

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

May 26, 2016  
10:00 a.m.

BOARD MEMBERS PRESENT:

J. PAUL OXER, Chair  
TOM H. GANN, Member  
J.B. GOODWIN, Member  
DR. JUAN S. MUÑOZ, Member  
LESLIE BINGHAM ESCAREÑO, Member

TIMOTHY K. IRVINE, Executive Director

*ON THE RECORD REPORTING*  
(512) 450-0342

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- h) Presentation, Discussion, and Possible Action regarding Authorization to Release a Notice of Funding Availability (NOFA) for the Programming of Program Income (PI) for the Neighborhood Stabilization Program Round One ("NSP1")

COMMUNITY AFFAIRS

- I) Presentation, Discussion and Possible Action on Approval of the Department's Administrative Plan for the Section 8 Housing Choice Voucher Program ("HCVP") Administered by TDHCA in its role as a Public Housing Authority
- j) Presentation, Discussion, and Possible Action on Release of the Draft FFY 2017 Low Income Home Energy Assistance Program ("LIHEAP") State Plan to be made available for Public Comment and to be announced in the Texas Register

RULES

- k) Presentation, Discussion, and Possible Action on an order proposing amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter H, Section 8 Housing Choice Voucher Program, §5.802, Local Operator ("LOs") for the Section 8 Housing Choice Voucher Program ("HCVP"), and directing that they be published in the Texas Register

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, April 2016
- b) Report regarding The Report on Customer Service as required by Chapter 2114 of the Texas Government Code
- c) Report on Activities Assisted under HOME Investment Partnerships Program ("HOME") Reservation System Participant ("RSP") Agreement No. 2015-0119 with the Institute for Building Technology and Safety ("IBTS") to correct construction deficiencies on four single family homes located in Texas City and League City, Galveston County originally assisted by Ebenz Inc. ("Ebenz")

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P R O C E E D I N G S

1  
2 MR. OXER: All right. After a little brief  
3 technical delay, there. Good morning everybody. I  
4 welcome you to the May 6 meeting of the Texas Department  
5 of Housing and Community Affairs Board meeting.

6 VOICE: Mr. Chairman.

7 MR. OXER: Yes, sir.

8 VOICE: We are still having sound issues. They  
9 cannot hear you in the audience.

10 MR. OXER: Can you hear yet? All right.  
11 Somebody in the back. Are we good? Okay. Are you okay  
12 back there? This one is on.

13 Penny, are you good?

14 THE REPORTER: Uh-huh.

15 MR. OXER: Okay. Are you good there?

16 VOICE: Yes, sir.

17 MR. OXER: Okay. Captain Tweety says we are  
18 all right. Are we getting out? Have somebody at home  
19 email to make sure we are getting it out. All right.  
20 Let's have the roll call.

21 Ms. Bingham.

22 MS. BINGHAM ESCAREÑO: Here.

23 MR. OXER: Mr. Chisum is not with us today. He  
24 is recovering from a broken leg; a broken lower leg, I  
25 would point out. I saw him Tuesday. He's getting about

1 but it's still pretty uncomfortable.

2 Mr. Gann.

3 MR. GANN: Here.

4 MR. OXER: Mr. Goodwin.

5 MR. GOODWIN: Here.

6 MR. OXER: Dr. Muñoz.

7 DR. MUÑOZ: Here.

8 MR. OXER: And I am here. That gives us a  
9 quorum of five. So Tim, lead us in flag.

10 (Whereupon, the Pledge of Allegiance was  
11 recited.)

12 (Whereupon, a Pledge to the Texas Flag was  
13 recited.)

14 MR. OXER: Okay. Is Representative Sheffield  
15 here yet? Okay. There you go. Just wanted to recognize  
16 the Representative. We'll have you on first, here. We  
17 will take care of your comments first thing, when we get  
18 to that point.

19 Is Bobby here. Bobby? Hey, there he is in the  
20 back. Always happy to have the Governor's Office watching  
21 what we are doing. So let's see. Michael, I think you've  
22 got something to read into the agenda on Home Ownership  
23 Month.

24 MR. LYTTLE: Yes, sir. June is a very  
25 important month, besides being the birth month of Captain

1 Tweety, whose birthday, by the way, is June 16, on the  
2 Board meeting. So if you all want to buy me a present or  
3 something.

4 MR. OXER: There we go.

5 MR. LYTTLE: More importantly, it is the  
6 recognition of Home Ownership Month in Texas. And so the  
7 following resolution is part of our Board agenda. It  
8 reads as follows.

9 "Whereas, June 2016 is Home Ownership Month in  
10 Texas. Whereas, the goal of the Texas Department of  
11 Housing and Community Affairs is to ensure that all Texans  
12 have access to safe and decent affordable housing.

13 "Whereas, it is the policy of the Department to  
14 support equal housing opportunities in the administration  
15 of its homebuyer and home ownership programs and services.  
16 Whereas, this year, the Department is celebrating 35 years  
17 of offering affordable first time homebuyer assistance to  
18 eligible buyers throughout the State of Texas.

19 "Whereas, since 1981, the Department has served  
20 as the State's housing finance agency, providing a choice  
21 of mortgage products and services to accommodate market  
22 opportunities and buyer needs as appropriate. Whereas,  
23 the Department recently launched a brand new, free online  
24 homebuyer education tool, Texas Homebuyer U, to ensure  
25 buyers are informed and prepared for successful home

1 ownership.

2 "Whereas, the Department applauds all those who  
3 work to achieve and maintain affordable responsible home  
4 ownership, and recognizes those who provide services and  
5 resources to all home buyers, regardless of race, color,  
6 national origin, religion, sex, disability, or familial  
7 status. And whereas, the Department encourages Texans to  
8 explore the numerous resource available during Home  
9 Ownership Month and throughout the year.

10 "Now therefore, it is hereby resolved that in  
11 the pursuit of the goal and responsibility for providing  
12 affordable home ownership opportunities for all, the  
13 Governing Board of the Texas Department of Housing and  
14 Community Affairs does hereby celebrate June 2016 as Home  
15 Ownership Month in Texas, and encourages all Texas  
16 individuals and organizations public and private to join  
17 and work together in this observance of Home Ownership  
18 Month. Signed, this 26th day of May, 2016."

19 MR. OXER: Good. All right. Thanks, Michael.  
20 All right.

21 MR. IRVINE: The Board should adopt that.

22 MR. OXER: Do we have to do a formal adoption  
23 on that? We do have to do a formal adoption on that. So  
24 I'll entertain a motion to do, to approve the resolution.

25 MS. BINGHAM ESCAREÑO: I will move to so adopt.



1 MR. OXER: Okay. Motion.

2 MR. GANN: Second.

3 MR. OXER: Motion by Ms. Bingham. Second by  
4 Mr. Gann. Okay. No public comment. Those in favor?

5 (A chorus of ayes.)

6 MR. OXER: And opposed?

7 (No response.)

8 MR. OXER: We adopt the resolution. Thanks,  
9 Michael. All right. Let's get to work.

10 With respect to the consent agenda, we have one  
11 item that we'll have public comment. But we also, see if  
12 there is any member who wishes to pull any item on the  
13 consent agenda?

14 (No response.)

15 MR. OXER: Okay. With respect to Item 1(g), we  
16 have public comment. Okay. And we'll ask you to sign in  
17 right there. Make sure your name is legible. And keep  
18 your comments to three minutes, please.

19 MS. DENNIS: Thank you.

20 MR. OXER: Yes. Good morning.

21 MS. DENNIS: To the Board. Thank you for  
22 allowing me to speak. I just want to make a comment --

23 MR. OXER: We have to make one request. You  
24 have to state your name and who you represent for the  
25 transcript.

1 MS. DENNIS: Okay. My name is Deborah Dennis.  
2 And I represent WREM Literacy Group. We are a CHDO, and  
3 a contract administrator of HRA, or at least, was.

4 When we first started out in partnership with  
5 TDHCA, we started out to build 50 houses. And we have  
6 come to the end of our journey, only having built 22 of  
7 those 50 houses.

8 But I think it is completely apropos that we  
9 are here today, thanking you for the opportunity to help  
10 build those 22 houses. Because without TDHCA, those 22  
11 individuals would have either been still renters or still  
12 living in some extremely abject conditions.

13 And though I am exiting the program at the end  
14 of these three that I have underway, I want to implore the  
15 organization to keep moving toward home ownership, equally  
16 as you do with multifamily. Home-ownership empowers a  
17 person and the family.

18 And it revitalizes the community in ways that  
19 living in a multifamily complex will never do. And along  
20 research, we, when we started this, we researched how  
21 children who come of age living in their own home, and not  
22 in an extended family crowded situation, or not in the  
23 apartment complex, how well they do in school.

24 And it makes -- the research has shown that it  
25 makes them a better person. And it takes the pressure off

1 of the parent. And most of these are single mothers, to  
2 not have to work additional jobs, just so they can afford  
3 decent housing for their children.

4 So it is a wonderful thing that this program  
5 does. It is an extremely wonderful thing. And it breaks  
6 my heart to exit it. But when you become 62 years old,  
7 and it is retirement time, it is just something. It is  
8 time to go. And I just wanted to say thank you.

9 I have had a wonderful time. I have enjoyed  
10 what I have done. Tim, please excuse all the fights we  
11 have had. But it was in the honor of service. And I am  
12 so grateful. Thank you.

13 MR. OXER: You are welcome, Ms. Dennis. We  
14 appreciate your comments. And while we recognize that the  
15 fights are there, you know, I think it is fair to say -- I  
16 believe I would speak for the rest of the Board members,  
17 certainly, that it is our intent to do everything we can  
18 to propose that housing.

19 Certainly, we just announced Home Ownership  
20 Month. So we were happy to do what we could. So thank  
21 you very much, Ms. Dennis. Okay. With respect to the  
22 other items on the consent agenda, does any member wish to  
23 pull an item?

24 (No response.)

25 MR. OXER: Okay. I'll entertain a motion to

1 approve.

2 MS. BINGHAM ESCAREÑO: Move to approve the  
3 consent agenda.

4 MR. OXER: Okay. Motion by Ms. Bingham to  
5 approve the consent agenda as listed.

6 DR. MUÑOZ: Second.

7 MR. OXER: Second by Dr. Muñoz. No public  
8 comment is requested. Motion by Ms. Bingham. Second by  
9 Dr. Muñoz to approve the consent agenda as listed. Those  
10 in favor?

11 (A chorus of ayes.)

12 MR. OXER: Those opposed?

13 (No response.)

14 MR. OXER: There are none. It is unanimous.  
15 Okay. Before we get to any of this, Representative  
16 Sheffield, we are going to offer you an opportunity to  
17 speak first as a courtesy.

18 We appreciate the effort that you put forth.  
19 So we will give you a shot at making your comments and  
20 getting back to work, since we have to go to work, too.

21 DR. SHEFFIELD: Thank you, sir.

22 MR. OXER: Yes, sir.

23 DR. SHEFFIELD: Do I need to put my name on  
24 this list?

25 MR. OXER: Yes. You do.

1 DR. SHEFFIELD: Being a doctor, I will try to  
2 make it legible. All right.

3 Ladies and gentlemen, thank you for your time  
4 and allowing me to be here. I am here as State  
5 Representative House District 59 for eight counties in  
6 Central Texas. The county in question today, San Saba,  
7 the community of San Saba.

8 I need to give you a little outline of this  
9 area in Central Texas. It is a county of about 7,000  
10 population. A community of 3,000 population. So some  
11 people might call it small. We prefer to call it  
12 friendly.

13 It is in Central Texas, where some people might  
14 call it isolated. And we prefer to call it private. And  
15 it is the exact part of Texas, an area in small towns that  
16 people in cities like this work their entire working lives  
17 so they can then retire to places like San Saba.

18 As opposed to so many small communities in  
19 rural Texas, San Saba is growing on its own. Over the  
20 past census, it has gained instead of lost. And they are  
21 doing that by redoing their downtown, attracting new  
22 businesses, like some wineries. Attracting more tourism  
23 to that area.

24 The problem is, with so many small towns, there  
25 is a housing shortage. But it is small enough that no

1 developer can come in and put in a subdivision and make  
2 money off of it. But at the same time, there is no,  
3 virtually no rental property there.

4           There are new businesses coming in. A nursing  
5 home; we'll have 70 jobs. A ShopCo, 25 jobs. And as you  
6 know, we small town folks are always trying to pull in  
7 people to our small towns, especially two groups; retirees  
8 who want to come to that area, young couples with small  
9 kids who want to come and raise their kids in a small town  
10 in a small school.

11           So what has happened, San Saba has worked with  
12 Texas Housing Foundation. And they have planned a 36-unit  
13 multifamily property. The question here today is about  
14 the site. And six points in this program.

15           The gentlemen from San Saba are here behind me.  
16 They can give much more detail, because they live in that  
17 area. I would like to give you the high points as I  
18 understand them.

19           If you have a plat that looks like this.  
20 Eighty acres is in question. All owned by the City of San  
21 Saba from before this started to now. The address, 206  
22 North Harkey Street.

23           The address has stayed the same before this  
24 started until now. The 4.06 acres in question for this  
25 family unit is within this same 80 acres.

1           The problem we are here today, ladies and  
2 gentlemen, there was a clerical error. If you look on  
3 this plat, if you have a copy of it like I have, in this  
4 left hand corner, you will see an X. Well, that box and  
5 that X was supposed to be over here to the right on the  
6 same land.

7           Always owned by the City. Always the same  
8 address. Never having changed ownership. It was a  
9 clerical error.

10           MR. GOODWIN: Representative.

11           DR. SHEFFIELD: Yes.

12           MR. GOODWIN: Do we have a copy of this?

13           MR. IRVINE: Yes.

14           VOICE: It is in your Board book. It is in the  
15 supplemental.

16           MR. GOODWIN: I'm sorry.

17           DR. SHEFFIELD: So what we are here to  
18 respectfully ask is this be recognized as a simple  
19 unintentional cleric error with no attempt to cover over  
20 or shift. And we believe on -- let's see. Here is where  
21 I get lost in the doctor and not legal minded. You had  
22 this system to where --

23           MR. OXER: That is actually an advantage in our  
24 fiefdom. Counselor.

25           DR. SHEFFIELD: You have this system where you

1 could address these clerical errors that were simple  
2 mistakes. And allow the process and the program to  
3 continue on.

4 And ladies and gentlemen, that is my  
5 presentation. I want to keep this short. Do you have any  
6 questions that I could answer for you?

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

8 (No response.)

9 MR. OXER: That is fine.

10 DR. SHEFFIELD: May I approach and show you  
11 mine?

12 VOICE: Mine is page 114 out of 215.

13 MR. OXER: This one.

14 (Pause.)

15 MR. OXER: This may be a trivial question.

16 DR. SHEFFIELD: Yes, sir.

17 MR. OXER: Who marked the spot?

18 DR. SHEFFIELD: That name hasn't been put in  
19 print that I understand, sir. I have a gentleman from San  
20 Saba who will come up later and maybe will be better able  
21 to answer that question.

22 MR. OXER: And that is fine. I wanted to be  
23 certain to give you an opportunity, as a courtesy to the  
24 legislators we do that.

25 And assuming anybody is not twisted too tight



1 on this one, we will accept your comments at this point.  
2 Record those, have those in the record, and take this up,  
3 and see what is going to go through the agenda.

4 DR. SHEFFIELD: Yes, sir. And the section I  
5 was alluding to earlier, Section 11-9(f), development-  
6 sited application, at least in part development-sited  
7 preapplication. The census tract number listed at  
8 preapplication as the same in the application. That is  
9 what is highlighted on my papers.

10 MR. OXER: Okay. So specifically, we are just  
11 saying it is a clerical error?

12 DR. SHEFFIELD: Correct, sir.

13 MR. OXER: Okay. Any comments? Any questions  
14 from the Board?

15 (No response.)

16 MR. OXER: Okay. Dr. Sheffield, thanks very  
17 much for your comments.

18 DR. SHEFFIELD: Thank you very much for my  
19 time, and thank you for your service here.

20 MR. OXER: Okay. Keep that in mind Board  
21 members. We'll take it into account when we take up Item  
22 3, or take up Item 4(b). All right. With respect to the  
23 action items as they come.

24 All right, 3(a), Raquel. I think you are up  
25 first. Do I understand correctly that we have public

1 comment requested on this?

2 Peggy, are you going to read something in? We  
3 don't have anybody.

4 All right, one more. Hold on, Raquel. One  
5 more time. That is all right. No, get up here. One more  
6 time for housekeeping. And everybody that is a regular  
7 here knows this.

8 The first row up here on our left, room right  
9 here, the first row is reserved for those who wish to make  
10 comment on the item being considered. This chair right  
11 here, for the staff, TDHCA staff, who is responsible for  
12 that item.

13 Anybody wants to speak, get in this chair. We  
14 will take you from the first one right there next to the  
15 aisle. We will go from that aisle and go out, go that  
16 way. Okay.

17 Raquel.

18 MS. MORALES: Good morning. Raquel Morales,  
19 Director of Asset Management. Item 3(a) is a material  
20 amendment for Merritt Leisure in Midland, Texas, which is  
21 a 2015 tax credit and HOME application.

22 I do want to make one clerical clarification  
23 before we start. The information in your Board books  
24 inadvertently left off the last page of the Board action  
25 writeup.

1 I have made copies that are available at the  
2 desk for anybody who wants them. And I believe copies  
3 have been printed out for all the Board members.

4 MR. OXER: Have those been distributed?

5 MR. IRVINE: No. It is pending.

6 MR. OXER: Okay.

7 MS. MORALES: Yes. I would like to ask that  
8 you accept this missing page. It was posted on the  
9 Department's website 15 days before this meeting. That is  
10 required statutorily. It is just than when it got into  
11 the Board book, that lost pages.

12 MR. OXER: And it is available in the front for  
13 anybody who wishes it.

14 MS. MORALES: Yes, sir.

15 MR. OXER: Okay.

16 MS. MORALES: Yes, sir.

17 MR. OXER: Let's distribute that, then. And  
18 this is just the missing page. Is that correct?

19 MS. MORALES: Yes. It is just the last page of  
20 that Board writeup.

21 MR. GOODWIN: It is a clerical error.

22 MS. MORALES: It was. Yes.

23 VOICE: Very funny.

24 MR. OXER: Thank you.

25 MS. MORALES: Okay. So if you will recall, the

1 Board heard this request two months ago, at your March  
2 meeting, when a similar amendment for the application was  
3 requested and ultimately denied by the Board.

4 At that meeting, the Board members expressed  
5 concern that the volume of changes being proposed to the  
6 application were significant. And there was considerable  
7 discussion about some local funding that was omitted from  
8 that request.

9 The item before you today is the Applicant's  
10 second attempt to amend this application. The chart in  
11 your Board writeup which is included in your Board  
12 materials reflects the key changes from the original, and  
13 the last proposed amendment, compared to the amendment  
14 now; the current request.

15 I would like to note that one change that is  
16 not reflected in that chart, but it is reflected in the  
17 underwriting addendum that is attached is a change with  
18 respect to the HOME unit set-asides. Originally, the  
19 application committed and was approved to set aside eight  
20 units at 30 percent under the HOME program.

21 The current request is to shift all of those  
22 HOME program units at 50 percent. Otherwise, like I said,  
23 all the key changes are summarized in the Board writeup.  
24 But I am happy to walk through those with you guys, if you  
25 would like. One by one.

1 MR. OXER: Let's do a quick summary of that.

2 MS. MORALES: Okay.

3 MR. OXER: Are you done?

4 MS. MORALES: Sure.

5 MR. OXER: Okay.

6 MS. MORALES: So the change in the current  
7 amendment request is similar to the first in a couple of  
8 ways. So I will go through that.

9 Originally, they asked to reduce the number of  
10 units to 140. That ask is still being requested now. The  
11 difference is that there are more low income units being  
12 offered with this current request than before.

13 A change that wasn't requested previously, but  
14 is being requested now is a change to the residential  
15 density. The site of the development was previously at  
16 9.10 acres, and now they are reducing that to a little  
17 over six acres.

18 So as a result it changes the residential  
19 density by more than 5 percent, which would trigger  
20 material alteration. There is also a summary on the  
21 changes as far as the capital structure of the  
22 development.

23 One of the things that the Board discussed  
24 considerably, like I mentioned earlier, is the \$1.6  
25 million in local funds from the City of Midland. That was

1 committed at application. And then with the first  
2 amendment, it was omitted from that. It is currently not  
3 reflected in the Applicant's current request to use that  
4 1.6 million.

5 However, they did provide documentation, I  
6 think in the form of another resolution from the City  
7 where the City is reaffirming or recommitting that money  
8 for this development. However, I think the Applicant is  
9 asking not to have to use that.

10 They would like to use instead the City's  
11 contribution for the offsite road improvement in lieu of  
12 the \$1.6 million. Underwriting, as part of our  
13 evaluation, did look at the impact of adding that \$1.6  
14 million now, if the Board chose to go that route.

15 And there would be an impact to the credit and  
16 our direct HOME loan, in that there would be an  
17 adjustment. Because I believe there would be an over  
18 sourcing, if that funding were to be in place. Otherwise,  
19 I think that is pretty much the key changes.

20 One thing that I will also note is, in the  
21 Applicant's current request, they are asking for our  
22 direct loan for the amortization to go to a 40-year.  
23 However, we have underwritten and evaluated it.

24 And it still works as originally structured, a  
25 30-year amortization, 3 percent. The term may be extended

1 up to 40 years to be consistent with how we structure with  
2 FHA financing. That pretty much summarizes the key  
3 changes that they are asking now.

4 The current amendment request on net is more  
5 significant than the prior, in that they have asked for  
6 just a couple of more additional changes that weren't  
7 requested before. However, it would still fit within the  
8 scoring criteria box, that would result in it being ahead  
9 of its next competitor, of its closest competitor.

10 So staff, when we were evaluating this request,  
11 and in considering the Board's decision with the last  
12 amendment, at this point does not make an affirmative or  
13 negative recommendation. We are at a neutral, and just  
14 asking the Board to consider the amendment and just listen  
15 to what the Applicant has to say about their request now.

16 MR. OXER: Okay. So from an underwriting  
17 standpoint, the deal still works as originally  
18 underwritten and amortized on the 30 year?

19 MS. MORALES: Yes.

20 MR. OXER: Okay. There is no change in the  
21 competitive position of the application?

22 MS. MORALES: There is a change. There would  
23 have been an impact to the score, but it still would have  
24 been competitive.

25 MR. OXER: It still would have been

1 competitive. Does it change anything in terms of others  
2 being ahead of it or behind it? Does it move it in the  
3 list?

4 MS. MORALES: No. It would have been ahead of  
5 its -- like I said, of the next.

6 MR. OXER: It continues to be ahead of its  
7 follower.

8 MS. MORALES: Of the next deal.

9 MR. OXER: Okay.

10 DR. MUÑOZ: So the 1.6 million is still not  
11 going to be provided by the City. But they do have the  
12 200 --

13 MR. OXER: The City --

14 MS. MORALES: The City has indicated that they  
15 are willing to provide it. But it is not something that  
16 the Applicant is wanting to pursue at this point, I  
17 believe. He can answer the question.

18 MR. OXER: And if you have any -- we will ask  
19 this of the Applicant. So get ready, boys.

20 DR. MUÑOZ: But the \$226,000 for the road?

21 MS. MORALES: Uh-huh.

22 DR. MUÑOZ: That is being --

23 MS. MORALES: That is in. Right.

24 MR. OXER: So that is as differentiated for the  
25 1.6-. It is 226-, rather than the 1.6 million.



1 MS. MORALES: That is correct.

2 MR. OXER: Okay.

3 DR. MUÑOZ: So your positional is neutral, you  
4 say?

5 MS. MORALES: Yes, sir.

6 DR. MUÑOZ: Interesting. I wasn't even sure  
7 that was an option. I am from West Texas, down the road  
8 from Midland. So my position is not neutral.

9 MS. MORALES: Okay. Are you ready to hear from  
10 the Applicant?

11 MR. OXER: You can paint me not neutral. You  
12 know that, don't you?

13 DR. MUÑOZ: Yes. Do we have to make a motion?

14 MR. OXER: We have to have a motion to consider  
15 here. That is why I want to ask the Board if they have  
16 any questions of Raquel.

17 (No response.)

18 MR. OXER: Because there has to be a motion to  
19 consider before we take public comment.

20 DR. MUÑOZ: Motion to consider.

21 MR. OXER: Okay. Motion to consider. What is  
22 it?

23 DR. MUÑOZ: Motion to approve.

24 MR. OXER: Okay. Motion by Dr. Muñoz to  
25 approve the request for amendment.

1 MR. GOODWIN: Second.

2 MR. OXER: Second by Mr. Goodwin. So there has  
3 been a motion. We will hear public comment now.

4 MS. MORALES: Right.

5 MR. OXER: Okay. All right. You are first.

6 VOICE: Are you going to tell them that's what  
7 you tell everybody?

8 MR. OXER: Go ahead. Do it.

9 MS. BINGHAM ESCAREÑO: Just be real thoughtful  
10 about what you -- it is looking good at this point.

11 MR. OXER: Those of you who don't know this,  
12 okay, or are not regulars here at this, you know, you are  
13 about to get what you want. So you need to really  
14 consider how much you say, and how you say it. You know,  
15 if your banker wants you to continue saying it.

16 MR. DENISON: So should I just go sit down?

17 VOICE: I think that is what he said.

18 MR. OXER: I don't mandate anybody do anything  
19 until Annette runs the clock off, and then I will ask you  
20 to sit down. But --

21 MR. DENISON: Okay. Let's see how fast I can  
22 talk. I really just wanted to say first that I apologize  
23 for not being here last time. I was -- I had the flu. I  
24 could have answered a lot of you all's questions.

25 But the City is 100 percent behind this

1 project. They have the whole time. I have never been in  
2 a city this size and gotten more than a quarter-million  
3 dollar contribution from a city this size. Especially in  
4 an economic decline.

5 I thought I would never see circumstances like  
6 I did in 2008, when some crazy stuff happened. And I  
7 was -- I participated in TCAP and exchange. So there is  
8 some crazy changes that happened in 2008, 2009.

9 But hopefully, from West Texas, you know that  
10 there has been some significant changes. And so we have  
11 backed down off of the market rate units to have more  
12 affordable units, and trying to present something that you  
13 all -- would be a win-win for everybody.

14 So I am here to answer any questions. But  
15 thank you all so much for considering this.

16 MR. OXER: Okay. Any questions of the Board?

17 THE REPORTER: Your name?

18 MR. DENISON: Sorry, Colby Denison, the  
19 Applicant.

20 DR. MUÑOZ: Well, I don't have a question.  
21 Just an observation. I mean, I think anybody that lives  
22 out in the area knows what is transpiring.

23 And while the market, of course, for oil has  
24 declined, you have many people that for whom affordable  
25 housing is going to become an immediate necessary option

1 very soon. Because of where they positioned themselves a  
2 year and a half ago financially, versus what is available  
3 to them professionally and financially in the future.

4 And I have friends, I have people that I know  
5 that are involved with the City and development and what  
6 have you. And I think we are going at that to see more of  
7 this, and find -- fortunately, it worked out financially  
8 for you, where the underwriting was basically sort of you  
9 know, neutral on penciling it. It writes sort of -- it  
10 wasn't a very difficult position for me to take, at least.

11 I appreciate staff's willingness to be flexible  
12 and consider alternatives. These always don't work,  
13 right. Or these don't work all the time, where it sort of  
14 comes out kind of, it costs sort of neutral. So I am glad  
15 that it did.

16 Because I anticipate, not just Midland, but  
17 other areas around West Texas. Even earlier, the  
18 Representative was talking about small towns. I mean,  
19 small towns have trouble developing affordable housing.

20 I think of Lamesa and former Board member Don  
21 Bethel, and how hard it is for him to get properties out  
22 there built in Lamesa, Smyer, et cetera. Right, so.  
23 Hopefully, this will work out.

24 MR. OXER: Well, all right.

25 MR. DENISON: And I wanted to say thank you to

1 staff. They have -- I mean, the amount of work they did  
2 on this. I apologize.

3 MR. OXER: So they weren't exactly neutral,  
4 right. Raquel, you all put enough work into it, to see if  
5 it could work.

6 VOICE: Well said.

7 MR. OXER: Okay. Fair enough. All right.  
8 Thank you.

9 MR. DENISON: I might waive the next people  
10 from speaking. Because I brought the bankers and the  
11 equity providers to tell you all a little bit about what  
12 their viewpoint and all on this is. But unless you all  
13 want to hear their side of this.

14 MR. OXER: Well, we are making the microphone  
15 available for public comment. But given what you just  
16 heard --

17 MR. DENISON: Okay.

18 MR. OXER: -- I would give some thought to  
19 whether you want to ask them to --

20 MR. DENISON: We'll pass. Thank you all.

21 MR. OXER: Fair enough. Do you have anything  
22 to add to that?

23 VOICE: No. You don't need to read that.

24 MR. OXER: Apparently not. Any other  
25 questions?

1 (No response.)

2 MR. OXER: Raquel, anything else to summarize?

3 MS. MORALES: No, sir.

4 MR. OXER: Okay. All right. Motion by Dr.  
5 Muñoz, second by Mr. Goodwin to award -- not to approve  
6 staff recommendation to do nothing, but to approve the  
7 amendment as requested by the Applicant. Is that a fair  
8 statement of it, Counselor? Okay. Those in favor?

9 (A chorus of ayes.)

10 MR. OXER: Those opposed?

11 (No response.)

12 MR. OXER: There are none. It is unanimous.  
13 Great. Thank you, Raquel on that one.

14 MS. MORALES: One more. Okay. Item 3(b) is a  
15 request for a placed in service extension under the force  
16 majeure provision of the QAP for Emma Finke Villas, which  
17 is a 2013 competitive application in Beeville, Texas.

18 The property consists of 16 buildings and 76  
19 units that were to be completely renovated from the studs  
20 up. The development was scheduled to place in service by  
21 December 31, 2015.

22 However, unusual rainfall between January and  
23 June of last year as well as vandalism and fire to the  
24 property which destroyed one of the buildings have all  
25 contributed to delays in reconstruction activities.

1 Congress provides for a one-year extension of the federal  
2 placed-in-service deadline, in cases where a declared  
3 disaster area is -- or a natural disaster occurs.

4 Where a natural disaster is not declared  
5 however, delays outside of the developer's control can  
6 only be remedied through the return and reallocation of  
7 tax credits, which is the subject of our force majeure  
8 provisions in the QAP. Back in December of last year,  
9 staff presented and recommended, and this Board approved  
10 the return and reallocation of 2013 tax credits for Emma  
11 Finke, and thereby extended the placed in service deadline  
12 as requested.

13 The owner had to accomplish the renovation in  
14 phases in order to accommodate tenants that were still  
15 living at the development. This caused an uneven work  
16 schedule, particularly for some of the specialty crews.

17 And while construction continues to progress,  
18 the owner has faced difficulty in keeping some  
19 subcontractors on the job at this site, as well as  
20 obtaining the needed development materials or supplies.  
21 According to the owner, about half of the subs have had to  
22 be replaced for nonperformance at this job.

23 And the owner notified the Department that the  
24 new approved placed-in-service deadline that was approved  
25 by the Board in December was not going to be met, and has

1 now at this point, passed that deadline. So the owner is  
2 coming before you today to ask for a second extension.

3 The owner has verbally reported to staff that  
4 the general contractor has required all of the necessary  
5 subs at this point to finish this job by the end of June  
6 of this year. And that all buildings will be certified  
7 for occupancy on or before July 15 of 2016.

8 Additionally, the owner is asking for a  
9 corresponding extension to submit their cost certification  
10 documentation to the Department to August 15. The  
11 extension is permissible if determined to be justified by  
12 the Board. And staff is recommending approval of the  
13 Applicant's request.

14 MR. OXER: Okay. The extension that we gave  
15 them in December was to what date?

16 MS. MORALES: I believe it was to March 7,  
17 2016.

18 MR. OXER: Basically, in the middle of March.  
19 So they are asking for a four-month extension; 120 days,  
20 more or less.

21 MS. MORALES: Right. To July. Right.

22 MR. OXER: Okay. All right. Any questions?  
23 Ms. Bingham, anything?

24 (No response.)

25 MR. OXER: Okay. Motion to consider?



1 MR. GANN: I move we approve the request for  
2 extension as presented and --

3 MR. OXER: Okay. And dot dot dot, was there a  
4 period on it?

5 MR. GANN: -- hear it.

6 MR. OXER: Okay. A motion by Mr. Gann to  
7 approve staff recommendation on Item 3(b).

8 MR. GOODWIN: Second.

9 MR. OXER: Second by Mr. Goodwin. Is there a  
10 request for public comment?

11 (No response.)

12 MR. OXER: Again, as Ms. Bingham pointed out,  
13 okay. Read the tea leaves here, sport. Okay. Because --  
14 all right. Regarding Item 3(b). Motion by Mr. Gann to  
15 approve staff recommendation, second by Mr. Goodwin.  
16 Those in favor?

17 (A chorus of ayes.)

18 MR. OXER: And opposed?

19 (No response.)

20 MR. OXER: There are none. It is unanimous.  
21 Good.

22 MS. MORALES: Thank you.

23 MR. OXER: Thanks, Raquel. Thanks, guys. And  
24 by the way, July 15.

25 VOICE: Those are the not so subtleties right

1 there.

2 MR. OXER: Okay. To Item 4(a). Marni.

3 MS. HOLLOWAY: Good morning.

4 MR. OXER: Indeed it is.

5 MS. HOLLOWAY: Chairman Oxer, members of the  
6 Board, my name is Marni Holloway. I am the Director of  
7 the Multifamily Finance Division.

8 Item 4(a) is presentation, discussion and  
9 possible action on an award of direct loan funds to  
10 application number 16501. This is Garden Terrace Phase  
11 III.

12 Garden Terrace is -- let me get that over  
13 here -- is the third phase of a project in which the  
14 Department participated in 2002 with a million-dollar HOME  
15 loan for the acquisition and rehabilitation of a nursing  
16 home that resulted in 85 SRO units, so single room  
17 occupancy units. Phase II was the renovation of another  
18 4,400 square feet of unused space that resulted in 15  
19 additional units.

20 Today, we are discussing Phase III which is the  
21 new construction of 20 more single room occupancy units,  
22 some common area spaces and supportive staff offices on a  
23 little piece of the land that has been unutilized. There  
24 will be 20 affordable units available for households  
25 earning 50 percent or less of area median income.

1           We -- staff had originally planned to award  
2 these, make this award with TCAP funds. We are  
3 considering making an award with HOME funds, if we can  
4 make it work within the statutory and regulatory  
5 requirements.

6           There is the potential that this could be a  
7 CHDO award, if we are able to make it happen. But it is  
8 looking more and more like it is going to be TCAP funds.

9           This would be a deferred forgivable loan. In  
10 addition, according to the 2016-1 NOFA, the Department's  
11 Governing Board must establish a hard closing deadline at  
12 the time of award.

13           We are recommending closing on all sources of  
14 funds must occur no later than January 31st of 2017. The  
15 application has been underwritten and is determined to  
16 meet REA rules and requirements.

17           There is a summary in the Board book of the  
18 underwriting report. We have also attached the  
19 application and award log for the direct loan program.  
20 The Department has received a letter of support from State  
21 Representative Donna Howard for this one. Staff is  
22 recommending approval.

23           MR. OXER: This is good. This is just giving  
24 you a little bit -- the way I read it, the staff gets a  
25 little bit more latitude to figure things out, make it

1 work.

2 MS. HOLLOWAY: Between the HOME and the TCAP,  
3 and even as late as this morning, we were discussing it.  
4 And it is looking more and more like it would be TCAP  
5 funds. Just because of the regulatory barriers around  
6 using HOME funds.

7 MR. OXER: Right.

8 MS. HOLLOWAY: Because the organization  
9 potentially would qualify as a CHDO, it was why we were  
10 headed down that route. But with all of these  
11 complications, it is going to be simpler, I think, just to  
12 go with TCAP.

13 MR. OXER: Okay. All right. Staff recommends  
14 approval. Is there any questions from the Board?

15 DR. MUÑOZ: Move staff recommendation.

16 MS. BINGHAM ESCAREÑO: Second.

17 MR. OXER: Okay. Motion by Dr. Muñoz to  
18 approve staff recommendation. Second by Ms. Bingham. Is  
19 there any public comment?

20 (No response.)

21 MR. OXER: There appears to be none. Okay.  
22 With regard to Item 4(a), motion by Dr. Muñoz, second by  
23 Ms. Bingham. Those in favor?

24 (A chorus of ayes.)

25 MR. OXER: Opposed?

1 (No response.)

2 MR. OXER: It is unanimous. Good. Next.

3 MS. HOLLOWAY: Okay. Item 4(b) is actually  
4 three separate applications. It is presentation,  
5 discussion and possible action on timely filed scoring  
6 notice appeals under the Department's multifamily program  
7 rules.

8 The first one, application 16029, is Baxter  
9 Lofts. I will tell you that we have come to understand  
10 that there is a piece of the scoring that we missed in our  
11 review.

12 So we may be coming back to you with that. So  
13 this may not be the end of the conversation about this  
14 particular development. But since we are here, and we  
15 have the information, let's get through this part.

16 So staff originally determined that the  
17 application should lose points under three items;  
18 educational excellence, a resolution from the local  
19 Governing Board identifying the development site as  
20 contributing most to a concerted revitalization effort.  
21 And then as a result of those scoring losses, the original  
22 notice went out with them losing additional points for  
23 preapplication participation.

24 When the applicants submitted their appeal, we  
25 went back and took another look at the rule, and

1 reevaluated all of the issues around the educational  
2 excellence item, particularly as it relates to Region 11.  
3 As a result, we are revising our original recommendation  
4 and allowing the Applicant to receive three points for  
5 educational excellence rather than zero, and six points  
6 for the preapplication participation.

7           So the Baxter Lofts application proposes the  
8 adaptive reuse of a nine-story office building in downtown  
9 Harlingen. The Baxter Building was originally constructed  
10 in 1927. It has been vacant for about 30 years. The  
11 Applicant is proposing to create 24 apartments within the  
12 building.

13           So on the scoring items, the Applicant  
14 originally claimed five points under, on the  
15 preapplication and on the full application because they  
16 were using the very highly ranked early college high  
17 school in Harlingen for the score on their application.  
18 The rule is really pretty clear about magnet schools and  
19 attendance zones.

20           In addition, we received a third party request,  
21 administrative, a third party request for administrative  
22 deficiency that also brought this item to light. Our rule  
23 says that an attendance zone does not include schools with  
24 district-wide possibility of enrollment or no defined  
25 attendance zones, sometimes known as magnet schools.

1           In fact, the Baxter Lofts site is located  
2 within the attendance zone of Harlingen High School.  
3 Harlingen High School has an Improvement Required rating  
4 from the Texas Education Agency.

5           The Applicant's appeal of this scoring item has  
6 two parts. One is that they believe they should be able  
7 to use the magnet school. The other is that, if they are  
8 not able to use the magnet school, that they should get  
9 the three points under the other educational excellence  
10 item.

11           Our original analysis said, no. You don't get  
12 any. But then we went back and looked at the rule -- let  
13 me find the language -- that says, the development site is  
14 within the attendance zone of any two of the following  
15 three schools: an elementary school, a middle school and a  
16 high school with a met-standard rating and an Index One  
17 score of at least 77. For developments in Region 11, and  
18 this is Region 11, the middle school and high school must  
19 achieve an Index One score of at least 70 to be eligible  
20 for these points.

21           Staff's original reading of the rule was a very  
22 strict -- it wasn't even an interpretation. It was a  
23 strict reading of the rule that said the middle school and  
24 high school must achieve an Index One score of at least  
25 70. And the high school is an improvement required with a

1 59. So we said no, you don't get any points.

2 In talking about it some more, internally, we  
3 realized that that "and" probably should be an "or." And  
4 that that was the Board's intent. And you will remember  
5 talking about undesirable neighborhood features, we had  
6 the same issue with the list of schools that has had an  
7 "and" in it, when it really should have been an "or."

8 In that case, because the site is in the  
9 attendance zone of the Zavala Elementary School, which has  
10 an Index One score of 83, and Memorial Middle School,  
11 which has an Index One score of 70, both of which have met  
12 standard under the rule, the application should receive  
13 three points. The staff's recommendation. All right.

14 So, and I mentioned a moment ago, the  
15 undesirable neighborhood features -- this failing high  
16 school was not originally disclosed. That may be part of  
17 what we come back to you with.

18 Also, under this educational excellence item,  
19 impacts historic preservation scoring, which we had not  
20 addressed in this item. So that is the other thing that  
21 we may be coming back to you with.

22 DR. MUÑOZ: I have a question.

23 MS. HOLLOWAY: Uh-huh.

24 DR. MUÑOZ: You characterize the high school as  
25 a failing high school. Do you interpret an Improvement



1 Required as the equivalent of failing?

2 MS. HOLLOWAY: It is failing to meet the  
3 standard. Am I not using appropriate language there?

4 (No response.)

5 MS. HOLLOWAY: The second item, scoring item  
6 was a concerted revitalization plan. Our concerted  
7 revitalization scoring item includes differentiation by  
8 providing four points for being eligible as a community  
9 revitalization area. And then two additional points if  
10 the local governing body provides a resolution stating  
11 that this development most significantly contributes to  
12 that revitalization effort.

13 The rule does not require that the development  
14 be named in the original plan, so that there is some  
15 flexibility later on. But it does require that the local  
16 governing board names the development -- let me see. "If  
17 the development is explicitly identified by the city or  
18 county as contributing most significantly to the concerted  
19 revitalization efforts of the city or county as  
20 applicable."

21 Then it goes on to say, "a resolution from the  
22 governing body of the city or county that approved the  
23 plan is required to be submitted in the application." The  
24 Applicant submitted the original plan and the resolution  
25 that adopted the plan.

1           They did not submit this resolution. They did  
2 submit a letter from the City Manager. The Board item is  
3 very clear that a resolution is required. The Applicant  
4 makes a statement in their appeal that the original  
5 resolution adopting the plan would not have anticipated a  
6 future development.

7           This consideration is mitigated by the  
8 opportunity for an Applicant to approach the governing  
9 body for a current resolution naming the application as  
10 required in the rules. And we have had some other  
11 applications that are going through the same thing. And  
12 they have, in fact, gained that resolution and supplied it  
13 with their application.

14           The third item was the preapplication  
15 participation with the reinstatement of three of the five  
16 points for the educational excellence item. The net loss  
17 is now only four.

18           And the development is, once again, eligible  
19 for the six points for preapplication participation. So  
20 we are recommending denial of the appeal in part, and  
21 approval of the appeal in part.

22           MR. OXER: Since they had multiple facets that  
23 they had appealed on --

24           MS. HOLLOWAY: Right.

25           MR. OXER: -- they could win one and lose one,

1 so to speak.

2 MS. HOLLOWAY: Right.

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

4 MS. BINGHAM ESCAREÑO: Uh-huh.

5 MR. OXER: Ms. Bingham.

6 MS. BINGHAM ESCAREÑO: Hi, Marni. On the  
7 first, education excellence, when we talked about their  
8 appeal, and either being able to use that, the magnet  
9 school, the early college, or under education, other  
10 education excellence, you said that staff was okay with  
11 the three points?

12 MS. HOLLOWAY: Yes.

13 MS. BINGHAM ESCAREÑO: What would they get --  
14 how many points would they get in total if they were able  
15 to use the magnet school?

16 MS. HOLLOWAY: The magnet school, five.

17 MS. BINGHAM ESCAREÑO: So it is a net two  
18 difference?

19 MS. HOLLOWAY: Yes.

20 MS. BINGHAM ESCAREÑO: Okay. And on the  
21 revitalization plan, I just lost you at the very end. So  
22 what the governing body's resolution -- is it that they  
23 gave it late, that the resolution doesn't contain what it  
24 is supposed to, or that you never got it?

25 MS. HOLLOWAY: We don't have a resolution. We

1 have a letter from the City Manager. We also have a  
2 letter, I believe, from Senator Lucio's office discussing  
3 this issue. But it is not the resolution that is called  
4 for in the rule.

5 MR. OXER: And that is specifically called  
6 out -- it is called out to be called out?

7 MS. HOLLOWAY: Yes. Would you like me to read  
8 you that language again?

9 MR. OXER: I am confident that the language was  
10 there. It is okay.

11 MS. HOLLOWAY: Okay.

12 DR. MUÑOZ: And it is in the resolution form  
13 for the city typically, Marni?

14 MS. HOLLOWAY: I'm sorry?

15 MR. OXER: It is like one of our resolutions .  
16 It would be in the form of a resolution.

17 MS. HOLLOWAY: Yes.

18 MR. OXER: Okay. Anything else on that?

19 (No response.)

20 MR. OXER: Okay. So personally, I agree. And  
21 it was curious to me why it was an elementary school, a  
22 middle school and a high school.

23 MS. HOLLOWAY: Right.

24 MR. OXER: But that makes sense for us to  
25 correct that.

1 MS. HOLLOWAY: And we certainly will, moving  
2 forward.

3 MR. OXER: Right. Yes. It is one of those  
4 other. We have typos, too.

5 MS. HOLLOWAY: I have pages of notes.

6 MR. OXER: Confident that you do. So the staff  
7 recommends giving them nine points and denying the four.  
8 But in the net two that Leslie referred to, that could be  
9 in the --

10 MS. HOLLOWAY: We are -- let me run through it  
11 real quickly, just to make sure we understand it.

12 MR. OXER: Summarize the point --

13 MS. HOLLOWAY: Staff is recommending allowing  
14 them three points on education excellence, right. Denying  
15 the other two, from the magnet school.

16 We are recommending four points on concerted  
17 revitalization, denying them the other two for the  
18 resolution. And we are recommending that we grant their  
19 appeal on the previous participation on the basis that  
20 have not having lost -- only having lost four points, they  
21 now don't lose an additional six.

22 MR. OXER: Okay. Everybody clear?

23 MS. HOLLOWAY: Is that --

24 MS. BINGHAM ESCAREÑO: Mr. Chair, may I ask?

25 MR. OXER: Ms. Bingham.

1 MS. BINGHAM ESCAREÑO: So and then you  
2 mentioned something about a third party comment, or --

3 MS. HOLLOWAY: A third party request for  
4 administrative deficiency has taken the place of the  
5 challenge process this year.

6 MS. BINGHAM ESCAREÑO: Right.

7 MS. HOLLOWAY: We received a third party  
8 request for administrative deficiency addressing these  
9 school items.

10 MS. BINGHAM ESCAREÑO: Okay. So then tell us  
11 how staff's recommendations affect competitiveness.

12 MR. OXER: Does it move them up or down?

13 MS. BINGHAM ESCAREÑO: Losing the four points  
14 moves them down. I think that -- I need to go back and  
15 look more closely at tie breakers. I think it puts them  
16 into a tie breaker with another application for sort of  
17 the next-one-down status. It takes them out of priority  
18 status.

19 MR. OXER: So that is something that is as  
20 competitive as the program that we had. One point would  
21 put you in or out of the money. So two is significant.

22 MS. HOLLOWAY: Frequently.

23 MR. OXER: Okay. I put that on the record so  
24 that everybody knows that the Board is not insensitive to  
25 the reasons they get up here and scramble and fight for

1 one point.

2 DR. MUÑOZ: Hey, Marni, talking about points,  
3 let me talk about these two points that you are going to  
4 disallow because of the high school.

5 MS. HOLLOWAY: Uh-huh.

6 DR. MUÑOZ: I know a little something about  
7 early college high school programs, and how they are  
8 approved by the TEA. And do you have a sense of the  
9 distance from the Baxter Building to the early college  
10 high school campus?

11 Because I believe theoretically, they are  
12 available to anyone in the district. And I mean, you  
13 know, I understand geography to be prohibitive.  
14 Transportation and that sort of thing.

15 But and typically, you know, the constituents  
16 from around that high school typically avail themselves of  
17 the early college high school program more so than  
18 outlying students, or students in outlying areas of the  
19 district. Well, I think that you can't prohibit people  
20 from those outlying -- students from those outlying areas  
21 to attend early college high school program.

22 MS. HOLLOWAY: That is correct. Absolutely.  
23 And I believe that they are fairly -- you know,  
24 remembering the maps, they are fairly close.

25 The distance is not the question here. The

1 question is, could any tenant, any high school age tenant  
2 of this building be able to attend that early college  
3 program without going through an application process.

4 That is -- the magnet schools, the concern is  
5 the application process. So any student just by right  
6 can't go to that school. By right, they are going to go  
7 to Harlingen High School, which is an Improvement Required  
8 school.

9 Does that make it a little clearer? That is  
10 why we have the language that says, an attendance zone  
11 does not include schools with district-wide possibility of  
12 enrollment, or no defined attendance zones, sometimes  
13 known as magnet schools.

14 MR. IRVINE: We really have two concerns. One  
15 is that you have the right to attend the school. In other  
16 words, they can't turn you away if they happen to be full.  
17 And two, the whole issue of transportation to the school.

18 MR. OXER: Right. I've got it.

19 DR. MUÑOZ: Well, yes. I understand, Tim. And  
20 I am sympathetic about transportation. The right, I think  
21 you have a right to apply --

22 MS. HOLLOWAY: To apply.

23 MR. OXER: That doesn't guarantee access.

24 DR. MUÑOZ: But I -- yes.

25 MS. HOLLOWAY: The early college programs all



1 over the state are doing amazing work. They really are,  
2 and they sound like they are tremendous schools. But not  
3 every tenant is going to be able to go to that school.  
4 Or, we don't know that for sure. Okay.

5 MR. OXER: Okay. Any other questions from the  
6 Board?

7 (No response.)

8 MR. OXER: Staff recommendation is as  
9 described. There is partly reinstated nine points and  
10 denied in part, resulting in a loss of four points. Is  
11 that correct?

12 MS. HOLLOWAY: A net loss. Yes.

13 MR. OXER: A net loss. Okay. Motion to  
14 consider, please. That is on Item 4(b), application  
15 16029. And hold on, before we get to the motion on this,  
16 Michael, do you have a letter to read into this?

17 MR. LYTTLE: Yes, I do. This is a letter to  
18 the Board from Senator Eddie Lucio, Jr. It is part of the  
19 Board item, but the Senator also requested that we please  
20 read the letter into the record.

21 It reads as follows: "Dear Chairman Oxer and  
22 members of the TDHCA Board. It has come to my attention  
23 that one of the cities that I represent in District 27,  
24 the City of Harlingen has an appeal before you on a  
25 critical tax credit revitalization project that is

1 important to its community.

2 "It is my understanding that the appeal  
3 pertains to education excellence and revitalization  
4 scoring items. As your Agency staff leadership is keenly  
5 aware, I have always been and will continue to be a  
6 proponent of Fair Housing. Every individual should have  
7 the ability to live where they choose without confronting  
8 any discrimination.

9 "I wholeheartedly believe that our children  
10 should be able to live in communities with first class  
11 schools and should have a second-to-none school system in  
12 our state. These are noble goals that guide my public  
13 service as Vice Chairman of the Senate Committee on  
14 Education.

15 "I also understand that clear disparities exist  
16 in our state in terms of available resources. In other  
17 words, differences in tax base. That makes providing  
18 opportunities found in other regions of the state a  
19 difficult task to achieve in areas that are economically  
20 challenged, such as those that I represent in Region 11.

21 "As the Board may agree, students who live in  
22 affluent communities like Plano East, Westlake and  
23 Cypress-Fairbanks have resources available due to their  
24 vibrant local tax base and property rich school districts  
25 that are few and far between in regions with low per

1     capita income, high unemployment and high poverty. While  
2     I am optimistic that in the years to come, that we are  
3     implementing at the state level to help transform the  
4     socioeconomic realities of the district that I represent,  
5     Region 11 currently does not have the abundant resources,  
6     tax base and related schools that are found in property-  
7     rich regions of our state.

8             "While I wholeheartedly agree that the Fair  
9     Housing goal that the Board is striving to achieve, I  
10    respectfully ask that the Board continue to carefully  
11    refine the education excellence elements of the tax credit  
12    program in areas like Region 11, especially when  
13    considering revitalization projects. As you may have seen  
14    through the tax credit program, more affluent areas in our  
15    state may more easily meet an education excellence  
16    criteria for new projects and new developments than may an  
17    economically challenged region.

18            "Because this is part of the reality in trying  
19    to address the increasing housing needs in distressed  
20    areas of our state, I implore the Board to carefully  
21    consider the position that would be conveyed to you by  
22    those representing Harlingen. While meeting the education  
23    excellence criterion may be challenging while undertaking  
24    new projects, it is even more difficult while trying to  
25    revitalize existing property.

1           "By definition, our communities do not have the  
2 schools that are supported by property-rich communities.  
3 As Harlingen and its team make their case in this appeal,  
4 I ask that the Board try to see their application through  
5 the eyes of someone else who is trying to meet the  
6 affordable housing needs of a community in an economically  
7 strained region of our state.

8           "After hearing their unique situation, I  
9 implore the Board to consider the arguments in a favorable  
10 light, and assist this community to address their  
11 affordable housing needs. It is my understanding that the  
12 application is also being denied revitalization points.

13           "I am informed that the project is supported by  
14 a general resolution of support, Resolution R16-3, passed  
15 and approved February 3, 2016, in a letter outlining  
16 revitalization roles of the City from the City Manager.  
17 The property in question has been vacant for some time,  
18 and is owned by the City. City officials report that it  
19 is a historical site and needs to be preserved.

20           "The City considers this project necessary to  
21 accomplish all the City's goals regarding this property.  
22 Since the City has told me it now and always has deemed  
23 this project of highest importance to the revitalization  
24 of Harlingen, due to the importance of this project and to  
25 the community, I respectfully ask you to consider allowing

1 the City to rectify this deficiency.

2 "If the City of Harlingen failed to pass the  
3 proper resolution, I respectfully ask the Board to afford  
4 them an opportunity to do so especially considering that  
5 they have previously submitted to the Board a letter from  
6 the City Manager to address this requirement. I thank the  
7 Board in advance for your consideration of this appeal.

8 "And I appreciate any assistance that you may  
9 be able to provide my constituents in Harlingen.

10 Sincerely, Eddie Lucio Jr., State Senator."

11 MR. OXER: Thanks, Michael. Okay. Any other  
12 questions from the Board?

13 (No response.)

14 MR. OXER: Okay. We will need a motion to  
15 consider too, before we take public comment.

16 DR. MUÑOZ: Marni, I understand the boundary  
17 argument. Like, where is the language that states that  
18 sort of assurance of enrollment?

19 MS. HOLLOWAY: Assurance of enrollment.

20 DR. MUÑOZ: You know, where you say that the  
21 tenants would be guaranteed admission --

22 MS. HOLLOWAY: Right.

23 DR. MUÑOZ: -- into the early college high  
24 school program --

25 MR. OXER: But they wouldn't be. That is the

1 point.

2 DR. MUÑOZ: That is my point. I mean, where do  
3 you -- how do you reach that conclusion that it is sort of  
4 required that they --

5 MS. HOLLOWAY: That an application process is  
6 required?

7 MR. OXER: It is a magnet school, it requires  
8 an application.

9 DR. MUÑOZ: No. That is not what I am asking.

10 MS. HOLLOWAY: I'm sorry.

11 DR. MUÑOZ: What I am asking is, your  
12 interpretation that in order to receive these points, they  
13 have to be assured enrollment. You are saying that  
14 because in a local school within their zone, they would be  
15 guaranteed enrollment.

16 But in the early college high school program,  
17 maybe down the road, they would have to apply, depending  
18 on simply seats. Right. Availability. They may not be  
19 allowed to enroll. And that is sort of the prohibition --

20 MS. HOLLOWAY: Correct.

21 DR. MUÑOZ: -- that denies them the points.

22 MS. HOLLOWAY: Correct.

23 DR. MUÑOZ: I just want to be clear.

24 MS. HOLLOWAY: Okay.

25 MR. OXER: Okay. Motion to consider.

1 DR. MUÑOZ: So moved.

2 MR. OXER: Okay. Motion by Dr. Muñoz to  
3 approve staff recommendation on Item 4(b), application  
4 16029. Do I hear a second.

5 MR. GANN: Second.

6 MR. OXER: Okay. Second by Mr. Gann. We have  
7 public comment. Okay. Cynthia, you know the drill. Sign  
8 in. Make sure it is clear. Three minutes.

9 MS. BAST: Good morning.

10 MR. OXER: Good morning.

11 MS. BAST: I am Cynthia Bast of Locke Lord.

12 And I am here representing the Applicant today. I am  
13 going to speak on the education excellence issue and  
14 others in the group will speak on the community  
15 revitalization issue.

16 First of all, we do appreciate that staff went  
17 back and looked at this again, and got from zero points to  
18 three points. Because we do think that that "and" should  
19 be an "or." And we appreciate that interpretation.

20 But we still believe that this application  
21 should fit within the full five points, and here is why.  
22 There are two high schools in the whole city of Harlingen  
23 for which students are zoned. There is Harlingen High and  
24 Harlingen High South.

25 Both of those high schools are Improvement

1 Required schools. Therefore, if you just went with where  
2 are the students zoned, no application in Harlingen could  
3 ever get five points on this matter. And that goes to  
4 your issue, Dr. Muñoz, about how close this competition  
5 is.

6 By statute, and by ISD policy, the high school  
7 students in this district can go anywhere. That doesn't  
8 mean that the elementary school students can go anywhere,  
9 the middle school students can go anywhere.

10 But the high school students can go anywhere,  
11 which is effectively for the high school purposes a  
12 district-wide enrollment. And that has been confirmed by  
13 the superintendent and counsel for the City, in  
14 documentation that you have in your Board book.

15 I would also note that on the issue of  
16 applications, in the letter from the superintendent dated  
17 April 12th, he says, we use an application process to  
18 administer the transfers for early college high school and  
19 Harlingen School of Health Professions. But the process  
20 is not competitive. And so they have given you their  
21 understanding that practically in Harlingen, they have a  
22 district-wide enrollment.

23 So we are turning to the QAP, which we must  
24 follow. It says that attendance zones do not include  
25 schools with a district-wide possibility of enrollment.



1 That is what we have here on these high schools is a  
2 district-wide possibility of enrollment.

3 I would note that the Texas Education Agency  
4 ranks the entire district as having met standard with an  
5 Index One 73. So using the early college high school,  
6 which per the questions, is approximately 2.5 miles away,  
7 whereas Harlingen High School is approximately 1.5 miles  
8 away, makes sense for this point item, and is consistent  
9 with the notion that when there is a district-wide  
10 possibility of enrollment, you use a qualifying school  
11 nearby.

12 So we ask that you accept the input from the  
13 City and the Superintendent that you find in your Board  
14 book as to how their enrollment processes work. So that  
15 this application can receive the full points, five points  
16 for their education excellence. Thank you.

17 MR. OXER: Thanks. Any questions?

18 (No response.)

19 MR. OXER: Okay.

20 MS. BURCHET: Good morning. My name is Sallie  
21 Burchet with Structure Development. Thank you, Mr. Chair  
22 and Board members for your time.

23 I am a planner. I did my first downtown  
24 neighborhood plan in 1994 for the City of Round Rock. A  
25 couple of years later, I was fishing for a job for the

1 City of Austin, and I suggested a plan for downtown for  
2 Neighbors.

3 And the lady laughed in my face, and said no  
4 one will ever want to live in downtown Austin. Why would  
5 you propose such a thing. She is no longer there. I  
6 didn't get the job either, though.

7 So by nature and definition, a plan is a long  
8 term document, where you have goals and implementation  
9 strategies to get there. So as we discussed, a specific  
10 project wouldn't belong in a plan when it is adopted.

11 It would -- those come along later, as part of  
12 the implementation phase. The QAP requires that -- and I  
13 will read verbatim, explicitly identified by the city or  
14 county as contributing most significantly to the concerted  
15 revitalization efforts. We have a letter from the City.

16 A city is not capitalized. It is not a defined  
17 term. The letter is from the City Manager who, if you  
18 look at the charter for the City of Harlingen, is the  
19 Chief Administrative Officer. And I feel like we have met  
20 that item.

21 The QAP also says that a resolution that  
22 approve the plan is required. We have a resolution that  
23 approves the plan in 2015. It is number 16. And then we  
24 also, of course, have the resolution supporting the  
25 project that was done in 2016.

1                   And so in essence, we have met the language of  
2 the QAP, and it has been explicitly identified by the  
3 city, little case C, as contributing most significantly.

4                   There is another section in the QAP that says  
5 only one project can be identified. There are no other  
6 projects in Harlingen. I think that is an important case  
7 to make.

8                   So in conclusion, we feel like we have met the  
9 intent and letter in law for the six CRP points. Thank  
10 you.

11                   MR. OXER: Okay. Thank you, Sallie. Any  
12 questions of the Board?

13                   (No response.)

14                   MR. OXER: I have a quick -- before we have our  
15 next comment, I have a quick question for Marni.

16                   MS. HOLLOWAY: Uh-huh.

17                   MR. OXER: The resolutions that Sallie just  
18 referred to apparently don't meet the requirement?

19                   MS. HOLLOWAY: The other resolutions would be  
20 the local governmental support resolution. And I am  
21 assuming local political subdivision financial support.  
22 So those are separate resolutions that don't address the  
23 concerted revitalization plan.

24                   MR. OXER: Okay.

25                   MS. HOLLOWAY: Would you like me to read you

1 that entire two-point scoring item?

2 MR. OXER: Yes.

3 MS. HOLLOWAY: Okay. "Applications may receive  
4 two points in addition to those under Subclause I, which  
5 is the four points of this clause, if the development is  
6 explicitly identified by the city or county as  
7 contributing most significantly to the concerned  
8 revitalization efforts of this city or county as  
9 applicable.

10 "A city or county may only identify one single  
11 development during each application round for the  
12 additional points under this subclause. A resolution from  
13 the governing body of the city or county that approved the  
14 plan is required to be submitted in the application. This  
15 resolution is not required at preapplication.

16 "Applications submitting resolutions under this  
17 subclause from the same governing body -- or, if more than  
18 one, if multiple application" -- I'm sorry. "If multiple  
19 applications submit resolutions under this subclause from  
20 the same governing body, none of the applications shall be  
21 eligible for additional points.

22 "A city or county may, but is not required to  
23 identify a particular application as contributing most  
24 significantly to concerted revitalization efforts." That  
25 is that scoring item in total.

1 MR. OXER: So we are essentially saying there  
2 has to be a concerted revitalization plan?

3 MS. HOLLOWAY: Yes.

4 MR. OXER: That is the resolution that is  
5 out -- there has to be something that supports this area  
6 of the resolution that is out. And then there has to be  
7 something that says the local subdivision, the local  
8 government says this particular project, whichever they  
9 identify contributes most to that. And that is the one.

10 So what we are really doing is avoiding  
11 refereeing a local cat fight. So they can pick out the  
12 one that they want to have. We don't have to decide.

13 MS. HOLLOWAY: Exactly.

14 MR. OXER: Okay.

15 MS. BINGHAM ESCAREÑO: So Mr. Chair, I have a  
16 question then. In the Board packet, so check on the  
17 resolution of the revitalization plan. Right? That looks  
18 like that is in --

19 MS. HOLLOWAY: Right. So there was -- the  
20 resolution adopting the plan actually really acts as a  
21 threshold item.

22 MS. BINGHAM ESCAREÑO: I've got you.

23 MS. HOLLOWAY: To be able to consider concerted  
24 revitalization. The four points item is about a letter  
25 from a local governmental official saying, these are the

1 things that we have already done under the plan.

2 This is the money that we have invested. So  
3 that as you have directed in the past, we are not the  
4 first money in.

5 MR. OXER: We are not putting in the first  
6 money.

7 MS. HOLLOWAY: Right.

8 MS. BINGHAM ESCAREÑO: I've got you.

9 MS. HOLLOWAY: So the four-point item is not  
10 under question at all. Just those two.

11 MS. BINGHAM ESCAREÑO: And then just another  
12 question. So then the letter from the City Manager --

13 MS. HOLLOWAY: Uh-huh.

14 MS. BINGHAM ESCAREÑO: So what I hear Sallie  
15 saying is, that they believe they satisfy the requirement  
16 for the other two points, because the language said "by  
17 city or county," that identifies the development as a  
18 significant -- "explicitly identifies the development as  
19 significant to the revitalization plan."

20 MS. HOLLOWAY: So the language that I just read  
21 to you, that started out with the explicit, talks about  
22 "explicitly identified," and then continued on to  
23 resolution. That is all one scoring item. So it is  
24 all -- it is taken in its entirety. So that is where  
25 staff is coming from with that.

1 MS. BINGHAM ESCAREÑO: So staff's position is  
2 the City Manager does not represent the City? But having  
3 communication from the City --

4 MS. HOLLOWAY: It is our understanding that a  
5 resolution can replace a letter. But a letter can't  
6 replace a resolution. A resolution is an action by the  
7 governing body.

8 MS. BINGHAM ESCAREÑO: I thought when you  
9 read -- okay.

10 MR. OXER: That is --

11 MS. BINGHAM ESCAREÑO: I thought you read that  
12 it could be a letter.

13 MS. HOLLOWAY: No.

14 MR. OXER: That is the other one.

15 MR. IRVINE: We believe that the totality of  
16 the language addressing that additional narrow item,  
17 scoring for identifying this as the most important  
18 revitalization deal to that city is something that the  
19 language specifies, must be accomplished by resolution.

20 MS. HOLLOWAY: By resolution.

21 MS. BINGHAM ESCAREÑO: Okay.

22 MR. OXER: So it is not an administrative  
23 action. It is essentially legislative.

24 MS. HOLLOWAY: There absolutely is a letter.

25 MR. OXER: So it represents the community as

1       opposed to the city management.

2                   MS. HOLLOWAY:   There absolutely is a letter  
3       from the City Manager.   There is not a resolution from the  
4       governing board.

5                   MR. OXER:   Is that clear what the difference  
6       is?

7                   MS. BINGHAM ESCAREÑO:   I am not sure.   But I  
8       will look at it.   I will look at the language.   It is --  
9       unfortunately, I drive past that area every day.   And  
10      there is no doubt that that is smack in the middle of a  
11      very concentrated downtown area that there is clear that  
12      there is a resolution -- that there is a revitalization  
13      plan.

14                  MR. OXER:   Well, I mean it is clear that --

15                  MS. BINGHAM ESCAREÑO:   So I mean, it sounds  
16      like a technicality to me.   But I understand.

17                  MR. OXER:   We, you know, choked on  
18      technicalities before.   And that is why I was trying to  
19      make sure that we --

20                  MS. BINGHAM ESCAREÑO:   I've got you.

21                  MR. OXER:   Try to hold the rule, maintain the  
22      integrity of the rule, while exercising limited and light  
23      discretion in terms of when to lift those rules.   But it  
24      seems pretty clear.   That the resolution -- because we  
25      went through this a couple of years ago, on the



1 redevelopment plans. Yes. Okay. So there is a  
2 redevelopment plan in place. They spent money going into  
3 it. And what we were really looking for on this is not an  
4 administrative -- not a letter from the administrative  
5 management of the community, which is what the city  
6 manager is, but essentially, a resolution by the governing  
7 body of the local community that says this is the number  
8 one --

9 MS. HOLLOWAY: Exactly.

10 MR. OXER: -- item with respect to that aspect  
11 of it. The housing -- do you have a contribution to make,  
12 there? Yes. Okay.

13 DR. MUÑOZ: I do.

14 MR. OXER: Okay. Dr. Muñoz.

15 DR. MUÑOZ: Marni, I want to get back to  
16 education.

17 MS. HOLLOWAY: Okay.

18 DR. MUÑOZ: Okay.

19 MR. OXER: It is this thing with him. You  
20 know.

21 MS. HOLLOWAY: You know, that is fine.

22 DR. MUÑOZ: I am having -- I made the motion.  
23 But I am telling you, I having some trouble.

24 MS. HOLLOWAY: Okay.

25 DR. MUÑOZ: Okay. Cynthia, can I ask you to

1       come back up here for a second. Do you know something  
2       about these schools?

3               MS. BAST: I know what has been represented in  
4       the Board book. I have not independently done any due  
5       diligence.

6               DR. MUÑOZ: Here is my challenge. So you know,  
7       we are talking about sort of early college high school  
8       programs and magnet programs as if they are the same  
9       thing.

10              Early college high school programs can be more  
11       generic. You enroll. And there is an offering of a  
12       certain menu of courses for which you could be -- you  
13       receive dual credit, high school and college. Right.

14              Some of them are themed, right. So that they  
15       can be focusing on STEM, Science Technology, et cetera.  
16       Some of them are not. They may just offer a palette of  
17       courses.

18              I mean, the point that I think staff is making  
19       is, you know, an application process to help administer --  
20       to me is not a selective process. And I mean, that is  
21       what the issue is.

22              If these kids apply, are they going to get in.

23       I mean, that is what the issue is. If these kids apply,  
24       are they going to get in? Period.

25              Or, I mean, is it a matter of an impacted

1 campus, a congested campus? Is there a limit of the  
2 number of courses for which dual credit could be -- would  
3 be assigned.

4 Do they have to be assigned in this early  
5 college program into a particular track for which there  
6 are limited seats? In which case, it is selective.  
7 Because they could say I want to go, and I want to be in  
8 this track, but there is no room for me.

9 And that is the point, right? But if that is  
10 not the case, then I feel sort of differently about it,  
11 and they might as well. I am just trying to get some  
12 clarity.

13 Because I know something about early college  
14 high school programs. And typically, you can enroll. It  
15 doesn't really happen, because there are issues of  
16 geography, space, distance. Theoretically, you can, and  
17 some do.

18 If there is some kind of prohibition because of  
19 capacity, availability, et cetera, be it instructors at  
20 this school that have the credentials to teach the  
21 courses, et cetera, then you know, then I agree with the  
22 staff position. If that is not the case, now is the time  
23 to say so.

24 MS. HOLLOWAY: And I understand, I understand  
25 your point. What I understand from the correspondence

1 with the superintendent, and there are those on the team  
2 who have had discussions with the superintendent is that  
3 capacity at early college high school is not at issue.

4 So again, that practically makes it available.

5 They don't have a crowding issue and numbers issue. As  
6 to the curriculum, I can't speak. But there are people  
7 here from the City of Harlingen. They may be able to  
8 speak better than I can to the actual curriculum at early  
9 college high school.

10 I know there is also a school for health  
11 professions. So there is a distinct track high school as  
12 well. But I don't have a handle myself on the curriculum  
13 for early college high school.

14 MR. OXER: That answers your question from her.

15 But it just doesn't answer the question. And I've got  
16 to -- hold on a second.

17 Because I am not looking for an answer from the  
18 City. I am looking for an answer from the superintendent.

19 Okay. Because anything they are going to say is going to  
20 be secondhand in the first place.

21 MS. HOLLOWAY: Would it be feasible, if we  
22 can't respond to that question today --

23 MR. OXER: Well, that is what I was trying --

24 MS. HOLLOWAY: I was going to say.

25 MR. OXER: Marni, come up.

1 MS. HOLLOWAY: Would it be possible to bring  
2 you information on that, from the superintendent?

3 DR. MUÑOZ: Hey, Marni -- yes.

4 MR. OXER: Here is what I am looking for. Is,  
5 what is the damage we are going to do if we pull this off  
6 to the next meeting. Because we are going to have the  
7 next meeting in six weeks, two weeks.

8 MS. HOLLOWAY: Two weeks.

9 MR. OXER: Basically in two weeks.

10 MS. HOLLOWAY: We absolutely could do that.  
11 And as I mentioned at the beginning of this item, there  
12 are some other issues that come up. In part, if this  
13 application loses two points under educational excellence  
14 and there is an impact on their historic preservation  
15 score.

16 MR. OXER: All right.

17 MS. HOLLOWAY: That information is not included  
18 in your book. But if I may, while it is still fresh in my  
19 mind, on the magnet school question, opening up to magnet  
20 schools would create quite an issue for us this year.

21 Number one, because a lot of places would have  
22 used a magnet school in scoring, had they had that  
23 possibility. The other thing I would point out is that  
24 frequently magnets -- there are a number of magnet schools  
25 that are just for girls or just for boys. So what do we

1 do with those.

2 MR. OXER: Yes.

3 MS. HOLLOWAY: What do we do with --

4 MR. OXER: So there's girls and there's boys --

5 MS. HOLLOWAY: Yes. With ones that are you  
6 know, for very high academic ratings.

7 DR. MUÑOZ: Single gender.

8 MS. HOLLOWAY: I mean, I think that it is a  
9 conversation that we could have. But this year, it  
10 would -- I just wanted to point that out.

11 MR. OXER: All right. Here is the Chair's  
12 recommendation. And I think I can offer this up as a  
13 concept.

14 If Dr. Muñoz and Mr. Gann would be willing to  
15 rescind their second and their motion, I think we ought to  
16 consider tabling this until the next meeting. And have  
17 somebody here from down there, that can give us these  
18 answers. And some documentation.

19 Not just bring somebody who can talk about it,  
20 but get some documentation we can add to the file that  
21 supports what we are -- if somebody can come up here and  
22 provide documentation to answer Dr. Muñoz' questions. Do  
23 you know what I mean.

24 DR. MUÑOZ: One way or the other.

25 MR. OXER: Yes. One way or the other. And we

1 will go up or down on the next one.

2 MR. GANN: That is fine.

3 MR. OXER: Does that function?

4 DR. MUÑOZ: Yes, sir.

5 MR. OXER: How are we doing there, Counselor?

6 MR. ECCLES: I think it is fine, certainly, to  
7 withdraw the motion and to table this until the next Board  
8 meeting. But I would like to just kind of dovetail on  
9 something that Marni said.

10 It is more than just, that it would cause  
11 problems to consider magnet schools. The underlying  
12 concept that comes up with areas of opportunity and how  
13 educational excellence factors into the area, and then we  
14 talk about primary attendance zones. And then you overlay  
15 what is choice districts that come about when schools  
16 don't make their Meets Standards rating.

17 What frequently then happens is, you go into,  
18 under TEA rules and policy, that those who live in the  
19 primary attendance zone of the school that does not meet  
20 standards have the choice to go to another school that  
21 does meet standards. And here is the caveat that we don't  
22 talk about. Until that school meets its capacity.

23 When they are full, they will no longer take  
24 students who are seeking to come in. So even if there is  
25 an opportunity to transfer, even if there is capacity

1 right now at a school that does meet standards, whether it  
2 is a magnet school, whether it is an early college school,  
3 it is just a school that does meet standards.

4 When they hit their capacity, they will have to  
5 go somewhere else, if they are not in the primary  
6 attendance zone. And that is where the problems come in,  
7 when we are talking about -- when we are getting into  
8 talking about sort of educational policy and developments  
9 that are going to live 30 and 40 years.

10 MR. OXER: Okay. Here is what I suggest to the  
11 Board that we consider doing is, we will withdraw the  
12 motions, withdraw the second. Withdraw the motion. Table  
13 this to the next meeting.

14 We will spend our time -- we've got a few  
15 weeks. We can do our homework as Board members, to make  
16 sure we are perfectly clear on this.

17 Withdrawing this, is no guarantee it is going  
18 to go up or down. It just means that you are giving it a  
19 second shot to get the information to us, so we can  
20 consider this.

21 We'll look at the options that exist after  
22 that. And then we'll take it up on June 16. Okay.

23 MS. HOLLOWAY: Okay.

24 DR. MUÑOZ: I think, just one observation for  
25 the delegation. I think I complete agree with



1 counsel's --

2 MR. OXER: Perspective.

3 DR. MUÑOZ: -- perspective. And just an  
4 observation about what happens once this campus becomes  
5 impacted.

6 MR. OXER: Because this is a very important  
7 aspect of what we are trying to do. And those of you who  
8 have been following the adventures in our litigation will  
9 recognize that we have been -- had an admonition to look  
10 at high opportunity areas that provide good schools.

11 So the concept of school excellence, and where  
12 we provide these developments is a critical component of  
13 what we have to consider. And while I am entirely  
14 sensitive and completely agree with the need that this  
15 particular area needs all the educational excellence, it  
16 needs the housing we provide. We are still under a  
17 mandate to provide these points.

18 Because if it doesn't go to you, it goes to  
19 somebody else who does meet that standard. And so one of  
20 my constant admonitions on this thing is, don't try to  
21 move somewhere. Try to fix the schools.

22 And that is -- I know you can't do that in this  
23 application. We understand that. But that is the  
24 direction we ought -- that I personally think we ought to  
25 be heading.

1           Make this available to all parts of the state.

2           That said, we do operate under the QAP as it currently  
3 exists. So with that, Mr. Gann and Dr. Muñoz will you  
4 consider withdrawing your second and your motion?

5           DR. MUÑOZ: Withdrawn.

6           MR. GANN: Withdrawn.

7           MR. OXER: Okay. They withdraw their second  
8 and their motion. Keep that on while we are talking. So  
9 then we will consider a motion to table.

10           I will accept your motion to do so and your  
11 second to do so to table until the next meeting, and  
12 consider this application in the next meeting on June  
13 16th. Michael?

14           MR. LYTTLE: Yes.

15           MR. OXER: June 16th. On Michael's birthday.

16           MR. LYTTLE: That is correct.

17           MS. HOLLOWAY: We should all wear hats.

18           MR. OXER: We should have Captain Tweety hats.

19

20           DR. MUÑOZ: Do we need a motion to table now?  
21 Motion to table.

22           MR. OXER: I think we have to have a motion to  
23 table this item until the next meeting.

24           DR. MUÑOZ: Motion to table.

25           MR. OXER: Okay.

1 MR. GANN: Second.

2 MR. OXER: Motion by Dr. Muñoz to table this  
3 item. Second by Mr. Gann. Anybody else want to say  
4 anything else?

5 (No response.)

6 MR. OXER: Good plan. Okay. Motion by Dr.  
7 Muñoz. Second by Mr. Gann to table this item to the June  
8 16th meeting. Those in favor?

9 (A chorus of ayes.)

10 MR. OXER: Those opposed?

11 (No response.)

12 MR. OXER: There are none. All right. Here is  
13 what we are going to do, because this is an item that we  
14 have to take up.

15 We are going to move to Executive Session here,  
16 just for a brief Executive Session. You guys get to take  
17 a little time out. Everybody -- sit still. You guys know  
18 better. Cynthia, you know better than that.

19 MS. BAST: Sorry.

20 MR. OXER: All right. The Governing Board of  
21 the Texas Department of Housing and Community Affairs will  
22 go into closed or Executive Session at this time.

23 The Board may go into Executive Session  
24 pursuant to Texas Government Code 551.074 for the purposes  
25 of discussing personnel matters. Pursuant to Texas

1 Government Code Paragraph 551.071 to seek and receive  
2 legal advice from its attorney, and that would be him.

3 Pursuant to Texas Government Code Paragraph  
4 551.072 to deliberate the possible purchase, sale,  
5 exchange or lease of real estate. And/or pursuant to  
6 Texas Government Code Paragraph 2306.039(c) to discuss  
7 issues related to fraud, waste or abuse with the  
8 Department's Internal Audit or fraud prevention  
9 coordinator or ethics advisor.

10 Closed session will be held in the anteroom of  
11 this room, JHR 140. Today is May 26th, and the time is  
12 11:27.

13 This is going to be a short one, because we've  
14 got things we need to get out of the way. Counsel just  
15 said that he will make it quick, fast and painlessly  
16 short. So we will be back here -- plan to be back in our  
17 seats at 12:00 noon. Thanks.

18 (Whereupon, the Board recessed into Executive  
19 Session at 11:27 a.m.)

20 MR. OXER: Okay. The Board is now reconvened  
21 in open session at 12 o'clock straight up. How about that  
22 for timing. During the executive session the Board did  
23 not adopt any policy, position, resolution, rule,  
24 regulation, or take any formal action or vote on any item.

25 Okay. Now we're on 4(b). I think Marni's

1 still in the box here.

2 MS. HOLLOWAY: All right. Item 4(b),  
3 application number 16130, presentation, discussion, and  
4 possible action on timely filed scoring notice appeal  
5 under the Department's multifamily program rule.

6 This application is for the Cottages at San  
7 Saba. This is the issue that the representative addressed  
8 when he spoke with you earlier this morning.

9 Staff has determined that the property  
10 described in site-control documents submitted at  
11 preapplication is for an entirely different site than  
12 submitted at full application and not within the  
13 tolerances allowed under 11.9(e)(3), preapplication  
14 participation requirements for sites that move within a  
15 larger tract, because the larger tract was not identified  
16 at preapplication.

17 So that's the 80 acres that the representative  
18 mentioned. The Cottages at San Saba application proposes  
19 new construction of 36 units to serve the general  
20 population in San Saba, Texas.

21 At preapplication the applicant submitted site-  
22 control documentation indicating the development would be  
23 built on a five-acre parcel that is part of an 18.6-acre  
24 tract.

25 The documentation submitted with the full

1 application indicates that the applicant plans to  
2 construct the development on a 4.06-acre parcel that is  
3 part of a 41.91-acre tract. The 4.06-acre tract is not  
4 within the 18.6 acre-tract submitted with the  
5 preapplication, and therefore the applicant does not meet  
6 requirements for six points under the preapplication  
7 participation.

8           There are two property contracts -- so you saw  
9 the drawing earlier, and it's part of your supplemental  
10 board book. There are two purchase agreement that we  
11 received -- one at preapplication and one at full  
12 application -- that I think this is not a clerical error.

13           Let me read to you: On the application that  
14 was received at preapp, it says, the southwest corner  
15 five, (5) acres out of an 18.6-acre tract owned by the  
16 City of San Saba. At full application, we received the  
17 northwest corner, 4.06 acres out of an 80.65-acre tract.

18           MR. OXER: So that's five out of 18 or four-  
19 point-something out of 86. Is that right?

20           MS. HOLLOWAY: So it's five out of 18 and then  
21 4.06 out of 80.

22           MR. OXER: That seems a little divergent.

23           MS. HOLLOWAY: These are two different legal  
24 descriptions.

25           MR. OXER: Okay. What are the metes and bounds

1 on this? Describe each of the -- are any of you here?  
2 Can you describe the metes and bounds? Okay. We will get  
3 to you in a minute. Marni, go ahead.

4 MS. HOLLOWAY: Staff is recommending denial of  
5 the appeal on the basis of these are two different pieces  
6 of property, between preapplication and full application.

7 MR. OXER: Okay. Any questions of the Board?

8 DR. MUÑOZ: So, Marni, I am looking at the map  
9 on this, at 117 out of 215 in the supplemental Board. And  
10 just -- I want to make sure that the -- sort of the  
11 approximate site depicted in the preapp site was in that  
12 18.6-acre tract.

13 MS. HOLLOWAY: Correct.

14 MS. HOLLOWAY: And then the new site is an  
15 entirely separate --

16 MS. HOLLOWAY: Yes.

17 DR. MUÑOZ: And the site control for the new  
18 tract of land was not provided in the preapplication.

19 MS. HOLLOWAY: Correct.

20 DR. MUÑOZ: And so we are considering an  
21 entirely original location from what was in the preapp for  
22 which points was assigned.

23 MS. HOLLOWAY: Yes. That is staff's  
24 assessment.

25 MR. OXER: Okay. There is a piece of property

1 in there.

2 MS. HOLLOWAY: Right.

3 MR. OXER: They said, we are going to start  
4 with this piece inside that.

5 MS. HOLLOWAY: Uh-huh.

6 MR. OXER: And the new piece, when you went to  
7 the full application, is it in that same block to start  
8 with?

9 MS. HOLLOWAY: No. So originally at  
10 preapplication, so -- there is the big 80-acre piece --

11 MR. OXER: I know. So the answer is no.

12 MS. HOLLOWAY: Yes.

13 MR. OXER: Okay. Is it adjacent to that  
14 property?

15 MS. HOLLOWAY: No.

16 MR. OXER: Okay. Is it near that property?

17 MS. HOLLOWAY: It is all within the same 80-  
18 acre parcel that has been divided into two tracts.

19 MR. OXER: Okay.

20 MS. HOLLOWAY: One is the 18, one is the 40.  
21 At preapp, we got a little piece of the 18. At full app,  
22 we got a little piece of the 41. So it is two different  
23 tracts.

24 DR. MUÑOZ: Hey Marni, when you say two  
25 different tracts --



1 MS. HOLLOWAY: Uh-huh.

2 DR. MUÑOZ: Who has divided that? Is that your  
3 definition or --

4 MS. HOLLOWAY: That is a legal description. So  
5 the City of San Saba does own all of that property. At  
6 issue is not -- the requirement is not from the same  
7 seller. The requirement is the same property.

8 MR. OXER: Right. The same site, the same  
9 location. Because the site conditions and terms of the  
10 development and the civil -- basically, the horizontal  
11 engineering are contingent upon the site, not the owner.

12 MS. HOLLOWAY: Uh-huh.

13 MR. OXER: Okay. So with respect to the  
14 question that I had on page 117 of the supplement, for  
15 those of you who wish to look, right. That is the  
16 difference. Okay. Any questions from the Board?

17 (No response.)

18 MR. OXER: I will have a motion to consider.

19 DR. MUÑOZ: Move staff recommendation.

20 MR. GOODWIN: Second.

21 MR. OXER: Okay. Motion by Dr. Muñoz to  
22 approve staff recommendation on Item 4(b), application  
23 16130. Second by Mr. Goodwin.

24 It looks like we have a little public comment  
25 here. From the aisle out, you are first. Remember to put

1 your name clearly, so that we can identify it for the  
2 transcript. Let us know who you are, and let us know who  
3 you represent and have at it.

4 MR. MAYFIELD: Thank you, Mr. Chairman, and  
5 members of the Board. My name is Mark Mayfield. I work  
6 with the Texas Housing Foundation.

7 We are a regional public housing authority, and  
8 we work in communities across the state under agreement --  
9 cooperative agreement with states [sic] that are outside  
10 of our jurisdiction. Our jurisdiction is Burnet, Blanco,  
11 and Llano Counties, but we work with multiple communities  
12 across the state under agreement as we have working right  
13 now at the City of Lamesa, and meeting with Don Bethel  
14 multiple times, and had an application pending there  
15 through the Texas Housing Foundation.

16 Accordingly, began to work with the City of San  
17 Saba back in 2013. In order for a housing authority  
18 outside of our jurisdiction -- according to Texas  
19 Government Code, we have to have a resolution passed and  
20 an authorizing cooperative agreement for us to even apply  
21 within these communities. San Saba, as Representative  
22 Sheffield spoke of, is a vibrant little rural community,  
23 in very dire need of workforce housing in that community,  
24 and that is what we were trying to do. Our model is to  
25 work with these communities in private public

1 partnerships.

2 That is what we do as a public body working  
3 with the private developers across the state. Trying to  
4 meet the ever-growing demand in rural communities. And I  
5 can tell you, it is becoming very difficult to do it, even  
6 as a public housing authority.

7 But San Saba has stepped up to the plate. And  
8 you know, they have a tract of land out west of their  
9 community that is an 80.65-acre tract of land. That it  
10 has been the goal of that community to develop that site  
11 with workforce housing from the get-go.

12 And this property that we have, the City  
13 Manager of San Saba is going to be here to speak of it.  
14 This is all or in part of an 80.65-acre tract. It has  
15 been like that since this started. The census tract has  
16 not changed. The address has not changed.

17 In preapplication, it was 206 Harkey Street.  
18 And the full app is 206 Harkey Street. The part of that  
19 80.65 acres, and there is a copy of a memo, I believe, in  
20 your packet from a surveyor out there that engineer that  
21 spoke about that it is all a part of that 80.65 acres,  
22 which is a requirement under the QAP.

23 So I would -- losing this six points deems this  
24 application non-competitive. This will just kill it. And  
25 we would absolutely hate this. We have been working on

1 this since 2013.

2 And the City of San Saba, the city manager is  
3 here. And he is going to speak. He is the one that  
4 actually signed the role of state contract in the first  
5 place.

6 MR. WEIK: My name is Stan Weik. And I am the  
7 City Manager for the City of San Saba. Mr. Chairman,  
8 distinguished members of the Commission, I want to thank  
9 you for allowing us to come and ask to consider granting  
10 us those points.

11 I think it is -- I am not going to go through  
12 all and tell you how great San Saba is, and how we have  
13 turned the corner in economic development. Because I  
14 think if you have been through there, you know that.

15 What we do have is the need for affordable  
16 housing for working men and women. We have a new nursing  
17 home that is opening up, that would create up to 65 to 70  
18 jobs. And these people are going to have to drive 80  
19 miles a day to and from work, because there is not  
20 adequate housing for working men and women in San Saba.

21 We have done a lot of good about creating jobs.  
22 We have not done a good job of creating the housing. And  
23 that is what we need. We need housing.

24 How did this error take place? Well, I am not  
25 perfectly sure how it took place. But I do know, I

1 believe that what took place is somebody is sitting in  
2 Marble Falls, Texas, is on the phone, with our City  
3 Secretary. And they are both looking at Google Earth.  
4 And the City of San Saba has some old plats laying around.  
5 And somebody faxes a plat to somebody.

6 And they are looking at it. And on that plat,  
7 that shows 80 acres. It also shows the potential of  
8 subdividing one of those acres. And they go down, and  
9 somebody puts an X on a piece of property which is  
10 included in the 80 acres.

11 And we assign the address of this plot of land,  
12 206 North Harkey Street. And that 602 North Harkey Street  
13 cannot be identified on Google Map at the current  
14 location. Because it can't pick it up, either. And so  
15 the wrong X was put on the wrong deal.

16 But the truth of the matter is, the City of San  
17 Saba has owned 80 acres out there. And we have been  
18 planning on developing it in the site that we were going  
19 to develop and sell. The 206 North Harkey, that site  
20 never changed from the very beginning.

21 At no point in time did anyone or any clerk, or  
22 the City, or the other organization attempt to defraud, to  
23 gain anything by the mistake. If the site that was  
24 originally X'd on the application was in fact the site,  
25 all the points would have been awarded.

1           So if we said, well, we will just go ahead and  
2 sell you that piece of land. I mean, we can't now,  
3 because they will take the points off. But if we did, we  
4 would've got those points. So there was no deception  
5 there.

6           There was no harm, no foul, except somebody put  
7 an X in the wrong spot. And the Texas Housing Foundation,  
8 they are not going to suffer from this mistake. The  
9 citizens and the working men and women in the City of San  
10 Saba are going to suffer if we are denied those six  
11 points.

12           Now, no mistake. The spirit of the rule has  
13 not been violated by this application. I understand laws.  
14 I understand ordinances. It is my job to enforce the  
15 ordinances of my City Council. And I need to quit  
16 talking?

17           MR. OXER: That is three minutes. Summarize.

18           MR. WEIK: Okay. And so I understand enforcing  
19 it. But I just don't understand the rules, laws have a  
20 spirit that is behind them. And the spirit of this rule  
21 was that somebody didn't do a bait and switch on you. I  
22 can stand on that tract of land, and pick a rock up and  
23 throw it to where the other one was. It is not like it is  
24 across town. It is right there. There was no bait and  
25 switch. There was no switching. And so I would really

1 like for you to consider and grant us those six points.

2 Thank you for your time, Mr. Chairman.

3 MR. OXER: I appreciate your comments. Do you  
4 have a comment?

5 MR. GUIDROZ: No, sir. I feel that --

6 MR. OXER: Can everybody hear Anthony. Don't  
7 talk unless you want to go up to the mic. But it is yes  
8 or no. Do you have a comment?

9 MR. GUIDROZ: I am Tony Guidroz, Director of  
10 Economic Development, Tourism and Marketing for the City  
11 of San Saba, Texas. And I really feel that Representative  
12 Sheffield and City Manager Stan Weik really said that  
13 there is to say, except for the fact that that is one  
14 contiguous piece of land.

15 MR. OXER: Right.

16 MR. GUIDROZ: And if you were standing on that  
17 property with me in San Saba, Texas, you could see that.  
18 And that you could throw a rock from the one piece that  
19 was erroneously marked on the application over to the  
20 piece where it was actually supposed to be set. And see  
21 that it is just one single piece of land. And with all of  
22 the jobs being created and the progress that we are making  
23 in San Saba, Texas, it is really vital for our citizens  
24 and people coming to work that we do have adequate  
25 housing.

1           And the issue is at this point, is if we don't  
2 have this opportunity right now to have this housing, you  
3 know, we miss the opportunity to grow. Our rural  
4 community of San Saba, to offer more for people that want  
5 to retire. It is quality of life, and so many other  
6 issues that are affected by not having the opportunity to  
7 have this housing here.

8           As the Representative first stated, it is a  
9 situation where you are not going to have a major builder  
10 that is going to come into town and build a new  
11 subdivision, because they don't feel that they can recoup  
12 their money. But with these tax credits and the points,  
13 and this type of program, that is what San Saba really  
14 would thrive with. But I thank you so much for your time.

15           MR. OXER: You are welcome for that. And we  
16 appreciate your comments. I would point out to everybody,  
17 and we haven't had a single applicant here who came to us  
18 and said, we don't really need your money. We will just  
19 talk about our project.

20           MR. GUIDROZ: Absolutely.

21           MR. OXER: I will assume that everybody here is  
22 more or less in the same circumstances that they need the  
23 money to make their project work. So while I appreciate  
24 your thought, we are not evaluating the need for San Saba.  
25 We are evaluating your application.



1 MR. GUIDROZ: Absolutely. God bless.

2 MR. OXER: Thanks.

3 DR. MUÑOZ: Yes. Marni, I've got a question.  
4 And again, I think everybody obviously understands the  
5 need and the desire to help facilitate affordable housing  
6 in San Saba, and in other areas.

7 But here is my question, because what I have  
8 heard repeatedly is somebody simply misapplied an X on a  
9 map. And what I am reading in our response is that the  
10 18.6-acre tract of land is part of this larger tract. But  
11 this larger tract and site control of that larger tract  
12 was not provided in preapplication as is required.

13 MS. HOLLOWAY: Yes.

14 DR. MUÑOZ: And that the new acreage, the  
15 new --

16 MR. OXER: The currently defied acreage.

17 DR. MUÑOZ: The currently defined was not part  
18 of the 18 acres for which documentation was provided in  
19 the preapplication.

20 MS. HOLLOWAY: That is correct.

21 DR. MUÑOZ: So --

22 MR. OXER: Stay right there.

23 DR. MUÑOZ: Because again, you know --

24 MR. OXER: Mark.

25 DR. MUÑOZ: What we are hearing is somebody put

1 the X on the wrong place on this sort of you know, plot  
2 graphic, plot graphic.

3 MS. HOLLOWAY: And I would add that --

4 MR. OXER: That is all right, Mark. Stay up  
5 there.

6 MS. HOLLOWAY: The description changed in the  
7 purchase agreement between the preapplication and the full  
8 application. So that to me, says yes, there definitely  
9 was a change there.

10 MR. OXER: I am willing to sort of go out on a  
11 limb here, and bet there wasn't a second application in  
12 San Saba.

13 MS. HOLLOWAY: No.

14 MR. OXER: Okay. So that means, that someplace  
15 else, there is another application behind this that is  
16 going to be -- were they not to get these points, they are  
17 going to be more or less out of the running. And just  
18 because of the highly competitive nature of this program,  
19 the points are not going to be lost.

20 Somebody is not going to be lost and go to  
21 someplace else. But the question that I have, Mark, is  
22 how do you get around what the QAP says?

23 MR. MAYFIELD: Well, the 18 acres that was  
24 mentioned is a part of that 80.65-acre tract. The 80.65-  
25 acre tract has never been in question.

1 MR. OXER: But that is not the -- that is not  
2 the part of the property that was defined as the  
3 Applicant's -- the location for the project.

4 MR. MAYFIELD: Well, according to our  
5 development partner, the final legal description is not  
6 required at preapp. But it cannot change from the -- it  
7 has to be all or in part of what the original was. And  
8 the tract, the 4.06 acres --

9 MR. OXER: Do we have a citation on that,  
10 Counselor? All right. Go ahead, Mark.

11 MR. ECCLES: I do, actually.

12 MR. MAYFIELD: It is all, or it has been done.

13 MR. OXER: Hold on a second.

14 MR. MAYFIELD: Mark's trying to be an attorney.

15 MR. ECCLES: QAP 11.9(e)(3)(f), the development  
16 site at application is at least in part the development  
17 site at preapplication. And the census tract number  
18 listed at preapplication is the same at application. And  
19 development site is a term that is defined in 10 TAC 10.2.  
20 I'm sorry, 10.3, "Definitions, Sub 41 as the area or a  
21 scattered site areas on which the development is proposed  
22 and to be encumbered by a LURA." So it is not just the  
23 broad site.

24 MR. OXER: So it is not just the 80 acres. It  
25 is the part of this that you are going to have in this 40-

1 year LURA, essentially, that restricts that. So if you  
2 are -- for whatever piece of that property, irrespective  
3 of how we identify it now, but if it is the one with the  
4 X, or if it is the other one that was the actual property  
5 that you are looking at, that means the rest of the  
6 property is not restricted by a LURA. Is that correct,  
7 Counsel?

8 MR. ECCLES: That's correct.

9 MR. OXER: So it has to -- and you are  
10 absolutely correct. It is the same address. The same  
11 location. The same 80 acres. But it is not the piece  
12 that would be restricted by the Land Use Restriction  
13 Agreement. That is what we are trying to key in on, and  
14 make sure that we've got that right. Because that is a --  
15 from a -- correct me, Counsel. But from an  
16 administration, a legal administration of this program,  
17 that is a key component of how this is managed in the  
18 process going forward.

19 That is why it is critical to be considered at  
20 this point in the application. So while we agree with  
21 you, it is the same census tract, the same general larger  
22 tract, all of those things, it is not the piece that would  
23 be restricted by the LURA. Do you see what I mean?

24 MR. MAYFIELD: No, sir. I don't. I mean, I --

25 MR. OXER: Are one of you guys over here a

1 lawyer?

2 MR. MAYFIELD: No. I mean, it is really pretty  
3 sad --

4 MR. OXER: Actually, that is maybe in your  
5 favor in this case.

6 MR. MAYFIELD: -- that it takes a lawyer to,  
7 you know. That is -- but it is what it is.

8 MR. OXER: No. I think we've got plenty of  
9 lawyers. They don't.

10 MR. MAYFIELD: I mean, we try to put the  
11 housing on the ground. It is all we can do. You know, I  
12 mean --

13 MR. OXER: And while I understand that, we have  
14 a -- don't misunderstand. We are sensitive to your -- to  
15 the efforts that everybody makes in these applications.  
16 They are not cheap, they are very detailed. And it is the  
17 fact that it is so competitive is why we wind up making it  
18 so detailed, and why details were critical.

19 MR. MAYFIELD: It is becoming impossible, just  
20 about.

21 MR. OXER: Well, I understand your point.

22 MR. MAYFIELD: Especially for public bodies  
23 that are --

24 MR. OXER: We accept the point. I accept your  
25 comment. You know, it is extraordinarily difficult. This

1 is not easy. And we are the ones that made it hard, okay.

2 MR. MAYFIELD: Rural Texas really hurts by it.

3 MR. OXER: Rural Texas suffers from this  
4 program.

5 MR. MAYFIELD: It sure does.

6 MR. OXER: Suffers from the requirements that  
7 are necessary to get a successful project in this program.

8 But you know, at this point, on this round, at this point  
9 in the round, I am not sure I can do a whole lot about  
10 that, apart from trying to do something to accommodate the  
11 more diverse needs in rural Texas.

12 It is not -- it's no secret this is hard to do.  
13 Okay. All right. Sign in. Tell us who you are.

14 MS. JUNGQUIST: I am Kim Jungquist.

15 MR. OXER: That will bend down. You don't have  
16 to stand on your tiptoes.

17 MS. JUNGQUIST: Thank you. Kim Jungquist from  
18 Hamilton Valley Management, and I represent the folks that  
19 put the application together. And I think I can shed a  
20 little light on why the mistake was made.

21 MR. OXER: And while we appreciate that the  
22 mistake was made and there may be a reason for it, the  
23 issue is that the mistake was made.

24 MS. JUNGQUIST: Well, not really, because --

25 MR. OXER: Yes, really. Trust me. Really.

1 MS. JUNGQUIST: The address stayed the same.  
2 The intent was the same. What happened was at preapp  
3 we're not required to have our formal survey -- boundary  
4 survey yet, so we really don't have a formal legal  
5 description. But the address was the same. It was  
6 designated by the City to us, and so that is what we used.

7 We got a fax of a plat that was several years  
8 old, that they had -- the City being they -- had looked at  
9 several years ago selling off a piece. It's never been  
10 separated; it wasn't platted or anything. It was just you  
11 know, an idea. That's all we had to go on.

12 And on the phone with the secretary, it was  
13 like the bottom left corner. So that's how it got X'd.  
14 But it was not --

15 MR. OXER: So it was actually the bottom left  
16 corner of the other half.

17 MS. JUNGQUIST: -- 80 acres.

18 MR. OXER: Right.

19 MS. JUNGQUIST: Right, right. But  
20 unfortunately the plat we had that was an old plat --

21 MR. OXER: Didn't show the separation with the  
22 street down the middle.

23 MS. JUNGQUIST: Do what?

24 MR. OXER: It did not show the separation with  
25 the street that's marked down the middle.

1 MS. JUNGQUIST: I don't know. It was just --

2 DR. MUÑOZ: We are looking at an updated one  
3 that has it.

4 MR. OXER: Yes. We are looking at an updated  
5 edition that shows it on there.

6 MS. JUNGQUIST: Yes. We got -- well, after  
7 preapp, we ordered the full survey. We got that. We got  
8 the actual legal description and talked with the surveyor.

9 That 18 acres, and 41 and all of that has never  
10 been separated out; it was just an old plat that they had  
11 come up with several years ago.

12 DR. MUÑOZ: Can I ask a question? I'm sorry  
13 for the interruption.

14 MS. JUNGQUIST: Sure.

15 DR. MUÑOZ: But I hear you saying it was never  
16 separated and legally defined. And Marni just a few  
17 minutes ago indicated that these are legally defined.

18 MS. JUNGQUIST: No.

19 DR. MUÑOZ: Well, you're going like this.

20 MS. JUNGQUIST: No, they weren't. And the  
21 surveyor attested to that in his email. To let you all  
22 know that it was always the 80.

23 DR. MUÑOZ: Marni --

24 MS. JUNGQUIST: Originally -- I'm sorry. There  
25 have been a few little pieces sold off, and those have



1       been platted out separately.  But --

2                   DR. MUÑOZ:  Well, you heard her say a few  
3 minutes ago, that these are legally defined sections.  
4 Right?

5                   MS. JUNGQUIST:  I heard her say that, but  
6 they're not.

7                   DR. MUÑOZ:  Okay.  Okay.

8                   MS. JUNGQUIST:  It was just an old plat that  
9 they had come up with, they thought about selling several  
10 years ago.  And that is where we -- it just accidentally  
11 got typed in, the 18, because that is what we saw.

12                   And we were not required to have the actual  
13 legal description at preapp.  But an address, yes, we had.

14                   And so once we got the formal survey, we knew exactly  
15 where the piece was.

16                   And the city, the surveyor, the construction,  
17 and the developer all went out one day and chose exactly  
18 where that piece was going to be.  We knew it would be up  
19 to five acres.  And then the surveyor got busy and  
20 surveyed off the piece.  So it was always, always in that  
21 same area.  It wasn't separated.

22                   You can see our frustration in here.  It is  
23 just --

24                   MR. OXER:  Well, I mean, it is -- I understand  
25 your frustration.  Understand our frustration.

1 MS. JUNGQUIST: I do.

2 MR. OXER: Because we are trying to make sure,  
3 you know, there is a certain benefit that you, and you  
4 too, Mark, enjoy by recognizing that we will -- but these  
5 are our transparent rules. We are trying to -- I mean,  
6 there is not a whole lot of discretion that we apply.  
7 Okay.

8 And these were written specifically for that  
9 purpose, to try and limit the amount of discretion. So it  
10 is clear what has to happen. So in matters like this,  
11 which I recognize are compounding your frustration, you  
12 know.

13 We are trying to figure out how to do this. We  
14 are not opposed to it. We are trying -- I am trying to  
15 figure out how to make sure we can get you what you want  
16 while we maintain the integrity of our rule. Get it?

17 MS. JUNGQUIST: I understand. I have seen you  
18 all go around it a little bit to help people. So you  
19 know, if you have --

20 MR. OXER: We grind things pretty fine up here.  
21 Okay.

22 MS. JUNGQUIST: Sure. Absolutely.

23 DR. MUÑOZ: Marni, do you have any comment on  
24 this sort of this kind of legal definition point?

25 MS. HOLLOWAY: We have actually received a

1 number of drawings. There is a drawing with the X on it  
2 that you have seen. We have also received a survey plat  
3 of two tracts that the 80 acres is one of those tracts.  
4 That survey tract that we have received --

5 VOICE: This is the property. It's right  
6 there.

7 MS. HOLLOWAY: Yes. I understand -- is  
8 actually much older than this more current drawing in that  
9 the older -- this other drawing doesn't seem to indicate  
10 some further subdivision. I have actually looked at this  
11 site. I was out there this past Friday.

12 It is actually -- it is a lovely place. It is  
13 green, and wildflowers and everything. Driving down  
14 Harkey Road, which is not on Google, but I found it  
15 anyway, it -- on that road, it is very clear to me where  
16 the two sites are, and, yes, you could probably throw a  
17 rock if you have a good arm. But they are two very  
18 distinct different sites.

19 We also have purchase contract that says the  
20 northwest corner, 4.06 acres out of the 80.65-acre tract.

21 And we have another one that says southwest corner, five  
22 acres out of 18.6 tract.

23 MR. OXER: Is the -- well, is the 18 acres part  
24 of the 80?

25 MS. HOLLOWAY: Uh-huh.

1 MR. OXER: Okay. So it is like 80 acres, down  
2 to the 18, down to the five. It was really down to the  
3 18. It was over here on the other part of the 80, is what  
4 it appears to be.

5 MS. HOLLOWAY: Uh-huh.

6 MR. OXER: Okay. So the difference between the  
7 application stage, or the preapplication and the  
8 application stage, if you've got it, within the 80  
9 acres -- if you got it within the 80 acres --

10 MS. HOLLOWAY: So you know, if at  
11 preapplication, they had said the southwest corner, five  
12 acres out of an 18.6-acre tract, that is part of a larger  
13 80-point-whatever-acre tract, you know, then at full  
14 application when they bring in the 80-acre tract, you  
15 know, I can draw that line. But as it sits, they are  
16 talking about two distinct pieces of property and two  
17 sites on either one of those.

18 MS. JUNGQUIST: And yet it does say also known  
19 as 206 North Harkey Street on both.

20 MS. HOLLOWAY: Yes. And I would --

21 DR. MUÑOZ: All 80 acres?

22 MS. HOLLOWAY: And to the --

23 DR. MUÑOZ: All 80 acres have that one address?

24 MS. JUNGQUIST: No. Just --

25 MS. HOLLOWAY: Yes. So the one thing that I

1 would add there -- and I am sure that a number of you are  
2 aware -- until something -- until there is development on  
3 a piece of property and that address has been assigned by  
4 the Post Office as, it is on this site --

5 MR. OXER: On the 80 acres.

6 MS. HOLLOWAY: Yes. Right now --

7 MR. OXER: Not on the five. It is on the 80  
8 acres.

9 MS. HOLLOWAY: Yes.

10 MR. OXER: On the five acres.

11 MR. MAYFIELD: The five acres.

12 MR. OXER: Okay.

13 MS. HOLLOWAY: So the five-acre parcel is way  
14 over from Harkey Street.

15 MR. OXER: I get it.

16 MS. HOLLOWAY: And it is --

17 MR. OXER: We've got the picture.

18 MS. JUNGQUIST: It is not that far.

19 MR. OXER: Trust me. We've got the picture.  
20 We've got the drawing.

21 MR. GANN: Mr. Chairman.

22 MR. OXER: Yes, sir. Mr. Gann, turn on your  
23 microphone.

24 MR. GANN: There's two contracts here.

25 MS. HOLLOWAY: Uh-huh.

1 MR. GANN: The first contract draws -- is a  
2 legal description that applies to the square box of these  
3 two boxes that we are looking at to the left, which is a  
4 different legal -- and it is out of the 18.6-acre tract.  
5 And that is where the 8.6-acre tract is. This other tract  
6 over here is out of a larger tract, but basically out of a  
7 41-acre tract.

8 MS. HOLLOWAY: Uh-huh.

9 MR. GANN: And there are two different legal  
10 descriptions. So if nothing else, they didn't have the  
11 property tied up.

12 At the first contract that they needed to have  
13 tied up, to make this whole thing work -- they didn't have  
14 it under contract. Can you understand that?

15 MR. OXER: Yes.

16 MS. HOLLOWAY: Yes.

17 MR. GANN: It was not under contract when it  
18 needed to be under contract.

19 MR. OXER: Okay. Can --

20 MR. GANN: And the 206 address, my cohort at  
21 the other end down there probably agrees that I put many  
22 addresses on many pieces of property, and you can move  
23 them around, you can change them later. And I don't think  
24 there is any problem involved. I think it was just a big  
25 mess-up, but it is a big mess-up.

1 MR. WEIK: But the 206 would not be --

2 MR. OXER: No. You have to come to the mic and  
3 state your -- you've got 30 seconds.

4 MR. WEIK: All right. Stan Weik, City Manager,  
5 City of San Saba. The 206 would not ever have been given  
6 to the part with the miscellaneous X, because that is on  
7 the left hand side of the road. So it would have had to  
8 been an odd number, not an even number. And Harkey Street  
9 goes here.

10 MR. OXER: Fair enough.

11 MR. GANN: It doesn't make any difference when  
12 the legal description actually controls that, not the  
13 address.

14 MR. OXER: Right.

15 MR. GANN: The address is a situs address.

16 MR. OXER: Okay. Mark, you've got 30 seconds.  
17 Make it quick.

18 MR. MAYFIELD: Yes. Two points. The fact of  
19 the site control, it is one owner. We have dealt with the  
20 City of San Saba. There is no multiple owners. There is  
21 one owner, to the layman which I am -- I am a layman; I am  
22 not an attorney.

23 But you read this directly out of the QAP.  
24 Section 11.9(f), qualifying for these six points, the  
25 development site at application is at least in part the

1 development site at preapplication, and the census tract  
2 number listed at preapplication is the same at  
3 application. That has been met. And there is no other  
4 way to say it, unless you dissect this down to the nth  
5 little degree, to kill the deal. And that is what --

6 MR. OXER: No. We are not dissecting it to  
7 kill the deal. We are dissecting it to maintain the  
8 integrity of our rule. Do you understand the difference?

9 MR. MAYFIELD: Yes, sir. I do. And like I  
10 said, to a layman, I just read the rule to you.

11 MR. OXER: I get it. We wrote it.

12 MR. MAYFIELD: Thank you.

13 MR. OXER: Okay. Your comments are received.  
14 We understand your point.

15 And for the record, I recognize your  
16 frustration, Mark. We are a bit frustrated too, because  
17 we are trying to make these projects go in places where  
18 they are needed.

19 Okay. Kim, anything else to say?

20 MS. JUNGQUIST: (No audible response.)

21 MR. OXER: Okay. Any other comments for this  
22 one?

23 (No response.)

24 MR. OXER: Any other comment?

25 (No response.)



1 MR. OXER: Anything else from the Board?

2 (No response.)

3 MR. OXER: Ms. Bingham?

4 MS. BINGHAM ESCAREÑO: No.

5 MR. OXER: Okay. With respect to Item 4(b),  
6 application 16130. We have had a motion by Dr. Muñoz.  
7 Second by Mr. Goodwin to approve staff recommendation.

8 Is that correct, Marni? To approve staff  
9 recommendation to deny this appeal?

10 MS. HOLLOWAY: Correct.

11 MR. OXER: Okay. To approve staff  
12 recommendation to deny this appeal. We heard public  
13 comment. Those in favor?

14 (A chorus of ayes.)

15 MR. OXER: And opposed?

16 (No response.)

17 MR. OXER: There are none. It is unanimous.  
18 All right. Next item, 16260.

19 MS. HOLLOWAY: All right. The last application  
20 under 4(b), presentation, discussion and possible action  
21 on timely filed scoring notice appeals under the  
22 Department's multifamily program rules.

23 This is application 16260, Churchill at Golden  
24 Triangle. During the application review process, staff  
25 identified administrative deficiencies that required

1 resolution within five business days of notice to the  
2 Applicant, or they will suffer a five-point deduction for  
3 each day and potential termination after the seven days  
4 that that deficiency is not resolved.

5 This application was assessed a penalty of five  
6 points under 10 TAC 10.2017(a), related to the  
7 administrative deficiency process, because the Applicant  
8 failed to resolve administrative deficiencies to the  
9 satisfaction of the Department by 5:00 p.m. on the fifth  
10 business day. The rule reads in relevant part, unless an  
11 extension has been timely requested and granted, if an  
12 administrative deficiency is not resolved to the  
13 satisfaction of the Department by the 5:00 p.m. the  
14 following day, then five points shall be deducted.

15 Note that it is not resolved. At issues is  
16 when they are not materials were received. It is whether  
17 or not the deficiency has been resolved. And this has  
18 been --

19 MR. OXER: Whether or not those materials  
20 address the deficiency.

21 MS. HOLLOWAY: Right. The scoring notice that  
22 deducted those points was issued. The Applicant has  
23 appealed based on a number of issues. They have stated  
24 that the administrative deficiency was excessively vague.

25

1           That the reviewer was out of the office, and  
2           unavailable for two days. And that it was not possible,  
3           or they were not invited to submit the response in  
4           portions.

5           The Applicant has provided no evidence that  
6           between the time that the deficiency was issued and when  
7           it was due, that they contacted management, anyone else,  
8           and said, we have an issue. We have a problem. Can we  
9           just give you parts of this. There is no record of that  
10          communication.

11          At 4:28 p.m. on April 28, 2016, which was the  
12          due date, 32 minutes before the five o'clock deadline, the  
13          response for 16 deficiency items was uploaded to our site.

14          That included 36 pages of documentation. The timing of  
15          the submission did not leave sufficient time for staff to  
16          review the documents, and determine whether the  
17          administrative deficiencies had been resolved to the  
18          satisfaction of the Department.

19          The review of the information later, the next  
20          day, revealed that there were in fact four deficiencies  
21          that were not resolved by the information that was  
22          uploaded. So we got all the information. Didn't have  
23          time to get through it.

24          The next day, looked through it all. There  
25          were still four issues that were not resolved with that

1 initial submission. So staff is recommending denial of  
2 the appeal on the basis that that administrative  
3 deficiency was not timely resolved.

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

5 MR. GOODWIN: I make a motion that we accept  
6 staff recommendation.

7 MS. BINGHAM ESCAREÑO: I will second.

8 MR. OXER: Okay. Motion by Mr. Goodwin to  
9 approve staff recommendation. Second by Ms. Bingham. Do  
10 we have public comment?

11 MR. SISK: Mr. Chairman, Board members, Mr.  
12 Irvine, appreciate the opportunity to present our side of  
13 the case, if you will. The purpose of this presentation  
14 is to clarify why we respectfully request that the  
15 Board --

16 MR. OXER: You've got to tell us who you are.

17 MR. SISK: I'm sorry --

18 MR. OXER: And who you represent.

19 MR. SISK: I'm sorry. Tony Sisk. Churchill  
20 Residential. We are the developer.

21 MR. OXER: Thank you all.

22 MR. SISK: So I am trying to request that the  
23 Board use its discretion to understand and agree that the  
24 five-point death penalty is not appropriate. We have  
25 developed 2,800 units within the tax credit program. And

1 we have never been faced with this penalty.

2 We intend to show that we made every reasonable  
3 attempt to clear all the deficiencies in the review  
4 process. We believe that all the required information was  
5 in the application within the five-day deficiency  
6 deadline.

7 As she mentioned, you know, there were 16  
8 questions to start with. And we answered those  
9 deficiencies. We were waiting on one last piece of  
10 information from the Fort Worth Housing Authority. We  
11 didn't receive that until 4:00 p.m.

12 The guy in charge of this program at the Fort  
13 Worth Housing Authority, his last day was the previous  
14 Friday, within this same five-day period. So we submitted  
15 it at 4:28.

16 Last year, all of our deficiency points were  
17 cleared within 30 minutes of submission. And we strongly  
18 believe that all the information necessary to evaluate  
19 this application was either in the original application or  
20 corrected in the allotted time.

21 There were four remaining items that she -- the  
22 reviewer said were not cleared. The first one, site  
23 control, she agreed the next day that we had provided all  
24 the information, and indicated that that point was  
25 cleared.

1           The remaining three, in Tab 22, these are the  
2 architectural plans. A number of documents, okay. As you  
3 can see, on the first page of the architectural plans --

4           MR. OXER: Are those in the materials that were  
5 provided to us.

6           MR. SISK: Yes.

7           MR. OXER: Okay.

8           MR. SISK: Well, a little bit of this was  
9 corrected in the deficiency. But this unit matrix agrees  
10 with the TDHCA form, okay, which is the unit-building-type  
11 configuration. Nothing changed with the number of units,  
12 the square footage. Everything was in the application.

13           And what she -- the issue, what it boiled down  
14 to is, on one of the four building types, the architect  
15 had B-1 where A-1 was actually supposed to be there. But  
16 in all the other places, it shows where the A-1 and the B-  
17 1 units and C units are supposed to be. All the  
18 information was in the application. Okay.

19           The third deficiency is related to the list of  
20 organizations and principles. She had asked for some sub-  
21 entities to be put in here. So the only sub-entities that  
22 we could find from the org chart were trusts that owned  
23 the Churchill entity. So we added those.

24           It turns out that she wanted the upstream  
25 entities. The entities of the Fort Worth Housing

1 Authority. Well, the form says sub-entities.

2 Okay. So it is -- the form is very confusing.

3 And we made every attempt to answer it. Again, the  
4 information was in the application on these forms. Every  
5 entity and the chart of accounts.

6 The last point is, somehow in this process, the  
7 name Fort Worth Housing Authority disappeared up here.  
8 But the Fort Worth Housing Authority name is right here.  
9 And all the entities were listed.

10 It is just where -- the form itself is  
11 confusing. And as far as this form, we -- the name Fort  
12 Worth Housing Authority is at the bottom. It was just not  
13 on the top for some reason.

14 So the point is, is that all the information  
15 necessary to fully evaluate this application was in there.

16 And you know, this site is near 40,000-something jobs,  
17 most of which are workforce housing.

18 And it is a very important project with the  
19 Fort Worth Housing Authority. They are trying to put RAD  
20 units in here. But the overall point is that we had all  
21 the information necessary. And this has never come up in  
22 14 years of this program.

23 MR. OXER: Okay. Any questions of the Board,  
24 by the Board of Mr. Sisk?

25 (No response.)

1 MR. OXER: Okay. Ms. Dula.

2 MS. DULA: Good afternoon. Tamea Dula with  
3 Coats Rose on behalf of the developer. Here, I would like  
4 to give you just a little bit of a description of the  
5 circumstances under which this deficiency notice was  
6 resolved. Because there were indications in the staff's  
7 response that maybe they thought not enough effort had  
8 been put out.

9 The notice was received on a Monday in the  
10 midst of preclosing the 2015 deal. On Tuesday, the three-  
11 person staff that would address the deficiencies were at  
12 the closing for the entire day. On Wednesday and  
13 Thursday, the reviewer from the TDHCA was out of the  
14 office, doing other TDHCA things.

15 MR. OXER: That was whom?

16 MS. DULA: Pardon me?

17 MR. OXER: And that was whom.

18 MS. DULA: We really didn't want to get into  
19 pointing the finger at a particular person, but it was  
20 Elizabeth Henderson.

21 MR. OXER: Okay.

22 MS. DULA: And she was doing stuff for the  
23 Agency in other places, but was not available. And she  
24 was out until late in the afternoon. There was a  
25 telephone conversation. She resolved some issues.



1           On Friday, that was the last day of the Vice  
2 President for development at the Fort Worth Housing  
3 Authority. He is the person who handles this for that  
4 agency. And that agency is a co-developer in the deal.

5           And then we had the weekend with the housing  
6 authority is not operating. And then on Monday, which was  
7 our day to resolve all of this, we finally got the Housing  
8 Authority signature at 4:17 in the afternoon, and within  
9 ten minutes, everything was forwarded to the TDHCA.

10           We were -- your requirements are that there not  
11 be partial submissions without an invitation from staff to  
12 do so. We didn't have that invitation to do so. So and  
13 they did not go and ask for it, because the invitation had  
14 not been extended.

15           Here you have a Category I developer over the  
16 past 14 years. You don't have that many Category I  
17 developers. They have 18 projects. They have developed  
18 over 2,800 units of affordable housing through this  
19 program.

20           They were making an all-out effort to resolve  
21 this. But because of the vagueness that this particular  
22 reviewer used in this set of deficiencies, it was very  
23 difficult to make sure that everything was addressed.

24           For instance, in the deficiency with regard to  
25 the building unit configuration form not matching the

1 building plans, another reviewer might well have said,  
2 three units in Building One are marked B-1 when they  
3 should be A-1. Please correct.

4 Or another reviewer would have said  
5 potentially, the units as shown on the building floor  
6 plans do not match the units as shown in the building  
7 configuration form. Please correct.

8 This reviewer adopts a much less rigorous  
9 approach. The building plans do not match the building  
10 configuration plan. Please correct.

11 Building plans include all of the architectural  
12 drawings. The developer identified the matrix as not  
13 matching the building configuration plan, and revised  
14 that, and sent it in. Did not know about the  
15 typographical error.

16 The other items all encompassed material that  
17 had previously been provided on the Monday, within the  
18 deadline. But this particular reviewer wanted it also in  
19 another space. Some of the places she wanted the  
20 information were incorrect, but it was provided anyway, to  
21 get this resolved.

22 And the final issue was the form in which the  
23 entity's name was at the bottom of the form, but was not  
24 at the top of the form. There was no way you could fail  
25 to understand who the entity was that was filing the form.

1           We request that you take some cognizance of the  
2 difficulties with this situation and with resolving issues  
3 that are not specifically explained, and exercise your  
4 discretion here.

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

6           MS. BINGHAM ESCAREÑO: Tamea, what were you  
7 referencing the invitation about?

8           MS. DULA: On the form that is used for  
9 deficiency notices, it says everything must be filed at  
10 the same time, unless you are invited to file in pieces.  
11 Okay. We did not get such a --

12           MR. OXER: So all of your -- like on the  
13 deficiency notice, if you have in this case, five  
14 deficiencies, you are supposed to file all five of them at  
15 the same time, rather than three and two later.

16           MS. DULA: Exactly. Exactly.

17           MS. BINGHAM ESCAREÑO: Which is why you are  
18 saying that you got it in under the wire, because it took  
19 a while to smash all of the --

20           MR. OXER: Get the last piece.

21           MS. DULA: The last piece was the Housing  
22 Authority signature. And they were kind of running  
23 around, because the guy in charge had left employment the  
24 week before.

25           MR. OXER: Okay. Any other questions?

1 MS. DULA: Thank you.

2 MR. OXER: I have a question, Marni. In a  
3 circumstance, an instance like this when the shot clock is  
4 running, okay.

5 MS. HOLLOWAY: Yes.

6 MR. OXER: So they've got drop dead terms  
7 they've got to hit on this, in the event that somebody is  
8 unavailable, does that roll over and go to somebody else?  
9 Who would be there to answer the phone afterward?

10 MS. HOLLOWAY: Absolutely. We have five  
11 reviewers, program specialists. If -- we're not all going  
12 to be out at the same time, Sharon Gamble, our 9 percent  
13 administrator, is available. I am available.

14 MR. OXER: So essentially, this goes up a notch  
15 if somebody is not available.

16 MS. HOLLOWAY: Yes.

17 MR. OXER: Were you -- I mean, when you called,  
18 Tamea. Just up, just wave and say right, when somebody  
19 called, did they get a chance to speak to Elizabeth, or  
20 did it go, move on up to somebody to speak to? Tony? Get  
21 up here and talk to me.

22 MS. DULA: There was no suggestion that  
23 somebody else would be called. There was an email notice.  
24 I am out until after such-and-such a date. If you have,  
25 actually --

1 MR. OXER: So you sent the email, and not -- I  
2 mean, you did not call in and ask to speak to her.

3 MS. DULA: They knew that she was out. And  
4 actually, the email notice said, if you are calling about  
5 this type topic or that topic, talk to somebody else.

6 It didn't say a word about deficiencies. So  
7 other topics were addressed to somebody else in the  
8 Agency. This issue was not.

9 MR. OXER: All right. Well, I am going to  
10 light up the staff here right quick. So in the event that  
11 anybody is out, and you need to get an answer, don't stop.  
12 Don't accept, we are out, call us next week. You know,  
13 escalate.

14 MS. HOLLOWAY: Absolutely.

15 MR. OXER: Escalate until you get somebody to  
16 answer.

17 MS. HOLLOWAY: Absolutely. You could go all  
18 the way to --

19 MR. IRVINE: Until 5:00.

20 MR. OXER: He will take your call. Trust me,  
21 he is available after 5:00 a lot of days, too.

22 MS. DULA: May I make a comment?

23 MR. OXER: Certainly.

24 MS. DULA: When I questioned whether under the  
25 terms of the deficiencies that were cited whether Mr.

1 Irvine could determine what was at issue --

2 MR. OXER: Well, that is true. He probably  
3 couldn't. But he could make sure that somebody answered  
4 the question.

5 MR. IRVINE: I can definitely say I would give  
6 you another 24 hours to sort it out.

7 MS. DULA: Yes. And that would have been  
8 helpful.

9 MR. OXER: He can extend that deadline. Okay.

10 MS. DULA: And by the way, had they even known  
11 that the real critical issue on the architectural drawing  
12 problem was a typo by the architect -- they had already  
13 engaged the architect on like Tuesday or Wednesday to make  
14 changes. And they would have obviously included that, had  
15 they understood that that was the reviewer was objecting  
16 to.

17 DR. MUÑOZ: So Marni, is there any dispute  
18 about having responses to all of the deficiencies within  
19 the time allotted?

20 MR. OXER: One of your points on your  
21 presentation, Marni, is that one of these remains  
22 unresolved.

23 MS. HOLLOWAY: No. They are actually -- they  
24 have been cleared since. They were cleared the next day,  
25 as I understand it. Elizabeth was able to work with the

1 Applicant and get the rest of them cleared.

2 In there is an email from Elizabeth that says,  
3 okay. That is it. Then there will be a five-point  
4 penalty, because it was late. Your Board book includes  
5 the description from our perspective of the items that  
6 were not cured. Would you like to discuss those, or we  
7 can go through them.

8 MR. OXER: So they, I mean, you are saying  
9 there were five deficiencies.

10 MS. HOLLOWAY: There were 16 total.

11 MR. OXER: Sixteen total. You were saying  
12 there were five that were not resolved?

13 MS. HOLLOWAY: There were four, one, two,  
14 three, four that remained unresolved. Although, the  
15 fourth uncured deficiency -- was it the fourth one, one of  
16 them there was a later review, an administrative review  
17 that said yes, this issue is okay. But there was still --

18 MR. OXER: So 12 out of 16 have been taken care  
19 of.

20 MS. HOLLOWAY: Yes. There was still items left  
21 unresolved. I also would add that you know, if there was  
22 a question about a deficiency, about what we are looking  
23 for, then probably the best way to handle that would be to  
24 call or email and ask.

25 MR. IRVINE: I would just like to comment. I

1 felt a little trepidation in signing my letter. Because I  
2 really don't want to come across as CS or whatever.

3 But I think it is really important for the  
4 world to understand, the objective here is not to return  
5 the volley. The objective is for, by the end of the day,  
6 for the game to be over.

7 We need to have certainty. This program cannot  
8 move along if people are just throwing things back and  
9 forth. We need to have closure.

10 MS. HOLLOWAY: Yes.

11 MR. OXER: Do you have something else you would  
12 like to say, Tony?

13 MR. SISK: Tony Sisk, Churchill Residential.  
14 That is exactly what did not happen here. The whole issue  
15 is that the way that these questions were being posed are  
16 unclear.

17 You know we have done dozens of these  
18 applications. Never had these issues with other  
19 reviewers. I looked at some of the other applications  
20 where they said, we will get back to you, or send you  
21 another deficiency.

22 We were, you know, the thing is, this was very  
23 unclear. And we have the information in time to evaluate.

24 We are talking about a name at the bottom and not at the  
25 top.



1           It was very unclear on this list of  
2 organizations and principals. She is asking for something  
3 that is incorrect, okay, to put down on the form.

4           And on this, these plans can and do move around  
5 once applications go through, and the design and the  
6 building process. And we -- two different places in the  
7 application, we show exactly what the units are, the  
8 tabulation, what sections they are in. And the  
9 information -- the point is that, the information was  
10 there in time, where you could conclude that everything is  
11 done completely.

12           DR. MUÑOZ: But Marni just said that there were  
13 at least four that were not --

14           MR. OXER: Are you addressing the four that she  
15 says were not --

16           MR. SISK: Number one --

17           DR. MUÑOZ: But Mark, you said everything was  
18 turned in, in time. Everything.

19           MR. SISK: We gave --

20           DR. MUÑOZ: A minute ago, she said not  
21 everything has been resolved.

22           MR. SISK: It is not resolved in their opinion.

23           And they are asking for information, okay. That I am  
24 just saying, this form, she is asking for are sub-  
25 entities. And what she is asking for is not a sub-entity.

1 It is an upstream entity.

2 MR. OXER: Right.

3 MR. SISK: And the form is unclear. And so I  
4 mean, we are saying, we had the information to evaluate  
5 this. And we disagree with staff in terms of them  
6 concluding that we didn't have it.

7 And a five-point penalty, that is why I called  
8 it a death penalty. Because I mean, it throws any  
9 application --

10 MR. OXER: We are on the record today,  
11 recognizing that this is a very competitive process if one  
12 point goes up or down.

13 MR. SISK: Yes. But that is not our point.  
14 Our point is that we had the information there.

15 MR. OXER: Marni? Anything to summarize?

16 MS. HOLLOWAY: If I may. Regarding the sub-  
17 entity question, in their appeal, the Applicant states  
18 that FWHA, Golden Triangle Public Facilities Corporation  
19 is not a sub-entity of the General Partner.

20 Exactly the opposite is, in fact, correct.  
21 Which may be fine. The problem is, that the  
22 organizational chart clearly showed that entity as a sub-  
23 entity of the General Partner.

24 Discussing the building configuration, the  
25 plans for buildings 1 and 3 do not match the unit

1 distribution given on the building unit configuration  
2 form. You know.

3 MR. SISK: But these are the plans. And they  
4 do agree.

5 MS. HOLLOWAY: So -- this was the exchange.  
6 There was a deficiency issued. It had a five-day  
7 deadline.

8 There are opportunities to ask questions.  
9 There are opportunities to engage, and request additional  
10 information if you don't understand. Call me. You know,  
11 I will help figure it out.

12 There is also an opportunity to request an  
13 extension, if you are not going to be able to get it  
14 completed in time. And I believe one of the conditions  
15 for that extension is information from a third party. You  
16 know, it is --

17 MR. OXER: Is there a citation on the  
18 availability of an extension, Tim? Or is that an  
19 administrative --

20 MS. HOLLOWAY: It is in the administrative  
21 deficiency section.

22 MR. IRVINE: Section --

23 MR. OXER: Can you --

24 MR. ECCLES: Section 10 TAC 10.201(7)(a) talks  
25 about administrative deficiencies for competitive HTC

1 applications. And that rule begins, "unless an extension  
2 has been timely requested and granted." As to the  
3 particulars of what it takes to garner an extension, that  
4 is not in this rule.

5 MR. OXER: But it is available.

6 MS. HOLLOWAY: That option.

7 MR. OXER: I mean, there is a statement that it  
8 is available? Is that at your discretion?

9 MR. IRVINE: I would certainly feel comfortable  
10 addressing a request.

11 MR. OXER: Okay.

12 MR. ECCLES: And regardless of the terms, may I  
13 ask Marni, was an extension requested in this instance?

14 MS. HOLLOWAY: No.

15 MR. OXER: And we recognize that. Tamea?

16 MS. DULA: May I comment?

17 MR. OXER: Yes.

18 MS. DULA: There is a specific -- Tamea Dula,  
19 Coats Rose. There is a specific reference that if you are  
20 getting something from a third party, that an extension  
21 can be available.

22 MR. OXER: Can be requested. But you hadn't  
23 made the request.

24 MS. DULA: Yes. You do have to make a request.

25 MR. OXER: Making sure we are both clear.

1 MS. DULA: So far as they were aware, they  
2 weren't getting anything from a third party that they  
3 didn't have at five o'clock on Monday the 18th, which was  
4 their deadline, before their deadline.

5 MR. OXER: Okay.

6 MS. DULA: So no. They didn't ask for an  
7 extension.

8 MR. OXER: Anything else on that, Tim?

9 MR. IRVINE: No.

10 MR. OXER: Okay. All right. With respect to  
11 Item 4(b) application 16260, a motion by Mr. Goodwin,  
12 second by Ms. Bingham to approve staff recommendation to  
13 deny this appeal. Is that a correct statement? To deny  
14 this appeal. Those in favor?

15 (A chorus of ayes.)

16 MR. OXER: And opposed?

17 (No response.)

18 MR. OXER: There are none. It is unanimous.  
19 Okay. Understand, we have -- we have reached a point on  
20 the agenda to provide for public comment on matters other  
21 than items for which there are current agenda items.

22 Those who wish to speak, I would remind you  
23 that we will be able to take your comments only. We will  
24 not be able to respond to them, or to reply to your  
25 requests for information. It is only for the purpose of

1 supplying or providing information on future agenda items,  
2 specifically beginning with June 16.

3 Now, there seems to be a little herd moving up  
4 here to the front. I would offer up that while we  
5 appreciate each of your individual comments, if you all  
6 have or are aligned in your comments and want to simply  
7 support that through volume, you don't each have to take  
8 three minutes.

9 You can say, Me too, and sign your name. Or,  
10 you can just sign your name afterwards and say that you  
11 agree with somebody that you choose to be one of your  
12 spokespersons, which I recommend, because we are not  
13 stopping for lunch here, if you hadn't noticed.

14 So anything that you do is going to get between  
15 them and their tuna fish sandwich, okay. So the first one  
16 of you that wants to speak can come up.

17 And while you are on the way, I am going to  
18 ask, Peggy, do we have something that you want to read  
19 into the list?

20 THE REPORTER: Those are all opposition to the  
21 same project.

22 MR. ALCOTT: Mine is different.

23 MR. OXER: And I gather -- okay. Then we'll  
24 take yours first.

25 MR. ALCOTT: And I'll go real quickly, because

1 I know people have tuna fish sandwiches they want to get  
2 to. The at risk --

3 MR. OXER: Who are you?

4 MR. ALCOTT: I'm sorry. Yes. Been here  
5 before. Tim Alcott.

6 MR. OXER: I know who you are. But you have to  
7 tell her.

8 MR. ALCOTT: Tim Alcott, San Antonio Housing  
9 Authority. And one of the items we have been working on  
10 is the At Risk Subcommittee, and so we had meetings on  
11 that.

12 And I don't know if the Board has received it  
13 or not, but we did come together with a consensus. There  
14 is about 14 to 15 of us on that Subcommittee. And we came  
15 up with seven comments or suggestions to the TDHCA Board  
16 and TDHCA staff on what we would like to change. And  
17 raising some suggestions.

18 One thing I would like to bring to the Board  
19 specifically, because two of them, I would like to talk  
20 about in my short period of time here is, I have talked  
21 previously about different states, and how they add  
22 additional points for Choice, Promise, Choice Zones,  
23 Promise Zones, Promise neighborhoods. And that is one of  
24 the items that did come through the Board, through the At  
25 Risk Subcommittee.

1           And much like other states, we wanted the best  
2 practices. And the reason is, with these sort of  
3 developments, the way the scoring currently is with the  
4 QAP, they are looking at the desirability of the  
5 neighborhood now. And with Choice and Promise  
6 neighborhoods, it is changing. And so that is why we ask  
7 for additional points for that. So I wanted to point that  
8 out.

9           Another item that I thought was a good outcome  
10 from those meetings was that the new developments, we  
11 suggest that there should be a cap of up to 50 percent of  
12 the credits awarded for new developments in new locations.

13          And the reason is, there is a lot of developments both in  
14 the rural and in the city that they don't have the  
15 opportunity to move.

16          So when you think about the ICP versus TDHCA  
17 litigation, one of the outcomes of that litigation is, it  
18 is not really what the litigation said, but was that  
19 development should be in, or there is a desire for  
20 developments to be in high opportunity areas. But there  
21 are lots of groups out there that don't have the  
22 opportunity to move.

23          So they don't have the opportunity to choose a  
24 new location. And so some folks don't have that choice.  
25 Because it is a longer discussion than perhaps I could



1 have right now. Because, I won't go into it. There is a  
2 reason behind it.

3 But that we suggested maybe only 50 percent of  
4 the developments should to go new locations or new  
5 developments and new locations. The rest of the tax  
6 credits should go to developments going to same  
7 opportunity, in the same area where they are.

8 And the reason is, because for me, a public  
9 housing authority, you know, we put the land into the  
10 value of the deal. We don't have the opportunity to move.

11 We have a long list of folks that want to live  
12 where they currently are. And it wouldn't be good for us  
13 to be choosing new areas of town where we are not wanted.

14 Thank you.

15 MR. OXER: Great. Appreciate your comments,  
16 Tim.

17 MR. GERANI: Good afternoon. My name is Wayne  
18 Gerani. I am with Austin Habitat for Humanity. I am also  
19 here on behalf of Habitat Texas.

20 We just wanted to speak actually about the  
21 National Housing Trust Fund. We know you guys are  
22 administering that, and are setting up the rules and  
23 procedures on how that is going to be.

24 My understanding is, the first year, you are  
25 not able to do anything with home ownership. But we did

1 want to encourage that, while you are setting the rules  
2 and procedures, that you look to the future years to allow  
3 for those funds to be used for home ownership.

4 Here in Central Texas, we are making great  
5 strides on long-term and permanently affordable home  
6 ownership opportunities for families. And that is a life-  
7 changing thing.

8 So we just wanted to encourage that, that you  
9 guys keep that in mind as you are setting the rules for  
10 the long term. Not be overly swayed by the fact that home  
11 ownership isn't a part of it early on. Thank you.

12 MR. OXER: Great. Appreciate your comments.  
13 While she is signing in, I will ask as Chairman, is  
14 anybody here commenting on Application 16118?

15 MS. GRILLO: Yes.

16 MR. OXER: Is that all of you?

17 MS. GRILLO: Yes.

18 MR. OXER: Okay. Is there like somebody who  
19 can summarize this. Or each of you would like to speak?

20 VOICE: We each have a spot. But we are going  
21 to keep it all short. We are not all going to take three  
22 minutes.

23 MR. OXER: That is a good plan, by the way.

24 VOICE: We had that plan before you suggested  
25 it.

1 MR. OXER: There you go. Good thinking. All  
2 right. Have at it. You get three, and they get one  
3 apiece.

4 MS. GRILLO: Okay. Hi. My name is Jennifer  
5 Grillo. And I am the Vice President of Fall Creek  
6 Homeowners Association.

7 And I am here and speaking in opposition to  
8 Plan 16118, also referred to as the Standard at Fall  
9 Creek. It is an affordable apartment housing development  
10 that they are trying to put in next to our master-planned  
11 community.

12 Currently, we have about 2,500 homes, and we  
13 are still growing. We are located in Harris County,  
14 outside of the City of Houston, and also outside the City  
15 of Humble.

16 One of the things that I want to address real  
17 quick is that this isn't a situation of not in our  
18 backyard. The location is not a good location.

19 And we understand the goal of providing  
20 affordable housing to people, and that is admirable. But  
21 even with the best of intentions, sometimes, if the facts  
22 and circumstances surrounding that project, you can  
23 actually end up doing a disservice to the very people you  
24 are trying to help. And that is the situation here.

25 There is six points that I want to address

1 quickly. The first one is, it would place an undue burden  
2 on the MUD District that it would be assigned to.

3 The site has a number of undesirable  
4 attributes. For example, it is in a floodplain. And it  
5 has a history of flooding. And I am sure all of you are  
6 aware that Houston has been flooding lately.

7 Three, the site does not have access to many  
8 public services. I think, in the original application,  
9 they put in, or it may still be in the current  
10 application, that they put in they have bus service and  
11 sidewalks. That is not the case.

12 We don't know if that was sloppiness, or if  
13 that was intentional misrepresentation. But we hope you  
14 do get down to the bottom of that.

15 Number 4, we already have a great number of  
16 apartment units available in Fall Creek. For example,  
17 within Fall Creek, actually abutting next to the boundary,  
18 we have four apartment complexes. And then three on the  
19 other side of Beltway 8. We have a total of 1,962  
20 apartment units. We have plenty.

21 Five, the developer does have a poor track  
22 record. I don't want to say anything that is disparaging.

23 But I would like for some of the other units that he has  
24 put up, for you all to look at the status of those, and  
25 see how those are progressing.

1           And finally, the project does not provide Texas  
2 with the best use of tax dollars. Like I said, this is on  
3 Beltway 8, which is right next to the intersection of 59;  
4 with prime commercial property, you have prime commercial  
5 rates. We are not spending the money best here. You  
6 could be spending half as much and getting the same thing  
7 somewhere else.

8           Also, we have had opposition letters written.  
9 Not just us. The homeowners association and the  
10 residents, but also Representative Gene Green, he is a  
11 U.S. Congressman. Representative Tim Dutton sent another  
12 letter. I know the first letter was in response.

13           He wrote a second letter, giving reasoning for  
14 why he has changed his mind. And also, and most  
15 importantly, in my opinion is, the Superintendent for our  
16 school district, Sconzo, Dr. Sconzo has written an  
17 opposition letter as well.

18           One of the things that we will address is that  
19 our schools are very overcrowded. And I want to thank you  
20 for your consideration.

21           MR. OXER: Thank you for your comments today.  
22 Okay. One minute. I will take you at your minute, you  
23 will be short.

24           MR. SILEO: Yes.

25           MR. OXER: So one minute.

1 MR. SILEO: My name is Bret Sileo. And I am a  
2 resident of Fall Creek. I am also on the Board of Water  
3 Control Improvement District 96.

4 Fall Creek is in two utility districts. This  
5 project is actually in MUD 49, our neighboring district.  
6 We are concerned, though, because the MUD District is a  
7 very small utility system that has high taxes. It is  
8 about 2,500 homes.

9 And the appraised value for this property is  
10 going to only be about two-thirds of what a commercial  
11 property would be. Because it is going to be based on the  
12 cash flow. And so there is going to be a lot less taxes  
13 that the Water District is going to get compared to a  
14 market rate apartment complex.

15 But yet, they are going to have to provide the  
16 water and the sewer service. Right now, there are  
17 engineering issues and the MUD District has not been able  
18 to even provide a utility commitment to this property.

19 We are not even sure they are going to be able  
20 to get water and sewer service, because they haven't  
21 submitted what they need to the utility district. There  
22 was actually a larger tract of ten or 12 acres, and there  
23 was a utility commitment to provide service to that tract.

24 They have carved out part of that tract. And  
25 they want to take about three-quarters or 80 percent of

1 the utility commitments to service this apartment. It is  
2 going to leave five or six acres with almost no potential  
3 for water service, and it is going to prevent further  
4 development.

5 There is a lot of undesirable neighborhood  
6 characteristics. It is right next to the high voltage  
7 power lines. If I could have just 30 more seconds.

8 MR. OXER: Okay.

9 MR. SILEO: High voltage power lines. Two gas  
10 pipeline easements. It is also near a natural gas-  
11 drilling site.

12 And it is also going to be built on top of a  
13 drainage easement. And they are going to have to put it  
14 in an underground culvert system that is going to be right  
15 in front of the apartments. And we are concerned that  
16 this is going to increase the possibility for flooding.

17 Because it is already in a floodplain. And  
18 they are going to keep the parking lots below the  
19 floodplain level.

20 So these people are going to move in. No bus  
21 service. Five miles away from the nearest bus service.  
22 Their cars are going to flood, because their car is going  
23 to be in the floodplain. And then they won't be able to  
24 get to their jobs.

25 And so this is not a good place to subsidize a

1 development in a floodplain. Thank you.

2 MR. OXER: Thanks for your comments, Bret.

3 MS. MEDRANO: Okay. I will try to talk really  
4 fast. Good afternoon. My name is Rita Medrano. I am a  
5 resident of Fall Creek. And I am coming here to oppose  
6 the project 16118, The Standard at Fall Creek. I am here  
7 as a concerned resident, a taxpayer, and a mother.

8 So when we first heard about this project, my  
9 immediate concern was, what is going to happen to our kids  
10 and their education. Fall Creek Elementary is already  
11 operating at 120 percent capacity.

12 This school was built to educate 700, 750  
13 students. We are currently at 884. About three years  
14 ago, another school was built to provide relief to our  
15 school, and 200 students transferred. But since then our  
16 numbers have just expanded, and we are stretching our  
17 boundaries again.

18 And then I want to note that our neighborhood  
19 is still in the process of finalizing development. We  
20 still have 300 houses that are being built. So in short,  
21 our school is at max.

22 Our Superintendent has written a letter of  
23 opposition to this project, saying that we don't have the  
24 appropriate resources or physical space to accommodate any  
25 more students. Noteworthy is the fact that if these



1 students get re-zoned, our school is At Standard, but two  
2 schools that are in closer proximity, one of them is still  
3 at whatever. Needs Improvement.

4 So without further ado. We have issue with  
5 this developer. I am going to skip the part where I tell  
6 you that -- well. I am going to tell you. There is no  
7 bus transportation.

8 And there is no reasonable pedestrian accesses  
9 listed in the application. It is just a blatant lie. It  
10 is not there. It is nonexistent. We brought these photos  
11 to prove it.

12 So it would be very hard for these individuals  
13 to get to the grocery store, to WalMart, to the doctor.  
14 And all of the schools are at least a 55-minute walk from  
15 the property. So students that have to engage in after  
16 school activities or tutorials will be challenged.

17 My summary -- I just have to tell you this.  
18 I'm sorry. I have been taught, and I teach my children  
19 that liars and cheaters aren't winners. It may seem as  
20 though they get ahead sometimes. But eventually, they are  
21 exposed for who they are.

22 Our goal here today is to expose the  
23 misrepresentations and flat-out lies regarding this  
24 proposed project. This location is not going to  
25 effectively meet the needs of its tenants.

1           And this developer is not a person or a  
2 business entity worthy of receiving tax credits. I stand  
3 here today asking you to award these tax credits to  
4 another development that has the integrity to be truthful  
5 in its application and whose proposed location will better  
6 serve the needs of its residents. Thank you.

7           MR. OXER: All right. Thanks for your  
8 comments. All right. I am going to advise you on the  
9 illustration that you are about to try to show us, that  
10 you cannot do that. If you have a challenge to these,  
11 there is a process for that. That can't be here. This is  
12 only for us to add items for the agenda for future  
13 meetings, okay. So if those need to come up, they need to  
14 go through the process of getting into the Board book to  
15 get to the agenda, for us to be able to consider those.

16           MR. CARPENTER: They were submitted.

17           MR. OXER: When were they submitted?

18           MR. CARPENTER: Last week.

19           MR. OXER: Okay. But there has been no -- this  
20 item is not on the agenda item for you to speak to.

21           MR. CARPENTER: Thank you for helping.

22           MR. OXER: It has to be a formal agenda item  
23 for us to accept that. I am just telling you, okay.

24           MR. CARPENTER: Thank you for helping us  
25 understand the rules.

1 MR. OXER: Okay. If you have -- and for the  
2 record, one more time, if there is any questions that  
3 anybody has, start calling and ask questions. And if you  
4 don't get an answer, keep going until you get to him.

5 MR. CARPENTER: Okay. Hello. My name is  
6 Matthew Carpenter. I am the President of Fall Creek HOA.  
7 I am speaking in opposition of application 16118. Just  
8 because we respect your time, I would like to just take a  
9 couple of more minutes.

10 MR. OXER: You've got 60 seconds.

11 MR. CARPENTER: Representative Dutton has  
12 issued a letter to the TDHCA trying to withdraw his  
13 support, because the developer lied to him. Commissioner  
14 Cagle has stated that the only reason he issued support is  
15 because the Representative told him that he was supporting  
16 it. With those two letters, I have no doubt that there  
17 wouldn't have been the points necessary for us to even  
18 have traveled from Houston to Austin to speak to you  
19 today.

20 The application also lists the wrong elementary  
21 school. The closest elementary school is not Fall Creek.

22 But they are using Fall Creek to gain credits, because of  
23 its Exemplary rating.

24 This process, this application process is very  
25 confusing, very cumbersome. We have 2,500 residents in

1 our -- 2,500 homes in our community with lawyers, doctors,  
2 engineers, accountants, a whole bunch of other  
3 professionals. None of us understand this process.

4 So again, we are here in opposition. We have  
5 30 people here today to express our opposition. But we  
6 are not going to take any more of your time. Thank you.

7 MR. OXER: We appreciate your comments there,  
8 Matthew. And while I appreciate the passion with which  
9 you and your community neighbors come up here and make  
10 this, understand that we can receive, only receive your  
11 comments.

12 And we can't respond to them in any fashion at  
13 this particular meeting. This is only for the purpose of  
14 generating information to create future agenda items.

15 And the information that you are trying to  
16 provide in terms of the photos and that sort of thing, can  
17 only be applied to an item on the agenda that the staff  
18 will address.

19 So just a point of clarification. Is that a  
20 fair statement, Counselor?

21 MR. ECCLES: Yes, sir.

22 MR. OXER: Okay. All right. Is there any  
23 other public comment? Okay. Come on up.

24 MR. FISHER: Good afternoon. Thank you. my  
25 name is Franklin Fisher. And I come here on behalf of

1 Lifeworks, a client and a resident at the Works. I just  
2 want to thank you, the Board members and the Chairman for  
3 the money that you allocated to help build these  
4 apartments.

5 And just really quick, me being a client there,  
6 I came there with no home. Homeless, you know. And  
7 Lifeworks has given me that. They have given me a home,  
8 hope and basically given me a way to find jobs, to move  
9 forward in my life. So just being really quick with that.

10 They have done so much for me, coming from a  
11 place where I had nothing. And you guys made it possible  
12 for me to actually have a home that I pay my own rent and  
13 do these things. So really, that is all I just had to  
14 say.

15 MR. OXER: Well, we appreciate your comments,  
16 Franklin. You are the reason we do what we do.

17  
18 MR. FISHER: Thank you.

19 MR. OXER: I think everybody -- any other Board  
20 member care to make a comment on that. Certainly, I think  
21 you -- we get their consideration in agreement. I think  
22 we appreciate your comments as well. Are there any  
23 others?

24 MS. MCDOWELL: Just a quick wrap-up. Franklin  
25 and I came today, because we understand that last month,

1 you all saw a video on homeless youth. Franklin was one  
2 of those youth.

3 And also, almost every single youth in that  
4 video works or lives at the Works at Pleasant Valley,  
5 which you all made possible through an allocation of NSP  
6 funding a couple of years ago. So I thought, wow, what a  
7 great serendipity that that came back to you in success.

8 On top of that, most of the youth in that video  
9 along their journey to the Works, were at one time  
10 supported in either our emergency shelter or rapid  
11 rehousing program through ESP funding. So another avenue  
12 of TDHCA.

13 So I think it is fitting we close the meeting  
14 on a positive note with a thank you, and just a  
15 recognition of how the work you all are doing are  
16 impacting homeless youth in our community. So thank you.

17 MR. OXER: Great. Susan, I appreciate the  
18 comments that you make. And just to -- a historical note  
19 for those of you who weren't there, I am glad to see that  
20 the relationship that we have with Lifeworks got off to a  
21 far better start than it did on May 5, 2011.

22 Which I recall, the first vote that I was  
23 given, the first admonition that I was given by the  
24 gentleman at the far end down there was, there are rules  
25 and there are rules. And every rule has a sharp edge.

1 And a penalty is just a guideline. So I am happy to see  
2 that that all worked out.

3 MS. MCDOWELL: Absolutely. Thank you.

4 MR. OXER: Thanks very much. All right. Any  
5 other --

6 DR. MUÑOZ: Hey. Just one other comment.  
7 Maybe Franklin, if later on, maybe there will be time when  
8 you can come back and kind of tell us how you and your  
9 friends are doing.

10 I remember being very impressed by your  
11 comments in that video. I think everybody was.

12 MR. OXER: Yes. Actually, I would look forward  
13 to hearing that. At this point in the agenda, we look for  
14 public information or comments. And you can add  
15 information to create the agendas that we address in the  
16 future.

17 Or you can just provide comments and tell us  
18 how things are going. We always appreciate that what we  
19 are doing is actually making something work somewhere.

20 All right. We are at that interesting point in  
21 the meeting where we have had public comment. The agenda  
22 items are considered. Is there anybody else who wishes to  
23 make public comment?

24 (No response.)

25 MR. OXER: Is there any staff in the audience

1 who wishes to make public comment or address an item?

2 MR. GOURIS: Mr. Chairman.

3 MR. OXER: I see Tom Gouris. Sit down, Tom.

4 We will take yours last. I got the tractor parked outside  
5 for you. So don't worry about it.

6 MR. IRVINE: Yes. Take care of Tom.

7 MR. OXER: Okay. So we have opportunity for  
8 staff at the dais to speak. Michael.

9 MR. LYTTLE: Relaxed dress code for the  
10 summer's meetings?

11 MR. OXER: The Chair has got three items to  
12 come up with, to address here.

13 DR. MUÑOZ: Bow ties and pocket squares.

14 MR. IRVINE: Cutaways and --

15 MR. OXER: Yes. There you go. And deck shoes.  
16 Okay. All right. Anybody?

17 (No response.)

18 MR. OXER: Any member of the Board?

19 (No response.)

20 MR. OXER: Okay. We are coming up. And I  
21 will ask the -- do you have this, Captain Tweety, the  
22 schedule?

23 We have two meetings in June, two in July and  
24 one in August. Those being the sort of rough and tumble  
25 times of the year on the LIHTC progress.



1 MR. LYTTLE: June 16, and June 30.

2 MR. OXER: June 16 and June 30. And then July.

3 MR. LYTTLE: And July 14 and the 20.

4 MR. OXER: And August is sort of late, like the  
5 25th. Is that right? Something like that? Okay. Those  
6 are the summer months.

7 We will go for summer casual. The ties will be  
8 optional. Bow ties and pocket squares for you, always in  
9 fashion for our clothes horse over here. So boots and  
10 jeans and nice jacket is -- we can't make you suffer too  
11 much in the heat here.

12 Unfortunately, I found out this morning that we  
13 are getting ready to say goodbye to a friend of ours,  
14 here. And so, Ms. Penny, we would like to say, after 21  
15 years reporting and being the transcriber for our meetings  
16 is -- this is her last meeting. She is moving to  
17 Amarillo.

18 And she has been a party of this since we were  
19 here, certainly since I was here for the first meeting, so  
20 we're going to miss you, Penny.

21 THE REPORTER: Thank you.

22 (Applause.)

23 MR. OXER: Yes. Let the record reflect a  
24 standing ovation to our transcriber -- our madam recorder.

25 And also, last word from the Chair. Thank you

1 to everybody I know, who is watching it. A howdy at home  
2 for all those over at 221 East 11th Street. I know the  
3 reason this goes so smoothly is because of the work that  
4 they put in supports the staff up here that makes the  
5 presentations.

6 As the Chair, I get the last word. So I  
7 appreciate the work that is done. The things that we do  
8 here are worth doing. And it is good for Texas. So I  
9 will entertain a motion to adjourn.

10 MS. BINGHAM ESCAREÑO: So moved.

11 MR. OXER: Motion by Ms. Bingham to adjourn.

12 Is there a second?

13 DR. MUÑOZ: Second.

14 MR. OXER: Second by Dr. Muñoz. Those in  
15 favor?

16 (A chorus of ayes.)

17 MR. OXER: And opposed?

18 (No response.)

19 MR. OXER: There are none. We will see you  
20 June 16th.

21 (Whereupon, at 1:15 p.m., the meeting was  
22 adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board of Trustees

LOCATION: Austin, Texas

DATE: May 26, 2016

I do hereby certify that the foregoing pages, numbers 1 through 147, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

06/02/2016  
\_\_\_\_\_  
(Transcriber) (Date)

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