

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

Room 140
John H. Reagan Building
105 West 15th Street
Austin, Texas

Thursday,
October 9, 2014
9:10 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice Chair
LESLIE BINGHAM ESCAREÑO, Member
TOM GANN, Member
ROBERT THOMAS, Member

STAFF:

TIMOTHY K. IRVINE, Executive Director

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P R O C E E D I N G S

1
2 MR. OXER: Good morning, everyone. I would
3 like to welcome you to the October 9th meeting of the
4 Texas Department of Housing and Community Affairs
5 Governing Board. We will begin with roll call, of course.

6 Ms. Bingham.

7 MS. BINGHAM-ESCARREÑO: Here.

8 MR. OXER: Mr. Gann.

9 MR. GANN: Here.

10 MR. OXER: Mr. McWatters is not with us today.

11 Dr. Muñoz?

12 DR. MUÑOZ: Present.

13 MR. OXER: I am here. Mr. Thomas is not. We
14 have four. That constitutes a quorum, so we are in
15 business. So Tim. Pledge to the flag.

16 (Pledge of Allegiance was recited.)

17 (Pledge to the Texas flag was recited.)

18 MR. OXER: Okay. Do we have anything on the
19 early side here, Tim?

20 MR. IRVINE: Yes. We have several items that
21 are on the consent agenda and I understand that there is
22 desire for comment on them. I would like to pull items
23 1(b), (f), and (j). Any others?

24 MR. GUDEMAN: Yes. Good morning. My name is
25 Will Gudeman. I represent a nonprofit organization named

1 Equity Community Development Corporation. I would like to
2 comment on Item 1(e), the prohibition of --

3 MR. OXER: Will, at this point, we are just --

4 MR. GUDEMAN: Yes, sir.

5 MR. OXER: We will offer you an opportunity to
6 do that when we get there. What we are going to handle
7 here first is the consent agenda, so if you would like us
8 to pull that item for a comment, we can certainly do that.

9 MR. GUDEMAN: I would like to comment on that.
10 Yes, sir.

11 MR. OXER: Okay. Then we will pull that for
12 you, and we will take it up in a minute.

13 Okay. Any Board member care to pull an item
14 off the consent agenda?

15 (No response.)

16 MR. OXER: Okay. In that case, we will
17 entertain a motion to consider for the consent agenda.

18 MS. BINGHAM-ESCARREÑO: Mr. Chairman, I move to
19 approve the consent agenda with the items removed as
20 reported.

21 MR. GANN: Second.

22 MR. OXER: Okay. Motion by Ms. Bingham, second
23 by Mr. Gann. No public comment. All in favor, aye.

24 (A chorus of ayes.)

25 MR. OXER: Opposed?

1 (No response.)

2 MR. OXER: There are none. Okay. Okay, we
3 will take item 1(b) first.

4 MR. IRVINE: Okay. Thank you very much, Mr.
5 Chairman. Item 1(b) is my recommendation regarding the
6 staffing levels for the Internal Audit Division. And we
7 have with us Betsy Schwing, who runs the Division, who
8 would also probably want to provide you with some
9 information on this.

10 Quite simply, my recommendation is that the
11 Internal Audit Division has currently got four FTEs in the
12 budget and operating plans and currently has two staff, so
13 there are two vacancies. I recommend that the Board
14 approve reducing that to three positions.

15 My rationale for that recommendation is
16 twofold. One is just in terms of large-scale business
17 operations. I think for the past decade or more, we have
18 been going through some pretty exceptional things.
19 Certainly, disaster recovery efforts, stimulus funding and
20 so forth.

21 Now I see us returning, not only to normalized
22 levels of programmatic activity, but also in some
23 instances, some significant instances, reduced funding
24 levels. So I would expect a concomitant reduction in need
25 for audit services.

1 I also just kind of used high level
2 mathematics. I assumed the average number of working
3 hours that any TDHCA employee would work, and came up with
4 approximately 5,500 hours if you have three staff working
5 at that predicted average level of activity.

6 And we have a proposed from the Audit Committee
7 level of hours in the 2015 fiscal year audit plan that is
8 about 3,600 hours. That seemed to be to be a reasonable
9 cushion, even if I used some more conservative numbers, I
10 still come up with you know, perhaps as much as 1,000 hour
11 cushion.

12 I also would emphasize that this is simply my
13 recommendation. It is ultimately a Board decision. And I
14 think you should certainly obtain information from the
15 Director of Internal Audit. If things change, and
16 additional audit needs are raised, there is always the
17 possibility of changing that cap back up to the four. Or
18 whatever other number the Board desires.

19 There is certainly the possibility of utilizing
20 external audit firms on a properly delegated authority
21 from the FAO to contract with external auditors. There
22 are a variety of mechanisms that could be utilized in that
23 way.

24 Also, qualitatively, personally, I would very
25 much like to have a more robust engagement with Internal

1 Audit on a consulting basis. We are always pretty much
2 going through the process of reinventing one major program
3 activity or another.

4 And I think that Internal Audit can be
5 incredibly valuable and useful in helping us on a
6 consulting basis, not providing assurances or
7 representations. Appropriately maintaining their
8 independence. But you know, giving us a framework for
9 ensuring that we have got the best possible risk
10 mitigations in process at all times.

11 So that is my side of things. And certainly, I
12 would invite Betsy to come up and provide her perspective.

13
14 MS. SCHWING: Good morning. I am Betsy
15 Schwing. I am the acting Director of Internal Audit at
16 TDHCA. And I am here to talk a little bit about staffing
17 for the Internal Audit Division.

18 Back in 2002, we had -- as of July of 2002, we
19 had four full time equivalent employees in the Internal
20 Audit Division. The Agency changed quite a lot from 2002
21 to now.

22 Of course, there was the American Recovery and
23 Reinvestment Act. There was disaster recovery. Because
24 of those programs, our FTEs remained at four, but we got
25 two additional temporary employees. As you know, disaster

1 recovery moved over to the GLO, and ARRA ramped down.

2 So we still have four FTE budgeted positions.
3 But we have had some staffing changes, lately. Our
4 Director Sandy Donoho retired recently. She left the
5 Agency at the end of July of this year.

6 And we also lost one of our senior auditors,
7 who went to work for another state agency. This was a
8 tremendous loss to our Audit Department. Now, the
9 Division is made up of myself, Derrick Miller.

10 We have one vacant director position and one
11 vacant audit position. So that is a staff of four. I do
12 understand and I absolutely agree that the resources
13 dedicated to the Internal Audit program should be
14 periodically reviewed to ensure they are adequate.

15 But my concern is that making a staffing change
16 at this time may have an impact on how effective Internal
17 Audit can be. Because we are going through changes right
18 now, by losing our Director and a staff member, we have
19 less resources to do what we need to do. And we lost our
20 staff because of attrition.

21 Just because there was attrition doesn't mean
22 that the rest of the Agency has been reduced. So I think
23 now more than ever, it is important to have the
24 opportunity for four FTEs to do the work that we need to
25 do.

1 And this is especially timely to consider
2 because management has expressed interest in performing
3 consulting engagements. Consulting engagements are not
4 something we have done in our Division historically.

5 They can be done if special care is taken to
6 make sure the auditors maintain their independence, and
7 they do not take on management responsibilities. And the
8 engagement is well documented and the stakeholders are all
9 in agreement on what is going to be done. Well, that is a
10 whole lot about consulting engagements.

11 But the point is, we are in transition right
12 now. We have got two staff. I would worry that if we
13 were reduced to three FTEs, we may not be able to have an
14 effective Internal Audit function to provide the coverage
15 for an agency this size, and the risk that it has.

16 It is important that we provide information to
17 the stakeholders timely. And if it is not timely, it is
18 not going to be relevant. So in order to prepare that
19 information and provide it timely, I would think that an
20 FTE level of four might allow us to have a more effective
21 division at this time.

22 MR. OXER: Thanks, Betsy. Any questions from
23 the Board?

24 DR. MUÑOZ: I have a question. So are you
25 saying that when all of the disaster relief funds came in,

1 that the staffing was four. And then it was augmented by
2 two. And now it has returned to four?

3 MS. SCHWING: Correct.

4 DR. MUÑOZ: Okay. But functionally, it is down
5 two.

6 MS. SCHWING: Yes.

7 DR. MUÑOZ: And so the Department is
8 functioning.

9 MS. SCHWING: The Internal Audit Division is
10 functioning with great challenges at this time. And let
11 me expand on that a little bit more. We developed an
12 audit plan for FY '14 that was made up of six projects and
13 one contingency project.

14 And because of our reduced staffing, one of
15 those projects was very behind schedule. And that was the
16 audit of the Financial Administration Division. In
17 addition to that, the development of the annual risk
18 assessment and the presentation of the audit plan for
19 fiscal year '15 was behind schedule.

20 DR. MUÑOZ: You are saying that as a result of
21 the loss of the retirement and the transition to another
22 state agency, that you weren't able to complete all of the
23 projects in the time line that you had originally
24 thought --

25 MS. SCHWING: That is correct.

1 DR. MUÑOZ: And I presume that you communicated
2 that with the Executive Director?

3 MS. SCHWING: Yes. Yes. It is also important
4 to note that one of those projects that was listed on our
5 FY '14 plan is being carried over into FY '15, because we
6 could not accomplish that with the resources that we have,
7 currently.

8 MR. OXER: Any other questions? Betsy, do you
9 have -- I'm sorry. Leslie, do you have a question or a
10 comment to make?

11 MS. BINGHAM-ESCARREÑO: Yes, Mr. Chair. So Mr.
12 Gann and I convened the Audit Committee today. And
13 although this wasn't an action item, we did have, I think,
14 some very productive discussion.

15 You know, I think the bottom line will
16 probably -- first of all, we just approved through the
17 consent agenda the audit plan for next year. Betsy and
18 her team did a great job of tailoring it to anticipate
19 that they are short on FTEs where they would ideally like
20 to be.

21 I think that the Board's responsibility is to
22 the State, and to wisely use resources. We have certainly
23 done some other adjusting and belt tightening as some of
24 our ARRA projects and whatnot have rolled out or down.
25 And Audit may be an area where we want to look at that.

1 One of the things that management and Betsy and
2 the Committee discussed today was, it is kind of -- Audit
3 is always pretty dynamic. So we set a plan with our best
4 hopes. And then things, life happens.

5 Things come up, and plans sometimes need to be
6 adjusted. It sounds like to me, if the Board were to
7 approve management=s recommendation for the three FTEs
8 versus the four, the Agency still has some flexibility to
9 be able to add manpower if it needed to, whether that were
10 through external engagements or temporary engagements or
11 looking back in the plan and reprioritizing.

12 So although I do believe that the Department
13 feels they can best meet the Agency=s needs with the four
14 FTEs, if the Board were to go to an approval of the three
15 FTE plan, I think that it is something that Internal Audit
16 can continue to communicate to the Board. So that if
17 there need to be adjustments made, they could be made
18 along the way.

19 MR. OXER: So essentially, we are saying that
20 in the event that we follow what Tim has asked, to move it
21 to three, we would ask you to come regularly and as often
22 as needed, Betsy to update us on how you are with it. And
23 I recognize that things, trust me, plans go out. Much
24 like game plans.

25 I understand UT had a little problem last

1 night. They were eleven out of the top 25, they had game
2 plan issues last week in the football arena. Okay. I
3 think I get it. Is there any more questions from the
4 Board?

5 (No response.)

6 MR. OXER: Okay. Is there any other public
7 comment?

8 DR. MUÑOZ: Yes. I suppose the only other
9 comment I might add is, in the event that something
10 becomes particularly concerning, that my presumption would
11 be that you would communicate that to management --

12 MR. OXER: Sooner rather than later.

13 MS. SCHWING: Absolutely.

14 DR. MUÑOZ: And I appreciate what you are
15 communicating, and the work load. You know, one FTE up or
16 down, you can always hire somebody later on. It might be
17 more simply helpful to have that person on the front end
18 earlier than later.

19 But I also think that there is a sense in
20 management, in terms of the workload as well. And so
21 hopefully, the way you communicate is such that should it
22 materialize that the absence of the FTE conspicuously
23 undermines your ability to effectively prosecute your
24 responsibilities, we can act, probably outside of a formal
25 meeting to ameliorate that circumstances.

1 MS. SCHWING: Okay.

2 MR. OXER: Okay. We have a motion to consider
3 on Item 1(b) regarding Internal Audit staffing. To be
4 clear, approval of the staff recommendation, means it
5 drops to three. Is that correct, Tim?

6 MR. IRVINE: Correct.

7 MR. OXER: And then opposition to its approval
8 means that it remains at four for those two positions to
9 be filled as soon as possible, to keep the audit function
10 from being under duress.

11 DR. MUÑOZ: Move staff recommendation.

12 MR. OXER: Okay. Motion by Dr. Muñoz to
13 approve staff recommendation.

14 MS. BINGHAM-ESCARREÑO: I will second.

15 MR. OXER: Okay. Second by Ms. Bingham.

16 Is there any other public comment on this item?

17 (No response.)

18 MR. OXER: Okay. No further public comment.

19 Motion by Dr. Muñoz, second by Ms. Bingham to approve
20 staff recommendation on Item 1(b).

21 All in favor, aye.

22 (A chorus of ayes.)

23 MR. OXER: Opposed?

24 (No response.)

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

1 Thanks, Betsy.

2 MS. SCHWING: Thank you.

3 MR. OXER: Okay. Item 1(f), which was recently
4 pulled from the consent --

5 MR. IRVINE: Actually, 1(e).

6 MR. OXER: I'm sorry, you are right, 1(e).

7 Let=s have the -- Marnie, are you making the presentation?

8 Will, give us a second. Marnie is going to
9 come down and speak.

10 MS. HOLLOWAY: Good morning, Chairman Oxer,
11 members of the Board. My name is Marnie Holloway. I am
12 the Director of the Neighborhood Stabilization Program. I
13 am currently serving as the Single Family Coordinator.

14 Item 1(e) is adoption of the amendments to the
15 Single Family umbrella rule. You will remember that a
16 couple of years ago, under Homer's direction and his
17 leadership, we first created the umbrella. The amendments
18 refine the rule to better serve the purposes of our single
19 family programs moving forward over the next couple of
20 years.

21 Mr. Gudeman had submitted public comment during
22 the public comment period on the rule, and as I understand
23 it, he would like to discuss those comments with the
24 Board.

25 MR. OXER: Okay. So the summary of it, Marnie

1 is that we are approving the publication of these
2 amendments?

3 MS. HOLLOWAY: The adoption.

4 MR. OXER: The adoption. The final adoption.
5 Okay.

6 MS. HOLLOWAY: The amendments were actually
7 published on August 15th of 2014 in the Register and were
8 available for public comment through August 15th.
9 Included in your Board item is a summarization of all of
10 the comments and our responses.

11 MR. OXER: Okay. Thank you. Is there any
12 questions of Marnie from the Board? Any member of the
13 Board?

14 (No response.)

15 MR. OXER: Apparently, no. All right. We will
16 need a motion to consider.

17 DR. MUÑOZ: So moved.

18 MR. OXER: Motion by Dr. Muñoz to approve staff
19 recommendation.

20 MR. GANN: Second.

21 MR. OXER: Second by Mr. Gann.

22 Will, do you have something more to say?

23 MR. GUDEMAN: Yes.

24 MR. OXER: We have public comment.

25 MR. GUDEMAN: All right. I will start over. My

1 name is Will Gudeman. I represent Equity Community
2 Development Corporation. We are a nonprofit organization.
3 Through TDHCA, we administer the Amy Young Barrier
4 Removal program and the Colonias self-help center program
5 down in Valverde County.

6 Of all of the comments that I have submitted, I
7 would like to just talk about one. It is the prohibition
8 to rehab manufactured housing units with federal funds. I
9 would like to -- I would ask the Board to reconsider that
10 specifically with CDBG funds in the Colonias Self-help
11 Center Program. In the Colonias, we need maximum
12 flexibility. And in the Colonias of Valverde, there are
13 many MHUs.

14 And of the three, three of the Colonias in that
15 contract are all on septic systems and private wells. And
16 so a prohibition to use federal funds to rehab MHUs would
17 include not being able to replace a family septic system
18 for example, or a foundation that was not installed
19 correctly.

20 The Manufactured Housing Institute based out of
21 Virginia, they report that most failures of MHUs are
22 because of improperly installed foundations. All we are
23 asking for is flexibility to be able to do things that
24 might be necessary to make these houses last longer and
25 make them more -- safer for the families that live in

1 them.

2 The Travis County CDBG program allows the rehab
3 of MHUs and so does TDA, the Texas Department of
4 Agriculture. They recently released their application for
5 the Colonia Construction Fund. And they do not prohibit
6 rehabbing MHUs, either. I am not asking to rehab MHUs
7 with HOME funds or NSP funds. Strictly with -- I am only
8 asking for CDBG in the Colonia Self-help Center program.

9 I understand MHUs are a different type of
10 housing and it requires different types of knowledge. And
11 I am comfortable in my abilities to be able to see that
12 and understand what needs to be done with those. And I
13 would work very closely with Homero Cabello and LCI staff
14 to make sure that what we propose to do to an MHU, whether
15 it is replacing a defective and unsafe septic system or
16 replacing a foundation or shoring up a foundation.

17 I would work very closely with Homero Cabello
18 and LCI staff to make sure that what we are proposing is
19 in line with what they are comfortable with. I would ask
20 the Board to reconsider the prohibition strictly for CDBG
21 and not all federal funds.

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

23 DR. MUÑOZ: Well, I just have a comment, Will.
24 I don=t question your sincerity in doing so.

25 Just a few days ago, I happened to be at

1 Colonias down in Weslaco and Mercedes, down in South
2 Texas; Indian Hills Colonia. And when I spoke to people,
3 you know, what they said to me is, working on a
4 manufactured home in terms of the engineering specs, in
5 terms of the tolerances of walls and how they get worked
6 on by general contractors that are building stick houses
7 is very different.

8 They will cut into a wall, okay. And it will
9 look nice. And then after six months, when it starts to
10 become compromised, and water is coming in, these people
11 don=t have the expertise. And those are the folks that
12 are being hired.

13 I appreciate your saying and I would work very
14 closely. But what about everyone else that would then no
15 longer be subject to the prohibition. We can=t ensure
16 that they would be as conscientious as you might be in
17 ensuring that the people that work on manufactured homes
18 have the technical expertise to do the work properly.

19 I appreciate what you are saying. And I think
20 we have to find a solution to be able to use these monies
21 to work on these specific type of properties.

22 What I saw down there was reprehensible. It is
23 unconscionable. And yet, people are living in these --
24 they are hard to call homes. It is hard to use that term.

25 That is not what I saw.

1 MR. GUDEMAN: I agree.

2 DR. MUÑOZ: But liberating these dollars to be
3 used within your very conscientious thoughtful
4 organization doesn't ensure that others will be equally
5 thoughtful, conscientious and technically proficient. I
6 am happy to try to work with the staff to come up with
7 some solution that provides some oversight that introduces
8 the proper technical expertise to effect these repairs.

9 MR. GUDEMAN: If I may, I don't disagree with
10 you, Dr. Muñoz. I have done an incredible amount of
11 research on MHUs and how they are engineered and how they
12 are built on site.

13 I am very familiar with the limitations that
14 need to be put in place. And I would recommend that the
15 Department come up or develop limitations based on
16 research that has already been done. Things that you must
17 do. Things that you can't do.

18 MR. OXER: Any other questions from the Board?

19
20 (No response.)

21 MR. OXER: Tim?

22 MR. IRVINE: I had a question for either you or
23 Marnie or Homero. Either one of you.

24 If this activity of rehabbing MHUs were
25 permitted, would there be any limitations or would there

1 be a requirement that when we walk away from the rehab, we
2 have got a fully compliant home? And where I am going
3 with that is, I don=t have a problem with having a
4 licensed installer come in and deal with the stabilization
5 system or foundation.

6 MR. GUDEMAN: Or septic?

7 MR. IRVINE: And I don=t have a problem with a
8 qualified person installing the septic and so forth. But
9 I have got a real concern when anybody is dealing with the
10 envelope and structure of the MHU itself.

11 MR. GUDEMAN: Yes. I don=t disagree with you,
12 Mr. Irvine, at all.

13 MR. OXER: And just as a collateral comment on
14 all of this, rather than providing a universal exception
15 through the CDBG funds to allow this, my inclination would
16 be to put this in place, and allow individual exceptions
17 as they were appealed, for money to be spent, as long as
18 it was not to be into the -- essentially, into the
19 structural shell of the home, of the MHU.

20 MR. GUDEMAN: I wouldn=t be opposed to that at
21 all, Mr. Chairman. I would ask that the Department would
22 be working closely with the OCI staff to make sure that it
23 doesn=t take a very long time to come up with that
24 exception. We could describe everything to --

25 DR. MUÑOZ: Maybe staff could work with people

1 like Will and others that might be interested to come up
2 with some language, so that when you make the request for
3 the waiver, it is done so in kind of a uniform way that
4 adheres to all of our expectations. So that everybody
5 that wants to do this kind of work within this sort of
6 technically defensible way can, with this general
7 prohibition still in place.

8 MR. OXER: I understand the importance of the
9 foundation, the septic, the sort of infrastructure systems
10 of support, the location of an MHU with the potential
11 compromise, the actual envelope itself is problematic.
12 So --

13 MR. GUDEMAN: That is part of the limitations
14 that I would recommend that staff --

15 MR. OXER: Maintain. Right.

16 MR. GUDEMAN: So things that you can and can't
17 do, based on when that house was built, when it was
18 installed.

19 MR. OXER: Right.

20 MR. GUDEMAN: How it was. Because it is very
21 different.

22 MR. OXER: Okay. Homero, do you have a
23 comment?

24 MR. CABELLO: I just have a couple of comments.
25 Homero Cabello with the Office of Colonia Initiatives.

1 About five years ago, with the El Paso County, we had just
2 allowed about \$500,000 on rehabs to manufactured homes.
3 There were a lot of issues, and at the end of the day, the
4 improvements were not safe for the Colonia residents.

5 I agree with Will is very knowledgeable on
6 manufactured homes that are wanting to be done. But I
7 agree with Dr. Muñoz that the other organizations that we
8 work with may not be as sophisticated.

9 You know, the Self-help Center that he is
10 working with, there is 5,400 Colonia residents in the five
11 targeted Colonias. So if you just take an average of 5.4
12 household size, that is 1,000 lots, okay.

13 His contract requires seven rehabilitations and
14 twelve small home repairs. So you know, making these
15 changes for the manufactured homes, there are plenty of
16 units, plenty of households that can be assisted.

17 The amount of funding that is provided to the
18 Self-help Center doesn't make a significant impact with
19 the amount of monies that we have. So I understand. So
20 say 50 percent of those homes are MHUs. That still leaves
21 500. And you can find 19 households that need assistance.

22 And so I am more concerned about the other
23 organizations than I am with Equity CDC. It is -- the El
24 Paso that we had to go before County Commissioners Court
25 and say we are disallowing \$600,000 because of the shoddy

1 work that was done.

2 DR. MUÑOZ: Again, Homero, if we could come up
3 with some way. You know, I mean, we have the discretion
4 to waive the rule with cause, right.

5 If we could come up with some kind of language
6 so that when a Will or another equally sophisticated,
7 technically proficient group wants to do this kind of work
8 in a way that obviously you are satisfied will be done in
9 a compliant way, that we can look at the same sort of
10 language of appeal consistently. So that we are not
11 making sort of decisions you know, that are radically
12 different from one another.

13 I suspect, like you, we are not going to get a
14 lot of people asking for them. Okay. I mean, that is
15 what I intuit. But in those instances, like when we do
16 have a responsible party that we have confidence in, we
17 want to be able to permit it.

18 MR. OXER: Rather than let everybody in, we
19 would rather keep everybody out, and let the ones in with
20 permission, essentially.

21 MR. CABELLO: There is a lot of need in the
22 Colonias. A lot of need.

23 MR. IRVINE: If I might, because what we have
24 under consideration right now is an active motion, is
25 final adoption of a rule, I would suggest that it might be

1 prudent to table this item.

2 And during the course of the meeting, a small
3 group, perhaps Will and the Single Family folks perhaps
4 with somebody from Legal, might look at whether that kind
5 of a waiver or other appropriate clearance could be
6 fashioned and still remain within the scope of the
7 rulemaking or whether it would necessitate a
8 republication.

9 And then come back with a recommendation either
10 to make adjustments here within the scope of the rule, or
11 to defer it, and initiate a new process immediately after
12 the rule becomes final. And I tend to think that the
13 latter might be neater and cleaner.

14 MR. OXER: Marnie, do you have -- do we have a
15 comment or a perspective on whether or not the current
16 rules as written allow for any waiver like Will would be
17 looking for?

18 MS. HOLLOWAY: The current Single Family
19 umbrella rule does not include provision for a waiver.

20 MR. OXER: Okay.

21 MS. HOLLOWAY: I can tell you that. There may
22 be a provision in other sections in the Administrative
23 Chapter that I am not aware of. But the rule as written
24 does not allow for a waiver. If I could present a couple
25 of other possibilities, and maybe a little more

1 information about the work that we have already done
2 around manufactured housing.

3 DR. MUÑOZ: Marnie, I think I would like to
4 withdraw my motion, to see if we could table it in the way
5 that the Executive Director has described.

6 MR. OXER: That is fine to withdraw the motion.

7 MS. HOLLOWAY: If I may --

8 MR. IRVINE: If the rule as presented does
9 provide for a waiver, there is no point in tabling it. It
10 is either approve it, or not approve it.

11 MS. HOLLOWAY: If I may. We will be bringing
12 to next month=s Board meeting an amendment to this rule
13 that we are adopting that is around compliance. And we
14 just didn=t have it together in time to get it to you this
15 month.

16 We will be bringing that waiver next month.
17 Rather than tabling this rule at this point in time, which
18 would have sort of a chain reaction effect, particularly
19 for the Amy Young program, trying to get their money out,
20 I think that it -- because we are already going to be
21 amending next month.

22 Certainly, absolutely, we could spend some more
23 time with Will, and spend some more time amongst us about
24 exactly what those standards are for rehabilitation of
25 manufactured housing and what fund sources are

1 appropriate. So that is some additional information that
2 is not included in this item; that that amendment is
3 coming.

4 MR. OXER: Hold your ground there, Will. If we
5 did this, you know, the last thing we want to do is
6 provide administrative hurdles to those people that need
7 some help in the Valley in repairing their homes and
8 bringing them up to code. We also don=t want to open the
9 gate to allow a lot of changes that aren=t in the best
10 interests of that community.

11 So if we put this in place today, and pass this
12 as has been moved so far, what is the schedule? What is
13 the impact on you, on schedule? If we come back and spend
14 some time to figure out a waiver to allow people --

15 MR. GUDEMAN: A month or two. I would be happy
16 with that. All I am asking for is flexibility in the
17 Colonias with the funding source that was specifically
18 designed to be flexible. And I am perfectly fine with a
19 waiver in place that could be reviewed by Department staff
20 on a case-by-case basis.

21 MR. OXER: Great. That is the right answer.
22 Okay.

23 MS. HOLLOWAY: Okay.

24 MR. OXER: All right. Anything else, Juan?

25 DR. MUÑOZ: Marnie, you are clear on our

1 direction. Right?

2 MR. OXER: You understand -- hold on a second.

3 We have -- let=s -- all right. Is there any other public
4 comment?

5 (No response.)

6 MR. OXER: Okay. Just for the record, we have
7 had a motion by Dr. Muñoz and a second by Mr. Gann to
8 approve staff recommendation on Item 1(e). All in favor,
9 aye.

10 (A chorus of ayes.)

11 MR. OXER: Opposed?

12 (No response.)

13 MR. OXER: There are none. Okay. Now, are you
14 clear on what we need to do, Marnie?

15 MS. HOLLOWAY: I am very clear that over the
16 next month, before we --

17 MR. OXER: In 30 days when we come back, we
18 want to hear what you guys whipped up. Okay?

19 MS. HOLLOWAY: We will absolutely put some
20 directed effort toward what we can and can=t reasonably
21 do.

22 DR. MUÑOZ: I like that. Directed effort.

23 MS. HOLLOWAY: Directed effort.

24 MR. OXER: Focused, directed --

25 MS. HOLLOWAY: Coordinated directed effort.

1 DR. MUÑOZ: And before we come off of this
2 subject, just, I would like to get into the record. I
3 mentioned this earlier with the Executive Director and we
4 have done this in the past.

5 I would like to see within the next calendar
6 year if not sooner, convening a meeting of this Board
7 somewhere in the Valley, close to a Colonia, as we have in
8 the past. So I just want to put that on the record. I
9 know that the Executive Director and his staff are already
10 looking at that.

11 But I would like people that are here that
12 represent that part of the State to know that we are
13 considering it. And I am certain, given this public
14 remark, that it will come to fruition.

15 MS. HOLLOWAY: Absolutely.

16 MR. OXER: That's great confidence, which we
17 are proud to have. Okay.

18 Thanks, Marnie.

19 MS. HOLLOWAY: Thank you.

20 DR. MUÑOZ: A focused effort on it.

21 MR. OXER: There you go.

22 MR. OXER: Okay. Item 1(f). Good morning,
23 Chief Murphy.

24 MS. MURPHY: Good morning. Patricia Murphy,
25 Chief of Compliance. Item 1(f) is the final adoption of

1 rules regarding enforcement and debarment.

2 As you know, staff held several roundtables,
3 and there was lots of public comment. And we had a
4 discussion item on this issue in May, and then we brought
5 our proposed rule to you.

6 It went out for public comment and now at this
7 point, staff is recommending adoption of this rule as
8 presented in your Board book. I believe there is some
9 public comment.

10 But before we hear that public comment, does
11 any Board member have any question for me?

12 (No response.)

13 MR. OXER: Any questions from the Board?

14 (No response.)

15 MR. OXER: That's all. There is your seat
16 there. The one that is wired to the 463 phase. Okay?

17 All right. We will have a motion to consider,
18 which is a requirement to take this up.

19 MS. BINGHAM-ESCARREÑO: Move to approve staff=s
20 recommendation.

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

23 DR. MUÑOZ: Second.

24 MR. OXER: And a second by Dr. Muñoz.

25 Do we have comment?

1 MR. IRVINE: I believe Michael has some
2 comment.

3 MR. OXER: Michael, would you like to read one
4 into the record?

5 MR. LYTTLE: Yes, sir. A letter addressed to
6 you and members of the Board and Mr. Irvine from the Texas
7 Association of Community Action Agencies, Incorporated.

8 It reads as follows, "On behalf of Community
9 Action Agencies in Texas and, more importantly, on behalf
10 of the hundreds of thousands of Texans we serve annually,
11 primarily the low income population of individuals,
12 families with young children, elderly, and persons with
13 disabilities, we oppose adoption of the enforcement rule
14 as it pertains to community affairs programs under Consent
15 Item 1(f).

16 "We respectfully refer you to 10 TAC Chapter 5,
17 Community Affairs Programs, Subchapter A, General
18 Provisions, Section 5.1(b) Purpose and Goals, which
19 states: 'The programs administered by the Community
20 Affairs Division of the Texas Department of Housing and
21 Community Affairs support the Department=s mission to help
22 Texans achieve an improved quality of life through the
23 development of better communities.'

24 "The adoption of the rule has a negative impact
25 on low income Texans. Our focus will change from helping

1 people help themselves and each other, yielding better
2 communities, to a bureaucracy of checks and balances and
3 verification of processes over and beyond what we already
4 do. According to TDHCA staff, historically fines have not
5 been imposed.

6 "Don=t misunderstand our position; rules are
7 respected and taken seriously. When we sign a contract,
8 we know our obligations and do everything possible to be
9 compliant, and good stewards of the funds we receive.
10 However, this rule is punitive without providing
11 clarification or interpretation of violations.

12 "We followed due process, attended roundtable
13 discussions and expressed our concerns and provided
14 examples of inconsistencies or areas needing
15 clarification; conversed with staff at every opportunity,
16 and filed written comments during the public comment
17 period.

18 "Although some of our concerns were addressed
19 in your Board book, others were left unanswered. We
20 suspect this is a done deal. We simply want to go on
21 record to state this is wrong for Texans.

22 "Our priorities should be figuring out together
23 how best to provide needed services to our low income
24 population and address poverty. We fear less folks will
25 be served. This action strains the relationship and

1 partnership between Community Action Agencies and TDHCA
2 which we have enjoyed for many years.

3 "In any event, we will continue to do the best
4 that we can with the resources available to serve low
5 income Texans. Respectfully, Taina Shaw, President, Texas
6 Association of Community Action Agencies."

7 MR. OXER: Thanks, Michael. Peggy, did you
8 have another one?

9 MS. HENDERSON: Peggy Henderson, Texas
10 Department of Housing, registering public opinion for
11 Stella Rodriguez, with Texas Association of Community
12 Action Agencies, on Agenda Item 1(f): Against staff
13 recommendation.

14 Registering opinion for Mark Bethune, Concho
15 Valley Community Action Agency, Item 1(f): against staff
16 recommendation.

17 Registering opinion for Vicky Smith, Community
18 Action Committee of Victoria, Texas, Item 1(f): against
19 staff recommendation.

20 And Christy Smith, Economic Community of the
21 Gulf Coast, 1(f): against staff recommendation.

22 MR. OXER: Good. Thanks. Patricia, I have got
23 a question. You are generally just coordinating and
24 putting all of these into one place? What is the big
25 issue that seems to get everybody so exercised? Can you

1 have a perspective, or do you have a perspective?

2 MS. MURPHY: Ummm.

3 MR. OXER: Yes or no's a good answer, if that
4 is what you want to use, too.

5 MS. MURPHY: No. The Community Action Agencies
6 you know, they had a lot to say at the roundtables about
7 the imposition of penalties and these administrative
8 procedures, being subjected to them. And you know, we
9 have got that to the Board in May, to give them an open
10 opportunity to directly discuss those issues with the
11 Board.

12 You know, some of their comments about strained
13 relationships with us, I don't know how else to say, we're
14 really not that bad.

15 MR. OXER: We sort of have an administrative
16 relationship with HUD, too. We don't necessarily like
17 what they tell us, right.

18 MS. MURPHY: Yes. You know. So they just are
19 very adamantly opposed to the concept that noncompliance
20 under their program's corridor should possibly result in
21 an administrative penalty. And I understand that.

22 I think staff disagrees that that is never
23 going to be appropriate. I think we have demonstrated
24 that we have a lot of due process before you get to that
25 point. And that comes to you. And even after that, there

1 is SOAH, and there is a whole host of opportunities to do
2 these things.

3 MR. OXER: So even with the imposition -- or I
4 should say, the potential for the staff to recommend
5 imposition of these penalties, and administrative
6 penalties and damages potentially, there is a sequence of
7 things that they have an opportunity to have their case
8 heard, their voice heard, their position stated.

9 And so when it finally gets to us, which it
10 would ultimately have to do to impose a penalty --

11 MS. MURPHY: That's correct.

12 MR. OXER: -- it would be the third or fourth
13 time the question comes up. Is that correct, more or
14 less?

15 MS. MURPHY: That is correct. Yes. The
16 compliance rule itself has options for review. There is a
17 Compliance Committee. They could ask for clarification
18 from a federal agency, if they think we are off on our
19 interpretation of something. There is an Enforcement
20 Committee which very much works to resolve issues, and
21 then there's you.

22 MR. OXER: Good. Okay. Thanks. All right.
23 Regarding Item 1(f), there has been a motion by Ms.
24 Bingham, seconded by Dr. Muñoz to approve staff
25 recommendation. We have heard public comment. Any other

1 comment from the Board?

2 MS. BINGHAM-ESCARREÑO: Mr. Chair, I just --
3 just for the record, I guess, part of the letter that Mike
4 read into the record referenced something about it being a
5 done deal.

6 MR. OXER: Clarify.

7 MS. BINGHAM-ESCARREÑO: I know.

8 MR. OXER: Can you clarify that again? Just
9 read it again.

10 MR. LYTTLE: Yes. It said, it was the first
11 sentence of a paragraph which basically read and said, we
12 suspect this is a done deal.

13 MS. BINGHAM-ESCARREÑO: Okay.

14 MR. LYTTLE: And it was in reference to yes,
15 the Item 1(f) and the staff recommendation.

16 MS. BINGHAM-ESCARREÑO: Mr. Chair, I just take
17 issue individually with that. I think even our Board
18 books reflect that when the roundtable happened, that
19 staff did concur with some of the comments that were --
20 and made changes accordingly.

21 I understand it is a touchy and difficult
22 subject. But suspecting that it was a done deal, I
23 just -- I don=t think that is fair to staff, and I don=t
24 think that the record reflects that it was a done deal at
25 all.

1 Now, does the staff hold to principle that they
2 believe that that is a responsible relationship and that
3 penalty needs to be there. I can see that.

4 And I can see where some folks in the community
5 might disagree. But I think just the roundtables and the
6 amount of time that staff put into getting comment and
7 responding should be proof that it wasn't a done deal.

8 MR. OXER: It was a long time coming. And even
9 now it is not a done deal until we say it is a done deal.

10 Okay.

11 Comments and other questions?

12 MR. IRVINE: Mr. Chair?

13 MR. OXER: Yes, sir.

14 MR. IRVINE: If I might, first of all, I think
15 we have to go back to the statute. And the Texas
16 Legislature has said that the administrative penalties
17 tool is an appropriate tool for all programs. And it is
18 already there. It is already in place.

19 And in fact, these rules that are proposed for
20 final adoption reflect just refinements and improvements
21 to a process that is already in place and already
22 applicable. And I think that it is -- a lot has been done
23 to make this process more interactive. And it provides
24 for a lot more avenues for resolution of disagreement or
25 confusion.

1 And you know, the creation of the Compliance
2 Committee. The inordinate amount of time, frankly, that a
3 lot of staff spend doing follow up on monitoring findings,
4 I think is a really a pretty strong testimony. Patricia,
5 me, our lawyers, our directors and deputy executive
6 directors, our counsel. We spend a lot of time whenever
7 there is any question.

8 And I also think in terms of due process,
9 everybody needs to remember that an administrative penalty
10 can occur in two ways. Both of which involve coming
11 through this meeting. Once is, if we work out an agreed
12 order. That means both sides agree. Then it comes to
13 this Board for adoption as an order.

14 If someone doesn't agree, we cannot even
15 initiate an administrative penalty proceeding without
16 bringing it here to get it cleared from you. So I am very
17 confident that the Legislature has developed this process
18 with strict and scrupulous regard for due process
19 requirements, and that the rules reflect the same.

20 MR. OXER: Good. Thanks, Tim. I think I
21 reflect the Board's consideration too, and say, thanks for
22 the time that you spend on generating this, and putting
23 all of this together, Patricia. So okay. With that said,
24 any other comments out there?

25 (No response.)

1 MR. OXER: Okay. To repeat, there has been a
2 motion by Ms. Bingham, second by Dr. Muñoz to approve
3 staff recommendation on Item 1(f). There is no further
4 public comment. All in favor, aye.

5 (A chorus of ayes.)

6 MR. OXER: Opposed?

7 (No response.)

8 MR. OXER: There are none. It is unanimous.
9 Thanks, Patricia. Okay, 1(j), please.

10 MS. MOLINARI: Good morning, Chair and Chairman
11 Oxer. Item 1(j) is a requested amendment to the 2014 HOME
12 Single Family program=s reservation system, Notice of
13 Funding Availability.

14 The purpose of this amendment request is
15 primarily twofold, and it is intended to address some
16 systematic issues that we experienced with our reservation
17 system, when we attempted to release our annual allocation
18 of HOME funding on September 9th.

19 This amendment request would add an additional
20 \$4 million of deobligated funds and program income to the
21 NOFA. And it would also call for a site of release of
22 funds. Both of those additions are intended to prevent
23 some of the issues or help address some of the issues that
24 we did experience on September 9th.

25 MR. OXER: What were the issues, just to remind

1 everybody and have it on the record. What were those
2 issues, Jennifer?

3 MS. MOLINARI: There were two primary things
4 that we experienced. The first was that when we released
5 \$5.2 million of our general set-aside funding, our system
6 was designed to prevent requests from being submitted in
7 excess of the amount that we were releasing for funding.
8 That validation simply did not work as it had been
9 intended to work.

10 The other issue that we experienced was a large
11 volume of traffic, which we normally do expect. But it
12 also caused some of our users to notify us that they were
13 not able to access our system. Although we can't
14 independently verify that, that is what we were being
15 told. So this is staff=s attempt to kind of address those
16 two issues.

17 MR. OXER: Did Curtis get this fixed up for
18 you?

19 MS. MOLINARI: Yes, sir.

20 MR. OXER: Great. Good job, Curtis. All
21 right.

22 MS. MOLINARI: And we have worked very closely
23 with our -- I should say, and would like to note, we have
24 worked very closely with our IT staff, have done extensive
25 testing and use of both IT and HOME staff to address these

1 problems, so that we would not expect them to occur again.

2 MR. OXER: So you flight-tested the system
3 since then.

4 MS. MOLINARI: Yes, we have. Several times.

5 MR. OXER: Where did the deobligated funds come
6 from?

7 MS. MOLINARI: They come from previously
8 obligated HOME funds, so our normal HOME allocations.
9 Once they are awarded, if not completely used, go back
10 into a pot of funding that becomes then available for the
11 next project.

12 MR. OXER: Okay. So is a rotation of the
13 funds?

14 MS. MOLINARI: It is a rotation of the funds.

15 MR. OXER: The funds you had available earlier.
16 Right?

17 MS. MOLINARI: Yes, sir.

18 MR. OXER: Okay. Good. Any questions from the
19 Board?

20 (No response.)

21 MR. OXER: All right. Motion to consider.

22 MR. GANN: I make a motion to consider
23 approval.

24 MR. OXER: Okay. Motion by Mr. Gann to approve
25 staff recommendation on Item 1(j).

1 MS. BINGHAM-ESCARREÑO: I will second.

2 MR. OXER: Second by Ms. Bingham. Is
3 there any public comment?

4 MS. QUINTANILLA: Good morning, Chair and
5 members of the Board. My name is Elena Quintanilla. I am
6 here on behalf of South Plains Association of Governments
7 in Lubbock, Texas. It is a political subdivision of the
8 State.

9 And we basically help rural communities with
10 any type of planning efforts that involve water, any
11 infrastructure, housing. So we are heavily involved in
12 those processes. I am here to actually applaud TDHCA
13 for --

14 MR. OXER: That is a refreshing change.

15 MS. QUINTANILLA: Yes. And I work in
16 government myself, so I always enjoy the applauds when
17 they come to us as well. This was a very effective
18 system.

19 I think, when we had the malfunction, we were
20 excited because we received more money than what was
21 allocated, and frankly, we thought some magic appeared and
22 we were just automatically getting funds. And so we were
23 pretty excited.

24 One of the activities that happened is, that
25 evening I was receiving my 15 year pin for being in my

1 job, and my boss happens to say in front of 200 elected
2 officials, Elena just got us some housing units going to
3 Plainview.

4 And, Mayor, have you heard that you are getting
5 your houses. And so the Mayor is all excited. And all of
6 these elected officials are excited. And I am sitting
7 here, kind of keeping things quiet, because we hadn=t
8 fully -- we had confirmed with Jennifer, but we know these
9 malfunctions had been kind of systematic.

10 MR. OXER: So you are worrying about managing
11 expectations.

12 MS. QUINTANILLA: Exactly. So I am trying to
13 mitigate expectations. But needless to say, we understand
14 technology malfunctions. I understand that. We have had
15 it happen in our office.

16 So I am here to applaud the efforts of the
17 staff, because when they heard our situation and our
18 political situation, they understood it. And Jennifer
19 Molinari has been just exceptional.

20 And Tim, I think, I applaud you, your staff.
21 Michael DeYoung. I also want to say thanks, Dr. Juan
22 Muñoz. I cannot say enough for the advocate I have in
23 Lubbock; he is awesome.

24 He has been guided me through a political
25 process that helps me understand okay. This is how it

1 works over here. He does defend the staff. I want to say
2 that. But he also has been very helpful to me as a
3 resource, because I can go see Juan. He explains the
4 process. He is very -- puts it in simple terms.

5 And I work with bureaucracy myself. So I
6 completely understand that. But I do want to say thank
7 you to TDHCA, your staff. We look forward to a great
8 working relationship with you and look forward to
9 continuing the process.

10 MR. OXER: Great. Thanks, Elena.

11 MS. QUINTANILLA: Thank you.

12 MR. OXER: Thanks very much for your comments.

13 MS. QUINTANILLA: Thank you.

14 MR. OXER: And for the record, we appreciate
15 the effort. Jennifer, I know this is a hiccup, a big one.
16 This wasn't a road hump; this was a wall that you hit.

17 Good job taking care of it, Curtis.

18 Fortunately, the staff also puts things in
19 simple language so I can understand them, too, which is
20 one of the reasons I can stand up here most days. So we
21 appreciate the comments on their behalf.

22 MS. QUINTANILLA: Thank you.

23 MR. OXER: We all think well up here of all of
24 the staff. I think that comes out. But we also have high
25 expectations of them.

1 MS. QUINTANILLA: Well, I appreciate the
2 executive team that worked on it as well. So thank you.

3 MR. OXER: All right. Thanks.

4 MS. QUINTANILLA: Thanks.

5 MR. OXER: All right. Jennifer, anything else?

6 MS. MOLINARI: That will be it.

7 MR. OXER: Okay. All right. Regarding Item
8 1(j) --

9 MS. MOLINARI: Excuse me. That will be it,
10 except I will see you in maybe February or March.

11 MR. OXER: It is evident why that is going to
12 happen. So you know --

13 MS. MOLINARI: This is my last Board meeting
14 for a while.

15 MR. OXER: Good luck. We look forward to
16 seeing you in 2015.

17 All right. A motion up on Item 1(j). Motion
18 by Mr. Gann, second by Ms. Bingham to approve staff
19 recommendation. Is there any other comment from the
20 Board?

21 (No response.)

22 MR. OXER: There is none. All in favor, aye.

23 (A chorus of ayes.)

24 MR. OXER: Opposed?

25 (No response.)

1 MR. OXER: There are none. It is unanimous.
2 Good job of the staff on all of those items that we pulled
3 and have taken care of. Okay. Anything else coming up?
4 We have a report item.

5 MR. IRVINE: Cameron has a report item.

6 MR. OXER: Cameron, I understand you want to
7 make a report; not just a report on the report, as opposed
8 to accepting the report.

9 MR. DORSEY: Yes. I just wanted to highlight a
10 few things.

11 MR. OXER: And you are?

12 MR. DORSEY: Cameron Dorsey, Deputy Executive
13 Director of Multifamily Finance and Fair Housing. So the
14 second report item on the agenda is -- reflects a report
15 on our directed efforts to affirmatively further Fair
16 Housing.

17 MS. HOLLOWAY: I do too. I do too.

18 MR. DORSEY: Sorry, I couldn't resist that.

19 MR. OXER: She is just making a name for
20 herself.

21 MR. DORSEY: Yes. And I just wanted to run
22 through a couple of things. We have gotten some really
23 good stuff accomplished over the past few months.

24 One of the bigger items is the Fair Housing
25 tracking database. There is a 35-page report that

1 summarizes the different actions that the Department is
2 engaged in to affirmatively further Fair Housing, in
3 various areas of the Department.

4 So we met with Jennifer, and we met with
5 Homero, and we met with all of the Division directors and
6 tried to consolidate all of the efforts that were engaged
7 and doing to affirmatively further Fair Housing. Some of
8 these are older; they have been in our state statute for a
9 while. But those count.

10 And I would also point out that we are working
11 on the lingo a little bit. There is -- you know, whenever
12 you are trying to summarize so many diverse kinds of
13 activities, you inevitably have to come up with shorthand,
14 you know, ways to describe what is going on. And so we
15 are still working on some of this terminology and lingo.

16 But this is really going to help us identify
17 where we are -- areas where we may need to take additional
18 steps or what have you. But it also helps fulfill our
19 obligation to have a consolidated record keeping of our
20 activities to affirmatively further Fair Housing.

21 In addition to that, you will find in Exhibit B
22 to the report item, just a couple of screen shots from an
23 affirmative marketing data tool. We have got a draft rule
24 out that is a significant revision to the affirmative
25 marketing requirements for multifamily developments.

1 And we are developing a marketing tool to help
2 folks understand this stuff a little bit better. You
3 know, I talk about metropolitan statistical areas and
4 census tracts and these types of things far more than the
5 average person. And so we are trying to get to a point of
6 conveying some of this information in much more
7 understandable terms.

8 And one of the cool things we are trying to
9 develop with the tool -- and you will see kind of a
10 preliminary version of it -- is we are trying to help
11 folks understand where within their market areas they may
12 need to do some outreach or develop some relationships
13 with organizations to reach underrepresented populations.

14 So one of the things that we've continually
15 gotten feedback on in roundtables we have had is a concern
16 that in trying to affirmatively market to underrepresented
17 populations, protected classes, that there's this idea
18 that you are supposed to profile in some kind of illegal
19 way in order to reach those populations, which is just a
20 misunderstanding of, I think, what is expected. And so we
21 are trying to build in a way to help folks understand what
22 the expectations are a little bit better.

23 And that is, you know, it's readily accessible
24 on the Census Bureau's website where protected classes
25 live in high proportions. And so we are going to help

1 folks identify where in their communities these
2 underrepresented populations reside, so that they can
3 develop relationships with organizations working in those
4 areas.

5 It is not that you are trying to identify an
6 organization that works exclusively with African American
7 or exclusively with the Hispanic population. It is really
8 about getting into an area where folks are represented.

9 MR. OXER: So it is more a matter of -- rather
10 than it being a matter of outreach, it is matter of being
11 reachable.

12 MR. DORSEY: Well, I think it is -- I think a
13 big question is, how do we reach these populations. And a
14 lot of times, folks are like, well, are we supposed to
15 presume that this is a church that serves predominantly
16 African American folks or whatever. And it's, no, no, no.
17 You don't have to -- that is not the expectation.

18 It is readily available where people live. And
19 so all we are saying is, go work with organizations that
20 work in those areas where these folks live, reside, work.

21 You know, go to school, whatever. Make sure folks in
22 that area are aware of housing opportunities that exist
23 over here, where they may not otherwise have access to
24 that information.

25 So anyhow, that tool is something that is still

1 in development. It still uses some of that relatively
2 inaccessible lingo. But we are trying to get there and
3 make that transition to more accessible language. Talk
4 about neighborhoods rather than census tracts and stuff
5 like that. So that is something that you will see in
6 there.

7 And the crime statistics data, I think you may
8 hear a little of comment toward the end of the meeting.
9 We have hit some bumps in the road in procuring that data.

10 But we are still making some progress there, and have
11 some other ideas.

12 There is also just launched -- this is a pretty
13 big deal for the Department -- we just a couple of days
14 ago launched a completely new section of the website for
15 Fair Housing.

16 We previously had a Fair Housing, Fair Housing
17 information on the website. But this is an incredibly
18 information rich website on Fair Housing information.

19 MR. OXER: Were they directed, a tab, on the
20 directed focus tab?

21 MR. DORSEY: Yes. A directed focus. Right.
22 And so there is a lot, a lot of information. It is -- we
23 really tried to revamp it to serve as a hub for access to
24 all kinds of information that may be disparate, you know,
25 somewhere on the internet.

1 And pull that together into a central place so
2 that you can access HUD=s you know, YouTube channel on
3 Fair Housing issues. And you can get to all of these
4 different things and learn about your rights.

5 And there is also -- there is a section for
6 property owners, and making sure that they understand what
7 their expectations -- the expectations for them are.
8 Local government officials being able to access
9 information. Toolkits on helping convey accurate
10 information about what affordable housing is in
11 communities.

12 So a lot of this information has been out
13 there. It just hasn=t been accessible in a central
14 location. And this is a really substantive change to the
15 website to pull that information together.

16 And lastly, as a final exhibit in the Board
17 book is a tenants rights and resources guide for TDHCA
18 monitored rental properties. In the analysis of
19 impediments to Fair Housing choice, one of the issues that
20 is front and center is, just folks having access to
21 information and what their rights are.

22 How they file a complaint and different issues
23 like this. How they get assistance and help in exercise
24 those rights.

25 And so this is a guide that helps pull together

1 again, disparate pieces of information that are accessible
2 in different locations, sometimes in language that is very
3 legal in nature, and trying to convey it in a more
4 accessible manner. And it includes information
5 specifically for, you know, tenant rights in our
6 properties.

7 For example, in Texas, in state statute, our
8 tax credit properties are required to comply with 504,
9 which has implications for how reasonable accommodations
10 must be addressed in TDHCA tax credit properties. Whereas
11 other states have not placed the same expectations on tax
12 credit properties.

13 And so it is important that in Texas, we make
14 sure that Texans know it is different here. And here is
15 how it works in Texas. So it does that kind of stuff.

16 And it is out for public comment right now.
17 And it is also reflected as a requirement in the draft
18 compliance rules, to be provided to tenants who reside at
19 TDHCA monitored properties.

20 MR. OXER: I have a question. You say, it is
21 out for compliance. Is this the website that is out for
22 compliance or the information on it? It sounds like this
23 is a distillation of the research you have done to put all
24 of this in one place to make it far simpler, faster and
25 easier for those that need the information to be able to

1 access it.

2 MR. DORSEY: There is two different kind of
3 things. So there is the website, which is out. It is
4 live. It is accessible right now. Then there is the --

5 MALE VOICE: We just lost our quorum.

6 MR. OXER: Okay. Time out. Let the record
7 reflect that Dr. Muñoz has taken a -- well, in the racing
8 and bicycle racing, we call it a nature break.

9 (Off the record.)

10 MR. OXER: Dr. Muñoz for the record, has
11 returned. Our quorum is now --

12 DR. MUÑOZ: We are going to need that nature
13 break sometime soon.

14 MR. OXER: I was looking to get this out of the
15 way here, let Cameron step down.

16 MR. DORSEY: Okay. So there were two separate
17 kind of pieces there. One is the website. That is live.
18 That hot. That is ready to go.

19 Then there is this tenant rights and resources
20 guide that is referenced in the Compliance rules as a
21 requirement to provide it to tenants at our properties.
22 It also has links to the website to make sure that they
23 know that information is there.

24 But it also tries to convey in short form some
25 really important information on their rights. How to file

1 a complaint, a Fair Housing complaint, and some stuff like
2 that. And that replaces -- that is not wholly new.

3 That is not a completely new concept. That is
4 really a proposed replacement to the Fair Housing
5 disclosure notice that was previously a more limited kind
6 of version of this guide. So yes. And it is out for
7 comment.

8 MR. OXER: Good. Thanks, Cameron. Any
9 comments or questions from the Board?

10 (No response.)

11 MR. OXER: Good. Thanks, Cameron. It sounds
12 like we are getting to where we were wanting to go with
13 what you were doing. So thanks for that. Let=s see.
14 Where are we here? We are taking, we are going to do Item
15 2 on the agenda?

16 MR. IRVINE: Yes.

17 MR. OXER: Okay. We need to do the -- take
18 Item 2. Betsy, are you going to come talk to us?

19 MS. SCHWING: Hello again, Chairman Oxer,
20 members of the Board. I just want to give you an update
21 on this morning=s Internal Audit Committee meeting.
22 Actually, it is the Audit Committee meeting, talking about
23 Internal Audit.

24 I want to tell you a little bit about what --

25 MR. OXER: Is this in addition to the

1 discussion we had on Item 1(b).

2 MS. SCHWING: This is, yes. Absolutely.

3 MR. OXER: Just a point of clarification.

4 MS. SCHWING: Okay. We had an agenda of
5 several items. One of them did involve staffing, and that
6 was just bringing everybody up to speed on what our
7 current staffing level is, and the changes we have had in
8 the department.

9 We also talked a little bit more about
10 management=s interest in consulting engagements. And I
11 touched on that a little bit earlier. It is not something
12 we have done historically, but absolutely something
13 Internal Audit can do with the proper safeguards.

14 In addition to that, we talked about the Audit
15 Plan. I specifically haven=t brought that up, that was on
16 the plan. So I wanted to give you this opportunity right
17 now to hear a little bit more about that.

18 We are going to do two large projects, one
19 small project and have one carry over project this year.
20 The carry over project is the project of HOME Single
21 Family. We are also going to have a project related to
22 program income, and a project related to payroll. And a
23 smaller project related to record retention.

24 That is just what is going on with there. In
25 addition to the projects that we have on the plan,

1 Internal Audit has various responsibilities and
2 requirements according to the audit standards and the
3 Internal Auditing Act. And those include a quality
4 assurance review. We also have a report to the State
5 Auditor's Office.

6 We need to get a certain number of hours of
7 continuing professional education in addition to that. We
8 accept and triage and keep up with the fraud, waste and
9 abuse allegations and complaints, the ones that come
10 through our Fraud hotline, and ones that come from other
11 areas as well.

12 And it is important to note that the fraud,
13 waste and abuse allegations that we have received this
14 year have gone up significantly. Where last year we had
15 79 complaints through our hotline, in a total of all of
16 our resources, we have taken in 131 complaints this year.
17 Which, that is an increase of about 65 percent.

18 MR. OXER: Is there a concentration of those
19 complaints in any particular area?

20 MS. SCHWING: They run the gamut. But a lot of
21 the complaints relate to the Housing Choice Voucher
22 program. And we get those complaints from all over the
23 state.

24 In most cases, well actually, in every case
25 that I can recall, that complainant was in an area that

1 was served by a public housing authority, where we would
2 not have jurisdiction over that particular case. In all
3 of those cases, we refer the complainant to the
4 appropriate agency or entity that may be able to help
5 them.

6 For example, if it is a public housing
7 authority, we will refer them to that particular housing
8 authority. It might be that they need guidance from the
9 Department of Family and Protective Services, depending on
10 the nature of the complaint. We get all kinds.

11 And our number of complaints has gone up. I
12 don=t know if that is because more fraud, waste and abuse
13 is going on out there, or just because there has been more
14 focus and attention on fraud hotlines in general.

15 So it is important that the word is getting out
16 there. That people have an avenue to come to us, to say,
17 hey. There is something going on, that I don=t feel
18 comfortable with.

19 They can report it to us. And we can
20 investigate or take action or refer them to somebody who
21 may be more appropriately able to help them.

22 MR. OXER: And in those cases where it is
23 appropriate to refer them to the PHA for example --

24 MS. SCHWING: Uh-huh.

25 MR. OXER: Locally, that constitutes a

1 disposition of that claim.

2 MS. SCHWING: That is correct. That is
3 correct.

4 MR. OXER: Okay.

5 MS. SCHWING: So most of those complaints are
6 closed out accordingly. Just to give you some statistics
7 on what we have going on with our complaints, as I said,
8 we took in 131 complaints of fraud, waste and abuse; 123
9 came in through our hotline.

10 Eight came from other sources. And those other
11 sources include TDHCA staff, the public and contract
12 administrators. So people know that when something is
13 making them feel uncomfortable, they can come to us.

14 Now, 107 of those 131 complaints were not under
15 the Department=s jurisdiction as I mentioned a minute ago.

16 The 24 TDHCA complaints were resolved as follows. 18
17 were investigated and closed.

18 Five were referred to the SAO or other
19 oversight agencies, and one is pending. The one that is
20 pending was received in August of 2014. So it is really
21 too soon to tell you how that one is going to be resolved.

22 MR. OXER: Still in process.

23 MS. SCHWING: Still in process. Absolutely.
24 This morning, we also talked about the prior audit issues
25 that we track and keep up with. And these are audit

1 issues that were discovered either in an internal audit or
2 an external monitoring and external review.

3 We currently have 15 open prior audit issues.
4 Eight of those were reported by management as implemented.

5 Seven of those are reported as pending. And Internal
6 Audit will verify and close these issues once they are
7 reported as implemented. And we can review the supporting
8 evidence, of course.

9 We are currently undergoing or participating or
10 being audited, or having monitor activities by several
11 entities. And this includes the State Auditor's Office,
12 they are doing their annual opinion audits. They are also
13 going to be performing some agreed upon procedures
14 relating to the reporting and the Real Estate Assessment
15 Center, which is also known as REAC.

16 KPMG is performing an audit of the CSBG program
17 for the single audit of the State of Texas. In addition,
18 HUD is monitoring -- actually doing an in depth monitoring
19 of the environmental review procedures. And there was
20 also another HUD monitoring of the Emergency Shelter
21 Grants. TDHCA responded to the issues that HUD had. And
22 those issues have been closed.

23 Recently, the State Auditor's Office issued a
24 report on physical controls at selected state agency data
25 centers. They looked at four state agencies and the

1 controls they had over their data centers.

2 The State Auditor's Office stated that TDHCA
3 has processes in place to manage electronic access to the
4 data centers for their own employees, contractors and
5 their own employees and contractors. In addition, TDHCA
6 has adequate environmental controls to protect the data
7 center from environmental threats such as fire and floods.

8 The State Auditor's did have opportunities for
9 improvement at each of the agencies that were reviewed.
10 And for TDHCA, they said that TDHCA should define job
11 titles or roles of its personnel who require access to the
12 data center.

13 Also, TDHCA should also implement a process
14 that includes a comprehensive review of all personnel with
15 access to its data center, including employees and
16 contractors of other state agencies. And it is important
17 to note that the Department has implemented both of those
18 recommendations.

19 The Internal Audit Division released two
20 reports, Internal Audit reports. One was on performance
21 measures at TDHCA, and the other was on the Financial
22 Administration Division.

23 And just to be brief, the Department reported
24 reliable results of the Legislative Budget Board. They
25 reported reliable results to the Legislative Budget Board

1 for all five key measures that were tested.

2 A performance measure is considered reliable if
3 it is certified, or certified with qualification. Two of
4 the measures we tested were certified with qualification,
5 because the methodology used to calculate the measures was
6 not strictly followed.

7 The measures certified with qualification when
8 the calculation of performance deviates from the measure
9 definition. But the deviation is less than 5 percent
10 between the number reported to the LBB and the correct
11 result.

12 Management has already implemented changes to
13 adhere to the methodologies for these two measures. The
14 other three measures were tested -- we tested, were
15 certified. And no issues were found in the internal
16 controls over the performance measure process.

17 And our second audit was of the Financial
18 Administration Division. What we found is the operating
19 budgets developed by the Financial Administration Division
20 are in alignment with anticipated funding and estimated
21 expenditures. With very few exceptions, the Department
22 records, posts and deposits Housing Finance revenue
23 payments accurately and timely.

24 Of the 34 Housing Finance revenue payments we
25 tested, two were not deposited by the third business day

1 after the date of receipt, as required by the Texas
2 Comptroller of Public Accounts Office.

3 And I want to be very clear on this. These two
4 deposits, one was one day late, and one was three days
5 late. And so this is not as if it was 90 days late, 100
6 days late, 1,000 days late. I just want to make sure that
7 is in perspective there. And the --

8 MR. OXER: A quick question?

9 MS. SCHWING: Yes.

10 MR. OXER: When we receive these funds, I
11 assume these are funds that come from agencies for
12 particular programs? These come in the form of checks, or
13 are they for -- which, I assume that they are. Why are
14 they not under bank wires, for example?

15 MS. SCHWING: We do get some bank wires, and we
16 also get checks. And the checks are very well controlled
17 when they come into the agencies. The wires are not as
18 common as the checks, and I am not sure why that is.

19 But I do want to say that we did look at the
20 intake process for these checks, and they are -- they have
21 procedures to make sure they make it to the deposits for
22 those programs. And these, just to be clear, also -- when
23 I am talking about the Housing Finance revenue payments,
24 these are payments that we receive for asset management
25 fees and also for bond administration fees.

1 They are fees that we receive for a part of the
2 monitoring that we do. So it is strictly those fees that
3 we are talking about here. And let=s see. What else can
4 I tell you about the Financial Administration Division?

5 We did recommend that they enhance their
6 controls by fully documenting the procedures for
7 processing Housing Finance revenue. And management agrees
8 and has set a target date for implementation for February
9 1, 2015.

10 Another item we discussed was the status of the
11 FY '14 Audit Plan. And as I mentioned before, we are
12 behind on that plan. The audit of the HOME program is
13 going to be carried over to FY '15.

14 I am happy to say now that their risk
15 assessment is done, and the FY '15 Work Plan has been
16 approved. So that is one thing we can take off of our
17 list. But out of the six audits and one contingency
18 audit, all were completed except for that HOME audit. And
19 as I said, that will be carried over into FY '15.

20 The exciting thing that we talked about this
21 morning is the FY '15 proposed work plan. And that was
22 approved earlier in this meeting, and we talked about the
23 audits that are included in that plan. So I don=t really
24 know what else I can tell you about that meeting, unless
25 you have any questions for me.

1 MR. OXER: Great. Any questions from any of
2 the members of the Board?

3 MS. BINGHAM-ESCARREÑO: I think that thoroughly
4 summarizes the meeting.

5 MS. SCHWING: Okay. Very good.

6 MR. OXER: Are you comfortable with that,
7 Leslie?

8 MS. BINGHAM-ESCARREÑO: Yes.

9 MR. OXER: As the Audit Chair, do you have any
10 comments to add to it?

11 MS. BINGHAM-ESCARREÑO: No.

12 MR. OXER: Okay. Good.

13 MS. SCHWING: Okay. Well, very good. Thank
14 you.

15 MR. OXER: Thank you very much.

16 MS. SCHWING: Thank you.

17 MR. OXER: All right. In anticipation, it is
18 11:16 here. We are going to take a quick break. Let=s be
19 back in the seats here at 11:30.

20 (Whereupon, a short recess was taken.)

21 MR. OXER: All right, everybody. Let=s get
22 back in the box, here. Okay. We are on Item 3. Jean, I
23 think you are up.

24 MS. LATSHA: Okay. Hi. Good morning. It is
25 still morning.

1 MR. OXER: Yes. So far.

2 MS. LATSHA: Jean Latsha, Director of
3 Multifamily Finance. All right. Item 3(a) is -- I'm
4 sorry.

5 MR. OXER: Hold on. I am remiss in my duty
6 here. I want to do something really quick. I just would
7 like to recognize a couple of guests that we have here.
8 One of which, we are going to have an opportunity to
9 listen to here in a second. Our former Chair, Mr. Conine.
10 Good to see you back here again, Kent.

11 MR. CONINE: Thank you.

12 MR. OXER: And Bobby Wilkinson. Where are you
13 back there, buddy? There he is. He's our Governmental
14 Affairs guy. We always want to make sure that there is a
15 good report going back to that pointy-topped building over
16 there. So we will hear some more from you in a minute,
17 Kent.

18 So okay, Jean.

19 MS. LATSHA: All right. Item 3(a) is a request
20 for a waiver of Section 11.3(e) of a 2014 QAP. And this
21 is related to developments in certain subregions of
22 counties. Basically, it restricts development in certain
23 subregions and counties to only general population
24 supportive housing; no elderly developments in those.

25 The reason for that was basically, there was

1 a -- we ran some data last year that indicated the
2 percentage of elderly households in tax credit units
3 exceeded the percentage of total elderly eligible
4 population for those units. So basically, in -- this
5 request is based partly on staff=s proposal in the 2015
6 draft to lift this restriction.

7 So the immediate response to that is, well,
8 sure. It might be lifted in 2015. But we are still in
9 2014. So the law of the land is the law of the land so
10 the answer is no. Well, we didn=t want to just say that,
11 right. We had to look at this reasoning a little bit.

12 Part of the reason behind our proposal to lift
13 the restriction is that you know, we feel that after a
14 year of having no elderly developments in these counties
15 and subregions, that we have a slightly more balanced
16 portfolio. So we are in a position to be able to lift
17 that restriction in 2015.

18 The problem with granting the waiver at this
19 point in time is, number 1, that rule is still out for
20 public comment. And it could be the case, come November,
21 that this Board chooses not to lift that restriction. And
22 then we are in the position of having granted this waiver
23 without being able to rely on that reasoning that we had
24 this balanced portfolio.

25 MR. OXER: So conceivably if you grant a waiver

1 for a rule that doesn't exist yet.

2 MS. LATSHA: Well, you are granting -- right.
3 Kind of. Right. The reasoning behind granting the waiver
4 now is predicting the future, that you are not going to
5 have that same restriction in the future, in 2015. Right.

6 MR. OXER: Okay.

7 MS. LATSHA: You can't really do that, because
8 you don't know if that is really going to happen. Well,
9 you can do it, but you can't really rely on that
10 reasoning. So --

11 MR. OXER: That prediction has a lower level of
12 confidence.

13 MS. LATSHA: That is right. This particular
14 county too, as an example, we actually did have a general
15 population deal, a 9 percent award in Collin County. So
16 that tipped the scale. Right. So we now have more
17 general population deals in Collin County.

18 But if we were to grant the waiver in 2014,
19 then suddenly, we have just as many general population and
20 elderly units in Collin County. So the math is the same
21 as it was in the beginning of 2014 as is in the beginning
22 of 2015. Our balance goes away. Right.

23 So our response becomes well, why not just wait
24 a couple of months, if we really think that this rule in
25 2015 is not going to restrict our elderly development.

1 Just wait until January to submit this application. It is
2 a 4 percent application. They can kind of do it whenever
3 they want.

4 So the response there is, well, one of them
5 was, a concern that this development currently is located
6 in a QCT. And there was concern that in 2015, it would
7 not be located in the QCT and would lose its ability to
8 get the boost. And that it wouldn't be financially
9 feasible.

10 However, serendipitously, HUD released the 2015
11 QCTs just a couple of days ago, and they are in line. So
12 we are again, back to our position of -- we can just wait
13 until January to complete this application.

14 The Applicant, I know, has -- they have talked
15 about the fact that they have been looking at this deal
16 for a long time. They have been putting it together long
17 before the 2014 rules were in place. I might argue that
18 all developers kind of function that way. Right.

19 These things always take -- not always, but
20 quite frequently take two or three years to put together.

21 You know, I am just not sure if that is the most valid
22 argument for not being able to wait a little bit longer.

23 There have been some discussions about zoning
24 restrictions that are actually restricting this property
25 to target an elderly population. I haven't seen evidence

1 to that that was presented in their application.

2 There was evidence of zoning in the
3 application, but I didn=t see anything in there that
4 actually restricted the property to target an elderly
5 population. So I am not sure if that is actually an issue
6 or not.

7 I think that the Applicant is going to speak to
8 some other timing of financing which would preclude them
9 from waiting until 2015. But in general, staff=s
10 recommendation is to deny the waiver. Unless you have any
11 other questions for me.

12 MR. OXER: Any questions from the Board?

13 (No response.)

14 MR. OXER: Then we will have to have a -- on
15 Item 3(a), a motion to consider.

16 MS. BINGHAM-ESCARREÑO: Move to approve staff
17 recommendation.

18 MR. OXER: Okay. Motion by Ms. Bingham to
19 approve staff recommendation on Item 3(a).

20 MR. GANN: Second.

21 MR. OXER: Second by Mr. Gann. And it appears
22 that we have some comment. So Kent, welcome. Nice to see
23 you again.

24 MR. CONINE: Good to see you, Mr. Chairman.
25 And thank you, Board members. From now on, I think you

1 guys are probably known as the Hard Core Four from now on.

2 Other people come in --

3 MR. OXER: There is a three-letter word on the
4 hard side, you know.

5 MR. CONINE: It is good to see you again, and
6 thank you for your service to the State. And I happen to
7 know how much you sacrifice. And it is very appreciated
8 from those of us out here.

9 Let me kind of give you the two-minute version
10 of this thing. Jean's right. This project started back
11 in the summer of 2013, before any discussion of any
12 prohibition against senior development in Collin County
13 ever came up.

14 And as most of you know, it came up at the last
15 minute on the development of the QAP. We had been in
16 discussions with staff all along about this particular
17 project. So as it read in the QAP, as you will see in the
18 write up that you have in your Board book, in the third
19 whereas and at the bottom of the page, it said, for the
20 2014 application round.

21 Most of us in the industry would take that to
22 mean the 9 percent round, not the 4 percent round. Nine
23 percent projects and 4 percent projects today are totally
24 different than they were ten years ago. And so that
25 morphed into obviously, having an effect over both nines

1 and fours.

2 So essentially, we are caught in a trap, and
3 didn=t know how to get out. We went ahead and purchased
4 the land. Did all of the market studies. Did all of the
5 studies that are necessary. Have drawn all of the plans.

6
7 And as the year has evolved, have got the
8 support from the City, which is obviously a mission of the
9 Department is to get local support. In fact, I have
10 articulated five or six different mission related reasons
11 in my response letter to you. That hopefully, you have
12 had a chance to read.

13 I won=t go through them here. But we have got
14 approval from the City and the County by their inducing of
15 the bonds there locally. And have put together the
16 financing to move forward on this particular project.

17 I would just, as a side note maybe, suggest to
18 the Board that maybe in the rules going forward in the
19 multifamily rules going forward, you take a look at
20 separating the rules for multifamily at the 4 percent
21 level and the 9 percent level. Back in the old days, that
22 was probably a good thing to do, because they were coming
23 and going and a lot of projects were getting done in both
24 categories.

25 Today, I think to do a bond project today

1 requires extraordinary circumstances and requires
2 extraordinary developers to come to the table. And you
3 might want to take a look at how those rules affect the
4 bond portfolio.

5 You may know that there is a huge backlog of
6 unused bond cap sitting around the Agency. And it
7 certainly behooves us to get as much of that out and get
8 as much housing, affordable housing on the ground as we
9 possibly can. And rules such as this restrict that
10 activity in this particular county.

11 It is a great location. It is zoned for senior
12 independent living. It is in a master planned complex
13 that is being done right by the new State Farm
14 headquarters if you know anything about Plano. It is --
15 again, a super location.

16 All of the other five projects that are of
17 senior orientation in the Collin County market all have
18 waiting lists. So the demand is in balance, because we
19 haven't put any more senior projects there. We need some
20 more to take care of the waiting list.

21 I want to introduce to you our nonprofit
22 sponsor if you will. Jean Brown who is the Executive
23 Director of the Plano Housing Corp. And she will tell you
24 some other details.

25 MR. OXER: Just a second. Kent, we have a

1 question.

2 MR. CONINE: I'm sorry.

3 MR. OXER: We, meaning Dr. Muñoz has a
4 question.

5 MR. CONINE: Yes, sir.

6 DR. MUÑOZ: Kent, do you want the questions
7 right now, or after?

8 MR. CONINE: I will come back.

9 DR. MUÑOZ: Okay.

10 MS. BROWN: Chairman Oxer, Board members. I am
11 Jean Brown, Executive Director of Plano Housing
12 Corporation. We are the City of Plano's community housing
13 development organization.

14 We have zero available affordable housing in
15 our community. The Consolidated Plan calls for 1,000
16 units of affordable housing. And we are working very hard
17 to get this done.

18 We are in dire need. We have veterans living
19 in hotels in the area, that have nowhere to go. This
20 project is 292 units, 55 and older. We are setting at
21 least 60 aside for veterans.

22 And the real need for us to get it done this
23 year is, we have \$400,000 in grant funds. If we don't get
24 them committed this year through this project, we lose
25 them. And that is a good bit of our gap funding. So we

1 will lose that if we don=t.

2 And we are working on a multifamily
3 development, a transit oriented development that we have
4 the land on. So we are -- when we get this one done, we
5 are moving into a family project.

6 We are here today to ask for a waiver so we can
7 move forward. Pre-development is done. We are ready to
8 start. We have our financing in place, in order to start
9 construction before the end of the year. So thank you.

10 MR. OXER: Thanks.

11 MR. CONINE: Again, to make the Board aware,
12 this is a two meeting process to get this done. We need
13 the waiver today. And then we would have to come back
14 next month to get the tax credits allocated.

15 So the practical reality of it is, we probably
16 can=t get started until the first of the year anyway. But
17 given the momentum and the public testimony at some of the
18 meetings, relative to doing away with the prohibition in
19 Collin County, we would certainly like to get a good jump
20 on it. I=m available for questions.

21 MR. OXER: Juan?

22 DR. MUÑOZ: I have got a couple, Kent.

23 MR. CONINE: Yes, sir.

24 DR. MUÑOZ: My first question was going to be,
25 why couldn=t this be done in a future meeting, January.

1 But by your own admissions, it is likely you won't, given
2 the timetable, start it until January. So it will be done
3 in the future.

4 But okay. What, I mean, part of your argument
5 or your position is, that this prohibition will be removed
6 in the future, in the new sort of requirements. But you
7 heard Jean say that in fact, it may not come to pass.

8 MR. CONINE: It may not.

9 DR. MUÑOZ: It may not. So then it would be a
10 waiver. It would be a waiver of a rule, and not just
11 simply going for a period of time where it will no longer
12 be in place.

13 There may continue to be an imbalance in the
14 stock, and no longer -- and that prohibition may still be
15 relevant and germane. How -- you have been in this chair.

16 MR. CONINE: Yes.

17 DR. MUÑOZ: You have been in this chair,
18 arguably, longer than anybody else in this room.

19 MR. CONINE: Yes.

20 MR. OXER: As much as several of us combined, I
21 might add.

22 DR. MUÑOZ: Right. So --

23 MR. CONINE: I understand. Again, I think
24 based on the testimony that the Board has heard, and the
25 imbalance or the rebalancing that has occurred in Collin

1 County. And if you look at the market study, which I know
2 none of you have had a chance to do --

3 DR. MUÑOZ: Has the rebalancing occurred? I
4 mean, what if that rule -- what if that prohibition is
5 still in place?

6 MR. CONINE: As evidenced by the fact that
7 there are six month to one year waiting lists at every
8 senior property in Collin County, there is a drastic need
9 for senior affordable housing. And if more 9 percent
10 deals get done, and more 4 percent bond deals, we will be
11 back in for another 4 percent family deal not too long
12 from now in the same county.

13 I suspect that the need is there. And I would
14 think that the Department again, would want to do
15 everything they can to try to get affordable housing on
16 the ground, utilizing a resource, the bond cap. Which is
17 severe -- I think you have only done a couple of bond
18 deals this year.

19 Because they are difficult to do, now. They
20 are not easy. And I would think that the Board would want
21 to make sure that we could get that somewhat scarce
22 resource utilized.

23 DR. MUÑOZ: Ms. Brown referred to a grant that
24 serves as gap funding.

25 MR. CONINE: Yes.

1 DR. MUÑOZ: Is it a foundation? Is it a --

2 MR. CONINE: Home Depot.

3 DR. MUÑOZ: Home Depot?

4 MR. CONINE: Yes, sir.

5 DR. MUÑOZ: And why would they not -- why would
6 that money not be available in the future, given the
7 scarcity of stock, given the necessity and given their
8 apparent need or desire to provide it in the first place.

9 Most foundations are amenable, if there is a real chance
10 that in a few months, with the preservation of those
11 monies, this project moves forward. Why the hard --

12 MS. BROWN: So \$300,000 is Home Depot. And it
13 has to be committed in this year, or we lose it, and it
14 will go to whoever came in behind us. Because they start
15 their round again in January.

16 (Feedback in sound system.)

17 MR. OXER: Just a moment. Hold on just a
18 second. Can we identify that?

19 MALE VOICE: Nothing I know of.

20 MR. OXER: Okay. I haven=t pressed the big
21 white button over here, either. Okay. I'm sorry. Please
22 continue.

23 MS. BROWN: The other monies are from Citibank,
24 and they have to be committed this year, so we are on a
25 reimbursement on those. So we would have to start this

1 year to be able to pull those monies on both of these
2 grants. We have to apply to get them and expend them in
3 this year.

4 You know, I would also like to say that all we
5 needed from the City of Plano Council was a resolution of
6 no objection. We had a resolution of -- unanimous
7 resolution of full support for this, as well as the County
8 Commissioners on the bond inducement.

9 They were very excited about this, very excited
10 about helping the veterans in our community that are
11 living in hotels.

12 We have no place for the seniors in our
13 community to go that are leaving their homes and are on
14 fixed incomes. There is nothing available for them, if
15 they want to stay in our community.

16 MR. OXER: Pardon me, Ms. Brown. At the risk
17 of seeming argumentative and cold-hearted, I am going to
18 offer up a few comments.

19 But it's one of those things that we have to
20 take into consideration. Kent has seen this on a number
21 of occasions; have to make some hard decisions. I haven't
22 seen anybody yet show up in this room who said, Yeah,
23 we'll take it or leave it. If you have got some, we will
24 take some. Or otherwise, we will go someplace else.

25 Everybody that shows up needs this. Without

1 the administrative requirements that we have there's
2 nothing to balance only those demands for housing in
3 Collin County, for example. We have to balance it across
4 Texas.

5 The concern that many of you have probably
6 heard, that there is -- let=s say, a discussion that is
7 going to be held in D.C. in early January against nine
8 people that are going to listen to something that happened
9 and see if we allocated credits in the right way across
10 the entire state over a period of time.

11 So while I recognize that there is a need,
12 there is a need all over this state, and nobody shows up
13 here without need.

14 The point about this is, is that -- and I am
15 going to ask that Juan re-ask his question, because what I
16 heard you say in my mind didn=t answer his question.

17 He asked, why was it not available to move
18 forward into next year if it was a foundation. You said
19 it had to be spent this year, which is the point of his
20 question. Why is that the case?

21 (Feedback in sound system.)

22 MS. BROWN: Because it is -- you know, they
23 start their funding.

24 Is it me? Am I causing this?

25 MR. OXER: Yeah, hold on just for a second. I

1 think we have got an unidentified ground somewhere that's
2 shorting.

3 (Pause.)

4 MR. OXER: Okay. Everybody, all mics off to
5 start with.

6 (Pause.)

7 (Feedback in sound system.)

8 MR. OXER: All right. Let me ask this. Can
9 you guys in the back hear us?

10 VOICE: Yes.

11 MR. OXER: Okay. Can you hear us, Madam
12 Recorder? Are you good?

13 MS. KING: Yes.

14 MR. OXER: Okay. We will just kind of muddle
15 through it, then as long as we can. We can have this
16 taken care of at lunch. Ms. Brown.

17 MS. BROWN: So if we don=t draw the funds down
18 this year, we have to reapply, so we lose them. They lose
19 our 2014 funds.

20 MR. OXER: And to Juan=s question, since it is
21 a foundation, somebody like Home Depot, why would they not
22 consider providing that funding?

23 MS. BROWN: Well, it is a competitive process,
24 and it starts again in January.

25 MR. OXER: Okay.

1 MS. BROWN: So there is no -- so we have a
2 commitment today for this project. There is no guarantee
3 that we will get it.

4 MR. OXER: That was the answer to the question.
5 It was a competitive commitment that had date and end
6 certain on it. So you hadn=t answered that yet.

7 MS. BROWN: I am new at this.

8 MR. OXER: That is okay. It won=t take long
9 for you to get to be a veteran with us.

10 MS. BROWN: You're a tough crowd.

11 DR. MUÑOZ: Hey, Kent, in your letter, I just
12 want to make sure I understand. So it is 10 percent of
13 292, about 30, 29 that would be assigned for handicapped
14 residents with special needs.

15 And on top of that, 60 for veterans. So about
16 90, about a third of the development for veterans and
17 elderly with special needs?

18 MR. CONINE: That is right. It won=t surprise
19 you to know that Congressman Sam Johnson is also -- sits
20 on Ways and Means and oversees the tax credit program.
21 And we are trying to get him to make some statutory
22 changes to the program.

23 He has, obviously, an interest in veterans. He
24 is going to come out and help us do the groundbreaking and
25 all that kind of good stuff. So you know, he has a

1 supreme interest in seeing the project get done. It is
2 right in his backyard.

3 MR. OXER: You know, I think -- I hope it has
4 always been evident to you, Kent. We have always had an
5 interest in providing opportunities to those who served in
6 the uniform. You know, I have got a house full of
7 veterans in my house, okay. So I am sensitive to this,
8 too.

9 MR. CONINE: I have got one, now.

10 MR. OXER: Yes. Soon to have one. Yes.
11 Freshman, or is he a sophomore?

12 MR. CONINE: He is a freshman.

13 MR. OXER: Okay.

14 MR. CONINE: A plebe, I think, is what they
15 call him.

16 MR. OXER: Yes. Good luck to him, you know.

17 DR. MUÑOZ: Kent, you know Kent, I want to be
18 supportive. It is just the fact that, you know, it is a
19 rule in the current QAP. And there is no certainty to my
20 mind, that I have heard yet, that it won't be a rule in
21 '15. You know, and I know you know. That is, for me,
22 what I am having trouble with.

23 MR. CONINE: I guess the -- I would refer back
24 to the language in the QAP that says, application round.
25 And the -- you know.

1 MR. OXER: This is part of the 2014. What you
2 are saying is, this is part of the -- hold on, Doni. That
3 is all right. Just stay there, but hold on for a second.

4 This is an application under the 2014 round, under the
5 bond cap for the 4 percent deals. Which, as it turns out
6 this time, falls under this years QAP.

7 MR. CONINE: Well, we don=t have rounds for 4
8 percent deals.

9 MR. OXER: It is coming under this QAP.

10 MR. CONINE: I know. But I am just trying to
11 articulate what my definition of the words, application
12 round, historically through the years --

13 MR. OXER: Yes.

14 MR. CONINE: Has been the 9 percent round.

15 MALE VOICE: Yes.

16 MR. OXER: I understand.

17 MR. CONINE: Again, that is why, to help clear
18 that up, I am thinking maybe you guys want to take a look
19 at splitting the rules for 4 percent deals and 9 percent
20 deals going forward, so that you don=t have this problem.

21 But the definition of an application round to me is a 9
22 percent round.

23 DR. MUÑOZ: A competitive round.

24 MR. OXER: Right. A competitive round. And I
25 understand what you are saying. And the other bond cap,

1 the 4 percent deals under the bond cap, that makes sense
2 to consider it that way.

3 We just haven=t had the opportunities up to now
4 to slice this hair quite this fine. Hold on a second.
5 Tony. Hey, Tony.

6 MS. JACKSON: Hi. I feel like I am causing
7 this as well. Antoinette Jackson, Jones, Walker. Good
8 morning, Board. I just wanted to speak to the application
9 round comment, particularly utilizing the language that is
10 in the QAP.

11 The QAP specifically shows application round as
12 capitalized; Application Round. However, it is not a
13 defined term within the QAP. And within the QAP, there
14 are several times when the QAP actually distinguishes
15 between the 9 percent round and the 4 percent round for
16 the application period of the 9 percent round, and then
17 simply an application when it is referring to the 4
18 percent.

19 So I put that in front of you, to say one, when
20 we talk about application round, particularly in terms of
21 the prohibition of seniors in Collin County, I do not feel
22 that it is applicable to 4 percent because application
23 round, based on the way this is referred to throughout the
24 QAP appears to be speaking to the 9 percent side. So --

25 MR. OXER: What you are essentially -- if I

1 could, a quick summary on that, what you are saying is
2 that the QAP implicitly separates the two programs, the 9
3 percent with the round, and the 4 percent comes in, there
4 is an implicit separation on those?

5 MS. JACKSON: Right. There are several places
6 when it is talking about 9 percent, it talks about the
7 competitive 9 percent round or tax credit application
8 period. But it does not make that explicit language when
9 you talk about the 4 percent in several places throughout
10 the QAP, and throughout the rules.

11 MR. OXER: Okay. Tim, you have a comment?

12 MR. IRVINE: Yes. Application round is defined
13 in the statute. 2306.6702(a)(4), it states, application
14 round means the period beginning on the date the
15 Department begins accepting applications and continuing
16 until all available Housing Tax Credits are allocated, but
17 not extending past the last day of the calendar year.

18 MS. JACKSON: Right. And with that said,
19 however, again, as it is referred to in the QAP, because
20 it sets out in the QAP, the 4 percent has a different
21 schedule. Which again, is pointed to throughout the QAP.

22

23 It is still our contention that the two are not
24 looked at in the same way. And therefore, the 4 percent
25 would not be applicable under this prohibition.

1 MR. OXER: Jean? Kent, go ahead. And then we
2 will get Jean.

3 MR. CONINE: No.

4 MS. LATSHA: Yes. I am in basic --

5 MR. OXER: Let's do Jean first.

6 MS. LATSHA: Sure. Just really quickly, I just
7 kind of -- I disagree with Toni's characterization of
8 that. First off, because of the definition in statute,
9 with respect to an application cycle. And it is very
10 clear when those who apply for, whether 4 percent or 9
11 percent Housing Tax Credits under which set of rules they
12 are applying.

13 That is why these folks know that they do need
14 this waiver. Because they are very aware that they are
15 applying for Housing Tax Credits under the 2014 QAP.

16 We also, I believe, at minimum, addressed this
17 in an FAQ. Because folks were wondering if this
18 particular rule applied only to the 9 percent round or to
19 4 percent Housing Tax Credits too. And we answered that
20 question several times.

21 I think that has been -- which is why the
22 waiver is so important --

23 DR. MUÑOZ: Jean, let me interrupt. I'm sorry.

24 MS. LATSHA: Sure.

25 DR. MUÑOZ: You are saying that in some kind of

1 public -- you clearly explicated the difference between
2 the nine and four percent, and that the rule applied?

3 MS. LATSHA: Yes.

4 MR. OXER: Can we get a citation on that? Do
5 we have any documentation or a citation on that?

6 MS. LATSHA: Right. Well, as I said, I think
7 the fact that the waiver is being requested in the first
8 place is evidence enough that the Applicant realizes that
9 they do need the waiver. They are applying for Housing
10 Tax Credits under the 2014 QAP, which clearly restricts
11 elderly developments in Collin County.

12 MR. OXER: Tim.

13 MR. IRVINE: When we did our FAQs, did we not
14 bring them back to the Board, as I recall.

15 MS. LATSHA: We did.

16 MR. IRVINE: And if somebody who is facile with
17 a computer can just pull them up and that would clarify
18 whether the Board has actually been involved in
19 clarifying.

20 MR. CONINE: We were told by staff --

21 MR. OXER: You have got to say who you are,
22 every time.

23 MR. CONINE: Kent Conine. We were told by
24 staff we needed to come for the waiver. We didn't
25 necessarily agree with the staff recommendation, but we

1 are here anyway to appeal. To you know, a more common
2 sense approach, let=s get some affordable housing on the
3 ground.

4 You know, again, the practical side of this
5 thing, this is going to be December or January before we
6 can really start construction. And I think the consensus
7 is from everybody I have talked to that we hope to --

8 (Thumping in sound system.)

9 MR. OXER: Well, that really got it.

10 (Thumping in sound system.)

11 MR. OXER: Okay. You, don=t touch anything
12 else. Okay.

13 MR. CONINE: And again, harking back to when we
14 first started to put the property under contract, none of
15 this was even thought about. And now, you know, I am
16 essentially caught in a trap, if you will.

17 And have let the market evolve long enough,
18 through the end of the year, and through discussions with
19 not only Board members but staff members and other
20 developers to articulate that Collin County has kind of
21 fixed itself. And we have a huge shortage of senior units
22 there that needs to be shored up.

23 (Feedback in sound system.)

24 MS. DEANE: Mr. Chair, just to be really clear,
25 from a legal standpoint, the rules that are going to be

1 applicable will be the rules that are in effect at the
2 time the application is filed.

3 MR. OXER: Regardless of what we --

4 MS. DEANE: So if they would need to do this,
5 they would need a waiver of the rule.

6 (Feedback in sound system.)

7 MR. OXER: I'm sorry, everybody. This is
8 really distracting.

9 MS. DEANE: So the 2014 QAP and multifamily
10 rules that are in effect at the time the application was
11 filed, which is now, or whenever they actually filed it.
12 I assume it was in 2014 round.

13 Regardless of what you call the application
14 round, those were the rules that were in effect when the
15 application was filed. That is what attaches.

16 MR. OXER: Is the application round essentially
17 for the 9 percent? Is the application calendar for the 4
18 percent? And it turns out they both fall under the 2014.

19 Is that what I hear you saying, Barbara?

20 MS. DEANE: Right. The rules that are
21 applicable right now to the tax credit program are the
22 2014 QAP eligibility rules.

23 MR. OXER: Okay. Everybody hold on just for a
24 second. Let=s see if we can sort this out. Got any
25 ideas, Mr. Audio Sport?

1 (Simultaneous discussion.)

2 MR. OXER: Well, it is live, anyway.

3 (Pause.)

4 MR. OXER: Okay. Let=s try again. Let=s keep
5 going. Stay with us for a while, here. Okay. Toni.

6 MS. JACKSON: In the comment that I -- the
7 comment that I am making is that this particular
8 prohibition does not -- is not governing the 4 percent
9 round. That is the point that I am making. Not that we
10 don=t fall under the 2014 rules. But that this particular
11 rule, this particular prohibition.

12 (Feedback in sound system.)

13 MS. JACKSON: That is not --

14 MR. OXER: You can turn that off.

15 DR. MUÑOZ: But Toni, you heard the ED read
16 right out of statute. I mean, how do you -- I mean, it is
17 all application. It doesn=t --

18 MS. JACKSON: Because --

19 DR. MUÑOZ: It doesn=t delineate between any of
20 the -- it says, all. I mean --

21 MS. JACKSON: Because throughout the QAP, you
22 do distinguish. And again, as we indicated, because this
23 was intended for balancing, for the purposes of the
24 competitive rounds, because that it is our contention that
25 it was intended for the balancing of the competitive

1 rounds.

2 DR. MUÑOZ: I understand that. But the fact
3 that in other parts of the QAP, there may be some kind of
4 differentiation, that doesn't nullify the fact that the
5 statute seems to categorically encompass all applications.

6 MS. JACKSON: And all applications are
7 encompassed in the rules and the QAP overall. Again,
8 however, there are distinctions made and recognized. That
9 there are certain things that are different in the 4
10 percent and the competitive 9 percent. And therefore, in
11 this particular instance, it was again, to create the
12 balance.

13 DR. MUÑOZ: No. I understand. I just don't
14 see -- I don't see --

15 MS. JACKSON: But the QAP makes that
16 distinction throughout.

17 DR. MUÑOZ: The statute that the ED read, I
18 don't see how it provides relief for that argument.

19 MS. JACKSON: Because again, throughout the
20 QAP, you distinguish that. You recognize that there is a
21 difference between the 4 percent and the 9 percent.

22 And as it relates to things in terms of
23 regional allocations, applications coming off the waiting
24 list, the 4 percent deals actually have priority over
25 those. There are a number of distinctions that you make

1 throughout the QAP.

2 MR. OXER: And those -- and that is obviously
3 true, Toni. But what we are saying is, that based on what
4 the statute says, that the --

5 MS. JACKSON: If --

6 MR. OXER: Hold on. The project is subject to
7 the rules in place when it is applied. And that would be,
8 within calendar 2014 for the 2014 QAP. Is that right?

9 MR. CONINE: I have an idea.

10 MR. OXER: Kent?

11 MR. CONINE: A new idea. Another idea.

12 MR. OXER: Say who you are, to start with.

13 MR. CONINE: Kent Conine.

14 MR. OXER: Right.

15 MS. JACKSON: A new idea.

16 MR. CONINE: Maybe if we could suggest that the
17 Board table this item until the next meeting. And
18 instruct staff to go ahead and underwrite the project, so
19 that we can come back next month with a reconsideration of
20 this off the table, plus the credits at the same meeting.

21

22 You will then at least know what the QAP is
23 going to say relative to the issue. And be a little
24 more --

25 MR. OXER: It would take a significant degree

1 of uncertainty out of this.

2 MR. CONINE: Correct. And it still
3 accomplishes our timing objective.

4 MR. OXER: Okay. Jean, you can come up for a
5 second. I know this is going to be funky and you are not
6 going to be able to answer this. But what does that do to
7 your allocation?

8 MS. LATSHA: No. It is a 4 percent
9 application, so --

10 MR. OXER: Okay. So we don=t have to worry
11 about any of that, right.

12 MS. LATSHA: Right. We could certainly do it.
13 It would be a bit unprecedented for staff to be reviewing
14 an application that is clearly ineligible.

15 MR. OXER: If we direct you to do that --

16 MS. LATSHA: If the Board does choose to direct
17 us to do that, then we are happy to do it.

18 MR. OXER: Okay. Well then it occurs to me,
19 Kent that that is a really good and elegant solution to
20 this, that solves some of the uncertainty that we are
21 facing. That also helps us preserve the integrity of our
22 rule, which is, as you know, being the Hard Core Four, we
23 are pretty hard core about certain parts of this.

24 MS. LATSHA: I would --

25 DR. MUÑOZ: And if we do so in the interest of

1 further advancing affordable housing possibly.

2 MS. LATSHA: I would like to make just one
3 point so we don=t have to have this exact same discussion
4 in a month with respect to the need of the waiver, and
5 some clarification that that waiver is necessary and would
6 need to technically be heard again at the next meeting. I
7 want to make one point about this rule, this particular
8 section of the rule was written in kind of an odd way, if
9 you will.

10 Because it made reference to the 2014
11 application round and then made reference to the 2015
12 application round. Basically, in an attempt to have
13 everyone understand that this balance would be reviewed
14 again in a future round.

15 And so I think that perhaps that is what Toni
16 was alluding to. But it is still very clear that this is
17 a 2014 application.

18 MR. OXER: It is important, I think, and Kent,
19 because there will still be -- it is not like we are going
20 to run out of 4 percent availability. You have got bond
21 capability or bond cap looking for things to do. Looking
22 for deployment.

23 So this is one of those things. Can you work
24 with that? Can you --

25 MR. CONINE: Absolutely.

1 MR. OXER: Okay. I think that amongst -- my
2 own perspective is, that is a pretty good solution to
3 this. It helps us maintain that. Because we want to make
4 this work.

5 I would like to see the housing get put in
6 there. Like you said, get some more housing on the ground
7 and help these folks. But we have also spent a lot of
8 time developing a structure to the rule, that this helps
9 us maintain that integrity.

10 I think it would also be important to point out
11 and have on the record that in doing this, it says that 4
12 percent deals, it can't happen -- or you made the
13 application within 2014, and therefore, it comes under the
14 2014 QAP.

15 Is that what you were saying, Jean? And Kent?

16

17 MR. CONINE: Yes.

18 MR. OXER: Is that what you were saying, Jean?

19 MS. LATSHA: Yes.

20 MR. OXER: Okay. Does that work for you, Kent?

21 MR. CONINE: Yes. Yes, I mean, obviously we
22 applied in 2014.

23 MR. OXER: Okay.

24 MS. BINGHAM-ESCARREÑO: Mr. Chair, do you --

25 MR. OXER: Yes.

1 MS. BINGHAM-ESCARREÑO: Do I need to withdraw --
2 I believe I made the motion.

3 MR. OXER: You did make the motion. But what
4 we can do is, let=s see. With an active motion, we can
5 table this until the next meeting and bring this back up
6 in the next meeting.

7 DR. MUÑOZ: Without a vote? Because it has
8 already been -- or without a motion?

9 MR. OXER: All right. Let=s do this. Rescind
10 the motion and the second.

11 MS. BINGHAM-ESCARREÑO: So done.

12 MR. OXER: And then we will take this up at the
13 next agenda. Rather than tabling this, we will simply --

14 MR. CONINE: You can table to a time certain,
15 which would be the next meeting.

16 MR. OXER: Okay. Which is what we are going to
17 do. All right.

18 MR. CONINE: Perfect.

19 MS. LATSHA: The only other point I would just
20 like to make is, that this is all under the assumption
21 that we would have our review the rest of our review
22 completed by November, which I can=t guarantee. We can
23 certainly attempt to do so.

24 MR. OXER: Okay.

25 MS. LATSHA: But I am not sure that is going to

1 fit completely in his timing. He might have a waiver in
2 November, that he might have a better shot at the waiver
3 request, and then our review not completed until the
4 December meeting.

5 I just don=t want to guarantee that the -- that
6 although we pick up that review right now, that it will be
7 completed by November 13th or whatever the date is.

8 MR. OXER: All right. Well, hold on. All
9 right. There has been a motion by Ms. Bingham and a
10 second by Mr. Gann to approve staff recommendation on
11 3(a).

12 The Chair would accept a rescinding of the
13 second by Mr. Gann?

14 MR. GANN: So moved.

15 MR. OXER: Ms. Bingham, by your motion?

16 MS. BINGHAM-ESCARREÑO: Yes.

17 MR. OXER: Okay. So now there is a motion to
18 table until the next meeting consideration of this item on
19 3(a). I will entertain a motion to consider table until
20 the next meeting.

21 MS. BINGHAM-ESCARREÑO: I will move to table.

22 MR. OXER: Okay. Motion by Ms. Bingham.

23 MR. GANN: Second.

24 MR. OXER: Second by Mr. Gann. Okay. Since we
25 have had public comment, we will take off. All in favor,

1 aye.

2 (A chorus of ayes.)

3 MR. OXER: Opposed?

4 (No response.)

5 MR. OXER: There are none. That is with the
6 staff direction to make all due haste in this course and
7 see if we can get this sorted out by the next meeting.

8 Does that work for you, Kent? That good for
9 you?

10 MR. CONINE: Thank you very much.

11 MR. OXER: Okay. Thanks.

12 DR. MUÑOZ: Can I just -- hey, Jean. I want to
13 underscore the "all due haste" comment. Right. It is
14 going to be very awkward, right. Next -- I mean, I
15 appreciate what you are saying. I appreciate well, I
16 suppose, what we are directing, you know. Right.

17 MS. LATSHA: Understood. We will pick up that
18 application right away and give it some directed effort.

19 MR. OXER: Directed and focused effort.

20 Kent, I hope you know we appreciate seeing you
21 here.

22 MR. CONINE: Thank you very much.

23 MR. OXER: All right. Cameron, do you have a
24 comment? Last comment.

25 MR. DORSEY: Yes. Last comment. Just real

1 quick. Reviewing an application is a two-way street.
2 This would be an unprecedented review time frame, and I am
3 not joking by any means. Underwriting has not looked at
4 the application at all.

5 If there are a set of deficiencies that take
6 seven days to resolve, seven days or five days to resolve,
7 a few days into underwriting=s review that automatically,
8 boom, we miss Board posting. We can=t get it out.

9 We will do our best. But it is an
10 unprecedentedly quick review time.

11 MR. OXER: Well, as you are obviously aware,
12 this won=t be the first thing this Board ever took up for
13 the first time. So we want to try to make this work
14 simply because there is a need up there and there is a way
15 to get this around. And it is okay, because there is
16 still a fal back beyond this, too. But all due haste.

17 MR. DORSEY: Okay.

18 MR. OXER: Okay. All right. Everybody sit
19 still and listen for a second.

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

1 certain personnel matters under Section 551.074 of Act; to
2 discuss certain real estate matters under Section 551.072
3 of the Act; and to discuss issues related to fraud, waste
4 and abuse under Section 2306.039(c) of the Texas
5 Government Code.

6 The closed session will be held in the anteroom
7 behind us. The date is October 9, 2014. The time is
8 12:16. Let=s be back in our chairs here at 1:15.

9 (Whereupon, the Board recessed into Executive
10 Session at 12:16 p.m.)

11 MR. OXER: The Board is now reconvened in open
12 session at 1:16 p.m. We met in closed session, Executive
13 Session. We heard Counsel, heard advice from our General
14 Counsel; and took care of some details on fraud, waste and
15 abuse. Okay.

16 On Item 3(b), Jean.

17 MS. LATSHA: 3(b), I think it would be more
18 appropriate to table that until after Item 5, which are
19 some appeals that have bearing on staff=s recommendation
20 for 3(b).

21 MR. OXER: Okay.

22 MS. LATSHA: So I don=t mind handing it over to
23 Cari on her next items, and let her go and then take up 5
24 and 3(b) if that is --

25 MR. OXER: Perfectly acceptable. Okay.

1 Cari.

2 No, there is no item up yet. That is okay.

3 All questions are available. All questions. You can peel
4 yourself off the wall over there.

5 Okay, Cari.

6 MS. GARCIA: Okay. Item 4(a) is regarding the
7 request for a waiver of a rule. Specifically, the section
8 related to mandatory development amenities in the 2012 QAP
9 at tax credit development. And if the waiver is granted,
10 then there will be subsequent land use restriction
11 agreement, LURA amendments as well.

12 MR. OXER: Let me ask you to begin with, Cari.
13 Are we taking these one at a time, or all at the same?

14 MS. GARCIA: A is one item encompassing all
15 these --

16 MR. OXER: All of those particular --

17 MS. GARCIA: Yes. All of those properties.
18 And then B encompasses all of the rest.

19 MR. OXER: Okay.

20 MS. GARCIA: This request involves six
21 developments totaling 1,444 units in various locations of
22 the state. They were funded in 2012 with 4 percent tax
23 credits to rehabilitate the developments and also receive
24 tax exempt bond financing from a private issuer.

25 In accordance with the 2012 QAP, under 50.4,

1 regarding mandatory development amenities, all
2 developments that year were required to have exhaust vent
3 vans that vented to the outside in bathrooms.
4 Additionally, because this was a requirement of the
5 application, that requirement was transferred over to each
6 of the LURAs as well.

7 The problem is, these properties have been
8 rehabilitated and they do not have exhaust vent fans in
9 the bathrooms that vent to the outside. Therefore, the
10 owner has requested a waiver of the rule. And as I
11 mentioned, LURA amendments would need to follow if that is
12 granted.

13 To provide some background on the request, the
14 developments were originally constructed in 1995 and 1996,
15 with the use of 9 percent tax credits. They were acquired
16 by the current owner in 2012, which is DalCor Holding,
17 LLC. And received an award of 4 percent tax credits and
18 tax exempt bond financing.

19 At the time of the application, each of the
20 principals of the ownership certified to the fact that all
21 mandatory development amenities would be provided. In
22 addition to the vent fans in the bathrooms, other
23 mandatory development amenities include laundry
24 connections in all units, blinds, window coverings,
25 screens for the windows, phone cable in each room. Energy

1 Star rated refrigerator, lighting and ceiling fans, oven,
2 range, central heat and air, and adequate parking spaces
3 according to code.

4 These are typical unit amenity packages for
5 most new multifamily rental developments. In 2012,
6 rehabilitation developments were exempt from providing
7 three of those amenities listed. Specifically, the phone
8 cable in each bedroom, dining room and living room,
9 laundry connections and then dishwashers, if they weren=t
10 originally in the units.

11 The 2012 QAP also states that deviations for
12 good cause by which one or more of these will not be
13 provided must be approved prior to the award, and the
14 request for such deviation must be included in the
15 application. The owner did not anticipate the need for
16 this request at the time of application.

17 Rehabilitation was completed in 2013. And cost
18 certification packages have been submitted, received by
19 the Department. They were submitted in December 2013,
20 requesting approval for the release of 8609 forms for
21 their tax credits.

22 It was only during the final inspection at one
23 of the properties in early 2014 that the owner discovered
24 through the maintenance staff that the property did not
25 have exhaust fans that vented to the outside. After

1 further research, they discovered that none of the
2 properties actually had vents, exhaust vents that vented to
3 the outside.

4 All of the units currently have recirculating
5 fans, all of the unit bathrooms. In the owner's request
6 for waiver, the owner indicates that they were originally
7 under the impression that there were vents that vented to
8 the outside, which is why they were able to sign the
9 certifications.

10 They came to that conclusion by relying on
11 statements from their General Contractor and Architect who
12 reviewed as-built plans and stated that the exhaust fans
13 that vented to the outside did exist. They relied on
14 those representations and felt comfortable signing the
15 certifications and doing the rehabilitation.

16 So here we are. All six properties have been
17 rehabilitated and are occupied. It looks like most
18 recently, in the low 90 percent occupancy rate. In order
19 to correct the venting issue at this point, the General
20 Contractor and Architects state that it would be -- it
21 would require an extensive retrofit, since the buildings
22 weren't originally constructed with vent exhaust fans that
23 vented to the outside.

24 MR. OXER: They were not. Is that what you
25 are --

1 MS. GARCIA: They were not originally
2 constructed --

3 MR. OXER: Did the original tax credit
4 availability require that they be so?

5 MS. GARCIA: I don=t believe so. Since they
6 were originally constructed as a 9 percent deal, and it
7 wasn=t.

8 MR. OXER: Right. In '96?

9 MS. GARCIA: Yes. '95 and '96.

10 MR. OXER: Okay. And not only would it require
11 extensive retrofit, but it would also include resident
12 relocation, since they are all around 90 percent occupied.

13 Their specific concerns are addressed in the individual
14 letters that are within your Board book. But basically
15 boil down to risks associated with the potentially
16 unattractive look of fur downs concealing venting ducts
17 and pipes, relocation of the residents in both cost and
18 inconvenience, and whether the residents would even use
19 this type of fan or care whether it vents to the outside
20 or not.

21 And the potential for water leakage due to
22 additional penetrations on water tight exterior walls.
23 The owner originally estimated the cost of going back now
24 and retrofitting every unit at all six properties with
25 this type of venting would be approximately \$2.3 million

1 for all six properties.

2 MR. OXER: Totaling 1,400 units?

3 MS. GARCIA: Yes. 1,444.

4 MR. OXER: 1,444.

5 MS. GARCIA: And so after extensive evaluation
6 by Department staff and considering the intent of this
7 requirement being the prevention of an accumulation of
8 moisture which could lead to mold and other serious health
9 issues associated with moisture contained in small spaces,
10 staff communicated with the owner and encouraged them to
11 try to identify and consider all possible options. The
12 owner subsequently provided three alternatives to further
13 the objective without having to reconstruct all 2,556
14 vents.

15 The first option was to add a dehumidifier to
16 each bathroom, or a whole house portable dehumidifier to
17 each unit. This alternative is estimated by the owner to
18 cost approximately \$325,000.

19 However, the option does require some resident
20 maintenance, such as emptying the water receptacle
21 periodically, changing the filter, not to mention the
22 space that this type of portable device would take in the
23 unit. And quite honestly, most residents would probably
24 not care to have that type of thing in their unit, or do
25 the maintenance that is required.

1 A second alternative is to correct the venting
2 to the outside of all top floor units only. These units
3 could be vented to the attic without requiring the
4 residents to move out of their units.

5 The owner indicates there are 674 units,
6 approximately 1,188 bathroom vents, which is 46 percent of
7 the total vents that are the top floor of the six
8 developments. The estimated cost of this would be a total
9 of \$625,470.

10 And then the third alternative is to provide
11 monitoring and inspection of all units for moisture,
12 mildew and mold. This would be provided by onsite
13 maintenance staff who would perform quarterly inspections
14 of all units.

15 A third party inspector would also be hired to
16 inspect 100 percent of the units at all six properties on
17 an annual basis for the 15 year compliance period. The
18 approximate annual cost for this is \$4,000 per development
19 and it is already budgeted on two of the developments.

20 So the actual additional cost from what has
21 been proposed is \$16,000 per year. The total -- the owner
22 estimates the 15 year cost of this alternative to be
23 approximately \$297,000, which assumes some additional work
24 time for onsite staff and such.

25 The owner states that they do not have

1 sufficient financial resources to pay for retrofitting
2 every unit, or for options one and two. And they request
3 to implement only the third option, which is the
4 monitoring and inspections.

5 However, in the owners own submitted 15 year
6 performance, which are part of the Board book by
7 reference, there appears to be sufficient annual cash flow
8 at each of the properties to pay the additional \$4,000 per
9 development per year, for option number three. And pay
10 the one time payment of \$625,470 to vent the bathrooms on
11 the top floors. In fact, all of the developments
12 demonstrate positive cash flow in all years through '15,
13 with most paying down deferred developer fee accounts
14 between year six and year 13.

15 In addition, the development cost schedule
16 submitted in each cost certification package showed
17 operating reserve accounts that average around \$600,000.
18 These accounts may be available with limited partner
19 approval for this type of work, for option number two.

20 So staff believes that requiring option number
21 two and three, which is the venting all the top floors,
22 which wouldn=t require residents to move, and conducting
23 the quarterly and annual inspections is a reasonable
24 albeit not perfect solution. One that will not require
25 resident relocation or extensive reconstruction.

1 Therefore, staff recommends, has recommended,
2 and you saw in the Board book that this request be
3 partially denied and partially approved in that staff
4 recommends that for all six developments, that the owner
5 vent all top floor units with bathroom exhaust fans that
6 vent to the outside. And that the LURAs be amended with
7 the requirement to conduct quarterly unit inspections and
8 annual third party inspections for moisture and mold
9 through the end of the new extended use period.

10 (Pause.)

11 MS. GARCIA: I am available for any questions.

12 MR. OXER: Any questions from the Board?

13 (No response.)

14 MR. OXER: I am going to have a few interesting
15 technical questions for the folks that about to sit up and
16 talk. But I don=t have any for you.

17 MS. GARCIA: Okay.

18 MR. OXER: Okay. Motion to consider.

19 DR. MUÑOZ: So moved.

20 MR. OXER: Okay. Motion by Dr. Muñoz to
21 approve staff recommendation on Item 4(a).

22 MS. BINGHAM-ESCARREÑO: I will second.

23 MR. OXER: I hear a second by Ms. Bingham. All
24 right. It looks like we have got an interesting fan club
25 that showed up for you here, Karen. We understand that it

1 is difficult folks. We try to make a little light out of
2 it, just so you know. Cynthia?

3 MS. BAST: Good afternoon. I am Cynthia Bast
4 of Locke, Lord. I am here representing DalCor, the owner
5 of the six property portfolio.

6 We have representatives from DalCor with us.
7 We also have representatives from PennCo Construction,
8 which is the General Contractor, which can perhaps talk to
9 some of those technical issues that you have, Mr. Oxer.

10 MR. OXER: I think those are going to come from
11 the architect. I want to know who gave you the
12 recommendation that it was okay to start with.

13 MS. BAST: Cari did a really great job
14 describing this situation. And there are just a few
15 things that she mentioned that I want to emphasize to you.

16 All of these properties were built under the tax credit
17 program at a time when it was not required that exhaust
18 fans be vented to the outside. But they do all have
19 exhaust fans.

20 I think it is important to add that these
21 properties have no record or obvious issue with any
22 moisture problem. There were moisture tests done at the
23 time of acquisition. There is no evidence that these
24 properties are having any problem operating the way that
25 they are currently constructed.

1 This was an honest mistake. A reliance by the
2 owner on an understanding from the information that they
3 had as to whether those exhaust fans were recirculating or
4 vented to the outside.

5 Retrofitting does have its consequences. Even
6 if you are retrofitting just the top floor, retrofitting
7 involves then making penetrations in the existing outside
8 walls of these buildings. And even to do just the top
9 floor, we are talking about I think, over 600
10 penetrations.

11 And so every penetration you make could have
12 that consequence of itself creating a moisture problem for
13 a building, when that penetration was not designed to be
14 there in the first place. So that is part of the concern
15 here.

16 The other thing I want to highlight is that
17 this is a preservation transaction that was originally
18 proposed to make sure that these properties did not go
19 through qualified contract process to have their LURAs
20 lifted. So they are currently under their old tax credit
21 LURAs.

22 And now, they are under new tax credit LURAs.
23 Which is extending, not only their affordability but the
24 renovations that were done were intended to extend the
25 life of these properties in a meaningful way for both

1 economic viability and the best interests of the tenants.

2 I also want to point out what Cari mentioned to
3 you with regard to the 2012 QAP under which this was
4 built. It basically allowed -- it had this list of all of
5 these mandatory items. But it said, you can deviate from
6 this list for good cause, if you tell us in advance.

7 Well, you know what, had we known, we
8 absolutely would have told you in advance. We would not
9 have frankly, put this in the budget in the first place.
10 Because based -- if you look at a development budget and
11 what you have room for, particularly on a 4 percent bond
12 deal, we would have looked and said, you know what, that
13 is one change that could be made.

14 But there are other more beneficial chances.
15 And if we only have a limited budget to work with, there
16 are other things that make a lot of sense here, that we
17 should be doing for these properties. So had we asked in
18 2012, I honestly feel like, there was good cause with the
19 issues of the retrofitting that it very well could have
20 been approved.

21 Another thing that you did not hear is that
22 the 2015 proposed QAP eliminates this requirement for
23 rehab deals. Now, I know it is not 2015 yet. And I know
24 that that could potentially change. But I have to think
25 that exhaust fans are not nearly so controversial as

1 elderly developments. Right.

2 DR. MUÑOZ: Change, or maybe not change.

3 MS. BAST: But the point is --

4 MR. OXER: Didn't we have an echo of this
5 discussion here a bit before?

6 MS. BAST: We did. But the point is your staff
7 made this recommendation to make this change. Why did
8 they make this recommendation? Maybe because this test
9 case kind of brought it to their attention.

10 I want you all to understand how we got here.
11 We asked for this deviation. And we asked for this to be
12 excluded from our requirements.

13 Staff came back to us and said you have to give
14 us alternatives. I don't know that the rules necessarily
15 require that, but I think they think their procedures
16 requires some sort of substitution, some sort of making
17 good for what happened.

18 And so in coming up with the alternatives, as
19 Cari mentioned, there was concern about accumulation of
20 moisture. What was this here for in the first place?
21 Let's be common sense about this.

22 Why do we have exhaust fans vented to the
23 outside as a requirement now, at least for new
24 construction in the QAP starting in 2015. It is not
25 applicable to rehabilitation anymore. And it is to manage

1 moisture, right. So what makes sense.

2 Well, what makes sense is, the good OM plan
3 that will monitor moisture in this property.
4 Dehumidifiers also could make sense. They can manage
5 moisture.

6 The owner did offer up the alternative of
7 venting the top floor to the outside, because that has a
8 lesser construction impact. But still, as I mentioned,
9 all of these penetrations. And not so desirable.

10 And I think what you really have to look at
11 here is the reward versus the risk. What is the reward
12 associated with an exhaust fan vented to the outside?

13 Well, it can improve moisture. B

14 ut you know what? It improves only to the
15 extent those residents are using them. And I don=t know
16 how many of you use your fans in your homes. But if the
17 residents aren=t using them, then it is not doing anything
18 for the moisture anyway.

19 But yet, under the -- when the staff asked for
20 this alternative, the penetrations that they are asking
21 for, those could have a moisture impact potentially. So I
22 think as you are balancing this, you need to really look
23 at it from a common sense standpoint of what makes the
24 most sense for properties in this condition at this stage
25 of their lives for this particular kind of equipment with

1 regard to this property.

2 And so our specific request for me to be clear,
3 is that we would prefer our first request which is that
4 you grant this deviation. That you understand that if we
5 had asked for this in 2012, it would probably be -- it
6 probably -- I think it would have been accepted.

7 If we asked for this in 2015, I think your
8 rules would support you accepting it then. So what is the
9 problem? I am standing here in October 2014 in the middle
10 of this time warp here, between these two times, asking
11 for this because our investors need their 8609s in 2014 to
12 deliver their tax credits.

13 So I don=t have the luxury of kicking the can
14 down the road, and saying I am just going to wait and ask
15 the Board for this in 2015. I have to ask for this to
16 obtain these 8609s by 2014.

17 So the preference is to honor this deviation
18 request that has been made. We believe that there is
19 authority for that. When you are talking about for
20 instance, non-material LURA amendments, the Executive
21 Director has authority for those.

22 But if you feel like something else is
23 required, then certainly, the O&M plan is not a problem.
24 The owner is happy to do that.

25 But they would prefer not to implement the

1 alternative of retrofitting all of the units on the top
2 floor, because of the disruption to the tenants, because
3 of the penetrations of the existing walls. Because of the
4 costs of over \$600,000.

5 That is a lot to ask for a situation like this,
6 which was honestly a simple and honest error on the part
7 of the owner. It is a whole lot to ask.

8 So that is the request. We are happy to answer
9 questions. We appreciate your time.

10 MR. OXER: Okay. Any questions for Ms. Bast?
11 Tom?

12 MR. GANN: One serious question is, what was in
13 there all of the years before?

14 MS. BAST: The same exhaust fans that
15 recirculate. Every bathroom has a recirculating exhaust
16 fan.

17 MR. GANN: What --

18 MS. BAST: Charcoal.

19 MR. OXER: Yes. Charcoal. Okay.

20 MS. BAST: Charcoal.

21 MR. GANN: Okay.

22 MR. OXER: Okay.

23 MS. BAST: Yes.

24 MR. GANN: So I was just wondering, that would
25 be a good alternative. I don=t know if they even make

1 them anymore.

2 MS. BAST: That is what we have now.

3 MR. GANN: That is what you have in there now?

4 MS. BAST: Uh-huh.

5 MR. OXER: Can you recharge the charcoal?

6 Sorry.

7 MR. GANN: It just recycles it. We use it. I
8 am sure there is a better way to do now. That is what the
9 problem is.

10 MS. BAST: Do you have any filters --

11 MR. OXER: Hold on.

12 MS. BAST: They replace the filters on a
13 regular maintenance basis in these recirculating fans.

14 MR. OXER: Juan.

15 DR. MUÑOZ: Somewhere in my reading, or you
16 might have said that -- sort of the question was asked.
17 And the developers may have been misled during the
18 remodel. That this was -- that these were either not
19 required or they did exist.

20 MS. BAST: Uh-huh.

21 DR. MUÑOZ: Is that what you are contending?

22 MS. BAST: Yes, sir. And I don=t want to say
23 misled, because the representatives of Pennco are here,
24 and I am not wanting to throw them under the bus. There
25 was a certification signed to the effect that all of the

1 mandatory amenities in the property were there.

2 DR. MUÑOZ: So who missed --

3 MR. OXER: Who signed that?

4 MS. BAST: That was signed by the architect, I
5 believe.

6 MR. OXER: Is that something -- is that
7 somebody that you --

8 MS. BAST: And I am happy for Pennco to
9 describe what happened here. But I think that part of the
10 issue is there were some limited plans available for
11 review, and what was available had some indications that
12 made people think that there was appropriate venting.

13 And I don=t know if they -- you know, if it was
14 just a lack of available drawings or it was a lack of
15 inspection or what it was exactly.

16 MR. OXER: Okay. Hold on then. Tom.

17 MR. GANN: It is my experience that that unit
18 that I am talking about looks like a vent. That is what
19 happened here. This looks just like a regular vent.

20 MALE VOICE: Yes.

21 MR. GANN: And you can=t really tell the
22 difference unless you happen to know what I am talking
23 about.

24 MR. OXER: You can=t tell the difference on
25 just a primary visual inspection unless you take that vent

1 out and see where it is all going.

2 MR. GANN: You wouldn't see it. If you look
3 up, you see a vent.

4 MR. OXER: Yes.

5 MR. GANN: That is what really they are talking
6 about.

7 MR. OXER: Okay. Any other questions from the
8 Board for Ms. Bast?

9 DR. MUÑOZ: Well, I mean, just you know, the
10 point I am trying to make is, you know, you sort of behave
11 in good faith. You are under the impression you are
12 compliant. And suddenly, you are blindsided with a
13 \$600,000 sort of corrective action.

14 I mean, if you have something that is
15 reasonable believable that said you are in compliance, it
16 just -- you know. It doesn't seem to -- you know, it
17 doesn't seem to be consistent with the spirit of, you
18 know, our activities to always advance affordable housing
19 to burden someone.

20 Now, you know, if there is a health reason or
21 some other statute that requires these penetrations, then
22 so be it. But if there is perhaps some other way to
23 address the deficiency in a way that Mr. Gann is
24 describing it seems worth considering.

25 MS. BAST: Yes. And I think we do have

1 existing exhaust fans. They are only so good as the
2 residents use them. But they are there for the residents.
3 And that is -- it is not like they weren=t there in the
4 first place.

5 And that is the point we are trying to make,
6 Dr. Muñoz, is that a \$625,000 hit on a good faith item
7 that you know, we believe likely could have been addressed
8 up front in an affirmative manner. I mean, it just -- it
9 feels like some sort of quid pro quo that is excessive.

10 MR. OXER: Okay. I have a question. It is
11 going to be for somebody over here. So can the contractor
12 come up and speak with somebody? Don=t worry. It is
13 completely painless. As we usually are, here.

14 MR. GATH: David Gath and Mark Mikeiliff.

15 MR. OXER: Good morning. Or good afternoon and
16 welcome.

17 MR. GATH: Thank you.

18 MR. MIKEILIFF: Thank you.

19 MR. OXER: Okay. So you are the General
20 Contractor that did this. And you went in there and
21 started looking at the rehab. You found out, whoops.
22 This is not what we put down.

23 Who was it that told them that certified to
24 them? I assume that you are not the architectural firm?

25 MR. GATH: Correct.

1 MR. MIKEILIFF: We are not.

2 MR. OXER: Okay. So for the folks over there
3 that are still sitting down, this sounds like a serious
4 E&O problem for the architecture firm: errors and
5 omissions.

6 MR. GATH: None of us are with the architecture
7 firm.

8 MR. OXER: I am offering that up as my
9 perspective on it. Okay.

10 MR. GATH: And the as-builts that came with the
11 property that were given to him from the sellers show that
12 it was vented, so -- and that is -- these as-built plans
13 that were given him show the exhaust vent being vented out
14 to --

15 MR. OXER: Do we have that in our packet, Cari?

16 MS. GARCIA: Yes.

17 MR. OXER: Okay. I haven=t looked at every one
18 of the pieces of these. So I have to admit that. So it
19 did show in the as-built.

20 MR. GATH: In the as-built.

21 MR. OXER: In the as-builts. It is not the
22 original drawing, but in the as-builts, essentially, which
23 for a development like this, they wouldn=t have had any
24 reason to do an as-built on the building and the units
25 apart from -- only on the as-builts for the sort of

1 subsurface infrastructure like the water and sewer.

2 Okay. Did they spank your hand?

3 (Laughter.)

4 MR. OXER: Okay. You guys pointed it out them,
5 and then they pointed it out to Cari. Right? Is that
6 right, folks? Okay.

7 MALE VOICE: I need to withdraw my --

8 MR. OXER: Hold on. We are getting there. All
9 right.

10 MR. GATH: Thank you.

11 MR. OXER: Is there any other public comment?

12 MR. DOTSON: I am Dale Dotson, one of the
13 owners of DalCor. And there is a couple of things I would
14 like to point out that haven=t been pointed out.

15 We did preserve six properties in six cities
16 that were in the '90s occupied and people didn=t lose
17 their apartments. We did spend \$25 million in rehab. I
18 don=t want you all to think, well, we were worried about
19 600 grand. We spent \$25 million.

20 There have been no mold problems. These are
21 19-year-old properties. We went back and studied every
22 inspection report the State made on these properties from
23 the time of construction to our buying them. None of this
24 was ever mentioned, and there was no problems.

25 They said, okay. You did six properties, what

1 is 600-something thousand dollars? We have already spent
2 over a million dollars doing things that the State asked
3 us to do extra as they did their inspections. We are not
4 against making everything right. We would like some kind
5 of developer fee.

6 But the fact is there has been no mold
7 problems. We have got people in these properties that
8 have lived there the whole 19 years. We have owned them
9 now two years, and we have not had one resident come talk
10 to us about mold or mildew or any of those things.

11 So it just doesn't prove anything. I mean, I
12 think it is very unnecessary. And we were very
13 appreciative of how the State has treated us; we want to
14 do more preservation deals. That is our model, is the
15 lead properties in the program. But this just seems real
16 excessive to us, in the end.

17 Thank you for taking the time.

18 MR. OXER: Appreciate your comments, Mr.
19 Dotson.

20 Cari, do you have something you want to add?

21 MS. GARCIA: Just one thing.

22 I just wanted to clarify that I think how it
23 came up that there wasn't venting to the outside wasn't by
24 the GC. It is my understanding that it was during a TDHCA
25 final inspection.

1 MR. DOTSON: Final inspection.

2 MR. OXER: After the rehab. Is that correct?

3 MS. GARCIA: And the maintenance man mentioned,
4 oh, no, it doesn=t. And so I just wanted to clarify that.

5 MR. OXER: So this is not a final compliance
6 inspection when Patricia has had her crew out taking a
7 look at it. Right?

8 MS. GARCIA: Right. It was at one of the final
9 inspections that we did. And we were walking that final
10 construction inspections that we did. Not the UPCS
11 inspection, the final construction inspection.

12 And we walked with the owner and maintenance
13 man. And the discussion was about the vents, and the
14 maintenance man said, No, we don=t have that. So I just
15 wanted to clarify that statement.

16 And then also, just for clarification purposes,
17 the gentleman mentioned that there were a lot of other
18 things that we required them to do as well. And that is
19 true, as part of the final inspection, we required them to
20 meet all of the mandatory requirements that were in he
21 QAP. And they did, you know, have to go back and make
22 sure that they met every requirement.

23 Final inspections are complete. I believe the
24 corrections have been submitted by the owner this week.
25 So those haven=t actually been closed out yet, but they

1 are under review. Cost certifications are pretty much
2 done with the review.

3 But we can=t issue 8609s without that final
4 inspection, and this is one item in that inspection but
5 not the whole item, not everything.

6 MR. OXER: Is this the only item you are
7 asking -- Mr. Dotson, this is the only item you are asking
8 for a waiver on?

9 (Feedback in sound system.)

10 MS. GARCIA: Okay. I know that was me. Sorry.

11 MR. OXER: Don=t -- hey.

12 MR. DOTSON: Well, okay, I just had a heart
13 attack.

14 (General laughter.)

15 MR. OXER: Everybody in the building, rekick on
16 your pacemakers.

17 Are you okay? That sounded like it hurt, okay.

18 MS. BINGHAM-ESCARREÑO: I know. Right.

19 Somebody -- let me give it a try. Okay. So I have a
20 question for Cari, just kind of procedurally.

21 The way that the recommendation was kind of
22 worded was interesting, right, that I know I hadn=t seen
23 them worded that way.

24 And actually, when we were reading them pre-
25 meeting for homework, it almost looked like the parties

1 had gotten together and decided that that's right, because
2 I mean, for staff to recommend that somebody set up an
3 escrow account or that we approve part of it and not part
4 of it is a little weird.

5 But so what I am thinking is, the parties
6 really haven't agreed to do this escrow account and all of
7 that.

8 The parties have said they would really like
9 the waiver. And they would like the amendment to the
10 LURA. And they are even willing to set up monitoring, if
11 that would satisfy the spirit of the whole venting and
12 reducing moisture and that kind of thing.

13 But the escrow was just staff's best shot at
14 trying to come up with some kind of reasonable compromise?

15 Is that how that happened?

16 MS. GARCIA: Well, when we were discussing.
17 What happens is, we meet internally and discuss all
18 material amendments, and this is a waiver. And we went
19 back to them and said look. You know, just doing nothing,
20 you know, it is hard for us to support, hey.

21 We just -- we can't do anything because you
22 know, we see the financials. You can -- you know, is
23 there something. Have you looked at this or that? We
24 gave them some options. Take a look at this.

25 The escrow account actually came up because, as

1 Cynthia mentioned, they need their 8609s this year. And
2 so if it was to be approved, that they do need to vent the
3 top floors, you know, they can=t do it like in a month.
4 And to get this.

5 So an alternative to that, if it was
6 recommended would be to set up an account and then you can
7 get it done. But we could still issue the 860s.

8 MS. BINGHAM-ESCARREÑO: Okay.

9 MS. GARCIA: So that is kind of how that came
10 about.

11 MS. BINGHAM-ESCARREÑO: Thank you for the
12 clarification. That makes sense.

13 MR. OXER: Let me ask the contractors another
14 question. Okay. You two guys, or one or the other of you
15 could probably answer this.

16 On the top floor component, there is four of us
17 or six, on the top floor, does this vent to an attic
18 space, or is there a gable and an attic space in it? Or
19 is there -- is it a flat roof?

20 MR. MIKEILIFF: There is an attic space.

21 MR. OXER: There is an attic space. So you
22 want to actually vent that beyond the attic and then out
23 each one of these. Okay.

24 MR. MIKEILIFF: Depending on the floor plans.
25 Some may go out a side wall.

1 MR. OXER: Right.

2 MR. MIKEILIFF: And some would hit the ceiling,
3 just whichever is closer.

4 MR. OXER: Right. Off the end of the gable.

5 MR. MIKEILIFF: Right.

6 MR. OXER: Right. Okay. Having done as many
7 of these as I have too, I am inclined to suggest that --
8 and I am offering this perspective, not a direction for
9 vote.

10 But I can see a whole lot better ways for
11 \$600,000 to be spent, particularly if you haven=t had any
12 mold problem. But I want to make sure we don=t have any
13 mold problems in the future folks.

14 So the monitoring plan on this -- is Patricia
15 here? That is all right. All I want to know is, is this
16 particular, this particular set of projects, facilities,
17 you know complexes, are they on a scheduled monitoring
18 plan, compliance monitoring plan?

19 MS. MURPHY: Yes. All of our properties are on
20 a scheduled monitoring --

21 MR. OXER: Well, that is the wrong question. I
22 asked the wrong question. Are they scheduled to come up
23 soon?

24 MS. MURPHY: I'm sorry. I don=t know the next
25 scheduled route right now.

1 MR. OXER: You wouldn't know that. Okay. But
2 they at least once every three years they get caught or
3 not caught. But they have an option to --

4 MS. MURPHY: That is correct.

5 MR. OXER: An opportunity to be considered
6 under the compliance --

7 MS. MURPHY: That is correct. Yes.

8 MR. OXER: Okay. So the likelihood is that
9 they will be coming up.

10 MS. MURPHY: So if they just had their final
11 construction inspections recently, yes. Then we will be
12 doing their first file review very soon.

13 MR. OXER: The first file review, the first
14 compliance monitoring would include potentially taking a
15 look at this to see if there is any mold problems.

16 MS. MURPHY: We probably did the uniform
17 physical conditions standards inspection at the same time
18 as these final construction inspections. And then again,
19 I'm sorry I don't have those reports with me. And it
20 would be very excessive mold that would come up in those,
21 if there was any.

22 MR. OXER: Okay. That is what I wanted to
23 know.

24 DR. MUÑOZ: We have a motion on the floor.

25 MR. OXER: Yes. I know. We are getting there.

1 Sorry. Are there any more questions from the Board?

2 MS. BINGHAM-ESCARREÑO: No. I don=t think so.

3 MR. OXER: Okay. There has been a motion by
4 Dr. Muñoz and a second by Ms. Bingham to approve staff
5 recommendation. Tom, did you second it?

6 MR. GANN: No, I'm sorry. I made a mistake. I
7 didn=t second it.

8 MR. OXER: Motion by Dr. Muñoz, second by Ms.
9 Bingham to approve staff recommendation. But it occurs to
10 me that it might be useful to reconsider that.

11 DR. MUÑOZ: I withdraw my motion .

12 MR. OXER: Okay.

13 MS. BINGHAM-ESCARREÑO: I withdraw my second.

14 MR. OXER: Okay. Dr. Muñoz and Ms. Bingham
15 have withdrawn in succession their second and vote. So
16 now we have to have a motion to reconsider.

17 MS. BINGHAM-ESCARREÑO: Mr. Chairman, I make a
18 motion to -- I may need a little bit of help, since we
19 have the whole part and part thing. May I make a motion
20 to approve the waiver and approve the LURA amendment?

21 MR. OXER: Approve the waiver and approve the
22 LURA amendment with -- okay. Motion by Ms. Bingham to
23 approve the LURA and approve the waiver and the LURA
24 amendment for -- well, to my sense, the good cause
25 includes protecting the housing stock and the quality of

1 that stock without having a material impact on the
2 livability and habitability of the units.

3 MS. BINGHAM-ESCARREÑO: I adopt that.

4 MR. IRVINE: And also, having experienced
5 leakage, I would be leery of putting 600 holes in a roof.

6 MR. OXER: I ain=t doing it. Okay. Do I hear
7 a second?

8 MR. GANN: Second.

9 MR. OXER: Okay. There is a second by Mr.
10 Gann. Anybody else want to say anything?

11 (No response.)

12 MR. OXER: Right answer. Okay. Motion by Ms.
13 Bingham, second by Mr. Gann to deny the staff
14 recommendation and approve the --

15 MS. GARCIA: I hate it when you say that.

16 MR. OXER: To approve the waiver and modify the
17 LURA as recorded. Is that correct? All in favor, aye.

18 (A chorus of ayes.)

19 MR. OXER: Opposed?

20 (No response.)

21 MR. OXER: Thanks, folks.

22 MR. GOURIS: Sorry to speak up. Did that
23 include the -- that did not include any inspections?

24 MR. OXER: Well, actually what I did, I wanted
25 to make sure that further inspection be there. But I want

1 them to do the inspection also.

2 MR. GOURIS: Not through us. Just that they
3 are --

4 MR. OXER: No. No.

5 MS. BINGHAM-ESCARREÑO: Through us, not
6 through -- in other words, I did not -- my motion was not
7 to include them being financially responsible for
8 monitoring.

9 MR. DOTSON: We wouldn=t.

10 MS. BINGHAM-ESCARREÑO: But we will monitor it.

11 MR. DOTSON: As part of our --

12 MR. OXER: But I think that you would be well
13 served by making --

14 MR. DOTSON: We are going to do it anyway.

15 MS. BAST: We are doing it anyway.

16 MR. OXER: I figured you would. Because if you
17 don=t, and something happens, that is not going to be the
18 best thing that you have had to present us.

19 MR. DOTSON: We will do that.

20 MS. BAST: We understand.

21 MR. OXER: Okay.

22 MR. GOURIS: Okay.

23 MR. OXER: Thanks, folks. Cari. It is rare
24 enough when we go counter to staff.

25 MS. GARCIA: Now, I am sad.

1 MR. OXER: Don=t be.

2 MS. GARCIA: I am not sad. That is why I left
3 a blank in the next one. Just for you guys to do that.

4 MR. OXER: The pain will recede pretty soon.
5 (Simultaneous discussion.)

6 MS. GARCIA: Okay. So Item 4(b) is the
7 possible action on a requested material LURA amendments
8 for seven developments in the El Paso area. If you will
9 recall, actually, this item has been on our agenda the
10 past couple of times. And then withdrawn. And then we
11 had some lengthy discussion at the last Board meeting
12 about that section of the Asset Management rule, regarding
13 transfer to a HUB.

14 These LURA amendments have to do with the
15 requirement to have a historically underutilized business,
16 which is a HUB, in the ownership through the compliance
17 period. And more specifically, they are requesting to
18 delete that provision of having a HUB requirement and
19 replacing it with the nonprofit requirement in the LURA.

20 This agenda item actually involves part of a
21 larger portfolio of a total of 25 properties that are
22 proposed to be transferred to new ownership. However,
23 these seven are the only ones with the HUB requirement,
24 that would require a LURA amendment for the transfer to
25 occur.

1 All seven developments received 9 percent tax
2 credits between 1995 and 2003, and received points in
3 their application for having a HUB in some capacity of the
4 ownership structure through the compliance period. And if
5 they extended the compliance period, it is through that
6 extended period.

7 For three of the developments, a change from
8 HUB to a nonprofit would have resulted in a point loss.
9 There was a table attached to your write up that hopefully
10 you could see when I printed it out. It was pretty small,
11 so I apologize. So it would have resulted in a point loss
12 for three of those developments.

13 And in at least two of the three cases, the
14 development may not have received an award of tax credits
15 at that time. However, they would have gone to the next
16 project in line. And in which case, one of them would
17 have still gone to the same owner, another would go to the
18 proposed new owner.

19 For four of the developments there would have
20 been no change in total points, whether they had elected
21 HUB or a nonprofit at the time of application. All of the
22 developments are still within their respective compliance
23 periods.

24 So as I mentioned before, we discussed this
25 issue, this policy issue around HUBs in some detail at the

1 last Board meeting, where we received some feedback from
2 you all on the HUB requirement at application, how long a
3 HUB should be required to participate in this type of
4 development as a result of receiving points, and in
5 general, you know, what is the purpose of involvement of a
6 HUB in the deal. And through that discussion, we
7 ultimately revised that section of the Asset Management
8 rule presented at that meeting to specifically address the
9 situation that I am presenting today.

10 I could read that revised section, but I think
11 you all probably know it. And this particular situation
12 does -- would comply with the revision that is out for
13 public comment. It is not a rule right now. It is the
14 same issue we kind of discussed before. We are operating
15 under the current rules. But it would comply if that rule
16 is change.

17 MR. OXER: It would comply if that rule is
18 changed to what we are predicting or expecting it is going
19 to. Is that what you are saying?

20 MS. GARCIA: Exactly. What is proposed for
21 public comment.

22 MR. OXER: Okay.

23 MS. DEANE: Cari, can I clarify something just
24 real quick?

25 MS. GARCIA: Yes.

1 MS. DEANE: This is a little bit different from
2 the situation earlier. I mean, we are talking about a
3 rule that hasn't come into effect yet.

4 The difference between the prior situations and
5 this one is, that in the prior situations we have talked
6 about today, there was a rule in effect that answered that
7 question, and that required what needed to be done. In
8 this case, there was of course, a rule about having a HUB
9 involvement. But there was no guidance on what would
10 happen if the HUB wanted to sell later on.

11 And the Board had gone both directions in terms
12 of -- past Boards have allowed the sale to go through to a
13 non-HUB and other Boards have required no, the sale needs
14 to be to a HUB. So we are -- while yes, there is a new
15 rule coming into effect.

16 This is a little bit different in that we are
17 going, in this case we are going from a rule vacuum, where
18 there was nothing speaking to this specific issue to a
19 rule. And before, we were going from a specific rule to a
20 specific rule, if that makes any sense.

21 So this is a little bit different. And that is
22 why this is not exactly the same situation as we have
23 talked about before.

24 MS. GARCIA: Thank you, Barbara. So just what
25 Barbara said. The current rule in existence doesn't have

1 a provision for this type of transfer. In the past, we
2 have processed these and have not allowed transfer from
3 HUB to nonprofit. HUB is usually replaced by another HUB.
4

5 I think there have been cases before the Board
6 as several years ago, where it was allowed, but there were
7 other extenuating circumstances such as a pending
8 foreclosure, something like that. In each of the --

9 MR. OXER: Hold on, Cari.

10 MS. GARCIA: Yes.

11 MR. OXER: In the pending foreclosure, would
12 that have been on the -- why would it have been allowed,
13 if there was a pending foreclosure for a HUB to be
14 replaced? Is that because there would not have been
15 enough time to find another HUB or because the HUB was
16 getting foreclosed on?

17 MS. GARCIA: It could have been because there
18 wasn't time to find another HUB. Also, it could have been
19 the capacity of a nonprofit to come in and lift up that
20 property out of foreclosure, and prevent the foreclosure.

21 MR. OXER: Okay.

22 MS. GARCIA: In each of these cases, the LURA
23 is clear that there is a requirement for a HUB to
24 participate through the extended compliance period. And
25 because this is out for public comment, we received

1 feedback from the Board last meeting.

2 This is presented basically as a
3 recommendation, as a neutral recommendation to allow you
4 to make the decision, instead of denying my request. So I
5 am open for questions.

6 MR. OXER: So what is our -- we have the rules
7 out for public comment right now. Is that correct?

8 MS. GARCIA: Right. Through October 20th.

9 MR. OXER: Okay. Let=s imagine for a minute,
10 we don=t decide. We come back in November and take a look
11 at this. By then we would have gotten some public
12 comment. We would have had the potential to address this
13 rule ahead of this consideration.

14 MS. GARCIA: Yes. I mean, there is people here
15 to speak on timing issues, I am sure.

16 MR. OXER: I know. It is the end of the year.
17 Everybody has got timing issues.

18 MS. GARCIA: Yes.

19 MR. OXER: So the -- because I think part of
20 what we talked about last time was, if the HUB or a HUB
21 has been in there. And then you say that this one has the
22 requirement for the HUB to be replaced with a HUB, as the
23 guys in the extension -- the LURA requires that there be a
24 HUB involved in the deal throughout the entire --

25 MS. GARCIA: Well, through the compliance

1 period, which is usually 15 years. But in most of these
2 deals, it was extended. So it is maybe 20, 25 in some
3 cases.

4 MR. OXER: Uh-huh.

5 MS. GARCIA: So usually in the past, if the HUB
6 wants to sell his general partnership, he looks for
7 another HUB. You know, I think the argument has been made
8 that in this case -- well, at least we have discussed.

9 I don=t know that the argument has been made up
10 here, that you know, there is not really a lot of other
11 historically underutilized businesses in El Paso. And the
12 purchaser being a nonprofit can achieve the same goals and
13 provide the financial capacity, supportive services,
14 things like that.

15 MR. OXER: So essentially, what we were doing
16 when we gave people a point benefit in the competition,
17 back when these were competed in the tax credit program,
18 they got a point competition for bringing a HUB into the
19 deal to be able to give that HUB some experience. To be
20 able to ultimately elevate their intellectual capital to
21 the point they were no longer historically underutilized.

22
23 And give them some training in the deal,
24 basically. Is that correct?

25 MS. GARCIA: Correct.

1 MR. OXER: Okay. And the LURA simply sais that
2 when -- throughout the compliance period -- throughout the
3 compliance period there would have to be a HUB in the
4 deal.

5 MS. GARCIA: Yes.

6 MR. OXER: Okay. We still maintain the deal,
7 the stock of housing by keeping the nonprofit into this.

8 MS. GARCIA: Yes. The developments will remain
9 affordable under the same LURA.

10 MR. OXER: It sounds like that constitutes an
11 opportunity to maintain the housing and staff in a
12 location where we might be hard pressed to find somebody
13 to step in. Okay. Staff recommendation is? Neutral. So
14 we get to decide.

15 Okay. We have to have a motion to consider
16 before we will take public comment. We also have the
17 opportunity to table. In order to have public comment,
18 this is a procedural thing, guys.

19 We have to have a motion to consider, whichever
20 direction it wants to go. Then ask for the public
21 comment. Depending on which way it goes, you may want to
22 cough, speak, or not.

23 If it goes the way you don=t want it to go, you
24 want to speak. And then we will have a consideration for
25 an alternative. So with that, we need a motion to

1 consider.

2 MS. BINGHAM-ESCARREÑO: Mr. Chair then may I
3 make a motion to table? Will we still be able to accept
4 comment after a motion and a second to table?

5 MS. DEANE: I guess until you actually vote to
6 table, it is still a live item.

7 MS. BINGHAM-ESCARREÑO: Okay. I will move to
8 table.

9 DR. MUÑOZ: Second.

10 MR. OXER: Okay. Motion by Ms. Bingham, second
11 by Dr. Muñoz to table this item. We have public comment.

12 MR. AINSA: Mr. Chairman, members of the Board,
13 I am Frank Ainsa. I represent Investment Builders. Of
14 course, I am referring back now to the discussion we had
15 on September 4th.

16 And the language that was presented to the
17 Board and was adopted for publication in the Texas
18 Register was a joint effort. I think everybody remembers
19 that.

20 And the criteria was that a HUB could be
21 replaced by a nonprofit if the selling HUB is acting of
22 its own volition, the participation by the HUB is
23 substantive and meaningful, enabling it to realize not
24 only the financial but the other benefits acquired by
25 ownership and operation of affordable housing. And

1 finally, the proposed purchaser meets the development
2 standards for ownership transfers.

3 The issue in this case, and I am going to speak
4 to the tabling motion here in just a second. The issue in
5 this case is that we have a HUB, Investment Builders that
6 meets all of these criteria, has entered into contract,
7 subject to TDHCA approval, to replace the HUB with a
8 qualified nonprofit organization that has been organized
9 by the Housing Authority. And its name is Paisano Housing
10 Redevelopment Corporation.

11 This is part of this larger transaction of 25
12 parcels. It has been in the mill for quite a long time.
13 And there has been considerable effort to try to get this
14 transaction closed. We have to deal with lenders. We
15 have to deal with syndicators. And everybody is waiting
16 to see what the decision is on this particular component.

17
18 Mr. Cichon from the Housing Authority, the
19 Executive Director, he is here, along with Mr. Monty. And
20 I would just ask you this much.

21 Even though the rule has not -- the comment
22 period on the rule has not expired yet. And you haven't
23 received comments, nonetheless, it seemed to me that at
24 the last Board meeting, there was a consensus that these
25 criteria would be the criteria this Board would certainly

1 look with favor on.

2 I simply can=t tell you, you are going to
3 absolutely adopt it. But you would certainly look with
4 favor on it.

5 This transaction is critical for the 25
6 projects to close. And so right now, there is a vacuum.
7 There is no rule dealing with this. And you could apply
8 these criteria if you chose.

9 You could apply these criteria to these seven
10 applications, which is what I am asking you to do. And
11 not wait until the public comment period has expired.

12 Because these criteria seem to be valid, well
13 thought out criteria that everybody agreed to. Staff and
14 IBI and the Housing Authority. And so you have an option
15 here that doesn=t require you to wait for the public
16 comment period to expire. So I would ask that you do
17 that.

18 MR. OXER: Thanks, Frank. Okay. Ike.

19 MR. MONTY: Ike Monty, Investment Builders.

20 MR. OXER: I know what you are doing.

21 MR. MONTY: And I would ask that the Board
22 consider our request. Thank you.

23 MR. OXER: Okay. Noted. Okay. There has been
24 a motion by Ms. Bingham, second by Dr. Muñoz to table this
25 item. Would you consider withdrawing those?

1 MS. BINGHAM-ESCARREÑO: I would consider
2 withdrawing those.

3 MR. OXER: Dr. Muñoz?

4 DR. MUÑOZ: I as well.

5 MR. OXER: Well, Dr. Muñoz withdraws his
6 second. Ms. Bingham withdraws her motion. This sounds
7 like something we should consider doing for the betterment
8 of the State to make sure this works. Okay. Now, we will
9 have a motion to reconsider.

10 DR. MUÑOZ: Motion to reconsider.

11 MR. OXER: Okay. I am going to put words in
12 your mouth, Dr. Muñoz. It is a motion to approve the --
13 state the motion for us. Motion to approve the LURA, the
14 waiver, the change, the amendment to the LURA.

15 MS. GARCIA: Right. It is a material amendment
16 for all seven properties. Material LURA amendment. To
17 approve the material LURA amendments for the seven
18 properties listed.

19 DR. MUÑOZ: Motion to approve the LURA, the
20 material LURA for all seven properties.

21 MS. GARCIA: Amendments. Yes.

22 MR. OXER: He takes direction pretty well.
23 That is okay. So okay. Motion by Dr. Muñoz. Second
24 by --

25 MS. BINGHAM-ESCARREÑO: Second.

1 MR. OXER: Second by Ms. Bingham. Anyone else
2 care to say anything?

3 (No response.)

4 MR. OXER: Okay. Motion by Dr. Muñoz, second
5 by Ms. Bingham to approve the material amendment to the
6 LURA. All in favor, aye.

7 (A chorus of ayes.)

8 MR. OXER: Opposed?

9 (No response.)

10 MR. OXER: There are none. Congrats.

11 MR. MONTY: Mr. Chairman, the staff was really
12 helpful in this. So I want to thank the staff. Thank
13 you.

14 MR. OXER: I appreciate you noting that, Ike.
15 Because we rely on them heavily. And we expect them to be
16 everything that you expect them to be also.

17 MR. MONTY: Absolutely. Thank you.

18 MR. OXER: Thanks for coming up.

19 MR. AINSA: Thank you.

20 MR. OXER: Okay. Jean, you want to finish your
21 last one?

22 MS. LATSHA: Yes, sir.

23 MR. OXER: It sort of makes your head swim,
24 doesn't it?

25 DR. MUÑOZ: You know, hey Jean, before you get

1 on. You know, I just want to say something.

2 You know, sometimes we read these sort of
3 voluminous reports. And you understand them, and your
4 staff and Tom and Cameron you know, with a different
5 degree of nuance, right. And so I know for me, often, I
6 think I sort of understand. And the testimony from the
7 developers and what have you give us a different degree of
8 understanding.

9 And then we do our best to adjudicate all of
10 the information and reach a position that always takes
11 into consideration our charge to affirmatively advance
12 affordable housing in the State of Texas. So you know, I
13 hope that you all understand that you know, we are in the
14 role of trying to balance these disparate, not always in
15 conflict pieces of information and then ultimately try to
16 reach a decision that is equitable and defensible.

17 And again, consistent with our charge. So I
18 just -- you know, for me, it is helpful to balance what we
19 have received from the staff as well as often some of the
20 feedback from the other side that gives us you know, a
21 more enriched understanding of the issue.

22 MR. OXER: And to just step in here, Jean.
23 Cari, was there a 4(c) that you wanted to do?

24 MS. GARCIA: No. But I forgot to say that that
25 item was dropped.

1 MR. OXER: That is what I thought you had told
2 me earlier. So for the record, for the agenda, 4(c) has
3 been withdrawn. Okay. All right. Jean.

4 MS. LATSHA: Yes, sir. I appreciate that, Dr.
5 Muñoz. I don=t envy your position and appreciate
6 everything that you all do.

7 Jean Latsha, Director of Multifamily Finance.
8 So I think on the agenda, I don=t have it front of me
9 actually, but 5(a), I have two appeals; Sulphur Springs.
10 And those have both been withdrawn, unless
11 somebody changed their mind. No. Okay. So we can move
12 on to El Paso.

13 MR. OXER: So 3(b) has been withdrawn
14 essentially?

15 MS. LATSHA: Yes. Sorry. I didn=t have my
16 actual agenda in front of me.

17 MR. OXER: 5(a).

18 MS. LATSHA: Right. 5(a) is withdrawn, so we
19 can move on to 5(b). Right.

20 MR. OXER: You have not yet addressed 3(b), as
21 I recall.

22 MS. LATSHA: That is right.

23 MR. OXER: Are you coming to that last?

24 MS. LATSHA: 3(b) will be last, because it
25 depends on the decision on 5(b).

1 MR. OXER: On 5. Okay.

2 MS. LATSHA: Right. So this is technically
3 appeals to underwriting reports. So which begs the
4 question why I am standing here. Right.

5 So what we are really talking about is a
6 program rule. And this is specifically 11.4(a) of the
7 QAP. This is the \$3 million cap rule.

8 I think you are all familiar with it. But it
9 prevents us, not just by rule, but by statute from
10 awarding any Applicant more than \$3 million in tax credits
11 for a single program year.

12 So we have four applications that were
13 submitted by the Housing Authority of the City of El Paso,
14 three in the at-risk set-aside and one in the regional
15 allocation. So they were for \$800,000, \$875,000,
16 \$1,355,000, and then another for \$1.5 million. So any
17 combination of more than two of those applications would
18 have violated the \$3 million cap.

19 So I am going to skip ahead a little bit to
20 talk about where that rule intersects with how these deals
21 are underwritten. And so what Brent=s division does --
22 and he is going to come and talk about this a little bit
23 more later -- is they take the lesser of three numbers.

24 They take the program limit method, which is
25 basically figuring out eligible basis, how many credits

1 you are eligible to receive. Then they have a gap method,
2 where they basically figure out how much equity you need
3 from those tax credit proceeds to complete -- to make your
4 deal whole.

5 And then they take the amount requested by the
6 Applicant, which is where I come into play. Right. They
7 take the lesser of those three amounts.

8 So when you look at the Tays application, the
9 original request was \$1,355,000. And you will see that
10 the most recent underwriting report actually reflects an
11 amount based on that request.

12 So the original underwriting report indicated
13 those three numbers that I just talked about. One was
14 1.336 million. That was their program limit. One was
15 1.358 million. That was the gap method.

16 And then the Applicant request was listed in
17 that initial underwriting report as \$1,322,000. That
18 being the lower number, that was what the initial
19 underwriting report indicated.

20 So I see this published. Right. And I see,
21 that looks strange to me. My log has consistently said
22 that their request was \$1.355 million, not 1.322 million,
23 and so we start to take a look at it. And what happened
24 was this, and it's a little bit lengthy, and this detail
25 isn't in the Board book. But should I wait.

1 MR. OXER: Hold on, Jean. Stand by just for a
2 second.

3 (Pause.)

4 MR. IRVINE: Sorry. Pesky government.

5 (Pause.)

6 MR. LYTTLE: Those of you who are here today,
7 and have had such a good time, you would like to come back
8 next month, we will be meeting on November 13th in this
9 same room. So I just thought you all might want to know
10 that.

11 Actually, we will be meeting in this room until
12 the session starts, at which point we will be kicked out
13 of this room, and have to find another location.

14 (Pause.)

15 MR. OXER: Okay. Everybody is going to have to
16 be patient for a couple of minutes.

17 Dr. Muñoz is dealing with a legal issue that
18 popped up sort of suddenly. So we will be here.

19 (Pause.)

20 MR. OXER: Okay. Let the record reflect that
21 Dr. Muñoz has returned, and our quorum is now restored.

22 Okay, Jean.

23 MS. LATSHA: So just to back up a little bit.
24 We have three numbers that underwriting is looking at.
25 One generated by the program limit method, gap method, and

1 then the Applicant request.

2 So that initial report reflected a
3 recommendation of 1.322 million that was largely based on
4 the RA Division=s understanding that that was the
5 Applicant=s request. So how that happened was this.

6 So our program staff sent a deficiency stating
7 the funding commitment letter from the Housing Authority
8 of the City of El Paso does not indicate that the \$1
9 million in financing is in the form of a grant, as
10 described in the financing narrative. Please provide
11 evidence that the \$1 million in financing is in the form
12 of a grant. This is the only documentation.

13 There were some other things that were
14 requested in this deficiency, but this is the only one
15 related to the financing. So the response to that was a
16 letter indicating, not only was that in the form of a
17 grant, but it had been increased to \$1.5 million, which
18 reduced the permanent financing, reduced the construction
19 financing they needed. Reduced some of their financing
20 costs.

21 So on top of the requested information, also
22 what was submitted was a revised development cost schedule
23 and a revised request. So our staff inserted those
24 revised exhibits into the application file. Didn=t really
25 acknowledge the fact that the request had been lowered,

1 because they hadn=t asked for that information.

2 So it wasn=t really -- it wasn=t really
3 reviewed again, because it hadn=t been requested in the
4 first place. But that \$1.322 million request gets
5 inserted into the application file. We finish our review.
6 Forward it on to Real Estate Analysis.

7 So when they are doing their review, they see
8 that number. And that is what generated that report. So
9 we caught that pretty quickly. When we caught it, in less
10 than two days, issued another report that was based on
11 those three numbers. But the Applicant request number now
12 correctly reflected \$1.355 million.

13 So in turn, what happened was now, you have
14 four applications. A revised underwriting report for one
15 of them. That was essentially giving the Applicants what
16 they wanted. The other three were recommendations for the
17 requested amount of credits and then this one was for a
18 slightly less than that \$1.355 million. It was 1.351
19 million.

20 So you would think that the Applicants would be
21 happy with this. But they were not, because they were
22 still violating the \$3 million cap at this point. So
23 another set of appeals.

24 So this set of appeals started a discussion
25 about costs, which I think Brent will speak to more

1 eloquently than I could. My only comment to that is, you
2 know, I think that if you started to look at any deal,
3 anywhere a little more thoroughly, nine times out of ten,
4 it is going to get more expensive, not less expensive.

5 I don=t -- I know that is how all mine worked.

6 So I wasn=t really that surprised when I found that the
7 REA Division decided that there were some more costs in
8 there that maybe they didn=t catch the first time around,
9 after looking at these deals again. And that is exactly
10 what happened with a couple of them.

11 So now we are to the point where we have two
12 recommendations that were exactly what the Applicant asked
13 for in the first place. And two recommendations,
14 actually, not recommendations. Basically, two
15 determinations that two of these applications are not
16 financially feasible.

17 So going back to the one recommendation. Just
18 remember that they are -- the Applicants are couching this
19 in a way that they are asking for less credit for one of
20 these. But by asking for less credit, they are really
21 asking for more credit. They want their third deal.

22 They want to get under the \$3 million cap. And
23 I really do think that that is where these appeals
24 started. And I think that is where they end as well. And
25 Tim, did you have something?

1 MR. IRVINE: Yes. To me, the real heart of it
2 is in the statute. It is 2306.6708. And it says, except
3 as provided in Subsection B, an Applicant may not change
4 or supplement an application in any manner after the
5 filing deadline.

6 And B says, that this section does not prohibit
7 an Applicant from, at the request of the Department,
8 clarifying information in the application or correcting
9 administrative deficiencies in the application. And the
10 issue here is, we issued an administrative deficiency
11 which certainly entitles the Applicant to respond to that
12 administrative deficiency. But we believe that they went
13 beyond that, and in effect, amended the application.

14 MS. LATSHA: So in general, staff recommends
15 denial of the appeals. And unless you have any other
16 questions for me. They have something to say about it.

17 MR. OXER: Any questions from the Board?

18 (No response.)

19 MR. OXER: We will have to have a motion to
20 consider before public comment.

21 MS. LATSHA: And Brent, did you want to add
22 anything to that for now, or are we going to --

23 MR. STEWART: Brent Stewart, Real Estate
24 Analysis. I think she did a great job, kind of
25 encapsulating the issues.

1 There is a lot of detail behind what happened
2 here. There are some issues that occurred on our side, on
3 the underwriting. There are some issues that occurred on
4 their side of the underwriting that kind of collided into
5 this whole thing.

6 And we can certainly go into all that detail if
7 you would like to. But otherwise, I think Jean did a
8 pretty good job in outlining the issues.

9 MR. OXER: Well, at the heart of it, the crux
10 of the issue is, it is a material change that was not
11 requested in an administrative deficiency. Or responding
12 to one.

13 MR. STEWART: Yes. That is way outside of the
14 REA. That is outside of our spot. That is the program.

15 MR. IRVINE: That is why the program side
16 presented it.

17 MR. OXER: Okay. We will have to have a motion
18 to consider before we allow public comment.

19 MS. BINGHAM-ESCARREÑO: I move to approve staff
20 recommendation to deny.

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

23 MR. GANN: Second.

24 MR. OXER: And a second by Mr. Gann. We
25 apparently have public comment. Hi, Sarah.

1 MS. ANDERSON: All right. Sarah Anderson. I
2 am here to represent the developer. And you know, it has
3 been two glorious years that I have not had to come before
4 you.

5 MR. OXER: We have missed you.

6 MS. ANDERSON: Well, you know. I wish I could
7 say the same. It is more fun being back there. It is
8 nice to see you, but it is not fun to be up here.

9 And I wanted to thank staff. I think that they
10 gave a pretty good overview. And I am just going to fill
11 in maybe some of the details that I think might be some
12 mitigating factors. Also, we are talking about four deals
13 here.

14 So I am hoping we get a little bit of leeway on
15 the time as we go forward. As we are going to be
16 discussing all four at one time. So I don=t know if I am
17 in a three minute rule, if I could ask for a little bit of
18 leniency on that.

19 MR. OXER: We will give you some latitude, but
20 don=t waste much time.

21 MS. ANDERSON: Thank you. I won=t. I will do
22 my best. So what Jean says is correct. But ultimately, I
23 think there are two issues that we would like to bring
24 forward that we would like for you to opine on.

25 And the first one is, yes, the \$3 million cap.

1 But I think separate of that is the issue that we
2 believe -- and I know you are never going to hear this
3 from another developer: We believe that we frankly have
4 just been issued more credits than we are supposed to get
5 and that that brings in the question of whether or not
6 there is a violation of the Department statute to not give
7 more credits than a development needs.

8 Secondly, we also really believe that the two
9 deals that were found to be infeasible are not infeasible.

10 And that if we could have a full discussion and sit down
11 and back and forth, with underwriting, we believe that
12 both of these issues would be addressed and mitigated.

13 Now, Jean talked to you about how we got here.

14 But I think what is missing from this puzzle is that we
15 have not had what is considered a normal review by
16 underwriting. And I am going to give you a little bit of
17 background about how that has happened.

18 And it is not the program=s fault. It really
19 is this weird confluence of things that happened. So when
20 Jean talks about that we submitted something and it turned
21 out not to be germane, we haven=t appealed that. Because
22 we agree that there was a mistake that we tried to fix.

23 And when we discovered this mistake, there were
24 two avenues that we could go through. The first one is to
25 deal through the program deficiency process, which is the

1 one that we eventually were told didn=t work.

2 The second one would have been through
3 underwriting back and forth, where we would have talked
4 costs, and realized specifically that we had some costs in
5 there that were not eligible for eligible basis, that
6 would have lowered our credit request at that time. And
7 that we did not articulate an issue that we had a
8 nonprofit contractor involved. And that, the reason why
9 our costs were lower than the Department=s were this sort
10 of behind the scenes -- it wasn=t something that we
11 brought forward.

12 These are items that if we could have the
13 discussion now, I believe we would end up with fewer
14 credits. And the reason why we ended up in this strange
15 no mans land is that well, when we put forward our
16 deficiency with the program, that was done back in March.

17
18 We got our underwriting reports one week before
19 the July Board meeting to award the credits. And the day
20 after the underwriting reports were issued is when we
21 found out from program that they were not going to accept
22 that information.

23 So the problem is, the second that the
24 underwriting report is issued, you are in appeal land.
25 You are not having a back and forth discussion anymore.

1 And so the second avenue that we would have
2 followed, had we found out in March that this was not
3 accepted, we would have spent the next three months with
4 underwriting going through the costs and explaining
5 things. And we believe that had we been able to have that
6 back and forth, we would be in a different place right
7 now.

8 The other thing, again, it is not
9 underwriting=s fault that some of these issues didn=t
10 necessarily come up. When they were doing the review, I
11 understand that some of that back and forth about costs
12 doesn=t exist unless your credits are going to be cut.

13 So at some point, staff makes the decision, we
14 don=t agree on costs at all. We are going to go with our
15 costs. But because it is not going to cause them a loss
16 of credits, we are not going to have that dialogue. And
17 that is what happened.

18 And so we never really talked about why our
19 numbers don=t match. And at the end of the day if we went
20 with our numbers, and we agreed, then they would de factor
21 have to have cut the credits.

22 So I mean, we are in this weird place. I was
23 trying to -- my husband and I were talking about this last
24 night. I am like, how do I explain this. It is like a
25 Russian novel; it is long, complicated and tragic.

1 But at the end of the day we feel that this was
2 a mistake that in the normal course of underwriting would
3 have -- new information would have been allowed. And I
4 believe the statute that Tim has talked about is true when
5 it comes to the program side.

6 But underwriting always opens up the door for
7 new information. And had we been able to go through the
8 normal process, we believe not only would we have received
9 fewer credits, but we also believe that the deals would
10 have been found to be financially viable.

11 Barry Palmer is going to go over some of the
12 legal aspects. I don=t know if anybody has any further
13 questions for me?

14 MR. OXER: Any questions from the Board?

15 (No response.)

16 MS. ANDERSON: Okay. Thank you.

17 MR. PALMER: Good afternoon. Barry Palmer with
18 Coates, Rose. And we represent the Housing Authority on
19 this transaction.

20 And there are a lot of complicated issues
21 related to these four applications and the underwriting.
22 But I think REA and their writeup summed it up best; that
23 it really boils down to the issue of the sales tax
24 exemption.

25 And we had structured this transaction as many

1 housing authority transactions are structured; so that the
2 project would qualify for a sales tax exemption. If you
3 have a 501(c)(3) that is devoted to affordable housing act
4 as the master contractor, you get a sales tax exemption on
5 affordable housing development.

6 And that is 8 percent on materials. Materials
7 are often times half your contract price. So, there is
8 probably rough numbers of 4 percent discount on your
9 construction costs, having a sales tax exemption.

10 So our numbers that we submitted in our
11 application assume the sales tax exemption. Now, we
12 didn't say anything in the application that -- we are
13 taking a sales tax exemption, and that is a mistake on our
14 part. Although, there is no where in the application that
15 asks you if you are getting a sales tax exemption either.

16 But our numbers were then compared by REA to
17 the Marshall and Swift indices. And they determined that
18 their numbers were more than 5 percent higher than ours.
19 So they used the Marshall and Swift numbers. Marshall and
20 Swift of course, assumes you are paying full sales tax.

21 If they had taken into account the sales tax
22 exemption, then they would have used our numbers. We
23 would have had a lower eligible basis. And the credits
24 would have allowed for three allocations instead of two.

25 There has been some discussion about you can't

1 bring in new information after the application deadline.
2 And we understand that in the context of the application.

3 But in the context of underwriting, as Sarah touched on
4 before, underwriting is an ongoing process that continues
5 through the application process, post allocation, the cost
6 certification, 10 percent test.

7 Underwriting is always looking at new
8 information to determine the most accurate picture of the
9 deal. And in fact, in the rules, it provides that if in
10 underwriting, that if your application is deemed
11 infeasible, that the Executive Director can waive that,
12 and let me read from the rules.

13 That the Executive Director may waive the
14 determination of infeasibility if documentation is
15 submitted by the Applicant to support unique circumstances
16 that would provide mitigation. So that to me, if you are
17 allowed to submit documentation to show that you are not
18 infeasible, you know, that is treated to me differently
19 than the application itself.

20 But rather, the underwriting, that you are
21 allowed to introduce additional information to show that
22 you are not infeasible. And that is what we are doing
23 here. We are introducing the information that we have got
24 a sales tax exemption, that the Housing Authority is in
25 position to provide additional soft financing to the two

1 projects that were determined to be infeasible.

2 So with that, I will turn it over to Gerry
3 Cichon from the Housing Authority, to talk about it
4 further. Unless there are any questions for me.

5 MR. OXER: Any questions?

6 (No response.)

7 MR. OXER: Okay.

8 MR. CICHON: Good afternoon, everybody. Gerry
9 Cichon, Housing Authority of the City of El Paso. I want
10 to say thank you for allowing us to be here. Also, I want
11 to say thanks to staff. Even though we disagree on this,
12 we had a very robust conversation back and forth. And
13 they were very pleasant in order to sit and have long
14 conversations regarding these issues.

15 One thing I would like to start out by saying
16 is that we won. Okay, the points that we were allocated,
17 we won. And so you are really looking at the cap of the
18 3.03 million; 3.03 million. That is the difference we are
19 talking about here.

20 And so this is not an application that is not a
21 winner. This is an application that is a winner. You are
22 just looking at the cap that now stops us from getting
23 this award.

24 And so the timing of this, based upon how this
25 has been processed, being so late in the game didn't avail

1 us the opportunity to really have the discussions to show
2 that being a governmental entity, having nonprofits that
3 were entitled to that sales tax exemption which would have
4 lowered us below that 3.03 cap, which would have then been
5 a winner. And so the fact that this happens often and
6 that this 3.0 -- that the \$3 million cap has now more or
7 less stopped us from being able to have that conversation.

8 Because we were then surpassing the amount that
9 was available. We believe in effect denies us that right
10 of past practice where this routinely happens with other
11 underwriting discussions. And so there were issues on
12 both sides here.

13 It is not just the Housing Authority saying we
14 did something wrong. There were issues on both sides of
15 this, that ended up with the confluence of us ultimately
16 being where we are today.

17 And so with that, we see that as mitigation.
18 We see that as the ability for us now to bring it forward,
19 have these discussions in order to fix this particular
20 issue itself.

21 Now, the other thing that was being discussed
22 is the fact that yes, we do have soft money. When you
23 talk about the infeasibility of this particular -- these
24 particular issues before the Board, those particular tax
25 credit applications, we have the money to put into the

1 deal to make them feasible. And so the infeasibility is
2 something that could be easily rectified on a couple of
3 different levels, whether it be the tax abatement itself,
4 or the soft money being able to be contributed by the
5 Housing Authority.

6 That being said, the reason why it is so
7 important to us, is as you know, with the grant
8 transaction that we are going through, with the 6,000
9 units that we are bringing forward to you, with the 15 4
10 percent tax credit applications that are coming forward,
11 and the limitation to no more than five years to complete
12 the construction, these deals are so important to us, to
13 address now. Because we don=t have time to address them
14 later.

15 And so we are asking for all of this to be
16 considered as the mitigation, to allow the Executive
17 Director to sit with us to iron out this \$30,000 issue.
18 Because that is what it really comes down to. It is a
19 \$30,000 issue, which would then allow us to receive the
20 awards that we rightfully won, based on the scoring.
21 Thank you.

22 MR. OXER: Okay. Any questions for Gerry?

23 (No response.)

24 MR. OXER: Any other public comment?

25 (No response.)

1 MR. OXER: Anything else to say, Jean?

2 (No response.)

3 MR. OXER: Brent? Either one of you?

4 MS. LATSHA: You know, I could speak to a
5 couple of points that were made. You know, I will go
6 back to Sarah=s comment about having -- they thought they
7 might have acted differently in their discussions with the
8 REA Division had they known that we hadn=t accepted their
9 change.

10 But my response to that is that there was no
11 indication that we ever accepted that change, since every
12 single log -- and there were almost a dozen of them that
13 were posted throughout the summer -- reflected a credit
14 request of 1.355 million, right up until July 31.

15 So I don=t think that staff ever really
16 indicated that that change was accepted. Whether or not
17 that would have changed their discussions with REA
18 Division when they were really talking about costs, I
19 can=t really say.

20 You know, there was a comment made about, if
21 the application is found infeasible, that could be waived
22 by the Executive Director. I don=t want to speak for Tim,
23 but I think the denial of the appeals at the Executive
24 Director would -- it's basically serving that same
25 purpose.

1 I think the appeal process itself actually does
2 open a door for all of this discussion that supposedly
3 wasn=t had. It gives the opportunity for the Applicants
4 to state their case. We take those appeals very seriously
5 and review all of that documentation.

6 And then there is still some back and forth
7 after that as well. So I don=t think that there was
8 ever -- you know, that there was not an opportunity for
9 the Applicants to discuss these applications pretty
10 thoroughly with staff.

11 You know, this really is -- I think the other
12 comment about being able to put additional soft money into
13 this deal, I think that every Applicant out there that
14 thought that they were this close to an award would tell
15 you that they could get go some more soft money. And I
16 think these guys -- I think this Applicant can.

17 But that is not really the point. That needs
18 to be represented that way in your initial application.
19 So I think those would be my only responses there, unless
20 you have any other questions for me or Brent.

21 MR. OXER: Did you have anything to comment on
22 the appeals process, Tim?

23 MR. IRVINE: (No audible response.)

24 MR. OXER: Good. Okay. So there were three
25 deals, as Gerry says. They were winners. They were over

1 by 30,000.

2 MR. OXER: By 30,000.

3 MS. LATSHA: Yes, sir.

4 MR. OXER: That is 1 percent off the top of
5 this. Even if you knocked one of them out, there are
6 going to be two that will work. What happens?

7 MS. LATSHA: So as it stands, they already have
8 two awards, for Tays and Haymon-Krupp. As the
9 underwriting reports are reflected right now, if we were
10 to award Westfall Baines, they would be over the
11 \$3 million cap unless we would --

12 DR. MUÑOZ: By 30,000.

13 MS. LATSHA: Right. By 30,000. We have had --

14 DR. MUÑOZ: How many units in the third
15 project?

16 MS. LATSHA: I am not sure off the top of my
17 head.

18 MR. PALMER: Westfall Baines is probably 130
19 units.

20 DR. MUÑOZ: You are talking about holding up
21 130 units for 30,000?

22 MR. OXER: No. No, we're not. Hold on.

23 MS. LATSHA: No.

24 DR. MUÑOZ: Okay.

25 MS. LATSHA: No, so right. So to continue, so

1 when we don=t award that, we awarded the next at-risk
2 development in line, which by the way would be awarded
3 anyway. It was a very large development; it was a \$2
4 million award.

5 So the award of Westfall Baines wouldn=t have
6 been enough to get to the entire at-risk set-aside. So we
7 are going to get to that deal no matter what. Right. And
8 so we did get to it.

9 MR. OXER: You are going to get to the next
10 one.

11 MS. LATSHA: And we already awarded it.

12 MR. OXER: Irrespective of what happens.

13 MS. LATSHA: That is right. That is right. As
14 far as the at-risk set-aside is concerned.

15 MR. OXER: What about the one beyond that?

16 MS. LATSHA: And so then we start awarding all
17 of the regional applications --

18 MR. OXER: The regional collapse.

19 MS. LATSHA: -- which we did, for the most
20 part, in July.

21 So the credit that is remaining right now is
22 going to those regional applications and, yes, will be
23 used. So when we get to the next agenda item, what you
24 will see, that is staff's recommendation, is reflecting
25 four more awards and then a remaining credit amount of

1 about \$475,000. Right. Which likely -- which could be
2 used by the end of the year. You know, we may or may not
3 get some additional returns. But that \$475,000, that is
4 enough to probably fund some deal down the line.

5 So if we were to award Westfall Baines instead,
6 reduce those credit amounts to get them under the \$3
7 million cap, one of those four awards that is now being
8 recommended would no longer be recommended.

9 And instead of having \$475,000 in credit, we
10 would only have \$300,000 in credit left, because the
11 Westfall Baines award is greater than the last that is
12 being recommended in the other agenda item. I don=t know
13 if that was clear.

14 MR. OXER: Actually, the surprising thing is
15 most of us got it. Any other comments?

16 (No response.)

17 MR. OXER: Okay. Motion by Ms. Bingham.
18 Second by Mr. Gann to approve staff recommendation which
19 is to -- restate that again, Jean.

20 MS. LATSHA: To deny the appeals.

21 MR. OXER: To deny the appeals on this
22 collection, which does not mean that two of them -- it
23 only takes one of the deals out of the mix. Right?

24 MS. LATSHA: It does not change the status of
25 their current award. They already have two awards. They

1 never had the other two.

2 MR. OXER: Okay. So it is only on the single
3 deal that we are actually looking at an appeal of this one
4 deal.

5 MS. LATSHA: They appealed all four
6 underwriting reports. But the denial of those appeals
7 would not affect their standing awards.

8 MR. OXER: Okay.

9 DR. MUÑOZ: And they have two standing awards.

10 MS. LATSHA: That is correct.

11 DR. MUÑOZ: The denial of the appeal would only
12 affect the one.

13 MS. LATSHA: The third that they want. Right.

14

15 DR. MUÑOZ: The third one.

16 MR. OXER: Okay. And so as is the case, in
17 every case, there is always a demand. Everybody needs the
18 awards. Everybody needs the credits. But the credits are
19 not going to go to waste.

20 MS. LATSHA: No, Sir.

21 MR. OXER: Okay. All right. We have a motion
22 by Ms. Bingham. A second by Mr. Gann to approve staff
23 recommendation on 5(a) as just summarized by Ms. Latsha.
24 All in favor, aye.

25 (A chorus of ayes.)

1 MR. OXER: Opposed?

2 (No response.)

3 MR. OXER: There are none. The appeal is
4 denied.

5 MS. LATSHA: All right. So that can take us
6 back to 3(b). All right. So Item 3(b) is awards of
7 competitive 9 percent tax credit applications off of the
8 waiting list.

9 And you probably skipped through all of the
10 narrative, and get right to that chart that is in your
11 Board book. And I am going to explain how we got here.
12 So the 65 applications on July 31st.

13 MR. OXER: Hold on a second. Is this the
14 supplement, versus -- what is this?

15 MS. LATSHA: It was a supplement. Yes, sir.

16 MR. OXER: Okay. I have got it.

17 MS. LATSHA: So July 31st, we awarded those 65
18 applications. We held back \$1.7 million to resolve the
19 issue that we just resolved. So we still have that \$1.7
20 million.

21 So those go to the next underserved regions.
22 The most underserved regions, resulting in awards to
23 Constitution Court, and Villas of West Mountain. I will
24 note, there were some conditions placed on the award to
25 Villas at West Mountain by EARAC. My understanding is

1 that the Applicant didn't have any objection to those
2 conditions.

3 So we are left with, after some additional
4 underwriting reports, \$138,000 in the statewide collapse.

5 Then we received a return from Urban Region Six, about
6 \$1.4 million. Per the rules, that goes right back to that
7 region.

8 And so we are recommending the award for Womens
9 Home Housing Phase Two. That award was only about \$1.1
10 million. So we added another \$300,000 or so to the
11 statewide collapse.

12 We received another return of \$500,000 in Urban
13 Region Three, which was not enough to fund the next
14 application in that region. So that also got added to the
15 statewide collapse. Then the most underserved region
16 becomes Rural Region Eight, where we are recommending a
17 \$750,000 award to Bell Towers.

18 And so our balance -- we then received national
19 pool as well. Because automatically, the statewide
20 collapse. So our balance as of today, \$473,647 in
21 credits.

22 We will see if we receive some more returns in
23 the next month or so. And if we don't, we will find a
24 home for those 473,000.

25 MR. OXER: So they are highly unlikely to be

1 wasted.

2 MS. LATSHA: Highly unlikely. And even if we
3 don=t award all, we can use them next year. Yes. I'm
4 sorry. I second guessed myself on that one.

5 MR. OXER: So we are essentially approving your
6 distribution for the collapse.

7 MS. LATSHA: Yes, sir.

8 DR. MUÑOZ: So moved.

9 MR. OXER: Okay. Motion by Dr. Muñoz to
10 approve staff recommendation on Item 3(b).

11 MR. GANN: Second.

12 MR. OXER: Second by Mr. Gann. Do I hear any
13 need for public comment?

14 (No response.)

15 MR. OXER: There appears to be none. Okay.
16 Motion by Dr. Muñoz, second by Mr. Gann to approve staff
17 recommendation on 3(b). All in favor, aye.

18 (A chorus of ayes.)

19 MR. OXER: Opposed?

20 (No response.)

21 MR. OXER: There are none. Okay. We are at
22 the point in the agenda, where we accept public comment
23 for those items to be added to future agendas. Do we have
24 an item?

25 There are two items in the Board book that will

1 constitute components of that, that we will assume for the
2 record have been read into the record. Since they are in
3 the Board book.

4 Are you sure you guys didn't want to send in
5 written comments? We could take them all this stuff. All
6 right. Okay. Please, join us.

7 Let me just -- there is a housekeeping point I
8 am going to have to take care of right here. All right.
9 A quick question here.

10 If everybody just showed up and wants to talk.
11 How many are talking about the same thing? Does
12 everybody want to talk about -- are you adding weight to
13 somebody=s comments or do each one of you want to speak?

14 VOICE: [inaudible].

15 MR. OXER: Okay. Well, the reason I am asking,
16 and saying that, we are -- as you evidence here, we are
17 short on a quorum -- we have a very tight quorum, and Dr.
18 Muñoz is going to have to leave here in not too very long.

19 So if there is any way for you to shorten your
20 comments. Keep them direct. If there is anything you
21 want to say that has already been said, you don't have to
22 say it again. We actually hear pretty well.

23 So we will make sure it is recorded and we will
24 take that into account. So if there is anything that has
25 been said -- you have an opportunity. I would like to

1 offer you the opportunity to speak, but say what is new
2 and add to the argument, if you would, please. Okay.

3 MR. CHAPA: Jay Chapa. I am Director of
4 Housing and Economic Development for the City of Fort
5 Worth. And I am here to speak about the 2015 QAP.

6 We understand that it is going to be addressed
7 at the next meeting. But there is a couple of issues that
8 we thought were important for the Board to hear about,
9 that we have concerns about.

10 One, is the QAP scoring for the high
11 opportunity areas has basically taken a tool out of our
12 tool chest that allows us to do any redevelopment in areas
13 that we have targeted for redevelopment. That is one of
14 the concerns.

15 The other piece is the new recommendation for
16 undesirable neighborhood characteristics for neighborhoods
17 that are 35 percent or more poverty would be labeled as
18 that. And it makes it much harder for developers to
19 actually seek the tax credits.

20 MR. OXER: Mr. Chapa, I have to ask. Have you
21 had an opportunity to present these comments? Because as
22 we proceed with the QAP, all of the comments from every
23 source and route coming in, public comments, website,
24 written comments, letters, all of those come into the
25 focus to be considered in this.

1 There is something of such magnitude of
2 importance that -- what we are really trying to do is add
3 comments to build the agenda. We cannot act on anything
4 you say today.

5 MR. CHAPA: Right.

6 MR. OXER: We are only accepting comments which
7 in light of our tenuous quorum, I am only suggesting that
8 it might be just as well for you to add these comments --
9 put these comments in written form, so we have them into
10 the record.

11 MR. CHAPA: We have done so. And we have
12 conversations with staff.

13 MR. OXER: Okay.

14 MR. CHAPA: Staff has basically responded that
15 they don=t feel like they would make any changes. So we
16 thought it was important that the Board understand the
17 issue at least before you take it all on in one day and
18 then try to decide.

19 MR. OXER: Okay. That is good.

20 MR. CHAPA: And that is why.

21 MR. OXER: You understand I am obliged to ask
22 the question, given the circumstances.

23 MR. CHAPA: And I will be really quick. Some
24 of the issues -- last year we had this concern. We did
25 not come to the Board with a concern, because it was the

1 first time this was really being put into play. So we
2 understand it is in response to the lawsuit.

3 But the reality of it is, we have seen that it
4 has taken out any opportunities for redevelopment efforts
5 to continue in areas of the city where we have a targeted
6 redevelopment where the housing stock is very old. There
7 is no market for new housing stock. And you need to start
8 with some kind of new development.

9 And tax credit allows you to do that before you
10 can step toward new improvements from developers. And
11 eliminating that tool has basically left us with a big
12 hole in our toolbox.

13 MR. OXER: You understand that we are getting
14 ready to have a really big bar fight in January about who
15 gets to determine that issue, right.

16 MR. CHAPA: Yes.

17 MR. OXER: We are going to have the argument up
18 in D.C.

19 MR. CHAPA: I understand that.

20 MR. OXER: Okay. Just make sure that was
21 clear.

22 MR. CHAPA: And so we understand that. We just
23 feel that there is an opportunity here to either try to
24 level the field by being very selective and targeted on
25 the type of redevelopment efforts that are made, where you

1 have a real redevelopment effort, not just where it is an
2 area that needs the development but we have a city wide
3 redevelopment effort.

4 Either that, and or the further stigmatization
5 of the areas where they are called undesirable also
6 doesn't help to attract developers to that area. So those
7 are my comments.

8 MR. OXER: What we are going to do is, we are
9 going to take as many comments as we can, until Dr. Muñoz
10 has to leave. And then we are going to -- unfortunately.
11 You are welcome to come back next time.

12 We will take your individual comments. Do what
13 we can to make sure that everybody -- please consider the
14 fact that they want to speak also.

15 MR. TRIBB: Absolutely. Thank you, Mr.
16 Chairman, members of the Board. It has been a long day.
17 And thank you for allowing me to speak.

18 We have created a high opportunity zone. I'm
19 sorry. My name is Mark Tribb, and I am with the
20 Renaissance Heights Initiative.

21 And we have created a high opportunity zone.
22 But it happens to be within an inner city. It is four
23 miles southeast of downtown. It was green space. It was
24 an orphanage owned by the Masonic Home. They sold it.

25 We have over 300,000 feet of new retail,

1 including a really quality grocery store; Uplift Education
2 has a facility, K through eight. They are building a high
3 school on the property. We have a YMCA. We have ACH
4 family services. We have Cook Children=s, who just built
5 an 18,000-square-foot facility on the property.

6 And yet we are predisposed against an
7 allocation simply because we are in an inner city area.
8 And so we are asking for either a set-aside or a small
9 change in the scoring just to make sure that it doesn=t
10 all go one way, the pendulum swing this way completely,
11 with nothing left for inner city, truly quality inner city
12 revitalization efforts.

13 And that is what we have. So I will stop and
14 let the next speaker go.

15 MR. OXER: Thanks very much. We appreciate
16 your comments. All right.

17 MS. CHAPA: Hi. Veronica Chapa, City of
18 Houston. Been a while.

19 MR. OXER: Nice to see you again.

20 MS. CHAPA: Good to see you. And I hope we can
21 host you in March, because we can find a rodeo for you to
22 attend after we have the meeting.

23 MR. OXER: I think that is a really good idea.

24 MS. CHAPA: You know, I might be able to swing
25 getting a place for you.

1 MR. OXER: It will shut down my requirement.
2 It won=t be quite as much of a commute for me.

3 MS. CHAPA: There you go.

4 MS. DEANE: Mr. Chair, let me just also
5 mention -- and I know it doesn=t specifically say in our
6 rule that, you know, general comments can=t be made.

7 But it does indicate the purpose of public
8 comment -- and this is also part of the Open Meetings Act
9 as well, that the purpose of the public comment period at
10 the end, you know, is to try to bring an issue up and get
11 it put on the next agenda. And this is on the next
12 agenda, or it will be.

13 The QAP will be on the next agenda. So I just
14 hope everyone understands that the comments that you are
15 bringing today, the Board can=t really interact with you
16 on any of those.

17 And I think there is a question as to whether
18 or not it is even going to end up being in the record of
19 the rulemaking, because it is not in one of the hearings
20 related to the rulemaking. So I just want to make sure
21 everyone is kind of clear on that.

22 And the Board -- like I said, Dr. Muñoz needs
23 to leave, so we are going to lose our quorum.

24 MR. OXER: Yes. Dr. Muñoz is going to have
25 to --

1 MS. CHAPA: I understand. I do.

2 MS. DEANE: It's what can the Board do for you
3 today.

4 MS. CHAPA: I understand.

5 MR. OXER: Hurry.

6 MS. CHAPA: I do. I need to give you all a
7 heads up.

8 MR. OXER: To reinforce that -- we will take
9 the heads up, but to reinforce this, whatever you say
10 today, make sure you write and send it to us.

11 MS. CHAPA: We will, and that is going to be,
12 like my staff gave me a longer speech that had five
13 recommendations and subpoints between each category. It
14 comes down to two initiatives.

15 The first that we would like to do is get
16 buy-in from TDHCA to offer parity to the City of Houston=
17 permanent supportive housing initiative that would give us
18 the same sort of point scoring that we had in the rental
19 demonstration 811 program that's produced in the QAP this
20 year.

21 There are tremendous benefits to that, that
22 TDHCA would be joining us in eliminating chronic
23 homelessness by 2016. We are currently about 60 percent
24 of the way there, but we need an additional cash infusion
25 in the properties and investments in order to get us to

1 the finish line.

2 So this is going to happen. We have been
3 recognized by the White House. We are becoming the
4 national model for our approach to ending chronic
5 homelessness. We would love to have you as a partner for
6 the Tael [phonetic] 1.1.

7 The second piece is also what Fort Worth was
8 having problems with; inner city revitalization and
9 limitations in the QAP. So from the City of Houston, you
10 will receive additional details asking if we could have
11 special consideration for the disaster recovery areas.
12 And all of you remember that we have revitalized these
13 areas.

14 We have also gone through our own Fair Housing
15 test and struggles. I know that Neil Radcliff, our
16 Director wants to actually call Tim and have that
17 discussion. Because our Fair Housing struggles have been
18 the same. But our approaches are a little bit different.

19 And yet, they meet the same end.

20 And to the extent that we can also use the
21 investment from the QAP to help revitalize areas that are
22 already in play, and to allow the affirmative furthering
23 of Fair Housing, standard of racial and economic and
24 social integration. We are ready to do that.

25 We are already becoming a best practices case

1 study for how to use those disaster recovery dollars. So
2 again, these are win-wins.

3 We are already going down the trail. We were
4 meant to -- God put us up here to be successful. We just
5 need the partnership and the funding to get there. So we
6 look forward to giving you more next month.

7 MR. OXER: Appreciate your comments. Give our
8 best regards to Mayor Parker.

9 MS. CHAPA: Will do.

10 MR. OXER: Next.

11 MR. SMITH: Thank you all. My name is Evan
12 Smith. I am a community development advisor at Purpose-
13 Built Communities. We are a nonprofit pro bono consulting
14 firm. And we are proud to support the Renaissance Heights
15 coalition.

16 Our experience is based off a revitalization in
17 Atlanta's East Lake neighborhood. And through a number of
18 strategic investments and partnerships, the community was
19 transformed from a place where, you know, crime and
20 terrible school outcomes were the norm into a place that
21 families were connected with programs and services and
22 educational opportunities that allow them to thrive, all
23 within a mixed income environment.

24 And so we work at the invitation of local
25 leadership. And we are currently engaged with a few more

1 communities across the country, 45 in total, including
2 others in Texas.

3 The approach being taken by the Renaissance
4 Heights Coalition creates an environment that attracts
5 families with choice and additional private investment
6 while ensuring the neighborhood includes a pathway to
7 prosperity for the lowest income families. Like you all,
8 we believe that families deserve to live in a place that
9 connects them with the resources and opportunities they
10 need to thrive.

11 And given the range of high quality committed
12 partners, you will hear from a few of them in just a
13 moment, working together in this environment, we believe
14 families living in a development located at Renaissance
15 Square will have access to the resources and opportunities
16 they need to achieve whatever they want to in life.

17 As such, I respectfully request that you all
18 either modify the scoring criteria to recognize high
19 opportunity areas created by inner city revitalization
20 efforts. Those efforts that are connected to a whole
21 scale transformative revitalization plan or set aside a
22 portion of the annual allocation for such transformative
23 initiatives. Thank you.

24 MR. OXER: Great. Thanks for your comment.
25 Next.

1 MS. McDOUGAL: Hi. I am Becky McDougal with
2 Uplift Education, speaking on behalf of Renaissance
3 Heights. Uplift Education is the oldest and largest
4 network of free public charter schools in North Texas,
5 with track records of success in underserved communities.

6
7 Today, we serve 12,000 students on 14 campuses
8 and have two in Southeast Fort Worth. One of which is in
9 the immediate area that Renaissance Heights is in.

10 Uplift right now has a network of 84 percent
11 children that receive free and or reduced lunches, as much
12 as 90 percent at most of our campuses. The success of our
13 students is dramatic. 100 percent of our graduates were
14 accepted to college last year. Our seniors won 67 million
15 in scholarships and grants. We are really proud of our
16 students.

17 Like I said, we have a campus right in the
18 heart of Renaissance Heights. And another nearby. And
19 Uplift is 100 percent committed to being a part of this
20 revitalization effort. We would love to be able to open
21 this next income housing as part of this, serving families
22 in this community with our road to college program.

23 We are committed to provide preferential
24 enrollment to the residents of Renaissance Heights. And
25 we are partnering with the YMCA early learning program to

1 ensure that all those children in Renaissance Heights come
2 into kindergarten well prepared.

3 A lot of other partners that are here will also
4 be supporting that particular community. ACH is going to
5 ensure that their families have access to critical social
6 and emotional support.

7 Texas Wesleyan has committed to provide
8 scholarship and reduced tuition to our graduates. Cook
9 Children=s is within walking distance of our campus
10 already, and is ensuring that our families have really
11 wrap around support and health care.

12 So we believe that this is a high opportunity
13 area, even though the tax allocation doesn=t account for
14 that. And we respectfully ask that you give us the means
15 to move forward with this initiative. It is a
16 comprehensive community revitalization plan that we are
17 100 percent behind, and we ask that you would be as well.

18 Thank you.

19 MR. OXER: Okay. Thanks, Becky. I appreciate
20 your comments. Next.

21 MR. TAYLOR: My name is Craig Taylor. I am
22 with Communities for Veterans. Thank you for the
23 opportunity. I want to address another matter that is in
24 the QAP. It has to do with returning credits based on
25 force majeure events I want to applaud the fact that you

1 put that ability into your QAP and have given to staff and
2 Board the opportunity to do something with that. But I
3 have two things that I would like to bring up, and we are
4 submitting these same issues in writing. But I wanted to
5 do this personally as well.

6 The definition that you have for force majeure
7 is a very limited definition, pretty much basically
8 focused on acts of nature. But there are broader
9 definitions, legal definitions of force majeure that are
10 used in lots of documents.

11 And so I would encourage you to look at a
12 broader definition that would bring into account other
13 events that would also have outside of the developers
14 control an effect on the ability to complete the project.

15
16 The second thing though, is maybe even broader
17 still. Let=s say there is a 2013 project that is about
18 this time, and it hasn=t quite started. But it could
19 still be finished by the end of 2015.

20 The investors who are involved in that project,
21 at this point in the game, begin to get very worried that
22 what if any kind of scenario comes along that the project
23 can=t be finished in 2015. Even for one day, there is no
24 ability whatsoever to return, refresh the credits and
25 renew them.

1 So everything that is done is at risk, and
2 therefore it puts a chilling effect on the ability perhaps
3 to close and start projects.

4 And then the second thing is that if a project
5 is closed and started and for any reason it is not able to
6 be finished by the end of next year, it doesn't seem to be
7 prudent, in the best interests of affordable housing in
8 the state of Texas, to have the developer, the residents,
9 the investors all lose everything they have because a
10 project is 75 or 98 percent completed, but doesn't meet
11 the mark at the end of the year.

12 That doesn't mean that every project should be
13 saved, but what we would plead for us an opportunity by
14 the staff and the Board to look at some discretion at that
15 point. And so if a project is in the last quarter and you
16 can see it is not going to make it, then an opportunity,
17 an ability would be able to come before this body and make
18 an appeal, express the case, and perhaps get the credits
19 washed and refreshed.

20 Thank you very much.

21 MR. OXER: Thank you for your comments. Great.
22 Good.

23 MR. TAYLOR: Yes, sir.

24 MR. OXER: Yes, ma'am.

25 MS. DAVIS: Good afternoon. My name is

1 Rasheema Davis, and I am representing the YMCA of
2 Metropolitan Fort Worth. Many of my colleagues have
3 spoken. I will keep my comments brief.

4 I just wanted to be on record to state that the
5 YMCA of Metropolitan Fort Worth is committed to the
6 Renaissance Heights initiative. As a why, we are about
7 serving all, and especially in the southeast community.
8 We serve approximately 1,500 youth and families from a
9 predominantly low socioeconomic status.

10 And we are in the process now of building a
11 \$10 million facility in the Renaissance Square. And this
12 facility will be bringing health and wellness programs,
13 diabetes prevention programs, community wellness, et
14 cetera.

15 And we ask that you recognize our commitment,
16 as many of my colleagues have stated, that we want the
17 desired results. And we ask that you give us the means to
18 achieve that results as well. So thank you.

19 MR. OXER: Great. Thanks, Rasheema.

20 MS. TILLEY: Good afternoon. My name is
21 Veronica Tilley. And I represent Cook Children=s
22 Physician Network Neighborhood Clinics. Also with my
23 colleagues, supporting the Renaissance Initiative.

24 Cook Children=s Neighborhood Clinics has been
25 providing pediatric services to low income families for

1 the last 20 years in the Fort Worth area and, as of
2 recently, opened a clinic there at the Renaissance Square,
3 in which we are now providing dental services for the
4 first time.

5 We see over 90,000 visits a year. And we are
6 very encouraged with the collaboration that all of my
7 colleagues here are demonstrating. And so again, I just
8 ask and plead that you help us meet our goal of overall
9 health for the community.

10 And that starts with a good medical home. It
11 also means with a good permanent home in which they can
12 thrive as young adults and contributing to the community
13 that they live in.

14 Thank you.

15 MR. OXER: Great. Thanks, Veronica. Okay.
16 Last one?

17 MR. CLAIBORNE: Thank you, Shauna. My name is
18 Darryl Claiborne. And I work for ACH Child and Family
19 Services, an organization that has existed for 100 years.
20 It is right in the back yard of Renaissance Heights.

21 I just would share with you that also, I am a
22 product of a neighborhood very similar to Renaissance
23 Heights. ACH is one that is going to partner with these
24 other organizations to provide some wrap around services.

25

1 One of the programs that I would like to
2 highlight is the Star Program. We have, as an
3 organization, just in the last year, served over 3,500
4 clients; 30 percent of our focus is in this area, with
5 this community.

6 The purpose-built project in this initiative is
7 an outstanding one. I have had a chance to visit with a
8 number of the organizations around the country that have
9 provided such services.

10 And ACH is one of the services that will
11 benefit the community, the family and the children of
12 Renaissance Heights. Thank you.

13 MR. OXER: Thanks for your comment.

14 Shauna, did you want to say something?

15 MS. TRIBB: I am Shauna Tribb, and I am also
16 working on the Renaissance Heights Initiative. And I will
17 just give you a brief recap and overview of what we are
18 trying to do here.

19 Purpose built communities was built out of the
20 transformation that was done in Atlanta, because they got
21 so much -- they had so much success and got so much
22 interest in it, Warren Buffet and Tom Cousins and some
23 other philanthropists started a philanthropic organization
24 that provides consulting pro bono consulting services to
25 other communities to try to replicate the success.

1 They are providing services to us, to try to do
2 this in the Fort Worth area. That is how this started.
3 As you can see, we already have many well respected
4 organizations who have spent their time, money, effort and
5 leadership in the last year and a half to try to make this
6 come to fruition.

7 The Y, the charter school, ACH, Cook
8 Children=s, Texas Wesleyan University. And so we have
9 Crayola College education. We have health and wellness.
10 And the one piece we are missing is mixed income housing.

11 And we can=t build those quality housing units without
12 the 9 percent tax credits.

13 And the last piece that hasn=t been talked
14 about is that we also are committed to having a nonprofit
15 organization. We have got commitments for \$250,000 to
16 provide for the staffing expenses for at least the next
17 two years, to have a dedicated staff who gets up each and
18 every day and worries only about this community.

19 So we are trying to change this place. And
20 right now, it is a place that doesn=t qualify under the
21 rules of the TDHCA QAP. And we are asking that you could
22 find some way for projects like this to get some extra
23 points so that we will qualify. Thank you for listening.

24 MR. OXER: Great. Thanks for your comments.
25 We look forward to seeing you again.

1 All right. We have exhausted our agenda. We
2 have asked for public comment. We are going to
3 foreshorten the request from staff and anybody else.

4 Is there any Board member who has another
5 comment to make?

6 (No response.)

7 MR. OXER: Okay. Entertain a motion to
8 adjourn.

9 MS. BINGHAM-ESCARREÑO: So moved.

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

11 DR. MUÑOZ: Second.

12 MR. OXER: There is a second by Dr. Muñoz. All
13 in favor, aye.

14 (A chorus of ayes.)

15 MR. OXER: See you in a month.

16 (Whereupon, at 3:02 p.m., the meeting was
17 adjourned.)

C E R T I F I C A T E

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3 MEETING OF: TDHCA Board
4 LOCATION: Austin, Texas
5 DATE: October 9, 2014

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 197, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Nancy H. King before the
10 Texas Department of Housing and Community Affairs.
11
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14
15

16
17 10/16/2014
(Transcriber) (Date)

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19 On the Record Reporting
20 3636 Executive Ctr Dr., G-22
21 Austin, Texas 78731
22
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