically  
10          provides for more favorable scoring of projects located in  
11          higher income areas, and areas of higher performing school  
12          districts. This places the redevelopment of projects  
13          within central business districts at a distinct  
14          disadvantage.

15          Historic downtown properties in need of  
16          redevelopment are often surrounded by lower income  
17          neighborhoods and lower performing schools. The scoring  
18          criteria as established in the current QAP make a winning  
19          application highly unlikely for these type of  
20          redevelopment projects. This is about more than housing.

21  
22          There are noble ancillary benefits to  
23          redeveloping neglected historic properties. Currently,  
24          many of these buildings are publicly owned. The sale to a  
25          private developer will add millions of dollars to the

1 appraisal districts tax rolls, once development is  
2 complete, which can have a considerable impact in rural  
3 communities like Corsicana.

4 Furthermore, rehabilitation of historical  
5 properties can be seen as the greenest of construction  
6 methods. The reuse of existing infrastructure, and the  
7 harnessing of the embodied energy that went into the  
8 building of this construction a century or more ago simply  
9 makes sense, both from an economic and an environment  
10 standpoint.

11 I see a successful tax credit redevelopment  
12 project. It can be a springboard for sustainable economic  
13 development activity in the downtown area, as developers  
14 seek economies of scale with complimentary market rate  
15 historic rebuilding projects.

16 I ask you to look favorably on proposed  
17 revisions to the Qualified Allocation Plan, which will  
18 once again make historic redevelopment projects  
19 competitive in the allocation competition. Thank you.

20 MR. OXER: Good. Thank you. Any questions of  
21 the Board for Mr. Dietrich?

22 (No response.)

23 MR. OXER: Okay. Don't forget to sign in.  
24 Everybody, first thing up, sign in, please.

25 MR. LINDHOLM: Chairman, Board. My name is

1 Craig Lindholm. I am the Executive Director of Community  
2 Redevelopment Grants for the City of Texarkana, Texas.

3 I too am here to speak on behalf of  
4 leveling the playing field for historic adaptive reuse  
5 projects. Currently the problem with the QAP as we deem  
6 it, is that because of income, school based criteria that  
7 has been asserted over the last couple of cycles, it makes  
8 these programs competitive.

9 We also feel that the QAP does not sufficiently  
10 address the amount of equity that tax credit projects can  
11 actually bring, thus reducing the overall debt and  
12 actually extending or allowing the agency to spread their  
13 tax credits over a greater portion of time or over a  
14 greater area of the state. With the passage of House Bill  
15 500 by the Texas Legislature, Texas adopted a 25 percent  
16 historic tax credit.

17 This combined with the federal tax credit of 20  
18 percent after the sale of those tax credits, we could be  
19 looking at an additional 35 to 40 percent equity into  
20 these deals. That is 30 to 45 percent savings that could  
21 be counted against expenditure, low income housing tax  
22 credits.

23 We spent this morning discussing. We spent a  
24 lot of time this morning discussing how the allocation of  
25 tax credits as they come back occur. Well, we feel that

1 consideration of these changes to the QAP could actually  
2 give the Agency additional tax credits to spread  
3 throughout the state, to be able to fund more projects,  
4 and thus maybe avoid what we -- our discussion that we had  
5 this morning.

6 We specifically see three areas of the QAP that  
7 could possibly be changed, could be amended to address  
8 this. One has to do with the cost per square foot  
9 development.

10 We would recommend that the value of any  
11 federal or Texas historic tax credit equity be deducted  
12 from the total development costs prior to the calculation  
13 of these square foot of the development. Meaning that  
14 instead of counting the square foot development costs just  
15 solely on the basis of low income housing tax credits, we  
16 deduct that. If we deduct the historic tax credit, that  
17 equity that brings, that would reduce the burden on the  
18 low income housing tax credits and increase the points for  
19 developers that want to address these historical  
20 revitalization projects.

21 The second area that we see that the points  
22 could possibly be altered has to do with leveraging  
23 private state and federal resources. And we would only  
24 suggest here that in addition to the items that the staff  
25 has included in that, that perhaps they could also include

1 an addition of any federal or state historic tax credit  
2 equity to the eligible line items and possibly even give  
3 them more points.

4 If we are going to bring 40 percent equity into  
5 a deal, we feel like we could have maybe five points.  
6 Because we would only -- the total development of costs,  
7 or the amount of low income housing tax credits we would  
8 need would be reduced below 5 percent.

9 The third thing has to do with the provision  
10 that is currently in there for extended affordability or  
11 historic preservation. Currently, the QAP draft provides  
12 two points for a historic preservation project.

13 We would recommend that that be increased to  
14 ten points, to make these projects more competitive. The  
15 reason for this, as Mr. Dietrich said, is that most of  
16 these developments are in the central business districts.

17 The central business districts in many more rural Texas  
18 cities are low income areas.

19 We do not have the high performing school. We  
20 do not have the high income. We do not have the  
21 availability. All we want here is something to level the  
22 playing field. Thank you for your time. One more point.

23 MR. OXER: All right.

24 MR. LINDHOLM: This is the last point. Again,  
25 all we are trying to do here is to level the playing

1 field. Three takeaways.

2 By the addition of the change in the QAP to be  
3 able to add the tax credit equity, thus reduce the  
4 dependency on the low income housing tax credits add that  
5 historic equity, 35 to 45 percent, three things could  
6 happen. You could extend the spread of the low income  
7 housing tax credits throughout the state to be able to  
8 fund more projects.

9 Number two, you would be able to provide more  
10 affordable housing in the State of Texas. And number  
11 three, you are going to help to meet local community  
12 development needs. Thank you for your time.

13 MR. OXER: Good. Thanks for your comments.  
14 Any questions from the Board?

15 (No response.)

16 MR. OXER: Okay. Michelle, let's get the sign-  
17 in sheet where they can get signed in so we are not losing  
18 much time between speakers if we can, please.

19 MR. ARECHIGA: Hi. My name is Jason Arechiga,  
20 and I represent the NRP Group. Specifically, my comments  
21 today would be a little bit more on the 4 percent bond  
22 developments as opposed to the 9 percent and regarding the  
23 QAP.

24 I would like to address Sections 11.3, housing  
25 deconcentration factors and propose a change to 11.4 tax

1 credit requests and award limits. Specifically, Section  
2 11.3, section D, subsection 2, where the governing body of  
3 an appropriate municipality may by resolution allow new  
4 construction in an area that has more than 20 percent  
5 Housing Tax Credit units per household in a census tract.

6  
7 The 20 percent is a reduction from 30 percent  
8 from last year's QAP. We prefer the 30 percent but we do  
9 not oppose this reduction.

10 However, Section 11.4, Section C, subsection 1  
11 eliminates an increase in the eligible basis otherwise  
12 known as a 30 percent boost in these census tracts that  
13 exceed 20 percent Housing Tax Credit units per household.

14 This is despite the governing body having allowed the new  
15 construction in these areas.

16 We request that the governing body of the  
17 affected census tract have the ability by resolution or by  
18 vote to allow the increase in the eligible basis as well.

19 This would allow new construction in areas targeted for  
20 revitalization such as the southwest side of San Antonio,

21 San Juan III is one of the projects there.  
22 West Dallas, where the City is currently revitalizing, but  
23 the census tract is over 30 percent at the moment. And  
24 East Houston, as without the boost a bond development  
25 becomes financially unfeasible.

1                   Additionally, census tracts that are  
2 predominantly composed of retail, commercial and light  
3 industrial but with few total households, and in some  
4 cases, just one Housing Tax Credit development would be  
5 ineligible for future construction because they will not  
6 be able to get the boost. A resolution would allow new  
7 construction in these areas that cities have targeted for  
8 redevelopment to include residential uses. Thank you very  
9 much.

10                   MR. OXER: Thanks. Any questions?

11                   (No response.)

12                   MR. OXER: Good. Thanks, Jason. As we are  
13 doing this, let's have the next speaker sitting behind  
14 him, ready to go, if we can do that. I tell you, we have  
15 got to run a hot clock here today, folks. We have got a  
16 lot to get through.

17                   MR. JACK: I guess I won't get to go through  
18 all this.

19                   MR. OXER: Go on. Leave it with us.

20                   MR. JACK: Thank you Mr. Chair and members. My  
21 name is Gerald Jack, and my firm is Apartment Market Data.  
22 We do a significant number of market studies around the  
23 state both for market rate projects, and the affordable  
24 projects concerned with this program.

25                   As Cameron said, the draft QAP contains

1 language that changes the market study due date from April  
2 1st to February 28th. This same change has been  
3 introduced by staff at least three times in prior years.  
4 The last time in the 2011 draft QAP, and each time, it was  
5 determined that it was not necessary to have the market  
6 study delivered with the application to effect efficient  
7 processing of the applications.

8           Additionally, the April 1st deadline has worked  
9 for both staff and the market study community for more  
10 than a decade. Keep in mind, most importantly, there is  
11 no statutory requirement that the market and study be  
12 delivered at the same time that the applications are due.

13           If the Legislature -- if legislators had  
14 actually wanted the market study due at the same time,  
15 they could have written this into the Sunset Bill this  
16 year, to accomplish what staff has introduced as their  
17 perception of the legislative intent. There are several  
18 reasons why this is bad policy for the State. And I am  
19 going to touch on just a few, because of time.

20           First and foremost, the accuracy of the report  
21 diminishes greatly when the market study is required to be  
22 delivered with the application. The reason for this is  
23 that developers continue to refine and change their unit  
24 mixes and rents up until the time that the applications  
25 are due and delivered to the Department. This additional

1 30 days typically gives us the opportunity to work with  
2 the developers' final numbers and without this additional  
3 time, we would have to deliver reports that are  
4 inconsistent with the developers' final application, and  
5 then revise the report through the deficiency process.

6 Time is money, and we are all talking about  
7 making the process more efficient. This actually makes it  
8 less efficient because we are going to have to deal with  
9 the Underwriting Department through deficiencies and add  
10 to the work load, because they are going to be responding  
11 to us, as to why it doesn't match up.

12 And then, we have to go back and rewrite it and  
13 deliver more information to them. Right now, they get the  
14 information, hopefully, in one complete package.

15 Second, the additional 30 days allows the  
16 market analysts to work with the developer to understand  
17 the rents. I am going to skip, because I am running out  
18 of time.

19 We have heard that the reason for this change  
20 in the deadline is to make the market study available to  
21 the state reps when, should they request the market study  
22 prior to determining their support for the project. I am  
23 unaware in all my ten-plus years of doing market studies  
24 and the thousands that I have delivered to the Department  
25 of any time that a representative has asked for the report

1 to determine their support.

2 If this -- second of all, the demand has little  
3 to do with the support letters. If that were true, most  
4 of the legislators would support these projects, and we  
5 would never hear from the NIMBYs. It is also unlikely  
6 that a state rep is going to take the time to read a 250  
7 page report to get to the crux of what the project is  
8 about.

9 In conclusion, cities already have the  
10 authority to set their own deadlines and requirements for  
11 resolutions. The Department doesn't need to undertake  
12 that responsibility on behalf of individual cities. We  
13 need additional time, and I plead with you, that you will  
14 allow us that time to make the process more efficient, not  
15 less.

16 MR. OXER: Good. Thank you. Who is next?  
17 There is a list that went around.

18 MR. LANG: I have got it.

19 MR. OXER: Okay.

20 MR. LANG: Tim Lang, Tejas Housing Group.

21 MR. OXER: Time out.

22 MR. THOMAS: No. I am here. I am just  
23 stretching.

24 MR. OXER: You have to stay within view.

25 MR. THOMAS: If I don't move, I won't be able

1 to --

2 MR. OXER: I will offer up, if any member of  
3 the Board wants to stand up, we can stand up. Put some  
4 blood in a different position in our bodies, so we can  
5 hear.

6 MR. LANG: Okay. Chairman Oxer, members of the  
7 Board. I would like to thank you for the time to speak.  
8 Excuse me. I meant to speak on the cost per square foot  
9 issue. Cameron has already address that, and mentioned  
10 that staff is going to do an analysis.

11 What we are seeing now is we are losing a bunch  
12 of construction labor to the oil fields, and seeing huge  
13 increases in our construction prices due to that, couple  
14 with the rising costs of construction materials as well.  
15 It is making it very challenging to construct buildings as  
16 they are now.

17 Conditions, with further reducing the price  
18 that we are allowed per square foot I think would make it  
19 even more challenging, and a pretty daunting task to get  
20 done. Excuse me. The other thing I want to mention was  
21 the possible expiration of the 9 percentage on tax  
22 credits.

23 If that does not get extended past this year,  
24 it further complicates the feasibility of our  
25 developments. And to illustrate to what extent that could

1 happen, excuse me, on an 80-unit tax credit property that  
2 received about \$1,275,000 in tax credits, at the 9 percent  
3 tax rate, we would receive about \$12,000,614 in equity.

4 If the applicable percentage went back to where  
5 it is today, we would be looking at about \$10 million in  
6 equity to build that development. So come December 31st,  
7 if that is not extended, we could be looking at  
8 approximately a \$2 million decrease in funds to build the  
9 same unit that we would have been able to do this year,  
10 with the \$12 million in tax credit equity.

11 So that I think that needs to be part of the  
12 conversation going forward in looking how we craft the  
13 QAP, the things that we add to alleviate any kind of  
14 complications that we could see should the 9 percent  
15 credit not get extended. That is all I have for right  
16 now. And I appreciate your time.

17 MR. OXER: Good. Thanks for your comment. Who  
18 is next on the list, Michelle.

19 MS. BROWN: I will go. Good afternoon,  
20 Honorable Chairman Oxer and members of the TDHCA Board.  
21 My name is Linda Brown. And I am an active participant of  
22 the housing tax credit development and consulting  
23 business.

24 I have just a few brief comments to make  
25 regarding the proposed 2014 draft of the Qualified

1 Allocation Plan for your consideration prior to any final  
2 action. First the proposed program calendar requires the  
3 submission of the market study by application deadline,  
4 February 28th.

5 Last year, unless you were asking for home  
6 funds, market studies were due on April 1st requiring this  
7 study by February 28th will force developers to engage a  
8 TDHCA-approved market study consultant of which there are  
9 a few, by if not before the preapplications are due on  
10 January 16th. This early engagement undermines the  
11 purpose for the preapplication phase which as described in  
12 the QAP is a process allowing applicants interested in  
13 pursuing an application to assess potential competition  
14 across the 13 state service regions.

15 Market study consultants need ample time to  
16 complete the study for applications. Assuming the  
17 preapplication log is released three days after submission  
18 and a minimum of five days for applicants to assess  
19 potential competition, market study consultants will only  
20 have four weeks to complete studies, including applicant  
21 review before final submission of the full application on  
22 February 28th.

23 This simply isn't enough reasonable time. We  
24 respectfully request the Department keep the April 1st  
25 deadline for market studies as in the past, getting the

1 study one month earlier will not result in any added  
2 benefit.

3 Secondly, educational excellence. I apologize  
4 for talking so fast, but in the sake of time. In the  
5 draft 2014 QAP, three points are awarded for a project  
6 site served by a high performing elementary school, middle  
7 and high school or one point for an elementary school and  
8 middle or an elementary school and high school.

9 Why not award one point for each level of  
10 school, elementary, junior high and high school. That  
11 meets the required performance criteria. By scoring one  
12 point for each achieving school, the incentive of the  
13 point is appropriately proportioned to each of the  
14 performing schools.

15 Third, underserved area and tie breaker rules.

16 An underserved area in an urban area is a place with no  
17 existing tax credit projects. Or a census tract in a  
18 rural area with no existing tax credit projects.

19 Existing housing tax credit projects with very  
20 few tax credit units ten or less are located in or  
21 adjacent to first quartile census tracts. Many of these  
22 small unit number deals were awarded credits more than 20  
23 years ago.

24 The existence of these very small deals deter  
25 applicants from considering the census tract because of

1 underserved and tie breaker criteria. Tie breaker rules  
2 say that a proposed development site nearest to an  
3 existing tax credit project loses to an application  
4 located further away.

5 Like underserved areas, the tie breaker rule  
6 gives no consideration to the number of tax credit units  
7 in the closest tax credit project. I guess my time is up.

8 I have two more points. Thank you for your attention.

9 MR. OXER: Great. Thanks for your comments.  
10 Was there any questions?

11 (No response.)

12 MR. OXER: Okay. Ms. McIver.

13 MS. MCIVER: Chair, Board, Diana McIver, DMA  
14 Development Company. And I have got a couple of points to  
15 make. One is, I support your right to have a moratorium  
16 on certain counties, certain regions, as it relates to new  
17 development of senior housing. As long as that  
18 methodology is sound and factors in growth, I am fine with  
19 that.

20 I am a little puzzled by some of the counties  
21 mentioned, because Central Texas for instance, has the  
22 highest fastest growing population of seniors in the  
23 entire country. So -- but that said, what I disagree with  
24 is the continued unleveling of the playing field as it  
25 relates to senior housing.

1           And so I would ask that you restore points in a  
2 couple of categories, so that those of us proposing senior  
3 housing don't have a six-point advantage. And the two  
4 areas, one is, under underserved. There is two points  
5 allowed for general and supportive housing, but nothing  
6 for senior housing.

7           And then, when you get to high opportunity  
8 where the scores are seven, five, three, one, the highest  
9 a senior development can score is three. And I would ask  
10 that senior developments be able to play on a level  
11 playing field and be allowed to achieve that seven points.

12          Last year at a minimum, they could achieve at least the  
13 five points. This year, it would be three.

14          I understand the argument that people who are  
15 over the age of 55 can also live in general population  
16 developments. But I will tell you that what we design for  
17 seniors is different. It is different in terms of  
18 designs. And it is different in terms of services and  
19 management.

20          So you know, even though a person can  
21 technically live there, they may not be able to climb the  
22 stairs on that three-story walkup. And the services may  
23 not be appropriate.

24          It is really no different than a supportive  
25 housing which is a separate category, whereby a person who

1 is eligible for supportive housing is also eligible for  
2 general population housing. So I really would like you to  
3 factor in what we do within senior housing.

4 Another category that I want to comment on, is  
5 the rural high opportunity, which is a new definition of  
6 high opportunity for rural areas. First up, I absolutely  
7 agree with staff in adding some new categories of one mile  
8 linear to a grocery store to an elementary school. I  
9 would actually ask that that be expanded.

10 One is that one of those is for one mile to a  
11 whatever the category is going to be for a good elementary  
12 school. I think that needs to be expanded to high schools  
13 and to middle schools. And why do I say that?

14 One of the biggest things we see with our  
15 residents in family housing is they have hourly jobs. And  
16 you know, that nurses' assistant, that person at the  
17 grocery store, they cannot get off during the day to pick  
18 up their kids at school after school activities. So why  
19 not, if we keep that at a mile, which I think we should,  
20 then those kids from middle school and high school can  
21 actually walk home after band, after football, after  
22 cheerleading, whatever.

23 So I think that is a good policy. So what I  
24 would recommend within that category is that you include  
25 middle and high schools within that first category, maybe

1 it is two of the three. Add two categories for senior  
2 housing, one located within one mile of the senior center,  
3 to for two points, located within one mile of health-  
4 related services such as clinic, hospital, doctors offices  
5 for two points.

6 Then make the categories for schools and after  
7 school programs and day care -- make those exclusive to  
8 family housing and supportive housing and then have the  
9 two new senior categories. And then those that are  
10 criteria for census tract, income and grocery store points  
11 apply to both populations.

12 So I think that I am asking that those, that  
13 that whole section be tweaked a little bit. But I really  
14 do support the new look at high opportunity and rural  
15 areas.

16 And my last point is just simply last year, we  
17 tried something new, some points for leveraging. And it  
18 was a seven, eight, nine category. Projects are probably  
19 a little tight. And I would just ask that maybe we go to  
20 eight, nine, ten this year, and give us a little leeway on  
21 that.

22 But overall, I would like to say that I think  
23 staff did a really good job in making some modifications  
24 to the QAP. Thank you.

25 MR. OXER: Okay. Thanks, Diana.

1 Granger.

2 MR. MCDONALD: Granger McDonald, Kerrville.  
3 Mr. Thomas, as they always say, I wish you had been here  
4 last meeting. It was only an hour long.

5 MR. OXER: We are averaging out, eventually.  
6 You know that, don't you.

7 MR. MCDONALD: I too want to complain about the  
8 issues over seniors housing. First of all, I think that  
9 any time we have a rehab of seniors housing they should be  
10 exempt from these requirements. If we have the  
11 opportunity to fix something up, it is old dilapidated, it  
12 should be taken in consideration.

13 Second of all, I think that seniors housing  
14 needs to be looked at differently. I know that in  
15 reality, a senior can live in the family project. But  
16 most of our family projects are two- and three-story  
17 walkups. That forecloses a senior from being able to use  
18 all but maybe a third of the units.

19 So there is a huge problem there. I would  
20 offer that perchance that we make this a situation where  
21 we look at communities under 200,000 being exempted from  
22 this. Our smaller communities are where the seniors  
23 really need the housing.

24 One of the counties you are throwing out is  
25 Kendall County, Texas. There is 298 senior units there.

1 I own all of them. We have 100 percent occupancy, with a  
2 seven-year waiting list. Most of the people on that wait  
3 list will pass away before they have the opportunity to  
4 move in.

5 So I am telling you that just because it looks  
6 like there is an oversupply, frankly, there is not. In  
7 Kendall County, Texas, you would think I would be for  
8 stopping anybody else from building there. Because it  
9 would stop my competition. And you know, maybe I should  
10 be. But I don't think it is right.

11 And I think you need to look at these smaller  
12 Texas communities, especially where people have been  
13 pushed out in the oil booms. The seniors have been pushed  
14 out of housing into more expensive housing. It is really  
15 a huge problem.

16 Also, seniors don't want the same supportive  
17 services. They need medical services. They need  
18 attention. They need care. They need units that are all  
19 handicapped adaptable. They don't need family units.  
20 They don't fit.

21 Additionally to that, I would like to point out  
22 that I think the RAF, you saw the problem with the RAF  
23 this morning, the situation over at San Antonio versus  
24 Austin. I think we have an issue that we need to discuss  
25 about how a particular region could get blanked. If you

1 ask for more than 100 percent of the allocation for a  
2 region, for example Midland, this last year, where I  
3 participated.

4 You could be in a situation where you have to  
5 ask for just 100 percent. You are very low on credits.  
6 If you ask for up to 150 percent which you are allowed to  
7 do, you would have been thrown into the statewide  
8 collapse. And with a low scoring area like in West Texas,  
9 it would have been 136, 138 score, you would have never  
10 gotten credits.

11 You would have had an entire region sink. And  
12 I think we need to make some allowances that we serve  
13 every region at least with one property. Thank you.

14 MR. OXER: Okay. Thanks, Granger. All right.  
15 Hang on, Tara. I get to exercise some discretion of the  
16 chair.

17 We are going to take a five-minute break, stand  
18 up and walk around, get some blood in your heels. We will  
19 be back here, 5:00 straight up.

20 (Whereupon, a short recess was taken.)

21 MR. OXER: Go for it. They are here. We are  
22 listening.

23 MS. REIDY: Good afternoon, Chairman Oxer and  
24 members of the TDHCA Board. My name is Sara Reidy, and I  
25 have been working in the tax credit community since 1998.

1       And I have a great deal of experience in the financial  
2 success of developments.

3               So I have a few brief comments to make  
4 regarding the proposed financing structure behind the 2014  
5 draft of the Qualified Allocation Plan for your  
6 consideration prior to any final action. Commitment of  
7 development funding by local political subdivision.

8               Currently the maximum points awarded to  
9 applicants are based on the ability to receive the lesser  
10 of \$15,000 or 15 percent of the population for tax credit  
11 unit. This equates to \$1.5 million for 100 housing tax  
12 credit units from local government with a population of  
13 100,000. For a place that has a population of 75,000, the  
14 commitment for maximum points would be 1.125 million.

15               With the reduction in federal government  
16 funding to local jurisdictions, and the decrease in tax  
17 base due to the recession, most political subdivisions do  
18 not have this level of funding available. We recommend  
19 the amount committed by local government entities for  
20 maximum points below \$5,000 or 5 percent times the  
21 population per low income unit. This would equate to  
22 500,000 and 375,000, using the previous example.

23               This lower level still requires the local  
24 political subdivision to have significant skin in the game  
25 while respecting the budget constraints of this coming

1 year. Cost of development per square foot, the draft QAP  
2 differentiates two types of developments. High cost and  
3 non high cost.

4 To be in a high cost category, you must be in  
5 an urban area and in the first or second quartile,  
6 supportive housing or 75 percent single family design.  
7 All other developments fit into the non high cost  
8 development category.

9 Per the draft QAP, high cost developments  
10 receive an additional \$5 cost per square foot. Sixty-  
11 five, versus 60 for building costs, and 85 versus 80 for  
12 hard costs.

13 We have prepared an analysis of the  
14 construction costs for all awarded projects based on the  
15 2013 TDHCA underwriting reports, and submit it to staff on  
16 September 3rd. We used only the construction numbers  
17 TDHCA provided and not the applicants'.

18 Based on the analysis, only three of 19 non  
19 high cost developments meet the building costs of \$60 per  
20 square foot and one of 19 meet the hard cost of \$80 per  
21 square foot. In our analysis, we found the average  
22 building cost per square foot was 66.56 for high cost  
23 developments and \$64.89 for non high cost developments.

24 We also found the average hard costs per square  
25 foot was \$92 and \$94.96 respectively. Based on this

1 analysis, the cost of construction whether in a high or  
2 non high cost development is basically the same.

3 Therefore, we request the costs of development  
4 per square foot be the same whether you are in an high or  
5 non high cost area. And I will finish on that point.  
6 Thank you very much for your time.

7 MR. OXER: Good timing. Okay. So, thank you.

8  
9 MS. RICKENBACKER: Donna Rickenbacker with  
10 Marquee. And welcome Mr. Thomas. I look forward to  
11 working with you. I am not going to repeat a couple of  
12 comments that have been made.

13 I do want to go on record though, in support of  
14 the comments made by Linda Brown with respect to  
15 educational excellence, and underserved area points. We  
16 do recognize that more likely than not, any changes to  
17 those scoring categories will probably have to go back for  
18 approval by the court. But we do think that some of these  
19 changes will enhance those scoring categories and clearly  
20 meet the objectives of the remedial plan.

21 I wanted to point out to the Board that this  
22 year, based on the current draft of the QAP, under  
23 declared disaster area, which is a ten point scoring  
24 category, we have effectively changed that scoring  
25 category such that anybody that self-scores will qualify

1 for those points. That is a big point category. I am  
2 really hoping that there is a way to make some adjustments  
3 where there, if there has been a defined, localized, not  
4 county wide but localized disaster that those, that there  
5 be some point differential within that scoring category to  
6 provide a higher score to those applications.

7 Input from community organizations, this is a  
8 scoring category where you don't have a neighborhood  
9 association, you can maximize your points in the scoring  
10 categories if you get letters of support from a civic or  
11 community organization. It used to be two letters you  
12 could maximize your point.

13 Now it is one-point letters, effectively four  
14 letters that you have got to be able to prove up in a lot  
15 of urban areas even. Certainly the urban areas, it is  
16 very difficult to find eligible community or civic  
17 organizations that you can provide those letters.

18 I am hoping that we can go back to last year's  
19 QAP, and be able to maximize those points with two letters  
20 instead of four. Please recognize that the intent of the  
21 scoring category is to ascertain if there is community  
22 support.

23 Clearly this year, we have to get support  
24 resolutions from the municipality. Those are the elected  
25 bodies of the cities and the counties. I would think that

1 that should -- you know, we should be able to prove up  
2 that you have got the local support that you are looking  
3 for under that scoring category.

4 Development size, last year, under development  
5 size you could score one point if you, I think it was  
6 \$500,000. You were trying to get \$500,000 in tax credits  
7 and no more than 50 units. This is, in my opinion, a  
8 disaster scoring category. And I think we should  
9 eliminate it all together.

10 If not, I would like to suggest that we adjust  
11 to providing the points that the applicant request no more  
12 than the amount allocated to the subregion. Up to,  
13 obviously, the \$1.5 million of this, the per project  
14 maximum. That is it. Thank you very much.

15 MR. OXER: Thanks, Donna. Who is next?

16 MS. MEYER: Robbye Meyer. I just have a couple  
17 of comments. I would like to echo Darrel Jack with the  
18 market study, moving the date back to April 1st. And also  
19 Linda Brown's comments for the same. Also, I would like  
20 to echo Diana McIver on the senior housing, and Granger  
21 McDonald's comments on senior housing as well.

22 I will make my comments very short. The  
23 opportunity index, I would like to add, the essential  
24 community assets and agree with Diana, adding those  
25 medical facilities, with general practice, or emergency

1 care facility and community centers, either or a family  
2 center or a community center.

3 Underserved areas for 11.9(c)(6), underserved  
4 areas see a place, never received an allocation serving  
5 the same population as the proposed development or has not  
6 received an allocation in the past ten years. And for D,  
7 for rural areas only, it is a census tract that has no  
8 more than 50 housing tax credit units instead of not  
9 having received an allocation at all. Thank you.

10 MR. OXER: Thanks, Robbye.

11 Barry.

12 MR. KAHN: Barry Kahn, I am head of Kahn  
13 Development. A couple of things real quickly. One on the  
14 prohibition on seniors. I have spoken with the City of  
15 Houston, Harris County, Harris County Housing Authority,  
16 and the City of Houston Housing Authority.

17 They are against prohibiting any client, any  
18 certain class of type of housing. The suggestion that has  
19 come up is there be a max of the percentage of the  
20 allocation, particularly like with respect to Region Six,  
21 which is a large region. Where maybe it is up to 75  
22 percent or 60 percent.

23 You know, it could only be seniors and the rest  
24 would have to be family housing or some other alternative.

25 But at least that way, you do have some avenue for

1 expanding the seniors population of housing. But you also  
2 keep the avenue open for family housing.

3 We have got a demographic makeup in Harris  
4 County, and it is such that it is a lot more challenging  
5 to get family deals. And in respect to that, I would like  
6 to request that the revitalization boost be added back as  
7 it had been in prior years.

8 In lieu, this year, the Department has informed  
9 me they took that out and instead, put an additional 10  
10 percent for 30s, where you can get the 30 percent boost.  
11 But it has been noted, one loses 16 to 17 percent of the  
12 amount of equity you had in this past year, if the flat  
13 nine goes away.

14 So if we want to get family deals in a city  
15 like Houston, it is going to have to probably be in more  
16 of a revitalization area under the City's makeup. And in  
17 order to make the property economically viable, to force  
18 too many 30s on it, it just won't work.

19 If you lose about 30-to \$50,000 worth of debt  
20 per unit when you drop from a 60- or 50- to a 30-. And  
21 with the loss of equity on the flat nine, it is just going  
22 to be hard to make the deals feasible. So what I would  
23 strongly recommend, and I have got strong support from the  
24 municipalities is that the 30 percent boost for  
25 revitalization areas be added back in.

1           On leveraging, as had been noted with the loss  
2 of equity, I would like to suggest maybe eight, 8-1/2 and  
3 nine, rather seven, eight and nine, as a suggestion.  
4 Again, making up the 17 percent loss of equity.

5           And on government approvals, I want to thank  
6 Cameron for moving from March 28th to the April 1 date.  
7 But again, at the request of the two large horses in  
8 Region Six, they would like that moved to May 1, because  
9 they need 60 days to process, given the number of  
10 applications that are processed in that region.

11           They are required now to properly vet and  
12 underwrite all their deals for their respective city  
13 council or County Commissioners' Court. And they just  
14 need time to do it.

15           Otherwise they are going to push the burden  
16 back on the developers and make the developers have an  
17 application even sooner than required for TDHCA, which may  
18 be challenging and not really get the results we want with  
19 the best quality deals. And I am happy to answer any  
20 questions.

21           MR. OXER: Any questions for Barry?

22           MR. OXER: You make a strong argument for a two  
23 year QAP in places, isn't it? Okay. Cameron, are you  
24 caught up? Do you need any more detail? Are you all  
25 right?

1 MR. DORSEY: I'm good.

2 MR. OXER: Okay. Tony?

3 MS. JACKSON: Good afternoon, again. I am  
4 going to ask some of --

5 MR. OXER: Identify yourself again.

6 MS. JACKSON: I'm sorry. Toni Jackson, Coats  
7 Rose.

8 MR. OXER: We know, but you have got to tell  
9 them.

10 MS. JACKSON: I have got to tell them. I am  
11 going to ask a number of the housing authorities and  
12 developers that I am standing here representing to stand  
13 up while I am speaking.

14 We lost some of the crowd. But so that you  
15 know that I am staying in time with what I am doing. I am  
16 representing a number of housing authorities, in fact,  
17 over 30 housing authorities in Texas. Three --

18 MR. OXER: Let them sit down now.

19 MS. JACKSON: Three state agencies and a number  
20 of developers who are supporting some consensus comments  
21 that we were able to put before the staff on last week.  
22 And we want to thank the staff for having that meeting  
23 with us. And as a result of it, we have seen some  
24 movement already made and we appreciate that, Cameron.

25 As the staff mentioned to you in Cameron's

1 remarks, the support of our biggest concerns, which is the  
2 inclusion of RAD and the set-aside as well as the funding.

3 But I'm sorry, they didn't support them. But these are  
4 our two biggest priorities, RAD being included in the set-  
5 aside and then the funding being added back to the LPS.

6 Since we have had two letters from legislators  
7 read into the record on the funding, I am going to speak  
8 to that one second, in the interest of time. But I would  
9 like to speak very specifically to RAD. Because the staff  
10 asked us very specifically if we could give them legal  
11 reasons for RAD to be added.

12 They would be interested in hearing those. As  
13 indicated, the rental assistance demonstration program was  
14 enacted by HR 2112, specifically to improve and preserve  
15 public housing. According to the statute, funding for RAD  
16 is transferred from the public housing capital fund and  
17 public housing operating fund to cover the costs of  
18 operating units.

19 The rental adjustments of the units are  
20 determined by using the public housing operating costs  
21 factor and may only be equal to the amount transferred  
22 from the capital fund and operating fund. Again, which is  
23 the Section 9 funding. And so again, it can only be equal  
24 to that amount from the Section 9 funding.

25 Secondly, the RAD act indicates that the

1 tenants of the properties converted under Section 9 shall  
2 maintain the same rights under the conversion, and the  
3 public housing authorities must offer the units to those  
4 same tenants. And so again, this is for those public  
5 housing tenants, and it is intended to recapitalize and  
6 operate public housing properties by leveraging additional  
7 sources to fund the properties.

8 Thirdly, HUD requires that the ownership must  
9 be maintained by the housing authority or nonprofit entity  
10 except for when using tax credits. And if tax credits are  
11 used a for profit entity may be the only if the public  
12 housing authority preserves its interest in the property  
13 in a manner approved by HUD.

14 So again, I am providing three reasons,  
15 statutory reasons to continue to include RAD. The  
16 funding, the ownership and the tenant base. And then we  
17 have provided support letters as it relates to using  
18 public housing funding in the LPS. Thank you.

19 MR. OXER: Thanks, Toni.

20 Any questions for Tony?

21 (No response.)

22 MR. OXER: Okay. Next?

23 Welcome back, Mike.

24 MR. GERBER: Good evening. I am Mike Gerber.

25 I am the president of the Austin Housing Authority. And

1 it's good to see everyone. I would just like to echo what  
2 Toni said.

3 RAD is just a critically important tool to  
4 public housing authorities. And as you all know, public  
5 housing authorities are a unit of local government, of the  
6 Texas Government Code. And we serve the lowest income  
7 residents, those at 30 percent and below.

8 The Austin Housing Authority serves more than  
9 19,000 people every day, about 7,300 families. And the  
10 average income for a family in our program is less than  
11 14,000.

12 We operate 18 properties, about 1,850 units.  
13 And we depend heavily on federal funding for the U.S.  
14 Department of Housing and Urban Development.

15 Some of our properties were built in 1939, and  
16 are some of the oldest in the country. And most of our  
17 units lack central air conditioning, washers and dryers,  
18 dishwashers and other modern amenities. Most need  
19 electrical and pretty significant plumbing improvements.  
20 Some have asbestos.

21 Our backlog of physical needs exceed \$25  
22 million and nationwide, the backlog of needs, physical  
23 needs for the nation's 4,000 public housing authorities  
24 exceeds \$25 billion. HUD and PHAs know that Congress will  
25 never appropriate adequate funds to address that backlog.

1       And that is why they have created a number of programs  
2 over the years, including HOPE 6 and Choice Neighborhoods.

3               Some of CDBG, the Capitol Fund Financing  
4 Program. And TDHCA has always allowed PHAs to use those  
5 HUD programs in conjunction with tax credits as part of  
6 the set-aside. Again, when we are talking here about the  
7 set-aside that is reserved in no small part for public  
8 housing authorities and nonprofits and others.

9               RAD is really the latest tool to address that  
10 backlog of repairs and neglect from Washington. It is a  
11 demonstration, as Cameron referred to earlier. It has a  
12 limit to it, of 60,000 available units.

13              The Austin Housing Authority is one of the few,  
14 one the housing authorities that has received a  
15 demonstration award. But if we cannot access 9 percent  
16 tax credits, we will not be able to make that transaction,  
17 that deal which is about three miles from here work.  
18 There were 90 units on the ground before.

19              If we couple RAD with 9 percent tax credits,  
20 there will be 90 units of again, public housing like  
21 property there. There is a conversion. Something  
22 definitely happens. But essentially, the subsidy remains  
23 intact.

24              Let me also just mention on the -- with respect  
25 to the local political subdivision. Well, we say,

1 everything that we do as a public housing authority, we  
2 also do in conjunction with developers.

3 We don't build anything ourselves. For  
4 purposes of that, due to the transaction, we are going to  
5 be working with DMA, you know, which is very active in the  
6 tax credit space in a development here in Austin. And so  
7 it is something that we do in partnership again, with the  
8 development community.

9 PHAs, because we are units of local government,  
10 I don't believe can be self-dealing. And to the extent  
11 that there were problems with that in the past, I think  
12 HUD has addressed that.

13 We have to do everything through procurements.  
14 We went through a rigorous procurement process to secure  
15 DMA for our Rio Lado deal. We have done one just recently  
16 to secure a development partner for our Choice  
17 Neighborhoods project.

18 And so I think it is important to make that  
19 distinction that again, we are a unit of local government,  
20 subject to the same rules of transparency. And we would  
21 hope that that related party language would come out of  
22 the LPS part of the rule. Thank you again.

23 MR. OXER: I complement you on your timing.

24 MR. CICHAN: Good afternoon. Gerald Cichan,  
25 CEO Housing Authority City of El Paso. We would like to

1 say that in front of you, you have over 100,000 families  
2 that are represented by the housing authorities that are  
3 sitting here.

4 El Paso alone has 40,000 residents or 6 percent  
5 of the total population. Of that population, about 50  
6 percent of them are at minimum rents, which are \$25. We  
7 are not equal to other developers, for the fact that we  
8 actually handle a population that cannot be handled by tax  
9 credits.

10 Public housing handles a population of people  
11 that are elderly and disabled that have virtually no  
12 income. We are that safety net. And as Granger said it  
13 best, he said, if you have the units already in place, why  
14 don't you fix them? Well, we have 6,500 public housing  
15 units that will go through a RAD conversion.

16 As of right now, if we are not considered units  
17 of local government, the chances of us getting the 9  
18 percent tax credits are decreased significantly. If that  
19 happens, the ability for us to convert out and to preserve  
20 over \$600 million just in El Paso alone, of infrastructure  
21 is decreased.

22 When you look at that, for the fact that we  
23 cannot self-deal. Look at it this way. Any monies that  
24 we make go back to the public. We were built on taxpayer  
25 money.

1           If we turn around and have tax credits and  
2 monies have then come back, they go back into the public  
3 good. That was the reason why we received additional  
4 points for being a unit of local government in the first  
5 place.

6           And the mission of TDHCA is the same mission  
7 that we have in housing. It is basically, that is to  
8 house the very low income and to take care of those that  
9 can't take care of themselves. And that is what we do.

10           That being said, when you look at overall the  
11 fact that the RAD conversion will end up transforming what  
12 public housing is, public housing we know is probably  
13 going to cease to exist in the next ten years. The  
14 funding that is currently coming in is insufficient to  
15 maintain it. As you are seeing it right now, it is  
16 Section 8. Section 8 you are considering, do you get rid  
17 of it all together?

18           We are funding it with monies that we are  
19 creating on the outside to take care of those 5,500  
20 vouchers that we currently maintain. If we didn't do  
21 that, who would? You would lose those vouchers. That is  
22 the reason why we are not considered, and we don't  
23 consider ourselves equal to other developers.

24           Because one, we are for the public. If we turn  
25 around and make money, does it go in my pocket? No. I

1 don't go out and buy a Ferrari. I don't go out and change  
2 what I drive. Because it goes back to the public. It  
3 goes back to the infrastructure that is considered public  
4 housing.

5 Now, if you look at what the overall goal is,  
6 it is the same as yours. But if you turn around and you  
7 change this definition, this definition has been there for  
8 over 15 years; since the existence of TDHCA.

9 You then take away that which allows us to  
10 truly be government and support what is the overall policy  
11 that we both serve. And so I would ask that one, we do  
12 not make this change. And if you do make the change,  
13 really ask why are we doing this.

14 It was good enough for the first 15 years of  
15 TDHCA. Why do you want to change it now? Now, when we  
16 are really converting out what public housing is. You  
17 will be changing something that can be sustainable. Thank  
18 you.

19 MR. OXER: Thanks, Gerald. Appreciate your  
20 respecting our clock here.

21 MS. VILLALOBOS: Good afternoon. I am Melanie  
22 Villalobos. I am with the San Antonio Housing Authority.

23 In San Antonio, we serve 70,000 low income children,  
24 adults, seniors, disabled individuals and veterans. But  
25 we are all here today representing the more than 400

1 housing authorities across the state that serve 200,000  
2 households, most of which are at the extremely low income  
3 level of 30 percent of AMI and below.

4 We support the comments made by our colleagues  
5 regarding RAD. But I will be speaking primarily to the  
6 Section 11.9 references the commitment of funding by local  
7 political subdivisions. It is important to remember that  
8 it is housing authorities, whose primary mission is to  
9 serve Texans at 30 percent of AMI and below that with the  
10 HUD subsidy and through private-public partnerships are  
11 generally able to serve more of our state's extremely low  
12 income population. However, many of our public housing  
13 communities are 50 to 75 years old, and in desperate need  
14 of redevelopment that would require the use of 9 percent  
15 tax credits.

16 In San Antonio alone, our backlog needs are  
17 over \$300 million for our public housing portfolio. With  
18 this in mind, we are very troubled by the related party  
19 funding language that was added last year. To preserve  
20 these communities that serve the poorest Texans, we  
21 strongly recommend the removal of the related party  
22 language, and again allow housing authority monies as a  
23 leveraged source of funds.

24 This current language denies the fundamental  
25 fact that housing authorities are public entities and

1 units of local government with no potential financial gain  
2 and no opportunity for self-dealing. Our developments  
3 house the hardest to serve. Maintain long term  
4 affordability and rebuild projects into sustainable mixed  
5 income communities.

6 And we urge you to reverse the recent addition  
7 of the related party language and return to language that  
8 recognizes the role of housing authorities in our  
9 communities and throughout the state. Thank you.

10 MR. OXER: Thank you.

11 MR. VAUGHN: Good afternoon. I am Robert  
12 Vaughn with the Hunt Companies out of El Paso. I am here  
13 today to stand in support of the two issues that are  
14 concerning the public housing authorities.

15 The Hunt Company is a development and finance  
16 organization that is involved in housing throughout all  
17 aspects. We do development construction, property  
18 management. Tax credit syndication, actives, general  
19 partners, limited partners.

20 So we have vast exposure to programs, not only  
21 affordable housing but housing programs all over the  
22 country. And I can tell you from personal experience from  
23 working at public private ventures that there is no entity  
24 better equipped to serve the lowest, the most neediest  
25 citizens than public housing authorities.

1           And in particular, with speaking to the issue  
2 of RAD, in its inclusion in scoring for tax credits, I  
3 would call your attention to the 2306.01, the purpose of  
4 this Department. It is to contribute to the preservation  
5 and development, redevelopment of neighborhoods and  
6 communities, including cooperation in the preservation of  
7 government assisted housing occupied by individuals and  
8 families of very low income and extremely low income.

9           That sounds like what RAD is. RAD is going to  
10 address the preservation of government-assisted housing of  
11 families of very low income. And that is -- I will  
12 conclude my remarks with that. Thank you very much.

13           MR. OXER: Thanks very much, Robert.

14           Okay. Is there anybody else on this item,  
15 6(c)? Okay. We have got a count. Is there any more?  
16 One more. Are you going to speak? Do you have a letter  
17 to read? Okay. All right. Go ahead.

18           MS. LLANES: Good afternoon, Chairman, Board  
19 members, and staff. Laura Llanes from the Laredo Housing  
20 Authority. And yes, we got a support letter from Senator  
21 Zaffirini and Representative Richard Raymond. But we were  
22 also strongly supported by Texas NAHRO, which you have  
23 already heard has over 400 housing authorities.

24           I am up here to talk about asking you to remove  
25 the decision about excluding PHAs from designation as LPS

1 in the proposed draft QAP plan. This is not a new  
2 concept. Up until 2012, PHAs were always included as LPSs  
3 that could provide funding and the related application  
4 would be awarded points.

5 It wasn't until 2013 that TDHCA excluded the  
6 funding by PHAs as funded by LPS. Justifying it by  
7 calling it self-dealing. And you have already heard that  
8 that is strictly prohibited by HUD.

9 And I know it is an interesting question that  
10 was posed. First, Representative Richard Raymond said, he  
11 is not aware, and neither am I of any statutory provisions  
12 or changes that prohibit PHAs from providing funding as an  
13 LPS.

14 But his question that stuck with me is, why is  
15 it that in the draft that an LPS, for example, several  
16 counties, can borrow funds in order to commit them into  
17 the development. The applicant or related party to the  
18 applicant, for example, private developers can provide  
19 collateral or guarantees for the loan.

20 The LPS assures repayment of its funds through  
21 the guarantees made by private developers. Why is CA  
22 making this exception. Thank you?

23 MR. OXER: All right. Thank you. Peggy?

24 MS. HENDERSON: Peggy Henderson, TDHCA,  
25 registering opinion for Edgar Sandoval from the San

1 Antonio Housing Authority, on agenda item 6(c). He is  
2 against staff recommendation. And also registering  
3 opinion for Lucilla Torrez, also from the San Antonio  
4 Housing Authority on agenda item 6(c). She is against  
5 staff recommendation.

6 MR. OXER: Good. Thank you. Okay. Is there  
7 any other comment on Item 6(c)?

8 (No response.)

9 MR. OXER: Are you in a summary position here?  
10 Cameron?

11 MR. DORSEY: We can approach this in a couple  
12 of different ways. I have got notes on the issues that  
13 were discussed. Pretty much every issue discussed at  
14 least the main core issue of each commenters, of each of  
15 the commenters.

16 I can run through every one of them. I can  
17 take input from you all, and only provide some feedback on  
18 the issue you all want to hear about. We can do it either  
19 way. I can talk about only those issues that we would  
20 really have to include in this QAP in order to include it  
21 in the final version.

22 So I can do a couple of different things.  
23 Historically, I have always just run through every one but  
24 I wanted to provide the alternative in case there were  
25 issues that maybe weren't as high on your list.

1 MR. OXER: Okay. Mr. Thomas?

2 MR. THOMAS: I would be inclined to hear the  
3 ones that have to be in, so that we make sure we have a  
4 chance to ask the questions we need to.

5 MR. OXER: Yes. I want to take a look at it.  
6 Yes. And I want to make sure we get all of the items that  
7 have demonstrated interest here. Make sure we got them on  
8 the table to consider. The idea that not all of them may  
9 necessarily survive. That is the way that is going to  
10 work out. Right?

11 MR. DORSEY: Okay. So for example, on the  
12 local political subdivision funding issue that we have  
13 heard quite a bit about, that would be removal of  
14 provisions that are already included in the language  
15 there, which we could do in the final version. So I would  
16 just run through and mention that that is the case with  
17 that particular item and go on to the next issue that was  
18 mentioned.

19 MR. OXER: Right.

20 MR. DORSEY: I wouldn't provide a more reasoned  
21 response, a longer response to why it is the way it is.

22 MR. OXER: This is not the point in time for a  
23 reasoned response. This is the time to make sure we have  
24 got everything on the list to be considered.

25 MR. DORSEY: Great.

1 MR. OXER: Is that correct, Counsel?

2 MR. THOMAS: Approximately.

3 MR. OXER: Good.

4 MR. DORSEY: Okay. So historic rehab deals.

5 This was one of the big issues that came up early in the  
6 meeting. We had representatives from Corsicana and  
7 Texarkana commenting on that. There were kind of three  
8 main mechanisms they mentioned to potentially incentivize  
9 historic rehab-type transaction.

10 One was related to changes to the cost per foot  
11 item. One was related to adding to the leveraging item,  
12 something about uses of state or historical credits. And  
13 the final one was, the ability to modify the existing  
14 incentive two-point item for historic rehab deals.

15 The first two would require a major conceptual  
16 change. Actually it is a major -- it would probably be  
17 difficult for me to come up with that full option here.  
18 Historic rehab credits are not a simple tool.

19 But, I do think we could accomplish the main  
20 goals through the existing item in the QAP, and very small  
21 changes to it with respect to, for example, changing it  
22 from two points to four points or those types of things.  
23 Ten points is a violation of our statute.

24 We can't go higher than the lowest top eleven  
25 scoring item. And ten points would be above that level.

1 But we can make changes to the points associated with that  
2 scoring item, such that we might be able to accomplish a  
3 pathway for transactions like they were talking about.

4 So we can do that within the current framework.

5 I think it is just the first two cost per foot leveraging  
6 changes would need much more language changes now. On the  
7 4 percent tax credit transaction and the 30 percent boost,  
8 and the fact that they want a resolution is an exception  
9 to the 20 percent, we would need to add that possibility  
10 in now.

11 Because it doesn't exist at all in the current  
12 drafting. If we wanted to even consider it at the end of  
13 the day.

14 MR. OXER: Is this something we ought to add,  
15 to keep in our arsenal to be able to offer some latitude  
16 for these?

17 MR. DORSEY: It is certainly up to you all. We  
18 can do that, to preserve your ability to include it in the  
19 final version. If you want to include it, if you want to  
20 even think about including it in the final version, we  
21 need it in now. Okay.

22 The restoration of the elderly points, there  
23 were a number of points about that. The addition of  
24 senior center and other health related type facilities or  
25 services within one mile of the property would be specific

1 to the rural opportunity index, and that change would  
2 likely need to be made now, in order to consider it at the  
3 next meeting.

4 So that would be on the list. And the 30  
5 percent boost for transactions located in a target area,  
6 the community revitalization plan. That was a 30 percent  
7 boost item from last year. We would need to go ahead and  
8 add that back in as well, if we wanted to consider that at  
9 the November meeting.

10 MR. OXER: Why was it taken out?

11 MR. DORSEY: It was taken out because it was  
12 a -- the 30 percent boost makes a transaction eligible for  
13 additional credit. And therefore, is very key in the  
14 financial viability of the deal.

15 But it was attached to whether you got an  
16 approved community revitalization plan through the point  
17 item. So if you lost the points, you lost the boost.  
18 Which caused your whole transaction to be up in the air.  
19 And then you have lots of questions.

20 For example, what exhibits can be changed based  
21 on the loss of points to effectuate that necessary change  
22 in the rest of the exhibits in the application. We  
23 actually had an instance this year where someone had to  
24 withdraw because they lost points because the point loss  
25 in community revitalization plan caused their whole

1 transaction to be financially infeasible. We had another  
2 item that just frankly caused a whole lot of confusion  
3 exactly what exhibits needed to get changed, and whether  
4 they can make those changes.

5 MR. IRVINE: But on that issue of linking  
6 boosts to revitalization plans, we were in a transitional  
7 first year under the remedial order, where the whole  
8 concept of a revitalization plan was not as robustly  
9 developed. And you could go into a deal not really  
10 knowing if you had a qualifying revitalization plan.  
11 Whereas, I think going forward, it is going to be much  
12 more black and white; do you meet the criteria or don't  
13 you.

14 MR. OXER: So essentially, we are saying, we  
15 basically kept it like that last year, because we didn't  
16 know exactly what the rule was going to say. And this  
17 year, we know, the revitalization plans are going to be  
18 much more discretely defined.

19 MR. DORSEY: Barry advocated for it last year.  
20 We felt like it was a reasonable change. We looked at  
21 the issues surrounding it.

22 We didn't feel like that it would adversely  
23 affect our ability to accomplish what was in the remedial  
24 plan, despite the fact that it is incentivizing additional  
25 credits in areas that are not high opportunity areas. And

1 some stuff like that. So we looked at it last year, and  
2 felt like we could still accomplish the goals of the  
3 remedial plan with that particular boost item.

4 We can certainly look, include it now and then  
5 look at those same issues again. And then come back with  
6 a solid recommendation in November. Okay. Those were the  
7 issues. They are pretty limited, because most of the  
8 other issues, we -- yes, Tim.

9 MR. IRVINE: The only other item that I heard  
10 that I thought we might consider some sort of an  
11 additional placeholder was on the issue about disaster  
12 points.

13 MR. OXER: That was quite contentious last  
14 year, if I recall.

15 MR. IRVINE: Yes. And one, you know, mess it  
16 up sort of thought for you is whether it would be  
17 appropriate to have out there as a place holder that there  
18 would be some differentiation for whether you are in a  
19 disaster-declared county or whether you are in a disaster-  
20 declared county where actual displacement of the affected  
21 population did occur. There was actual housing loss to  
22 extremely low, very low and low income persons or  
23 households.

24 MR. DORSEY: We can include it in the draft. I  
25 have a whole lot, I have a list of about 15 concerns. But

1 we can include it in the draft, certainly.

2 MR. OXER: Yes.

3 MR. IRVINE: Just so we can have discussion and  
4 comment on the concept.

5 MR. DORSEY: I am just not sure that we can  
6 address all of my concerns here today, so inclusion of it  
7 in the draft might preclude us from -- yes.

8 MR. IRVINE: I said I was watching it.

9 MR. OXER: This is a placeholder to address the  
10 issue.

11 MR. DORSEY: Yes, today.

12 MR. OXER: Today. Let's don't throw anything  
13 substantive out. Let's keep those open for discussion.

14 Particularly on, because I recall being  
15 intimately involved in this discussion on the disaster  
16 response is that part of the problem we ran into was the  
17 Governor's Office declaring a predisaster, basically to  
18 get resources staged, and then not following through. So  
19 leave it in there.

20 MR. DORSEY: Okay.

21 MR. OXER: Thank you.

22 MR. DORSEY: That is the list. I think in  
23 order to help you all craft a recommendation on what a  
24 modified staff recommendation would be to include these  
25 concepts in there, if we could take five, so that I could

1 talk to Barbara and Tim and make sure that we are doing it  
2 in a form that actually accomplishes what we are trying to  
3 accomplish. That would be great.

4 MR. OXER: I think that is a good idea. And  
5 while we are doing that, while we are doing that, I would  
6 like anybody who wants to speak on the last item to sign  
7 up with Michelle now, so we have got that lined up and  
8 ready when you come back.

9 Okay. Take five. Literally five. We will  
10 come back here. It is 5:43 now. Let's be back in five  
11 minutes. Don't go away.

12 (Whereupon, a short recess was taken.)

13 MR. OXER: Cameron, what did you come up with?

14 MR. DORSEY: Okay. So I wanted to do --

15 MR. OXER: Your resignation is not accepted.

16 MR. DORSEY: I wouldn't offer it to you. I  
17 know you wouldn't accept it. I would sneak it into Tim  
18 and run away.

19 MR. OXER: I will just cinch down on that ankle  
20 chain I have got for you.

21 MR. DORSEY: All right. So there were a couple  
22 of clarifications I want to make. We had a brief  
23 discussion about the declared disaster area. And I think  
24 we wouldn't recommend adding that to the staff  
25 recommendations, because of some of the dynamics of.

1           If you did a replacement unit type thing, then  
2 let's say 40 units were destroyed in a particular  
3 community in a particular county, one is, we would have  
4 difficulty. Well, the big thing is, we would have  
5 difficulty.

6           If we had 20 units destroyed and we had two tax  
7 credit applications proposing 80-unit deals, it is not --  
8 you know, you can both get approved. You are adding 160  
9 units where 20 units were destroyed. There would be a  
10 whole host of kind of issues there.

11           We couldn't assign points to only the top  
12 scoring, or only the otherwise top scoring item and then  
13 not assign points to the other 80-unit deal. So you end  
14 up with kind of some problems there.

15           The individual who spoke, Donna Rickenbacker,  
16 had mentioned the idea of honing it in on a smaller area  
17 within a county, which would also be difficult, because  
18 the disaster declarations are by county.

19           And the disaster declaration statutory item  
20 specifically speaks to disaster declarations under a  
21 specific section of state statute that the Governor's  
22 Office utilizes. And they only define full counties as  
23 disaster areas. They don't home in smaller areas.

24           MR. OXER: They can't declare disasters in  
25 census tracts, which is the next step down in the

1 essential -- they don't. It's only by county.

2 MR. DORSEY: They maybe could, but that is not  
3 the normal course of business.

4 MR. OXER: Right.

5 MR. DORSEY: The only other one I wanted to  
6 mention, because I am not sure if I was clear or not, on  
7 the historic rehab issue, I think while we wouldn't be  
8 accomplishing it in the way put forth by one of the  
9 individuals up here, or in two of the ways put forth by  
10 that individual, that one of the options can be  
11 accomplished within the framework of the QAP as drafted  
12 and as presented to you all.

13 And because we could accomplish what they are  
14 requesting within that item, that is already existing, we  
15 would recommend trying to craft into the cost per foot  
16 item some allowance for historic rehab deals. I can go  
17 into a little bit more detail if you are curious. It is,  
18 historic rehab credits can reduce the amount of credits  
19 that are requested. But they don't always reduce the  
20 amount of credits requested. There are complicated legal  
21 structures that have been created in the past that allowed  
22 folks to preserve their full eligible basis for tax credit  
23 requests and preserve the full basis used to calculate  
24 the historic credits. And it doesn't necessarily -- so  
25 you would have to get to some other changes there that are

1 really would require a lot more brainstorming. But I do  
2 think we could accomplish what they were requesting  
3 within. We have a historic rehab item. It is currently  
4 two points. Increasing the points is certainly within the  
5 Board's discretion at the November meeting, or if staff  
6 determines that it makes sense in the meantime, we can  
7 accomplish what their goal is through that existing item.

8 Does that make sense?

9 MR. OXER: Yes.

10 MR. DORSEY: Okay. So I am going to lay out.  
11 We already have one amendment that I put forth and it is  
12 part of the motion. I am going to lay out a series of new  
13 ones.

14 So first new addition to staff recommendation,  
15 in 11.4(c) which is related to 30 percent boost, staff  
16 recommends the addition of a community revitalization 30  
17 percent boost provision in the same format as provided for  
18 in the 2013 QAP. Staff further recommends that Section  
19 11.4(c), still, we are on the boost item, that we add to  
20 the QCT, the qualified census tract boost option the same  
21 resolution exception as provided for in 11.3(d), related  
22 to developments located in certain census tracts.

23 Further, staff recommends that Section  
24 11.9(c)(4)(B) be modified to add a two-point item specific  
25 for qualified elderly developments if located within one

1 mile of a senior center. And a two point item for  
2 qualified elderly developments if located within one mile  
3 of other health facilities, which we can further define.  
4 Later.

5 Staff further recommends that 11.2, this was  
6 discussed related to the market study date. We thought of  
7 a kind of compromise, 11.2, we would, just the permanent  
8 calendar. We would add that a market study summary is due  
9 by February 28th with the full market study due April 1.

10 And that change would preserve the ability to  
11 kind of receive some information at application but have a  
12 later date for the full market study. And those would  
13 conclude the additional staff recommendations on this  
14 item.

15 MR. OXER: Good. Okay. Any member of the  
16 Board have any additions, or comments or suggestions?  
17 Thoughts? Ruminations.

18 (No response.)

19 MR. OXER: Okay. Now I need a motion to -- we  
20 have a motion to consider. You have amended that. Do we  
21 need to amend the motion? Okay. We need an amendment to  
22 the motion to approve staff recommendation --

23 MR. IRVINE: As modified.

24 MR. OXER: As modified. Can I do that? It is  
25 one of the few things the Chair gets to do, I think. Let

1 me make the motion. Gee. So moved by the Chair. Do I  
2 hear a second?

3 MR. THOMAS: Second.

4 MR. OXER: Second by Mr. Thomas. Nobody else  
5 say anything. We have had all of the public comment we  
6 want. Sorry. That is not true. But I assume everybody  
7 has made the comments that they like. Okay. All in favor  
8 of the motion as stated as amended recently?

9 (A chorus of ayes.)

10 MR. OXER: Those opposed?

11 (No response.)

12 MR. OXER: There are none. Okay.

13 MR. DORSEY: All right. The next item is a  
14 recommendation to repeal the current Subchapters A, B, C  
15 and G of Chapter 10 and a recommendation to approve the  
16 draft Subchapters A, B, C and G of Subchapter 10 as  
17 presented in your Board materials and as amended by what  
18 Barbara is about to say.

19 MR. OXER: So you got thrown on the spikes.  
20 Right?

21 MS. DEANE: You are talking about amendments.  
22 And it is set up as a repeal in new. Right?

23 MR. DORSEY: I'm sorry. You were saying it was  
24 an amendment to what is in the Board book. An amendment  
25 to staff recommendation.

1 MR. OXER: It is a modification to the --

2 MS. DEANE: Okay.

3 MR. OXER: It is a modification or is it an  
4 amendment.

5 MR. DORSEY: She is about to modify her  
6 recommendation. The recommendation however, is to repeal  
7 and replace entirely Subchapters A, B, C and G of Chapter  
8 10.

9 MR. OXER: Good. That has got to be clearly  
10 stated on the record. That is why we asked. Madam  
11 Counsel?

12 MS. DEANE: Okay. When you use the word  
13 "amend," I get kind of -- amend. Yes. And I have one  
14 possible change or addition that Patricia brought to my  
15 attention. And I don't know if you want me to mention  
16 that now, or --

17 MR. DORSEY: Yes.

18 MS. DEANE: Okay. Patricia made a good point.  
19 And that is, when she was doing the compliance rules, we  
20 added a provision in there that said, you have a  
21 responsibility to inform tenants of required amenities,  
22 and put that in the compliance rule. She said, you know,  
23 when people go to propose these developments, put these  
24 developments together, they are going to go over to these  
25 other rules.

1           And they are going to be looking at what they  
2           are going to be required to do. And so probably if not  
3           moving it, because it is already in the compliance rule,  
4           to at least put a statement in here. In 10.101(b)(4)  
5           about mandatory development amenities where it says, new  
6           construction, reconstruction or adaptive reissuances must  
7           contain all of the amenities in Subparagraphs A through  
8           this paragraph.

9           Rehabilitation excluding reconstruction must  
10          provide -- wait a minute. Let me change this real quick.

11          At the end of that paragraph on mandatory development, we  
12          should add a sentence that says, because I was putting it  
13          in the wrong place, that says tenants must be provided  
14          written notice of the required amenities.

15          We will just add that on the end instead of  
16          where I was originally thinking about putting amenities  
17          in, amenities and services. So they will know that here.  
18          They won't get blindsided by a compliance rule.

19          And then on number 5, same thing. 10.101(b)(5)  
20          common amenities, we would add, tenants must be provided  
21          written notice of the required amenities. So they will  
22          know this up front. They don't have to go digging around  
23          later in the compliance rules and try to figure out what  
24          they are supposed to be doing.

25          MR. IRVINE: In other words, we will place in

1 the QAP provisions that tenants will have to be notified  
2 of these matters. And that way, somebody who is new to  
3 the program and hasn't been through all of this and  
4 doesn't know what we have got in the compliance rules will  
5 understand full well that they are taking on that  
6 requirement.

7 MS. DEANE: Right. It provides better notice.

8 MR. OXER: Good.

9 MR. DORSEY: If you wouldn't mind, we added,  
10 services to an amenity section. And those are different  
11 sections. So I am going to write this down real quick,  
12 and kind of restate it.

13 MS. DEANE: Yes. I am looking at the amenities  
14 part. If there is a services part where it should be as  
15 well, then I would suggest that you put that in there as  
16 well.

17 Just so folks know up front what they might be  
18 required to do. And then if they have an issue with it,  
19 here again, we are putting it out for comment and they can  
20 comment on that.

21 MR. DORSEY: Okay. So staff recommends the  
22 repeal of Subchapters A, B, C, and G of Chapter 10 and the  
23 adoption of a new draft proposal.

24 MS. DEANE: Proposal.

25 MR. DORSEY: Proposed draft. Subchapters A, B,

1 C, and G of Subchapter 10 as presented in your Board  
2 materials with the following amended amendment. Sections  
3 10.01(B)(4), (5).

4 MS. DEANE: 10.101.

5 MR. DORSEY: Right. 10.101(b)(4), (5) and (7)  
6 shall be amended to include a statement which requires  
7 that tenants be notified of the elections made by the  
8 development owner.

9 MS. DEANE: Right.

10 MR. DORSEY: Okay. So that is staff's  
11 recommendation. I am going to talk just briefly. This  
12 portion of our rule is referred to as the Uniform  
13 Multifamily Rule. It is three or it is four of those  
14 subchapters.

15 The compliance rules constitute a subchapter of  
16 this chapter as well. The REA rules do as well. Those  
17 were approved on the consent agenda earlier in the day.  
18 The changes that we made from last year to this year in  
19 this portion of the rule are much less dramatic than some  
20 of what we discussed with respect to the QAP.

21 And the reasons are several fold. One are,  
22 scoring items are -- naturally elicit more comment and  
23 desired changes and those types of things. And statutory  
24 changes were not made to many of the areas, except as I  
25 referenced previously in the QAP item about the threshold

1 resolution, notice, hearing and resolution requirement  
2 specific for 4 percent applications.

3 One of the other types of changes we made, just  
4 to streamline things was the requirement that we have had  
5 for years and years to provide or to request a list of  
6 neighborhood organizations from the local elected  
7 officials. We removed, It is the applicants'  
8 responsibility to become informed through whatever means  
9 necessary of the neighborhood organizations that exist  
10 within the area, where they are proposing a development.

11 And to the extent that they don't successfully  
12 identify the appropriate neighborhood organizations to  
13 notify, then we would take adverse action. But we are not  
14 going to tell them exactly what to do to figure out what  
15 neighborhood organizations are there.

16 It has historically not been highly effective  
17 anyway as they either don't have a list or the list is  
18 provided on the website and the applicant already knew  
19 that. They just had to send a request in. It wasn't  
20 really effective or useful exercise.

21 So we made that type of change. We made a  
22 whole lot of clerical changes as well, to just streamline  
23 things, make things a little bit clearer. And those types  
24 of changes.

25 So as I have mentioned before, staff's

1 recommendation is to approve with the amendment I have  
2 previously stated. And I will leave it at that, unless  
3 you all have questions.

4 MR. OXER: Okay. Any other questions of the  
5 Board?

6 (No response.)

7 MR. OXER: Okay. Now we do need to have a  
8 motion to accept staff recommendation.

9 MR. GANN: I so move.

10 MR. DORSEY: You could deny it, too.

11 MR. OXER: Okay. Motion by Mr. Gann. I  
12 believe there is a second.

13 MR. McWATTERS: Second.

14 MR. OXER: Second by Professor McWatters.

15 Robbye, would you like to say something?

16 MS. MEYER: I only have one. You have to bear  
17 with me. I have had my handcuffs on for two years, and I  
18 haven't been able to talk. It is good to have them off.

19 So not that I like being here in front of you, believe me.

20 But I have one comment on Section 10.4. It has  
21 to do with program dates. And it has to do with the  
22 extension of deadlines. And I ask that that extension be  
23 removed, remove that extension language and let's go back  
24 to having a deadline is a deadline.

25 Although that wouldn't have kind of helped the

1 discussion this morning on the commitment being able to  
2 extend that deadline. It is not under this program date  
3 right now.

4 But I would like to see us go back to having a  
5 deadline is a deadline and not being able to extend a  
6 deadline, once we have a deadline. So that is my comment.

7 Thank you.

8 MR. OXER: You are saying that a deadline is a  
9 drop-dead line.

10 MS. MEYER: A deadline is a deadline, and we  
11 don't extend it. So anyway, thank you.

12 MR. OXER: Okay. We got your message. Thanks.

13 MR. DORSEY: I think the best thing to do with  
14 respect to that type of comment, because it is a removal  
15 of language, including it in here so that we can choose to  
16 either remove it or leave it in when we come to the  
17 November meeting, might be the most appropriate way to  
18 handle that. If you all would like to go ahead and remove  
19 it, we can do that as well.

20 MR. OXER: Leave it in. Preserve our latitude.

21 MR. DORSEY: It preserves the ability to make  
22 that decision at the November meeting after we have run  
23 through a full reasoned response to all of these types of  
24 comments and everything.

25 MR. OXER: So there is no change in your motion

1 as amended as discussed at this point.

2 MR. DORSEY: That is correct.

3 MR. OXER: Okay. All right. There is no other  
4 public comment. Okay. There has been a motion by Mr.  
5 Gann. Second by Professor McWatters. All in favor?

6 (A chorus of ayes.)

7 MR. OXER: Opposed?

8 (No response.)

9 MR. OXER: There are none. Thank you, Cameron.  
10 All right. Just before everybody gets ready to run away,  
11 we are at the point in the meeting where we accept public  
12 input on any item, public comment on any item that has not  
13 been hereto addressed in the agenda, or has not been  
14 addressed on this agenda.

15 This is our purpose, is to set up for the  
16 agenda for successive meetings? Is there any public  
17 comment?

18 (No response.)

19 MR. OXER: All right. Next point, is there any  
20 staff that would like to have -- staff to the audience up  
21 here. Staff? Have anything?

22 (Simultaneous discussion.)

23 MR. OXER: Anybody else like to say anything?

24 (No response.)

25 MR. OXER: All right. Mr. Executive Director,

1 you have got something you would like to say.

2 MR. IRVINE: I would like all Board members who  
3 had birthdays this weekend to be recognized.

4 MR. OXER: This weekend? I think that would  
5 be --

6 MR. IRVINE: Happy birthday.

7 (Applause.)

8 MR. OXER: Thank you very much for that. I  
9 told several people that I celebrate every one of my  
10 birthdays, all of the ones that I know, my friends and my  
11 colleagues. But truth be told, I am pretty happy every  
12 morning I wake up, because it could have been different.

13 All right. Any Board member have any comment  
14 to make?

15 (No response.)

16 MR. OXER: All right. As usual, I get the last  
17 word. It is a good thing that we do. We work hard at  
18 this. I would like to reaffirm my welcome to our newest  
19 Board member, Mr. Thomas. This is some hard work.

20 We do detailed work. We grind these issues  
21 pretty fine to make sure we are doing the best thing for  
22 the people of this state that we serve.

23 I appreciate the efforts of everybody in the  
24 staff, everybody on this dais, and everybody out there.  
25 Because I know we all have the best interests of the

1 people in the community that we serve at heart. With  
2 that, I will entertain a motion to adjourn.

3 MR. THOMAS: So moved.

4 MR. OXER: Motion by Mr. Thomas to adjourn.

5 Second by --

6 MR. McWATTERS: Second.

7 MR. OXER: Professor McWatters. There is no  
8 requirement for public comment. All in favor?

9 (A chorus of ayes.)

10 MR. OXER: There are none opposed. See you  
11 next month, folks.

12 (Whereupon, at 6:15 p.m., the meeting was  
13 concluded.)

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MEETING OF: TDHCA Board  
LOCATION: Austin, Texas  
DATE: September 12, 2013

I do hereby certify that the foregoing pages, numbers 1 through 281, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Leslie Berridge before the Texas Department of Housing and Community Affairs.

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