

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

SPECIAL BOARD MEETING

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

Friday, September 11, 2015
10:20 a.m.

BOARD MEMBERS PRESENT:

J. PAUL OXER, Chair
TOLBERT CHISUM, Member
LESLIE BINGHAM ESCAREÑO, Member
TOM GANN, Member
J.B. GOODWIN, Member
JUAN MUÑOZ, Member

TIMOTHY K. IRVINE, Executive Director

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MR. OXER: All right. Good morning, everyone.

Can you hear me, Penny? Are we hot over there?

Okay.

I'd like to welcome everybody to the September 11, 2015 special Board meeting of the Texas Department of Housing and Community Affairs Governing Board.

(Discussion re volume of speakers.)

MR. OXER: All right. First thing we're going to do is, in recognition of the fact that this is September 11th, the day that is seared in our collective memory, I want to ask everybody just to take a short minute of silence to remember those who fell on that day.

(Moment of silence.)

MR. OXER: All right. Thank you very much. I'm sure that our prayers are heard. All right. We'll move again as we do with roll call.

Ms. Bingham? She is not present but we anticipate her. We understand she's landed at the airport. We'll give her a second to get here.

Mr. Chisum?

MR. CHISUM: Present.

MR. OXER: Mr. Gann?

1 MR. GANN: Present.

2 MR. OXER: Mr. Goodwin?

3 MR. GOODWIN: Here.

4 MR. OXER: Dr. Muñoz?

5 DR. MUÑOZ: Here.

6 MR. OXER: And I'm here, so that gives us at
7 least five, we've got a quorum. We're in business.

8 Tim, lead us in the pledge.

9 (Pledge of Allegiance and Texas Pledge.)

10 MR. OXER: Okay. Let's start. We've got a
11 specific agenda to do this time, folks. We're looking at
12 only -- get used to our new hardware up here. Curtis and
13 the gang was kind enough to get us some new computers, and
14 I'm still fumbling with my big fat fingers.

15 Okay. Tim, do you want to make any preparatory
16 comments here?

17 MR. IRVINE: Yes. Thank you, Mr. Chairman.
18 After the Board's extraordinary action last week to allow
19 for additional time for input in the development of the
20 Qualified Allocation Plan and multi-family rules, we've
21 had a tremendous amount of comment and input. Frankly,
22 it's been a little bit like drinking from a fire hose. I
23 mean as late as 8:35 this morning I was receiving lengthy
24 emailed comments.

25 We have tried to digest and understand these

1 comments. We have worked really hard to formulate I think
2 some changes that accommodate and improve the proposed
3 rules in some respects.

4 But I want everybody to understand that we work
5 in the world of the Administrative Procedures Act and the
6 Texas Government Code, and we do not have the luxury of a
7 freewheeling, open-ended dialogue on a lot of these
8 issues. They have to move along quickly and crisply
9 because we have a statutory timeline we must adhere to.

10 The formal public comment process is key to the
11 Administrative Procedures Act. The way rules work is they
12 are considered, they are put out in the *Texas Register* for
13 public comment, and then we receive the comments. So what
14 we're really going through right now is the end of the
15 process that will lead to the publication of proposed
16 rules for public comment.

17 There will be opportunity to provide formal
18 rule making comment following the publication. We will
19 provide reasoned responses to all of this public comment
20 that we anticipate receiving. So I would ask that to the
21 extent that you can, if you have comment you wish to make
22 today after the Board performs its different motions, that
23 you focus on things which could not be addressed in public
24 comment once the rules are published. You know, tweaking
25 specific nuances of language, tweaking, you know, various

1 ideas that could be logical outgrowths in response to
2 public comment, those are things that we handle on the
3 back end under the APA.

4 So that's really all I've got to offer at this
5 time and look forward to the discussion.

6 MR. OXER: Okay. I'd like to recognize a couple
7 of guests that we have.

8 Bobby, aren't you in the back somewhere? Bobby
9 Wilkinson from the Governor's office.

10 J.D., you're here? J.D. Pedroza. There you
11 go, thanks.

12 We also have Representative Ratliff -- I'm
13 sorry, Landgraf here who will be making a comment, and
14 we'll give him an opportunity to speak first.

15 We always appreciate the interest by the
16 Legislature and the consideration of what we do. So in
17 consideration for their time, we give them a shot at
18 getting here, making their comment so they can get back to
19 work and help do what they do.

20 I think with that --

21 MR. IRVINE: Marni?

22 MR. OXER: Yes, that's a great idea. Why don't
23 you introduce our Marni.

24 MR. IRVINE: I'd like to make an introduction.
25 Everybody in the room, staff, Board, developer community,

1 legislators, our new best friend Marni Holloway, who has
2 graciously accepted the position of Director of
3 Multifamily Programs.

4 Marni has been an incredible contributor in the
5 way that she stepped up to the line in the formative years
6 of the Neighborhood Stabilization Program. Took that on,
7 pushed that program along to its successes. She's stepped
8 in affordable housing development. She understands the
9 concepts and the principles and especially the values.
10 And I think she will be a real collaborator with all of us
11 and hopefully help guide us to ever better places.

12 And, Marni, really glad you're in that role.

13 MR. OXER: Just for the record, for the rest of
14 the Board, we've already measured her when we took the
15 spikes when we throw her on them, so we're happy to have
16 you, Marni. And thanks very much for taking this on.
17 This is actually one of the more fun gigs that you can
18 learn to have that's kind of fun.

19 All right. Let's see, I think we'll have --

20 Theresa, are you up here for the first item on
21 1(a)?

22 Can you guys hear me in the back now? I don't
23 have to scream at you to hear? Okay, good.

24 Thanks, Eddy. Okay.

25 MS. MORALES: Teresa Morales, soon-to-be-

1 demoted Acting Director of Multifamily Finance.

2 (General laughter.)

3 MS. MORALES: Congrats, Marni.

4 MR. OXER: Notice, Marni, that she said that
5 with a smile on her face too.

6 MS. MORALES: Item 1(a) relates to Subchapters
7 A, B, C and G within Chapter 10, which established the
8 general requirements associated with the award of multi-
9 family development funding.

10 After last Thursday's meeting and within a
11 short 24-hour timeframe I was directed by the Board staff
12 was in receipt of comments from over 25 interested
13 stakeholders with various thoughts of changes to the draft
14 as published in the September 3rd Board book. Staff
15 worked diligently and with thoughtful consideration of the
16 comments and suggestions provided, and has proposed
17 changes reflected in the draft that is before you.

18 In addition, after posting the rules on Tuesday
19 there has been some evolution with respect to two items in
20 particular. These changes are specific to Subchapter B,
21 which include site development requirements and
22 restrictions.

23 The first item involves the requirement for all
24 multi-family developments to be located within three miles
25 of a full-service grocery store, pharmacy, and urgent care

1 facility. In response to comments, staff modified this
2 rule specific to rehabilitation properties and
3 developments in rural areas such that they would need to
4 be located within five miles of at least two of the three
5 services.

6 However, after the Board book was posted on
7 Tuesday and after further deliberation, staff is proposing
8 that proximity to the grocery store and pharmacy be moved
9 to the QAP as a new scoring item worth two points, one for
10 each, and move the urgent care facility back to the list
11 of mandatory community assets for which an applicant can
12 select in order to fulfill the minimum threshold
13 requirements. In essence, we're reverting to the 2015
14 language with the exception of an additional scoring item.

15 The second item involved the requirement for
16 all multi-family developments to be located within the
17 attendance zones of an elementary, middle, and high school
18 that has achieved the Met Standard rating designated by
19 TEA. The general consensus from the comments submitted
20 was that this should just be removed and handled through
21 the scoring process.

22 Staff agrees that such mechanism is in place
23 for 9 percent applications; however, it does not address
24 the developments awarded through our other multi-family
25 programs. The need to review all of the comments

1 submitted last Friday on the heels of a holiday weekend
2 and staff's inability to arrive at a middle ground by the
3 Tuesday deadline by which we had to post, we ultimately
4 struck that language from the draft.

5 Believe it or not, some of us do lose a little
6 sleep on over how we can effectively administer the tax
7 credit program while still working within the statutory
8 federal and legal constraints by which we are bound and
9 also taking into consideration the suggestions and
10 feedback from interested stakeholders.

11 In that vein, we propose that should a
12 development be in the attendance zone of schools that have
13 not achieved the Met Standard rating, that it be
14 considered an undesirable neighborhood characteristic that
15 requires disclosure.

16 As we go through the public comment period we
17 can further flesh out acceptable mitigation that could be
18 submitted in response to this and would certainly welcome
19 ideas in this regard. Such mitigation could presumably
20 include local efforts to improve schools and long-term
21 trends that would point towards their achieving the Met
22 Standard rating by the development's placement and
23 service.

24 As with all other undesirable characteristics,
25 should staff, after reviewing the information provided by

1 the applicant, recommend that a site be considered
2 ineligible, the applicant will have the opportunity to
3 present their case before the Board.

4 Staff recommends approval of the proposed
5 repeal and new of 10 TAC Chapter 10 Subchapters A, B, C
6 and G as reflected in your Board materials along with the
7 aforementioned modifications relating to proximity of
8 certain services and performance of public schools.

9 Surprisingly, there's no one behind me. If
10 there is public comment, I would ask that those comments
11 be specific to Chapter 10, and comments relating to the
12 QAP and scoring hold off until we get to that item so that
13 we can move through the agenda efficiently.

14 MR. OXER: I think that's an excellent request.
15 Is that it? Juan?

16 DR. MUÑOZ: I've just got a comment. The point
17 that you made about creating some mitigating circumstances
18 or how to -- you know, mitigation I think you referred to
19 it in instances where perhaps some characteristic could be
20 explained in a certain -- you know, as not preventing this
21 from moving forward, I would just say we've got to be very
22 clear.

23 A developer hears that, I assume, and they get
24 the sense that there's a way possibly to sort of mitigate
25 this perceived sort of unattractive quality. And then

1 they say, well, here's how we're going to attempt to
2 explain it. And we say no, no, no. So no, so
3 functionally there's no mitigation.

4 I'm just saying how we define that, we need to
5 be very clear. Under these circumstances or in these
6 areas or -- this is how we will accept what you submit to
7 us as potentially mitigating this, you know, unattractive
8 feature.

9 I just think we've got to be very specific so
10 that later on, you know, we're not told, you know, you
11 gave the impression that there was a chance we could
12 continue, and when we submitted what we thought was a
13 compelling case, we were told that staff thought it
14 wasn't.

15 You need to say up front what you generally
16 think, you know, it will require or under what
17 circumstances there is no mitigation or no sort of
18 recourse.

19 MS. MORALES: I think that with all of the
20 undesirable neighborhood characteristics we go through and
21 outline what some of those mitigation forms could be.
22 And, in essence, it comes down to, Tell us the story
23 that's not being told by what the numbers say with respect
24 to poverty or crime rate or what have you.

25 DR. MUÑOZ: Okay. Here's what I would say.

1 That's fine. I would say be very specific as to the
2 characteristics of the narrative you're asking them to
3 provide you with.

4 MS. MORALES: Okay.

5 MR. OXER: I think what Dr. Muñoz is saying, we
6 want us interpreting what we want as opposed to them
7 interpreting what we want.

8 DR. MUÑOZ: Right. If we say tell us your
9 story but your story has to contain the plot, the
10 protagonist, the denouement, the --

11 MR. OXER: And the part where the guy gets shot
12 in the end and thrown off the stage too.

13 DR. MUÑOZ: That's right. So that they don't
14 say to us, once you step down, I told her my story, she
15 just didn't like the tone of it, the inflection of it, the
16 ending.

17 MR. OXER: Anything else, Dr. Muñoz?

18 DR. MUÑOZ: No.

19 MR. OXER: Okay.

20 DR. MUÑOZ: That was from teaching eighth grade
21 and ninth grade literature, by the way.

22 MR. OXER: Are there any questions, any other
23 questions from the Board?

24 (No response.)

25 MR. OXER: Okay. Our process says we'll have a

1 motion to consider.

2 MR. CHISUM: So move.

3 MR. OXER: Motion by Mr. Chisum to approve
4 staff recommendation on Item 1(a). Do I hear a second?

5 MR. GOODWIN: Second.

6 MR. OXER: Second by Mr. Goodwin. Okay. We
7 apparently have a few comments out here, so I'm going to
8 -- you know, the Chair's admonition on comments is to
9 respect what Teresa has asked you to do. If you have
10 something specific to this, that's fine if it's on the
11 QAP, that's different. But if you have something specific
12 on this, we are trying to make this. And there'll be
13 plenty of time, this is not getting cast into stone,
14 there'll be plenty of time to make public comment on it.

15 So, okay. Janine?

16 MS. SISAK: Good morning, everyone. I'm Janine
17 Sisak, I'm here today in the capacity of representing
18 TAAHP membership, as chair of the TAAHP QAP Committee for
19 this year's round.

20 MR. OXER: Janine, hold on a second. This
21 won't cost you time.

22 Teresa, this is -- are we looking at 1(a) now,
23 right? Or is it all of 1?

24 MS. MORALES: 1(a).

25 MR. OXER: 1(a), okay. This is Item 1(a) only.

1 MS. SISAK: Right. And my comments today will
2 be very general, just to follow the process how we got to
3 this place. It won't take more than my allotted time.
4 And I'm going to keep it very general, my comments very
5 general.

6 MR. OXER: A minute.

7 MS. SISAK: So thanks to the Board for giving
8 us an opportunity last week to schedule this meeting and
9 have the stakeholders submit, have the chance to submit
10 additional comments.

11 MR. OXER: It costs you some emotional baggage
12 points here having done that to the staff over Labor Day
13 weekend. You do know that, right?

14 MS. SISAK: I do know that. I want to thank
15 them, I want to thank the staff for that.

16 Because TAAHP is a big tent organization with
17 more than 300 members, unfortunately, we were not able to
18 have the required meetings with our membership to come up
19 with comments by the deadline last Friday. It's okay,
20 because the individual developers and stakeholders did a
21 great job of getting the comments in by the deadline.

22 And the staff did an excellent job of working
23 on those over the weekend and getting a lot of the
24 important or at least a lot of the new concepts that were
25 very important to the TAAHP membership into this version

1 of the rules and the QAPs that will go into the *Texas*
2 *Register*. So I really do commend staff for the quick
3 turnaround on that, and really the attention to some of
4 the new concepts that were really important to be added so
5 that we can have a full-fledged kind of discussion amongst
6 the stakeholders about, you know, what can go and what
7 should stay, what should go, all of those things.

8 So I just want to touch on a few things that we
9 really like and we're really appreciative that the staff
10 listened to us. One is taking out the schools of Met
11 Standard as threshold. I still think there's some work to
12 do on it both educational excellence and this new concept
13 of embedding it in undesirable state features or
14 neighborhood features, but we really love the fact that
15 that's not a threshold item anymore.

16 Underserved -- giving some other opportunities
17 for point variation in underserved with regard to
18 population growth, job growth, we think that's great. A
19 lot of the suggestions from the stakeholders were an
20 effort to kind of open up certain census tracts so as
21 developers we're not all kind of competing for the same
22 site.

23 So some of these moves in terms of more of the
24 tiering in educational excellence and more in the tiering
25 of underserved I think is a really good thing for the

1 industry as a whole. You know, again we haven't talked to
2 full membership about these things, but these are some of
3 the items I think we can reach consensus on.

4 During the public comment period, you know,
5 TAAHP will go through its normal process of assembling the
6 committee, having committee meetings, and then going out
7 to the membership. I think some of the things that we
8 still have work on is schools, you know, just Met Standard
9 in terms of being an undesirable neighborhood feature that
10 can be rebutted with evidence. I think we need to talk a
11 little bit more about that.

12 Community revitalization plan, Tim and I had a
13 conversation about this earlier in the week. I feel like
14 it's just getting more subjective and less objective, and
15 there's a lot of concern about that. In particular, to
16 the requirement that the mitigation efforts or the
17 revitalization efforts have to be well under way. You
18 know, you can get to a point where, you know, the key of
19 the revitalization efforts is starting the revitalization.

20 That's the real tough part in these areas. So to have a
21 requirement that the revitalization almost be done I think
22 is problematic, and I think we need to talk about it.

23 And then finally I'll wrap up. There's some
24 new concepts in the underwriting rules that seem really
25 reactionary. Maybe there's some deals that really got off

1 track in the underwriting process. And I really think we
2 need to talk and sit down with lenders and investors about
3 some of those things, because they're problematic.

4 A couple of examples, underwriting all market
5 rate rents at 60 percent AMI rents and having developer
6 fees at the time of that location and not allowing for
7 that to be adjusted by unexpected cost increases in a time
8 where, you know, we're experiencing 8 to 12 percent
9 construction costs increase per annum.

10 So I thank you all for your time and
11 consideration in getting this draft into much better shape
12 than it was just a week ago. Thank you.

13 MR. OXER: Thanks.

14 Any questions for Janine?

15 (No response.)

16 MR. OXER: Okay. Thanks.

17 Diana?

18 And everybody, homework item here, or
19 housekeeping item: Remember to sign in when you get there
20 so Penny can make sure she knows who you are and can
21 identify you.

22 MS. McIVER: Thank you. Diana McIver, DMA
23 Development. I'll be short and brief. I think there is a
24 serious flaw with some language that is on the -- even on
25 the change version, and it deals with the mandatory

1 community assets. In Item 4 is "a department or retail
2 merchandise store," and then in parens it says "retail
3 merchandise must be available to unaccompanied minors."

4 And so that to me means that if I'm using
5 Target for my amenity, I have to call Target and see if
6 they allow a nine-year-old to come in and shop unattended
7 by their parent. And I think if I understood what was
8 trying to be accomplished, I could recommend corrective
9 language. But I think the language as it stands is pretty
10 bad. Thanks.

11 MR. OXER: Good. Comment noted.

12 Joy? Good morning.

13 MS. HORAK BROWN: Good morning. Joy Horak
14 Brown, President and CEO of New Hope Housing. Chairman
15 Oxer and Board members, I generally think there are two
16 types of speakers, those who are prepared and those are
17 unprepared, and I typically come before you very well
18 prepared, I hope. Today I'm making a brief off-the-cuff
19 comment on the item that was just handed out this morning.

20 And that is to call your attention to the idea
21 that the Met Standard and also Neighborhoodscout stands to
22 be as considered today very damaging to the type of
23 housing that we specialize in, which is supportive housing
24 for the deeply underserved, and also stands to pose great
25 difficulties to any of the revitalization areas in our

1 urban cities, and most particularly, to my knowledge, in
2 Houston, Texas.

3 So I will be commenting at length on these in
4 the future, and I thank you for simply noting my pretty
5 grave concern today. Thank you.

6 MR. OXER: Great. Thank you, Joy.

7 Okay. Let the record reflect that Ms. Bingham
8 has joined us, so we now have a full house with an over
9 quorum, as it turns out.

10 MR. IRVINE: Can we make sure that the Board
11 has copies of the handout that people refer to? Chair's
12 okay with that?

13 MR. OXER: Chair's good.

14 MS. MYRICK: Good morning, Chairman Oxer,
15 Board, Mr. Irvine. My name is Laura Myrick, and I am with
16 BETCO Consulting, and I have one brief comment, and it
17 concerns the mandatory community asset.

18 We noticed in the other draft and in this one
19 that there is an amenity that has been removed, and that
20 is the religious institutions, and we would like to see
21 that added back in, as the religious institutions are not
22 just there for spiritual health but also provide services
23 to the community: day cares, Meals on Wheels, and
24 transportation in some areas.

25 And so there's a point category in Opportunity

1 Index where you can actually get day care points if you
2 have a center that is within a certain radius of the
3 proposed development. But in many of these communities
4 your church is your licensed day care center. So we would
5 like to see that added back in to the mix of the
6 amenities.

7 Another scoring item is the community and civic
8 organization point category. You can get points, up to
9 two points for each letter, and many times these letters
10 are overwhelmingly from churches. So these are community
11 assets that are very necessary to the community, serve
12 various purposes, and we would like to see those
13 reinstated back into the mandatory assets. Thank you.

14 MR. OXER: Good.

15 Any questions?

16 DR. MUÑOZ: Yeah, I have one.

17 MR. OXER: Hold on.

18 MS. MYRICK: Yes, sir.

19 DR. MUÑOZ: I mean the child care center is
20 still there.

21 MS. MYRICK: It is.

22 DR. MUÑOZ: It wouldn't have to be recognized
23 as a religious center in order to enjoy the benefit of
24 being recognized as a licensed day care facility.

25 MS. MYRICK: That is true. And I certainly

1 understand that. However --

2 DR. MUÑOZ: Some provide Meals on Wheels, a
3 great many don't.

4 MS. MYRICK: True.

5 DR. MUÑOZ: If you provide that service, you'd
6 probably be credited with that or the child care
7 regardless of the nature of the edifice.

8 MS. MYRICK: I think the other thing also is
9 that while they do provide these services and they could
10 be recognized separately, and I certainly understand that,
11 is that you -- it's very difficult to go to any community
12 whether it's a very large community or whether a very
13 small community, without having a church. It's a very
14 essential part of a community.

15 Again they're also the groups that give you
16 letters for support, community support. You know, I guess
17 I would also go back to what we did this morning. We
18 offered a moment of silence. That's very important to all
19 of us, and so --

20 DR. MUÑOZ: Yeah, that's not -- I suppose
21 that's not what I'm disputing.

22 MS. MYRICK: Okay.

23 DR. MUÑOZ: And I don't personally perceive
24 that it's not an asset. I'm just -- you know, there's a
25 finite number of things on the list.

1 MS. MYRICK: Sure.

2 DR. MUÑOZ: There are a great many that could
3 be added.

4 MS. MYRICK: Sure.

5 DR. MUÑOZ: And if they provide these
6 functional services to the community, they may be
7 recognized under other categories like the day care
8 facility that's still there.

9 MR. OXER: I think Dr. Muñoz -- and I don't
10 want to put words in your mouth --

11 MS. MYRICK: Sure.

12 MR. OXER: -- he's essentially saying it's the
13 service, not the institution.

14 MS. MYRICK: Okay.

15 MR. OXER: But we recognize your point --

16 DR. MUÑOZ: Right.

17 MR. OXER: -- that those services are made
18 available. Although -- and we'll take that under
19 consideration.

20 DR. MUÑOZ: Yeah, and if --

21 MS. MYRICK: Sure.

22 DR. MUÑOZ: -- was there before and it was
23 removed, there should be a reason for that.

24 MS. MYRICK: Yes. And I guess part of me also
25 doesn't understand why it was removed.

1 MR. OXER: Why it was removed.

2 MS. MYRICK: So perhaps that's a better
3 conversation to have is why was it removed. Maybe we can
4 continue the conversation there.

5 MR. OXER: Yeah.

6 MS. MYRICK: I appreciate your time for
7 allowing me to make these comments.

8 MR. OXER: Okay. That's a conversation you're
9 welcome to have with staff.

10 MS. MYRICK: Sure.

11 MR. OXER: We'll take it in public comment, but
12 we're going to proceed.

13 MS. MYRICK: Thank you.

14 MR. OXER: Okay. Thanks, Laura.

15 Who's next?

16 MS. BURCHETT: Good morning. My name is --

17 MR. OXER: Grab a stick and get in the right
18 here. Okay?

19 MS. BURCHETT: My name is Sally Burchett, I
20 work at Structure Development. Thank you for having me.
21 I will follow up on the community asset item for churches.
22 I'm a community development professional, over 20 years
23 experience helping cities, a couple dozen cities in Texas
24 plan and grow and do zoning and annexation and things
25 like that.

1 And in the high opportunity areas there'd
2 primarily be more low density, higher income, large single
3 family areas, and that's where we're trying to distribute
4 our projects. And when something is zoned or annexed, it
5 usually comes in as a very low density ag or single family
6 one. And one of the only land uses that usually gets
7 allowed in every category are churches, because they're
8 protected, and legally they can go just about anywhere.

9 And when you're in these areas, because zoning
10 is such a great land use control from the city's
11 perspective, it's hard to find the community assets and to
12 get a project viable in these high opportunity areas. So
13 the churches, they're a great tool for the development of
14 community to get where we need to be in the high
15 opportunity areas.

16 And I think -- I believe I understand the
17 logic, but I think the unintended consequences of removing
18 it is it has negative effect on getting projects in the
19 high opportunity areas.

20 MR. OXER: Okay. Comment noted. Thanks,
21 Sally.

22 MS. BURCHETT: Okay.

23 MR. OXER: Anybody else?

24 Sally, did you sign in? That's okay.

25 Hi, Teri.

1 MS. ANDERSON: Good morning. How's everyone?

2 MR. OXER: Recovering.

3 MS. ANDERSON: Yes, exactly, we all are. Teri
4 Anderson, Anderson Development & Construction. I had two
5 comments from Subchapter C as they relate to zoning and
6 then the other one is for the property tax abatement.

7 Language has been added under zoning that
8 essentially states "if annexation occurs during the
9 application cycle, then the applicant is going to have to
10 provide evidence of zoning once the commitment or
11 determination notice comes out."

12 That is a key indicator, quite -- well,
13 involuntary annexation tends to be a key indicator of fair
14 housing discrimination. And in cases in high opportunity
15 areas, for example if you have a property located in an
16 ETJ, the city may try to involuntarily annex that
17 property. And in doing so there are vested rights that
18 you have and some other legal options as opposed to having
19 zoning. So that was one particular comment that I would
20 like to see staff take into consideration.

21 MR. OXER: Let me ask a question on that while
22 it's hot here. Are you suggesting that the aggressive
23 uninvited acquisition actually constitutes a mechanism to
24 prevent a project from going in?

25 MS. ANDERSON: I had a personal experience with

1 this, having a property located in the ETJ. When a tax
2 credit application was submitted to the Department the
3 city looked at involuntary annexation in order to prevent
4 vested rights from occurring, although I had an attorney
5 and we insured that that happened.

6 But the general idea was once the property is
7 annexed, then the city can institute zoning that they
8 otherwise could not institute. So it would allow them to
9 prevent the affordable housing that was going to be
10 constructed. So --

11 MR. OXER: Okay. I just wanted to be clear on
12 that.

13 MS. ANDERSON: Yes, sir.

14 DR. MUÑOZ: Do you know of other instances
15 where that's occurred?

16 MS. ANDERSON: I'm not particularly familiar
17 with other instances, but I do know that I just went
18 through the experience. And mind you, once the tax credit
19 was not submitted the city -- or it was submitted but it
20 was going to fail, the city did not take action on the
21 involuntary annexation.

22 DR. MUÑOZ: Yeah. I think it's an interesting
23 point you raise. I'd be more interested in also learning
24 whether it's pervasive. Otherwise are we considering a
25 rule change for an isolated sort of circumstance.

1 MS. ANDERSON: I'm --

2 DR. MUÑOZ: Or a rule --

3 MS. ANDERSON: I'm not certain. But I --

4 MR. OXER: Your point is noted. In the
5 comments that you have opportunity to provide those, if
6 you could provide some data that shows the occurrence of
7 that more than just your own individual personal
8 experience, that would help inform the Board.

9 MS. ANDERSON: And I actually got that
10 information from a separate attorney who's involved with
11 ICP who indicated that. So I'm sure they have it. I'm
12 sure they do.

13 MR. OXER: Yeah, I'm sure they do too.

14 MS. ANDERSON: Unfortunately. And then as it
15 relates to the payment in lieu of taxes and/or tax
16 abatement, statute actually recognizes that nonprofit or
17 community housing development organizations do receive tax
18 abatements that are essentially automatic depending on the
19 size of the county.

20 So the new language that essentially requires
21 an opinion of an attorney in order to inform staff of
22 whether or not a tax abatement is likely, I would just
23 like to see that be limited to the counties that are a
24 million or greater in order to follow statute. So it
25 would actually follow those particular counties that an

1 applicant would have to apply and could be denied the
2 right for that tax abatement.

3 MR. OXER: Okay.

4 Any questions of Teri from the Board?

5 (No response.)

6 MR. OXER: Okay. Thanks, Teri.

7 MS. ANDERSON: Thank you, sir.

8 MR. OXER: Anybody else? Are you just
9 accompanying somebody or waiting for the next one or would
10 you like to speak?

11 MS. SAAR: I'm going to wait for the next one.

12 MR. OXER: Okay. Good.

13 Okay. Regarding Item 1(a), motion by Mr.
14 Chisum, second by Mr. Goodwin, and public comment. Is
15 there any other public comment? There appears to be no
16 other public comment. All in favor?

17 (A chorus of ayes.)

18 MR. OXER: And opposed?

19 (No response.)

20 MR. OXER: There are none.

21 Tim, do you have a thought?

22 MR. IRVINE: No, I just wanted to remind
23 everyone that when you're speaking in public comment
24 you're talking about public comment on the action before
25 the Board, not public comment on the rule per se.

1 MR. OXER: Right.

2 MR. IRVINE: So if you have something that you
3 want to be addressed in a reasonable response, provide it
4 once the rules are published.

5 MR. OXER: Yeah, there'll be a whole lot more
6 for full digestion. We're only -- we're taking these
7 things with the public comment, we'll have it on the
8 record to be considered, but the response will come later
9 on during the public comment period after the posting in
10 *Texas Register*.

11 Okay, Teresa, I think you're up again, aren't
12 you?

13 MS. MORALES: Can I just make a clarification?
14 The motion did include the proposed modifications that I
15 went over in the presentation.

16 MR. OXER: Correct. That is correct. And if
17 we need to restate that, it was to be by -- the
18 recommendation to approve, a motion to approve staff
19 recommendation which include the comments that Teresa
20 made, changes made by Teresa.

21 Kathryn, good morning.

22 MS. SAAR: Good morning. Kathryn Saar,
23 9 Percent Tax Credits. Since the QAP did not get heard at
24 all last week, I'm going to walk through the original
25 changes that we made first and then talk about the things

1 that were made in response to public comment that we got
2 in the last week.

3 MR. OXER: So you're essentially telling us
4 what would be the delta between what we had and --

5 MS. SAAR: Sure.

6 MR. OXER: -- what we now have.

7 MS. SAAR: I'm going to give you my
8 presentation from last week and then tack on the stuff
9 that we changed.

10 MR. OXER: There you go.

11 MS. SAAR: So a summary of some of the changes
12 outside of scoring that happened: In the program calendar
13 we have moved up the deadline for state rep's letters to
14 March 1st, so they will now be due with the application,
15 as opposed to a month later.

16 We added some clarifying language under
17 11.3(d), which relates to limitations on developments in
18 certain census tracts. Just clarifying language that
19 makes sure that the local jurisdiction is -- that the
20 proposed development is consistent with the local
21 jurisdiction's obligations to affirmatively further fair
22 housing.

23 In 11.4(c) we've added the small area,
24 difficult area, difficult development area to the increase
25 in eligible basis, the 30 percent boost. In the award

1 recommendation methodology we have added the language
2 needed to comply with House Bill 3311, which equalized
3 scoring between elderly deals and general population
4 deals, and it also placed a cap on the number of elderly
5 deals. So the award recommendation methodology has been
6 changed to ensure that that cap is not exceeded.

7 We've added another tie break related to the
8 lowest poverty of the census tract for applications that
9 have the same score. And then in the preapplication
10 requirements we have removed the requirement to submit a
11 CD. We used the online preapplication system this year,
12 and it worked pretty well. We're going to continue that.

13 So now on to scoring. Under red levels of
14 tenants and tenant service scoring items we've allowed for
15 qualified nonprofits to be eligible for the additional
16 three points related to supportive housing developments.
17 That was previously only eligible to those nonprofits who
18 qualified under our nonprofit set-aside. So now national
19 nonprofits will be eligible for those points as well.

20 The original change to the Opportunity Index
21 related solely to the equalization of scoring related to
22 House Bill 3211 again. Under the underserved area we
23 added some new language related to colonias. I know that
24 was a big topic of conversation in that series. You guys
25 spent a lot of time listening to us talk about that.

1 So the change requires that a development -- in
2 order to be eligible for the points, the development site
3 must be located in full or in part within the boundaries
4 of the colonia, and critically needed infrastructure will
5 be brought to that colonia, so that the residents of the
6 colonia would have the opportunity to tie in.

7 Under tenant populations with special housing
8 needs, we are adding a further incentive to place your 811
9 units within an existing development. I know there's
10 going to be some public comment on that in a little bit.
11 Under 8 we've added a new scoring item called aging in
12 place. It is a parity item with educational excellence
13 and provides up to three points for providing services and
14 design features that are specific to an elderly
15 population.

16 The local political subdivision funding has
17 been statutorily removed from the top 11 scoring criteria
18 and made a below the line item scoring, and that is now a
19 de minimum amount of LPS funding for a single point.

20 MR. OXER: That was courtesy of our guys up on
21 the big hill there --

22 MS. SAAR: Correct.

23 MR. OXER: -- pointed building. Right?

24 MS. SAAR: That's correct. We've made some --
25 I don't -- not, I would think, significant changes to our

1 CRP rule, but it's really an effort to take a more
2 holistic view of community revitalization efforts.
3 Previously with the criteria to have five of eight
4 factors, it was eliminating some legitimate community
5 revitalization efforts that existed prior to the QAP's
6 existence from qualifying for those points. Because they
7 didn't have the language in front of them so how could
8 they know to include five of eight factors.

9 And with that item, what we're looking for is
10 the local jurisdiction should be able to point to that at
11 one time this area was a vital area, it has gone into a
12 level of decline, they have put together a plan that will
13 reasonably be able to achieve a measured outcome to bring
14 it back up to a vital area. And we're really looking for
15 that, you know, that kind of movement on a graph.

16 MR. OXER: And want to be headed up on that
17 curve coming back.

18 MS. SAAR: That's correct.

19 MR. OXER: Not at the bottom with us putting
20 the money in to get it moving up.

21 MS. SAAR: Right. Because I think the Board
22 has been very clear that you don't want tax credits to be
23 the first money in.

24 MR. OXER: Right.

25 MS. SAAR: So the changes that we've made there

1 are in a direct response to that directive.

2 MR. OXER: Okay.

3 MS. SAAR: And then with historic preservation,
4 we have decoupled that existing scoring item from the
5 extended affordability scoring item. Those were combined
6 for a maximum of four points. You could get two points
7 for extended affordability and you could get four points
8 for historic preservation.

9 The Legislature has added historic preservation
10 as something that they want us to incentivize. So we've
11 decoupled those two items so that the point delta goes
12 from a two point advantage if you have historic
13 preservation to a four point advantage.

14 And then, finally, with the original changes
15 that we were going to put that last week, we are proposing
16 to replace the challenge process with a third-party
17 request for an administrative deficiency. And I'm sure
18 that there's probably going to be a little bit of comment
19 on that as well.

20 So that kind of wraps up the presentation that
21 I was going to give you last week. In response to all of
22 the public comment that we've gotten since we've made some
23 additional changes. And those are also outlined in your
24 Board book.

25 In 11.5 when it comes to the set-asides, we've

1 actually now allowed for USDA deals that are new
2 construction and have a 514 funding to be eligible under
3 the USDA set-aside. Previously those deals, because they
4 were new construction, were competing in the subregion.
5 So now they're able to compete within the set-aside.

6 We have added an additional tie breaker that
7 takes into consideration high performing schools. We have
8 also modified the language under general information that
9 talks about providing materials to local parties seeking
10 support. We made a clarification that per the
11 Department's rules some of the things that they were
12 presented may -- are subject to change. So adding that
13 disclaimer to their presentation materials.

14 Under sponsor characteristics in response, to
15 public comment we've added the scoring item for having a
16 Category 1 compliance portfolio. And then under
17 Opportunity Index we've added an additional item specific
18 to second quartile developments where the elementary
19 school that the development site is zoned to has a Met
20 Standard, a 77 on Index 1 related to student achievement,
21 and then has at least one distinction designation by TEA.

22 Under educational excellence we've changed the
23 scoring item a bit. We've increased the point value from
24 three to five, and you will achieve maximum points if all
25 three schools that the development site is zoned to have a

1 Met Standard and a 77 or greater, and a lesser number of
2 points for having all three schools with just the Met
3 Standard.

4 Underserved area, in response to some public
5 comment we've added an additional option for census tracts
6 not having been served by housing tax credits in the last
7 10 years. And then under cost per square foot we've
8 modified this item to allow for up to 50 square feet per
9 unit, I believe, of common area in the cost per square
10 foot calculation for supportive housing deals.

11 MR. OXER: You've been busy in a week.

12 MS. SAAR: We've been very busy. As Teresa
13 mentioned in her presentation, there were some things that
14 were taken out of threshold and we've created an
15 additional scoring item. That scoring item is proximity
16 to important services. So rather than having a grocery
17 store and a pharmacy as a threshold item, now you can get
18 one point for each under this new scoring item.

19 And that about wraps it up for me. Unless you
20 have any questions, staff recommends approval.

21 MR. OXER: Mr. Chisum.

22 MR. CHISUM: Yes. You uncoupled historic
23 preservation.

24 MS. SAAR: Yes.

25 MR. CHISUM: And did you change the definition

1 or alter the definition of historic preservation?

2 MS. SAAR: We did make some changes to the
3 existing item that we had previously. We've changed it to
4 where 75 percent of the units within the development have
5 to be within that historic structure.

6 MR. CHISUM: Okay.

7 MS. SAAR: So we don't want to see, you know --

8 MR. CHISUM: Thank you. That's my question.

9 MS. SAAR: -- three square feet --

10 MR. CHISUM: Thank you.

11 MS. SAAR: -- of the existing structure.

12 MR. OXER: Okay. Any other questions for
13 Kathryn?

14 (No response.)

15 MR. OXER: Then I'll have a motion to consider.

16 DR. MUÑOZ: So move.

17 MR. OXER: Okay. Motion by Dr. Muñoz to
18 approve staff recommendation of Item 1(b).

19 MR. GANN: Second.

20 MR. OXER: Second by Mr. Gann. With changes as
21 defined, that Kathryn defined, by staff.

22 Okay, give us just a second, we've got a
23 housekeeping item to take care of.

24 (Pause.)

25 MR. OXER: Okay. Looks like we've got somebody

1 that wants to talk. So first one's up. Let's -- forgive
2 me; I've made a courtesy mistake here. Let me start with
3 this.

4 Representative Landgraf, since you had a hand
5 in changing some -- making some of those changes, we'll
6 give you the first chance to make comments on those too.
7 So we appreciate you coming by and saying hi to us.

8 REP. LANDGRAF: Well, thank you, Mr. Chairman.
9 I appreciate you giving me the opportunity to speak with
10 you and the members of the Board this morning.

11 My name is Brooks Landgraf, I'm the State
12 Representative for District 81, which includes four
13 counties out in West Texas. And, you know, now that the
14 session's over. I normally don't like to be here in
15 Austin. You know, I'd rather be, you know, back home with
16 my family, making a living.

17 But from time to time there are important
18 issues that require me to be down here, and one of those
19 important issues that's very important to my district is
20 something that I want to discuss with you very briefly
21 this morning. So thank you for the opportunity and thanks
22 for also making some accommodations for me within the
23 meeting.

24 MR. OXER: Glad to do so.

25 REP. LANDGRAF: But specifically I just want to

1 talk about an application that was submitted by the Odessa
2 Housing Partnership. For the record, it's application
3 number 15418. And in that application the Odessa Housing
4 Partnership applied for the 4 percent housing tax credit
5 to be combined with tax exempt bonds to develop the 87th
6 Street affordable housing complex in Odessa. And the
7 Odessa Housing Partnership has received an administrative
8 deficiency on that application.

9 Now, I understand that the Department is taking
10 the position that the Odessa Housing Partnership
11 application for housing tax credits is eligible only -- or
12 for the 30 percent boost that they were applying for only
13 if the development meets the criteria that were set forth
14 in Section 11.4(c) of the QAP. Now, this position is
15 contrary to the plain language of Section 42 of the
16 Internal Revenue Code, and that's simply what I want to
17 bring to your attention this morning.

18 Now, the language in the Internal Revenue Code
19 is very clear. It states that "the eligible basis for a
20 new building in a difficult development area shall be 130
21 percent of the basis that otherwise would be calculated."

22 So what that means is there really is no
23 discretion for the Department to decide whether a
24 development may receive the boost. And this provision has
25 been in the Code for many years, and it does seem to be

1 very well understood.

2 And, Mr. Irvine, in your comments earlier you
3 talked about, you know, in so many cases -- and I know,
4 Mr. Chairman, you've discussed this too -- that really we
5 just have to -- you know, these criteria are in place; we
6 have to let the chips fall where they may. And I couldn't
7 agree any more with that, and that's why I think this
8 particular application might deserve a little bit more
9 oversight, because I think maybe we didn't get it right
10 the first time, because that discretion was used really
11 where there was no discretion to be used in the first
12 place.

13 So I know these things -- we want to get them
14 right, and sometimes it's better just to take one more
15 look at it, make sure that we get it right instead of
16 rushing through it and not getting the correct outcome.

17 The reason why I'm here is this is a very
18 important project. As you know, in West Texas we have a
19 very dynamic economy. We're always facing housing
20 shortages. I've worked with the stakeholders on this
21 project, have become very well acquainted with it. This
22 is something -- really the crux of this is we have a
23 housing shortage which enables -- or which prohibits us
24 from being able to attract teachers for our schools. We
25 need affordable housing options. This will do that, or

1 this project will help alleviate that.

2 So I've provided a letter to all of you, and I
3 believe there's a legal opinion that's been also provided
4 to you that they can go into more detail. And I'm sure
5 there's a few others here who can speak on the subject a
6 little bit more gracefully than I can.

7 But I do want to thank you for the opportunity
8 to bring this to your attention. I hope that you'll give
9 it some additional consideration, and I think in doing so
10 we might be able to find a different outcome or at least,
11 in my opinion, the correct outcome. So I do appreciate
12 it.

13 MR. OXER: Okay. We appreciate your comments.

14 And I would offer this as a follow-on to what you and I
15 were speaking to about earlier. The highly competitive
16 nature of the programs we were talking about was for the 9
17 percent credits. So 4 percent is a little different; it
18 doesn't have a shot clock running on it, and there's
19 some -- you get a little bit more latitude. It gives us
20 more cassette capacity to take a look at things. But with
21 that, do we have anything else you'd like to say?

22 DR. MUÑOZ: We'll absolutely dig in.

23 MR. OXER: Oh, yeah. It'll be -- I think it's
24 fair to say we'll make sure it's adequately evaluated and
25 covered for you.

1 REP. LANDGRAF: Well --

2 DR. MUÑOZ: And, Mr. Chairman, I'd just like to
3 add. Obviously, many of you know I live in West Texas as
4 well, Lubbock, a little bit removed from Midland/Odessa
5 area. But -- and I'll say to the Representative, I
6 appreciate your comments. I'm not sure anybody could have
7 been more elegant than you were.

8 But having friends in the area, we receive a
9 great many students to my university from Midland College,
10 Odessa College. And I spoke with the president of Odessa
11 College not very long ago; I just took his son to lunch.
12 And the crisis is real there in terms of housing. And you
13 have so much industry, and still the oil. I mean despite
14 the drop there's still a great many workers.

15 REP. LANDGRAF: Absolutely.

16 DR. MUÑOZ: And it's very difficult to find
17 affordable housing for professionals, teachers, nurses, et
18 cetera.

19 MR. OXER: There wasn't really a drop in the
20 housing demand; it was just a slowdown in the growth; it's
21 flattened out.

22 REP. LANDGRAF: You know, that's really true.
23 And within certain sectors the demand for housing
24 continues to grow.

25 MR. OXER: Yeah, it's only growing at a slow

1 rate now instead --

2 REP. LANDGRAF: That's right.

3 MR. OXER: -- of exploding.

4 REP. LANDGRAF: That's right.

5 MR. OXER: So we understand your point, and we
6 appreciate your comments.

7 REP. LANDGRAF: Well, I know you all don't get
8 enough gratitude for what you do, but thank you for your
9 service to the State, we appreciate it.

10 MR. OXER: Yeah, we get a tunafish sandwich in
11 the middle of the day.

12 REP. LANDGRAF: Thank you very much.

13 MR. OXER: Thank you, sir.

14 Okay. Now let's do it.

15 MS. THOMPSON: Thank you. I appreciate your
16 time this morning, and I actually thank you for that
17 interruption because the Representative just actually
18 addressed an issue that I'd like to address.

19 My name is Terri Thompson. I'm Deputy Director
20 with Southeast Texas Housing & Finance Corp. I'm also on
21 the board of the Texas Association of Local Housing
22 Finance Agencies. And I am here today to read a letter
23 that our executive director has drafted on our behalf.
24 She's not able to be here today, so I have stepped up to
25 the plate. It relates to the increase of eligible basis,

1 the 30 percent boost that the Representative was just
2 speaking to.

3 And the letter begins, "Dear Mr. Ozer. The
4 Texas Association of Local Housing Finance Agencies,
5 referred to as TALHFA, represents 31 local housing finance
6 corporations throughout the state of Texas. These
7 agencies have geographic jurisdictions coinciding with
8 that of the governmental unit or units which sponsor their
9 creation. They represent cities, counties, and regional
10 areas containing multiple cities and/or counties.

11 "As you are aware, a local HFC corporation
12 issuing private activity bonds with a reservation for
13 allocation from the Texas Bond Review Board generates
14 access to the 4 percent credits for affordable housing
15 development. TALHFA's interest, therefore, is to limit
16 any negative impact the Texas Department of Housing and
17 Community Affairs qualified allocation plan rules may
18 produce for utilizing 4 percent credits.

19 "TALHFA is opposed to the proposed QAP Section
20 11.4(c)(2) for the following reasons. It does not
21 recognize the automatic Internal Revenue Code, referred to
22 as IRC, Section 42, 30 percent credit boost for difficult
23 development areas. Only small area DDAs, referred to as
24 SADDAs, are identified as being eligible.

25 "This denies access to the 30 percent tax

1 credit boost for Texas counties that are not designated
2 2016 DDAs. HUD will use the SADDA designation in 2016
3 only for metropolitan areas, leaving counties as DDAs.
4 Section 11.4(c)(2) must also include DDA-designated
5 locations as being eligible for the 30 percent tax credit
6 boost.

7 "Number 2. Section 11.4(c)(2) attempts to
8 invalidate the right to extend a DDA designation for the
9 30 percent credit boost up to 365 days as provided in the
10 Internal Revenue Code Section 42.

11 "The IRC Section 42 permits a project that
12 applied for a bond reservation in one year to close the
13 transaction in the next year. Section 11.4(c)(2) grants
14 the 30 percent tax credit boost only when the bond
15 reservation certificate is received in the same year as
16 the HUD SADDA designation, which is subject to change
17 annually. The housing site may no longer be included in a
18 SADDA in the year following receipt of the private
19 activity bond allocation reservation.

20 "The proposed rule will also force closing
21 4 percent bond transactions that access the increased
22 amount of private activity bond allocation after the mid
23 August housing bond collapse by the end of the calendar
24 year, unduly reducing the already very short under 50 day
25 bond closing timeframe.

1 "Number 3. DDAs geographically include
2 qualified census tracts as well as the highest income
3 census tracts, denying the 30 percent tax credit boost for
4 a project in high income DDA areas while allowing the
5 credit boost to a QCT area is contrary to TDHCA's
6 objective to support housing development in areas that
7 contain greater opportunities for residents.

8 "Number 4. Texas has benefitted from
9 Congress's designation of natural disaster area DDAs to
10 increase the available tax credits for rebuilding
11 communities such as after Hurricane Rita. TDHCA granted
12 the 30 percent boost to projects during 2006 through 2010
13 that otherwise were not eligible for the boost but for the
14 DDA designation. Section 11.4(c)(2) would not permit the
15 30 percent tax credit boost to disaster-driven DDAs
16 because it has omitted DDAs as discussed in number 1
17 above.

18 "Number 5. The 4 percent tax credit remains an
19 important financial tool for communities to respond to
20 local housing needs. Affordable housing development
21 financed with 4 percent credits, however, is often not
22 financially feasible due to the limited equity generated
23 without accessing the 30 percent tax credit boost.
24 Utilization of the 4 percent tax credit does not reduce
25 the federal allocation of 9 percent taxes. To the

1 contrary, the 4 percent tax credit is an additional source
2 of funding for Texas affordable housing.

3 "In summary, TALHFA encourages the Department
4 to maximize 4 percent tax credit utilization through rule
5 making that supports rather than hinders this valuable
6 resource. Thank you for the opportunity to submit these
7 comments on the proposed QAP. Sincerely, Jean Talerico,
8 Executive Director, on behalf of the TALHFA Board of
9 Directors."

10 MR. OXER: Good. Thanks, Terri.

11 MS. THOMPSON: Thank you.

12 MR. OXER: And don't forget to sign in.

13 MS. THOMPSON: Gotcha.

14 MS. McIVER: Mr. Chair, members, my name is
15 Diana McIver, I'm President of DMA Development Company,
16 and I'm here to speak on a topic near and dear to my
17 heart, the aging in place criteria that's been added to
18 this year's QAP.

19 MR. OXER: I feel like we're doing that now,
20 aren't we? So.

21 MS. McIVER: We are aging in place, yes, sir.
22 And as many of you know, our firm does a lot of senior
23 housing, and we also provide consulting services to NCR
24 and other nonprofits in the development and redevelopment
25 of senior housing. And I got my start in this industry as

1 the housing specialist for the U.S. Senate Special
2 Committee on Aging many, many, many years ago.

3 I like the fact a lot that we've added this
4 section for points on aging in place. I love the fact it
5 has services assigned to it. But there is a serious flaw
6 in the design element that I hope was not intended, and I
7 hope that we can correct it.

8 As stated right now, it says that all units --
9 in order to qualify as aging in place, that all units are
10 designed to be fully accessible for both mobility and
11 visual/hearing impairments in accordance with 2010 ADA.
12 What that would mean -- and I tested this on an
13 architect -- that means that we would have to have
14 100 percent of our units as wheelchair accessible from the
15 get-go.

16 Now, a wheelchair unit basically has -- within
17 the bathroom it's got grab bars, which is a good thing,
18 but it also has virtually no cabinets; you have to have
19 the open under the sink for a wheelchair to go in. In the
20 kitchen you have the lower stove. You also have an open
21 space next to the stove. And again you have a very
22 limitation on your cabinets.

23 What we find in senior housing is very, very
24 few of our residents are wheelchair residents. And it
25 becomes extremely difficult for a person who's 6'2" or

1 6'3" to maneuver that unit that has a stove that's dropped
2 three or four inches, so they're not a functional unit for
3 anyone who is not in a wheelchair. The vast majority of
4 our residents are very healthy physically, and those who
5 have impairments usually are using a cane or a walker.

6 So what I would like to suggest is that we do
7 exactly what we're already doing, and that is the ADA,
8 which requires the accessible route and all of our common
9 areas to be totally accessible for a person in a
10 wheelchair -- ADA covers those common areas.

11 But covering the units, we need to go back to
12 the HUD 504 standard and the Uniform Federal Accessibility
13 standards. And under that rule what we do is we develop
14 of our units 5 percent of those units to be fully
15 wheelchair accessible from the get-go, and then we do
16 another 2 percent that are hearing and vision impaired.
17 But all of our units are designed so they are adaptable.
18 And we, as developers, have to pay for that adaptable unit
19 to become a fully accessible wheelchair unit if it's
20 needed by the resident.

21 So that's what we have to do today. That's the
22 correct standard for aging in place. And I would like to
23 ask that as part of this that we go to that test rather
24 than to require 100 percent of our units to be wheelchair
25 accessible and basically make a very institutional

1 environment for the other 95 percent of our residents that
2 don't require that. Thank you.

3 MR. OXER: Thanks, Diana. Sounds like a good
4 comment to me.

5 MS. McIVER: Thank you.

6 MR. OXER: Hold on one second.

7 (Pause.)

8 MR. OXER: Are we going to have -- would you
9 like to -- you got a thought on that, Megan?

10 MS. SYLVESTER: We can handle that later.

11 MR. OXER: Okay. We're taking some input, you
12 know. Whatever comes of all this will come out in the
13 public response, our reasoned response.

14 Is that a good time to do that, Megan?

15 Okay. That way you're off the heat on this
16 one. Okay. Good.

17 Don't forget to sign in.

18 MS. FINE: I did, thank you.

19 MR. OXER: Good.

20 MS. FINE: I'm Tracy Fine with National Church
21 Residences, and I'm here to echo everything that Diana
22 said. National Church Residences --

23 MR. OXER: It's okay if you just say ditto and
24 sit down. Okay? I'm sorry, go ahead.

25 MS. FINE: I could say that, but I do think I

1 have a slightly different angle than Diana, but I do echo
2 everything she said.

3 National Church Residences is the largest
4 nonprofit owner, manager, and developer of senior housing
5 in the country, with over 20,000 seniors in it nationwide,
6 1500 being in Texas. We are really pleased that staff
7 recognizes the importance of services at senior properties
8 and added an aging in place criteria.

9 This will aid seniors to remain living safely
10 and independently and have a positive impact on the health
11 care costs, as it keeps our seniors out of hospitals and
12 higher-care living facilities which come at a much higher
13 cost to the state and taxpayers.

14 However, the current language under aging in
15 place requiring all units be fully accessible for mobility
16 and hearing impairments does not serve the intended
17 population we are targeting. Our target population is not
18 100 percent wheelchair bound, and it is a disservice to
19 imply that all of our seniors living in dependent housing
20 need a fully accessible unit.

21 Our seniors want to live independently and
22 associate a 100 percent mobility campus in line with
23 assisted living, and it's stigmatizing them. Should a
24 senior resident become mobility impaired, there is an
25 opportunity to meet that need at that time, but that could

1 be 20-plus years from initial move-in, if at all.

2 Ambulation issues do not necessarily require
3 wheelchair-accessible units. There are a variety of
4 reasonable accommodations our properties make to help our
5 seniors to continue to live independently should
6 ambulation become an issue. Furthermore, it may not be
7 physically or financially possible for a preservation
8 project to be retrofitted for 100 percent units to be
9 mobility accessible.

10 I appreciate you listening to my concerns
11 today.

12 MR. OXER: Great. Thanks, Tracy.

13 MR. GOODWIN: I do have a question.

14 MR. OXER: J.B.

15 MR. GOODWIN: Of your 20,000 units, how many
16 are wheelchair --

17 MS. FINE: About 5 percent, consistent with ADA
18 standards. And we have actually -- specifically in
19 Texas -- and I hate to talk about this; I am not a
20 compliance specialist. But we have had instances in Texas
21 where we're required to keep our units open for 12 -- or
22 accessible units open for 12 months in order to let an
23 individual needing that unit to be able to have the
24 opportunity to get an accessible unit. We've had in the
25 past issues even leasing those units, and we've had to

1 keep them open for a longer period of time than we would
2 have liked to.

3 MR. OXER: So let me ask this. And so somebody
4 moves out of one of the accessible units, and so you have
5 to keep it open just on the prospect that somebody who
6 would qualify or need that unit might come along --

7 MS. FINE: So I'm not a compliance specialist,
8 but it my current understanding that --

9 MR. OXER: Nor am I. That's why we've got one
10 over here. Okay?

11 MS. FINE: My current understanding is just in
12 the initial lease-up and not in turnover.

13 MR. OXER: In the initial lease-up. Okay.

14 MS. FINE: Uh-huh.

15 MR. OXER: Okay. All right. Thanks very much.

16 MS. SLOAN: Good morning. I'm Maddie Sloan,
17 I'm the Director of Disaster Recovery and Fair Housing
18 Project of Texas Appleseed, and I'm also speaking on
19 behalf of the Texas Low Income Housing Information
20 Service. I'd like to briefly flag three topics that are
21 not addressed by the current proposed QAP language.

22 The first is legislative letters. The 16 point
23 spread really conflicts with the statute by effectively
24 changing the priority of those letters, and that was set
25 out by the Legislature. We think the positive letters

1 should be eight points and agree with other commentators,
2 the negative letters negative one or two points to bring
3 the QAP back in line with the legislative priorities.

4 The second is neighborhood organizations. We
5 think TDHCA should eliminate its own process for
6 certifying neighborhood organizations. It duplicates
7 existing state and county processes, it's a big burden on
8 the staff and really I think complicates the entire
9 process.

10 The third issue I'd like to flag actually was
11 previously raised with the comments on annexation. It's
12 the issue of local jurisdictions post application or even
13 post award making changes designed to kill a development.

14 Whether it's changing zoning to force material changes
15 that would disqualify the development, the annexation
16 issue.

17 I think in the case -- one case that's going on
18 right now is China, Texas, where the city council withdrew
19 previous support, including financial support. We think
20 that expressions of local government support should be
21 treated like legislative letters. They cannot -- the
22 jurisdiction cannot go back and retroactively change its
23 support once that's been given, and that, you know, I
24 think there is a process for dealing things like the loss
25 of certain kinds of funding and adjusting the budgets,

1 particularly when developers, you know, can't foresee
2 that.

3 This is obviously a particular issue in high
4 opportunity areas, and it is largely very openly driven by
5 animus against classes of persons protected by the Fair
6 Housing Act, particularly in terms of race and families
7 with children.

8 I would also cite you to some of the efforts
9 coming out of Cypress, Texas. I can't really recommend
10 reading the comments on some of the opposition Facebook
11 pages and petitions, but it's not -- it's barely-coated
12 racism fairly clearly, and I think the Board recalls the
13 Galveston situation.

14 So thank you for hearing my comments.

15 MR. OXER: Thanks, Maddie.

16 MR. JACK: Hi, I'm Darrell Jack with Apartment
17 Market Data and de facto mapping guru as it just turned
18 out over the last few years as --

19 MR. OXER: Do we have any de factos we need to
20 find?

21 MR. JACK: You know, developers are always
22 coming to me asking, well, where should I go, where should
23 I go, and that really created a whole new sideline
24 business for us. The last three years, you know, it's --
25 as we go through and create the maps that help developers

1 find sites to qualify and score, it's obvious that rural
2 Texas has a real problem.

3 And that problem is that using the first and
4 second quartiles in rural Texas really doesn't allow
5 development to go in in a lot of the rural towns in Texas.

6 On page 156 of your Board book you'll find seven
7 examples that I put in my comments that show towns like
8 Gainesville, Hereford, Graham, Paris, Carthage, Plainview,
9 and even Nacogdoches.

10 But as I went through and mapped out first and
11 second quartiles for 2016, you can see that, you know,
12 these towns, you know, they have first and second
13 quartiles that surround -- immediately surround the town
14 but those are where the ranches and the farmers are
15 located that have higher income than the poor people that
16 actually live in these towns.

17 And so effectively for the last three or four
18 years, we've created these donuts around Texas or in rural
19 Texas, where you can't develop inside the town where you
20 have things like schools and utilities and power lines and
21 things. The rules are forcing them to go out on the
22 fringe of the towns just chasing the first and second
23 quartiles.

24 Reality is that you don't have quantities of
25 poor people living on the farms or ranches. They live in

1 town and probably work on the farms and ranches. But
2 presently the rules for rural Texas really eliminate a
3 large part of the state. The only way that you'll ever
4 see new real development in these towns is through the tax
5 credit program, through the 9 percent program. Developers
6 are never going to go out to rural Texas and develop in
7 places like Carthage.

8 And so, you know, today I would ask that at
9 least you put in the registry the comments that I made
10 that would eliminate first and second quartile from
11 scoring rural Texas, so that staff can take the next 30
12 days or so to do the mapping themselves -- or I'm happy to
13 help verify the things that I'm saying -- and then give
14 yourselves an opportunity when you come back to vote on
15 the QAP, the opportunity to say that, yeah, this is a
16 problem in rural Texas, you know, we agree with the
17 information I presented, and make a fix for rural Texas.
18 So thank you.

19 MR. OXER: Thanks, Darrell.

20 Any questions for Darrell?

21 DR. MUÑOZ: Yeah.

22 MR. OXER: Hold on a second, Darrell. We do
23 have two.

24 DR. MUÑOZ: No, I just have a comment. So how
25 do we get this looked at? I mean I live close to

1 Plainview, I've been to Hereford many times. They're
2 towns, they're not tiny towns. I'm surprised that this
3 phenomena is occurring. I mean Plainview is, you know,
4 22,000. I mean it's not 4,000. So I'm shocked actually
5 that towns, that cities of that size would be precluded
6 from this kind of opportunity. I mean Hereford's smaller.
7 So how do we get this looked at?

8 MR. JACK: I mean the --

9 DR. MUÑOZ: I guess I suppose I'm asking staff.

10 MR. JACK: I mean staff every year goes through
11 and ranks the census tracts by quartiles. I just did it
12 earlier than what staff did this year to come up with the
13 mapping programs that we developed here in the last few
14 weeks. Then it's just getting, you know, those census
15 tracts married up to a map. And so it's doable and I'm
16 willing to help, you know, facilitate that.

17 But, you know, I only gave you seven examples
18 in your Board book. You know, I could have given you 25
19 or 50 or probably even a hundred around rural Texas that,
20 you know, just the town proper is eliminated because of
21 the first and second quartile but, you know, the ranch
22 land immediately outside the loop or outside the next
23 census tract, you know, would be fine for first and second
24 quartiles. You just don't find the utilities, you know,
25 the water hookups, the things that you need to facilitate

1 development.

2 And the other thing is that, you know, there
3 are these cases and developers come to me, the first one
4 that comes to mind is Panhandle, Texas. Panhandle, Texas
5 is first quartile and has three schools in its core.
6 And the population is so small that, you know, I have to
7 tell this one developer time after time no, I can't write
8 you a market study that tells you that this project is
9 going to be successful when you only have a town of maybe,
10 you know, 2500 people and the renter population is only
11 maybe 5 or 10 percent of that total population.

12 So, you know, we kind of -- the rules have
13 driven developers away from what everybody knows to be
14 good real estate decision making to chase the points. And
15 that's a function of the program. And if you got rid of
16 the first and second quartiles in rural Texas
17 specifically, then we could go back to making good sound
18 policy or development decisions that ensure the long-term
19 viability of these projects that are always already
20 stressed because they're in rural Texas.

21 MR. OXER: Tim?

22 MR. IRVINE: I just want to point out that
23 because the way the process works, unless you have
24 specific concrete changes that you would propose to the
25 rule that is going to be posted for public comment, all

1 that we will be able to do after receipt of the public
2 comment would be to pull back from what's in there. So if
3 you've got some new idea that you want --

4 MR. JACK: And that's why, you know, in my
5 comments I proposed the elimination, language to go into
6 the *Register* that would eliminate the scoring of first and
7 second quartiles in rural Texas.

8 MR. OXER: Is that okay with you?

9 MR. JACK: And I may be naive to think that
10 it's that simple, but that really is the fix.

11 MR. OXER: So what you're essentially saying is
12 your impression of the change that you're offering up will
13 provide -- will offer more areas that truly are in need of
14 the housing support that we provide, will make them
15 available or make the program available to them.

16 MR. JACK: Yes, sir. And, you know, I grew up
17 in a small town and --

18 MR. OXER: Yeah, I grew up in a small town, so
19 small it had both -- the city limit signs on both sides of
20 the same pole. Okay?

21 MR. JACK: You know, people in small town
22 Texas, you know, if there is a distinction, it's more
23 about, you know, what side of the railroad tracks do you
24 live on. You know, that's the reality. They're not
25 really so concerned that it's too -- you know. I mean

1 these people that rent these properties would never be
2 able to tell you, well, that's a first and second quartile
3 and this is a fourth quartile over here, and I want to
4 make sure I live on that side of the census tract.

5 MR. OXER: Okay, Darrell. We appreciate your
6 comments and understand.

7 MR. JACK: Thank you.

8 MR. OXER: We'll get Kathryn to make -- do you
9 want to answer that one specifically, Kathryn?

10 MS. SAAR: Yeah, I just wanted to make a
11 clarifying comment. In rural areas under Opportunity
12 Index it's an either/or. We look at census tracts that
13 have a poverty rate below 15 percent or 35 percent if
14 you're in regions 11 or 13, or the first and second
15 quartile. So it's not if you're --

16 MR. OXER: So there's an alternate to what
17 Darrell's offering.

18 MS. SAAR: Correct.

19 MR. OXER: Okay.

20 MS. SAAR: And, you know, as a policy I think
21 first and second quartile does make good real estate.
22 We're putting people in places that don't have high
23 concentrations of poverty.

24 MR. OXER: Good. Point noted. Thanks.

25 Any questions so far?

1 (No response.)

2 MR. OXER: Okay. Robby?

3 MS. MEYER: Sarah's going to let me cut in
4 front of her because I kind of go along this.

5 MR. OXER: You're getting soft there, Sarah, or
6 what?

7 MS. MEYER: Since I've been in this position
8 over here, now I'm in this position over here. I know --

9 MR. OXER: This one's open if you want this
10 one, Robby.

11 MS. MEYER: No, I don't. I don't really want
12 to be standing here. I know how important it is --

13 MR. IRVINE: Name?

14 MS. MEYER: Robby Meyer. I'm sorry. I'm
15 sitting on the consulting side now. And, you know, I
16 understand the gun that TDHCA's under, and I know the gun
17 that we sit under out here. It's very -- and it's a fine
18 line. But everything that goes on today is very important
19 to this group out here.

20 It's very important that these rules get in and
21 we have a pretty final draft that goes out in final form
22 so that we know what we're doing over the next few months.

23 It's important that most of our comments that are made
24 and the things that go out in the draft, they're so driven
25 on location of sites and everything, that we know what's

1 going to come out in November. We have to meet with
2 cities. We're doing a lot of work, and to reshuffle the
3 desk in November, taking things out, it's huge.

4 So I appreciate everything that you did last
5 week in making this meeting, you know, that we were able
6 to come back and, you know, redo some things. But I also
7 hope that you listen to the comments, and that if we can
8 make changes today, that those get in the QAP so that
9 we're not reshuffling --

10 MR. OXER: So you're asking us not to undo the
11 things we did. Right?

12 MS. MEYER: Correct.

13 MR. OXER: Okay.

14 MS. MEYER: And I only have a couple of brief
15 comments, and one is on the educational excellence. I
16 appreciate, you know, the reshuffling of that from last
17 week and removing the special requirements of the
18 educational excellence and the threshold requirements.
19 That was a big help.

20 The educational excellence in scoring those,
21 it's still I think problematic. I went back and did a lot
22 of research on the TEA scores. Although there are -- the
23 average score of the performance index is 77. Fifteen of
24 the subregions of the 26 subregions, 15 of those regions
25 are under a 77 score. Seven of those are 74 and below. I

1 think that's problematic.

2 And when you've got seven of those subregions
3 that don't get -- you know, they're below 74, that's still
4 problematic. You can't get that. At 77, only 53 percent
5 of our schools scored 77. That's a low score I think. So
6 I think we need to make some adjustment. If you do it --
7 and I'll look at it and -- if you do it -- if you bring it
8 down to a 74, 62 percent of the schools will qualify. If
9 you bring it down to a 71, 70 percent of the schools will
10 score. It's just a suggestion.

11 TEA's actual target score is a 60 for schools.

12 I'm not saying take it down to the target. I at least
13 want to get up above the target. But I think there is
14 some room for a little bit of leeway there. I really
15 would rather have a score that goes across all of the
16 regions so that we don't have fluctuation and have to keep
17 up with that. It's much easier to administer if
18 everybody's the same. But I think there is some -- a
19 little bit of improvement in that score.

20 MR. OXER: Great. Thanks, Robby.

21 MS. MEYER: Thanks.

22 MR. OXER: All right, Sarah?

23 You want to respond to this or you want to get
24 them all at once?

25 MS. SAAR: I'll get them all at the end.

1 MR. OXER: Okay. Thanks, Kathryn.

2 MS. ANDERSON: All right? So my name is Sarah
3 Anderson, I'm with Anderson Consulting, and I'm just here
4 to make a couple of overarching generals, and we will, I
5 will be submitting specific comments on these later.

6 MR. OXER: Somehow we expected that.

7 MS. ANDERSON: Thought you might. So the first
8 one has to do with the revitalization. And Janine spoke
9 for TAAHP, the revitalization changes, and I'd like to
10 echo her concerns. As we look at it, we just got our arms
11 around the way revitalization plans worked. We were
12 getting them through with very few of them having to come
13 before you.

14 It's so changed that we're sort of back at the
15 beginning, and it feels much more subjective. And of
16 course the nightmare scenario is that we're going to be
17 here in July with you guys having to decide all of them
18 again. So we'd like to see -- personally I'd like to go
19 back just to the 2015 language.

20 And if not, if we're going to stick with
21 something new, I think that we need to go back to what was
22 discussed in the remedial plan, which was a preclearance
23 or some sort of preview where we can submit them early and
24 get them reviewed and approved prior to the full app
25 submission if possible. It's a big question mark going

1 forward, and I think it would be nice if we could bring
2 them forward, have them approved before full applications
3 were done. So we don't waste anybody's time with those if
4 they're not going to qualify.

5 The other one is the 811 program. And I know
6 that the Department's been struggling with this, and I
7 think that on our part and on the industry side perhaps we
8 need to work a little harder with the Department on how to
9 find incentives to make the 811 program more successful.
10 So our little group, that's one of the things we've talked
11 about, and we're trying to brainstorm on other incentives
12 over scoring in the QAP to get immediate units for you
13 guys to use for 811.

14 As the language is in right now, it's
15 problematic, because what you're doing is incentivizing
16 people who have a specific portfolio whose units will meet
17 a certain criteria. And that will exclude people who have
18 rural units, because the only units that can be used are
19 in the MSAs. It will exclude people who have primarily
20 elderly units, because those cannot be used. And it will
21 exclude people who are in the 500-year flood plain, which
22 may be people with large Houston portfolios.

23 So rather than a scoring item that's based on
24 your past portfolio --

25 MR. OXER: And that's 500-year floor plains

1 that flood every other year?

2 MS. ANDERSON: Exactly. So rather than having
3 a scoring item that isn't about trying to go to a better
4 area or anything, it's really based on what your old
5 portfolio just happens to look like, I think that we would
6 prefer to stick with what was in 2015. And I think the
7 industry needs to sit down and come up with other
8 incentives that will incentivize people to bring their
9 existing units to your use.

10 MR. OXER: Good. All right. Thanks for your
11 comments.

12 Any questions from the Board?

13 (No response.)

14 MR. OXER: I would add just from my own
15 personal perspective on this, anything that you can do
16 anytime when we're developing these rules, if anybody out
17 there has a comment, don't wait, don't slow down, talk to
18 the staff, because if you do this and we find out that you
19 were sandbagging on comments to get to something, it's not
20 going to -- let's just say that doesn't engender an
21 extraordinary amount of sympathy on the Board's part.
22 Okay?

23 The second thing is if there are key issues
24 that need to address on each item the point scoring,
25 sometimes we are limited by what we can do by the

1 legislation, but we're happy to see what we can do on each
2 one of them. But in the end we've got an extraordinarily
3 competitive process.

4 The good news is we've got an extraordinarily
5 competitive process that invites all comers, and we've got
6 to figure out a way to make it transparent, objective, and
7 critical to get there.

8 The bad news is we've got an extraordinarily
9 competitive process that we have to make -- that brings
10 everybody in and we've got to score them accurately and
11 evenly. So we have a blessing of riches in terms of the
12 number of folks that want to participate in this process.

13 So as I've said before, we're not looking for
14 projects; we're looking for money on this particular
15 program. So we're happy to see that it reaches as many
16 people that are as happy as they are.

17 Any other comments from the Board so far?

18 (No response.)

19 MR. OXER: Okay. Who's next? We've got --
20 Joy, you're back. We've got fruit basket turnover here in
21 the front row.

22 JOY HORAK BROWN: I am back. Joy Horak Brown,
23 President and CEO of New Hope Housing. I spoke to you
24 earlier about the flawed data set that is neighborhood
25 scout and about my general concerns for undesirable site

1 characteristics and educational excellence. And I'm here
2 now to say a couple of things.

3 One is to thank the staff for adding the extra
4 50 square feet for each single room occupancy unit.
5 That's something that was in past QAPs, it fell away, and
6 it's back. It's very much needed for supportive housing
7 and we're most grateful, Chairman Oxer and members of the
8 Board.

9 What I'm pointing out now is I think it's
10 marvelous the fact that aging in place and senior limited
11 properties are being exempted in certain areas of the
12 rules in QAP and that there is now a way for aging in
13 place or senior properties to achieve points for services
14 rather than under educational excellence.

15 And I would suggest to you that I would like to
16 see added in this draft single-room-occupancy supportive
17 housing. That is limited to an adult, one adult, by the
18 way, per living unit. And should an adult be a woman
19 living in one of those units who is pregnant at the time
20 she leases or becomes pregnant and has a child, there is a
21 limit as to the amount of time that that individual may
22 live in that unit. And this is -- we're talking about an
23 infant; we're not talking about a school-age child. So I
24 would like to suggest that that be added, and I thank you
25 very much for listening to me twice today.

1 MR. OXER: Great. Thanks, Joy.

2 Just a quick question here, Kathryn. There's
3 quite a few coming here. You know, if you want an
4 interstitial moment here to address them to date or do you
5 want to wait till everybody comes up?

6 MS. SAAR: That's your decision. How would you
7 prefer to hear them?

8 MR. OXER: If anybody here has additional
9 comments on what we've heard so far, let me know, and
10 we'll hear those first. Okay? We'll get that out of --
11 looks like everybody else is talking about the same thing.

12 So it looks like you'll answer them all when we get
13 finished.

14 MS. SAAR: Okay.

15 MR. OXER: Okay. Thanks.

16 All right. Who was next? Lisa, are you next?

17

18 MS. STEPHENS: Yes, sir.

19 MR. OXER: Okay.

20 MS. STEPHENS: Lisa Stephens with Sagebrook
21 Development and TexCad [phonetic]. I just first want to
22 say thank you to the staff, to the Board. I know that
23 that was a herculean effort. I truly appreciate it. I
24 think it was the Twitter feed that wound up getting this
25 80 pages of comments, but just saying.

1 We have one comment that we're not sure whether
2 it is -- will be a logical interpretation as it relates to
3 the QAP, and it has to do with the challenge process. The
4 challenge process is coming out of what is being published
5 in the *Register*, and so if it is not in there we're not
6 sure you can -- we can put it back in as part of a logical
7 outgrowth. As an industry, our group has a consensus that
8 we have some concerns with this new administrative
9 deficiency process.

10 MR. OXER: Let me ask this. Your industry has
11 a consensus. Who do you represent?

12 MS. STEPHENS: The TexCad group, and there --
13 it was a group that all raised their hands last week.

14 MR. OXER: Okay.

15 MS. STEPHENS: So --

16 MR. OXER: And the industry, that can --

17 MS. STEPHENS: It's not -- I should have
18 reframed: Our group TexCad has a concern, a consensus
19 concern with the challenge process. And because it's
20 being removed, we're not sure under a logical outgrowth it
21 can be put back in. You said it best, that this is a very
22 competitive process that we're trying to keep transparent,
23 and part of that challenge process allows for
24 transparency. And removing it goes against transparency.

25 So we really would like to see the challenge --

1 and I understand there's concerns with the challenge
2 process by staff. We feel like it's going from one
3 extreme to the other. There's probably a middle ground
4 that we would like to be able to explore. But if it's not
5 in this draft, we're going to be precluded from exploring
6 that.

7 MR. OXER: Okay. Thanks for your comments.

8 MS. STEPHENS: Can I make one other comment?

9 MR. OXER: Okay.

10 MS. STEPHENS: Just we understand that the
11 public web board, the discussion board has to come down
12 once the public comment period opens, and we understand
13 why that is coming down. We are putting up a developer
14 web board for those who are interested, and I'm just using
15 the microphone here to let everyone know that that is up;
16 we're going to begin posting comments to it. It's open to
17 the public. It is simply a method of engaging discussion
18 and anyone that's interested. See Sarah or myself and
19 we'll get them the web board.

20 MR. OXER: Good.

21 Tim, you have a comment?

22 MR. IRVINE: Yeah. With regard to the
23 challenge process, no, I do not believe it would be a
24 logical outgrowth to change the proposed language on
25 administrative deficiencies back to challenges. But we

1 fully intend to carry out the administrative deficiency
2 process, if it's ultimately adopted, in a way that
3 continues the commitment to transparency.

4 We're looking to be able to post more
5 information in real time or close to real time on our web
6 site so that people know exactly what's going on. And as
7 somebody raises an item that somehow or another got missed
8 in the review process and says, hey, you might want to
9 look at that as an administrative -- or as a deficiency,
10 whether it's administrative or material, that, you know,
11 we obviously, if it's in a prior review posture, are going
12 to look at it. And the way that we are going to look at
13 it and treat it is something we're going to try to share
14 with the public.

15 MR. OXER: Good.

16 Kathryn?

17 MS. SAAR: And I just wanted to piggyback off
18 of what Tim said. As part of this new process, we are
19 actually going to be posting somewhat live applications to
20 the Department's web site. Any information that comes in
21 to the Department from the applicant will be posted to the
22 web that evening, and so the full scope of everything that
23 we have seen will be available. So I think that this
24 process actually increases transparency.

25 MR. OXER: Let me ask you this. You said --

1 say that again. You're going to be posting some of them
2 or you're going to be posting some components of all
3 applications?

4 MS. SAAR: So anything that comes in through an
5 administrative deficiency process will also get included
6 in the application. Currently the application is only
7 posted to the web site at the beginning of the cycle. And
8 so any information that is subsequently received through a
9 staff review is only available if a person requested it
10 through an open records request.

11 MR. OXER: I got it. Okay.

12 MS. SAAR: So now every new piece of paper that
13 comes in, every question that gets answered is doing to be
14 included in that application file that will be posted to
15 the web nightly.

16 MR. OXER: That's great. Good. Thanks.

17 Any questions so far?

18 (No response.)

19 MR. OXER: Okay.

20 MR. BENNETT: Let me sign in before I forget.
21 Mr. Chairman, members of the Board, Mr. Irvine. My name
22 is Kyndel Bennett, and I'm a developer with Cayetano
23 Housing. Our company is fairly new to this program, as we
24 have competed in the last three rounds, winning
25 allocations in two of the last three years.

1 MR. OXER: You're just now getting your
2 calluses, develop your calluses.

3 MR. BENNETT: We're just getting started. We
4 plan to be in the program for a while. I'd like to
5 comment on a proposed change to the QAP which we think
6 would create an unfair advantage to developers who own
7 portfolios in select areas of the state.

8 The new three point scoring under the
9 population of special needs section draft QAP will only be
10 available to developers who have existing units in an area
11 where 811 services are available, currently the seven
12 urban metropolitan areas of Texas. Everyone else can only
13 earn two points in this category.

14 As the Board is aware, most deals are won or
15 lost by one point. So it seems that creating a scoring
16 item that is only accessible to select developers seems
17 anti-competitive and exclusionary. With this new rule
18 developers like me will no longer be able to compete and
19 new developers will not enter this extremely competitive
20 industry.

21 If the goal of the rule is to put more 811
22 units into service, certainly there's a way to accomplish
23 this without sacrificing the integrity of the program.
24 Favoring one developer over another is not the way this
25 program has traditionally worked, and seems contrary to

1 the spirit of what we're trying to achieve. Please modify
2 the existing language in the draft QAP to give all
3 developers in all areas of Texas equal access to the same
4 scoring points.

5 MR. OXER: Good. Thanks, Kyndel. Appreciate
6 your comments.

7 Okay. I'm sorry, you're not one of the
8 regulars so I don't know you. No, no, come up here.

9 MS TYLER: I'm not one of the regulars. Good
10 to be here this morning. My name is Kathy Tyler, I work
11 with motivation, education, and training around farm
12 worker housing. And so I wanted to talk about farm worker
13 housing and tax credits.

14 And I wanted to thank the staff for including
15 in the new edition of the QAP a comment that allows new
16 construction to take part in the USDA set-aside, new
17 construction at 514, many from USDA, which is for farm
18 labor housing. And again the TDHCA staff has been very
19 helpful in trying to figure out a way to do this.

20 I want to give you a number, \$714,294,
21 \$714,000. That's the amount of tax credits since the
22 beginning of the program that have gone to farm worker
23 housing in Texas. 714,000. So that allowed us to bring
24 in 2.2 million of rural development funding into Texas
25 which would have gone to other states otherwise.

1 So there's a problem with developing farm
2 worker housing with tax credit monies. And they're for a
3 gazillion reasons. But I think one clear reason is the
4 structure of the QAP. So I appreciate staff being willing
5 to put in this funding into the set-aside. I'm not sure
6 it's the right answer, but I think it's a good way to
7 pilot a change to see if it helps.

8 And I know that the USDA set-aside is not a lot
9 of money, it squeezes the current users. I think we
10 should have more money in that set-aside to allow for
11 that. But we have not been able to figure out a way to
12 make farm worker housing fit in and score well in using
13 tax credits. We are one of the biggest agriculture states
14 in the nation. You know, the amount of funds that
15 agriculture brings in is extreme. The workers that work
16 in agriculture need better housing. So it's a particular
17 problem.

18 So we hope this can help us resolve that issue.
19 It would be good to have it like a pilot, see if it works
20 to help figure out what -- and we'll work towards
21 increasing the set-aside, which I know that you can't do
22 but maybe we can figure that out.

23 MR. OXER: Great. Thanks, Kathy. Yeah, I
24 think -- I can give you the Board's perspective, certainly
25 mine. The QAP by virtue of the nature of the problem

1 we're trying to address is going to always be a work in
2 progress. So we keep tweaking it and hunting down those
3 quirks and ironing out the wrinkles. So we thank you for
4 your comment.

5 MS. TYLER: Thank you.

6 MR. OXER: Appreciate those.

7 Okay, Terri, you've had a shot at it.

8 Sarah, do you want to jump up? Do you want to
9 speak on this one?

10 MS. ANDERSON: Yes, sir.

11 MR. OXER: Okay. Well, then, I was going to
12 give Sarah a shot at it since you'd already had one.

13 But you want this or the next one?

14 MS. ANDERSON: I've got a new topic.

15 MR. OXER: Okay, you don't get to play yet.

16 Terri?

17 MS. ANDERSON: I think I spoke on the last one,
18 not this one. But Terri Anderson, Anderson Development &
19 Construction. Very quickly as it relates to
20 revitalization, I believe that the current language is
21 very subjective. And I know before it was very
22 prescriptive and we're trying to possibly move away from
23 that.

24 But one key component of what I have heard is
25 that the Board's direction to staff is that we are not

1 putting tax credits in a revitalization area as the first
2 investment in that area. And it's been, quite frankly,
3 housing typically has been the first thing behind jobs
4 that goes into a particular location, including the
5 revitalization. Because the businesses aren't going to
6 come unless the rooftops are there.

7 And so it's a different mind set than what
8 necessarily we've heard here recently, but I do believe
9 historic development does have jobs in a location,
10 housing, and then the services for the residents who live
11 in that area.

12 The other comment that I had was related to
13 historic preservation. And the updated language that at
14 least 75 percent of the units typically have to be located
15 in the building. My general comment was how does that
16 necessarily hinder -- whether you've got 75 percent of the
17 units in a building or fewer units, how does that hinder
18 the preservation of that historical building?

19 So if the Legislature would like for us to
20 continue to restore historic buildings and use housing tax
21 credits for that purpose, it's possible that restoring one
22 particular building may have more than 75 percent of the
23 units outside of that.

24 MR. OXER: Okay.

25 MS. ANDERSON: So those were my only comments.

1 MR. OXER: Good. Thanks for your comments.

2 MS. ANDERSON: Thank you.

3 MR. OXER: Laura?

4 MS. MYRICK: Hello again. I would like to echo
5 the 811 comments that were previously made by Sarah and by
6 Mr. Bennett. I also believe that having a screen criteria
7 which gives other developers or certain developers an
8 advantage may be not the right answer.

9 We certainly understand the wanting to get the
10 811 vouchers out, and so we are also very happy to see
11 that the 4 percent program would be something that would
12 be open for discussion and to perhaps have some 811 units
13 there. And I also agree with Sarah that perhaps we need
14 to go back and vet some other options out as to how we get
15 the 811 units out there. Perhaps things -- I've heard
16 things like maybe increases in developer fees, maybe some
17 underwriting criteria that can be crafted for these
18 transactions.

19 So I would just like to echo those sentiments
20 on the 811, and we would certainly welcome the opportunity
21 to work with staff on coming up with an alternative path.

22 MR. OXER: Great. Thanks.

23 MS. MYRICK: Thank you.

24 MR. OXER: And I will personally make sure -- I
25 will assure you that staff will be willing to have that

1 discussion with you, which I don't want it ever reflected
2 that they were not, you know.

3 MS. MYRICK: No, not at all. And we know we
4 will, and we're certainly looking forward to that
5 discussion.

6 MR. OXER: Great.

7 MS. MYRICK: Thank you.

8 MR. OXER: Dennis?

9 MS. REIDY: No, it's actually -- I am on the
10 811 program.

11 MR. OXER: Okay, let's do that one.

12 MS. REIDY: I apologize, I didn't -- I thought
13 you wanted to -- you were talking about farm workers.

14 Is it okay for me to go?

15 MR. OXER: Come along.

16 MS. REIDY: Thank you.

17 MR. OXER: When you talk about farm workers,
18 that's me and Juan up here. Okay?

19 MS. REIDY: Good morning, Chairman Oxer and
20 members of the Board. My name is Sara Reidy with Casa
21 Linda Development Corporation, based in Dallas. Casa
22 Linda Development Corporation is a 100 percent woman-owned
23 business, and it's active in the competitive tax credit
24 program as a developer, general partner, and HUB. We've
25 been fortunate to have been awarded in each year since

1 2012.

2 We submit the following recommendation as a
3 proposed change to the tenant with special housing needs
4 section of the 2016 QAP. The new language in Section
5 11.9(c)(7)(A) should be omitted in its entirety to prevent
6 an unfair statewide advantage for those developers whose
7 portfolios include Section 811 program eligible inventory.

8 Section 11.9(c)(7)(A) in the 2016 QAP draft
9 aims to award developers three points if they have
10 existing developments in their portfolios that can
11 participate in the Section 811 program. By rule these
12 developments can only be located in the seven large urban
13 metropolitan statistical areas.

14 For developers fortunate enough to have
15 previously developed in these locations, this creates
16 unfair leverage for scoring purposes, particularly against
17 all other developers in the state who are not fortunate
18 enough to have existing 811 program eligible inventory in
19 these markets.

20 In addition, we spoke in detail to staff
21 regarding this rule, and it is our understanding that
22 developers with 811 program eligible inventory can apply
23 in regions outside of the seven large urban MSAs and can
24 receive three points for committing 811 eligible existing
25 properties. This automatically puts developers with 811

1 program inventory at a huge disadvantage over those
2 developers without -- puts them at an advantage over those
3 developers without eligible inventory.

4 It is also our understanding that while the
5 rule is silent, applicants can solicit owners developers
6 that have 811 program eligible inventory. This allows
7 owners with 811 program inventory to sell their units to
8 an applicant that is applying in the current round. This
9 simply is not good practice.

10 While we understand that 11.(c)(7)(A) [sic] is
11 being proposed to get more participation in the 811
12 program, we have never seen a proposed rule benefit only
13 those who were fortunate enough to have developed in
14 certain areas of the state. Our recommendation is to
15 maintain the rule as stated in the 2015 rules. An
16 alternative for staff and the Board to consider is placing
17 the threshold requirement on the noncompetitive 4 percent
18 tax credit applications for the 811 program.

19 Most bond transactions currently awarded are in
20 the seven urban MSA areas and must close within that
21 period of time. And we recommend a tiered approach. Less
22 than 100 units, commit 10 811 units. Between 100 and 200
23 units, commit 20 811 units. And between 200 and 300
24 units, commit 30 811 units.

25 I appreciate your time and consideration.

1 Thank you very much

2 MR. OXER: Okay. Thanks, Sara.

3 All right. Now, I would remind everybody that
4 we're -- some of these comments, while -- and they're all
5 important, we appreciate that you're making the effort to
6 make those, but there will be an enormous amount of time,
7 even though you want to make sure as much as possible is
8 put into the draft, according to what Sara's comment was,
9 as much as possible is put into the draft so that we're --
10 you know more or less where it's going. A lot of these
11 are just public comments that would be better suited to
12 have the response, reasoned response put into the -- in
13 public comment when it's posted to the *Texas Register*.

14 So I continue to ask everybody if that's the
15 nature of your comments, we will hear them but please be
16 brief. You need to -- if there's an expansion of that,
17 you want to be able to put that into the public comments
18 when we post this to the *Texas Register*.

19 Because there's not much we're going to be able
20 to do it today apart from hear the fact that you've got
21 that comment. Because we're going to go up or down based
22 on what Kathryn says or the suggestions we'll make for
23 modifications to the original motion.

24 So, with that, Dennis, you're up.

25 MR. HOOVER: Thank you. My name is Dennis

1 Hoover, and I'm here today representing the Rural Rental
2 Housing Association. I want to thank the Board for their
3 service, and particularly the staff for working with us so
4 hard and long. Three of them came to our convention this
5 summer and have met with us once since then, and they've
6 worked very hard to hear us.

7 The Rural Rental Housing Association represents
8 24,212 units of USDA 515 across the state. Seventeen of
9 those are farm labor housing.

10 MR. OXER: And I take it that's 17, not 17,000.

11 MR. HOOVER: Seventeen --

12 MR. OXER: That's what I mean.

13 MR. HOOVER: -- properties. I don't know how
14 many units it is.

15 MR. OXER: Seventeen properties, okay.

16 MR. HOOVER: Yeah. Kathy Tyler may know. And
17 most of what I got to say here today is the new thing that
18 was proposed last Tuesday about farm labor housing coming
19 out of the preservation -- funding for new construction
20 coming out of the preservation side of things for 515s.

21 Like I say, there's 24,000 -- over 24,000
22 units. As a result of a recent survey, 80,000 of those --
23 80 percent, excuse me -- 80 percent of those need over
24 \$20,000 per unit rehab, and most of them around 40-. I
25 mean, I think the average age of a portfolio is over --

1 the youngest are probably 25 years old, and the oldest 40
2 or 45 years old. They all need a lot of rehab.

3 USDA does not have hardly any money anymore.
4 Everybody depends on tax credits. The farm laborer should
5 be funded. It's such a unique set of circumstance there.

6 It leverages so much federal funds, and most of the funds
7 are grant funds. And it comes generally with 100 percent
8 rental assistance. If somebody actually gets commitment
9 of funding for that from USDA, we ought to do all we can
10 to fund the thing.

11 Except that all the rest of the developers, you
12 know, that have these existing deals -- you know, this
13 year out of the 20,000 that need rehab bad, we're going to
14 rehab 486 units. So we're not -- the 5 percent set-aside
15 that we have is only scratching the surface of what needs
16 to be done there.

17 And these are units out in little small towns
18 that are probably not going to be replaced by anything
19 else. Most all of them are still needed badly. And so as
20 much as we want to support farm laborer housing -- and we
21 do -- we want to support leaving the rules the way they
22 are now in that the farm laborer would have to -- new
23 construction farm laborer would have to compete pointwise
24 with new construction deals. That's the way the rules are
25 for 515s and 514s. There's not any new 515 money, hasn't

1 been for a long, long time. I don't think there'll ever
2 be any more again.

3 Otherwise I want to support Darrell Jack's
4 comments. Have you ever looked at those maps at a little
5 town like Burnet, I don't know that it's rich ranchers,
6 but it's probably people living in the suburbs in the one-
7 acre rancho-not-so-grandes. But there's not -- the first
8 and second quartiles aren't inside the city limits.
9 They're out there where there's no city services.

10 So we've got some other comments that we'll
11 propose about only one new construction deal per year. If
12 there is a new 514, that only per year get done so it does
13 not dilute the other at-risk 515s. And thank you for your
14 time.

15 MR. OXER: Good. Thanks, Dennis.

16 Question by Mr. Chisum.

17 MR. CHISUM: You mentioned some of these
18 facilities were 45 years old. So at \$20,000 on average to
19 rehab them, to bring them up, then how many that have been
20 put in place now are uninhabitable?

21 MR. HOOVER: There are some that aren't viable
22 anymore. And I think existing underwriting standards from
23 TDHCA, from RD, and from the syndicators would prevent
24 nonviable properties in nonviable towns -- and there are
25 some -- or from nonviable owners, for that matter, would

1 prevent that from ever being funded or even applied for.
2 But I would say 80 to 90 percent of those properties are
3 still badly needed in those towns, and are viable towns,
4 viable properties.

5 MR. OXER: I don't think that was the question
6 he's asking, if I could put some words in your mouth, Mr.
7 Chisum.

8 But of those properties, not the ones that are
9 needed but the ones that are needed but not inhabitable.
10 Is that what you're asking?

11 MR. CHISUM: Yes.

12 MR. OXER: How many of them are so deteriorated
13 that they're not habitable at this point?

14 MR. HOOVER: I'm going to take a wild guess at
15 10 percent.

16 MR. CHISUM: Okay. So the attrition -- my
17 question then -- thank you, Mr. Chairman -- is that then
18 so with the attrition and the addition, are we losing
19 ground?

20 MR. HOOVER: Oh, yeah, we're losing units.

21 MR. CHISUM: Okay.

22 MR. HOOVER: But I -- the units that we're
23 losing I don't think are save-able. They're just --
24 They're in towns that have -- the population has gone down
25 and nobody's going to come in and save them. Maybe they

1 don't need to be saved.

2 MR. CHISUM: Natural attrition. I understand.

3 MR. OXER: Okay.

4 MR. HOOVER: But most of them need -- I'd say
5 on the average they need 40,000 a unit. Some of them, a
6 few of them get rehabbed every year. Some of them are
7 well kept and need less than 20-. But 80 percent of them
8 need 20- or more, and most of them need an average of 40-,
9 I'd say.

10 MR. OXER: Good. Okay. Thanks for your
11 comments, Dennis.

12 Okay. Look like the mayor sent a rep here.
13 Good morning.

14 MR. KEN: Good morning. How are you.

15 MR. OXER: Or so far. Actually it's good
16 afternoon at this point.

17 MR. KEN: Yes, sir.

18 MR. OXER: Nice to see you again.

19 MR. KEN: Good to see you, sir. How are you.

20 MR. OXER: Good so far.

21 MR. KEN: Mr. Irvine, how are you. It's good
22 to see you again.

23 Chairman Oxer, Mr. Irvine, TDHCA staff, members
24 of the Board of TDHCA, on behalf of Neal Rackleff,
25 Director of the Department of Housing and Community

1 Development for the City of Houston, my name is David Ken.

2 He could not be here today, he's away on a long-planned
3 family vacation, and I don't think his family would have
4 appreciated him taking time out to fly across the country
5 to come back here to Texas to make comments. So he sent
6 me here in his place.

7 We only have one comment to make right now
8 about the QAP. First of all, we want to thank TDHCA for
9 being a long-standing partner in our efforts to revitalize
10 communities and neighborhoods across the city of Houston.

11 Together we have worked to finance the development of
12 hundreds if not thousands of units of quality affordable
13 housing across multiple neighborhoods within the city of
14 Houston.

15 We're especially proud of our current and
16 ongoing partnerships to revitalize specific neighborhoods
17 that we're targeting due to our plan to spend Disaster
18 Recovery Round 2 funds. As you know, we talked about this
19 before previously with staff and with certain Board
20 members, we are spending over \$150 million of DR Round 2
21 funds to revitalize communities in order to affirm further
22 affordable housing and to promote community revitalization
23 in specific neighborhoods.

24 Thankfully the TDHCA has seen fit to invest low
25 income housing tax credits in currently three out of the

1 five multi-family deals we're pursuing right now and there
2 is a fourth deal that we think will come before you to I
3 think take on 4 percent tax credits as part of the funding
4 stepped in to make the deal work. So we're very grateful
5 for your help. We've very grateful for your partnership.

6 We noticed in this year's version of the QAP
7 that there was an incentive in last year's plan for about
8 I think up to four points for development that chose to be
9 located in an area that we're targeting under our plan.
10 That incentive is not in this year's draft, so we're
11 respectfully asking you to consider that our plan is still
12 ongoing.

13 Yes, those disasters, those hurricanes took
14 place a number of years ago, we acknowledge that. But the
15 plan that we're executing now will take time to fully
16 finish, we think. So we're asking for -- because we want
17 to encourage developers and other people to come to
18 Houston and look at specific neighborhoods, and it's just
19 going to take time to finish this affirmatively furthering
20 fair housing plus revitalizing communities.

21 And I want to point out that I did have a
22 conversation with Tom Gouris this morning about this, and
23 we're going to continue the dialogue. But we're just
24 asking to put back in what we had last year as an
25 incentive to help people come to Houston and help us get

1 some good things done.

2 MR. OXER: Good.

3 MR. KEN: Thank you very much for your time,
4 sir. Thank you.

5 MR. OXER: I appreciate your comments, Dave. I
6 hope you give our best to Neal and to Mayor Parker.

7 MR. KEN: Thank you.

8 MR. OXER: Jean, how nice to see you back. You
9 went over to the dark side, did you?

10 MS. LATSHA: I did. I have to say good
11 afternoon.

12 MR. OXER: Hold on a second. I think we've got
13 a comment from our counsel here.

14 MS. LATSHA: Sure.

15 MR. ECCLES: Not trying to be antagonistic.

16 MS. LATSHA: No.

17 MR. ECCLES: Just want to make sure that you --
18 before coming here, since we do have a specific Rule
19 2306.6733, I just want to make sure that you consulted
20 with independent legal counsel and you're comfortable that
21 your comments here are all kosher.

22 MS. LATSHA: I have. And I have a remark
23 regarding exactly that. For those in the audience that
24 might not appreciate my former position, I am Jean Latsha
25 with Pedcor Investments. Before I do start, I would like

1 to acknowledge that.

2 As most of the people in this audience probably
3 know, I was very recently the Director of Multifamily
4 Finance for the Department. Because of that former
5 position, as you stated, I am limited by statute and
6 cannot represent an applicant to the staff or Board.

7 So make it very clear, I am not here
8 representing any applicant or any application; I'm simply
9 a stakeholder in the housing tax credit program and as
10 well in those rules.

11 I appreciate that there might be a perception
12 that my former position might afford me some favor in
13 front of this Board, but I know that I do not enjoy such
14 favor. In fact, I would not be here at all had I enjoyed
15 any favor from staff.

16 (General laughter.)

17 MR. OXER: Tom, pull the pin out of that and
18 roll it back under her. Okay?

19 MS. LATSHA: But I do know that this Board is
20 more than capable of distinguishing between Jean Latsha as
21 a staff member and Jean Latsha as a member of the
22 development community. And I say that not so much to this
23 Board but to anyone who was not aware of my former
24 position or might object to my presentation here today.
25 So that being said --

1 DR. MUÑOZ: Excuse me, Jean. When can we begin
2 to ask the antagonistic questions?

3 MS. LATSHA: Whenever you like.

4 MR. OXER: Like you ever slowed down anyway.
5 So go ahead.

6 DR. MUÑOZ: I think they already started.

7 MS. LATSHA: I have to say -- I'm going to get
8 to my specific point, but I have to say I was a bit
9 stunned by what happened last week.

10 I find this discussion here with specific
11 points made by the development community and some dialogue
12 with the Board really helpful in this process. I find it
13 difficult, however, to determine what if any of the
14 comments that have been included in the draft -- from the
15 first draft to this draft are actually supported by staff
16 or the Board, because that dialogue didn't exist; it was
17 just kind of a frenzied throw-it-all-in-there kind of
18 thing.

19 And so I do appreciate that we're having this
20 dialogue now. But I have to say I am still going to find
21 it a little bit difficult to make very focused, meaningful
22 comment on this draft, because I'm not sure what parts of
23 this draft are actually supported by staff and the Board.

24 That being said, in mid-August Pedcor
25 Investments submitted a written comment regarding the

1 revision to the additional phase rule, which prohibits
2 building a second phase until after the first phase is
3 stabilized. I will say before I go on, too, that I had a
4 brief discussion with Tom, and we were not sure this would
5 be a logical outgrowth or not, which is why I'm here.

6 The comment submitted suggested that a
7 developer could evidence significant demand for the second
8 phase and be exempt from this rule. The suggested
9 revision was not included in the draft, and I took that to
10 mean that staff didn't support the change.

11 Chairman Oxeer, I think you made the comment
12 last week that the omission of a comment is response to
13 that comment. I think that was the response that I did
14 get from staff.

15 When I followed up with them, it turns out I
16 was right. Tom disagreed with me. We did discuss maybe
17 some other options if the site was maybe in a high-income
18 low-poverty area or if it met some other parameters
19 related to deconcentration, that it might have a chance of
20 getting in.

21 And then I was wavering between making that
22 comment last week and just waiting until the draft came
23 out, and then the sky fell. Right? And everybody's
24 comments were thrown in.

25 And so I'm once again here with my written

1 comment that was submitted back in August, not included in
2 this draft. If it would be considered a logical outgrowth
3 of an existing rule, I certainly appreciate that I don't
4 think that staff needs to do that work right now, and I
5 can certainly make that comment again later, or you could
6 direct staff to add my comments in right now. I might
7 make some additional comment later, I might drop the whole
8 thing. I'm really not sure. But I did want to point out
9 that we did make that comment.

10 There are -- I would say that the first draft I
11 thought was well done. There were a couple things in
12 there that I did think needed to be added. They got
13 added. And there are a few things in there that we will
14 likely submit comment on.

15 I think one thing I'll touch quickly, just
16 because a few people spoke on it, is aging in place, and
17 to consider the definition of elderly that has been
18 changed when looking at that rule.

19 Right now the concept is that educational
20 excellence is not important when it comes to an elderly
21 development, when referring to an elderly development.
22 However, we have a definition now that states that
23 basically those elderly developments might very well house
24 children. So perhaps educational excellence is relevant
25 for those developments.

1 Like I said, I have a few more but I think all
2 of which could be made at a later date. So unless you
3 have any questions for me.

4 MR. OXER: We appreciate your comments, Jean.

5 Any questions by members of the Board? I will
6 add that all of those things are points to be considered,
7 but it's a public comment. I think since we started that
8 process, and you know very well and very much how it
9 works, the public comments, you're more than welcome to
10 resubmit them if you choose. But I would recommend that
11 you consider the response you got the first time to be an
12 indicator on what's probably going to happen on the second
13 time. Okay?

14 MS. LATSHA: Yes, sir.

15 MR. OXER: Yeah. So all right. Good to see
16 you back.

17 MS. LATSHA: All right. Thank you.

18 MR. OXER: Thanks for your comments.

19 All right. We're going to -- let's see. Well,
20 here, we have one more comment, I'd like to have that. Is
21 there anybody else -- just a little housekeeping item
22 while you're filing in, does anybody else want to speak on
23 this?

24 (No response.)

25 MR. OXER: Okay. Let's get everybody who wants

1 to speak up here. Because when we get finished on this
2 we're going to take a break, just so everybody can work on
3 your own schedule. We're going to take a little break
4 here. We have an Executive Session we'll need to have.
5 We're going to grab some lunch. We'll be back, but to the
6 point or to the fact that we don't want to be running a
7 risk of a quorum, we're going to make it a quick lunch
8 break and then get back in the game here. Okay.

9 So we've got you, three minutes.

10 MR. O'DAY: My name is Dan O'Day, I'm President
11 of Delphi Affordable Asset Group. I'm here to speak to
12 the proposed 2016 QAP Section 11.4(c)(2). The changes I'm
13 proposing do not affect the Department's ability to
14 achieve the policy goals specific to this section.
15 Instead, the Department would retain its authority but
16 would implement it on a transaction specific basis rather
17 than globally.

18 By doing this, the Department would then be
19 able to access additional credits for the State to use on
20 4 percent transactions and thus help achieve the greater
21 goal of providing more affordable housing units in the
22 state of Texas.

23 I am proposing two changes. One to add
24 difficult-to-develop areas to what will qualify for a 30
25 percent boost and to not eliminate the 365-day carryover

1 period available for DDA designated areas.

2 The reasons: The Department has a broader
3 policy objective of providing housing in areas that
4 contain greater opportunities for residents. Providing
5 for the use of the boost for DDA can add tools that will
6 incentivize developers to help meet these goals.

7 DDAs cover a large area and thus will include
8 both the poorest areas and the highest income areas.
9 Using Odessa, the only current metro DDA in the state as
10 an example, it covers 28 census tracts including five
11 qualified census tracts. Those five QCTs qualify for the
12 30 percent boost on a bond transaction under both the 2015
13 and proposed 2016 QAPs. Those five QCTs have poverty
14 rates running between 25.13 percent and 33.59 percent.

15 Now, the best part of the DDA designation is
16 that it gives the boost not only to the low income areas
17 but to all areas, including the highest income areas. In
18 Odessa there are three census tracts with poverty rates
19 below 5 percent. Under both QAPs those census tracts are
20 not eligible for the 30 percent boost on a bond
21 transaction.

22 There are five census tracts that have a ratio
23 of tract median income to area median income of more than
24 125 percent, including two that are over 150 percent.
25 Under both QAPs those tracts are not eligible for the

1 boost.

2 While I know the intent of the proposed
3 language is to achieve the broader goal of housing in
4 areas that contain greater opportunities, I believe there
5 are times where it incentivizes the opposite. The
6 Department has strong site feature requirements to meet
7 threshold, and I believe it's a better way to use those
8 transactions specific than to rule out areas globally that
9 may have potentially greater opportunities.

10 While HUD is changing its methodology for metro
11 areas to designate small area DDAs, they will still be
12 using DDAs for rural areas. This denies access of
13 30 percent boost for Texas counties that will be
14 designated 2016 DDAs where are currently designated DDAs
15 for 2015 in rural areas.

16 One area that this change would be a very
17 helpful resource is for RAD transactions. There are
18 several rural PHAs that currently have awards and more are
19 expected to apply. While they qualify for the at-risk
20 set-aside, that is limited and cannot fund all the units
21 needed to be rehabbed or reconstructed. The bond program
22 has been used for several RAD transactions in Texas to-
23 date and it's important to have as many resources as
24 possible.

25 And one quick last comment. When

1 Representative Landgraf spoke to the project that he spoke
2 to, the changes in the proposed 2016 QAP that I'm
3 recommending would address that project if the Department
4 felt it couldn't be addressed under the 2015 QAP.

5 MR. OXER: Okay. Good. Thanks for your
6 comments.

7 Terri?

8 Next? Who's next? Get through to the front
9 row here.

10 MS. BURCHETT: Right. Sally Burchett with
11 Structure Development, and I will be brief. Thank you for
12 your time. I'm here to speak on behalf of the historic
13 preservation amendment and its benefits to the state and
14 the program.

15 I am a member of the American Institute of
16 Certified Planners, and like city managers and engineers
17 I'm ethically obligated to serve the public. And I will
18 be listing the reasons why I think the historic projects
19 are good for the community. There's environment
20 economic --

21 MR. OXER: While I appreciate your thoughts, is
22 that anything that you feel like's going to materially
23 affect the -- since we're under an obligation to now
24 consider that as a scoring item, is this comment better
25 suited to put into the public comment to be addressed when

1 we post this in the *Register*?

2 MS. BURCHETT: Honestly I'm a little fuzzy on
3 the whole process, how that works. I think probably yes.
4 But I wanted the Board to hear my comments as well.

5 MR. OXER: We will.

6 So, Kathryn, can you make a response to that?

7 MS. SAAR: Kathryn Saar, 9 Percent Tax Credits.
8 I've had a conversation with Sally outside of this
9 meeting, and my understanding is that she is proposing to
10 increase the number of points available to historic
11 preservation deals. So that would not be a logical
12 outgrowth and --

13 MR. OXER: So that's something we need to put
14 in right now.

15 MS. SAAR: Correct.

16 MR. OXER: It would not be something we could
17 modify as we go forward.

18 MS. SAAR: If the Board so choose to go in that
19 direction, it would be something that we would need to
20 address today.

21 MR. OXER: Okay, good. Thanks.

22 All right. Thanks, Sally. That's why we ask
23 this question.

24 MS. BURCHETT: Thank you. So, briefly, for
25 environment benefits for downtown historic revitalization,

1 a not new building is the greenest building you have
2 because it's not new materials. There are cultural
3 benefits with downtown revitalization. Pride, lasting
4 building materials, and changing an empty shell into
5 vibrant living space is the epitome of revitalization.

6 Economic benefits, no new infrastructure
7 extension. Downtown synergistic revitalization of nearby
8 businesses. And the additional historic tax credits,
9 federal and state, fill the void with the added cost for
10 historic, so the housing tax credits don't bear the
11 burden of the additional cost. The three together make
12 the stack.

13 And, finally, the community benefit of downtown
14 revitalization. Just on Wednesday the Surgeon General
15 announced a step-it-up campaign because of their studies
16 show that 10 percent of deaths are from preventable
17 diseases such as heart disease and diabetes with a strong
18 link with our current land use patterns.

19 Our auto oriented, gated building patterns that
20 we're having seen across the nation are making people
21 literally sick without the physical and social
22 interaction. And so a downtown project in a historic
23 building is an example of what to do to help make our
24 folks healthier.

25 And so in compliance with the new state law and

1 your mission for building homes and strengthening
2 communities, I would suggest that the historic
3 preservation increase in points is a fabulous way to go.
4 However, with four points it's impossible to be
5 competitive with high opportunity or community
6 revitalization in almost all circumstance in these donut
7 areas that have come up earlier in the conversation.
8 Because downtown is usually not where the wealth is, and
9 that's where the historic buildings are.

10 And so the four points can't compete with seven
11 or the six, and then the schools, three or five, that's an
12 additional hurdle. So if it were six points, five or six
13 points in lieu of four, it would go a long way in closing
14 that gap. I think that's a modest request. It's not
15 onerous, asking to trump the others but would help us be
16 more competitive and save more historic buildings.

17 MR. OXER: Good.

18 MS. BURCHETT: Thank you.

19 MR. OXER: Thanks, Sally.

20 Good morning.

21 MR. COLVIN: Thank you, Mr. Chairman, Board.

22 I'm Clark Colvin, I'm with the ITEX Group, and we're based
23 in Port Arthur and in Houston. I understand that we had
24 five items we wanted to talk about, but of those we
25 understand two of them have been adequately addressed. So

1 let me just kind of mention a couple of them that deal
2 with rural areas that we would certainly like for the
3 staff and the Board to consider.

4 One of them deals with the Opportunity Index,
5 11.9(b)(4). We were -- we find that -- and I notice it
6 was mentioned recently that you have a lot of the high
7 Opportunity Index census tracts and things are outside
8 rural communities. And sometimes to get to the one
9 grocery store is going to be a little bit -- needs a
10 little more distance. We know it's proposed that a mile
11 and a half, we'd love to see it go back to or maybe to
12 have two miles on some of those things for Opportunity
13 Index.

14 Second point is on educational excellence. We
15 find -- we know that we've got the 77 for the three
16 schools. What we run into is a lot of the rural schools
17 tend to be unprepared for what has been happening, and we
18 see something rather unusual. Typically in the south
19 elementary schools are ranking up here, and when kids
20 reach about fifth grade they start falling off a little
21 bit and don't seem to recover.

22 But what we're finding in some really nice
23 rural areas is all of a sudden they're getting a lot of
24 children that require a lot of help in English as a second
25 language. And as a result we're finding that the middle

1 school and high school are achieving, but we're not
2 finding the elementary school achieving because they're
3 trying to overcome the situation.

4 And we were just going to suggest that maybe if
5 you get two of the three schools, you might get some of
6 the points; let's say two points as opposed to getting
7 three. And I think it would help make sure that we're not
8 getting all of these projects and developments in a single
9 census tract or in a single school district if we did
10 that.

11 The last thing was just on the concerted
12 revitalization plan, 11.9(d)(7). And every set-aside we
13 see that there's a disadvantage there of only four points
14 for rural where urban can get six. And if you're in the
15 adverse set-aside you're at a two point disadvantage. If
16 you're in a rural situation you really can't recover.
17 We'd like for you to reconsider that.

18 MR. OXER: Thanks for your comments.

19 MR. COLVIN: Thanks, Mr. Chairman.

20 MR. OXER: Any comments? Any questions?

21 (No response.)

22 MR. OXER: Okay. Thanks.

23 Last comment.

24 MR. HULL: Great, I get to stand between you
25 and lunch. Is that right? That's just the position I

1 want to be in. Mr. Chairman, members of the Board and
2 staff, my name is Matt Hull, I'm the Executive Director of
3 the Texas Association of Community Development
4 Corporations.

5 My organization represents about 150 nonprofits
6 across the state, a number of whom utilize the tax credit
7 program. Most of them do not. Collectively they build
8 somewhere in the neighborhood of 1500 to 2,000 units of
9 affordable housing across the state every two years.

10 And my comments are particularly related to the
11 QAP Section 11.19(b)(2), related to sponsor
12 characteristics. This is the part of the QAP that governs
13 or provides insight on how joint partnerships and joint
14 ownership of developments are handled between a for-profit
15 and nonprofit or a HUB.

16 And in the past there's been language in there
17 about the partnership should last throughout the
18 compliance period, and that phrase, throughout the
19 compliance period, has been struck in this draft. And our
20 members would like to see that included in the draft that
21 goes out to public comment. And then we can engage in
22 staff in trying to figure out why that language was struck
23 and whether it should actually be included in the draft.

24 The second piece is around aging in place,
25 11.19. We were, like many of the other speakers, very

1 pleased to see that included in this draft. Our members
2 being nonprofits have a long track record of doing
3 resident services and having on-site resident service
4 coordinators.

5 One of the best practices that they've
6 discovered over the past 15, 20 years is that there be a
7 separation between the property management staff and the
8 service coordinator staff in that when you allow property
9 management staff to serve that role as resident service
10 coordinator the services tend to get not necessarily given
11 the attention that they should be given at any given
12 development.

13 So we would like to see some kind of language
14 included that includes that they should be separate duties
15 between property management and an on-site resident
16 service coordination.

17 MR. OXER: Good. Thanks for your comments,
18 Matt.

19 MR. HULL: Thank you.

20 MR. OXER: Okay, we're at about a little after
21 12:30 here. Kathryn, let's -- what we're going to do is
22 give you some time to assimilate all of this, and if there
23 are any changes you and staff, we're going to give you
24 some time to do that while we're having lunch and going
25 through an Exec Session for some things that we've got to

1 consider. We can come back or we'll integrate those here
2 in a bit. So if you have anything you want to state as a
3 summary before we get to the point of modifying the rules
4 as they were presented in your -- on the item.

5 MS. SAAR: Kathryn Saar, 9 Percent Tax Credits.

6 I think that the majority of the ideas that we were
7 presented today from the development community are items
8 that can be addressed under the existing -- under the
9 proposed rule that is before you. I think all of the
10 ideas would be considered logical outgrowths from the
11 published draft, and I'm --

12 MR. OXER: So essentially what we're talking
13 about is no new concepts, these are tweaks.

14 MS. SAAR: Right. The only exception to that
15 would be things like the historic preservation comment
16 where they are requesting that that point item actually be
17 increased. I think we would be able to -- and, you know,
18 legal counsel can correct me if I'm mistaken, but I think
19 we can dial back language through the public comment
20 period. but we would not be able to increase that point
21 level.

22 MR. OXER: Ken, do you have a quick -- well,
23 let's think about this -- all right, here's what I think
24 we would like to do and I would like to do. Take all
25 those. We're assuming that everything can be handled.

1 Spend some time at lunch. If you need to talk to them
2 afterwards, we'll give you time to do that. But spend
3 some time at lunch, find anything in there that can be
4 considered that has to be in this draft because it
5 couldn't be addressed under the logical outgrowth point.

6 We'll take those up, but essentially everything
7 that's not considered after this will be considered a --
8 everything that we don't take up as a new item after we
9 come back from lunch will be considered a logical
10 outgrowth that can be modified or --

11 MS. SAAR: Sure. Oh --

12 MR. OXER: -- such for the new draft at the end
13 of public comment.

14 MS. SAAR: -- the historic preservation and
15 then the other one was the difficult to develop areas with
16 the boost. That would probably need to be addressed today
17 if we were going to take action on that.

18 MR. OXER: Do you have an initial thought on
19 that, Beau? Or do you want -- we can consider it later
20 because we're not going to really make any decision on it.

21 Just a thought just as some help to her.

22 MR. ECCLES: On the difficult to develop, would
23 that change though be to bring the rule into conformance
24 with Internal Revenue Code?

25 MS. SAAR: I can't really say. I haven't spent

1 any time looking at -- there hasn't been time to look at
2 the comments that are being made today and that have been
3 provided on that topic. So I would -- I'm not sure.

4 MR. OXER: Let's leave that till after lunch.
5 Just spend some time and after lunch it may take more
6 time, so if it is we may have to add that as something to
7 be considered. But we'll --

8 Do you have a thought, Tim? Okay. All right.
9 You I'm sure have taken copious notes on all of these,
10 so, all right, everybody sit still. We'll be quiet for a
11 second.

12 So the Governing Board of the Texas Department
13 of Housing and Community Affairs will go into closed
14 Executive Session at this time. The Board may go into
15 Executive Session pursuant to Texas Government Code
16 551.074 for purposes of discussing personnel matters;
17 pursuant to Texas Government Code 551.071 to seek and
18 receive legal advice of its attorney; pursuant to Texas
19 Government Code 551.072 to deliberate the possible
20 purchase, sale, exchange, or lease of real estate; and (4)
21 pursuant to Texas Government Code 2306.039(c) to discuss
22 issues related to fraud, waste or abuse through the
23 Department's internal auditor, fraud prevention
24 coordinator, or ethics advisor.

25 Closed session will be held in the anteroom of

1 this room, which is John H. Reagan Building Number 140.
2 The date is September 11, 2015, the time is 12:39. We'll
3 stand in recess. We'll be back at 1:30.

4 (The Board met in Executive Session at
5 12:39 p.m.)

6 (Board reconvened in open meeting at 2:07 p.m.)

7 MR. OXER: All right. The Board is now
8 reconvened in open session at 2:07.

9 All right. During the Executive Session the
10 Board did not adopt any policy, position, resolution,
11 rule, regulation, or take any formal action or vote on any
12 item. So we're back.

13 There's a motion on the table to consider
14 Item 1(b). I'd like to have Kathryn come up and see if we
15 can summarize this and get to the point of -- I think
16 there's been a considerable amount of comment, a lot of
17 the things that we decided. We appreciate the comments
18 that were raised today. We appreciate the comments that
19 will be made after the posting in the *Texas Register*.

20 We determined that there are things that were
21 considered, much of it can be handled under the logical
22 outgrowth component of our administrative law. There are
23 a couple of items that we feel like should be considered
24 under this motion.

25 So I want to ask you to do, Kathryn, because

1 you've got a better handle on this and the sequence that's
2 gone on. The motion as it currently stands is to approve
3 staff recommendation on Item 1(b), which includes the
4 rules and what was considered through last week's edition
5 to this week's edition that's posted in the Board book,
6 and the items that were included or have been included on
7 the handout that the Board was made.

8 What we're looking at now are those components
9 that will be added in addition to that. That will require
10 an amendment to the motion. So with that, run through
11 what we've got here, would you?

12 MS. SAAR: Kathryn Saar, 9 Percent Tax Credits.

13 As you summarized, the majority of the comments that we
14 received today is things that can be made through the
15 logical outgrowth process if public comment. There were
16 four items that staff considers would be needed as change
17 before it goes into the *Register*.

18 The first of those is the sponsor
19 characteristics scoring item, and that is 11.9(b)(2).
20 Staff proposes the language "throughout the compliance
21 period" has been stricken from the rule in the Board book
22 that you have. Staff proposes unstriking that language.

23 MR. OXER: So put it back in so if necessary we
24 can strike it later.

25 MS. SAAR: Correct.

1 MR. OXER: Okay. Next point.

2 MS. SAAR: The second item would be the
3 historic preservation piece. Public comment today was to
4 increase it to a five or six point item. If the Board
5 were to want to go in that direction, that would need to
6 be a change made today.

7 MR. OXER: So if we changed it today, we would
8 add that, it'd potentially be one of those two in the
9 public comment, and depending on what we hear on the
10 public comment we can back it up to what it is now.

11 Is that correct, Counsel?

12 MR. ECCLES: If the Board wants to add
13 additional points now, it could back them out or it could
14 vote them in as it sees fit as it currently stands.

15 I believe Ms. Saar is just outlining those
16 areas that have been presented in comment that would
17 require a change if the Board wants to deviate from how
18 they've been proposed now.

19 MR. OXER: Okay.

20 MS. SAAR: The third item that would need to be
21 addressed by the Board prior to voting on the motion would
22 be related to the DDAs. And I believe the language that
23 would be proposed has to do with conforming with federal
24 law.

25 MR. IRVINE: Yeah, I think that the federal law

1 has aspects where it requires that the boost be granted.
2 And I think that following HERA, there are discretionary
3 instances where the boost could be granted.

4 And I think that if you were going to conform
5 the rule to those federal requirements to maximize your
6 flexibility, you would say that where required by federal
7 law the boost will be granted, where permissive under
8 federal law you could either fashion a laundry list of
9 those situations in which you would grant the boost, or
10 you could create a mechanism where the boost could be
11 requested and the Board can make determinations.

12 MR. OXER: Okay.

13 MS. SAAR: And then the final item that would
14 need to be addressed today if the Board so chose, it would
15 be adding language to the support scoring items that talks
16 about not being able to change that support once its
17 submitted. And that would relate to 11.9(d)(1), which is
18 local government support.

19 We already have that language in (d)(5) with
20 state rep letters. I think the proposal by Ms. Sloan was
21 that it needed to be in quantifiable community
22 participation as well and I suppose under LPS, even though
23 that's now a one point scoring item.

24 MR. OXER: Okay. So the local government
25 support and related support items.

1 MS. SAAR: Correct.

2 MR. OXER: Okay, let's leave it -- sort of
3 generically describe it as that. Because we're going to
4 take these -- I have a procedural reason for doing that.

5 MS. SAAR: Sure.

6 MR. OXER: Okay. Next item if there is one.

7 MS. SAAR: Those are the four that would need
8 to have action before we could --

9 MR. OXER: Four or five. Historic
10 preservation, the DDAs, conform to IRC, to the IRS Code,
11 and the support --

12 MS. SAAR: Sponsor characteristics.

13 MR. OXER: Sponsor characteristics. Okay.

14 Are there any other questions from the Board?
15 Ms. Bingham, did you have a question?

16 MS. BINGHAM ESCAREÑO: I'm not sure --

17 MR. OXER: Microphone.

18 MS. BINGHAM ESCAREÑO: Thanks, Mr. Chair. Just
19 I'm not sure what our options would be if we wanted to
20 address the issue of historic preservation point.

21 MR. OXER: If we -- okay. Can we have a debate
22 on that or have a discussion on that? What's our options
23 on that one? Tim?

24 MR. IRVINE: The options are you can certainly
25 increase the point item, you could decrease the point

1 item, you could leave the point item unchanged.

2 MR. OXER: Is that something that's required
3 that we do today or is that something that could sit or
4 put into the *Register* to be able to consider later?

5 MR. IRVINE: I would think you could adjust the
6 point item in response to public comment.

7 MR. OXER: Okay. Effectively what my
8 perspective on this is that we have these five areas that
9 we would like to consider to have public comment on.
10 Assuming no member of the Board is opposed to considering
11 those or think those should not be in now, we have the
12 option to make sure that they are part of the draft so
13 that they can be considered and have public comment
14 received on them. So the question as Chair is there any
15 of these items that Kathryn has just gone through that --

16 DR. MUÑOZ: Four items.

17 MR. OXER: Okay, I'm sorry, four items that
18 Kathryn has gone through that feels like were
19 inappropriate? And if there are, we will take those up
20 individually. Otherwise we'll take them as a block up and
21 down, modify the motion, then with that modification vote
22 on the original motion, and then that would be what goes
23 to the *Register* with the QAP draft that is these additions
24 by staff. Is that clear?

25 (No response.)

1 MR. OXER: Okay. All right. To that end, is
2 there anything that any Board member would like to handle
3 individually?

4 (No response.)

5 MR. OXER: Okay. Then we'll entertain a motion
6 to consider these amendments to the original -- or these
7 items as amendments to the original motion, which was to
8 accept staff recommendation on Item 1(b) with respect to
9 the QAP with the draft that was provided in today's book
10 plus the handout that's been issued. Do I hear that
11 motion?

12 DR. MUÑOZ: So move.

13 MR. GANN: Second.

14 MR. OXER: Well, how consistent. That's the
15 same as the original motion. So Dr. Muñoz, Mr. Gann
16 issued a motion and a second to amend their original
17 motion. I'll assume that is in play. So there's no other
18 public comment?

19 (No response.)

20 MR. OXER: All right. Motion by Dr. Muñoz,
21 second by Mr. Gann to accept a public -- or accept the
22 staff recommendation with respect to Item 1(b) as
23 presented in the Board materials plus the amendment as
24 just provided under the -- or just the additions provided
25 in the amendment. Is that a correct statement? Okay.

1 Is there any comment?

2 (No response.)

3 MR. OXER: Okay. Those in favor?

4 (A chorus of ayes.)

5 MR. OXER: And those opposed?

6 (No response.)

7 MR. OXER: There are none. Let the record
8 reflect that Mr. Chisum had to leave and the vote now was
9 5-0. Okay.

10 Thanks, Kathryn. Good luck. Get it in.

11 Okay. Brent?

12 MR. STEWART: Good afternoon. Brent Stewart,
13 Real Estate Analysis. I wasn't sure that I was going to
14 be able to get up today.

15 MR. OXER: Because of a hangover or just the
16 timing on this?

17 MR. STEWART: Could be both. Okay. So this
18 item is a request for approval to publish for public
19 comment the 2016 real estate analysis rules and repeal the
20 2015 rules. These are your rules that guide REA in
21 underwriting the transactions for feasibility purposes,
22 for sizing tax credit purposes, and sizing other
23 Department funds.

24 The black line in your book makes it look like
25 that there's a lot of things changing, and there really

1 isn't. There is a lot of clarifying language, expanding
2 upon current things we do language. But there are some
3 things, more material things that are new or have changed
4 that I'd like to lay out here. Some of them are in your
5 book, and I won't touch on all those. But these are kind
6 of the more specific ones.

7 First off 10.302(d) is the section that talks
8 about rents and what we will use in the pro forma in
9 underwriting a transaction, and one segment of that is
10 market rents. The proposed rule is that we're going to
11 limit the amount of rent for market rate units that we're
12 going to use for underwriting to the 60 percent rent level
13 if there's only -- if there's 15 percent or less market
14 units in the transaction.

15 It's important to note that we are not capping
16 the rent, we're not capping the rent or the income on the
17 market units. We're just, for feasibility testing
18 purposes, we're using the 60 percent rents. So why do
19 this? Mitigate risk. We've seen a number of transactions
20 in the past two years where there have been significant
21 premiums on market rent units, some in the 250, \$300 per
22 unit range when they may only have 10 percent of their
23 units as market rate units. And the deal depends on that
24 rent to work, not just for DCR purposes but for break even
25 purposes. We've seen some premiums as big as \$400 a unit.

1 And we basically believe that you're not going
2 to get those premiums on a deal that has 15 percent market
3 unit. In fact, you're probably not going to get them even
4 if you had 30 percent in most markets. So you're going to
5 have -- to get those rents you're going to have to have a
6 significant number of market units and you're going to
7 have to be in an area where market rents are just
8 extremely high, extremely high over the 60 percent rents.

9 And, you know, Austin would be one of those markets. You
10 could throw anything out in Austin and you would rent it.

11 But some of the secondary and tertiary markets
12 have been really tough. The rural areas have been really
13 tough. You heard Darrell kind of talk about some of the
14 issues in rural areas. Well, it takes pretty good rent in
15 those rural areas to make the deal from a financial
16 standpoint cover debt and break even even, break even
17 also. And then there's a lot of submarkets in some of the
18 larger cities that have the same problem. Again Austin is
19 an example of -- it's an anomaly.

20 The verdict is kind of still out on deals that
21 we've done in other high opportunity areas over the past
22 couple years. Because those deals really haven't come on
23 line yet. Logic would tell you that being in high
24 opportunity areas you could get a premium on your market
25 units. We don't know that yet. Even in those areas

1 there's the risk of the propensity of the higher income
2 person to go to an affordable property and pay equivalent
3 market rate rents when they could go across the street and
4 get the same unit, same price in a nonaffordable unit.

5 And that's not saying that the affordable
6 property is really any different. But the experience has
7 been that there's a propensity there of people will not
8 move into an affordable property, particularly again if
9 there's 10 or 15 percent of the units. They'll choose the
10 conventional deal across the street.

11 You know, part of this is that you're going to
12 run, you run an affordable deal differently than a
13 conventional property. You have different staffing, you
14 do different things, you market the property differently.

15 And if you have few market units you're not doing the
16 things that you're going to need to get those same market
17 units that the conventional properties would do.

18 So we picked 15 percent. It's kind of a number
19 that we've seen through the past two years in terms of the
20 number of market units that we've struggled with. And
21 again we want to limit the rent on those units for -- at
22 the 60 percent rental.

23 MR. OXER: For purposes of valuation only.

24 MR. STEWART: That's correct. It will not be
25 reflected in the LURA.

1 MR. OXER: So essentially this is your
2 financial model, the real estate analysis of whether the
3 deal will work.

4 MR. STEWART: That's correct.

5 MR. OXER: Okay.

6 MR. STEWART: So that's item number one. The
7 second item is tenant services. What we're proposing is
8 that tenant -- the cost of tenant supportive services be
9 excluded as an expense item in the pro forma. Unless
10 there's an obligation to a unit of local or state
11 government or the owner/applicant has a history of doing
12 that level of service, the cost of those levels of
13 services on their other property.

14 What's happening is that the cost of the
15 services that are being expensed are -- there's a huge
16 range. Some properties, they do not show any tenant
17 services expense, and usually what that means is that one
18 of the staff people on site is doing some of those
19 services and their cost is imbedded in payroll.

20 There's deals, transactions in Dallas, Dallas
21 requires a total of \$40,000 of tenant services of which
22 half of it, \$20,000, has to be cash. The rest of it can
23 -- they can go get free services from someplace else and
24 cover that. And so it's a big number.

25 So in those circumstances we would allow or use

1 those costs as an expense item. If we do that though,
2 we're going to -- if somebody says we're going to spend
3 10 grand a year on tenant services and we underwrite to
4 that, we're going to use 10 grand a year at cost
5 certification, whether you spend the money or not.
6 Because you need to tell us from an operating standpoint
7 what you're doing up front. And if you want those
8 expenses considered in the debt coverage and the sizing of
9 the credits on the back end, we're going to use that same
10 number.

11 This is not about whether or not services are
12 being provided. This is strictly about how we treat the
13 expense item in the pro forma. It's also kind of a
14 competitive issue. Because if you have a property that
15 you need expenses to hit that DCR or you don't need
16 expenses to hit the low end of the DCR, you had
17 transactions that effectively would be feasible under that
18 scenario, which means the guy behind might lose.

19 And so we're trying to just kind of level the
20 playing field here on what we're doing with tenant
21 services, not affecting whether the services are provided
22 or not, and I think we have a pretty logical way of using
23 those in situations where they're either required or
24 whether the applicant has shown a consistent track record
25 in providing those services at that cost. That's that

1 one.

2 Unit capture rates. We currently have a gross
3 capture rate as a feasibility item which is an indicator
4 of how much of the targeted tenant population in an area
5 that you have to capture to fill up your property. And
6 so -- and that's done propertywide. You take the entire
7 population qualifying people in the PMA that's drawn by
8 the market analyst, and how many of those people do You
9 have to capture to fill up your property.

10 What we've run into -- and this again is in
11 rural areas primarily, some urban areas -- is where if You
12 look at the individual unit capture rates, a 60 percent
13 three-bedroom unit for example, we've seen unit capture
14 rates that have been as high as 600 percent, which is
15 impossible. But --

16 MR. OXER: You think.

17 MR. STEWART: Right. We've seen many of them
18 that are in the three to 400 percent range, and maybe it's
19 only one or two units. And then we've seen some that were
20 684 percent in one and it had other units that were in the
21 two to 300 percent range. So You scratch You head, You go
22 gross capture rate works, it's just the way that model is
23 set up, that way that kind of threshold kind of thing that
24 we've used for a number of years is set up. But You look
25 at the individual unit ones and You scratch your head and

1 You just say we can't do that.

2 So what we're saying, we put in a new
3 feasibility test in, which is the individual unit capture
4 rate. And no individual unit can show a capture rate
5 above 100 percent. A hundred percent is still not
6 achievable, but there are circumstances where there's
7 anecdotal information about a market or a town that's
8 going on that is not showing up in the demographic
9 numbers.

10 And so we go look for that anecdotal
11 information. We call the Chamber of Commerces, we talk to
12 the mayors, we talk to people to figure out what are the
13 economic drivers going on in that town to create anecdotal
14 information that might help us get comfortable
15 recommending a transaction even if a unit capture rate is
16 at 100 percent. So yeah, that's that one.

17 MR. OXER: Okay. Got more?

18 MR. STEWART: Yes, sir. There's actually two
19 more, and they're both related. This is about developer
20 fee. The first proposal about developer fee is a proposed
21 increase to developer fee of 20 percent for Public Housing
22 Authorities that are converting one of their public
23 housing properties through the HUD Rental Assistance
24 Demonstration program, it's called RAD. And so it's
25 Public Housing Authorities RAD, and it's only on bond

1 deals with 4 percent credits. It's not for the 9 percent
2 competitive program.

3 This increase was requested because the
4 reported cost associated with doing a transaction like
5 that is higher administratively and otherwise than a
6 typical transaction, and the complexities of the program,
7 the, you know, the time issues associated with working
8 with HUD and those kinds of things. So that's the first
9 one.

10 The second one is right now the proposal is
11 that we'd like to fix the developer fee at initial
12 underwriting. And what I mean fix is fix the dollar
13 amount of the fee. The developer fee, the nominal dollar
14 amount of the developer fee will not go down or go up over
15 the life of that deal.

16 So here's some background. You guys are
17 authorized by the IRS to establish through the QAP
18 basically a developer fee. And historically you've set
19 that at 15 percent. It's been 15 percent pretty much
20 since inception. We've got a 20 percent developer fee for
21 small little deals, 49 units or less, to try to
22 incentivize people to go do the smaller deals. But
23 basically it's 15 percent consistent with NCSHA best
24 practices. So that's where it is today.

25 The developer fee is basically -- the owner

1 pays somebody to perform developer services. And that is
2 a defined term in the rules, developer services, and
3 there's a list of things. Finding the site, putting --
4 negotiating the purchase contract, all the way to placing
5 it in service and going through the cost certification
6 process and so forth. So there's a scope of services,
7 cradle to grave kind of services that the developer does.

8 But if You think about it, there really is no
9 relationship between those level of services and the costs
10 of a property. The 15 percent developer fee is 15 percent
11 of the eligible costs of the property. So to go and do
12 that cradle-to-grave work generally is the same amount of
13 work for a large project and a small project. And the
14 relationship between the amount of that fee, it's not real
15 logical that it should go up or down based on whether the
16 hard costs of the property go up or down.

17 We've seen deals recently that have had --
18 costs go up, You know, market costs go up, commodities,
19 labor. You know, in Austin right now people are stealing
20 subs -- stealing labor off of sites to come over and work
21 on their site. Costs go up, and sometimes they go up
22 pretty big.

23 What we're really after are the costs that went
24 up because there was stuff that basically should have been
25 known at application that wasn't known. And those are the

1 kinds of things that we have seen recently. We've seen
2 cost increases as high as 32 percent on deals. It's about
3 \$6 million on one transaction. And, you know, many times
4 it's just on stuff that should have been known.

5 You know, you should have known about
6 detention, you should have known about retaining walls,
7 you should have -- you know, when you have site work
8 double, there was an indication up front that the site
9 work was going to be something higher than what you put
10 in. Granted, you're not going to know your soils, but
11 there are things that you can know.

12 So, you know, there are things out of the
13 control of the developer, and many times they either are
14 known or in the control of the developer. And what we're
15 suggesting is that, You know, because there's not
16 necessarily that relationship between fee and costs of the
17 building, if somebody doesn't size up the costs up front
18 and the true costs actually go up, you know, what's the
19 logical reason that we would pay somebody a higher fee if
20 they had missed the stuff up front.

21 At the end of the day for us, you know, our job
22 is all about how many, from policy standpoint how many tax
23 credit units can we get out of a set amount of tax credits
24 every year. And sometimes it's these little things that
25 sound kind of like nickels and dimes. It doesn't to the

1 developers. I mean I understand what this is to them,
2 having been there. But for our purposes that's what this
3 is about as well as trying to deal with whether something
4 is logically tied together.

5 So with that I'll stop rambling.

6 MR. OXER: Good.

7 Any questions from the Board? Pretty
8 comfortable with this?

9 (No response.)

10 MR. OXER: Okay. Motion to consider.

11 MS. BINGHAM ESCAREÑO: Move staff
12 recommendation.

13 MR. OXER: Okay, motion by Ms. Bingham to
14 approve staff recommendation on Item 1(c). Do I hear a
15 second?

16 DR. MUÑOZ: Second.

17 MR. OXER: Second by Dr. Muñoz. Well, it looks
18 like we got somebody that wants to talk about it.

19 Janine?

20 MS. SISAK: Hi, good afternoon. Janine Sisak
21 again; I'm here representing TAAHP. If I were here
22 representing DMA I would have so many things to say about
23 Brent's comments. But in my role as the committee chair,
24 we will get together and reach consensus on some of these
25 items and, you know, put it in writing and take it to

1 staff.

2 Just generally though, you know, I didn't speak
3 on the scoring criteria for the QAP because it is really
4 hard for TAAHP to reach consensus on those items because
5 it's the competitive part of the program. This part of
6 the program and the post award part of the rules, I think
7 really there's a lot of areas where TAAHP could come to a
8 consensus on some of these things.

9 Part of the concern with some of these new
10 concepts in underwriting rules is they're really big
11 changes. And, you know, I guess philosophically my issue
12 is it kind of gets away -- some of these underwriting
13 standards really get away from the underwriting standards
14 that our lenders and investors hold us up to.

15 So we kind of get in a situation where we have
16 two sets of numbers, and we've talked about this several
17 years with staff. You know, people at TDHCA are like, you
18 shouldn't have two sets of numbers. So like, yeah, you're
19 right, we shouldn't. And the reason we do is because
20 these underwriting standards are different than those in
21 the industry.

22 So on behalf of TAAHP and the membership I
23 ask -- I know that Brent held a roundtable. Again it's
24 really hard for TAAHP, coming off the conference, to focus
25 on these rules in time meeting the publication deadline.

1 So we're not asking that you don't publish the
2 underwriting rules, but we would like an opportunity to
3 sit down with staff and representation from TAAHP and talk
4 through these issues, because I have a lot of thoughts on
5 some of the comments that Brent just shared, rationale
6 behind some of these rules changes.

7 And the same -- I know people are trying go get
8 out of here, I know the next set of comments is post
9 award, and we've got some similar concerns, is that we
10 just haven't had a chance to sit down with staff and talk
11 through the substantive issues.

12 MR. OXER: Okay.

13 MS. SISAK: Thank you.

14 MR. OXER: Thank you for your comments.

15 I think it's -- Brent's always going to be
16 available and staff will always be available to work
17 through these, you know, on a schedule as we're getting up
18 to it. There are obviously pinch points in the date and
19 we have to issue to the *Register* and that sort of thing,
20 the *Texas Register*. I'm confident the staff is more than
21 willing to hear comments from the development community.

22 Do you have some more?

23 MS. CORMIER: Good afternoon. I'm Jana Cormier
24 with JP Development Consulting. And I kind of echo
25 Janine's comments there, that, you know, having a chance

1 to talk about some of these underwriting changes would be
2 great, because they do differ from industry standards.

3 You know, just as an example, I've worked for
4 the past 14 years for a lender and syndicator, and so I've
5 underwritten a lot of deals from the financial institution
6 standpoint. And generally what we see on market rate
7 rents is that they would be capped at a 10 percent
8 advantage to what the current market rate is, so not all
9 the way down to the 60 percent rents. But sometimes they
10 are all the way down to 60 percent rents, and, you know, a
11 syndicator's even going to capture 60 percent rent at a
12 10 percent advantage to the market. They'll even take it
13 further than that.

14 And then, you know, just again the industry
15 tolerance really for market rate units is more like 20 to
16 25 percent of the project, depending completely on the
17 community and what the market study would support. So
18 there are definite standards out there that we're all
19 working within.

20 And then there were a couple of other things
21 that I think kind of show a trend that we've been seeing
22 where things are going to be set at underwriting and not
23 be allowed to change. And when I was working on deals at
24 the bank, you know, you get a -- start working on a deal
25 after it has a tax credit allocation and work with that

1 through closing and beyond, and nothing ever stays exactly
2 the same throughout that process.

3 So capping a debt service amount on a senior
4 loan without, you know, interest rates are going to
5 change, your rent limits may be up or down, your expenses
6 may go up or down. There are just so many variables that
7 to cap an amount is very limiting where as capping, you
8 know, a debt service coverage ratio, which is more the
9 industry standard, would make more sense.

10 And then also, you know, capping the developer
11 fee where it is at application. And I, you know,
12 appreciate Brent's point that you set up a deal agreeing
13 to work for this amount. But I think it does disregard
14 what may be unforeseen and the amount of work and the
15 amount of risk, additional risk that a develop may be
16 taking on during that period.

17 And so that's something that, you know,
18 generally the industry would allow to float and wouldn't
19 want to see anything fixed at application. When an
20 application's been put together pretty quickly things are
21 going to be the same. You're going to have the same
22 number of units, the same population served, but there are
23 just a lot of variables that will change the process.

24 MR. OXER: Good. Appreciate your comments.
25 Don't forget to sign in.

1 Darrell, come on up while you're getting
2 started or while she's finishing up there.

3 MR. JACK: Thank you. Darrell Jack with
4 Department of Market Data. Just wanted to comment quickly
5 on two of the items that Brent mentioned, the capture rate
6 by unit type and the market rent. And if you want to see
7 something really funny, watch Tom's face on this. I am in
8 support of the capture rate by unit type at 100 percent.

9 MR. OXER: Somebody give Tom some oxygen back
10 there, please.

11 MR. JACK: And over the years Tom and I have
12 gone to friendly battle over that as an underwriting
13 standard. But the reality is that these two particular
14 rules that Brent has proposed are taking the QAP that's
15 new well away from good real estate practices and brought
16 it much closer to what makes sense.

17 The reality is if these properties are built in
18 rural areas and they don't function and they don't make
19 sense financially over the long term, it's a black eye for
20 the Department and it's a black eye for the entire
21 program. And I think what Brent is trying to do is to
22 bring a reasonable rule back to bring it in line.

23 You know, we had a project in Goldthwaite this
24 last year that, you know, the capture rate overall met the
25 standard of the QAP, and only because it required HOME

1 funds it eventually was turned down. But the capture rate
2 by unit type was just outrageous; it didn't make sense in
3 the market. This gives Brent and his team an avenue to
4 rein projects in towns that they really don't make sense
5 in.

6 On the market rent issue, we set out on a
7 project to kind of disprove HUD's rule, and theirs is
8 using 10 to 15 percent above a maximum of 60 percent rent
9 for a market rate unit in an affordable project. And as
10 we went through to try to disprove that in San Antonio,
11 surveying all the affordable projects that had market rate
12 units, we actually proved up their argument, quite to my
13 surprise.

14 You know, you typically cannot get a full
15 market rent in a market rate unit in an affordable
16 project. That's just throughout. The reality is that
17 unless you're in a place like Austin, you know, where
18 housing is limited and locations are limited, you know, I
19 hate to stand up here and say it to you, but the general
20 populace doesn't want to live with affordable housing
21 people. That affects the underwriting of the project, and
22 that's just a reality of the world that we live in.

23 You know, I think that the 15 percent benchmark
24 that Brent is asking you to approve is a reasonable
25 expectation. So thank you.

1 MR. OXER: Good. Thanks.

2 Anybody else?

3 (No response.)

4 MR. OXER: Brent? Do you want to address any
5 of that?

6 MR. STEWART: Just real quick. I want to make
7 it really clear that on capping the debt service amount
8 that we're only doing that when we have HOME funds in the
9 deal. And we've underwritten an NOI and a debt coverage
10 that we're comfortable with on making our HOME loans. And
11 these are big HOME loans, and we all know the risk and
12 liability we have to HUD on that.

13 We believe that this is more flexible to the
14 developer by setting a debt service amount, because it
15 allows them to change interest rate, it allows them to
16 change the debt amount. As long as that payment ahead of
17 us is the same, we don't care; basically we don't care.
18 So that's kind of why we structure that way. And again
19 that only applies when there's our own money or any of our
20 money that's sitting behind, subordinate to the senior
21 debt.

22 And I do appreciate Janine's comments about
23 different sets of numbers and how things, you know, go and
24 consistency with winners and equity. And I guess I would
25 say to that is right, and really it should be. We

1 underwrite for a very different purpose than lender in
2 equity do. Yes, we underwrite for feasibility, we
3 underwrite for size in tax credits and doing what we're
4 supposed to do under Section 42.

5 We have a different purpose. The equity guys
6 have a different purpose. The lender has a different
7 purpose. Everybody has a different box that they
8 underwrite to and fit deals into. In the conventional
9 world, it's the exact same thing. You're right in the
10 middle as a developer between a lender in equity and a
11 mezz lender, and it's the same thing, everybody's got kind
12 of different parameters, different sets of numbers and so
13 forth.

14 I don't think our box is -- should be or
15 necessarily now today that far away from -- in fact our
16 box is gigantic compared to a lot of lenders and
17 syndicators. We have a debt coverage range between 115
18 and a 135. That's huge. Right? We don't have a loan-to-
19 cost or a loan-to-value constraint. You know, our box is
20 big. And it should be different.

21 I'm all open for talking about making this
22 better and certainly with the development community, with
23 the lenders, with the equity. So just pass that along.

24 MR. OXER: Okay. There's been a motion by Ms.
25 Bingham, second by Dr. Muñoz to approve staff

1 recommendation on Item 1(c). We've heard public
2 comments. Is there any other comment here?

3 (No response.)

4 MR. OXER: Okay. I take it there's not. Those
5 in favor?

6 (A chorus of ayes.)

7 MR. OXER: Opposed?

8 (No response.)

9 MR. OXER: There are none. It's unanimous.
10 Okay, Raquel, I think you're next.

11 MS. MORALES: I'm last. Raquel Morales,
12 Director of Asset Management. Item 1(d) is staff's
13 proposed changes to -- proposed draft of the 2016 asset
14 management rules. These rules set out information on
15 processes and procedures related to the activities that
16 happen after they get the award from you guys.

17 You know, we try to be transparent, try to be
18 clear about what the requirements are related to the
19 different benchmarks they'll have to meet afterwards. And
20 so the bulk of the changes proposed in the draft before
21 you today relate to just that, just providing some
22 clarification to rules that are in place now but we felt
23 needed to be additionally clarified for the development
24 community's benefit.

25 The more substantial changes would be, you

1 know, related to implementation of legislation that just
2 passed, in particular to House Bill 3576, which amended
3 some provisions of the right of first refusal. And so
4 language was added to be able to implement that change.

5 I would like to note that there is a correction
6 that needs to be made in this latest draft that's before
7 you, and that would be related to the right of first
8 refusal. It's in Section 10.407(d)(3)(F). That whole
9 section is a brand new section, and that was added to
10 implement House Bill 3576. Item F is shown as stricken
11 through in your draft, and needs to -- that was done in
12 error and needs to be put back in for purposes of getting
13 it out into the *Texas Register*.

14 MR. OXER: Okay. Are those material? They're
15 not material changes, are they, just corrections to what
16 we have in force?

17 MS. MORALES: Right. The first draft didn't
18 have that stricken through, and it was erroneously
19 stricken through for the second version.

20 MR. OXER: There's a gremlin in the computer
21 again? What, another one?

22 MS. MORALES: Yeah. But otherwise staff would
23 recommend approval of the draft.

24 MR. GOODWIN: So moved.

25 MR. OXER: Okay. Motion by Mr. Goodwin to

1 approve staff recommendation on Item 1(d). Do I hear a
2 second?

3 DR. MUÑOZ: With change.

4 MR. OXER: As stated, with change. Staff
5 recommendation as with changes mentioned.

6 MS. BINGHAM ESCAREÑO: Second.

7 MR. OXER: Okay, second by Ms. Bingham.

8 Janine, you got anything you want to say or
9 you're just camping out here?

10 MS. SISAK: Just hanging out. Ditto.

11 MR. OXER: Ditto, great. Good on you.

12 All right. Okay, with respect to Item 1(d) as
13 amended by staff recommendation, motion by Mr. Goodwin to
14 accept or to approve staff recommendation as amended by
15 staff or added by staff, second by Ms. Bingham. Those in
16 favor?

17 (A chorus of ayes.)

18 MR. OXER: Opposed?

19 (No response.)

20 MR. OXER: There are none. It's unanimous.

21 I think we're now at the point where we
22 accept -- are there any other items to come before the
23 Board? Okay.

24 MR. IRVINE: I'm both sad and happy to say that
25 Kathryn Saar has decided she's going to go have fun doing

1 something else.

2 MR. OXER: I was trying to ignore that. I
3 didn't want that to be talked about.

4 MR. IRVINE: Well, you know, it's mixed. She's
5 been and is still an incredibly valuable part of this
6 team. She's beloved by everybody she works with. I hope
7 she's beloved by the development community too, because
8 she really busts her backside for you. But one of the
9 things is when you hire great people, they are wonderful
10 people to go find other opportunities.

11 So we thank you for everything you've done and
12 wish you all the best.

13 MR. OXER: Yeah. Where you headed, out there
14 into the real world or in the dark side or going --

15 MS. SAAR: Going to the dark side.

16 MR. OXER: Way to go, kiddo. All right. Well,
17 we appreciate all you've done here while you were part of
18 us.

19 All right. We're to the point in the agenda
20 where we accept public comment on items to construct any
21 future agenda. Does anybody wish to make any comment?

22 (No response.)

23 MR. OXER: Okay. That said, is there any
24 comment from staff in the audience?

25 (No response.)

1 MR. OXER: That said, is there any comment from
2 staff or members of the Board at the dais?

3 (No response.)

4 MR. OXER: Okay. I get the last word. It's a
5 good thing we do here. There's a lot of milling and
6 grinding, we pound these things to death, but our rule for
7 Texas, we're good at protecting that rule, and in the
8 process we've made something that's as transparent and
9 very competitive for the State.

10 With that I'll entertain a motion to adjourn.

11 MR. GOODWIN: So moved.

12 MR. OXER: Okay. Motion by Mr. Goodwin to
13 adjourn. Second by?

14 MS. BINGHAM ESCAREÑO: Me. Second.

15 MR. OXER: Second by Ms. Bingham. Those in
16 favor?

17 (A chorus of ayes.)

18 MR. OXER: Opposed?

19 (No response.)

20 MR. OXER: There are none, 5-0. We'll see you
21 in five weeks.

22 (Whereupon, at 2:50 p.m., the meeting was
23 adjourned.)

C E R T I F I C A T E

MEETING OF: Special meeting of TDHCA Board

LOCATION: Austin, Texas

DATE: September 11, 2015

I do hereby certify that the foregoing pages, numbers 1 through 146, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

09/16/2015

(Transcriber) (Date)

On the Record Reporting
3636 Executive Cntr Dr., G22
Austin, Texas 78731