

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.)

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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)

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