

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

October 15, 2015  
10:00 a.m.

MEMBERS:

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

TIMOTHY K. IRVINE, Executive Director

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER	7
ROLL CALL	
CERTIFICATION OF QUORUM	
CONSENT AGENDA	8
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	
LEGAL	
a) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Haymon Elliott Senior Citizens Complex (HTF 355077 / CMTS 2642)	
b) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Gardens of Taylor (HTC 05034 / CMTS 4245)	
c) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Telstar Apartments (HTC 91022 / CMTS 951)	
d) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Weldon Blackard (HOME 539112 / CMTS 2706)	
e) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Lincoln Courts (HOME 533186 / CMTS 2631)	
ASSET MANAGEMENT	
f) Presentation, Discussion and Possible Action regarding Material Amendments to Housing Tax Credit Applications	
09961 Villas on the Hill Fort Worth	
12365 Stepping Stone and Taylor Square Apartments Taylor	
14003 Whitestone and Tamaric Apartments Cedar Park	

## HOUSING RESOURCE CENTER

- g) Presentation, Discussion, and Possible Action on the draft 2016 State of Texas Consolidated Plan: One-Year Action Plan

## COMMUNITY AFFAIRS

- h) Presentation, Discussion, and Possible Action on Corrections to Previous Program Year 2015 Emergency Solutions Grants Program Awards to Applicants from the City of Houston/Harris County Continuum of Care

## MULTIFAMILY FINANCE

- I) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer

15417 Tuckaway Apartments  
Cedar Park

- j) Presentation, Discussion, and Possible Action regarding a Waiver of 10 TAC §10.204(8)(B), Uniform Multifamily Rules related to the Submission of an Alternative Utility Allowance and a Determination Notice for Housing Tax Credits with another Issuer  
15410 Aldrich 51 Austin

## RULES

- k) Presentation, Discussion, and Possible Action on an order adopting the repeal of 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, General Provisions, §5.12 concerning Purchases, and directing its publication in the *Texas Register*
- l) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, General Provisions, §5.2 Definitions and §5.10 Procurement Standards, and directing that they be published in the Texas Register
- m) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter B, Community

Services Block Grant, §§5.201, 5.203, 5.207, 5.210, 5.213, and 5.214, and

directing that they be published in the *Texas Register*

- n) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter D, Comprehensive Energy Assistance Program, §5.401, Background; §5.407, Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria; §5.422, General Assistance and Benefit Levels; and §5.423, Household Crisis Component, and directing that they be published in the *Texas Register*
- o) Presentation, Discussion, and Possible Action on an order adopting an amendment to 10 TAC Chapter 5, Community Affairs Programs, Subchapter E, Weatherization Assistance Program General, §5.503 Definitions; and new §5.529 Program Requirements, and directing that they be published in the *Texas Register*
- p) Presentation, Discussion, and Possible Action proposing an amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter A, General Provisions, §5.7, and directing that it be published for public comment in the *Texas Register*
- q) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, §§21.1 Purpose, 21.2 Applicability, 21.3 Definitions, 21.4 General Requirements, 21.5 New Construction and Reconstruction Activities, and 21.6 Rehabilitation Activities, and directing their publication in the *Texas Register*
- r) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule, §§24.1 Purpose, 24.2

Definitions, 24.4 Participant Requirements, 24.5 Program Activities, 24.6 Prohibited Activities, 24.7 Distribution of Funds, 24.8 Criteria for Funding, 24.9 Program Administration, 24.10 Owner-Builder Qualifications, 24.11 Types of Funding Transactions, 24.12 Property Guidelines and Related Issues, and 24.13 Nonprofit Owner-Builder Housing Program Certification, and directing their publication in the Texas Register

- s) Presentation, Discussion, and Possible Action on proposed repeal of 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and a proposed new 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and directing its publication for public comment in the *Texas Register*

CONSENT AGENDA REPORT ITEMS

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ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, September 2015
- b) Report on the Department=s 4th Quarter Investment Report in accordance with the Public Funds Investment Act (APFIA@)
- c) Report on the Department=s 4th Quarter Investment Report relating to funds held under Bond Trust Indentures
- d) Report Regarding a Request for Proposal (ARFP@) for Mortgage Warehouse Facility issued by the Texas Department of Housing and Community Affairs (the ADepartment@)
- e) Report on the procurement of outside counsel to assist with matters concerning securities disclosure, single-family and multi-family bonds, and loan document preparation
- f) Report Regarding the Voluntary Financial Commitment of Funds from Homeless Housing and Services Program (AHHSP@) Subrecipients for Youth Count Texas!
- g) Compliance Division Update
- h) Executive Report of Multifamily Program Amendments, Extensions and Ownership Transfers
- I) Report Regarding an Invitation for Bid

(AIFB@) for Texas Statewide Homebuyer  
 Education Program (ATSHEP@)  
 Administrator  
 issued by the Texas Department of Housing  
 and Community Affairs (the ADepartment@)

## ACTION ITEMS

ITEM 3:	MULTIFAMILY FINANCE	
a)	Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under any of the Department=s Program Rules	
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P R O C E E D I N G S

1  
2 MR. OXER: Good morning, everyone. I'd like to  
3 welcome you to the October 15 meeting of the Texas  
4 Department of Housing and Community Affairs Governing  
5 Board.

6 We'll begin, as we do, with roll call. Ms.  
7 Bingham?

8 MS. BINGHAM ESCAREÑO: Here.

9 MR. OXER: Mr. Chisum?

10 MR. CHISUM: Present.

11 MR. OXER: Mr. Gann?

12 MR. GANN: Here.

13 MR. OXER: Mr. Goodwin?

14 MR. GOODWIN: Here.

15 MR. OXER: Dr. Muñoz is not with us today. I'm  
16 here, that gives us five, we've got a quorum, we're in  
17 business.

18 Tim, lead us in the pledges.

19 (The Pledge of Allegiance and the Texas  
20 Allegiance were recited.)

21 MR. OXER: Okay. Let's get to work here. Any  
22 special announcements? Michael, have we got anybody  
23 joining us today? Bobby Wilkinson is not with us. He  
24 said to me yesterday he had something to do but he passed  
25 on his best regards to all.

1 MR. IRVINE: I see J.D. Pedraza back there.

2 MR. OXER: There she is.

3 MR. IRVINE: House Oversight Committee.

4 MR. OXER: Okay. With respect to the consent  
5 agenda, Marni, you have one modification to make, I  
6 believe.

7 MS. HOLLOWAY: Good morning, Chairman Oxer,  
8 members of the Board. My name is Marni Holloway. I'm the  
9 director of the Multifamily Finance Division.

10 Item 1(j) is presentation, discussion, and  
11 possible action regarding a waiver of 10 TAC 10.204(8)(b),  
12 Uniform Multifamily Rules related to the submission of an  
13 alternative utility allowance and a determination notice  
14 for Housing Tax Credits with another issuer. We just have  
15 a correction to the information in the Board action  
16 request. The unit count is described as 18 at 30 percent  
17 of AMI, 52 percent at 50 of AMI, and 146 at 60 percent of  
18 AMI, and 24 market rate. In actuality, there will be 36  
19 market rate units at this development, and the development  
20 was reviewed and underwritten by our REA division at that  
21 36 number.

22 MR. OXER: At 36, so it's different but not  
23 material, but it still meets the real estate.

24 MS. HOLLOWAY: Absolutely. Thank you.

25 MR. OXER: All right. Thanks.

1 Does any Board member care to pull any item  
2 from the consent agenda?

3 (No response.)

4 MR. OXER: Hearing none, I'll accept a motion  
5 to consider.

6 MS. BINGHAM ESCAREÑO: Mr. Chair, I'll move to  
7 approve the consent agenda with the one staff  
8 recommendation for a change to item 1(j).

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

10 MR. GOODWIN: Second.

11 MR. OXER: And second by Mr. Goodwin. No  
12 public comment. Those in favor?

13 (A chorus of ayes.)

14 MR. OXER: And opposed?

15 (No response.)

16 MR. OXER: There are none.

17 Let's go to item 3 on Multifamily Finance.  
18 You're back up, Marni.

19 MS. HOLLOWAY: Good morning again. Marni  
20 Holloway, Multifamily Finance.

21 Item 3(a) is presentation, discussion, and  
22 possible action on timely filed appeals and waivers under  
23 any of the Department's program rules. We are presenting  
24 two appeals this morning. They are for the same  
25 applicant, but because they are very different

1 circumstances, I'm going to suggest that we deal with them  
2 separately.

3 Application 1500 for the Palm Parque  
4 development was timely submitted and received an award of  
5 9 percent credits on July 30. At commitment, which is the  
6 next step after the award, the application was denied  
7 three points related to educational excellence because the  
8 development was not located in the attendance zone of a  
9 school with the appropriate rating. The application was  
10 also denied eleven points under commitment of development  
11 funding by local political subdivisions because 100  
12 percent of the governing board of the Midtown Tax  
13 Increment Reinvestment Zone, which is providing support in  
14 the form of an in-kind donation, 100 percent of the board  
15 was not appointed by elected officials of the city or  
16 county.

17 The applicant appealed that initial scoring  
18 notice on the 28th. We looked at the information that was  
19 presented. We sent a letter back to them on October 2  
20 requesting additional information -- all of this is in  
21 your Board book -- with the question: How are all of the  
22 Midtown Tax Increment Reinvestment Zone board members  
23 currently appointed? We received additional information  
24 back on the 5th, and on the 6th we denied the appeal on  
25 the basis that the information received did not answer our

1 question, did not support our concern.

2 In a nutshell, the creation ordinance for the  
3 Midtown TIRZ states that positions one and two on their  
4 board will be appointed by the state senator and the state  
5 representative, respectively, and that position eight will  
6 be appointed by the Houston Independent School District.  
7 So the board for the TIRZ is not appointed by all elected  
8 city and county officials. On that basis we have denied  
9 that appeal and staff recommends that you deny it also.

10 MR. OXER: So how many are on the board?

11 MS. HOLLOWAY: There are nine.

12 MR. OXER: Nine. Okay. And of those, just to  
13 be clear, there are some that are appointed by -- how many  
14 are appointed by the state and county? Run through the  
15 numbers again.

16 MS. HOLLOWAY: Okay. There are nine members.  
17 One and two are appointed by the state representative and  
18 state senator, and eight is appointed by the Houston  
19 Independent School District. The balance of the board,  
20 under the creation ordinance, is appointed by either the  
21 city or the county.

22 MR. OXER: So six out of the nine meet the  
23 requirement, but our requirement rule says all.

24 MS. HOLLOWAY: Yes.

25 MR. OXER: Any questions from the Board?

1 (No response.)

2 MR. OXER: Motion to consider? It appears the  
3 staff has recommended denial of this waiver.

4 MS. BINGHAM ESCAREÑO: I'll move staff's  
5 recommendation.

6 MR. OXER: Motion by Ms. Bingham to approve  
7 staff recommendation to deny the waiver.

8 MR. CHISUM: I second.

9 MR. OXER: Second by Mr. Chisum. There does  
10 not appear to be any public comment.

11 Okay. Recount, motion by Ms. Bingham, second  
12 by Mr. Chisum to approve staff recommendation to deny this  
13 appeal. Those in favor?

14 (A chorus of ayes.)

15 MR. OXER: And those opposed?

16 (No response.)

17 MR. OXER: There are none.

18 It's the same applicant, not the same project.

19 MS. HOLLOWAY: Exactly. The other application  
20 is number 15001, Selinsky Street, also timely submitted  
21 and also received an award at the July 30 meeting. The  
22 application was denied points under review because the  
23 development site must have been located in an area  
24 targeted for revitalization in a community revitalization  
25 plan. In addition, a resolution must be provided

1 indicating that the development contributes significantly  
2 to the concerted revitalization efforts of the city.

3           During the review process there were multiple  
4 rounds of deficiencies on this question in an attempt to  
5 ascertain whether or not the development actually was  
6 within that CRP. The applicant provided several responses  
7 but was unable to provide clear evidence that the  
8 development met that requirement. Ultimately, on July 29  
9 of 2015, the applicant conceded the two points related to  
10 that resolution. The two-point reduction put the  
11 application in a tie with application 15180, and  
12 application 15180 won the tiebreaker. Five points were  
13 also deducted for late response.

14           Staff recommends denial of the appeal.

15           MR. OXER: It seems like it was fairly clear  
16 what we did on this one. Did we get a sense that they're  
17 just appealing to see if they can get it through or if  
18 they have any real basis on this?

19           MS. HOLLOWAY: I believe that they're just  
20 trying to see if they can get it through. This actually  
21 happened prior to my taking on this new role, so I don't  
22 have that historic perspective, but looking at the  
23 information that was provided here, it seems that there  
24 was some question about the tiebreaker and whether or not  
25 credits should still be flowing to this particular

1 development.

2 MR. OXER: Do you have any insight on that,  
3 Tim? The rules are fairly clear, if I understand those.  
4 Aren't they, Tom?

5 MR. GOURIS: (Speaking from audience.) Yes,  
6 they are

7 MS. HOLLOWAY: And again, the correspondence  
8 and information back and forth is all in your Board book  
9 on this one.

10 MR. OXER: Okay. Then staff recommends denial  
11 of the appeal on item 3(b) -- I'm sorry -- 3(a), part two,  
12 application 15001. Motion to consider?

13 MR. GANN: I'll move staff recommendation.

14 MR. OXER: Motion by Mr. Gann to approve staff  
15 recommendation.

16 MS. BINGHAM ESCAREÑO: I'll second.

17 MR. OXER: And there's a second by Ms. Bingham.  
18 There appears to be no public comment requested.

19 Motion by Mr. Gann, second by Ms. Bingham to  
20 approve staff recommendation on item 3(a) for application  
21 15001. Those in favor?

22 (A chorus of ayes.)

23 MR. OXER: Those opposed?

24 (No response.)

25 MR. OXER: And there are none.

1                   Good job your first shot in the box here. Two  
2 for two so far.

3                   (General laughter.)

4                   MR. OXER: 3(b).

5                   MS. HOLLOWAY: All right. 3(b) is titled  
6 presentation and discussion on the development of the  
7 2015-2 Multifamily Direct Loan Notice of Funding  
8 Availability. This is a discussion item only. We are  
9 seeking to gather input both from the Board and from  
10 members of the public regarding our plans for the next  
11 HOME and TCAP NOFA. We discussed this briefly during the  
12 Permanent Supportive Housing Committee meeting this  
13 morning, and I think there are some folks that have some  
14 thoughts about what this next NOFA should look like.

15                  MR. OXER: I'll make a brief interruption here  
16 as chair, but anybody who's going to want to make comments  
17 on this needs to be in that front row right over there.  
18 Otherwise, my assumption is you don't have anything to  
19 say. A couple of you guys are regular, you know what the  
20 routine is.

21                  Go ahead, Marni.

22                  MS. HOLLOWAY: All right. So funds will be  
23 available from both TCAP and HOME, loan repayments and  
24 HOME 2015 annual allocation. There will be about \$2.3  
25 million that's currently available from TCAP in interest

1 payments, and between \$9- and \$13 million will be  
2 available from principal payments for award under this  
3 NOFA. For HOME there will be just over \$15 million: \$7.2  
4 million of that will be 2015 program year funds and they  
5 will be awarded under our regional allocation; \$3.2  
6 million will be CHDO funds as a set-aside; the balance  
7 will be general.

8 We are planning to bring the full NOFA back to  
9 the Board next month, so again, this is just a discussion  
10 item, this is just so that these folks have an opportunity  
11 to provide input, as do any members of the Board.

12 Just broadly, we are planning to put the funds  
13 out in basically three tranches. This fills a number of  
14 purposes. One of them is that we can make the HOME  
15 commitment deadlines. Since HUD has changed the way that  
16 they're accounting to a grant accounting system, those  
17 commitment deadlines become very important. So the first  
18 two groups are entirely about making those commitment  
19 deadlines. The last priority will be applicants that are  
20 layering with 9 percent credit deals. Applications will  
21 be accepted throughout the entire period. Which group it  
22 falls into will be what it's layered with and what the  
23 expected closing date is of the transaction.

24 There will be several set-asides, as I  
25 mentioned: \$3.2 million for CHDO; permanent supportive

1 housing will have \$2.3 million of funds available, TCAP or  
2 HOME, depending on the location; we will have a set-aside  
3 for 4 percent applications, there will be \$4 million; and  
4 then the balance of the funds, again, will be general.

5 Other than the permanent supportive housing,  
6 this will all be available as fully repayable loans at 3  
7 percent interest with a 30-year amortization. The  
8 maturity terms will match within six months of the  
9 superior loan. We are talking about a \$2 million maximum  
10 request for new construction, \$1 million for rehab, and  
11 have created a scoring criteria that we think will support  
12 a number of the efforts of the agency, including  
13 opportunity index and 811 units.

14 MR. OXER: Do we expect these funds to be  
15 oversubscribed?

16 MS. HOLLOWAY: Potentially.

17 MR. OXER: So that's a typical approach to  
18 this.

19 This is a report item only?

20 MS. HOLLOWAY: This is a report item only.

21 MR. OXER: Requires no Board action, Board  
22 motion to consider. Okay. Grab a seat and we'll start  
23 over here.

24 When you come up to speak I'll remind you to  
25 please sign in so we make sure that Nancy can identify

1 you. We'll go from here at the aisle and work to your  
2 right, our left, so you get to start, sir.

3 MS. BINGHAM ESCAREÑO: Mr. Chair, while he's  
4 coming up and signing that, may I ask a question?

5 MR. OXER: Absolutely.

6 MS. BINGHAM ESCAREÑO: So Marni, obviously  
7 there's a lot of moving parts here and so we're not  
8 pressed to make a decision, it's not an action item today.  
9 Can we look into the future and the next time the Board  
10 gets together will we pretty much be pressed to take  
11 action at that meeting because of the sensitivities that  
12 you mentioned?

13 MR. OXER: The deadlines that we'll have to  
14 meet.

15 MS. HOLLOWAY: Exactly. The plan is to bring  
16 the full NOFA back for your approval at the November  
17 meeting.

18 MS. BINGHAM ESCAREÑO: Okay.

19 MR. OXER: So we're getting some advance  
20 warning on what we're going to have to figure out so it  
21 gives us a month to work on this.

22 MS. HOLLOWAY: Right.

23 MS. BINGHAM ESCAREÑO: Thank you.

24 MR. OXER: Good. I'll remind everybody, there  
25 are obviously several that want to speak, we'll be on a

1 hard clock today.

2 MR. McVEY: Good morning, ladies and gentlemen.

3 I'm Robert McVey. I'm the chief of staff for State  
4 Representative Ryan Guillen. Sounds fancy but it's not.

5 The representative asked me to be here today to  
6 address you just briefly -- I know you've got a lot to  
7 do -- about the provision for Section 11.9(c)(7)(A) of the  
8 QAP which basically changes the 811 point rules and allows  
9 people in larger municipalities that have been designated  
10 811 to have a little advantage on the point system for  
11 getting tax credits for building low income housing.

12 Low income housing is very important to the  
13 representative, it's very important to our district.  
14 We're in an area that has a terrible housing shortage for  
15 many reasons. One of them is the very strict subdivision  
16 rules along the Rio Grande border that makes it more  
17 difficult and more expensive to build there than other  
18 parts of the state, and so anything that slows down or  
19 inhibits developers from going in doing projects, the  
20 representative is very concerned about.

21 He's going to send you a copy of this letter,  
22 which I assume your staff to give to all of you, but  
23 primarily he would like the point system to remain very  
24 competitive. The new rules would apparently give 811  
25 developers that already have projects in major cities an

1 advantage of one or two or three points, I'm not sure  
2 which, frankly. But any advantage, they tell me, is big  
3 because those contracts are won and lost by one point  
4 sometimes frequently, and therefore, it changes the whole  
5 thing.

6           The gist of the letter is that the rules, in  
7 his opinion, would limit that kind of development to just  
8 those that have developments in big cities for every  
9 district in the state, and the smaller developers that  
10 don't would have a very hard time competing and so they'd  
11 be kind of cut out of the picture. Assuming his  
12 understanding is true, and at this point we think it is  
13 but we're happy to be corrected, he would like you to  
14 reconsider that seriously. You're going to take action on  
15 this, I think, at your November meeting, and he wants to  
16 be involved and he wants to make sure that everybody is on  
17 the same page, basically.

18           Thank you. I won't take up any more of your  
19 time. I was going to read this but it's very technical.

20           MR. OXER: If you can give it to the staff,  
21 we'll make sure it's in the process of being considered.  
22 Thank you for your time, Mr. McVey.

23           MR. McVEY: Thank you, sir.

24           MR. OXER: The QAP for some reason attracts a  
25 lot of attention this time of year.

1 Yes, ma'am.

2 MS. TELGE: Good morning. Thank you all for  
3 this opportunity. My name is Judy Telge. I live in  
4 Corpus Christi, Texas where I am the original founder and  
5 still work at the Center for Independent Living, the  
6 Coastal Bend Center for Independent Living. In addition  
7 to that, when I have other extra time, I'm president of  
8 three small housing efforts, two of which are 811  
9 projects.

10 What I'd like to encourage you folks to do with  
11 this TCAP utilization is to help us address some of the  
12 very glaring needs that we can't address. Vouchers are  
13 getting less, as we know, HOME funds are getting less, as  
14 we know, but we've got more and more people who want to  
15 get out of nursing homes, want to get out of institutions.

16 These would come under what is widely called the Olmstead  
17 population. These are folks that basically are under 30  
18 percent median income, sometimes even less than 15 percent  
19 median income. What we're seeing is many people aging off  
20 the streets as homeless, and guess where they go? Into  
21 nursing homes. Guess who gets them out? Because we have  
22 a DADS relocation contract, us. Where do we put them?  
23 They don't get out. People end up staying in nursing  
24 facilities because of the lack of deeply subsidized  
25 housing.

1           We are not encouraging the continuation or  
2 expansion of housing and services, supportive services,  
3 because we have the independent living philosophy that  
4 what people really need is the deeply subsidized units.  
5 They get their services; if they're Medicaid eligible, if  
6 they're on Social Security, they do have services, they  
7 have service coordination, they have the medical and  
8 health services they need, they bring their services with  
9 them to whatever the housing that's available is. So I  
10 encourage you to look at, in a broad sense, people under  
11 30 percent median income as the recipients of this in  
12 order to make that subsidy deep enough to serve them.

13           Thank you very, very much.

14           MR. OXER: Okay. Thank you, Ms. Telge. And  
15 don't forget to sign in when everybody comes up.

16           And while she's signing in, I'll ask that when  
17 you come up let us know if you've made these comments to  
18 the staff and you want to reiterate those, and we'll be  
19 happy to hear you, or if this is something that's new that  
20 we haven't been told or having considered yet, if you  
21 would. I suspect that most of this is going to be a  
22 reiteration which is fine and we're happy to hear you, but  
23 it will help staff parse through what's there, because  
24 we're on a pretty tight timeline here to get the QAP out,  
25 so I'm asking you to help us get that done.

1 MS. HEADRICK: Good morning. My name is  
2 Isabelle Headrick and I'm with Accessible Housing Austin!  
3 and this is, to a certain extent, a reiteration of what I  
4 said this morning at the PSH subcommittee meeting and some  
5 written comments I've submitted.

6 My nonprofit is a small but very active  
7 nonprofit whose mission is to serve extremely low income  
8 people, very and extremely low income people with  
9 disabilities by providing affordable, accessible and  
10 integrated housing. As you know, in the City of Austin  
11 alone there is a shortage of 48,000 housing units,  
12 affordable to households earning under 30 percent of the  
13 median family income. Of this, it is safe to say that in  
14 these there's a shortage of 7,000 units affordable to  
15 people with disabilities, and 2,000 for people with  
16 ambulatory disabilities.

17 Additionally, the city's housing market study  
18 found that 25 percent of renters with disabilities were in  
19 housing that did not meet their accessibility needs, and I  
20 would imagine that if you changed the denominator to  
21 people with ambulatory, that percentage is actually much  
22 higher.

23 The fact is many of the 48,000 in Austin, and  
24 I'm sure if you project out to the rest of Texas, either  
25 do not need or do not currently have access to services,

1 yet their need for housing is no less dire and they should  
2 not be denied the opportunity to have a home they can  
3 afford. Furthermore, of those that do have access, most  
4 are able to be independent consumers of the services they  
5 need. At AHA! we believe strongly that services and  
6 housing should be kept separate, that all services,  
7 specifically any services related to disabilities,  
8 including mental health and substance abuse, be voluntary.

9 We would not want a failure to comply with services to be  
10 a reason for an individual to lose housing, or conversely,  
11 a failure to maintain housing to be a reason an individual  
12 could lose services. For that reason, although we  
13 certainly house people who receive services, we choose to  
14 not be the entity that delivers them.

15 As you may also know, the Supreme Court in the  
16 Olmstead decision held that under the ADA, people with  
17 disabilities have the right to live in the community  
18 rather than in institutions, however, the lack of  
19 affordable, accessible and integrated housing is the  
20 primary barrier keeping people from exiting institutions.

21 This is exactly the kind of housing that AHA! develops.

22 We're working to develop a 27-unit project in  
23 partnership with and on land owned by the Housing  
24 Authority of the City of Austin. All of the apartments  
25 will serve households at or below 50 percent MFI.

1 According with federal integration standards, six, or 25  
2 percent, of the units will be dedicated with disabilities,  
3 and the remaining 75 percent will be open to people with  
4 and without disabilities. To maximize choice and  
5 integration, 50 percent of the units will be accessible  
6 and the other 50 percent will be adaptable.

7 Is my time up?

8 MR. OXER: Pretty close.

9 MS. HEADRICK: Okay. Just to sum up, I just  
10 really want to encourage you all to be targeting the  
11 deepest lowest income and to see a way to expand the  
12 number of units that are serving people who don't  
13 necessarily have vouchers and to be creating housing, not  
14 just carve out for people with disabilities or carve out  
15 for the chronically homeless or carve out for this group  
16 or that group, but really target the lowest income people  
17 and expand the number of units that are available instead  
18 of just overlapping them with other sources.

19 Thank you.

20 MR. OXER: Good. Thank you, Ms. Headrick.

21 As you're coming up, I would remind everybody  
22 that those of you who have made comments this morning in  
23 the earlier hearing we had on permanent supportive  
24 housing, those are in the record and constitute public  
25 record that will be considered in the development of the

1 QAP. So you don't have to go say exactly the same thing  
2 you've already said but we're happy to hear anything you  
3 would like to say in three minutes.

4 MS. HICKS: Jennifer Hicks, director of housing  
5 finance for Foundation Communities. Walter had to jump on  
6 a plane so you have me this morning.

7 I, first of all, just want to thank staff and  
8 Board Member Chisum and Gann for being on the PSH  
9 subcommittee and bringing this set-aside to bear, so just  
10 extremely grateful and thankful. Supportive housing is so  
11 difficult to develop, so complex, and this will be a huge  
12 boost for supportive housing in the state.

13 The first comment I was going to make, it was  
14 commented in the PSH subcommittee. Just for the record,  
15 we should drop the P in PSH and just make it supportive  
16 housing. That matches the set-aside definition that's  
17 already in the rules, it's not broken, it's worked very  
18 well, and so not to complicated matters, open up  
19 loopholes, keep what's been working and let's use the term  
20 supportive housing.

21 Under the NOFA, my comments are new now going  
22 forward. Under eligibility right now it's restricted to  
23 just 9 percent and 4 percent deals. For supportive  
24 housing I ask that that be opened up to not necessarily 9  
25 percent and 4 percent. TDHCA has been an investor in

1 three of our past supportive housing deals that were not 9  
2 percent or 4 percent deals, and that's been a key piece of  
3 funding and something that's been missing, frankly, the  
4 past five years. And so I think with this NOFA that would  
5 be specifically for the supportive housing, that would be  
6 key is to open it up to all deals.

7 Under the scoring criteria, you might not have  
8 a choice in this but the high opportunity area just  
9 doesn't have any value for supportive housing deals. More  
10 value is being in the urban core, being near public  
11 transit, being accessible to services. Just something to  
12 note.

13 The 811 requirement, supportive housing is  
14 exempt from 811, and so to make that a note in the  
15 supportive housing set-aside.

16 Also, right now rehab is scored as a priority,  
17 and I ask that for the supportive housing set aside it  
18 should be open to new construction and rehab. It's going  
19 to be a finite amount of money and I would hope that you  
20 have the supportive housing deals that are in the pipeline  
21 applying for that money, and so by restricting it to  
22 rehab, I would be a little bit concerned about that. And  
23 then also, just leaving it not restricted, rehab or new  
24 construction could apply.

25 And then finally, on the tiebreaker, for

1 supportive housing the distance to another tax credit  
2 development is irrelevant. More importantly would be the  
3 distance to public transportation or distance to critical  
4 services.

5 Thank you.

6 MR. OXER: Good timing. Thanks for your  
7 comments.

8 MR. GOODWIN: I have a question, if I could.

9 MR. OXER: Certainly.

10 MR. GOODWIN: You made the comment, I think,  
11 that high opportunity area has no basis in supportive  
12 housing.

13 MS. HICKS: Sure. Let me clarify that. So  
14 what I mean by that is high opportunity area tagged with  
15 educational excellence. So there's two forms of  
16 supportive housing, there's supportive housing for  
17 individuals which is the bulk of TDHCA funding has gone  
18 into supportive housing as single-room occupancy  
19 developments, but Foundation Communities also does and  
20 TDHCA has also funded supportive housing for families.  
21 More specifically just focused on the single-room  
22 occupancy supportive housing, educational excellence isn't  
23 an issue because it's single adults without children,  
24 school-age children. But that wouldn't be a true  
25 statement if we were talking about family supportive

1 housing because education is extremely important.

2           The high opportunity areas, the income, most of  
3 those areas in urban areas are going to be outlying areas  
4 and not urban core areas, and where you see supportive  
5 housing -- and I'm speaking more specifically to single-  
6 room occupancy supportive housing -- developed will be in  
7 urban cores where they are accessible to public transit  
8 which is critical -- less than 10 percent of the residents  
9 have access to cars -- and next to services, medical,  
10 educational and psychiatric, all those sorts of services  
11 that are critical to the population as well. So an  
12 extremely high income area isn't necessarily -- it's not  
13 the areas that usually single-room occupancy supportive  
14 housing is located.

15           Did that help clarify?

16           MR. GOODWIN: Yes.

17           MR. OXER: So what you're saying is supportive  
18 housing is not monolithic.

19           MS. HICKS: That's correct. And so I guess  
20 applying the high opportunity area I could see it as for  
21 family supportive housing that would be good, but for  
22 single-room occupancy supportive housing, that's kind of  
23 completely opposite of what we look at.

24           MR. OXER: Doesn't make a real difference. I  
25 get your point. Thanks for your comments.

1 MS. HICKS: Thank you.

2 MR. OXER: Joy, are you next?

3 MS. HORAK BROWN: I am.

4 MR. OXER: Come on.

5 MS. HORAK BROWN: Good morning. I'm Joy Horak  
6 Brown. I'm president and CEO of New Hope Housing in  
7 Houston, Texas. We have a thousand units of supportive  
8 housing. Thirty percent of our residents have zero income  
9 and the others have an income of less than \$10,000 a year,  
10 65 percent have experienced homelessness.

11 I'm not going to reiterate Jennifer's very  
12 clear and well delivered message -- we collaborated a bit  
13 on those comments -- but I will reiterate this one point  
14 and that is the word "permanent" needs to be removed from  
15 permanent supportive housing. There are very specific  
16 definitions that were discussed at great length earlier  
17 today. They are in conflict and they are always changing.

18 The very broad umbrella that the Department has created  
19 thus far has been extremely effective and needs to remain  
20 intact for this particular NOFA.

21 I will also mention that the first supportive  
22 housing deal that the Department funded for New Hope  
23 Housing was neither a 9 percent nor a 4 percent, and so I  
24 very much agree with that and all of Jennifer's other  
25 comments.

1 Thank you very much.

2 MR. OXER: Good.

3 Sarah, come on up.

4 MS. SARAH ANDERSON: I was hoping to be last; I  
5 was hoping to not be here. My name is Sarah Anderson with  
6 SAnderson Consulting.

7 MR. OXER: Let the record reflect that the  
8 chairman let that pass.

9 MS. SARAH ANDERSON: No comment, I know.

10 Just one comment for now. I know that we will  
11 be gathering more information and speaking with staff  
12 about the HOME NOFA, but there's just one issue that I  
13 think was an issue the last time with the HOME NOFA that I  
14 would like to bring up and have in your minds as we go  
15 through this again and hopefully we can get it changed in  
16 this, which has to do with the underwriting standards that  
17 they have set out from the beginning.

18 The question was asked how over-subscribed this  
19 money was. On its face the money was over-subscribed  
20 until the strict underwriting was put in place with the 3  
21 percent at 30 years, and at that point I think you'd find  
22 that a lot of people actually chose not to take the money  
23 because it didn't add any value to the development. This  
24 money is needed to be more flexible than that. In rural  
25 areas we sometimes need zero percent, we sometimes need 40

1 years if we're doing FHA, and I would just really ask that  
2 there be a little bit more openness in the review of this.

3 This money is so important to what we're doing  
4 that to limit it to terms that people are just not going  
5 to be interested in applying or seems counterproductive to  
6 getting the money out and being useful for development.  
7 So I would just ask you to keep that in mind, and I know  
8 we'll be making these comments later as well.

9 MR. OXER: The money we have doesn't do anybody  
10 any good when it's just sitting there on our account  
11 books, so we're trying to make sure we get it out and  
12 doing its job.

13 MS. SARAH ANDERSON: I think terms that are a  
14 little bit more --

15 MR. OXER: Amenable?

16 MS. SARAH ANDERSON: Well, amendable. We saw  
17 this issue with a lot of people doing FHA deals that have  
18 40-year amortization and being able to underwrite it where  
19 it matches those terms and to, frankly, go lower than 3  
20 percent. I mean, the market is 4 percent in some cases.  
21 We need the money to help get us places that we can't do  
22 with traditional lending products. So we would just ask  
23 that this be looked at overall as we're going through the  
24 NOFA process.

25 MR. OXER: Thanks for your comments.

1 MR. TAYLOR: Craig Taylor with Communities for  
2 Veterans, Sarasota, Florida. This is not just a  
3 reiteration of what I said this morning to the committee  
4 but you have heard this as well, but I'm going to  
5 reiterate it one more time.

6 My specific concern is in the NOFA writeup  
7 where staff is considering a prohibition on applications  
8 that previously received an award of Department  
9 assistance. I've mentioned our Kerrville, Texas project,  
10 permanent supportive housing, 49 units for at-risk of  
11 homelessness and disabled veterans on the Kerrville VA  
12 Medical Center campus. It's true supportive housing, very  
13 much needed, and at this point very close to completion of  
14 construction. However, I've been candid and transparent  
15 about our funding gap and shortage which was purely a  
16 function of a tremendous and unexpected escalation in  
17 pricing for construction from the time we were awarded  
18 credits until we could work through the bureaucratic  
19 process at the VA to get to a point where we could close,  
20 and so we have this gap.

21 The TCAP funds were originally allocated to the  
22 state to address funding shortfalls in tax credit  
23 projects, so in that sense, being able to use the TCAP  
24 funds for a project like this is a perfect use, and in  
25 fact, the intended use of those funds. So what we would

1 ask today in all humility is that there be some way to  
2 make this upcoming NOFA available to specifically existing  
3 permanent supportive housing projects if possible.

4 Thank you very much, Chairman.

5 MR. OXER: Thanks, Craig. Appreciate your  
6 comments.

7 Peggy, do you have one to read in?

8 MS. HENDERSON: Peggy Henderson, TDHCA.

9 Registering public opinion for Louis Bernardy.

10 He is the senior vice president and director of  
11 development in Texas for McCormick-Behrens-Salazar, Inc.,  
12 and he is against staff's recommendation in the QAP for  
13 the proposed rules related to housing tax credit  
14 competitive selection criteria for educational excellence.

15 Also registering opinion for Tim Alcott of the  
16 San Antonio Housing Authority, against staff's  
17 recommendation for proposed rules as it relates to  
18 educational excellence in the QAP. There should be points  
19 awarded for Choice Neighborhoods because education is a  
20 component of the grant.

21 MR. OXER: Okay. Thanks.

22 Who's next on this item on 3(b)?

23 MR. NISIVOCIA: Good afternoon, Mr. Chair and  
24 Board. My name is David Nisivoccia. I'm the interim  
25 president and CEO of the San Antonio Housing Authority,

1 and I wanted to talk about the items that were just  
2 highlighted under the QAP regarding the points for  
3 educational excellence. There will be two speakers that  
4 come behind me.

5 MR. OXER: Hold on, David. We are talking  
6 about the NOFA on item 3(b), we're not talking about the  
7 QAP yet.

8 MR. NISIVOCIA: I want to talk about the QAP.  
9 Should I sit back down?

10 MR. OXER: Yes, because what we want to do is  
11 finish up the discussion on item 3(b) which is the NOFA  
12 that's up.

13 MR. NISIVOCIA: I apologize.

14 MR. OXER: That's okay. Perhaps we weren't  
15 clear.

16 MR. IRVINE: For clarification, the QAP is not  
17 a posted item for consideration at this Board meeting.  
18 Today at five o'clock the public comment period for the  
19 QAP ends. If you want to make comment on the QAP you need  
20 to submit it as public comment. Under the Open Meetings  
21 Act we really can't discuss matters other than what's  
22 before the Board.

23 MR. OXER: Right. And apart from the public  
24 comments that are available, even when you come to the  
25 part at the end of the meeting where we're formally

1 creating the agenda for the next meetings, there is a  
2 mechanism for you to make public comment on the QAP which  
3 I think has been well publicized, you can put it on the  
4 website, get all that stuff in there, but even then when  
5 we have open invitation for public comment at the end of  
6 the meeting to create future agendas, we still can't say  
7 that apart from saying we'd like to consider the QAP in  
8 the next meeting, which we're going to do because that's  
9 when we have to approve it.

10 MR. IRVINE: Actually, they could place public  
11 comment on the record at the end of the meeting. The  
12 Board can't respond to it but you can place comment on the  
13 record then.

14 MR. OXER: All you can do is put it in, you'll  
15 have a minute to make your comments to say we need to take  
16 that up at the next meeting. Is that clear to everybody?

17 Item 3(b) on the NOFA that Marni talked to us  
18 about -- remember Marni -- anybody else want to comment on  
19 that one? Terri. This is item 3(b), right, Terri?

20 MS. TERRI ANDERSON: Yes, sir, it is item 3(b).

21 MR. OXER: Just checking.

22 MS. TERRI ANDERSON: Terri Anderson, Anderson  
23 Development and Construction. Good morning, everyone.

24 I did want to make similar comments to what  
25 Sarah made regarding the use of the NOFA and the terms

1 that are provided for, the prior experience where it made  
2 the funding, I guess, less than a subsidy, as it were, and  
3 it's more similar to market financing. I think that  
4 should certainly be considered in the underwriting  
5 provisions and all of the terms should track the first  
6 lien.

7 In addition to that, at one of the last Board  
8 meetings there was a comment which was related to  
9 providing zoning at the time of a commitment acceptance,  
10 and in an instance of annexation of a property during the  
11 application cycle, to the extent a city would want to  
12 involuntarily annex a property in an ETJ to prevent the  
13 housing. I believe Board Member Muñoz asked what other  
14 instances that had happened, and I haven't been able to  
15 find a broad number, but Bobby Boling did offer that it  
16 occurred on his property in Horizon City, and the time  
17 frame that it took to prove his vested rights would  
18 certainly expand beyond the time of receipt of a  
19 commitment and having to provide that at the time of  
20 commitment. So I just wanted to add that as a point of  
21 consideration.

22 MR. OXER: Great. It's on the record, we got  
23 it.

24 MS. TERRI ANDERSON: Thank you.

25 MR. OXER: On item 3(b). Okay, Bill.

1 MR. FISHER: Bill Fisher, Sonoma Housing.

2 To supplement the other two speakers, this is a  
3 policy issue. And we did TCAP many years ago and we were  
4 flexible in both the amortization as well as the interest  
5 rate. Underwriting underwrote it and in some of the  
6 developments it was 1 percent, in some it was 2 percent,  
7 some they determined it could be 3 percent. Thirty-year 3  
8 percent money is market rate. Tax credit assistance HOME  
9 money is designed to supplement these development budgets  
10 and help them to be financially feasible and work, and 30  
11 and 3 just isn't market.

12 I have a client who recently closed a 35-year  
13 loan with HUD at 3.20. You've heard comments about the  
14 low 4 percent rate and 40-year amortization FHA debt.  
15 Part of the 30 and the 3 percent simply drives the  
16 developer to a HUD execution which requires you to sign a  
17 cash flow subordination agreement. So the Board sets  
18 policy. I'd ask you to go back to the TCAP policy that we  
19 used when we had TCAP funds which is to give the developer  
20 the opportunity to submit an application that repaid the  
21 TCAP money.

22 Now, we're completely in favor of this whole  
23 recycle approach. It's proved itself, the Board at that  
24 time is really showing the results today because we have  
25 TCAP money coming back from payments that everyone has

1 made on their TCAP money so it can be recycled to  
2 supplement the loss of HOME. So that's absolutely a good  
3 program.

4 So I'd ask the Board to consider encouraging  
5 staff to look at the old policy and be flexible so that  
6 we're not just adding additional market rate debt, we're  
7 assisting these developments with a prudent approach that  
8 doesn't allow a developer to take an unreasonable return  
9 but can be flexible on the amortization, the term of the  
10 loan and the interest rate.

11 MR. OXER: Thanks, Bill. Appreciate your  
12 comments.

13 Anybody else on 3(b)?

14 (No response.)

15 MR. OXER: Okay. That was a report item only,  
16 as I understand. Marni has got those comments, we'll take  
17 that into consideration, it will be dialed into the  
18 consideration for what we prepare for the November Board  
19 meeting. Is that correct?

20 MS. HOLLOWAY: Yes.

21 MR. OXER: Okay, Toni. I understand you want  
22 to say something on a couple of the items that you weren't  
23 here when we took those up. It's going to require a  
24 member of the Board -- you have one minute to make a case  
25 that it needs to be reconsidered, and you have to talk one

1 of them into making a motion to reconsider the item.

2 MS. JACKSON: Thank you, Mr. Ozer.

3 I come before you, and I do apologize for  
4 missing agenda item 3(a), However, I ask that you please  
5 consider my comment and not me for missing this item. I  
6 sent the information to the staff yesterday as well as the  
7 fact that the local redevelopment authority contacted the  
8 staff, however, they were at the TAAHP meeting yesterday  
9 and unable to reach them.

10 When we substituted the funding for the City of  
11 Houston funds for Palm Parque, that was substituted with  
12 an in-kind donation from the redevelopment authority, the  
13 Midtown Redevelopment Authority. In the City of Houston,  
14 the redevelopment authorities have comparable tax  
15 increment reinvestment zones, and so those boards,  
16 although they are similar in terms of who sits on them,  
17 the appointments for the redevelopment authority has to be  
18 made by the mayor and they are appointed and approved by  
19 the city council, as is required by the QAP.

20 The staff looked at the website and believed  
21 that the zone board and the redevelopment board were  
22 identical, however, not appointed by the City of Houston,  
23 and that is incorrect. I provided information to the  
24 staff which is the certificate of formation, the ordinance  
25 and even an example of a Board member being appointed,

1 showing that the city council actually approved that  
2 appointment. Simply stated, the redevelopment authority  
3 board members have four positions that are recommended to  
4 the mayor, however, the mayor still has to make the  
5 appointment and the city council has to approve the  
6 appointment. So therefore, pursuant to the QAP, the board  
7 members are all appointed by the mayor and appointed and  
8 approved by the city council, as required in any funding  
9 for the local political subdivision funds.

10 MR. OXER: Marni.

11 MS. JACKSON: And I have information in my hand  
12 as well as out for the public if the Board would like to  
13 see it.

14 MR. OXER: Come up, Marni, because we'll have  
15 some questions together.

16 The information that as presented that we have  
17 in our Board books suggests that two were appointed by the  
18 state rep and state senator?

19 MS. JACKSON: That is correct.

20 MS. HOLLOWAY: Yes.

21 MR. OXER: So what you're saying is those are  
22 actually recommended by them but the city actually did the  
23 appointment.

24 MS. JACKSON: That is correct.

25 MR. OXER: Anybody convinced?

1 MR. ECCLES: There seems to be a difference  
2 between the authority and the zone.

3 MS. JACKSON: There is a difference.

4 MR. ECCLES: Which one is the instrumentality  
5 of the city?

6 MS. JACKSON: The instrumentality is the  
7 redevelopment authority which provided the in-kind  
8 donation -- I'm sorry -- the redevelopment authority is  
9 who provided the donation, the zone has several components  
10 because the TIRZ zones, they actually receive taxes or a  
11 tax from the school district and from the county, and so  
12 therefore, they have appointments on the tax increment  
13 reinvestment zone boards. However, the redevelopment  
14 authorities mirror that, however, those appointments, or  
15 those positions, I mean, they have to be recommended to  
16 the mayor and then, in fact, approved by the city council.

17 And what I provided the staff yesterday was an example of  
18 one of the appointments, the HISD appointment, which shows  
19 that the mayor is accepting the nomination for somebody  
20 from HISD, however, it is approved by the city council  
21 because it is only a recommendation, they are not  
22 automatically placed.

23 MR. OXER: So it's a nomination recommendation,  
24 there's nobody else that has unilateral authority to put  
25 an individual on this board.

1 MS. JACKSON: That is correct.

2 MR. ECCLES: That's for the authority, though,  
3 not for the zone.

4 MS. JACKSON: That is correct, and the  
5 authority is who is providing the in-kind donation of the  
6 land.

7 MR. IRVINE: When did staff raise this question  
8 with the applicant?

9 MS. HOLLOWAY: Excuse me. The question first  
10 came up with staff was reviewing the letter that provided  
11 that local political subdivision support at the  
12 commitment. So when the applicant returned their  
13 commitment package with all of the supporting  
14 documentation, there was a letter of support that said  
15 that the TIRZ would be providing support in the form of an  
16 in-kind donation. I understand that there is this  
17 connection between the zone and the authority, that's why  
18 we went back and asked for further clarification of  
19 exactly how the board members are appointed to the Midtown  
20 Tax Increment Reinvestment Zone because in the letter we  
21 received, that was the entity that was providing the  
22 support.

23 MR. IRVINE: So when was that occurring, like  
24 September, August?

25 MS. HOLLOWAY: End of September. I have the

1 dates. So the staff initially issued the scoring notice  
2 that informed the applicant of the reduction in points on  
3 September 25. On September 28, we received the  
4 applicant's appeal which included the articles of  
5 incorporation and bylaws of the Midtown Redevelopment  
6 Authority, and we are not at all questioning the  
7 redevelopment authority, but did not address the board  
8 composition of the Midtown TIRZ, of this other  
9 organization.

10 On October 2, I sent a letter to the applicant  
11 and asked how all of the Midtown TIRZ board members are  
12 currently appointed. What I received back was more  
13 information about the redevelopment authority that did not  
14 address the reinvestment zone. We were left with nothing  
15 other than the creation ordinance for the reinvestment  
16 zone which states very clearly that positions one and two  
17 are appointed by the representative and senator and  
18 position eight by the school district.

19 MR. IRVINE: So the applicant was representing  
20 it was getting its support from the TIRZ but we're now  
21 finding out that that is not the case?

22 MS. JACKSON: It is the redevelopment authority  
23 that gave the money -- that gave the land.

24 MS. HOLLOWAY: Well, that is not the  
25 information that we've received through the course of this

1 appeal. The letter that we received was very clear,  
2 saying that the support came from the zone, and as we've  
3 gone back and tried to work through this with the  
4 applicant, we haven't received: Oh, it was a mistake, it  
5 wasn't the zone, it's the authority.

6 MR. OXER: So essentially you asked the  
7 question about the authority and got information about the  
8 TIRZ?

9 MS. HOLLOWAY: We've asked about the zone and  
10 we received information about the authority. And they are  
11 very, very closely related and it appears that the same  
12 people may serve on both boards, but the creation  
13 ordinance for the zone says that these board members are  
14 appointed, the articles and bylaws for the authority, are  
15 appointed by non-city and county officials. The articles  
16 and bylaws for the redevelopment authority say that all  
17 positions are appointed by the mayor.

18 MR. IRVINE: I would actually like to  
19 articulate it a slightly different way.

20 MS. HOLLOWAY: Please do.

21 MR. IRVINE: And if I'm wrong, correct me. We  
22 issue a commitment and our commitment specifies certain  
23 requirements to meet the commitment, and in response to  
24 proving up the local political subdivision's support, the  
25 applicant provided a statement that it got its support

1 from the TIRZ and provided evidence relating to the TIRZ.  
2 That did not meet the requirements of the commitment. So  
3 now what's coming forward is basically a completely  
4 different response to the conditions of the commitment  
5 long after the expiration of the commitment deadline. Is  
6 that accurate?

7 MS. HOLLOWAY: I would agree with that.

8 MR. OXER: Any Board member have a thought or a  
9 comment?

10 (No response.)

11 MR. OXER: As chairman, Toni, I get to tell you  
12 that your argument is not compelling. So there's no  
13 motion to reconsider the position on 3(a).

14 MS. JACKSON: Thank you for giving me the  
15 opportunity.

16 MR. OXER: Certainly.

17 MR. CHISUM: Thank you.

18 MR. OXER: All right. Are there any other  
19 comments on item 3(b)?

20 (No response.)

21 MR. OXER: All right. Raquel.

22 MS. MORALES: Good morning. Raquel Morales,  
23 director of Asset Management.

24 Item 4 is the presentation, discussion, and  
25 possible action regarding material amendments to three

1 different Housing Tax Credit applications. If it's okay  
2 with the Board chair, I'd like to take the first two on  
3 the list because the amendment requests for Haymon Krupp  
4 which is 14127 and Tays 14130, are identical, it's the  
5 same owner, it's the same request for both.

6 MR. OXER: They're similar requests in terms of  
7 what they're asking for?

8 MS. MORALES: Yes.

9 MR. OXER: Okay. Is this for staff? This is  
10 only for us in the book?

11 MS. MORALES: What's being handed out is the  
12 backup information for Tays. It was posted on the Asset  
13 Management website 15 days prior to this meeting but it  
14 didn't translate over into the Board materials. The Board  
15 action request did but that backup information, which is a  
16 copy of their amendment letter and the supporting  
17 documentation, didn't make it into the Board materials but  
18 it has been made available for the public otherwise.

19 MR. OXER: Okay. It has been made available  
20 for public comment.

21 MS. MORALES: Correct.

22 MR. OXER: So just to make sure I'm clear on  
23 this, we're taking number 14127 and 14130 concurrently, so  
24 the vote by the Board will take both of those into  
25 consideration at the same time.

1 MS. MORALES: Yes.

2 MR. OXER: Okay.

3 MS. MORALES: So 14127 which is Haymon Krupp  
4 and 14130 which is Tays, both of these applications were  
5 submitted during the 2014 competitive tax credit cycle.  
6 They received an award of tax credits under the at-risk  
7 set-aside. Haymon Krupp proposed to demolish and  
8 reconstruct 96 units and Tays proposed the demolition and  
9 reconstruction of 198 units. Both developments targeted  
10 the general population, they are in El Paso, and are both  
11 owned by the housing authority of the City of El Paso.

12 The owner submitted an amendment request  
13 identifying several changes to both applications. Again,  
14 the changes to both are identical with respect to the  
15 source of operating income for the transaction, as well as  
16 changes to the site plan and design of the development.  
17 Originally the plan for both applications called for a  
18 portion for the units to be financed with Housing Tax  
19 Credits and HUD's rental assistance demonstration, RAD  
20 program funds, however, the owner's application for that  
21 RAD conversion was denied and so they've had to change the  
22 operating source for those units. They are now being  
23 financed or proposed to be financed with Housing Tax  
24 Credits and Section 8. They still both remain eligible to  
25 qualify as an at-risk allocation so they haven't changed

1 anything that would change that.

2 As far as the redesign of the site itself and  
3 the buildings, the owner has indicated to the Department  
4 that those changes were necessary in order to comply with  
5 local city zoning ordinances, specifically open space  
6 requirements for the City of El Paso. The original site  
7 design and site plan proposal didn't conform with that 40  
8 percent open space requirement, and so the new plan that  
9 has been submitted with this amendment request, the new  
10 design does now.

11 Along with that information, they've provided  
12 revised development costs, revised financing structure  
13 information, changes to their permanent financing, their  
14 syndication. The Real Estate Analysis Division has  
15 evaluated those changes and an addendum to their original  
16 underwriting report was completed and is available in your  
17 Board materials and was handed out for Tays.

18 So that's just a brief summary. The Board  
19 action requests are very detailed and all of the changes  
20 that occurred with these developments we have had  
21 extensive discussions with the owner regarding our  
22 concerns about placement in service. The owner has  
23 relayed to the Department that they are committed to  
24 allocating every resource that they need to meet the  
25 12/31/2016 placed in service deadline.

1           And so with that, staff recommends approval of  
2 both of these amendment requests, subject to the  
3 conditions that are identified in the Board action  
4 requests, and those conditions are specific to meeting  
5 certain timelines for loan closing, tenant relocation.  
6 When we discussed our concerns with the owner and the  
7 development team, we felt that putting these conditions  
8 would help us get comfortable that the process keeps  
9 moving forward and that there wouldn't be any more delays.  
10       So staff recommends approval with those conditions.

11           MR. OXER: So the applicant has made comment to  
12 you that they intend to commit every resource they can.  
13 Are you comfortable that they have the capacity to meet  
14 their schedule and deadline?

15           MS. MORALES: I think that we have -- that's a  
16 hard question. I mean, I still have trouble getting  
17 there. I'm not going to lie, I have trouble getting that  
18 they're going to be able to get there.

19           MR. OXER: Well, let me ask this, they have to  
20 get their in-service date by 12/31/16?

21           MS. MORALES: Yes, sir.

22           MR. OXER: Okay. So that's 14 months out, more  
23 or less, 14 and change. Are there interim milestones that  
24 they have to hit that give you some sense that you'll know  
25 before 12/30/16 that they're not going to make it?

1 MS. MORALES: The latest milestone that they  
2 had to reach was 10 percent test. Haymon Krupp submitted  
3 their 10 percent test on time; Tays did have to request an  
4 extension but has since submitted that 10 percent test  
5 documentation to us. In conjunction with getting these  
6 amendment requests and when we got the extension request  
7 for Tays, we were practically asking give us your  
8 construction timeline, let us see how you guys are going  
9 to make it. Just because these aren't straightforward new  
10 construction deals, they're demolition and reconstruction  
11 so there's some abatement that has to happen, they've got  
12 to relocate existing tenants, there's HUD involved in the  
13 approval process, and so they've got go through  
14 notification periods before they can move on other  
15 benchmarks.

16 They have given us a timeline that suggests  
17 that they will be substantially complete by the 12/31/2016  
18 date. There is some question with respect to whether all  
19 units will be done, which is a requirement of the  
20 Department on top of the Code requirement. They can place  
21 in service by documenting that one unit in each building  
22 is ready for occupancy, and per Code that satisfies,  
23 Internal Revenue Code. However, the Department's rules,  
24 which have been in place for as long as I've been here,  
25 requires that all units be ready and suitable for

1 occupancy. And so that's one of the concerns that staff  
2 has brought up during our conversations with the owner  
3 about whether that would be done. Again, the owner has  
4 indicated to us they are committed to having these things  
5 done.

6 MR. IRVINE: I'd like to clarify one thing.  
7 It's not Department rule that requires all units, it's a  
8 provision in the carryover agreement that contractually  
9 obligates them to have all units in service by 12/31, and  
10 staff is in the process, as we prepare the new carryover  
11 agreements, of conforming to IRC criteria. The rule  
12 basically conforms to the IRC. Obviously, there are  
13 tremendous financial incentives to get everything online  
14 and have a basis to support claiming credits as soon as  
15 possible.

16 MR. CHISUM: Mr. Chairman, I have a question.

17 MR. OXER: Yes, sir, Mr. Chisum.

18 MR. CHISUM: In looking at the information that  
19 you handed out, page 10 of 14, it lists several situations  
20 that would come into play should the project not be  
21 completed, and the very first one is failure to place the  
22 project in service on or before the earlier of December  
23 31, 2016 or the date required by the agency. Carlton  
24 Guarantors shall guarantee this obligation. Do you see  
25 where I am?

1 MS. MORALES: No, I don't. I'm sorry.

2 MR. CHISUM: It's page 10 of 14 on the  
3 information that was passed out, after all of the  
4 drawings, dated June 26.

5 MS. MORALES: So this looks like it is a letter  
6 of intent agreement form Hunt, who is a partner in this  
7 development.

8 MR. CHISUM: Right. It's signed by Dana Mayo,  
9 senior vice president of Hunt Capital, and it's signed  
10 also by Gerald -- I can't read his last name.

11 MR. OXER: Cichon.

12 MR. CHISUM: Okay. But if you'll just back up  
13 to page 10 you'll see the listing there, and I want to  
14 know who Carlton is.

15 MS. MORALES: I believe Carlton is the  
16 contractor. Yes, it's the contractor.

17 MR. OXER: So in the event that they default,  
18 what happens?

19 MR. CHISUM: That's where I'm going.

20 MR. OXER: I know.

21 MS. MORALES: I think the owner can probably  
22 answer that question better than I can.

23 MR. OXER: Okay. The protocol says that we  
24 have a motion to consider. Staff has recommended approval  
25 of the amendment. Is there a question from the Board?

1 (No response.)

2 MR. OXER: Okay. Motion to consider?

3 MS. BINGHAM ESCAREÑO: So moved.

4 MR. OXER: Motion by Ms. Bingham to approve  
5 staff recommendation on this item.

6 MR. CHISUM: Second.

7 MR. OXER: And second by Mr. Chisum.

8 Anybody want to say anything since you're  
9 getting what you want, Barry?

10 MR. PALMER: Just if you wanted a response to  
11 that question.

12 MR. OXER: I think that's a good idea.

13 MR. PALMER: Barry Palmer with Coats Rose,  
14 representing the Housing Authority of El Paso.

15 So with this amendment in place we will proceed  
16 to closing very shortly on Krupp in a couple of weeks, and  
17 at the closing, the tax credit investor -- who is Hunt  
18 Capital in that letter that you were reading from, Mr.  
19 Chisum, their name has since changed to Alden Torch, but  
20 they are the tax credit investor -- they'll be putting in  
21 millions of dollars into this development, and they  
22 require guarantees from the developer that the project be  
23 placed in service or else they'd have to pay the money  
24 back to the tax credit investor if the tax credits weren't  
25 available to be claimed.

1 MR. OXER: So they've got a hook that's going  
2 to hurt if they don't hit 12/31/16.

3 MR. PALMER: Right.

4 MR. OXER: Good answer.

5 Anybody else want to say anything on this item?

6 (No response.)

7 MR. OXER: Good answer.

8 (General laughter.)

9 MR. OXER: Motion by Ms. Bingham, second by Mr.  
10 Chisum to approve staff recommendation on item 4,  
11 application 14127 and 14130.

12 Did you want to clarify?

13 MR. IRVINE: I did want to make a comment.

14 MR. OXER: Okay. Let's do that.

15 MR. IRVINE: This is a phenomenally significant  
16 piece of an even more significant undertaking by the  
17 Housing Authority of the City of El Paso. They've got an  
18 awful lot on their plate. They've got phenomenally deep  
19 partners in their endeavor, but it's really a challenge,  
20 and quite honestly, staff was looking at documents that  
21 were put together with the best of intentions, but it's a  
22 fast-moving, multi-faceted beast and there were  
23 inconsistencies and so forth, there were timeline  
24 questions, and all kinds of things.

25 And at the end of the day it was really

1 important, I think, to me and to my team that we sit down  
2 with Gerry Cichon and look him in the eye because he's the  
3 guy that's at the apex of this organization and say,  
4 Gerry, can you get it done? And he looked me back in the  
5 eye and said, Tim, absolutely; we will do whatever it  
6 takes to get it done. And the reason that this item, even  
7 though it's got an approval recommendation, is in front of  
8 you in this particular manner is I wanted you to have the  
9 benefit of looking Gerry in the eye and hearing that from  
10 him.

11 MR. OXER: Actually, I'd like to have the  
12 benefit of having Gerry come up here and put it on record.

13 Welcome to the box, Gerry. Jump in.

14 (General laughter.)

15 MR. CICHON: Good afternoon. Gerry Cichon,  
16 Housing Authority El Paso CEO.

17 I just want to let you know that, yes, there's  
18 been a lot of challenges with this. As you know, we just  
19 closed '14 tax credits not more than seven months ago,  
20 we've got a lot of construction and a lot of things  
21 moving. As you also know, getting that letter that you  
22 all requested with HUD put us back behind on Tays by about  
23 six months. So there's a lot of things that happened  
24 along the way that kind of put some of these things back,  
25 and that is true, but we are the housing authority, we are

1 very sophisticated in this, we do have fantastic partners,  
2 all of which are here, and we are committed to making sure  
3 that this is accomplished and accomplished on time, and  
4 we'll get every resource that the housing authority has  
5 available to it to ensure that that happens.

6 MR. OXER: Okay. Single question, yes or no.  
7 Will you have it in service by 12/31 next year?

8 MR. COCHON: Yes.

9 MR. OXER: Good. All right. For the guys that  
10 are here that are supporting and your partners in this,  
11 don't let it be misunderstood or misstated, we very much  
12 appreciate the effort that you're putting into this, and  
13 we've got a lot of trust in Gerry, we've seen him do  
14 things before, but we want to see this work too. Okay?

15 We have a set of rules and there are things, we  
16 do a lot of work to protect the integrity of our rules and  
17 the timelines that we're working under, so we appreciate  
18 that you're here to support Gerry, because Gerry is going  
19 to have to talk to us in January of 2017. Thanks.

20 Anybody else on that particular item?

21 (No response.)

22 MR. OXER: Barry, good clarification.

23 Appreciate that.

24 MR. CHISUM: Thank you very much. Appreciate  
25 it.

1 MR. OXER: That's on those two items.

2 MS. MORALES: We have one more item for you.

3 MR. OXER: Hold on, we're not finished yet. We  
4 have a motion by Ms. Bingham and a second by Mr. Chisum to  
5 approve staff recommendation on item 4 for applications  
6 14127 and 14130, only those two. And we've had public  
7 comment. Those in favor?

8 (A chorus of ayes.)

9 MR. OXER: And opposed?

10 (No response.)

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

12 We go to the third application which is 13417.

13 MS. MORALES: Correct. This is the last  
14 application under item 4, Masters Ranch which is file  
15 number 13417. Masters Ranch received an award of 4  
16 percent Housing Tax Credits in 2013 to construct 252 new  
17 multifamily units in San Antonio. The application  
18 submitted for Masters Ranch proposed that 100 percent, all  
19 252 units, would be rent-restricted to serve low income  
20 tenants at 60 percent of area median income. The  
21 Department evaluated that application and the Board  
22 approved the application under that original proposal.  
23 Ultimately, a determination notice for approximately  
24 \$808,000 annually and 4 percent tax credits was issued.

25 In March of this year the City of San Antonio,

1 which is the development owner, notified the Department of  
2 a change to the application where they were wanting to  
3 convert 15 of the 252 units from low income to market  
4 rate. The total number of units remains unchanged other  
5 than converting to market rate. According to the  
6 information presented to us by the owner, this change was  
7 being requested as a result of a local city council  
8 representative that was asking in order to get support  
9 from the neighborhood for this application. To date, this  
10 is all the information that staff has really gotten  
11 related to the request.

12 Under Subchapter E, 10.405(a)(7), our rules  
13 require that any amendments involving a reduction in the  
14 total number of low income units has to be accompanied  
15 with evidence to support such a request. Among that would  
16 be written confirmation from the lender and syndicator  
17 that basically the development would be infeasible without  
18 converting these units over to market rate. We have asked  
19 for that information; we have not received it. We did  
20 receive revised financial exhibits with the amendment  
21 request. Underwriting took a look at that, reevaluated  
22 the transaction based on the changes represented and  
23 proposed, and has issued an addendum to the original  
24 underwriting report, however, staff has not received any  
25 information to suggest that this deal is not feasible as

1 it was originally proposed which is 100 percent of the  
2 units be rent-restricted to low income tenants.

3 So because of that, staff recommends denial of  
4 the amendment request.

5 MR. OXER: Any questions from the Board?

6 MR. CHISUM: I do have a question.

7 MR. OXER: Okay. Mr. Chisum.

8 MR. CHISUM: I notice that the bank is Frost  
9 Bank. Have they been advised of this proposed change?

10 MS. MORALES: I don't know. We were notified  
11 about the change initially from the HUD local office  
12 because I think they're doing their financing with a HUD  
13 loan. I don't know if the other partners are aware, I'm  
14 assuming they are, but if the owner is here, they could  
15 answer that question. As I understand it, the equity  
16 investor is aware but I don't know about the first lien  
17 lender.

18 MR. OXER: Any other questions?

19 (No response.)

20 MR. OXER: Okay. We'll have a motion to  
21 consider before we take public comment.

22 MR. GOODWIN: So moved.

23 MR. OXER: Motion by Mr. Goodwin to approve  
24 staff recommendation on item 4 for application 13417. Do  
25 I hear a second?

1 MR. CHISUM: Second.

2 MR. OXER: Second by Mr. Chisum.

3 I take it you folks would like to make a  
4 comment. Ms. Bast.

5 MS. BAST: I am available to answer Mr.  
6 Chisum's question. This is Cynthia Bast. I do represent  
7 the developer in this transaction and I can tell you that  
8 all of the financing parties are aware of this  
9 circumstance. The transaction financing has actually  
10 closed at this time.

11 MR. CHISUM: Thank you. That's what I was  
12 looking for.

13 MR. OXER: That change anybody's position?

14 MR. CHISUM: No, sir.

15 MR. OXER: Any other public comment on this  
16 item?

17 (No response.)

18 MR. OXER: There's been a motion by Mr.  
19 Goodwin, second by Mr. Chisum to approve staff  
20 recommendation on item 4 with respect to application  
21 13417. There's no other public comment. Those in favor?

22 (A chorus of ayes.)

23 MR. OXER: And those opposed?

24 (No response.)

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

1           Okay. We're at the end of the posted agenda.  
2 We're going to go into a brief executive session because  
3 of some legal affairs we need to attend to. Everybody sit  
4 still for a second.

5           The Governing Board of the Texas Department of  
6 Housing and Community Affairs will go into closed or  
7 executive session at this time. The Board may go into  
8 executive session pursuant to Texas Government Code  
9 551.074 for the purposes of discussing personnel matters,  
10 pursuant to Texas Government Code 551.071 to seek and  
11 receive the legal advice of its attorney, pursuant to  
12 Texas Government Code 551.072 to deliberate the possible  
13 purchase, sale, exchange or lease of real estate, and/or  
14 pursuant to Texas Government Code 2306.039(c) to discuss  
15 issues related to fraud, waste or abuse with the  
16 Department's internal auditor, fraud prevention  
17 coordinator or ethics advisor.

18           The closed session will be held in the anteroom  
19 of this room which is John H. Reagan Building 140. The  
20 date is October 15 and the time is 11:20. I expect we'll  
21 be back within half an hour so we'll be right back.

22           (Whereupon, at 11:20 a.m., the meeting was  
23 recessed, to reconvene this same day, Thursday, October  
24 15, 2015, following conclusion of the executive session.)

25           MR. OXER: The Board is now reconvened in open

1 session at 12:10. During executive session the Board did  
2 not adopt any policy, position, resolution, rule,  
3 regulation, or take any formal action or vote on any item.

4 We have nothing hanging on the agenda, if I  
5 recall correctly, so we are at the point in the agenda  
6 where we will take public comment on matters for items  
7 other than those which were posted on the agenda. Those  
8 of you, and I gather there are several there, who wish to  
9 make comment on the QAP, I will remind you that if you  
10 made comments on the QAP before, potentially this morning,  
11 those comments are in the public record and will be  
12 considered. If you make any comments on the QAP, since  
13 this is in an area where we're simply taking input for  
14 future agendas, we will not be able to respond to you,  
15 only be able to accept your comments. Since we're doing  
16 pretty good on the clock here, I'll continue to run a hard  
17 clock and it will be three minutes apiece at the most.  
18 Okay?

19 Barry, did you want to go first?

20 MR. PALMER: Barry Palmer with Coats Rose.

21 I wanted to speak to ask that the Board  
22 consider putting on the agenda for the next meeting a  
23 clarification on the placed in service deadline for  
24 projects that are under construction with 2013 or 2014 tax  
25 credits. It was mentioned earlier that there is a

1 difference in the IRS definition of placed in service is  
2 that you have a certificate of occupancy for one unit in  
3 each building by 12/31 of the year. The TDHCA doesn't  
4 have a rule on this in its rules but in the carryover  
5 agreements for the last several years there's been a  
6 provision that says you have to have certificates of  
7 occupancy on 100 percent of the units by 12/31, and I  
8 think Tim mentioned that in the 2015 carryover agreement  
9 that's been changed and that now the Department is going  
10 to be following the IRS definition of what placed in  
11 service is.

12 It's important for a number of projects that  
13 are under construction. I think you're going to see in  
14 the coming months, as you know, there were a number of  
15 federally declared disasters this year in Texas, mostly  
16 flooding, which have caused a lot of projects to be behind  
17 schedule, and there is the ability to get an extension of  
18 the placed in service deadline in certain situations where  
19 there have been nationally declared disasters and you'll  
20 be seeing some requests for that.

21 But it would also help projects trying to meet  
22 the deadline if we just follow the federal guidelines  
23 which are a little bit more lenient so that you can make  
24 the placed in service deadline by having one unit  
25 completed in each building by the deadline, and then

1 obviously you would have to complete the rest of the units  
2 in a short time thereafter. If you've got a certificate  
3 of occupancy on a unit in a building, the building is  
4 obviously pretty far along.

5 So this is something that is very important to  
6 the development community, not just the projects we talked  
7 about earlier, but we have a number of clients where this  
8 is an issue and that we would like some clarification on  
9 it and some relief to go by the federal definition of what  
10 placed in service means.

11 MR. OXER: So you're looking for an alignment  
12 of those two.

13 MR. PALMER: Right. To, in effect, change the  
14 carryover agreements for 2013-2014 deals to have them  
15 follow the same placed in service definition that the IRS  
16 requires.

17 MR. OXER: Okay. Thanks, Barry.

18 MS. SARAH ANDERSON: If I could just follow up  
19 on the same topic. Sarah Anderson, SAnderson Consulting.

20 I have to admit that I did not realize that the  
21 carryover documents, until it was brought up recently,  
22 were actually different and I know that it's reading the  
23 details that sometimes you don't see. Now, I will say  
24 that it went back when I was trying to find this rule --  
25 and this is when we realized it wasn't in the rules -- I

1 did do a little bit more research and I will send it to  
2 staff, but I went back all the way to try and find where  
3 this language existed because I looked back at my  
4 carryovers for the last ten years and they all had that  
5 language. So I started looking at all the QAPs and made  
6 it all the way back to 2003 and that's the last time --

7 MR. OXER: That's just after they had invented  
8 fire. Right?

9 (General laughter.)

10 MS. SARAH ANDERSON: Exactly. And that's the  
11 last time that this language was actually in the rules.  
12 So in 2003 it was a rule that said the definition of  
13 placed in service was all the units in a building. 2004  
14 there evidently was a private letter ruling by the IRS  
15 which gave this definition that now exists that it's one  
16 unit per building. So the 2004 QAP actually changed in  
17 response to that ruling and the language specifically said  
18 placed in service deadline is one unit per building.

19 That stayed in effect until 2011 where the  
20 rules were really pulled and moved and put in different  
21 places and the language just sort of disappeared, and all  
22 references from there on, I think -- and the legal people  
23 can confirm -- I believe that the legal references then  
24 are to the IRS Code. I think what might have happened is  
25 that when the change happened in 2004 the language wasn't

1 removed from the carryover documents. So I would  
2 encourage somebody else to do additional research.

3 MR. OXER: So you're saying that essentially  
4 the documents weren't keeping up with the QAP.

5 MS. SARAH ANDERSON: I think that it was  
6 specifically changed on the part of the Department from  
7 2003 to 2004 to meet the federal definition but that the  
8 carryover document itself wasn't cleaned up to match that  
9 change in the QAP.

10 MR. OXER: We can't address it today, but of  
11 course it will be considered in a future agenda.

12 MS. SARAH ANDERSON: Exactly. I just wanted to  
13 point that out. I'll send the information because I think  
14 that that clarifies why we sort of have this dissonance  
15 maybe. Thank you.

16 MR. OXER: Thanks.

17 David.

18 MR. NISIVOCIA: Again, thank you, Mr. Chair  
19 and members of the Board. My name is David Nisivoccia.  
20 I'm the interim president and CEO of the San Antonio  
21 Housing Authority.

22 I want to talk to you about the QAP,  
23 specifically the educational excellence aspect of the  
24 proposed language. There are some people who are going to  
25 be speaking behind me who will get into more of the

1       specifics of it but I wanted to give you a global  
2       perspective, therefore, I won't dominate your time today  
3       out of respect for your schedule.

4               The general points I would like to put across  
5       is the challenge of the proposed language would greatly  
6       put our project in jeopardy based upon the fact that we  
7       have already invested in and this Board has invested in  
8       two phases of tax credits for the Wheatley project. We'll  
9       be coming forth on our third phase which will complete  
10       about a 1,417 particular unit redevelopment, and the  
11       change, we fear, would stifle that redevelopment.

12              What's going around in this community on the  
13       near east side of San Antonio is about \$200 million of  
14       investment of which Wheatley Courts is the genesis of all  
15       the reason for the investment. Choice Project, which we  
16       have a grant through the federal government, deals with  
17       three aspects of a community: one is people, one is  
18       housing, and one is neighborhood.

19              The people component, obviously, are the  
20       children and the schools, and we have someone from SAISD  
21       who will talk about the progress we're making regarding  
22       the schools. The people component, obviously, in regards  
23       to the children who attend these schools, one of the major  
24       factors of them being able to move forward and achieve  
25       success is a stable home, and what we're providing in that

1 neighborhood with this redevelopment is a stable home.  
2 And the last part is the neighborhood where I'm talking  
3 about the \$200 million worth of investment which will  
4 dramatically change this side of town in San Antonio.

5 It's an effort we're happy to be behind, and in  
6 fact, we have submitted letters for the record, which I  
7 won't summarize for you, that have federal support, state  
8 support, local governmental support, and other like  
9 organizations as the San Antonio Housing Authority. And  
10 so I come before you today to ask you to reconsider the  
11 language that will be in the QAP regarding educational  
12 excellence, and I very much appreciate your time and  
13 consideration. Thank you.

14 MR. OXER: Thanks, David.

15 MR. CHISUM: Thank you.

16 MS. BURNS: Good afternoon. Mary Ellen Burns,  
17 United Way of San Antonio and Bexar County.

18 We are the lead entity for the Eastside Promise  
19 Neighborhood Grant which we are conducting in partnership  
20 with the San Antonio Housing Authority, the City of San  
21 Antonio, and of course, the San Antonio Independent School  
22 District. I'm here today to talk to you about this  
23 amazing initiative that is being conducted in tandem with  
24 the Choice Neighborhood effort. The whole idea of Promise  
25 Neighborhood is to build a cradle to career pipeline that

1 allows children from the beginning to the end of their  
2 high school to be ready for college and career to be  
3 successful in their future, and we're making significant  
4 progress.

5           So today I want to talk to you about that  
6 progress. I also want to address one challenge. On the  
7 progress side, early childhood. When we started this  
8 grant most of the children, the vast majority of children  
9 were showing up to kindergarten highly unready for  
10 kindergarten, very developmentally behind. Today over 90  
11 percent of our three-year-olds are developmentally on  
12 track in our formal care, significant change.

13           We went up the pipeline into elementary school.  
14 All three elementary schools in this neighborhood are on  
15 track. The performance has significantly improved,  
16 they've met their benchmarks, and in fact, the three  
17 elementary schools actually outpaced the district in their  
18 science scores. They have science, technology,  
19 engineering and math focus and they're doing very well.  
20 The attendance is up as well. I'm going to come back to  
21 middle school.

22           Let's go to high school. We're holding at 80  
23 percent, the students are graduating at 80 percent, but  
24 probably more significant is the fact that a few years ago  
25 only 44 percent of those kids, the students enrolled in

1 college, last year, this fall, 79 percent of the students  
2 enrolled in college. Significant progress.

3 Let's go back to middle school. Here's our  
4 challenge. Wheatley Middle School experienced a decline  
5 in their academic performance last year but not across the  
6 board. Sixth and seventh grade students on track, the  
7 real issue is in eighth grade. We evaluated that, we  
8 analyzed that and discovered that the eighth grade  
9 students were different from the seventh grade students  
10 the year before, in other words, a significant change had  
11 taken place. Many of the Wheatley families had moved out,  
12 many families moved in. Those eighth graders were  
13 significantly behind in their reading development. We  
14 didn't catch that, we didn't catch that early enough.

15 We have already intervened with this year's  
16 eighth grade students across the board to make sure we had  
17 early warning systems in place so we don't miss the fact  
18 that when a variation like that happens in our population  
19 we can intervene quickly and early. We expect significant  
20 improvement at Wheatley. We're going to sustain those  
21 interventions so that we don't miss this in the future,  
22 and we're very optimistic about the future of the whole  
23 neighborhood. Thank you.

24 MR. OXER: Thank you, Ms. Burns.

25 DR. CASTRO: Good afternoon. My name is Dr.

1 Emilio Castro, deputy superintendent for the San Antonio  
2 Independent School District. I want to begin by thank you  
3 all for the very important work that you do.

4 Collaborative consciousness, which has been  
5 recognized by the White House as a promising national  
6 model of collective efforts and collective impact for  
7 excellence and implementing a continuum of educational and  
8 community outcomes, has enhanced the solutions from cradle  
9 to career success in San Antonio ISD.

10 These things have primed the pump for our new  
11 superintendent to work diligently with board of trustees,  
12 staff, parents, business and community partners to  
13 establish a very aggressive five-year plan that the  
14 metrics include 90 percent graduation rates, 80 percent of  
15 all of our students are graduates attending college, and  
16 the expectations that all of our schools will meet the A  
17 and B rating in this upcoming state accountability. We  
18 know that these goals are not only possible but they're  
19 feasible because over the last five years our graduation  
20 rates have improved from 69 to 81 percent and we predict  
21 those graduation rates will continue to climb.

22 SAISD is home to the Young Women's Leadership  
23 Academy. It's an all-girls public school that's the only  
24 National Blue Ribbon School in Bexar County. Of over 300  
25 private, public and charter schools, that's the only

1 school that's been recognized for national excellence in  
2 academics. We've now opened up an all boys public school  
3 in the impact zone and we quickly anticipate we'll see  
4 similar results of high academic achievement in the impact  
5 zone. Last year we also opened our second early college  
6 high school at St. Phillip's College in the impact zone  
7 near Wheatley Middle School, and this year we've opened  
8 our third early college high school.

9 Finally, Wheatley Middle School continues to  
10 improve significantly, as Mary Ellen Burns just spoke  
11 about, but we also opened up Wheatley Middle School as a  
12 community school where we're already seeing significant  
13 impacts in supporting educational excellence by engaging  
14 the community through community-led leadership efforts.  
15 The Wheatley Community School has already been featured in  
16 NPR as a model of excellence.

17 The work towards educational, economic and  
18 community housing excellence cannot be overstated. The  
19 efforts led by the San Antonio Housing Authority, United  
20 Way, the San Antonio Independent School District and our  
21 mayor, along with over one hundred partners, continues to  
22 make this part of town a highly desirable living space  
23 with educational excellence at the focus. Your  
24 reconsideration of the school impact criteria will allow  
25 us to support greater access to the American dream in this

1 neighborhood which has not seen this much hope and  
2 inspiration in many, many years.

3 Thank you so very much for your time and your  
4 consideration.

5 MR. OXER: Thank you, Dr. Castro.

6 MR. CHISUM: Thank you.

7 MR. ETIENNE: Good morning, Mr. Chairman,  
8 members of the Board. My name is Mike Etienne. I'm the  
9 director of real estate for the City of San Antonio.

10 I'm here essentially to support or echo what  
11 David Nisivoccia, the executive director for the housing  
12 authority said. Essentially, the City of San Antonio is  
13 highly committed to revitalizing its inner city  
14 neighborhoods. We have recently targeted six  
15 neighborhoods for significant city investments to  
16 revitalize those neighborhoods. One of those  
17 neighborhoods is the Wheatley Courts community. In that  
18 neighborhood alone, the city has invested over \$100  
19 million in city funds, to include bond funds, CDBG, HOME,  
20 and also street improvements.

21 We have seen significant improvements. For  
22 example, in this neighborhood where Wheatley Courts is,  
23 crime has reduced by 7 percent, violent crime down by 7  
24 percent. Poverty rate, which is a big thing that we are  
25 tracking, has been reduced from 35 percent to 32 percent

1 in one year. We're seeing more private investors moving  
2 in. Zachry is building a new multifamily unit that's 245  
3 units, \$45 million in the area. So we are seeing  
4 significant investment in those areas.

5 So again, I'm here to support the housing  
6 authority and also to ask for your support in ensuring  
7 that we provide maximum points when it comes to Low Income  
8 Housing Tax Credits because the use of Low Income Housing  
9 Tax Credits as a financing tool is critical to helping us  
10 revitalize those neighborhoods.

11 So again, thank you for supporting the first  
12 and second phase of the Wheatley Courts project, and we  
13 are looking forward to your support of the third phase.  
14 So thank you again for your continued support of the city  
15 projects.

16 MR. OXER: Thanks, Mike.

17 MR. LONG: Chairman Oxer and members of the  
18 Board. My name is Matt Long and I'm with Gaetano Housing.

19 I'd like to comment on a proposed change to the  
20 QAP which would create a scoring disadvantage to a large  
21 group of developers in Texas. The new rule proposes to  
22 incentivize developers who own existing portfolios in the  
23 urban 811 service areas by creating a special point  
24 category that's only available to them. These same points  
25 will not be available to persons who do not own units in

1 these regions.

2 In order to understand the magnitude of this  
3 problem, it's important to note that out of the 26 urban  
4 and rural regions, only seven regions qualify for 811  
5 services. This means that developers from these seven  
6 areas will now have a scoring advantage over all of the  
7 regions and so will come to dominate LIHTC development  
8 across the state.

9 Here are a few examples of the problems this  
10 will cause. Developers in rural areas will now find the  
11 majority of their deals taken by large companies out of  
12 places like Austin, San Antonio, Houston and Dallas. Long  
13 established urban developers in non-811 areas like Corpus,  
14 Lubbock, Midland, Texarkana and Waco will now find  
15 themselves unable to win a deal in their own backyards.  
16 Nobody new will enter into the market because they can't  
17 win, and out-of-state developers will have to look for  
18 other states in which to invest their time and resources.  
19 All in all, this will be a very difficult policy for a  
20 large group of Texas developers.

21 If the goal for the rule is to put more 811  
22 units onto the ground, we'd get this, but there must be a  
23 way to incentivize developers in these areas without  
24 harming developers in the rest of the state. So all we  
25 ask is that you consider modifying the language in the

1 draft QAP and give all developers in all areas of Texas  
2 equal access to the same scoring items.

3 Thank you.

4 MR. OXER: Good. Thanks, Matt.

5 MS. MCGUIRE: My name is Ginger McGuire. I'm  
6 representing the Rural Rental Housing Association today,  
7 and I'd like to do two things.

8 Our members have talked about the rehab needs  
9 for rural housing, we have conducted a survey, and so it  
10 confirms what we thought but in a little more detail. I'd  
11 like to give you those results and then I'd like to talk  
12 about four areas where these properties and their  
13 residents are going to be impacted by recommendations in  
14 the 2016 QAP.

15 The survey results, what we asked was for the  
16 property owners to assess their own portfolio in \$10,000  
17 increments on hard cost needs for rehab. Rural Rental  
18 Housing Association has 701 member properties, USDA says  
19 they have 705 in the state, and so we by and large have  
20 just about all of the properties as members. And we got a  
21 response, by the way, from 53.3 percent of our members, so  
22 it's a significant representation of all units in Texas.

23 What we found is that over 75 percent of the  
24 units in Texas need a rehab amount of \$20,000 to \$50,000  
25 per unit, and here's how that broke down: \$20,000 to

1 \$30,000 in need, that was 26 percent of the units; \$30,000  
2 to \$40,000 in rehab need -- and again, this is hard cost  
3 only -- that was 26 percent of the units also; and then  
4 \$40,000 to \$50,000 was 24 percent of the units needed that  
5 amount. So it was pretty evenly divided over those  
6 categories.

7           Fifteen percent of all respondents said that  
8 either their units don't need rehab or they had just  
9 recently been rehabbed. So by and large the smaller  
10 amount, and then there were just .3 percent that needed  
11 more than \$60,000.

12           We asked the age of the properties. Almost 20  
13 percent were more than 35 years old, they were placed in  
14 service prior to 1980, there were 40 percent placed in  
15 service between 1980 and 1990, and 37 percent placed in  
16 service between 1990 and 2000. And just as an aside, of  
17 interest for us was that 9 percent of all responding  
18 properties were the only properties in town; 57, or 17  
19 percent of the responding properties still needed a  
20 laundry room onsite; and 29 percent of the properties  
21 needed a community room.

22           Now, how these properties and their residents  
23 are going to be affected in this year's QAP by some of the  
24 recommendations, I'll just stick with four because we  
25 think they're the ones that impact us the most, although

1 we did turn in a written comment and so this is some  
2 reiteration.

3 First of all, the USDA set-aside -- may I  
4 continue fast -- the USDA set-aside, farmworker housing  
5 new construction has been added. We would like to ask  
6 that because these rehab units will be competing with new  
7 construction that no more than one new construction  
8 transaction be awarded in the USDA set-aside annually, and  
9 we ask that that be limited to \$750,000 in credits.

10 Senior parity, we too are affected by HB 311.  
11 We ask for clarity on that point. Aging in place, QAP 8,  
12 is going to be extremely challenging for the USDA set-  
13 aside because those properties, it's going to be almost  
14 financially impossible to make them 100 percent  
15 accessible, and USDA does not permit the use of property  
16 funds for services, and so those are three of the points  
17 that we will not be able to access.

18 And lastly, I'd like to mention 811 that others  
19 have mentioned today. USDA owners and managers have  
20 focused their careers, sometimes their children's and  
21 their grandchildren's careers, on owning and managing  
22 rural properties, they do not own urban properties in most  
23 urban areas that are permissible for the urban 811.

24 Thank you very much.

25 MR. OXER: Thanks, Ginger.

1 Terri.

2 MS. TERRI ANDERSON: Good afternoon. Terri  
3 Anderson, Anderson Development and Construction.

4 My only comment is more of a public service  
5 announcement. I'm a two-year breast cancer survivor, it's  
6 Breast Cancer Awareness Month, so just encourage your  
7 loved ones to do self-examinations and get their  
8 mammograms. Thank you.

9 MR. OXER: Thanks for your note. Good point.

10 Okay. Apparently there are no other requests  
11 for public comment. Any member of the staff or audience  
12 care to make any comment?

13 (General talking and laughter.)

14 MR. OXER: Any member of the Board or anybody  
15 on the staff here?

16 (No response.)

17 MR. OXER: Okay. As chairman I get the last  
18 word. It's a good thing we do here. The Board, more than  
19 you can imagine, appreciates the efforts of the staff, we  
20 know how hard you work at it and we appreciate that. We  
21 try to bring our attention and game face for this when  
22 we're coming.

23 With that, we'll entertain a motion to consider  
24 for adjournment.

25 MR. CHISUM: So moved.

1 MR. OXER: Motion by Mr. Chisum to adjourn.

2 MS. BINGHAM ESCAREÑO: Second.

3 MR. OXER: And a second by Ms. Bingham. No  
4 public comment. Those in favor?

5 (A chorus of ayes.)

6 MR. OXER: Opposed?

7 (No response.)

8 MR. OXER: There are none. See you in a month,  
9 everybody.

10 (Whereupon, at 12:34 p.m., the meeting was  
11 adjourned.)

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MEETING OF: TDHCA Board  
LOCATION: Austin, Texas  
DATE: October 15, 2015

I do hereby certify that the foregoing pages, numbers 1 through 82, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

\_\_\_\_\_  
(Transcriber) 10/20/2015  
(Date)

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