

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA TELEPHONE AND WEB LINK

July 8, 2021
9:04 a.m.

MEMBERS:

LEO VASQUEZ, III, Chair
PAUL A. BRADEN, Vice Chair
BRANDON BATCH, Member
KENNY MARCHANT, Member
AJAY THOMAS, Member
SHARON THOMASON, Member

BOBBY WILKINSON, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER	4
ROLL CALL	
CERTIFICATION OF QUORUM	
CONSENT AGENDA	
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	5
RULES	
a) Presentation, discussion, and possible action on an order adopting the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool	
b) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.802, Waiting List	
ACTION ITEMS	
ITEM 3: EXECUTIVE Executive Director's Report	6
ITEM 4: RULES Presentation, discussion, and possible action on an order proposing new 10 TAC §1.8, Plan Requirements, Process, and Approval Criteria for Properties Designated for Camping by Political Subdivisions for Persons Experiencing Homelessness, and directing its publication for public comment in the Texas Register	20
ITEM 5: HOUSING RESOURCE CENTER Presentation, discussion, and possible action on the 2022 Regional Allocation Formula Methodology	22
ITEM 6: CDBG CARES Presentation, discussion, and possible action on adoption of the third substantial amendment to the 2019 State of Texas Consolidated Plan: One-Year Action Plan relating to the Community Development Block Grant funding under the CARES Act; programming of CDBG CARES funds; authority to request waivers of HUD; and delegation of authority to the Department's Executive Director to make awards to subrecipients	26

ITEM 7: COMMUNITY AFFAIRS	31
Presentation, discussion, and possible action on contracting with subrecipients and contractors to perform services for the Emergency Housing Voucher Program funded by the American Rescue Plan Act of 2021	
ITEM 8: BOND FINANCE	36
Presentation, discussion, and possible action on Resolution No. 21-034 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs 2021 Series A, Single Family Mortgage Revenue Bonds, and 2021 Series B Single Family Mortgage Revenue Refunding Bonds (Taxable), approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject	
ITEM 9: MULTIFAMILY FINANCE	
a) 2022-23 Qualified Allocation Plan (QAP) Planning Project Report	40
b) Presentation, discussion and possible action on timely filed appeals	
21116 Sweetwater Station Sweetwater	43
21149 Residences at Alpha Dallas	68
21185 Weslaco Village Apartments Weslaco	89
21230 Calle del Norte Apartments Laredo	114
21259 Jackson Place Apartments Edinburgh	149
PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS	164
EXECUTIVE SESSION	none
OPEN SESSION	--
ADJOURN	185

P R O C E E D I N G S

1
2 MR. VASQUEZ: It appears we are all here, so I
3 would like to call to order the meeting of the Texas
4 Department of Housing and Community Affairs. It is
5 9:04 a.m. on July 8, 2021.

6 We will start out with the roll call, even
7 though I can see everybody.

8 Mr. Batch?

9 MR. BATCH: Here.

10 MR. VASQUEZ: Mr. Braden?

11 MR. BRADEN: Here.

12 MR. VASQUEZ: Mr. Marchant?

13 MR. MARCHANT: I'm here.

14 MR. VASQUEZ: Mr. Thomas?

15 MR. THOMAS: Here.

16 MR. VASQUEZ: And Ms. Thomason?

17 MS. THOMASON: Here.

18 MR. VASQUEZ: We are all here; we do have a
19 quorum.

20 Thank you all for being here and everyone who is
21 online with us today.

22 We will start out the meeting, as usual, with
23 the pledges, and ask our executive director, Bobby
24 Wilkinson, to lead us in the pledges.

25 (The Pledge of Allegiance and the Texas

1 Allegiance were recited.)

2 MR. VASQUEZ: Great. Thank you, Bobby.

3 We will move right along to the consent agenda,
4 and in this case I believe we only have one item and item
5 1(a). Do any Board members have any questions on the
6 consent agenda or wish to move something from the consent
7 agenda?

8 (No response.)

9 MR. VASQUEZ: I didn't think so. And so
10 therefore we will entertain a motion to accept the consent
11 agenda items.

12 MR. BRADEN: Mr. Chairman, I move the Board
13 approve items 1(a) and 1(b), as described and presented in
14 the respective Board action request.

15 MR. VASQUEZ: Thank you.

16 Motion made by Mr. Braden. Is there a second?

17 MR. BATCH: Second, Mr. Chairman.

18 MR. VASQUEZ: Seconded by -- I'm sorry. Was
19 that Mr. Thomas or Batch?

20 MR. THOMAS: Mr. Batch, I believe.

21 MR. VASQUEZ: All right. Motion made by Mr.
22 Braden, seconded by Mr. Batch. All those in favor say aye.

23 (A chorus of ayes.)

24 MR. VASQUEZ: Any opposed?

25 (No response.)

1 MR. VASQUEZ: Hearing none, motion carries.

2 Bobby, do we want to go straight to your report,
3 or do we have a member of the legislature that wants to
4 speak ahead of time out of order.

5 MR. WILKINSON: I believe Representative Richard
6 Raymond should be ready to speak. He'll be speaking on an
7 item that's later in the agenda; it's one of the appeals in
8 9(b) 21230 Calle del Norte Apartments.

9 Moderators, could we get Representative Raymond
10 on?

11 MS. NORRED: Yes. We are trying. He raised his
12 hand; he had a question, so we are reaching out to him to
13 get him on. I see him online, we see him as an attendee,
14 but there is no audio, so we're trying to get in touch with
15 him.

16 MR. WILKINSON: Mr. Chairman, to avoid some dead
17 air, I'll go ahead and continue with my ED report for now.

18 MR. VASQUEZ: Okay, great.

19 Renee, go ahead and get Representative Raymond
20 set, and we'll come back to him after the next item.

21 MS. NORRED: Yes, sir, will do. Thank you.

22 MR. WILKINSON: So the largest topic still
23 remains, probably, for us: Texas Rent Relief. The number
24 of households served and dollars paid to tenants,
25 landlords, and management companies increased exponentially

1 in the last two months.

2 At the end of March, after our software reset,
3 we had assisted 219 households and paid out \$1.2 million;
4 three months later we've served 81,500 households and paid
5 out over \$512 million. Crossing that half billion mark was
6 a big landmark for us. We put out a press release
7 yesterday, just in time for the special session, so we're
8 excited about it.

9 From surveys that the National Council of State
10 Housing Agencies has been conducting, Texas and Virginia
11 seem to be leading the nation in the amount of rental
12 assistance distributed. A lot of our production is kind of
13 backloaded, because it was slow in those early months, so I
14 think we'll continue with a really nice trajectory. We're
15 negotiating contract amendments to extend the additional
16 vendors now, and so when those get locked in place, I think
17 our daily production will skyrocket once again.

18 For another piece of it, the housing stability
19 services pot that we can use, which is a subset of the
20 rental assistance money, we're contracting with the Texas
21 Access to Justice Foundation. This was something that
22 y'all voted on previously.

23 The contract with them now, they're just
24 reviewing, so hopefully we'll get it executed soon. That's
25 about \$20 million of the housing stability funds, and legal

1 aid organizations around Texas will receive funds to
2 represent tenants in JP courts that are going through
3 evictions, and they're also going to be hosting clinics to
4 help people apply to Texas Rent Relief.

5 That was always one of the, I guess, criticisms
6 of the statewide online program, what if someone needs some
7 extra help, in-person help, and so I hope to get those
8 launched fairly quickly.

9 Other pandemic response plans: Last month you
10 approved us turning in the Homeowners Assistance Fund plan
11 to Treasury. It was due June 30th, and on the 28th or
12 29th, Treasury extended it to July 31st.

13 We still haven't received the template we need,
14 so right now staff is taking the time to review the
15 comments we've received, maybe tweak the plan a little bit,
16 and provide responses to those comments that will be turned
17 in as an appendix with the plan on July 31st. So to be
18 clear, Treasury didn't just extend us; the extended the
19 deadline nationwide for all states.

20 ESG CARES, so that's the Emergency Solutions
21 Grants from the CARES Act, we're going to exceed our
22 September 30, 2021 expenditure deadline, which is to have
23 20 percent of the funds extended, with the June 2021 draws
24 that are in process now.

25 HUD's technical assistance providers for CARES

1 have indicated it's exceeding the national average based on
2 percentage committed and expended, and we may be asked to
3 share best practices with other grantees. As of today we
4 are 19.74 percent expended, and the average among state
5 grantees is 13.01. So thanks for giving us the flexibility
6 and the leadership to get that money out there.

7 Tax credit round, we do have some appeals today.

8 There will be at the July 22 meeting more appeals. We try
9 to get everything knocked out in the early July meeting so
10 the second July meeting is kind of a hurrah, handshakes all
11 around, but we're going to have, I think, four or so
12 appeals on July 22, but that will make it more interesting,
13 a last-minute possible shakeup of the award list.

14 And of course, right afterwards, Marni's team is
15 working so hard right now on the 9 percent round, all the
16 last-minute appeals, and then immediately as it's over, we
17 go into drive on the 2022 QAP, our statutory timeline that
18 we have to adhere to.

19 And it looks like we'll probably do an in-person
20 roundtable with interested parties, developers,
21 consultants, whatnot, possibly the last week in July. It
22 would just be a way for staff to get input from the
23 development community before the release of the staff
24 draft, and then, of course, you'll have your chance to
25 review as well.

1 For legislative affairs, last time I gave an
2 update, the session had ended but the veto period was not
3 over. There remain significant vetoes that affected
4 legislation that we'll be implementing, so we're working on
5 implementation of bills that will become law September 1.
6 In fact, you have a proposed rule for the camping approval
7 that will be on the agenda today.

8 The special session starts today. Like we
9 expected, nothing on the call that really affects us so
10 far, and I don't expect anything to get added that will
11 affect us.

12 But I will get called in to Urban Affairs.
13 We've already sent their staff some data. This is about
14 rent relief. The staff especially has been very interested
15 in the program, so I expect at some point that I'll get to
16 be called in and crow about our success for sure, but also
17 what we're doing to try to improve the customer service
18 experience for people that continue to apply.

19 So over \$500 million out, that's of that first
20 billion, and then we have another billion from the American
21 Rescue Plan, so staff has a ways to go, but I think if we
22 can get our burn rate up and keep it up, we'll be maybe the
23 first state to spend it all, so we'll see.

24 That's all I have as far as prepared remarks.
25 Actually, I have a few other things.

1 The Office of Colonia Initiatives staff is
2 working with Nueces County to set up a Colonia Self-Help
3 Center. That was a bill that passed this session requiring
4 us to do so, so it will be a good chance to help some
5 people out there.

6 The Compliance group has wrapped up a series of
7 virtual roundtables on compliance rules, including utility
8 allowance, the enforcement rule, and kind of an overview of
9 all compliance monitoring rules and previous participation
10 reviews.

11 This gives people in the industry a chance to
12 kind of speak with staff and understand where we're coming
13 from, and hopefully just improve compliance on the front
14 end so that we don't have issues going forward.

15 Our YouTube channel has virtual training
16 sessions for affordable housing on those compliance issues,
17 plus multifamily direct loan average income and income
18 determination, so we're trying to educate the groups we
19 work with in various ways.

20 The preservation of affordable housing has been
21 a topic in the last few sessions. Though legislation
22 didn't pass, there are some policy ideas that we're
23 implementing. One of them is an online list and
24 interactive map of affordable properties that are in our
25 portfolio, and TDHCA recently launched that feature on our

1 website.

2 These are multifamily properties that may be
3 nearing the end of their affordability period and may
4 benefit from preservation, so we're sending out Listservs
5 to the affordable housing industry to let them know about
6 this feature.

7 And that is the end of my prepared remarks. Any
8 questions from the Board regarding the state of the
9 Department or anything?

10 MR. VASQUEZ: Thanks, Bobby.

11 Do any Board members have questions for our
12 executive director?

13 MR. THOMAS: Mr. Chairman, I do have one
14 comment, one question.

15 Bobby, I want to say -- and I think I made this
16 comment last meeting -- you know, it's commendable, I
17 think, for you and staff to have put the Department in this
18 position to where we're spending out the rent relief money
19 at the pace we are and now among the leaders in the nation,
20 from your earlier comments.

21 You know, hopefully, at the end of all this
22 Texas will lead the way in the country in terms of being
23 able to spend all the funds, but I think more commendable
24 in the sense that initially when the program was underway,
25 you know, recognizing kind of the slow pace that it was

1 going, identifying the problem and fixing it quickly and
2 getting to this point is certainly worth mentioning and
3 giving you a pat on the back, and staff, because I think
4 that could have been a real source of problems, you know,
5 had we not tackled it early on and got it corrected.

6 The question I had was with regard to your
7 comment about the program that we approved about the legal
8 rent relief in terms of the applications and things like
9 that.

10 To what extent are we advertising that program
11 so that we make sure that the message is out there to folks
12 who may need access to that type of service that is
13 available to them and that they can certainly use that to
14 help them get the rent relief that they need?

15 MR. WILKINSON: So we actually haven't done any
16 kind of press releases on that yet. I think as soon as we
17 get this contract executed with the Texas Access to Justice
18 Foundation, which is the umbrella group of these legal aid
19 groups, we'll coordinate on messaging.

20 I'm sure they'll do some on their own, but then
21 we'll do some as well, and I'll be able to report that back
22 to you hopefully maybe at the late July meeting, but
23 possibly not till the next meeting.

24 MR. THOMAS: Sounds good. Thank you.

25 MR. WILKINSON: And about the rent relief, I do

1 have to give credit to a lot of hardworking staff, Brooke,
2 Mariana, Danny, actually everyone has been pitching in, so
3 it's been great to see that program really get off the
4 ground.

5 MR. THOMAS: Absolutely.

6 MR. VASQUEZ: Thank you, Mr. Thomas.

7 Any other Board members?

8 (No response.)

9 MR. VASQUEZ: Bobby, I just want to make sure I
10 clarify. So it's over half a billion dollars that we have
11 put out on the rent relief program. Is that correct?

12 MR. WILKINSON: Yes, sir.

13 MR. VASQUEZ: That's quite a number. Great.

14 Thank you.

15 Okay. Moving right along to item 4 on the
16 agenda for presentation, discussion and possible action on
17 an order proposing New 10 TAC Section 1.8, Plan
18 requirements, process and approval criteria for properties
19 designated for camping by political subdivisions for
20 persons experiencing homelessness, and directing its
21 publication for public comment in the Texas Register. Ms.
22 Boston.

23 MS. NORRED: Mr. Vasquez, we have Mr. Raymond.

24 MR. VASQUEZ: Thank you, Renee. I apologize.

25 We are taking Representative Raymond out of

1 order, because he has some other obligations with the
2 session going on, so let's bring -- sorry, Brooke, stand
3 by, and we'll bring up Representative Raymond.

4 MS. NORRED: We are unmuting him now.

5 Mr. Raymond, can you hear us?

6 MR. RAYMOND: I can hear you. Can y'all hear
7 me?

8 MS. NORRED: Yes, sir.

9 MR. RAYMOND: Chairman Vasquez, thank you so
10 much, Vice Chairman Braden and all the members. It's good
11 to see my former colleague, Kenny Marchant, with a COVID
12 beard and looking very much as though he wore a mask for
13 several months.

14 Thank you, members and Bobby, thank you for
15 working me in. I apologize, but we're starting, as you all
16 know, in a little while here and I hear the Governor just
17 added some more items to the agenda specifically with
18 reference to the Texas Department of Housing and Community
19 Affairs. I'm not sure what it is yet, but we're going to
20 find out real soon, and he said it depended on how y'all
21 treated me on this request.

22 But members, I thank you for working me in.
23 Recently something came to my attention regarding my
24 district or affecting my district, and that's application
25 21230, which is up for discussion on today's agenda.

1 I've looked at the details of this and tried to
2 get an understanding of it, because it has major importance
3 for us for much needed housing in District 42, which is in
4 Laredo, the district that I represent. Since 2015 the City
5 of Laredo has gone without any influx of this type of
6 crucial housing.

7 Procedurally, members, this application merits
8 being allowed to continue with no scoring penalties. I'm
9 going to read from my notes here, and I hope you'll bear
10 with me, but it says, after receiving response from Ms.
11 Holloway on April 23 that stated, "There is no apparent
12 indication on their website. The notification of two
13 school districts may be required. Overall, the information
14 supports a conclusion that the applicant conducted a search
15 for the appropriate entity and timely notified the
16 recipient of its search. Moreover, because the applicant
17 appropriately re-notified the correct recipient once
18 identifying its error, the second recipient has
19 acknowledged the notification."

20 After studying review process documents on
21 United and Laredo independent school district boundary
22 lines published on public website, I feel the applicant
23 should be allowed to proceed unharmed.

24 A reasonable search for applicable entities was
25 conducted. I support statute and QAP provisions on more

1 finite processes in the future, but I ask that this
2 application not be harmed as much needed affordable housing
3 for Laredo, we need it now.

4 I believe, members, there is ample evidence of
5 discrepancy. I ask that you please look to how that is
6 solved moving forward, but I also ask that you please not
7 penalize the applicant for transparency and staff agreement
8 now. I strongly ask that you support staff's first review
9 and endorse this applicant in their transparency as well as
10 their due process.

11 Basically, as I understand it -- well, first of
12 all, I do know we have two school districts in Laredo,
13 Laredo Independent School District and then immediately, of
14 course, next to that is United Independent School District,
15 and candidly, looking at where the location is, if you
16 would have told me it was Laredo Independent School
17 District boundaries, I would have thought that, just based
18 on 21 years of representing Laredo, but it actually fell in
19 the United Independent School District.

20 And so the applicants had initially put in LISD,
21 that's what they were informed was the correct information.

22 As soon as it was determined that that was out, and I'm
23 sure very, very close, by the way, to LISD district itself,
24 they corrected and put UISD.

25 So I know it's a small thing. I've asked the

1 question whether if the information had been correct from
2 the beginning the scoring would have changed, and the
3 answer, I've been told, is no. In other words, regardless
4 of which school district that particular location sits in,
5 the points would have been the same.

6 So that is my request. I know y'all will look
7 at it, you've got a bunch of other items on your agenda,
8 but I did want to weigh in in support, because we do need
9 this housing.

10 In the end, if we don't get it, well, you know,
11 we win some, we lose some; however, all I'd ask is that if
12 we don't get the appropriate or required scoring, it not be
13 because of this because it was, you know, information that
14 they thought was correct, and as soon as they were informed
15 that it wasn't, they changed it.

16 But again, because the school districts are
17 right next to each other, if you look at the city, about
18 half the city is in one school district, the other half is
19 in the other, and I can see how this could have happened.

20 So I thank you for your time, if you have any
21 questions, ask Bobby, because he can answer any question
22 that any of you have, and if he can't, then Kenny Marchant
23 can. But thank you, members, for your attention.

24 Chairman, thank you for working me in. I will
25 be glad to try to answer any questions if you have any.

1 MR. VASQUEZ: Great. Thank you, Mr. Raymond.

2 Does any Board members have questions for
3 Representative Raymond?

4 MR. MARCHANT: Good to see you again, Richard.

5 MR. RAYMOND: Good to see you, buddy.

6 MR. VASQUEZ: Again, thank you for your input,
7 Mr. Raymond. We will remember it when we consider item
8 9(b) on the agenda.

9 MR. RAYMOND: Thank you so much, Chairman.
10 Thank you all, members.

11 MR. VASQUEZ: Okay. Again, just for
12 remembering, that was a comment on application 21230, Calle
13 del Norte Apartments in Laredo, item 9(b), and we will get
14 back to it later in the agenda.

15 Moving back on in regular order, we are back to
16 item 4 on the agenda on rules, I've already read the long
17 preamble into the record, so Ms. Boston, please go ahead.

18 MS. BOSTON: Thank you, Chairman Vasquez.

19 Mr. Thomas, I did want to answer the question
20 you posed to Bobby just a little bit. Yesterday we
21 actually did a webinar with the Office of Court
22 Administration with many of the courts attending, and the
23 Texas Access to Justice Foundation specifically rolled out
24 the program, and so we have started to get word out with
25 the courts, and then once the contract is signed, we'll

1 expand that further.

2 MR. THOMAS: That's great, Brooke. Thank you.

3 MS. BOSTON: So back to item number 4, the short
4 name for this is the Homeless Camping Rule. This past
5 legislative session, HB 1925 was passed which established a
6 new Subchapter PP of TDHCA's Texas Government Code Chapter
7 2306. That new subchapter provides that a political
8 subdivision cannot designate a property to be used by
9 homeless individuals to camp unless TDHCA has approved a
10 plan for that purpose.

11 Staff wants to implement clear objective
12 guidance for political subdivisions on how they submit
13 those plans, what they must include in the plans, and their
14 process for review. We also want to be clear about what
15 the criteria for approving the submitted plans would be.
16 The review of these plans will be performed by our Housing
17 Resource Center, which is headed up by Elizabeth Yevich.

18 The new statute provides that the plan must
19 address five certain topics, so the criteria for the plan
20 approval in the draft rule are centered around those five
21 evaluative factors. Specifically, those factors are
22 related to local health care, indigent services, public
23 transportation, law enforcement resources, and coordination
24 with local mental health authorities.

25 The Department intends to also make available by

1 the time the rule is adopted a plan template for use by the
2 political subdivisions and an informational web page within
3 our website outlining the process, required forms, and
4 frequently asked questions.

5 Today we're asking you to approve the draft
6 rule, which will go out for 30 days of public comment
7 through August 23. With that, I'm happy to answer any
8 questions.

9 MR. VASQUEZ: Thank you, Ms. Boston.

10 Do any Board members have questions on this
11 item?

12 (No response.)

13 MR. VASQUEZ: Okay. Hearing none, the Board
14 chair will entertain a motion on item 4.

15 MS. THOMASON: I'll make a --

16 MR. BATCH: Mr. Chairman.

17 MR. VASQUEZ: Ms. Thomason, please go ahead.

18 MS. THOMASON: I move that the Board approve for
19 publication seeking public comment in the Texas Register
20 the proposed new 10 TAC Section 1.8 in the form presented
21 at this meeting, and that the executive director or his
22 designees be authorized to make any technical or conforming
23 corrections as are necessary, as expressed in the Board
24 action request for this item.

25 MR. VASQUEZ: Thank you.

1 Motion made by Ms. Thomason. Is there a second?

2 MR. MARCHANT: I second.

3 MR. VASQUEZ: Seconded by Mr. Marchant.

4 I do not believe there is any public comment on
5 this item.

6 MS. NORRED: There is no one in queue.

7 MR. VASQUEZ: Great. Thank you.

8 All those in favor say aye.

9 (A chorus of ayes.)

10 MR. VASQUEZ: Any opposed?

11 (No response.)

12 MR. VASQUEZ: Hearing none, motion carries.

13 Thank you, Ms. Boston.

14 Moving on to item 5 on the agenda, presentation,
15 discussion and possible action on the 2022 Regional
16 Allocation Formula methodology, and we have Ms. Yevich.

17 MS. YEVICH: Yes. Good morning, Board Chairman
18 and Board. Can you hear me?

19 MR. VASQUEZ: Yes.

20 MS. YEVICH: Wonderful.

21 Before you now, item number 5 is the
22 presentation, discussion and action on the 2022 Regional
23 Allocation Formula methodology.

24 Now, this Regional Allocation Formula is known
25 as the RAF; again, we're always a sea of acronyms at the

1 TDHCA. It was created over 20 years ago now by Senate Bill
2 1112. Now, this bill directed TDHCA to create a formula to
3 use in three of our major programs; that would be Housing
4 Tax Credit, the HOME investment partnerships, and our
5 Housing Trust Fund.

6 So the RAF, what it does is objectively measures
7 the affordable housing need, along with the available
8 resources, in the state's 13 service regions, and it uses
9 relevant and consistent data from the U.S. Census for this.

10 So each year the Housing Resource Center, which
11 works mostly with our Division of Fair Housing Data
12 Management -- do I have that right? -- Fair Housing Data
13 Management Division, FHDMR, as I know it -- and we work to
14 complete the RAF since it affects more than one area.
15 Every year this methodology is taken out annually for
16 public comment and updates if needed.

17 Now, all single-family HOME, multifamily Housing
18 Tax Credits and the Housing Trust Fund, they all use widely
19 different formulas because the programs have different
20 eligible activities, households, geographic service areas.

21 So I just wanted you to be aware the Board today is
22 approving the methodology only, not the actual allocation
23 numbers. Example amounts are included, but these are not
24 the actual numbers quite yet.

25 So this year the RAF methodology was made

1 available for public comment Monday, May 24, through
2 Thursday, June 24. We held a public hearing in early June,
3 absolutely no public comment was received, which is great
4 news, means everything is running on course.

5 And so what you have before you today, the
6 methodology is exactly the same as you had in May. No
7 changes have been made, therefore, staff, we are
8 recommending approving this methodology used today. Once
9 you approve it, it will be posted on the website, and in
10 the program areas once their allocation amounts are known,
11 they will use it throughout the year to allocate their
12 funding as appropriate.

13 There you go. Any questions?

14 MR. VASQUEZ: Thank you, Elizabeth.

15 Do any Board members have questions for Ms.
16 Yevich?

17 (No response.)

18 MR. VASQUEZ: So I guess, again just to
19 summarize, Elizabeth, this helps us balance the
20 distribution of funds between urban and rural and different
21 areas across the state.

22 MS. YEVICH: That is correct. In a nutshell,
23 that's it. It's a little bit more complicated, but that's
24 it in a nutshell, perfect.

25 MR. VASQUEZ: Okay. Well, if there are no other

1 Board members with comments, Renee, is there anyone in the
2 queue to speak on this?

3 MS. NORRED: There is no one in queue.

4 MR. VASQUEZ: Okay. So the chair will entertain
5 a motion on item 5 of the agenda.

6 MR. THOMAS: Mr. Chairman, I move the Board
7 approve the 2022 Regional Allocation Formula for the HOME,
8 Housing Tax Credit, and as applicable, Housing Trust Fund
9 programs, all as expressed in the Board action request for
10 this item.

11 MR. VASQUEZ: Great. Thank you.

12 Motion made by Mr. Thomas. Is there a second?

13 MR. BRADEN: Second.

14 MR. BATCH: I second, Mr. Chairman.

15 MR. VASQUEZ: I think I got Mr. Braden on the
16 second. So motion by Mr. Thomas, second by Mr. Braden.

17 All those in favor say aye.

18 (A chorus of ayes.)

19 MR. VASQUEZ: Any opposed?

20 (No response.)

21 MR. VASQUEZ: Hearing none, motion carries.

22 Moving on to item 6 on the agenda, another long
23 one here, presentation, discussion and possible action on
24 adoption of the third substantial amendment to the 2019
25 State of Texas Consolidated Plan: One-Year Action Plan,

1 related to the Community Development Block Grant funding
2 under the CARES Act, programming of CDBG CARES fund,
3 authority to request waivers of HUD, and delegation of
4 authority to the Department's executive director to make
5 awards to subrecipients.

6 And Mr. Betancourt, you're on.

7 MR. BETANCOURT: Good morning, Chairman Vasquez,
8 Board members, Bobby. My name is Rudy Betancourt, and I'm
9 the director of the CDBG CARES Program. I'll be covering
10 agenda item 6 in our Board materials.

11 The Department received \$141 million in CDBG
12 CARES funding, also referred to CDBG-CV, from the U.S.
13 Department of Housing and Urban Development, to prevent,
14 prepare for and respond to COVID-19. TDHCA was designated
15 at the administrator of these CDBG funds and is responsible
16 for the preparation of the State of Texas Consolidated
17 Plan, which includes the One-Year Action Plan and any of
18 its amendments.

19 The first amendment in October 2020, the funding
20 allocations primarily focused on rental assistance, food
21 distribution activities, relief assistance for providers
22 for persons with disabilities, legal services for persons
23 with disabilities, and broadband planning.

24 In the second amendment on January 2021, and
25 with the passing of the Coronavirus Relief Act, which

1 provided a significant amount of federal resources for
2 rental assistance, the second amendment prioritized
3 mortgage assistance, support for planning of and
4 establishment of a statewide homeless information
5 management warehouse system, and also included the prior
6 funded activities.

7 With today's third amendment, TDHCA is
8 re-prioritizing the use of approximately \$71 million of the
9 CDBG-CV funds into the following activities:

10 Feeding Texans Pandemic Response Program in the
11 amount of \$30 million will be awarded for providing
12 critical food distribution to various food banks throughout
13 the state, which continues to be a crucial gap in services
14 in many communities.

15 The Community Resiliency Program for
16 \$38 million, which will allow primarily non-entitlement
17 communities to address gaps in their ability to respond to
18 future pandemic. Many rural and smaller urban areas lack
19 the capacity in this area.

20 Next is the mortgage assistance in the amount of
21 \$30 million for assistance covering up to 31 counties which
22 did not receive coverage during the first round of awards.

23 A notice of funding availability has been released in
24 hopes of receiving mortgage assistance coverage in these 31
25 counties.

1 And lastly, legal services for persons with
2 disabilities will receive an additional \$195,000 to the
3 prior ward of \$250,000. This amount will come from TDHCA's
4 administration set-aside.

5 All prior proposed activities for CDBG-CV funds
6 will remain unchanged.

7 We will accept public comment on this third
8 amendment from July 12 to July 16, 2021, as required by HUD
9 and will respond to any comments received during that
10 period. If public comment is received, staff will work
11 with the executive director on any needed revisions, then
12 we'll proceed with submitting the plan amendment to HUD

13 Staff recommends the approval of the third
14 substantial amendment of the 2019 State of Texas
15 Consolidated Plan: One-Year Action Plan related to CDBG-CV
16 funds. Staff is also requesting the executive director to
17 have authority to release needed competitive notices of
18 funding availability to make awards to both competitive and
19 non-competitive recipients and to execute the contract or
20 other agreements needed.

21 I'll answer any questions.

22 MR. VASQUEZ: Great. Thank you, Mr. Betancourt.
23 Are there any questions from the Board?

24 (No response.)

25 MR. VASQUEZ: Okay. Hearing none, Renee, are

1 there any speakers for public comment on this item?

2 MS. NORRED: There is no one in queue.

3 MR. VASQUEZ: Okay. Well, in that case, again,
4 Rudy and team, thanks for putting all this together and
5 making sure we maximize the funding that goes out.

6 And the chair will entertain a detailed motion
7 on this item.

8 MR. BATCH: Mr. Chairman, this is a multi-part
9 motion.

10 First, I move that the Board approve the third
11 substantial amendment to the 2019 State of Texas
12 Consolidated Plan: One-Year Action Plan, and reprogramming
13 of CDBG CARES funds, and direct staff to accept public
14 comment and make responsive revisions, as needed, and
15 submit such amendment to HUD, as well as authorize staff to
16 pursue any needed waiver requests with HUD.

17 Next, I move the Board authorize the executive
18 director and his designees to reallocate any returned or
19 otherwise made available CDBG CARES funds and to issue
20 awards of funds and contracts consistent with the Board
21 action request.

22 And finally, I move the Board authorize the
23 executive director and his designees to issue awards of
24 funds, contracts for non-competitive activities, including
25 an increase in award to the legal services for persons with

1 disabilities.

2 I move the Board approve all of these actions as
3 expressed fully in the Board action request for this item.

4 MR. VASQUEZ: Thank you, Mr. Batch.

5 Motion made by Mr. Batch. Is there a second?

6 MS. THOMASON: Second.

7 MR. THOMAS: Second, Mr. Chairman.

8 MR. VASQUEZ: Okay. Motion made by Mr. Batch,
9 seconded by Ms. Thomason. All those in favor say aye.

10 (A chorus of ayes.)

11 MR. VASQUEZ: Any opposed?

12 (No response.)

13 MR. VASQUEZ: Hearing none, motion carries.

14 Thank you, Rudy.

15 MR. BETANCOURT: Thank you.

16 MR. VASQUEZ: Moving on to item 7 under
17 Community Affairs, presentation, discussion and possible
18 action on contracting with subrecipients and contractors to
19 perform services for the Emergency Housing Voucher Program
20 funded by the American Rescue Plan Act of 2021.

21 And we have Spencer Duran up to give us the
22 presentation on this.

23 MR. DURAN: Thank you, Chair, thank you, Board,
24 and thank you, Bobby, for hearing this item.

25 The Department has been awarded 798 new Section

1 8 Housing Choice Vouchers to provide housing for
2 individuals experiencing homelessness or have experienced
3 homelessness and individuals who are survivors of domestic
4 violence.

5 So the eligibility is limited to those who are
6 experiencing homelessness, at risk of homelessness, or
7 attempting to flee domestic violence, and also to prevent
8 homelessness for those that were previously homeless, so
9 it's a pretty wide array for the vouchers to be served.

10 But what we're talking about with this item are
11 HUD requirements associated with the Emergency Housing
12 Vouchers to identify and partner with local organizations
13 to provide referrals and better serve the target
14 population.

15 And so the element of the vouchers that we're
16 talking about is the service fees, so there's the actual
17 funding for the subsidy that comes along with the vouchers,
18 but this item speaks to a really unique Section 8 funding
19 pool that is almost \$3 million that will be used for those
20 partner organizations to identify qualified members of the
21 target population, make those referrals to us, and then
22 provide the services and supports that help those families
23 secure housing and maintain their housing.

24 So to give you an example of some of the
25 services that may be provided, that would mean housing

1 search assistance, so looking around the local community to
2 identify property owners that have rental properties
3 available that accept Section 8.

4 We can also pay for rent that is in arrears from
5 previous landlords. We can assist with security deposits,
6 credit repair, and then we can also pay for landlord
7 incentives to actually accept the vouchers. So it's \$3,500
8 per voucher that that local partner will be able to use to
9 kind of clear the barriers that are present for any of the
10 participating households.

11 So this item allows us to proceed with
12 identifying and contracting with local entities that will
13 provide those referrals and maybe they can provide those
14 services as well. We're currently working with local
15 continuum of care lead agencies. These are homeless
16 services and coordination organizations, but we also have
17 some other ideas, such as working with local nonprofits to
18 provide services or even local Realtors to help us identify
19 property owners that might be willing to make some of their
20 units available. So we want to cast a pretty wide net of
21 eligible organizations.

22 We're also trying to kind of wrap our hands
23 around this program that effectively doubles the size of
24 our Section 8 Program. So it's a pretty big allocation of
25 Section 8 Vouchers, and this almost \$3 million component of

1 services and supports is completely unique as well, so
2 we've been working really hard to identify partners and
3 really trying to figure out how best we can roll out this
4 program.

5 So with that, if y'all have any questions, I am
6 more than happy to answer them.

7 MR. VASQUEZ: Great. Thank you, Spencer.

8 Do any Board members have questions on this
9 item?

10 MR. MARCHANT: I have a question, Mr. Chairman.

11 Spencer, when you say partners, contractors,
12 would that include a county government that had a housing
13 authority?

14 MR. DURAN: So a county government that has a
15 housing authority may already have an allocation of these
16 vouchers. We're not the only housing authority that was
17 awarded vouchers; there are dozens and dozens of housing
18 authorities around the state that receive their own direct
19 allocation, so in that scenario we would likely not serve
20 that area, because it would already be served by a
21 participating housing authority.

22 MR. MARCHANT: Okay. Thank you.

23 MR. VASQUEZ: And Spencer, I guess one other
24 question. So what department or who's the contact for
25 organizations trying to apply for access to these vouchers?

1 MR. DURAN: So right now we're working with
2 three continuum of care organizations. We don't have
3 contracts with them yet. So the continuum of care
4 organizations, they already have an existing service
5 partnerships established, and the referrals are going to
6 come from the coordinated entry system, which is a
7 homelessness database of individuals and families.

8 So the idea is that we will plug in housing
9 supports into the homeless service organizations that
10 already have a potential referral pipeline ready to go. So
11 we want to be able to take advantage of their preexisting
12 identified households and provide them with the housing
13 support.

14 Did that answer your question, sir?

15 MR. VASQUEZ: Generally, yes. I'm sure we can
16 refer to the website for more information.

17 MR. DURAN: Sure. If you want a rephrase, I can
18 take another crack at it as well.

19 MR. VASQUEZ: No, we're good.

20 Okay. Renee, are there any public commenters on
21 this item 7?

22 MS. NORRED: No, there are no public commenters
23 in the queue.

24 MR. VASQUEZ: Okay, great. That being the case,
25 the chair will entertain a motion on item 7 of the agenda.

1 MS. THOMASON: Mr. Chair, I move the Board
2 approve entering into contracts with continuum of care lead
3 agencies and other entities for eligible activities using
4 Emergency Housing Voucher Program funds, as fully expressed
5 in the Board action request for this item.

6 MR. VASQUEZ: Thank you.

7 Motion made by Ms. Thomason. Is there a second?

8 MR. THOMAS: Second.

9 MR. VASQUEZ: Seconded by Mr. Thomas. All those
10 in favor say aye.

11 (A chorus of ayes.)

12 MR. VASQUEZ: Any opposed?

13 (No response.)

14 MR. VASQUEZ: Hearing none, motion carries.

15 Thank you, Mr. Duran.

16 Moving right along to item 8 on the agenda, Bond
17 Finance, presentation, discussion and possible action on
18 Resolution No. 21-034 authorizing the issuance, sale and
19 delivery of Texas Department of Housing and Community
20 Affairs 2021 Series A single-family mortgage revenue bonds,
21 and 2021 Series B single-family mortgage revenue refunding
22 bonds, approving the form and substance of related
23 documents, authorizing the execution of documents and
24 instruments necessary or convenient to carry out the
25 purposes of this resolution, and containing other

1 provisions relating to the subject.

2 For all of you on the telephone, I read that all
3 out for you.

4 Ms. Galuski, please go ahead.

5 Is Monica muted?

6 MR. WILKINSON: Monica, you're muted.

7 MS. NORRED: Monica, you are self-muted.

8 MS. GALUSKI: Sorry about that. Good morning.

9 Monica Galuski, director of Bond Finance.

10 With this item, staff is requesting approval to
11 issue two series of single-family mortgage revenue bonds,
12 the structure of which is expected to be substantially
13 similar to that of the Department's residential mortgage
14 revenue bonds Series 2021-A and B, which closed on April
15 28.

16 The Series 2021-A bonds will be tax exempt and
17 will be issued in an amount not to exceed \$150 million,
18 with proceeds being used to finance new loan origination.
19 These bonds will be designated as social bonds.

20 The bond structure is expected to include serial
21 bonds, some with a premium; term bonds, and a premium
22 planned amortization class for PAC bonds. Mortgage loans
23 will be pooled into mortgage-backed securities that are
24 guaranteed by Ginnie Mae and those MBS will provide the
25 security for the bonds.

1 The 2021-B bonds, to be issued in an amount not
2 to exceed \$24,830,000, will be taxable fixed-rate pass-
3 through bonds with principal and interest on the underlying
4 mortgage loans/MBS passed through to the bondholders
5 monthly.

6 The bonds will refund two series of variable
7 rate bonds, 2004 Series B and 2004 Series D, and the swaps
8 and liquidity associated with those bonds will be canceled
9 in conjunction with the redemption of the 2004 bonds, which
10 is expected to occur on September 1.

11 This refunding is expected to generate present
12 value savings of approximately \$2 million, or almost 10
13 percent of the bonds being refunded.

14 The Department contribution will be used to fund
15 down payment and closing cost assistance, lender
16 compensation, second loan servicing fees and/or cost of
17 issuance, and will not exceed \$7.5 million.

18 Capitalized interest will be drawn from the
19 indenture as needed and will not exceed \$4.5 million. As
20 is our practice, these are very conservative maximums and
21 the actual contribution and capitalized interest draws are
22 not expected to reach these levels.

23 Both series of bonds re-rated Triple A Moody's
24 and Double A-plus by Standard and Poor's.

25 That concludes my presentation, and I would be

1 happy to answer any questions.

2 MR. VASQUEZ: Great. Thank you, Monica.

3 Do any Board members have questions for Ms.
4 Galuski?

5 (No response.)

6 MR. VASQUEZ: So as I understand it, you just
7 said there will be several million dollars of savings by
8 taking this action?

9 MS. GALUSKI: Yes. The refunding issue is
10 expected to generate over \$2 million in present-value
11 savings.

12 MR. VASQUEZ: That's pretty good.

13 Renee, are there any public commenters on this
14 item 8?

15 MS. NORRED: No, Mr. Chair, there are no public
16 commenters.

17 MR. VASQUEZ: Okay. Well, in that case the
18 chair will entertain a motion on item 8 of the agenda.

19 MR. BRADEN: Mr. Chair, I move the Board approve
20 Resolution No. 21-034 regarding the sale and delivery of
21 TDHCA 2021 Series A single-family mortgage revenue bonds
22 and 2021 Series B single-family mortgage revenue refunding
23 bonds, all as reflected in the Board action request on this
24 item.

25 MR. VASQUEZ: Thank you.

1 Motion made by Mr. Braden. Is there a second?

2 MR. BATCH: I second, Mr. Chairman.

3 MR. VASQUEZ: Seconded by Mr. Batch. All those
4 in favor say aye.

5 (A chorus of ayes.)

6 MR. VASQUEZ: Any opposed?

7 (No response.)

8 MR. VASQUEZ: Hearing none, motion carries.

9 Thank you, Monica.

10 MS. GALUSKI: Thank you.

11 MR. VASQUEZ: Moving right along, we are going
12 to item 9(a) on the agenda regarding the 2022-2023
13 Qualified Allocation Plan planning project report, and if
14 Marni could get us started.

15 Welcome, Marni.

16 MS. HOLLOWAY: Good morning.

17 Two QAP planning focus groups have been
18 conducted virtually on June 10 and June 14 to discuss
19 potential changes to the sponsor characteristics section of
20 the QAP.

21 We held two discussions due to the specific
22 concerns of HUBs and nonprofits. The conversation with
23 staff proposed changes to the QAP that would separate both
24 qualified nonprofit organizations and HUBs into their own
25 respective sections. The current language in the QAP

1 combines them in the same part, and separating them will
2 allow for referencing the specific requirements of these
3 two groups.

4 In the focus group with the nonprofit
5 organizations, staff and stakeholders discussed how to
6 distinguish nonprofit versus for-profit organizations and
7 the concerns of nonprofit housing providers that don't meet
8 the definition of qualified nonprofit organizations because
9 they are statewide or national organizations. This
10 question was actually addressed in a bill this past
11 legislative session and I think that we may have found a
12 solution.

13 The staff suggested language that would create a
14 third category that requires a minimum of three additional
15 points for residential supportive services over the usual
16 QAP selection, an additional experience requirement, and a
17 requirement for continued material participation.

18 Stakeholders found the proposed language to be
19 initially acceptable because it did not remove current
20 criteria for qualified nonprofit organizations; it expands
21 opportunities for mission-driven nonprofit developers to
22 participate in the tax credit program.

23 In the focus group with HUBs, or Historically
24 Underutilized Businesses, the discussion centered on how
25 to ensure HUBs would be actively involved in the

1 development process.

2 Stakeholders suggested the possibility of TDHCA
3 publishing a list of approved certified HUBs, similar to
4 the list we published for market analysts. Discussion
5 included a template participation agreement for HUBs, and
6 requirements for long-term compliance. There was
7 additional conversation about methods to promote HUBs
8 outside of the QAP.

9 Staff and stakeholders will continue the
10 conversation regarding this important group, and any
11 proposed changes to the 2022 QAP will be published in the
12 staff draft this summer.

13 I'd be happy to take any questions.

14 MR. VASQUEZ: Great. Thank you, Marni. Thanks
15 for all the work that you and the staff are putting in on
16 the always fun and evolving QAP.

17 Do any Board members have questions for Ms.
18 Holloway?

19 (No response.)

20 MR. VASQUEZ: And Renee, are there any public
21 commenters on item 9(a) queued up?

22 MS. NORRED: No, there are no public commenters.

23 MR. VASQUEZ: Okay. Well, this is only a report
24 item, so no motions are necessary.

25 And Marni, we thank you for your report. Don't

1 go anywhere, though, because up next is item 9(b) on the
2 agenda, presentation, discussion and possible action on
3 timely filed appeals.

4 Now, again, if you want to comment on one of
5 these items, the next five items coming up here, please be
6 sure to let the moderators know in the chat boxes. We are
7 going to put up a three-minute per speaker time limit on
8 these, so please try to abide by it.

9 If you are not wrapping up around the three-
10 minute mark, I will interrupt, and please don't take it
11 personally; we're just trying to make sure we can give
12 everyone an equal chance to speak on the items.

13 If you are speaking and multiple speakers before
14 you have said the exact same thing you are about to say,
15 please just tell us who you are and what organization you
16 represent, and just note that you concur with whichever was
17 the speaker that spoke before you.

18 I'm not sure if I left anything else out on
19 that. If not, we will take these in the numeric order as
20 presented on the screen, starting with application 21116
21 Sweetwater Station in Sweetwater.

22 And, Marni, please start with the presentation.

23 MS. HOLLOWAY: Okay. The QAP requirement for
24 pre-application threshold criteria includes disclosure of
25 the following neighborhood risk factors: If the

1 development site is located in the attendance zone of a
2 school that has a TEA accountability rating of F for the
3 most recent year available prior to application and a Met
4 Standard rating by the Texas Education Agency for the most
5 recent available year preceding.

6 Our statute that has states the requirements for
7 the pre-application and says: The Department shall reject
8 and return to the applicant any application assessed by the
9 Department under this section that fails to satisfy the
10 threshold criteria required by the Board in the Qualified
11 Allocation Plan.

12 Rejection of the pre-application means a loss of
13 six points. It's not rejection of the entire application;
14 it's just rejection of the pre-application that results in
15 a scoring adjustment.

16 The development is proposed for elderly
17 residents and is in the attendance boundary of Sweetwater
18 Middle School. This school received a Texas Education
19 Agency rating of F in 2019 and Met Standard in 2018, so
20 that according to the QAP, the pre-application should have
21 included the pre-application neighborhood risk factor.

22 The applicant's appeal states: For the 2021
23 application cycle, TDHCA staff recognized that TEA
24 accountability ratings would not be available for 2020 and
25 decided that mitigation for a school like Sweetwater Middle

1 School, which had a Met Standard rating in 2018 but an F
2 rating in 2019, would not be required. This change
3 received a great deal of attention in the written and oral
4 staff presentations at the September 2020 and November 2020
5 Board meetings.

6 What was not highlighted in the staff's written
7 or oral presentations is the change to Section
8 11.101(a)(3)(B)(iv) with regard to elderly developments.
9 Specifically, the 2020 QAP simply provided that an elderly
10 development was exempt from mitigation.

11 Staff modified the 2021 QAP to provide that an
12 elderly development was exempt from mitigation but was
13 required to disclose the condition in the pre-application
14 nevertheless. A search of the Board books and transcripts
15 for the meetings of September 2020 and November 2020
16 contains no reference to this change other than in the
17 redline of the rule.

18 Unfortunately, when this change was made, no
19 corresponding change was made to the manual. This is how
20 the statement in the manual, which was consistent with the
21 historical treatment of elderly developments, can
22 contradict the new provision in the 2021 QAP.

23 So the change that the applicant described to
24 neighborhood risk factors was actually made to align it
25 with the existing pre-application threshold criteria, so

1 the pre-application threshold criteria had existed prior to
2 2021 but this change aligned the two sections.

3 Regarding the procedures manual, the QAP states
4 in the due diligence and applicant responsibility section:
5 The multifamily programs procedures manual is not a rule
6 and is provided as good-faith guidance and assistance.

7 But in all respects, the statutes and rules
8 governing the Low Income Housing Tax Credit Program
9 supersedes these guidelines and are controlling. Failure
10 to satisfy the pre-application threshold criteria required
11 by the Board and the QAP is grounds for termination of the
12 pre-application and loss of six points.

13 Staff recommends denial of the appeal. I'd be
14 happy to take any questions.

15 MR. VASQUEZ: Thank you, Marni. Let me just
16 make sure I'm following along with you. This is a
17 seniors-only development. Correct?

18 MS. HOLLOWAY: Correct.

19 MR. VASQUEZ: No residents are expected to be
20 attending middle school.

21 MS. HOLLOWAY: I believe so, yes.

22 MR. VASQUEZ: Okay. And the intent or what we
23 updated the process in the QAP is that elderly developments
24 do not have to submit mitigation documentation for
25 underperforming schools?

1 MS. HOLLOWAY: Correct. That's been the case
2 for quite some time. It's a whole group of developments
3 that aren't required to present mitigation, so elderly and
4 supportive housing, some preservation or at-risk
5 developments aren't required to present mitigation, but
6 they are required to disclose the schools that are
7 requiring improvement.

8 MR. VASQUEZ: Okay. So the problem here is that
9 they did not disclose it, even though it's not an
10 applicable provision.

11 MS. HOLLOWAY: Correct, but I would also tell
12 you that so far as staff knows, this hasn't come up with
13 any other elderly or otherwise exempt development in this
14 application round, this is the only one. Others have in
15 fact submitted the appropriate disclosure.

16 MR. VASQUEZ: Okay. Do any other Board members
17 have questions for Ms. Holloway?

18 MR. BRADEN: I have a question. So the change
19 we made in the QAP, the requirement to make the disclosure,
20 we did that because that is required by statute. Is that
21 correct?

22 MS. HOLLOWAY: We made the change -- in the
23 section that's cited by the applicant, that change was made
24 to align with the pre-application requirements, the
25 threshold criteria for pre-application, so the requirement

1 already existed; the change that they're citing just
2 aligned the two parts of the rule.

3 MR. BRADEN: So when you say aligned, I guess
4 what I'm trying to understand is maybe we all recognize
5 that an elderly development is really not dependent on
6 middle schools, but is there a statutory requirement that
7 even an elderly development has to disclose this type of
8 risk factor?

9 MS. HOLLOWAY: The statute is not specific to
10 disclosure of schools by any development. That requirement
11 for disclosure is in the QAP in the pre-application
12 threshold criteria section. So that's something that's
13 been there for quite some time.

14 MR. BRADEN: Okay. Thank you.

15 MR. VASQUEZ: Following up on that, Marni, so is
16 it our intention to remove that, change that in the QAP
17 going forward?

18 MS. HOLLOWAY: No.

19 MR. VASQUEZ: That an elderly development does
20 not have to address schools?

21 MS. HOLLOWAY: So far as I know, and at this
22 point in our QAP planning process, we haven't discussed
23 removing the disclosure requirements, and I can't imagine
24 that we would remove the exemption from mitigation.

25 I mean, it wouldn't make sense to have

1 developments that won't have children in them having to go
2 through that whole mitigation process. But as I said, this
3 aligns these two parts of the QAP -- the rule change aligns
4 these two different sections of the QAP that addressed this
5 same issue, so one section had for some time required this
6 disclosure from all developments so that we're capturing
7 the entirety of developments that are in areas with
8 underperforming schools, and that's what that rule change
9 did.

10 MR. BRADEN: I have one more follow-up question
11 now that I've thought about it.

12 MR. VASQUEZ: Go ahead, please.

13 MR. BRADEN: Marni, just to clarify and make
14 sure I understand and we all understand, so our manual
15 incorrectly stated the rule. The rule was clear as what's
16 required, and obviously manual cannot trump rule, and the
17 manual clearly states some other provisions in it, but it
18 doesn't trump the provisions of the rule.

19 MS. HOLLOWAY: Correct.

20 MR. BRADEN: Thank you.

21 MR. VASQUEZ: Okay. Renee, are there speakers
22 lined up for this item?

23 MS. NORRED: Yes, sir. We have about four
24 speakers lined up for this 21116.

25 MR. MARCHANT: Mr. Chairman, can I ask a

1 question?

2 MR. VASQUEZ: Please, Mr. Marchant.

3 MR. MARCHANT: Marni, all of these requests for
4 appeals -- I don't know how to ask the question exactly --
5 if all of the appeals are granted, would it have any effect
6 on their final determination of whether they would get
7 approved?

8 MS. HOLLOWAY: By and large, denial of an appeal
9 will mean that an application does not receive an award.
10 Of course, there are still -- as you can tell, with five
11 appeals at this meeting and four or five coming at late
12 July, there's still a lot of motion on the list, but in
13 general, denial of an appeal will mean that the application
14 does not receive an award.

15 MR. MARCHANT: Okay. Can you answer the
16 question in the reverse: Does approval of the appeal
17 necessarily mean that they are going to be on the final
18 list?

19 MS. HOLLOWAY: Not necessarily. Until we get
20 through all of the appeals, I can't positively say yes or
21 no that granting an appeal will get an application an
22 award.

23 MR. MARCHANT: Okay. I'm just trying to
24 understand the time spent. If there's someone that even if
25 they're approved they're not going to make it, and vice

1 versa, is this a legal right they have to appeal regardless
2 of their status of approval?

3 MS. HOLLOWAY: Yes, sir, it is.

4 MR. MARCHANT: Okay. Thank you, Mr. Chairman.

5 MR. VASQUEZ: And just to follow up on that, I
6 think most applicants understand their scoring and where
7 they land in the scoring, so if they know, even winning the
8 appeal, that they're still not going to be in the top
9 scoring position, they likely would not be going through
10 the appeal process right now.

11 MS. HOLLOWAY: Likely, but that doesn't mean
12 that they won't, and as Mr. Marchant pointed out, they do
13 have a right to appeal to the Board.

14 MR. VASQUEZ: Yes, absolutely.

15 MR. WILKINSON: So Mr. Marchant, I would just
16 add it's zero-sum. We have a certain amount of tax
17 credits, and if they're this far along in the process, even
18 if they necessarily wouldn't be in the money if they win
19 this appeal, if they were just a little bit closer to being
20 in the money and someone else above them fell out, then
21 they could at the last minute there's still a chance. Even
22 as some regions might be oversubscribed and there's a
23 collapse, another deal might get funded. It gets kind of
24 complicated.

25 MS. HOLLOWAY: Or even post-award after the late

1 July meeting, there's a possibility that some applications
2 will not move forward, so we are watching and recalculating
3 all the way through to the end of the year.

4 And there have been times that we've wound up
5 picking up an application or two post-award that would not
6 have received an award -- would not have been considered an
7 award at the late July meeting.

8 MR. VASQUEZ: Does that answer your question,
9 Mr. Marchant?

10 MR. MARCHANT: (Mic not on; nodded his head in
11 the affirmative).

12 MR. VASQUEZ: Okay. Given that we do have some
13 speakers queued up, I will entertain a motion to allow
14 speakers on this agenda item. Is there such a motion?

15 MR. BRADEN: I move.

16 MS. THOMASON: Second.

17 MR. VASQUEZ: Okay. Moved by Mr. Braden,
18 seconded by Ms. Thomason. All in favor of speakers on this
19 item say aye.

20 (A chorus of ayes.)

21 MR. VASQUEZ: Any opposed?

22 (No response.)

23 MR. VASQUEZ: Hearing none, motion carries.

24 Renee, who do we have up to speak first?

25 MS. NORRED: I have a Walter Martinez that

1 preregistered to speak, but he did not give the application
2 number, so Mr. Martinez, if you would give us the
3 application number in the questions box, if you would still
4 like to speak, please let me know.

5 But let's go ahead and queue up Robbye Meyer.

6 Robbye, you are self-muted. Can you please
7 unmute yourself?

8 MS. MEYER: I'm unmuted. Can you hear me?

9 MS. NORRED: We can hear you.

10 MS. MEYER: Okay. Thank you, Chairman and Board
11 for allowing me to speak. My name is Robbye Meyer. I'm
12 with ARX Advantage. I do not have a competing application
13 in this region; however, I am speaking to emphasize the
14 importance of consistency in decisions from the Board and
15 staff during a cycle so that applicants are treated fairly
16 and equally.

17 Under normal circumstances, I would say rules
18 trump; however, the Department bears a responsibility for
19 producing and publishing accurate information and
20 application materials for applicants to use in preparing
21 applications for submission.

22 In this instance, the Department not only had
23 inconsistent information between the rules and the manual,
24 but there was emphasis added in the manual by highlighting
25 the language in red and underlining that highlighted

1 language that elderly developments are not required to
2 disclose for schools at pre-application.

3 Chairman, you have spoken many times, and last
4 month as well, of getting rid of "gotchas." This is an
5 unintended prime example of "gotcha."

6 And Ms. Thomason, you agreed with the chairman
7 last month about an error and inconsistency between the
8 rule and the application materials. You stated: I don't
9 see that this is an issue of 85 percent of people did not
10 do this; it's because we didn't provide the proper prompt
11 for applicants to follow the change.

12 This situation is not about a prompt or a
13 scoring box or a space to fill in, it is about
14 inconsistency in information by the Department that led the
15 applicant to not provide information that as otherwise
16 required.

17 The Department should bear the responsibility
18 for emphasizing in the manual that an applicant did not
19 have to disclose information which was in strict
20 contradiction to the requirement that the Department
21 changed in the rule but failed to change in the manual.
22 The applicant should not be penalized by taking away the
23 pre-application points for something that was caused by the
24 Department.

25 It's true that the statute requires an applicant

1 meet the pre-application threshold requirements; that's no
2 question. However, it is the QAP that is in the
3 Department's control and the responsibility to provide
4 those threshold requirements that the application must
5 meet.

6 I support the application's appeal request, just
7 as I did staff's waiver request that was approved last
8 month. I thank you for your time and consideration.

9 MR. VASQUEZ: Thank you, Ms. Meyer.

10 Renee, who do we have up next?

11 MS. NORRED: We are looking for Cynthia Bast to
12 unmute her.

13 Cynthia, you are unmuted. Can you hear us?

14 MS. BAST: Yes. Thank you.

15 Good morning. This is Cynthia Bast of Locke
16 Lord, representing the applicant for this appeal. We are
17 appealing the termination of the pre-application and the
18 removal of the six pre-application points for failure to
19 include a disclosure with regard to school ratings in the
20 pre-application for this elderly development.

21 This Board has been willing to provide relief to
22 applicants that are adversely affected by an error in the
23 Department's materials. Such is the case here, and we
24 believe relief is appropriate.

25 You've heard the applicant relied upon a

1 statement in the application manual that elderly
2 developments are not required to disclose for school
3 ratings in the pre-application. The statement was in red
4 and underlined. You can see it on page 58 of 144 of your
5 Board book supplement where it says: Remember, elderly
6 developments are exempt and are not required to disclose
7 for schools at pre-application.

8 When applicants are assembling an application,
9 the manual is their guidebook. The manual states in its
10 introduction: We hope that the information provides a
11 foundation upon which you may build your application in
12 accordance with the rules. Unfortunately for the applicant
13 in this case, the manual directly contradicted the rules.

14 I want to point out that this red and underlined
15 language has existed in the manual since 2019, so if this
16 change in the QAP that occurred in 2021 was simply to align
17 two sections of the QAP, then why did the manual have this
18 language since 2019?

19 The point that I make in my appeal is that in
20 our rulemaking process the staff was very good and thorough
21 about identifying both in writing and in oral discussion at
22 two different Board meetings the changes that are being
23 made to the QAP.

24 They discussed very thoroughly the fact that the
25 applicants would not be required to mitigate for schools

1 because we would not have the 2020 TEA accountability
2 ratings. But again, this change in the one section of the
3 QAP sort of flew under the radar screen, and then
4 apparently it flew under the radar screen when it came time
5 to change the manual.

6 Staff's presentation suggests that the
7 termination of a pre-application for failure to meet
8 threshold criteria is mandatory by statute and rule. It's
9 important to note the language of the statute. It says
10 that a pre-application shall be rejected for failure to
11 satisfy the threshold criteria required by the Board.

12 This acknowledges the Board's authority to
13 establish the threshold criteria and, by extension, to
14 grant relief when there has been a failure in the
15 Department's materials, as the Board has done in prior
16 circumstances.

17 Thank you for your time.

18 MR. VASQUEZ: Great. Thank you, Ms. Bast.

19 Renee, who do we have up next?

20 MS. NORRED: We have Sarah Anderson, and we are
21 looking to unmute her.

22 Sarah, you are unmuted. Can you hear us?

23 MS. ANDERSON: Yes. Can you hear me?

24 MS. NORRED: Yes, ma'am.

25 MS. ANDERSON: Okay. Hello. My name is Sarah

1 Anderson, and in this particular case I'm not representing
2 a particular application, but I would like to speak
3 neutrally and ostensibly in favor of the appeal.

4 As has been brought to your attention, the facts
5 of this particular appeal are identical to the one that was
6 brought before you at the last meeting. You have an item
7 that was made to the QAP that staff did not update the
8 manual to include the requirement, nor was there anything
9 particularly in the application to identify this change.

10 At last month's meeting you made a decision to
11 allow staff -- or you made the decision to waive that
12 requirement. If in fact this appeal is denied, I would
13 actually like to be on record formally requesting that the
14 item from last month be brought back up and re-deliberated.

15 We simply can't have the same set of facts with two
16 completely different determinations made.

17 So that would be the end of my testimony. Thank
18 you.

19 MR. VASQUEZ: Thank you, Ms. Anderson.

20 Renee, next up.

21 MS. NORRED: We are finding Audrey to unmute.

22 Audrey, you are self-muted. Will you please
23 unmute yourself?

24 MS. MARTIN: I'm unmuted now. Can you hear me?

25 MS. NORRED: Yes, ma'am.

1 MS. MARTIN: Fantastic.

2 Hi. This is Audrey Martin with Purple Martin
3 Real Estate. I am an application consultant. Like Robbye
4 and Sarah, the speakers before me, I'm not related to this
5 application at all, and I hadn't planned to speak, but I do
6 think that it's important to talk about the impact of some
7 of these really kind of finer points and details in the
8 rules and in those places where we might have some
9 discrepancies in other application materials.

10 I do agree with the previous speakers. I think
11 it's really important that applicants and consultants are
12 able to rely on the materials that come out from the
13 Department.

14 I know we have a lot of changes every year.
15 It's very difficult to make these updates as quickly as
16 they have to be done, but in this particular circumstance,
17 as the previous speakers have pointed out, there's a
18 section in the procedures manual underlined in red that
19 says that you do not have to make a disclosure related to
20 school quality for elderly developments.

21 So I think it's important in this particular
22 case, and as Sarah said, sort of for consistency in the way
23 that the waiver last meeting was handled, I think that in
24 this case the appeal should be granted.

25 So that's all I have to say. Thank you.

1 MR. VASQUEZ: Thank you, Ms. Martin.

2 Renee, do we have anyone else?

3 MS. NORRED: We have no one else in queue at the
4 moment. If there were questions, Michael Ash would be
5 available, but other than that, there are no other
6 commenters in the queue for this application.

7 MR. MARCHANT: Mr. Chairman, I have a question.

8 MR. VASQUEZ: Yes, sir.

9 MR. MARCHANT: So there was nobody to
10 specifically speak for or against any of these, just people
11 that were generally unhappy with the process of
12 application.

13 MR. VASQUEZ: Well, I believe Ms. Bast is the
14 attorney representing the applicant from Locke Lord.

15 MR. MARCHANT: On Sweetwater?

16 MS. HOLLOWAY: That is correct.

17 MR. VASQUEZ: And then the others were generally
18 speaking for the appeal.

19 MR. MARCHANT: Okay. So those speakers were
20 only on Sweetwater, not all the rest of them?

21 MR. VASQUEZ: Correct, for this item only.

22 MR. MARCHANT: Okay. Just my opinion that the
23 comments ought to be about the specific project and the
24 specific thing that we're talking about, not just general
25 discussion about the process. Just my opinion.

1 MR. VASQUEZ: Yes, sir, I agree. If anyone
2 strays too far off, we'll bring it back into focus.

3 Do any other Board members have comments or
4 questions on this item?

5 MR. BRADEN: I have a question of Marni and
6 maybe of Bobby. So if the manual seems to be causing
7 problems, I mean, has there ever been a discussion about
8 maybe we ought to do away with the manual and let the rules
9 just speak for themselves?

10 MS. HOLLOWAY: The manual provides instruction
11 as to how applicants should submit materials to meet the
12 requirements of the QAP. Without the manual, we don't
13 really have a connection between the QAP and the
14 application form.

15 We could drop more instruction into the
16 application form itself but then we already have 4-, 5-,
17 600-page applications. We certainly could consider,
18 though, if not doing away with it -- actually, the manual
19 may be required by statute -- it is, now that I remember,
20 because recall every year we bring you the manual for
21 approval, so I believe the manual is required by statute.

22 MR. BRADEN: And I'm sympathetic to this issue.

23 I mean, obviously we made a mistake; the manual and the
24 rule contradict each other, but it's to an interpretation
25 of the rule. I mean, the rule clearly states one thing. A

1 lot of people talk about, well, relying on materials from
2 the Board for these applications, which I agree and
3 understand that the rules are clearly things that come to
4 the Board as well.

5 I don't really have any other comments.

6 MR. WILKINSON: Yeah, the manual is definitely
7 required by statute, 2306.670-22. It's supposed to be a
8 corresponding manual.

9 I'm also sympathetic to the applicant. I stuck
10 with staff's recommendation and just adhered to the rule
11 and the QAP, but I can see both sides.

12 MS. THOMASON: I have one question for Marni.

13 MS. HOLLOWAY: You commented in the beginning of
14 your presentation on this particular application that there
15 were no other elderly applications who did not submit the
16 school information?

17 MS. HOLLOWAY: So far as I know, keeping in mind
18 that we don't necessarily review all of the applications;
19 we review those priority applications. So I can't say
20 globally, yes, everyone submitted the appropriate
21 disclosures, but this is the only one that's come up this
22 year that has had this issue.

23 MS. THOMASON: And is there another elderly
24 application in the region with Sweetwater Station?

25 MS. HOLLOWAY: No.

1 MS. THOMASON: Okay. Thank you.

2 MR. VASQUEZ: Thanks, Ms. Thomason.

3 Renee, did we clear out everyone that wanted to
4 speak?

5 MS. NORRED: Michael Ash would like an
6 opportunity to speak.

7 MR. VASQUEZ: Okay. Let's put Mr. Ash on.

8 MS. NORRED: Okay. We are looking to unmute
9 him.

10 Mr. Ash, you are unmuted. Can you hear us?

11 MR. ASH: I can, thank you.

12 Good morning, Mr. Chairman and Board members.
13 I'll be real brief. I represent AEP, the developer in this
14 project.

15 I guess I've got three points that I want to
16 make, and one to emphasize is the points that have already
17 been made, and that is that developers work extremely hard
18 to try to do what is asked of us by the QAP, by the rules,
19 by the manual, by TDHCA.

20 In this case we did what we were told in very
21 clear and unambiguous language, highlighted in red and
22 underlined. We were told we didn't need to submit the
23 schools at pre-app, so we didn't. It may be that we were
24 the only ones that actually read the manual, and that's why
25 nobody else did it, but that's why we did.

1 The two other points I would like to make very
2 quickly are that in this case the disclosure or lack of
3 disclosure of the school risk factor has absolutely no
4 bearing on the quality of the application that the Board
5 and TDHCA has received. It doesn't affect scoring, except
6 for sort of the "gotcha" nature of whether to not we did or
7 didn't comply, and there's no mitigation required, so
8 nothing is required along those lines.

9 The last point I just want to leave you with is
10 that as the highest-scoring application in the region, we
11 are the project that best meets the goals and policy
12 objectives of the Board and of TDHCA, and from my
13 perspective, sir, it would be a shame to deny that
14 application, deny the City of Sweetwater the housing
15 because of a technicality.

16 Thank you.

17 MR. VASQUEZ: Thank you, Mr. Ash.

18 Are there any other comments/observations from
19 Board members?

20 MS. THOMASON: I guess would just make a
21 comment. I definitely see both sides of this, but I don't
22 know, does the Department and the Board take any
23 responsibility for the fact that the manual was very
24 specific, knowing it doesn't trump the rules?

25 I guess what is the legal ramification of action

1 that the Board may take today if the appeal were accepted?
2 Maybe for Bobby or for Beau.

3 MR. WILKINSON: The language that the QAP trumps
4 the manual, covers us legally, but ethically,
5 operationally, it's not good that the manual was bad. I
6 tend to stick to the rule and kick it to the Board, so then
7 now it's in your hands.

8 MS. HOLLOWAY: Speaking from my group, we freely
9 acknowledge that, yes, there was a mistake there, just as
10 we did last month with addresses at pre-application, and
11 that's part and parcel of being multifamily finance staff,
12 that our mistakes are played out on a very public sort of
13 platform. That's just what it is. We work really hard to
14 prevent these kinds of things, but sometimes something gets
15 through.

16 MS. THOMASON: Absolutely. I know the volume of
17 what you all have to deal with is rather large. I wasn't
18 implying that, oh, you shouldn't make a mistake.

19 MS. HOLLOWAY: No, no, I understand.

20 MS. THOMASON: We're all in this position.
21 Thank you.

22 MR. VASQUEZ: Mr. Batch, did you have a comment?

23 MR. BATCH: I mean, I generally I see both sides
24 of it as well, but I think in this particular case, on the
25 ethics at least, it seems to me that it would be a little

1 out of line to not be sympathetic towards the application.

2 You know, even though that what's in the QAP, I
3 think, does trump what's in the manual, it just seems like
4 the onus should be on us to make sure that we're in
5 alignment. And if we're not in alignment, I think that
6 there should be a little bit of sympathy for the
7 application.

8 MR. VASQUEZ: Thank you. And I guess my
9 comment, if this were a family development rather than an
10 elderly development, I might see it differently. And
11 again, schools have no bearing on the elderly development
12 in this case, so I think we're kind of arguing over a
13 technicality that there is some evidence that has been
14 presented that we were the participant.

15 Mr. Braden, it looked like you were about to say
16 something.

17 MR. BRADEN: Actually, I was going to make a
18 similar comment. I mean, obviously I usually follow the
19 rule, and I understand that rules trump the manual and the
20 fact that the manual is wrong shouldn't influence the rule.

21 But then you take a step back and you think the
22 purpose behind that rule really is not applicable. The
23 underlying purpose for that kind of requirement is not
24 really applicable for an elderly development, and then you
25 layer on the fact that this year everybody is getting

1 mitigation because of what's been going on with TEA and the
2 pandemic; it just makes a stronger case for the applicant.

3 MR. VASQUEZ: Okay. Mr. Thomas, do you want to
4 say anything before I entertain a motion?

5 MR. THOMAS: Thank you, Mr. Chairman, for the
6 opportunity.

7 Real quick, I think the arguments made certainly
8 is pretty compelling, and fellow Board members and their
9 comments.

10 I'm one who is a stickler for rules, but I think
11 consistency matters, and I think this is an opportunity to
12 show that, look, we're not trying to say it's anybody's
13 fault, given the volume of work and what staff is going
14 through, but transparency matters in government, right, and
15 this is a case where there is some inconsistency and, for
16 all the arguments made, seems like this is a classic case
17 where if we're really going to follow the sort of "gotcha"
18 principle that we don't want to follow, this would be one
19 that we could apply it to and say we should take the
20 discretion to allow the applicant some leeway here.

21 So I certainly see both sides of the argument,
22 but I'm conditioned to sympathize with the applicant on
23 this particular appeal.

24 MR. VASQUEZ: Very good. Let's entertain a
25 motion on this application appeal on 21116 Sweetwater

1 Station. Mr. Braden, you want to make a motion?

2 MR. BRADEN: Sure, Mr. Chair. I move the Board
3 approve the scoring appeal of application 21116 Sweetwater
4 Station.

5 MS. THOMASON: Second.

6 MR. VASQUEZ: Thank you.

7 Motion made by Mr. Braden, seconded by Ms.
8 Thomason. Is that right?

9 Okay. Motion is made and seconded to approve
10 the scoring appeal for application number 21116. All those
11 in favor say aye.

12 (A chorus of ayes.)

13 MR. VASQUEZ: Any opposed?

14 (No response.)

15 MR. VASQUEZ: Motion carries unanimously. Thank
16 you, everyone.

17 Moving on to item 21149 Residences at Alpha in
18 Dallas.

19 MS. HOLLOWAY: The Department received an RFAD
20 questioning whether the application qualified for points
21 related to pre-application participation and
22 under-leveraging of federal, state and private resources.
23 Staff issued a notice of scoring adjustment denying the
24 points, and the applicant has appealed.

25 Regarding pre-application participation, an

1 application may qualify to receive up to six points at full
2 application if the pre-app meets the threshold
3 requirements, which include the development site at
4 application is at least in part the development site at
5 pre-application. The pre-application included site control
6 documentation for a site in Houston, while the full
7 application included documentation for a site in Dallas.

8 On appeal, the applicant claimed they could not
9 revoke the incorrect submission after 4:05 Central Time on
10 the date of the pre-application deadline due to
11 technological difficulties that no other applicant has
12 described.

13 The applicant did not contact staff with regard
14 to these technological difficulties prior to the deadline
15 or at any time prior to submission of the appeal.

16 Regarding leveraging of private, state, and
17 federal resources, an application may qualify to receive up
18 to three points if at least 5 percent of the units are
19 restricted to households at or below 30 percent of AMI, the
20 tax credit funding request meets certain financing
21 requirements, and in order to be eligible for points, no
22 more than 50 percent of the developer fee can be deferred.

23 The initial application submission clearly
24 showed \$1,353,548 of the \$2,504,000 total developer fee
25 would be deferred. The rule explicitly precludes the

1 application from scoring points because the amount of the
2 deferred developer fee is approximately 54 percent.

3 The applicant claims that because the proposed
4 site has an existing commercial building on it, part of
5 which will continue to have a tenant, the rent would be
6 used to collateralize a short-term loan that is proposed to
7 be used to pay a portion of the developer fee, so that the
8 deferred fee would be less than 50 percent.

9 This financing was not part of the original
10 application and under the rules cannot be added at this
11 time. Even if the secondary financing had been part of the
12 application, it is collateralized only by the commercial
13 lease with a six-year term remaining, so it can't be used
14 to help amortize the permanent debt under the Department's
15 underwriting rules.

16 Staff recommends that the Board deny the appeal.

17 I'd be happy to take any questions.

18 MR. VASQUEZ: Marni, just so I can clarify, you
19 have the deferral of the development fee is one part of the
20 problem with this application messing up the scoring.

21 MS. HOLLOWAY: Correct.

22 MR. VASQUEZ: But did you also talk about the
23 background information submitted originally. It was for
24 Houston even though this application is in Dallas?

25 MS. HOLLOWAY: Correct. There's actually two

1 scoring items that are under appeal at this point:
2 pre-application that's impacted by the site control
3 documentation, and leveraging that's impacted by the
4 deferred developer fee.

5 MR. VASQUEZ: Okay. Do any Board members have
6 questions for Marni on this? And I believe we are going to
7 have speakers as well.

8 MR. BRADEN: I do have a couple of questions,
9 and just to follow up on what the chair just said, so with
10 respect to the location, it wasn't just that they put
11 Houston down and they meant Dallas, the backup
12 documentation with respect to the pre-app showed Houston.
13 Is that correct?

14 MS. HOLLOWAY: Correct.

15 MR. BRADEN: Okay. And then on the second item,
16 again just for clarification, they're deferring more than
17 50 percent of their developer fee, so I guess they're
18 pointing to this loan that might pay them back something
19 sooner, and that's why they would not be eligible for those
20 additional points?

21 MS. HOLLOWAY: Yes, those additional three
22 points for leveraging.

23 MR. VASQUEZ: Okay. I'll entertain a motion to
24 hear public comment on this item 9(b) application 21149.

25 MR. BRADEN: So moved.

1 MS. THOMASON: Second.

2 MR. VASQUEZ: Moved by Mr. Braden, seconded by
3 Ms. Thomason. All in favor say aye.

4 (A chorus of ayes.)

5 MR. VASQUEZ: Any opposed?

6 (No response.)

7 MR. VASQUEZ: Hearing none, let's have some
8 speakers.

9 Renee, who is first up?

10 MS. NORRED: We have Ryan Combs.

11 Ryan, you are self-muted. Can you please unmute
12 yourself.

13 MR. COMBS: Yes, I'm unmuted. Can you hear me
14 okay?

15 MS. NORRED: Yes, sir.

16 MR. COMBS: Okay, great. Thank you so much.

17 My name is Ryan Combs, and I represent the
18 Paramour Jupiter Road application in this same region, and
19 we're a competing application, and I want to state that I'm
20 in support of staff's denial of these points.

21 There are two issues here. The first one is the
22 pre-app process, and the pre-application process is an
23 important part of our process. It's been here for a number
24 of years on purpose, and it's important to have site
25 control documentation for a number of reasons because we

1 all make decisions based on what other competing
2 applications are out there with respect to a number of
3 different rules: same census tract, two-mile/same-year
4 rule, zoning issues, and all different types of things, and
5 so we all have that opportunity to look at the
6 pre-applications of everybody who has turned in and make
7 decisions on how much money we're going to spend, how much
8 effort we're going to spend on our applications depending
9 on who may be around us.

10 And what happened in this application is this
11 application, because they submitted the incorrect
12 documentation, really was not a part of the pre-application
13 process.

14 No one was able to see any of their
15 documentation related to their site until full application,
16 and so we had to just kind of fly blind based on that. The
17 pre-application process is a material part of our process,
18 which is why it's worth six points. It's important for all
19 of us to be able to participate in that.

20 The other thing that I'll mention about this is
21 that the applicant stated that they were unable to withdraw
22 their application, but they tried at a little bit after
23 4:00 the day of the deadline, and staff always makes it
24 very clear not to wait till the very last minute on things.

25 The application acceptance period was open for

1 quite a long time before that. I always, and I know many
2 other applicants submit their applications well in advance
3 anticipating if there is an issue, and then when there is
4 an issue, everyone will do the prudent thing and contact
5 staff, which this applicant did not do, did not contact
6 staff.

7 Even if you have a problem, the first thing you
8 do is contact staff and alert them there's a problem before
9 the deadline, which this applicant did not do.

10 The second issue has to do with their deferred
11 fee. Their application had more than 50 percent of their
12 fee deferred, which is a point item; it's a material item.

13 The loan documentation that they provided in their appeal
14 was not signed until May 19, which is well after the
15 application acceptance period, and it would be them trying
16 to add additional sources to their application. And so I
17 agree with staff that that should not be admitted into the
18 application.

19 Both of these things are material items. They
20 are things that we all look at, and we're all trying to get
21 great housing out there, and so I wanted to just speak up
22 in support of staff's decision on this. Thank you very
23 much.

24 MR. VASQUEZ: Thank you, Mr. Combs. A quick
25 question just to clarify. You said you had a competing

1 application. Is your competing application in Houston or
2 Dallas?

3 MR. COMBS: In Dallas.

4 MR. VASQUEZ: Great. Thank you.

5 Renee, we have next up?

6 MS. NORRED: Cynthia Bast, we are looking to
7 unmute her.

8 Cynthia, you are unmuted. Can you hear us?

9 MS. BAST: Yes. Thank you.

10 This is Cynthia Bast of Locke Lord, representing
11 the applicant and requesting that you grant this appeal.
12 Actually, there are two appeals, two different appeals for
13 points here, and you can grant both of them, you can grant
14 one or the other, but we are asking you to grant both of
15 them.

16 With regard to the points for pre-application
17 participation, it's obvious that the applicant made an
18 error, and we believe that error should have been capable
19 of correction with an administrative deficiency.

20 Mr. Braden, the application said on page 1 that
21 the site was in Dallas, and it gave the development address
22 which was reflected on the pre-application log posted on
23 TDHCA's website, so I must respectfully refute the point
24 Mr. Combs made that they had no idea where this application
25 really was.

1 Attaching a purchase contract for a site in
2 Houston was inconsistent with the pre-application for a
3 development in Dallas. The QAP says that one of the
4 purposes of the administrative deficiency process is to
5 resolve inconsistencies.

6 The rule makes it clear that the administrative
7 deficiency process applies to both pre-applications and
8 full applications. Moreover, the rule says any application
9 that staff identifies as having insufficient support
10 information will be directed to cure the matter via the
11 deficiency process. That "will" statement is not optional.

12 The purchase contract for Houston was insufficient support
13 for a proposed development in Dallas. An administrative
14 deficiency should have been issued.

15 Finally, the staff did not indicate whether they
16 performed any investigation as to the applicant's claim
17 that it was unable to upload the correct purchase contract
18 prior to the deadline. Staff has said that no other
19 applicant complained of the situation, but I am curious as
20 to whether they were able to check with software engineers
21 to see if there was any evidence of a problem.

22 The correct purchase contract has been provided,
23 and we would ask you to treat it as if the applicant had
24 responded to an administrative deficiency and reinstate the
25 points for this item.

1 With regard to the second item, points for
2 leveraging of federal, state and private resources, the
3 applicant responded to an administrative deficiency to
4 clarify how less than 50 percent of the developer fee was
5 being deferred.

6 The applicant's financing package includes a
7 midterm loan to the applicant from the Bank of Texas, which
8 is a legitimate source. The application form did not
9 really allow for the applicant to clearly identify this
10 source and it is unusual for there to be a source that is
11 neither construction financing nor 15-year permanent
12 financing, but it is not prohibited.

13 Staff is saying that because the Excel
14 spreadsheet calculates the deferred developer fee to exceed
15 50 percent, the applicant cannot qualify for the points,
16 but staff is not allowing the applicant to clarify the
17 inconsistency in the application through the administrative
18 deficiency process. Once the applicant provided a
19 reasonable explanation for the inconsistency, the points
20 should have been reinstated.

21 Thank you.

22 MR. VASQUEZ: Thank you, Ms. Bast.

23 Renee, who do we have speaking next?

24 MS. NORRED: Yes, we have Christian Garcia, and
25 we are looking to unmute.

1 Christian, you are unmuted. Can you hear us?

2 MR. GARCIA: I can hear you. Can you hear me?

3 MS. NORRED: Yes, sir.

4 MR. GARCIA: Okay. Thank you.

5 Hello, Board. My name is Christian Garcia. I
6 work for NuRock Companies, the developer in application
7 number 21149. I'm in support of application number 21149,
8 and I'm here today to give you my personal testimony on the
9 events that took place on Friday, January 8, at submission.

10 The pre-application for Residences at Alpha was
11 submitted at 4:05 p.m. on Friday, January 8 by a senior
12 member of the NuRock team. NuRock submitted five
13 pre-applications that day, along with census tract
14 documentation and site control documents.

15 After every pre-application was submitted, our
16 team began an internal of site control and census tract
17 documentation, but around 4:45 p.m. we noticed that the
18 site control documents for Residences at Alpha was
19 incorrect. Our team attempted to revoke the pre-
20 application. We navigated to the link populated at
21 submission via email. Once we entered the online document,
22 the commands to revoke or print the pre-application did not
23 appear.

24 At first our team thought this was a technology
25 error on our side. We restarted our browser and our

1 Outlook app, disconnected the computer from WiFi, and even
2 went as far as disconnecting and reconnecting our WiFi
3 router from the wall.

4 Again and again we experienced the same error,
5 no option to revoke or print the pre-application in sight.

6 All other computer applications worked fine, Google Chrome
7 and Internet Explorer still populated searches. It was not
8 an internet connection issue.

9 After verifying our ability to operate online,
10 our team concluded that there must be an error in the code
11 used to create the pre-application, and by the time we
12 realized that an error existed, we reached the five o'clock
13 deadline.

14 Our team tried to remedy the problem, but we
15 could not revoke the pre-application. At the time we did
16 not believe reaching out to TDHCA was an appropriate
17 response because we believed the issue would be cured
18 through the administrative deficiency process. However, we
19 were never given an administrative deficiency; we only
20 received a notice of scoring adjustment.

21 If our points are not reinstated today, our
22 request is that staff conduct an internal review of their
23 system. We are all aware of the two technical errors, one
24 error relating to the CRP points on the pre-app log and the
25 second relating to the missing address box for recipients

1 of pre-app notification.

2 Our team will argue that a third error existed
3 at the time of pre-app submission, and that that error kept
4 our team from correcting the site control documentation.

5 Thank you for your time.

6 MR. VASQUEZ: Thank you, Mr. Garcia.

7 MS. NORRED: Next we have Dan Allgeier, and we
8 are looking to unmute him.

9 Dan, you are unmuted. Can you hear us?

10 MR. ALLGEIER: All right. Thank you. You can
11 hear me?

12 MS. NORRED: Yes, we can.

13 MR. ALLGEIER: I'm Dan Allgeier, I'm with
14 Lakewood Property Management, a member of the applicants.
15 This is comments regarding the leveraging issue point
16 deduction.

17 This site is a couple of blocks from the
18 Galleria in Dallas, and there's an existing commercial
19 building on the site. A portion of this building will
20 remain, and there's a lease with Verizon that doesn't
21 expire until 2027.

22 When the Residences at Alpha are constructed,
23 the applicant intends to retain this portion of the
24 commercial building and retain Verizon as a tenant to
25 provide additional funds, which reduces the deferred

1 development fee to below 50 percent. The applicant is
2 going to obtain a loan from Bank of Texas, collateralized
3 by this lease. Because the term of the lease is only six
4 years, the loan term is only six years.

5 Staff says this loan doesn't meet the
6 requirements for permanent financing because the term is
7 too short. As such, they call it a contribution from the
8 developer and not an eligible source to offset the deferred
9 developer's fee.

10 We're talking about \$300,000 worth of proceeds
11 here. The rules only provide for certain types of sources
12 that are typical for affordable housing, not commercial
13 leases, not something in an urban area like this. This is
14 a unique source of funds for affordable housing and isn't
15 addressed anywhere in the QAP or the rules.

16 The fact that the lender can't do a 30-year term
17 based on a six-year lease only makes business sense;
18 however it is a source of funds to the applicant derived
19 from facilities on the site that will be owned by the
20 applicant and be part of collateral for financing -- the
21 building is -- and included in the legal description under
22 the LURA. It's all on the same site and will be owned by
23 the applicant. The funds from the loan will be applied to
24 the developer's fee, resulting in a deferred developer's
25 fee under 50 percent.

1 These points ought to be reinstated. Thank you.

2 MR. VASQUEZ: Thank you, Mr. Allgeier.

3 MS. NORRED: Next we have Robbye Meyer. We are
4 looking to unmute her.

5 Robbye, you are unmuted. Can you hear us?

6 MS. MEYER: This isn't the one I wanted to speak
7 on.

8 MS. NORRED: Okay, very good. Thank you.

9 MS. MEYER: Sorry.

10 MS. NORRED: That's okay.

11 We have Zach. We're looking to unmute Zach
12 right now.

13 Zach, you are unmuted. Can you hear us?

14 MR. KROCHTENGENEL: Yes, I can.

15 Hi. Zachary Krochtengel. I just wanted to
16 point out that a few years back an application was
17 terminated because in the pre-app contract they had an X on
18 the wrong piece of the land, on the same tract of land. It
19 was just the wrong piece of land and their exhibit had an X
20 on the wrong piece of the land and their pre-application
21 was terminated for that cause, and I think we need to be
22 consistent with site control being established at pre-
23 application, including correctly identifying the site for a
24 correct contract for that site.

25 Thank you.

1 MR. VASQUEZ: Thank you, Mr. Krochtengel.

2 MS. NORRED: We are looking to unmute Alyssa
3 Carpenter.

4 Alyssa, you are self-muted. Will you please
5 unmute yourself?

6 MS. CARPENTER: Yes. Can you hear me?

7 MS. NORRED: Yes, ma'am.

8 MS. CARPENTER: Great. Thank you very much for
9 the opportunity to speak today. My name is Alyssa
10 Carpenter, and I am a consultant. I represent a couple of
11 different applications in this region but none are below
12 them for the senior allocation.

13 I wanted to make a couple of quick comments on
14 the pre-application contract issue. The pre-application
15 does have an address in Dallas, and there's a census tract
16 map showing Dallas, so if there is a discrepancy between
17 items in an application, the deficiency process does
18 specifically allow for an applicant to address an
19 inconsistency in an application.

20 There is a statement in the QAP that states that
21 a deficiency response may not contain documentation that
22 did not exist prior to submission of the pre-application or
23 full application as applicable.

24 I know that in prior years there were
25 applications that, for example, were missing threshold

1 items such as title commitments, and staff did allow such
2 applicants to provide title commitments that were not
3 submitted in the application as long as they were able to
4 prove that the title commitment existed prior to submission
5 of the application.

6 So my comment here is that if there is ability
7 for the applicant to prove that this purchase contract did
8 exist prior to submission of the pre-application, that the
9 applicant should be able to correct that deficiency.

10 For the leveraging item, again, if there are
11 inconsistencies in financing, staff has typically allowed
12 there to be some sort of explanation for such
13 inconsistencies.

14 I know for an appeal last year there was an
15 issue with a 65 percent income-to-expense requirement, and
16 the applicant was allowed to revise their financing to meet
17 that QAP requirement, and I think that this is a similar
18 situation where you have possibly an error and some
19 inconsistencies and that in the past the Board did allow
20 that applicant to submit revised documentation to meet the
21 QAP requirement.

22 So again, in order to be consistent, I think
23 that if there are inconsistencies that are provided in an
24 application, that the QAP does allow for inconsistencies to
25 be addressed.

1 That is all I have to say. Thank you very much.

2 MR. VASQUEZ: Thank you, Ms. Carpenter.

3 Renee, do we have anyone else queued up for this
4 item?

5 MS. NORRED: We do not have anyone else queued
6 up. However, we have Robert Hopkins, he is available and
7 he would only speak if necessary, but we have no one else
8 in queue.

9 MR. VASQUEZ: Okay. Getting back to the Board,
10 do you have any further questions for Marni in this case
11 with apparently multiple factors?

12 MS. THOMASON: I have a question for Marni.
13 Really just what would your response be to several of the
14 speakers who have said that these items should have been
15 allowed to be cured under an administrative deficiency as
16 opposed to the way it has been handled?

17 MS. HOLLOWAY: If we as staff believed that
18 these are items that could be cured through an
19 administrative deficiency process, we would have sent the
20 applicant an administrative deficiency. There was some
21 back and forth regarding the financing and the developer
22 fee, but ultimately we were not able to get to a solution
23 that fit within our rules.

24 MS. THOMASON: Okay. Thank you.

25 MR. VASQUEZ: Before we continue, Renee, do we

1 actually have any other speakers?

2 MS. NORRED: Yes. We have Robert Hopkins.

3 Robert, you are unmuted. Can you hear us?

4 MR. HOPKINS: Yes, I can. Can you guys hear me?

5 MS. NORRED: Yes, we can.

6 MR. HOPKINS: I'm Robert Hopkins. I'm with the
7 NuRock Companies, the developer for the application.

8 I want to point out as it relates to the first
9 item with respect to the pre-application contract, that
10 this contract was executed on November 20 of 2020, you
11 know, almost two months prior to the pre-application
12 submission. When this was forwarded to TDHCA, it was very
13 clear that this was part of the process.

14 I also want to point out that we had technical
15 issues, and technical issues, as everyone knows, come up at
16 any particular given time. We couldn't figure out how to
17 handle it. We did everything we could which is normal
18 under our IT relations to be able to handle it, and we
19 truly thought it was going to be an administrative
20 deficiency issue, which is the main reason we didn't
21 contact TDHCA.

22 As it relates to the leveraging item, which is
23 for me a little bit more on a personal level, we put
24 that -- that commercial lease was designed to create income
25 for the property, and it had to be amortized directly as a

1 result of the income revenue from that commercial lease
2 over a six-year period.

3 It would have made no financial sense to have
4 extended that loan amount over a 15-year period if the
5 source to repay that was coming from a commercial side.
6 And this is all pure commercial revenue, but all that
7 commercial revenue is in fact part of the application.
8 It's part of the land that is going to be there, and it's
9 what we were relying on to maintain and keep that developer
10 fee below 50 percent.

11 And again, through the administrative deficiency
12 process, we were told in our letter that the loan that we
13 had was a developer contribution, and the Bank of Oklahoma
14 is not on our board. They don't work for us, we don't work
15 for them, and there's no direct or indirect affiliation
16 with the developer other than that we do work with them for
17 construction financing and other items from time to time.

18 So we respectfully request that both of these
19 items be considered for reinstatement for scoring based
20 upon the comments that have been made. Thank you very
21 much.

22 MR. VASQUEZ: Thank you, Mr. Hopkins.

23 Do any other Board members have some thoughts,
24 comments?

25 MS. HOLLOWAY: If I may, regarding the

1 leveraging question and the developer contribution, because
2 that commercial lease is not part of the tax credit
3 development; it's not part of our application.

4 The only way we could characterize it as this is
5 additional funds that the developer is bringing to the
6 deal, hence it's a developer contribution. I just wanted
7 to make that very clear that that commercial property and
8 that commercial lease is not part of the tax credit
9 development.

10 MR. VASQUEZ: Okay. Well, I believe we have
11 heard a sufficient number of speakers who are opposed to
12 staff's recommendation to deny the appeal, so let's go
13 ahead, and I would entertain a motion on this item,
14 application 21149 Residences at Alpha.

15 MR. BATCH: Mr. Chairman, I move that the Board
16 deny the scoring appeal of application number 21149
17 Residences at Alpha.

18 MR. BRADEN: Second.

19 MR. VASQUEZ: Motion made by Mr. Batch, seconded
20 by Mr. Braden. Let's call for the vote. All those in
21 favor of the motion to deny the scoring appeal on this item
22 say aye.

23 (A chorus of ayes.)

24 MR. VASQUEZ: any opposed?

25 (No response.)

1 MR. VASQUEZ: Motion carries.

2 I vote that we continue to forge ahead on this
3 and get her done. Moving on to the next item under 9(b),
4 application 21185 Weslaco Village Apartments.

5 MS. HOLLOWAY: For this one staff determined
6 during the course of our review that the application did
7 not qualify for points related to concerted revitalization
8 plan.

9 Because the CRP filed to meet threshold criteria
10 and could not be remedied with clarification, the
11 deficiencies are considered material, and an administrative
12 deficiency was not issued.

13 Revitalization plans are required to meet
14 multiple criteria, including description of problems in the
15 revitalization area identified by local residents who had
16 an opportunity to express their views and how those
17 problems should be addressed and prioritized.

18 In addition, the goals of the adopted plan must
19 have a history of sufficient documented and committed
20 funding to accomplish its purpose on its established
21 timetable. This funding must be flowing in accordance with
22 the plan such that the problems identified are currently
23 being or have been sufficiently addressed.

24 The applicant's appeal states: As noted in the
25 City of Weslaco's cover letter dated November 4, 2020,

1 which accompanied the CRP and was included in the
2 application, the Southeast Community was identified
3 approximately ten years ago as an area in need of
4 revitalization. Since that time the city has been spending
5 money to support infrastructure in the area and has seen
6 documented improvements. The city's work in the Southeast
7 Community was a part of a concerted effort that was not
8 specifically documented in a written plan.

9 So while the area may have been identified in
10 the past, the plan was not established at that time or at
11 any time before city council was taken regarding the tax
12 credit application.

13 The appeal claims the CRP documentation
14 identified infrastructure and related improvements in the
15 area that have been ongoing for approximately ten years.
16 The rule specifically states: An application may qualify
17 to receive points if the development site is located in a
18 distinct area that was once vital and has lapsed into a
19 condition requiring concerted revitalization, and where a
20 concerted revitalization plan has been developed and
21 executed.

22 The appeal itself acknowledges that the cited
23 efforts were not specifically documented in a written plan.

24 Instead, the submitted plan relies on infrastructure
25 improvements over a number of years, which could also be

1 characterized as the types of maintenance work generally
2 undertaken by local governments.

3 The plan also does not establish the required
4 history of sufficient documented and committed funding to
5 accomplish the plan's purposes. It seems impossible to
6 have that history of documented and committed funding when
7 the plan was developed and executed a decade after the
8 improvements it describes.

9 The appeal goes on to state that the applicant
10 approached the City of Weslaco about the potential
11 reconstruction of the Weslaco Village Apartments, which are
12 in the Southeast Community. It goes on to say: The city
13 was supportive of this endeavor and inquired about the ways
14 in which it could support the proposal.

15 The developer described the ways for the city to
16 support the application, including the local funding and
17 the passage of certain resolutions of support, including an
18 acknowledgment that the development would contribute most
19 significantly to the concerted revitalization efforts in
20 the area. That resolution is a requirement for points on
21 this item.

22 The appeal goes on to say: Desirous of
23 facilitating the reconstruction of the development, the
24 city set out to seek public input and draft and finalize
25 the CRP, taking care to make sure it would be sufficient

1 under TDHCA's rules.

2 The CRP was approved at a meeting of the Weslaco
3 City Council on February 18, 2020. At the same time the
4 city council approved a resolution of support for the
5 development. The applicant included the CRP and resolution
6 in a 2020 application that was terminated for other
7 reasons. When the same development was submitted in 2021,
8 it included the same plan from 2020, and there was no
9 change from the plan submitted in 2020.

10 While the city and developer have documented
11 efforts regarding the desire to reconstruct the development
12 site, there was insufficient evidence of engagement with
13 the public regarding problems in the revitalization area.
14 Similarly, there is no evidence of funding committed and
15 flowing to the CRP.

16 It is important to note that under our rule the
17 CRP must extend beyond the proposed development site, which
18 this plan does, but it's clear in the appeal that the
19 genesis for this plan was the reconstruction or
20 redevelopment of the Weslaco Apartments.

21 A notice of scoring adjustment reducing the
22 applicant's score by seven points was issued, and the
23 applicants have appealed, and that appeal has been denied.

24 Staff recommends that the Board also deny the appeal.

25 I'd be happy to take any questions.

1 MR. VASQUEZ: Marni, just so I understand here,
2 the CRP that the applicant is pointing towards, is that ten
3 years old and generalized or is that a 2020 plan?

4 MS. HOLLOWAY: It was a 2020 plan that described
5 efforts and work that had been done in this area in the ten
6 years previous.

7 The work that was done looks like maintenance
8 work that a city would undertake or even that a city would
9 undertake a special effort for making this work in an
10 effort that needs revitalization, but the work that was
11 done was not done as the result of a plan.

12 MR. VASQUEZ: Okay. Do Board members have
13 questions for Marni on this item? I'm sure we have some
14 speakers lined up as well.

15 (No response.)

16 MR. VASQUEZ: Let's get a motion to hear
17 speakers on application 21185. Is there such a motion?

18 MS. THOMASON: I'll move to hear comments about
19 application 21185 scoring appeal.

20 MR. BRADEN: Second.

21 MR. BATCH: Second.

22 MR. VASQUEZ: Motion made by Ms. Thomason,
23 seconded by Mr. Braden. All in favor say aye.

24 (A chorus of ayes.)

25 MR. VASQUEZ: Any opposed?

1 (No response.)

2 MR. VASQUEZ: Hearing none, the motion carries.
3 Renee, let's get our first speaker on this item.

4 MS. NORRED: We are looking to unmute Brad
5 McMurray.

6 Brad, you are unmuted. Can you hear us?

7 MR. McMURRAY: Yes, I can hear you. Can you
8 hear me?

9 MS. NORRED: Yes, we can.

10 MR. McMURRAY: Yes. My name is Brad McMurray,
11 and I'm with the developer on the application. I was going
12 to cede my time to Cynthia Bast, but I think I'd like to
13 address a couple of comments that Marni made.

14 I don't know that her characterization is fully
15 accurate, because it's described as the improvements that
16 have been done over the past ten years were basically just
17 maintenance items.

18 In actuality, the letter that was included in
19 the CRP application actually describes infrastructure
20 improvements, but it also describes the fact that Weslaco
21 East High School, there were very significant improvements
22 done by the school district. The Economic Development
23 Corporation of Weslaco created health care, improved the
24 medical center, as well as those infrastructure
25 improvements which, of course, a neglected area, the

1 infrastructure is really the foundation, the first thing
2 that you do to actually begin that revitalization.

3 And again, this was a revitalization that was in
4 practice, that was going forward by the City of Weslaco,
5 and it's characterized that it was just done for the
6 application.

7 Well, no, it was ongoing. The benefit of
8 redeveloping Weslaco will certainly add to that
9 revitalization, but the representation that this is just
10 done, it's something that is ongoing by a small
11 municipality, and then it was trying to meet the
12 requirements of TDHCA.

13 But the revitalization was ongoing. It's been
14 going on for ten years, there's more than \$44 million in
15 future improvements that are planned, so it's ongoing, and
16 then included in our application as well was the fact that
17 we're seeing improvement. Unemployment has fallen -- or
18 did before the pandemic -- and the median home value is
19 increasing, so there's not only an ongoing revitalization
20 effort, it's being proved.

21 And I appreciate the opportunity to make these
22 comments.

23 MR. VASQUEZ: Great. Thank you, Mr. McMurray.
24 Renee?

25 MS. NORRED: Next we have Cynthia Bast.

1 Cynthia, you are unmuted. Can you hear us?

2 MS. BAST: Yes. Thank you.

3 This is Cynthia Bast of Locke Lord, representing
4 the applicant, requesting that you grant this appeal.

5 Now, I have been working through application
6 cycles for a long time, and that includes a lot of appeals
7 on concerted revitalization plan issues. Every local
8 governing body does its planning differently. Getting a
9 plan to fit exactly within TDHCA's rules can be tricky.

10 I've seen governing bodies that hire experienced
11 consultants to draft their plans, I have seen plans drafted
12 by one governmental employee. Communities have differing
13 resources to devote to the effort, but they make the effort
14 because they want to achieve a beneficial outcome.

15 In the CRP packet there are 11 check boxes for
16 an applicant to confirm that this plan meets the
17 requirements of the QAP. TDHCA staff has stated that the
18 documentation presented by the City of Weslaco is not
19 eligible for CRP points because it fails to meet two
20 criteria.

21 Staff suggests that there was an insufficient
22 description of the process for public input; however, the
23 plan and the letter from the city both refer to input from
24 stakeholders in multiple locations.

25 Staff claims that there was an insufficient

1 description of a history of sufficient documented and
2 committed funding to support the plan's goals; however, the
3 plan recites both projects that have been completed and
4 projects proposed, along with funding sources for each.

5 The objections to this plan seem to stem from a
6 notion that a city cannot be engaging in a legitimate
7 revitalization plan without a written document, and any
8 work done prior to writing the plan is not part of the
9 plan.

10 Neither of these objections are supported by the
11 QAP. The QAP does not say that a plan must be written down
12 before the revitalization work starts. It says that a plan
13 must have been developed and executed. Course of conduct
14 can serve as evidence of the development and execution of a
15 plan, and the officials of the City of Weslaco have
16 asserted that they were working on a plan long before they
17 wrote it down.

18 The City of Weslaco is telling you that they
19 have been working on revitalization of the Southeast
20 Community for ten years. That shows a history of
21 sufficient documented and committed funding.

22 The QAP does not say that funding that occurs
23 before the adoption of a formal written plan does not
24 count. The city confirms multiple times of interaction
25 with stakeholders to address the revitalization efforts.

1 Logically, a ten-year effort and the success achieved so
2 far would require ongoing citizen interaction.

3 All of the pieces to satisfy the QAP are here,
4 and we respectfully request that you acknowledge them and
5 grant this appeal.

6 MR. VASQUEZ: Thank you, Ms. Bast.

7 MS. NORRED: Next up we have Ryan Sweeney.

8 Ryan, you are unmuted. Can you hear us?

9 MR. SWEENEY: Yes, I can hear you. Thank you.

10 Chairman, members of the Board, thank you. My
11 name is Ryan Sweeney. I'm with Prospera Housing Community
12 Services, the nonprofit developer of this project.

13 This project is a result of a multi-year
14 collaboration between stakeholders and residents of the
15 City of Weslaco. As a community housing development
16 organization, Prospera's very governance is required to be
17 through community input, including members of the public
18 and even residents of the housing projects themselves.

19 As the project in question here is an existing
20 community, the necessary redevelopment includes input not
21 only from the community at large but more specifically from
22 the actual residents of this housing project. All of this
23 public input has been incorporated in our multi-year
24 collaboration with the city.

25 Anyone watching the news and what's going on in

1 the Valley knows that the need for affordable housing in
2 cities like Weslaco is skyrocketing. As a responsible
3 nonprofit developer we work with the cities that we serve
4 to help them understand the need for affordable housing and
5 the types of housing in each community.

6 We have done that here in the City of Weslaco as
7 a small town. We are not simply coming in and trying to
8 get a deal done. We are following what we believe to be
9 the best practices that TDHCA would want to encourage by
10 engaging the community and the city so that the end project
11 is something the entire community can be proud of.

12 This project is to rebuild an existing complex
13 that is very old, and it's reached the end of its useful
14 life. With this project we're not only rebuilding the
15 current units but also adding additional units for a mixed-
16 income project that will serve even more families in the
17 Rio Grande Valley.

18 As you know, the City of Weslaco as a public
19 municipality is governed by the Texas Local Government Code
20 in all that it does. It held public hearings and is
21 legally not even permitted to take action without public
22 input. As a matter of law, Weslaco's CRP was properly
23 adopted, and the points should be awarded.

24 The city has spent many years and millions of
25 dollars in implementing its CRP. Upholding the ruling of

1 staff in this case would penalize the City of Weslaco for
2 considerable efforts and restrict the ability of the city
3 to adopt any affordable housing, not just this project --
4 let me say that again -- any affordable housing in the City
5 of Weslaco, not just this project.

6 The CRP was a result of a multi-year effort from
7 all stakeholders, including the public. Public support is
8 great, as evidenced by the passage of a bond in support of
9 the city's community development efforts.

10 We, the developer, did what TDHCA wanted us to
11 do in collaborating with the city and public stakeholders
12 to provide input on the CRP as well as this project. The
13 city has a great need for projects like this one, and it
14 followed the rules in creating a plan to accommodate them.

15 To penalize this project is to penalize the City
16 of Weslaco, a city located in an area with some of the
17 lowest AMIs in the country. The city desperately needs
18 this project and more like it. Please do not restrict
19 their ability to develop affordable housing.

20 We respectfully request that staff's denial of
21 the CRP points for this application be reversed and that
22 the points be restored. Thank you.

23 MR. VASQUEZ: Great. Thank you, Mr. Sweeney.
24 Renee?

25 MS. NORRED: We have Sarah Anderson, we are

1 looking to unmute her.

2 Sarah, you are unmuted. Can you hear us?

3 MS. ANDERSON: Yes. Thank you. Can you hear
4 me?

5 MS. NORRED: Yes, we can hear you.

6 MS. ANDERSON: Okay. Excellent.

7 Again, my name is Sarah Anderson, and I hadn't
8 initially intended to speak on this item. I am a
9 development consultant. I do not have an application in
10 this region, and I do not have a stake in what exactly
11 happens to this application. I would like to make that
12 clear.

13 When I read this last night, I had concerns
14 about the direction staff was taking and what seems to be
15 inconsistent with previous determinations and
16 determinations being made in this cycle as well.

17 I think it is clear from what was submitted that
18 it meets the threshold for public input. But more
19 specifically, I think that denying this appeal because the
20 plan is new is essentially saying any new plan passed by a
21 city cannot meet the CRP requirement, because it will not
22 be able to show funding in the past, and I don't think that
23 was the intention of the CRP when it was designed.

24 New plans have in the past been accepted, and
25 they have been allowed to show previous funding that showed

1 how they got to the point that they created the plan and
2 institutionalized the work that they were doing. I would
3 say that there's actually at least one other application, I
4 believe in Region 3, that has a relatively new plan that
5 has pretty much the same documentation, and actually only
6 had one single meeting that's been acceptable that only
7 showed previous funding that's been shown acceptable.

8 So again, I'm here mostly just to say, again, we
9 need consistency. I think that they have shown the city
10 has done the work that you guys have said you want, and I
11 find it distressing that simply because it's a new plan
12 that we somehow dismiss it as not being valid for
13 consideration.

14 MR. VASQUEZ: Thank you, Ms. Anderson.

15 Renee?

16 MS. NORRED: We have Walter Martinez. We are
17 looking to unmute him.

18 Mr. Martinez, you are self-muted. Can you
19 please unmute yourself?

20 MR. MARTINEZ: Can you hear me?

21 MS. NORRED: Yes, we can.

22 MR. MARTINEZ: Thank you very much.

23 Good morning. My name is Walter Martinez. I
24 participated in the 9 percent application for the Weslaco
25 Village Apartments, which is an existing property in the

1 City of Weslaco. I appear before the Board to request you
2 grant the appeal regarding the submitted CRP for the City
3 of Weslaco.

4 As a nonprofit developer of affordable housing,
5 Prospera has always been proactive in pursuing community
6 engagement in all of their projects. Community input is
7 paramount in proposing a successful affordable housing
8 development.

9 I applaud this Board's commitment to this ideal
10 by encouraging communities to adopt community
11 revitalization plans that identify local community needs
12 and help leverage the necessary resources to address those
13 needs.

14 In the case of the City of Weslaco's Southeast
15 Community revitalization plan, community leaders, elected
16 officials, city staff, local residents are to be commended
17 for a track record of having committed resources to
18 addressing local area needs.

19 As described in their CRP, this effort has
20 spanned a period of years with millions of dollars of
21 improvements. City and school district funding derived
22 from voter-approved bond issues or other public resources,
23 in addition to private sector investment, has already
24 improved the neighborhood.

25 Voter-approved bonds with public participation,

1 which included stakeholder input through community meetings
2 by the various local government entities, funded some of
3 these improvements that are defined in the plan.

4 These are specific examples of the efforts the
5 City of Weslaco has made and continues to make in an effort
6 to revitalize the Southeast Community. Rather than being
7 cited as deficient, these efforts should be recognized as
8 sufficient efforts of engagement with the public in
9 addressing the problems in the designated areas. After
10 all, a voter-approved bond project does not just happen out
11 of thin air, but instead by the dedication of local
12 leaders, residents, taxpayers participating in a
13 deliberative public process.

14 While some of these community efforts occurred
15 prior to formalizing the CRP, this history is represented
16 in the plan by the public improvement projects that have
17 been approved and funded to address the area and are
18 included in this plan.

19 Instead of penalizing these efforts by declaring
20 it as putting the cart before the horse, this small South
21 Texas town should be applauded for these actions, and their
22 work should be deemed as an acceptable history of
23 sufficient funding as part of their CRP.

24 From my perspective, the Texas Department of
25 Housing and Community Affairs and this Board is achieving

1 its commendable goal of fostering community engagement and
2 thereby leveraging more investment in communities of need.

3 The city of Weslaco's CRP should be acknowledged as
4 meeting the goals of the TDHCA's effort to promote local
5 community engagement.

6 I respectfully ask that you grant this appeal on
7 this existing project that needs this vital revitalization.

8 To do otherwise would be a disservice to this South Texas
9 community, where affordable housing is in great demand, and
10 it would further fly in the face of the stated goals of
11 this agency. Thank you for your time.

12 MR. VASQUEZ: Thank you, Mr. Martinez.

13 I believe we have one more speaker lined up. Is
14 that correct, Renee?

15 MS. NORRED: Yes, that is correct. We are
16 looking to unmute Rebekah.

17 Rebekah, you are self-muted. Will you please
18 unmute yourself?

19 MS. DE LA FUENTE: Can you hear me now?

20 MS. NORRED: Yes, we can.

21 MS. DE LA FUENTE: Thank you.

22 My name is Rebekah De La Fuente. I am the
23 planning and zoning code enforcement director for the City
24 of Weslaco, and I am speaking in favor of granting the
25 appeal for the Weslaco Village Apartments.

1 It is the City of Weslaco's stance that it has
2 followed the TDHCA rules when it came to the creation of a
3 Southeast Community revitalization plan and that this plan
4 is an eligible community revitalization plan.

5 As stated in City Manager Mike Perez's letter,
6 dated April 24, the City of Weslaco identified that the
7 Southeast Community was in need of revitalization more than
8 ten years ago, and there has been ongoing and proposed
9 future planned revitalization projects in this area.
10 However, at that time they were not formalized into a
11 specific plan.

12 In the city's efforts to continue to pursue the
13 area's revitalization through the reconstruction of the
14 existing Project-based Section 8 Weslaco Village
15 Apartments, the City of Weslaco formalized a community
16 revitalization plan in adherence with the TDHCA
17 requirements.

18 To ensure public participation and public input,
19 public hearings were properly posted and advertised in the
20 local newspaper and held in both the Planning and Zoning
21 Commission and City Commission meetings to ensure that the
22 written plan adhered to the public desire of revitalization
23 of the area.

24 We at the City of Weslaco, who strive to provide
25 our residents with the highest quality service, believe

1 that it is not appropriate in such a challenging time to
2 disadvantage the current and future residents of the
3 Weslaco Village Apartments by preventing the reconstruction
4 of a 44-year-old property which affects those greatest in
5 need due to staff's opinion that our revitalization plan
6 does not meet their interpretation of their own standards,
7 when it clearly does.

8 I also want to take the time to address that
9 these are not maintenance projects that we're doing. The
10 city procured a \$10 million project for drainage, and the
11 bulk of that money is going to the Southeast area. One of
12 the projects has been completed, and one is currently under
13 construction, and those are going to impact a huge area in
14 the Southeast revitalization area.

15 The city has even gone further than that and
16 looked beyond the scope of this plan and recently purchased
17 property in the area to reconstruct a fire department. We
18 are heavily invested in making this a better area.

19 Thank you.

20 MR. VASQUEZ: Thank you, Ms. De La Fuente.

21 I'd like to bring Marni back and ask a question.

22 MS. HOLLOWAY: Yes.

23 MR. VASQUEZ: Marni, on page 190 of the Board
24 book, the main Board book there is a City of Weslaco
25 Southeast Community Revitalization Plan adopted February 8,

1 2020.

2 MS. HOLLOWAY: Correct.

3 MR. VASQUEZ: Why does this not fit our CRP
4 requirements? You're saying it's too general?

5 MS. HOLLOWAY: No. So CRPs can come in many
6 forms and fashions, and we have tried to through the QAP
7 allow for a variety of plan processes and plans to look
8 different and to be adopted at different times. There are
9 some keys, though.

10 One of them is that public participation process
11 that's not necessarily a public hearing, but it is
12 neighborhood groups meeting and identifying the issues
13 within their neighborhood and working with local government
14 to come to solutions for those problems. So that is
15 missing in what has been presented here and is missing in
16 the appeal, they haven't described that process.

17 The other way that this doesn't meet those
18 requirements is it talks about this work that's been done
19 retrospectively, so it's looking for we've been doing this
20 drainage work or whatever for this period of time, and we
21 want you to consider that as a CRP, when in fact, a CRP is
22 this is the work that we're going to do moving forward
23 based on this input that we have received from our
24 community, and here's the source of funds that will be used
25 to complete that work.

1 So this plan does not have those elements. The
2 applicant in their appeal states that they told the City of
3 Weslaco that in order for them to be able to complete the
4 redevelopment of Weslaco Village, the city needed to adopt
5 the CRP.

6 So it's not the CRP is about work that's being
7 done in the community based on a set of community needs;
8 it's a CRP that was created taking all of this other work
9 in order to try to prove up an effort to support this
10 development.

11 Was that too many words?

12 MR. VASQUEZ: Do any other Board members have
13 any questions for Marni or thoughts on this?

14 MR. BRADEN: I have a couple of things. So I
15 understand what Marni just said and the fact that they
16 didn't have the piece of paper till 2020, but we've been
17 told by the city, including letter from the city manager
18 and the economic development director right now is the plan
19 has been going on for ten years. They only memorialized it
20 in a written document in 2020 because that's what our rules
21 require.

22 But that's not necessarily how every city runs a
23 revitalization plan. They could just be talking about it
24 and doing things, a concerted efforts in an area to
25 revitalize that area, and I think that's what Weslaco is

1 telling us they've done, so then they memorialized it in
2 2020 because our rules require that.

3 But they're stating and they've given us
4 indication that they've been doing this for a while, and
5 while you look at the list of completed projects, I can see
6 how lighting, tile, fencing, roofing, how that might be
7 maintenance, but you know, the school district building a
8 new band hall, the medical center doing \$10 million worth
9 of improvements, and then they talk about planned projects.

10 I mean, it seems like they've sort of checked
11 the box in terms of putting commitment to that area, even
12 if some of it was prior to the 2020 date. At least that
13 would be my view on that.

14 And as to the public comment stuff, again, maybe
15 they didn't do it the way the City of Dallas or the City of
16 Houston might have done it, but Weslaco is a different
17 community, and we all know that there are rules governing
18 any type of adoption of anything by a public body and there
19 were required public hearings associated with all of that.

20 MS. HOLLOWAY: Yes, there were public hearings.

21 There was a public hearing held the day that the CRP was
22 adopted by city council and started their city council
23 meeting with the public hearing regarding adoption of this
24 plan. I don't know when the planning and zoning public
25 hearing was held that the city staff member described.

1 My thought, my caution here is that CRPs are not
2 well described in code, but they're beginning to be
3 described in the IRS Code, but they are clearly not about
4 an application for housing tax credits; they are a separate
5 effort. And we have, as I said, through the rules tried to
6 provide for flexibility for the variety of different kind
7 of processes that have happened.

8 You know, we've discussed plans that are layered
9 with different plans, and there's TIPS and there's TRZs and
10 there's a neighborhood plan and how all of those pieces fit
11 together, and our rule allows for that. Our rule is very
12 specific that the plan can't be about the tax credit
13 application.

14 MR. BRADEN: I understand that, and that makes
15 sense to me, and I guess what I fall back on is a letter
16 from the city manager saying that's not what they're doing
17 here.

18 MR. VASQUEZ: Do any other Board members have
19 questions for Marni?

20 MS. THOMASON: I have one. So this was also an
21 application in 2020. Correct?

22 MS. HOLLOWAY: Correct.

23 MS. THOMASON: And the same plan was submitted,
24 the same CRP plan was submitted with that application?

25 MS. HOLLOWAY: Correct.

1 MS. THOMASON: I know you said it was terminated
2 for other reasons. Was this CRP plan in the 2020
3 application a concern as well?

4 MS. HOLLOWAY: We did not review it for the 2020
5 application. I will tell you that this plan is the same
6 one that was submitted with the 2020 application. There's
7 been no change to it over the past year, and we would have
8 had the same concerns with it last year.

9 MS. THOMASON: Okay. Thank you.

10 MR. VASQUEZ: Anyone else?

11 (No response.)

12 MR. VASQUEZ: Again, I tend to concur that every
13 city's organization across the state does not operate in
14 the same way with the exact same formalities and processes,
15 but it does appear to me, at least, that Weslaco has tried
16 to properly check off the boxes.

17 All right. I will entertain a motion on the
18 staff's recommendation which was presented to deny the
19 appeal, but again, the chair is open to a motion on this
20 item.

21 Paul, would you care to make a motion?

22 MR. BRADEN: I move the Board approve the
23 scoring appeal of application number 21185 Weslaco Village
24 Apartments.

25 MR. MARCHANT: I second.

1 MR. VASQUEZ: Motion made by Mr. Braden,
2 seconded by Mr. Marchant to approve the appeal -- grant the
3 appeal by the applicant on item 21185 Weslaco Village
4 Apartments.

5 MR. ECCLES: Point of clarification from legal
6 is that are both of the scoring issues included in the
7 appeal?

8 MR. BRADEN: Point accepted.

9 MR. MARCHANT: My second was on both items.

10 MR. VASQUEZ: Okay. As clarified by Mr. Eccles,
11 so all those in favor of granting the appeal say aye.

12 (A chorus of ayes.)

13 MR. VASQUEZ: Any opposed?

14 (No response.)

15 MR. VASQUEZ: Hearing none, motion carries.

16 Getting on, moving close to the end of the
17 agenda under item 9(b), application 21230 Calle del Norte
18 Apartments.

19 MS. HOLLOWAY: So this is the appeal of the
20 application the representative addressed the Board right at
21 the top of our meeting this morning.

22 Staff has determined the application was not
23 eligible to receive the six points requested under 10 TAC
24 11.9(e)(3) related to pre-application participation. We
25 issued a status letter providing the notice of scoring

1 adjustment, which resulted in the ability to appeal.

2 Under pre-application threshold criteria,
3 applicants must meet a list of criteria requirements that
4 include evidence in the form of a certification provided in
5 the pre-application that all of the notifications required
6 under this paragraph have been made and that a reasonable
7 search for applicable entities has been conducted.

8 Notification recipients include the
9 superintendent of the school district in which the
10 development site is located, and notification of the
11 superintendent and presiding officer of the board of
12 trustees is required by our statute.

13 As detailed in a status letter dated June 28,
14 2021, staff had previously conducted a limited review of
15 the information available at the time, including
16 explanatory details submitted with the initial request for
17 a limited review.

18 The request disclosed that an error occurred in
19 the pre-application notification of the superintendent for
20 the correct school district in which the development site
21 is located. In conducting its search for the correct
22 entity, the third-party website used by the applicant
23 incorrectly identified the school district for the proposed
24 site. The applicant's search appeared to have resulted in
25 identifying the incorrect school district when inputting

1 the site's zip code into the National Center of Education
2 Statistics database.

3 Overall, the information submitted appeared to
4 support staff's initial conclusion that the applicant
5 conducted a reasonable search for the appropriate entity
6 and had timely notified recipients within the Laredo ISD.

7 An RFAD was submitted which included documents
8 generated from the Texas Education Agency with a map of
9 school assignments within United ISD.

10 Following requests by the Governing Board, staff
11 conducted a more recent review of the issue and as detailed
12 in its letter, the applicant has appropriately notified --
13 I'm sorry -- as it pertained to the RFAD, as staff detailed
14 in its letter, the applicant had appropriately notified the
15 correct recipient once it identified its error.

16 Nevertheless, the applicant still failed to notify the
17 correct recipient at pre-application, which is required in
18 order to receive those points. The applicant has timely
19 appealed.

20 The matter initially at hand was whether the
21 applicant notified the correct superintendent and presiding
22 officer, which was brought to staff's attention twice
23 before the June 17, 2021 Board meeting.

24 In both instances they sent information provided
25 by the applicant and its competitor. Staff determined that

1 the applicant would be considered compliant with its
2 responsibility.

3 Importantly, the limited review process did not
4 result in the identification of an issue that requires
5 correction or clarification, which is a possible outcome in
6 accordance with the rule. The failure by the competitor to
7 meet the RFAD requirements under 10 TAC 11.10 of the QAP is
8 critical to this appeal and an overall understanding of the
9 matter at hand.

10 The appeal further claims that if staff and/or
11 the Board overturns staff's original, to our knowledge this
12 would be the first time that a staff decision resulting
13 from a limited review process would have been overturned,
14 including because of an RFAD.

15 Historically staff decisions resulting from an
16 RFAD process have also been upheld. To our knowledge,
17 should this appeal not be granted, this would be the first
18 time that a staff decision resulting from an RFAD process
19 would be overturned.

20 This is a perfect example of the "gotcha"
21 situations that all parties -- staff, the Board and the
22 development community -- would like to minimize to the
23 greatest extent possible. To that effect, staff and the
24 Board would have that opportunity to uphold staff's
25 original decision.

1 Regardless of the concerns of the appellant
2 regarding the misuse of the RFAD process in the future,
3 notification of the correct recipient at pre-application is
4 a threshold requirement for the application to receive six
5 points under 11.9(e)(3) of the QAP. Accordingly, staff
6 recommends denial of the appeal.

7 I'd be happy to take any questions.

8 MR. VASQUEZ: Do any Board members have
9 questions for Ms. Holloway on this item before we entertain
10 public comment?

11 (No response.)

12 MR. VASQUEZ: Again, this was introduced to us
13 last month at the last meeting. Again, I believe Renee
14 does have speakers lined up on this item, so I'll entertain
15 a motion to hear speakers, public comment.

16 MR. BATCH: I'll make a motion, Mr. Chairman.

17 MR. BRADEN: Second.

18 MR. VASQUEZ: Moved by Mr. Batch, seconded by
19 Mr. Braden. All in favor say aye.

20 (A chorus of ayes.)

21 MR. VASQUEZ: Any opposed?

22 (No response.)

23 MR. VASQUEZ: Hearing none, motion carries.

24 Renee, let's bring our first speaker.

25 MS. NORRED: Okay. We have Jose Ceballos and

1 Pete Saenz. We are looking to unmute them now.

2 You are unmuted. Can you hear us?

3 MR. CEBALLOS: Yes, we can hear you.

4 MAYOR SAENZ: Good morning. Thank you. This is
5 Mayor Saenz. Can y'all hear me as well?

6 MS. NORRED: Yes.

7 MR. VASQUEZ: Mayor Saenz, we can hear you.

8 MAYOR SAENZ: Yes, sir, Mr. Chairman, thank you,
9 and thank you, Board members as well; thank you for the
10 opportunity to speak on this.

11 Of course, this is very important for us. We
12 realize that these projects, these tax credit projects are
13 very competitive, and it really falls now on the situation
14 that whether a reasonable search was conducted on the
15 school district boundary area. And of course,
16 Representative Raymond spoke to that, and I concur with his
17 argument there or his comments.

18 My argument here for you is more on a broader
19 scale, more on an equitable scale. If you compare regions
20 or areas, Laredo is about 280,000 in population, and if you
21 take basically the area of Pharr, McAllen, Edinburg, that
22 community, which is somewhat close to the number of
23 population that we have here, they've actually gotten 39 of
24 these tax credit projects that exist now.

25 You know, Pharr, for example, has eight and the

1 last one approved was in 2008, two were approved in 2008.
2 McAllen, for example, they've got 15 of these projects, one
3 was approved in 2017, another in '18, another four in 2019,
4 and the latest was in 2020. I think they had two approved
5 there. And then Edinburg, it's got 16 of these projects,
6 one approved in 2020, three in 2016, and two in 2015.

7 So from the standpoint of -- and both areas, we
8 could argue, are within the same economically distressed
9 condition, so Laredo, we've had ten, we've got ten compared
10 to the 39 for that region that I just spoke about, and
11 mostly they were granted in the '90s. The last one we had
12 was in 2015.

13 So from the standpoint of equity and serving the
14 needs of the communities, we're underserved, which is why
15 we're asking on an equitable basis to please reconsider
16 this and grant the appeal and for you to support the April
17 23 position or statement issued by staff, which was signed
18 by Ms. Marni Holloway.

19 And with that, hoping that there's another three
20 minutes for Mr. Ceballos, and if not, maybe he can take up
21 the rest of my time. Thank you very much for your
22 consideration.

23 MR. CEBALLOS: Thank you, Mayor.

24 Good morning, Chair and Board members, Mr.
25 Wilkinson. Appreciate the time and the opportunity to

1 speak before you.

2 I chair the local housing authority, and we have
3 a couple of tax credit projects. We also have, of course,
4 public housing and Section 8. This particular area that
5 created the confusion is quite an area where I can see this
6 being quite an honest mistake on the part of the developer.

7 We understand this area to be complicated, even by city
8 council districts, so we understand that.

9 I am obviously in support of seeing this project
10 through. I know this is a very technical review that
11 you're evaluating, but I do want to speak to at least the
12 need in our community.

13 We roughly have about 2,300 folks on our waiting
14 list for public housing and Section 8. Our demand and
15 supply of affordable housing, we have a shortage of at
16 least 1,200 units in our community, so seeing this project
17 that's 55 units is not on the large side of these tax
18 credit developments, so we could really use this project.

19 On top of that, I'm very pleased to hear you all
20 discuss homelessness earlier in the meeting. We are not
21 any different than any other metro; we've experienced
22 spikes. In the last eight years we've doubled our street
23 homeless and sheltered homeless populations, and that's
24 based on our point-in-time count. And we have roughly
25 almost 700 students that qualify as homeless in our

1 community.

2 So I know you're dealing with a very technical
3 review and assessment, but we would urge you to consider
4 Laredo and its need in making your determination today. We
5 could highly use these units to serve this population. So
6 I'm asking for each of you to look at this application
7 favorably and ratify what was done in April in terms of
8 that determination over this location in terms of school
9 districts.

10 Thank you very much.

11 MR. VASQUEZ: Thank you, Mr. Ceballos and Mayor
12 Saenz.

13 MAYOR SAENZ: Thank you, sir.

14 MR. VASQUEZ: Renee, who do we have up next?

15 MS. NORRED: We have Martha Wright Martinez. We
16 are looking to unmute her now.

17 Martha, can you hear us?

18 MS. MARTINEZ: Yes. Can you hear me?

19 MS. NORRED: Yes, we can.

20 MS. MARTINEZ: Thank you for listening to us
21 today.

22 We do have a very, very low inventory for our
23 housing as well as both to purchase and for rental
24 purposes. This area is severely in need of this kind of
25 housing, and so I hope that you will approve the appeal.

1 MR. VASQUEZ: Great. Thank you, Ms. Martinez.
2 Who do you represent?

3 MS. MARTINEZ: I'm the Realtor.

4 MR. VASQUEZ: Okay, great. Thank you.
5 Renee, who's up?

6 MS. NORRED: Yes. We have Jeff Beckler.
7 Jeff, you are self-muted. Will you please
8 unmute yourself?

9 MR. BECKLER: Yes. Thank you.

10 It's hard to follow Mayor Saenz and Jose, and
11 they really championed a lot of our arguments. And what I
12 would encourage is to listen to that local argument, and
13 it's easy to just hear the developer's side, but that local
14 assurance sure goes a long way.

15 You know, I'm just going to speak on the facts
16 and the background of the reasonable search that we did.

17 MR. VASQUEZ: I'm sorry, Mr. Beckler. Who do
18 you represent?

19 MR. BECKLER: I represent the developer.
20 Apologize.

21 MR. VASQUEZ: Okay, great. Go ahead. Thanks.

22 MR. BECKLER: Some of these results the Board
23 may have never seen, but you know, after we received a
24 staff approval of our review, we're now met with neutrality
25 in the Board's decision. From the point of June 17 to July

1 2, somehow all of these opinions changed to not agreeing.

2 It should be mentioned that an exhaustive review
3 was conducted from the time we sent our review request on
4 March 15 to April 23, when we received our response of
5 approval of how we conducted this search.

6 And if questions are had on that, I would
7 encourage the Board to direct their questions to staff and
8 their findings again, and let us not forget what
9 Representative Raymond, having represented Laredo for 21
10 years, and what he thought of these districts being wrong
11 and very cloudy in that area.

12 And staff's review was not limited to the
13 documentation that the developer provided. There was
14 separate research done on these boundaries, and staff had
15 reviews of that documentation in the pre-app, full app,
16 limited review request, which included a map of the
17 district boundaries, zip code search results, TEA search
18 results, notification of delivery receipts of both
19 districts, letters from applicable United ISD officials
20 supporting the development, and our competitor's RFAD,
21 which was never issued to us because of staff agreement
22 before that May 3 deadline, and that's aforementioned new
23 information, I might add, and we've been nothing but
24 transparent so far.

25 And finally, you know, it's very clear on how to

1 ascertain job scores, job scores for points. It's very
2 clear on how to ascertain school ratings. It's very clear
3 on how to ascertain neighborhood crime factors, but can
4 anyone tell me where to ascertain these discrepancies in
5 school boundaries?

6 Offering these ideas unannounced at the Board
7 meetings after May 3, I just feel it's the wrong route in
8 alleviating this bigger issue. If I can't depend on
9 staff's opinion 75 days before this and their support, I
10 don't know how to avoid this.

11 And I'll end by -- in case they don't get to
12 speak, I just want to let the Board know that in a room in
13 the City of Laredo, in case they don't get a chance to
14 speak, is Mayor Saenz, Jose Ceballos, chairman of the
15 housing authority, Mary with the housing authority,
16 Councilman Ruben Gutierrez, Councilman Mercurio Martinez,
17 Councilwoman Vanessa Perez, who represents the district and
18 can also express the confusion of her district's
19 boundaries. All of these people are in a room, and they
20 are at your call for testimony, but I wanted to give them a
21 shout-out just in case they aren't heard.

22 So I appreciate your time.

23 MS. NORRED: Next we have Michelle Snedden.

24 MR. VASQUEZ: Sorry, I was on mute. I said
25 thank you, Mr. Beckler.

1 Okay. Go ahead.

2 MS. SNEDDEN: Can you hear me?

3 MS. NORRED: Yes, we can.

4 MS. SNEDDEN: Great. Michelle Snedden with
5 Shackelford, representing the applicant of the Calle del
6 Norte project.

7 As has already been discussed, back in April
8 staff confirmed that the applicant did comply with notice
9 requirements. It conducted a search for the appropriate
10 entity and timely notified the recipient of its search that
11 was already determined. Staff determined, after doing a
12 review process, that the applicant conducted a reasonable
13 search for the applicable school district.

14 The QAP states that the applicant must provide
15 evidence that notifications have been made and that a
16 reasonable search for applicable entities has been
17 conducted.

18 As noted earlier by Cynthia Bast on I believe it
19 was the Sweetwater Station, statute requires that the
20 Department reject a pre-app if it fails to satisfy the
21 threshold required by the Board in the QAP.

22 The threshold on this is a reasonable search;
23 that's what the QAP says. The reasonable search was
24 actually added to the QAP back in 2019, so the obvious
25 question is why was it added? What is the intent of this

1 language? If it's not to apply reasonable standard care to
2 confirm that they met the notice requirements, why is it
3 even in the QAP?

4 The only difference between when staff made its
5 initial determination a reasonable search was conducted and
6 it rejected the RFAD is that now in a letter sent by Marni
7 it said that neither the QAP nor the statute contains an
8 exception or mitigation for identifying an incorrect party
9 despite what might be considered a reasonable search.

10 I just don't think that's correct. It's not
11 necessarily an exception or mitigation; it's a threshold.
12 The threshold is a reasonable search, and you are only
13 required to reject this pre-app if it's deemed it wasn't
14 reasonable.

15 Representative Raymond confirmed earlier, as
16 others have, it's easy to see why the confusion was had.
17 Ms. Holloway stated at the last Board meeting that she was
18 the one that kind of looked at all the websites, and I
19 quote, "Based on the information that was available to the
20 applicant, they were notifying the appropriate school
21 district."

22 I won't go through this too much, but I will
23 agree that I think the reason why we are here today is
24 because an RFAD was incorrectly used to challenge a
25 decision made by staff.

1 Statute says an RFAD may not be used to appeal
2 staff decisions regarding competing applications, and
3 that's what's happening here. An RFAD was rejected, and
4 it's essentially been resurrected to try and challenge a
5 staff decision, and I think that's a slippery slope for
6 other applicants and other competitors to make charges of
7 this nature.

8 I will say that -- and I'm going to conclude
9 now -- the only reason why you should reject the pre-app
10 and not approve this appeal is if you deem that the search
11 conducted was not reasonable. That's the threshold.

12 Staff's initial decision was that it is
13 reasonable and I don't believe that that's being
14 questioned. So the application should be upheld, staff's
15 decision should be upheld, and the points reinstated.

16 Thank you. Happy to answer any questions.

17 MR. VASQUEZ: Thank you, Ms. Snedden.

18 Okay. We seem to be repeating ourselves with
19 the speakers a bit, but we will entertain just a couple
20 more. And again, I encourage you if you don't have
21 anything brand new to say, please just voice your status,
22 your opinion, and let's try to go on.

23 So who's next, Renee?

24 MS. NORRED: Yes, Donna Rickenbacker.

25 Donna, you are self-muted. Can you please

1 unmute yourself?

2 MS. RICKENBACKER: Am I unmuted?

3 MS. NORRED: Yes, you are.

4 MS. RICKENBACKER: Perfect.

5 Good morning. This is Donna Rickenbacker, and I
6 represent a competing application. I support staff's
7 recommendation on this determination and the scoring
8 result. I'm not here to repeat what has already been
9 stated by staff on this matter, but again, I support.

10 I want to talk about our rules generally and as
11 they relate specifically to this appeal, but first I want
12 to compliment staff for reevaluating the issues that led to
13 this appeal and correctly concluding that the school
14 district representatives were not notified by the
15 pre-application deadline as required by statute. This is
16 the undisputed fact.

17 Staff has a difficult job. They must work
18 within a difficult set of rules, most of which are
19 statutory, including the one that led to this appeal; rules
20 that smart lawyers, on behalf of their clients, are framed
21 in a manner that best fits the desired outcome and then
22 presented to staff can be very persuasive. Staff then does
23 its best to work with the applicant.

24 I do not think staff wants to see any applicant
25 with a great and well supported project fail. In this

1 instance staff's willingness to work with the applicant
2 resulted in staff's decision to conduct a limited review of
3 the application, concluding that the applicant had
4 performed a reasonable search for the school district
5 representative and therefore met pre-application threshold
6 and should be granted the points.

7 After years of tweaking, some provisions of our
8 rules are ambiguous and many times are looked at in
9 practice and how the rule is intended to function. In this
10 instance the rules are clear that the limited review
11 process cannot be used for items that relate to the scoring
12 of an application.

13 Pre-application threshold does affect scoring,
14 because the pre-application that does not meet the
15 threshold requirements is not entitled to six
16 pre-application points.

17 Finally, I do not believe that the reasonable
18 search provision in our rules was intended to apply to
19 identifying school district officials for purposes of
20 notification. The rules apply these searches to all
21 applicable entities and specifically applies these
22 certification requirements to searches performed in
23 connection with notifications to neighborhood
24 organizations.

25 Unlike other entities that an applicant is

1 required to notify, neighborhood organizations can be
2 difficult to determine so the rules were modified in 2018
3 to include this reasonable search provision and relates
4 specifically to searches that apply to identifying
5 neighborhood organizations, the applicable entities. The
6 rules do not support expanding the reasonable search
7 provisions to all entities required to be notified, as has
8 been suggested by the applicant.

9 I respectfully request that the Board support
10 staff and deny the pre-application points to the Calle
11 application. To do otherwise would be in conflict with
12 statute and similar determinations by this Board, including
13 one presented last month. Thank you.

14 MR. VASQUEZ: Thank you, Ms. Rickenbacker.

15 MS. NORRED: Next we have Robbye Meyer.

16 MS. MEYER: Can you hear me?

17 MS. NORRED: Yes, we can.

18 MS. MEYER: Okay. My name is Robbye Meyer, and
19 thank you, Chairman and Board for allowing me to speak.

20 Texas Government Code 3206.6704 requires the
21 Department to establish the pre-application process for
22 applicants by rule and specifically states the
23 pre-application process must require an applicant to notify
24 a list of entities. The superintendent and presiding
25 officer of the board of trustees of a school district

1 containing the development are both part of the required
2 list.

3 Statute does not state a reasonable search for
4 applicable entities. In accordance with statute, to be
5 eligible to meet the pre-application threshold and
6 therefore receive pre-application points, an applicant must
7 notify the correct entities.

8 I have great sympathy for the applicant because
9 I've made this error myself. Notifications cause heartburn
10 and anxiety for every applicant. It is always something
11 applicants must check and double-check every available
12 resource. When there's doubt, you notify everybody and
13 cover your bases. You should have notified both ISD
14 representatives.

15 I'm going to repeat my previous comments from
16 earlier in the Board meeting about consistent decisions and
17 equal fair treatment for applications.

18 Last month application 21131 Boulevard 61
19 notified the incorrect senator because of an overlapping of
20 districts. That appeal was denied and the pre-application
21 points were not awarded because of this specific statutory
22 requirement that cannot be waived.

23 I support staff's decision to deny the appeal,
24 and I thank you for your time and consideration.

25 MR. VASQUEZ: Great. Thank you, Ms. Meyer.

1 I'm going to have one more speaker here, and
2 then I think we kind of heard all aspects of the different
3 sides.

4 Renee, who do we have next?

5 MS. NORRED: We have Vanessa Perez, and we are
6 looking to unmute her right now.

7 MS. PEREZ: Hi. Can you hear me?

8 MS. NORRED: Yes, we can.

9 MS. PEREZ: Okay. Thank you.

10 My name is Vanessa Perez, and I'm the city
11 council member for this district for this project, and I'd
12 like to speak. I want to address the Board and say,
13 Chairman Vasquez and the Board, item 21230 holds major
14 importance for much needed housing at the City of Laredo
15 District 7, which I represent.

16 Since 2015 the City of Laredo has gone without
17 any development of this housing or benefit from this
18 program. Laredo is a border town and is currently the
19 largest inland port in America. That standing provides
20 benefits for the community but also causes some negative
21 consequences like, you know, increased traffic congestion
22 and increased concentration of diesel emissions in our air
23 quality.

24 We also have approximately 30 to 40 percent of
25 our residents living at or below the poverty level. Our

1 community is growing, and we are working to bring a better
2 quality of life by bringing better paying jobs and more
3 affordable housing to our residents. Workforce housing
4 would benefit our community tremendously by giving so many
5 people the opportunity to lift themselves out of poverty by
6 utilizing this important housing option.

7 I am the city council member for this project,
8 as I stated, and I have been extremely optimistic that
9 Laredo would have the opportunity to provide this
10 opportunity to its residents. City council, made up of
11 eight council members and the mayor, voted unanimously to
12 support the project, and we provided a resolution.

13 I ask this project be allowed to continue with
14 no scoring penalties. I understand how it can be confusing
15 to an outside developer that Laredo has two school
16 districts, especially when the boundary is relatively
17 close.

18 78041 is the zip code for this particular
19 project, and it is a zip code shared by the two districts.

20 Homes relatively close to the Calle del Norte project,
21 which falls in 78041, belong to the Laredo Independent
22 School District, so it's very understandable how this would
23 be confusing.

24 I would hate that an accidental oversight that
25 otherwise would not affect the application that is an issue

1 of designation and not omission would knock a project out
2 of the running because of a scoring penalty. The developer
3 of this project is not from Laredo or Texas, and I worry
4 that a strict penalty for a good-faith error would
5 discourage outside developers and applicants from trying to
6 develop in Laredo, Texas.

7 We really need this project in Laredo, and I'm
8 confident that the United Independent School District
9 supports it just as the Laredo Independent School District
10 did.

11 I agree that the process is important, but when
12 you have a situation like this that's accidental -- and I
13 can understand how a competing entity would want to
14 capitalize on an error like this, but we do have to look
15 into consideration and say was it a good-faith attempt to
16 correct the error, and you know, of course, we don't want
17 to discourage people from applying in a community that has
18 maybe these blurred boundary lines or the information is
19 difficult to obtain.

20 Considering the school district boundary lines,
21 I feel the applicant should be allowed to proceed
22 unpenalized, as it was not committed in bad faith. I
23 strongly as that you support staff's first review and allow
24 the applicant to continue so that we do not discourage this
25 developer and others in the future from bringing these

1 types of projects to Laredo.

2 Please consider the support from the appropriate
3 representatives, Representative Raymond, Mayor Pete Saenz,
4 and city council during this due process. That is why we
5 have an appeals process like this, and it is my hope that
6 we find the process is fair and the statements are
7 sufficient to allow the application to continue and to give
8 the benefit of the doubt to the applicant, again, that it
9 was done erroneously, through understandable confusion and
10 not out of bad faith.

11 Thank you for your consideration.

12 MR. VASQUEZ: Thank you, Council Member Perez.

13 Again, let's bring it back here to the Board.

14 Do any members have any follow-up questions for Marni or
15 Bobby, or both, for that matter?

16 (No response.)

17 MR. VASQUEZ: No questions. Let's also remember
18 Representative Raymond's earlier comments on this at the
19 beginning of the meeting, and it does appear to be an iffy
20 situation here.

21 MR. BATCH: Mr. Chairman?

22 MR. VASQUEZ: Does someone have a comment?
23 Please.

24 MR. BATCH: Mr. Chairman, I just wanted to say
25 that, much like one of the previous commenters said, I

1 certainly understand the importance of consistency within
2 the process, and I really am conflicted given the level of
3 public support for this project and the need.

4 I just wanted to voice that I really am torn. I
5 would like an opportunity to kind of hear from Board
6 members as to what their thoughts are. I certainly don't
7 want to create a situation in which a decision on this has
8 negative consequences that we could see down the road, but
9 at the same time, I think it is important for this Board to
10 make the right decision here, given that there appears to
11 be a real need within the community for a project like
12 this.

13 I just wanted to make some general comments on
14 that, but I really am conflicted on this one.

15 MS. THOMASON: I'll just agree. I share some of
16 those conflicts.

17 We recently had a one-vehicle traffic accident
18 in front of our house, and we had the City of Lubbock
19 Police, the City of Wolfforth Police, the county sheriff
20 and state troopers, because no one could figure out who had
21 jurisdiction because of the city limits signs and where our
22 house is and where we sit.

23 So I can see where it's very confusing, but I
24 also can see Ms. Meyer's comment that, if in doubt, notify
25 everyone and cover all of your bases. So this one is

1 tough.

2 MR. VASQUEZ: Any other thoughts from the Board?

3 MR. BRADEN: I guess I have a question maybe of
4 Bobby or Beau. It's been represented to us -- and I do
5 recall the incident last month -- that this is in statute,
6 that there's a statutory requirement that the notice be
7 sent to the school district during the pre-app process.

8 Now, it sounds like at the end of the day both
9 school districts got notice and both are supportive of the
10 project, but in terms of the timing of this, the school
11 district that was supposed to get notice did not receive it
12 at the pre-app process.

13 So by statute, I mean, can we take an equitable
14 position on this? Because the equity seems to allow for
15 this type of thing, but is the statute so clear that our
16 choices are very limited?

17 MR. WILKINSON: It is in statute that "the
18 superintendent and the presiding officer" of the school
19 district containing the development. Whatever maps that
20 existed that led the developer astray, the correct
21 superintendent was not notified for pre-app. So legality
22 of granting the appeal, Beau, do you want to proceed?

23 MR. ECCLES: Certainly. The provision that
24 Bobby just referenced, Texas Government Code
25 2306.6704(b-1)(2), pushing those requirements together, the

1 pre-application process must require the applicant to
2 provide the Department with evidence that the applicant has
3 notified the superintendent and the presiding officer of
4 the board of trustees of the school district containing the
5 development.

6 So far I've heard discussion of the fact that
7 there are two school districts in the zip code where the
8 development is located, but nothing that I've heard says
9 that there is really confusion about the school district
10 where the development is located. And I guess that's my
11 only sort of legal concern about the Board's discretion.

12 MR. MARCHANT: Mr. Chairman, can I ask a
13 question?

14 MR. VASQUEZ: Please.

15 MR. MARCHANT: Do we have a statement from the
16 school district that was not notified, and do they state
17 any opposition?

18 MS. HOLLOWAY: The information provided to the
19 Department from the United School District indicates their
20 support of the development. Both school districts have
21 indicated support.

22 MR. MARCHANT: Okay. As to the legal question,
23 would you repeat your opinion that the Board does or does
24 not have discretion to override the notification?

25 MR. ECCLES: I will first state that I think

1 that the statute is clear that the pre-application
2 process -- in order to be rewarded, an applicant must
3 notify the school district that contains the development,
4 and that was not done.

5 So as to the Board's discretion, I'm not really
6 sure that the opposition or support of the not-notified-
7 but-correct school district is particularly relevant.

8 MR. MARCHANT: I don't think it is legally
9 relevant. It was just for my information as to be there
10 somebody out there that's not for this.

11 So in the strictest sense, if we don't have --
12 if it's in violation of the statute, why would the Board be
13 put in the position of needing to approve or disapprove
14 something that is clearly in violation of the statute?

15 MR. ECCLES: This goes back to an earlier point
16 that by statute the applicant has a right to appeal to this
17 Board, and they are doing so.

18 MR. MARCHANT: Does the Board have the
19 obligation to hear the review?

20 MR. ECCLES: Yes.

21 MR. MARCHANT: But does the Board have the
22 obligation to follow the statute?

23 MR. ECCLES: Yes, it does.

24 MR. MARCHANT: All right. Sorry I took us in
25 that circle.

1 MR. VASQUEZ: Well, again, I think several of us
2 are torn that in the practicality of it and the support
3 from the community and both school districts. It seems to
4 be an allowable notification. However, if our hands are
5 tied by Mr. Eccles, that does present a dilemma.

6 So let me, I guess -- I hate to ask this
7 question, but let's repeat one more time the question to
8 our general counsel.

9 The Board is seeking your explicit advice. Are
10 we allowed as a Board to uphold this appeal, given the
11 circumstances and the statutory language that was presented
12 to us?

13 MR. ECCLES: Respectfully, Chairman Vasquez, the
14 statute says that the applicant, in order to engage in and
15 be rewarded for the pre-application process, has to provide
16 evidence that the applicant notified the superintendent and
17 presiding officer of the school district containing the
18 development. That is what the statute says: The Board is
19 obligated to rule in accordance with statute.

20 There have been a number of lawyers, Ms. Snedden
21 included, who have presented argument on the other side.
22 If there is some way that is being presented that I have
23 not heard, what I heard was that the QAP contains a
24 reasonable search provision, which may or may not be
25 applicable to this, but the statute does not contain such

1 language about a reasonable search.

2 MR. MARCHANT: Does the statute say "may" or
3 "must" or "shall"?

4 MR. ECCLES: The pre-application must require
5 the applicant to provide the Department with evidence that
6 the applicant has notified the superintendent and presiding
7 officer of the board of trustees of the school district
8 containing the development. That is what the statute says.

9 MR. MARCHANT: And it's not a valid application
10 if it does not fulfill that "must"?

11 MR. ECCLES: It is not a complete
12 pre-application, which does not invalidate the application;
13 it simply means that they cannot be rewarded for a pre-
14 application.

15 MR. MARCHANT: Right.

16 MS. SNEDDEN: May I speak? This is Michelle
17 Snedden.

18 MR. VASQUEZ: I'm sorry, Ms. Snedden, right now
19 we're in obviously some discussion amongst the Board.

20 MR. MARCHANT: Mr. Chairman, one more question,
21 please.

22 If the exception was granted, if the appeal was
23 granted, would it put the Board in violation of statute or
24 would it put the app in violation of statute?

25 MR. VASQUEZ: Mr. Eccles?

1 MR. MARCHANT: I've been in government too long,
2 guys. Sorry.

3 MR. ECCLES: I heard the question. It would put
4 the Board in the position of granting points despite the
5 fact that the applicant did not on its face satisfy the
6 statute. That is my concern.

7 And perhaps Ms. Snedden can offer some thoughts
8 on why she believes that's not the case.

9 MR. MARCHANT: But I wouldn't be violating any
10 oath that I was not following the statutes, not following
11 the laws of the State of Texas if I voted in favor of
12 granting the appeal?

13 MR. ECCLES: That is a conclusion you could come
14 to.

15 MR. MARCHANT: I'm coming to the conclusion that
16 I would not be violating my oath, and I'm comfortable with
17 granting the appeal. But I think we ought to have an
18 executive session about this after we get through these
19 items -- at a later date, not today -- and maybe ask
20 somebody to correct this statute with one word.

21 MR. ECCLES: Respectfully, as a Board we have to
22 follow our governing statute, and corrections to
23 legislation is not really something that is up for
24 discussion, especially not with this item.

25 MR. THOMAS: So Beau, if I'm hearing you

1 correctly, we have an obligation to hear the appeal. We're
2 hearing it, but really based on statute, based on the
3 pre-application qualifications, we don't really have, in
4 your opinion, the authority to grant the appeal in favor of
5 the appeal.

6 But as a Board member if we believe that that's
7 what we want to do, we're not violating any statutory rule
8 with regard to our own personal oath or obligation on the
9 Board?

10 MR. ECCLES: As general counsel of the agency, I
11 cannot give you any assurances regarding whether you are or
12 are not violating your oath, and I would hope that you
13 would take the statutes and our rules and prioritize that
14 with statutes over rules and would have a reason that
15 conforms with statute as the backbone of your decisions to
16 grant or deny any appeal.

17 I am very sorry to be as cagey as I know I'm
18 sounding, but this is giving legal advice and very pointed
19 legal advice in an open session.

20 MS. THOMASON: And I think we all agree that
21 this one is kind of -- it tugs at you in all directions and
22 if there needs to be something that's changed later, I
23 don't know that how we feel about it changes the fact that
24 the statute is what it is.

25 It's a very unfortunate situation for the City

1 of Laredo, but I'm afraid we may create a slippery slope,
2 as Brandon commented earlier. I know we don't set
3 precedent, but there may be other situations that would be
4 very similar that we would find ourselves in an
5 uncomfortable situation.

6 MR. BATCH: Mr. Chairman, if I may.

7 For two meetings now we've had speakers
8 reference previous decisions that have been made by the
9 Board, arguing in favor of whatever they're arguing in
10 favor of, but using examples of decisions that we've made
11 in the past, and I can easily see this becoming one of
12 those examples.

13 I'm extremely sympathetic to the City of Laredo,
14 but I do think that it would be necessary for the Board to
15 deny the appeal based purely off of what we know is the
16 statute.

17 That's my opinion, and I am extremely -- I wish
18 this would have been done correctly so the Board wasn't in
19 this position, but here we are.

20 And at least I know where I stand on this at
21 this point, but I guess I'll leave it to the rest of the
22 Board members to decide as to what action they want to
23 take.

24 But if we're in a position to make a motion, Mr.
25 Chairman, I think I'm ready.

1 MR. VASQUEZ: Okay. Let me ask Marni one more
2 question, and this isn't necessarily relevant to our
3 decision on this particular issue, but are there any other
4 Laredo projects in scoring attention besides this project?

5 MS. HOLLOWAY: No, I don't believe so. No.

6 MR. MARCHANT: Mr. Chairman, can I ask one more
7 question? Is the Board required to act to take affirmative
8 or negative action on an item just because it's on the
9 agenda?

10 MR. VASQUEZ: Actually, you bring up a very good
11 point, Mr. Marchant. Is there any objection by any Board
12 members to tabling this item until the late July meeting?

13 MR. BATCH: Mr. Chairman, if I can ask you a
14 question. Is there something -- I'm completely open to
15 tabling this for this meeting, but are we just going to
16 find ourselves in the exact same position the next time
17 this issue comes back up, or is there something that can
18 possibly be done between staff and the applicant? Because
19 to me it doesn't seem like there is something at this point
20 that can be done.

21 MR. VASQUEZ: From my perspective, I'd like to
22 give our counsel more opportunity to specifically analyze
23 whether the Board has any flexibility in this matter, which
24 I'm hearing him say not, but I'm also hearing -- sensing
25 that the Board is leaning towards granting the appeal. But

1 if our hands are tied, our hands are tied.

2 MR. BRADEN: Mr. Chair, I'll just say that my
3 thoughts are more along the lines of Brandon's. I mean,
4 this is really unfortunate, but I would not feel
5 comfortable taking a position that's contrary to the plain
6 reading of the statute that requires notice be given to the
7 actual persons.

8 I thought Mr. Marchant's comment was more
9 procedural, and that is if we take no action either for or
10 against this item what occurs? And I assume what occurs is
11 that staff's holding stays in place, but I'm not positive.

12 MR. MARCHANT: Yeah, my question was are we
13 forced to take action? If we take no action, it's not
14 approved, it's not repealed, and the decision is not
15 repealed if we take no action. If you refuse to take
16 action it passes -- I mean, it fails; it fails for lack of
17 an affirmative repeal. I'm not a lawyer, but I don't think
18 we have to take action on it.

19 MR. WILKINSON: So the last action was I, as the
20 executive director, denied the appeal.

21 MR. MARCHANT: So I'm asking can the Board
22 refuse -- it's obligated to put it on the agenda, it's
23 obligated to hear the appeal. Is the Board obligated to
24 take action?

25 MR. WILKINSON: I don't think so.

1 Beau?

2 MR. ECCLES: Under 2306.671(5) of the Texas
3 Government Code, we have under subsection (e) the Board has
4 to review the appeal based on the original documentation
5 and additional documentation filed with the original
6 application, and the decision of the Board regarding the
7 appeal is final. You can take from that that the Board
8 does need to actually make a decision.

9 MR. VASQUEZ: So no action is a decision,
10 effectively, from what you're saying.

11 MR. ECCLES: That's really hard to justify. I
12 haven't seen a sort of pocket veto by a Board. I have no
13 way to advise you.

14 (Unidentified voice is audible.)

15 MR. VASQUEZ: Somebody is not muted.

16 Okay, again, I'll -- let's vote. That's what
17 we're here for. Again, I'm not opposed to it being tabled
18 until next meeting, but if there's someone who wants to
19 make a motion for action to grant the appeal or deny the
20 appeal, please make a motion and let's see where that votes
21 comes out.

22 MR. BATCH: Mr. Chairman, I move that the Board
23 deny the scoring appeal. And again, just for the record,
24 I'm incredibly sympathetic, but I think that it would -- I
25 think that this could come back to really have some very

1 negative consequences, in my opinion. So I make the motion
2 that the board deny the appeal.

3 MR. VASQUEZ: Motion made by Mr. Batch to uphold
4 the staff recommendation to deny the appeal. Is there a
5 second?

6 MS. THOMASON: Second.

7 MR. VASQUEZ: Seconded by Ms. Thomason. All
8 those in favor of the motion to deny the appeal on this
9 item say aye.

10 (A chorus of ayes.)

11 MR. VASQUEZ: Any opposed?

12 (No response.)

13 MR. VASQUEZ: Unfortunately, motion carries.

14 Moving on to the last item.

15 MR. WILKINSON: Jackson Place.

16 MR. VASQUEZ: Let's continue on to the last item
17 before we get to public comment, and that's 9(b),
18 application 21259 Jackson Place Apartments.

19 MS. HOLLOWAY: We received an RFAD questioning
20 whether the application qualifies for points under
21 proximity to job areas. It said the applicant used the
22 2018 U.S. Census on the Job data rather than the 2017 data
23 required by the QAP.

24 Using the steps described in the application
25 manual, staff ran a 2017 report that showed 6,326 primary

1 jobs within a one-mile radius. This is less than the
2 10,500 jobs required to score the four points selected in
3 the application, but do qualify for two points. The appeal
4 claims the state's rule stated that applicants were to run
5 a 2017 jobs report unless newer information was published
6 prior to October 1, 2020.

7 When running the 2017 report, we found that
8 there were major discrepancies between the number of jobs
9 listed on the 2017 report versus previous-year reports for
10 the same location, and also utilized in the most recently
11 published prior to the start of the tax credit application
12 period 2018 report.

13 Further, they state that the applicant is aware
14 that both the manual and QAP state to use the 2017 unless a
15 newer data set is posted on or before October 1, 2020, but
16 if it is confirmed by the U.S. Census Bureau that the 2017
17 information utilized for this particular location is
18 inaccurate, then the applicant shouldn't be penalized for
19 using the most current and accurate data as recommended by
20 the U.S. Census Bureau.

21 The email included in the appeal from the Census
22 Bureau described multiple issues that could result in the
23 variances in the data that the applicant seeks to avoid by
24 using the later data set.

25 In the past some applicants have submitted data

1 that is more favorable than what is produced by process
2 outlined in the manual, and the Board has affirmed that the
3 data set described in the QAP should be used for all
4 applications seeking proximity points. Using one set of
5 requirements ensures consistency and accuracy across all
6 applications in all regions.

7 The executive director has denied the
8 applicant's appeal. Staff recommends that the Board
9 similarly deny the appeal.

10 I'd be happy to answer any questions.

11 MR. VASQUEZ: So Marni, when was the newer data
12 posted by the Census Bureau?

13 MS. HOLLOWAY: After the October 1, 2020 date,
14 so that's the cutoff date for the data set.

15 MR. VASQUEZ: Okay. So we specified use the
16 2017 data.

17 MS. HOLLOWAY: And that date was set -- that
18 structure was put in place at the request of the
19 development community so that they had some reliability
20 going into application. And we do the same thing with
21 Neighborhood Scout and with other data sources that is as
22 of the date so that there's that equity across all of the
23 applications.

24 MR. VASQUEZ: Okay. Do any Board members have
25 questions for Marni?

1 (No response.)

2 MR. VASQUEZ: I believe we have a much shorter
3 list for public comment on this, so let's entertain a quick
4 motion to accept public comment.

5 MS. THOMASON: Move to accept public comment on
6 application 21259.

7 MR. THOMAS: Second.

8 MR. VASQUEZ: Motion made by Ms. Thomason,
9 seconded by Mr. Thomas. All those in favor say aye.

10 (A chorus of ayes.)

11 MR. VASQUEZ: Any opposed?

12 (No response.)

13 MR. VASQUEZ: Hearing none, motion carries.
14 Renee, let's open up for the public commenters.

15 MS. NORRED: Rick, you should be unmuted. Can
16 you hear us?

17 MR. DEYOE: I can hear you. Can you hear me?

18 MS. NORRED: Yes, we can.

19 MR. DEYOE: Okay, great. Members of the Board,
20 thank you for hearing me. Mr. Wilkinson, I appreciate your
21 being here as well.

22 My name is Rick Deyoe. I'm the president of
23 Realtex Development Corporation, developer of the Jackson
24 Place Apartments in Edinburg.

25 As shown in the previous data submitted in our

1 appeals, it's very evident and obvious that the information
2 provided from the Census on the Map website for the year
3 2017 is inaccurate and unreliable. In fact, according to
4 the very Census Bureau staff that are responsible for the
5 mapping site, the 2017 reporting data for our site location
6 is actually off by more than 40 percent.

7 It's very evident if you look at the information
8 from the U.S. Census Bureau in 2013 -- I'm just going to
9 talk about education jobs, which is one of the areas that
10 is so far off. In 2013 the amount of education jobs was
11 3,526, 2014, 3,648, 2015, 3,681. And then in 2016 and 2017
12 evidently there wasn't any reporting because it dropped
13 down to 19, and the 2017 data that they want us to use has
14 a total of 16 educational jobs.

15 Our site lies within half a mile, essentially
16 close to downtown Edinburg. Within a one-mile radius, we
17 have the University of Texas Rio Grande Valley college,
18 which is the largest institution in the Rio Grande Valley.

19 We also have six public schools within the one-mile radius
20 of our site.

21 And to tell us we need to use the 2017 data,
22 which we know is incorrect, and the U.S. Census Bureau has
23 provided us in writing that it's incorrect, is doing us a
24 disjustice. In fact, the U.S. Census Bureau told us we
25 should use the 2018 data, which they made the corrections

1 to the inequities that occurred in the 2017 reporting data.

2 The 2018 reporting data, by the way, Mr.
3 Vasquez, you had asked a question, while it did occur after
4 the October date that's specified in the QAP -- or in the
5 application procedures manual, it came out well before the
6 2021 tax credit application cycle. In other words, just as
7 everywhere else in the procedures manual it tells the
8 developer to use the most accurate information available,
9 this particular information did come out prior to the
10 application cycle.

11 And we were told in writing -- we got it from
12 the U.S. Census Bureau that the 2017 data was flawed. They
13 made the correction -- that we should utilize the 2018
14 information which is the most accurate information for our
15 project. And it corrects all of the inaccuracies that
16 occurred in the 2017 mapping cycle.

17 In our denial letter we were told from TDHCA,
18 and I'll quote, "In the past other applicants have also
19 complained to the Department that the database is
20 inaccurate." And it says here: "This is not a matter of
21 accuracy, so much as a matter of consistency."

22 You know, the fact of form over substance when
23 we're trying to be as correct as possible would seem to me
24 to be a bit of an issue. In fact, in looking at that, I
25 would submit to the Board that any developer that had

1 approached the staff with bona fide evidence of severe
2 inaccuracies in the 2017 job reporting information should
3 all have the ability to provide to the staff more accurate
4 information as provided by the U.S. Census Bureau as they
5 produced, which is what we did.

6 As Robbye Meyer said earlier today, all
7 developers should be treated fairly. To require us to use
8 a 2017 mapping program that includes severe inaccuracies in
9 the jobs reporting, it's not necessarily treating us fairly
10 with other developers. We know for a fact that there are
11 sufficient jobs to warrant the four points, as has been
12 shown in the 2018 jobs report that corrected the
13 inaccuracies, as well as discussions with the city council
14 of the City of Edinburg and the planning and zoning
15 commission staff who appropriately rezoned this project.

16 So we're kind of at a dilemma in that we're
17 using the most accurate information that the U.S. Census
18 Bureau has told us to use, that corrected the inaccuracies.

19 And the information did come out prior to the 2021 tax
20 credit application cycle, and it did come out, however,
21 after October, between October and January.

22 And so with that said, we would respectfully
23 request that the Board approve the appeal and allow us to
24 receive the correct four-point score for our jobs points
25 rather than the two-point reduction that we received.

1 Thank you.

2 MR. VASQUEZ: Thank you, Mr. Deyoe.

3 Renee, who do we have up next?

4 MS. NORRED: We have Sandy Watson. We are
5 looking to unmute her right now.

6 Sandy, you are unmuted. Can you hear us?

7 MS. WATSON: Yes. Thank you.

8 Good morning, Chairman Vasquez -- or good
9 afternoon, Chairman Vasquez and Board members. My name is
10 Sandy Watson, and as many other developers say, I have no
11 dog in this fight, but I didn't get a chance to speak on
12 the prior vote on Laredo.

13 I am the co-developer on that application and I
14 just want to say that it's a shame that we spend months and
15 months building relationships and elected officials and
16 state representatives --

17 MR. VASQUEZ: Ms. Watson, is this on the 21259
18 Jackson Place Apartments?

19 MS. WATSON: I understand, I do.

20 MR. VASQUEZ: There is a chance for public
21 comment after we get done with this item.

22 MS. WATSON: Okay. I respectfully apologize for
23 that and just want to say that I wish you guys would table
24 that and revisit it and allow Michelle Snedden to speak on
25 that. But thank you very much for your time, and do I need

1 to wait to speak after? Is that what you're saying?

2 MR. VASQUEZ: Yes. Right now we're on 21259.

3 MS. WATSON: I just would like for you to
4 revisit the application. Y'all do have discretion in the
5 statute --

6 MR. VASQUEZ: Thank you, Ms. Watson.

7 MS. WATSON: Thank you very much.

8 MR. VASQUEZ: Renee, do we have anyone else
9 lined up for 21259 Jackson Place Apartments?

10 MS. NORRED: No, we do not.

11 MR. VASQUEZ: Okay. Do Board members have
12 questions for Marni on this? Again, given the information
13 that was presented by the applicant, it seems fairly clear
14 that the 2016 and '17 numbers from the Census Bureau were
15 inaccurate for this particular tract.

16 Well, do Board members have questions?

17 MR. BRADEN: I have a question. If we picked
18 2017 as the benchmark and we put a date out there, if we
19 were not to support staff's recommendation, aren't we
20 opening it up for everybody else to come in and chime in
21 and change their dates?

22 And anybody who thinks we're immediately -- and
23 maybe we're even obligated to tell the whole community that
24 we're making this change to allow them to go rush back and
25 see if 2018 data was better for them or if would make a

1 difference. I guess there's no way we can know what kind
2 of cascade of changes that might bring about.

3 MS. HOLLOWAY: If I may. At this point in our
4 process, because the applications have all been -- were
5 submitted to us back in March by the deadline, applicants
6 aren't allowed to make changes to their application that
7 changes the score unless it's at our request through a
8 deficiency process. And the deficiency process may not be
9 used to increase a score, and that language is very clear
10 in the QAP.

11 So if the Board wished to make that change and
12 allow a 2018 data set that may change or increase a score,
13 it would also require waiver of that part of the deficiency
14 process, and probably some other cascade things that I'm
15 not even thinking about, but it's one of those pull a
16 string here and all this other stuff happens over here
17 sorts of things.

18 MR. BRADEN: And in terms of applying something
19 evenly across the board, currently that's what we've done.
20 We picked 2017 and everybody is working within that
21 measuring stick.

22 MS. HOLLOWAY: Correct.

23 MR. BRADEN: I don't have any further questions.

24 MR. VASQUEZ: Okay. However, Marni, do we agree
25 that the 2017 figures for the educational jobs is likely

1 incorrect, considering it was radically changed the next
2 year?

3 MS. HOLLOWAY: The email that was submitted as
4 part of the appeal from the Census Bureau described
5 multiple reasons that those numbers may have varied.
6 Without access to the underlying data, which there's no way
7 for us to get to it, I'm not prepared to put forth an
8 opinion about the attachments here or anything published by
9 the Census Bureau.

10 MR. WILKINSON: I would offer that it's
11 statistically impossible that they would drop that much for
12 one year. There's a problem with the data set. But that's
13 an apples-to-apples data set we're using. Some folks might
14 benefit the other way.

15 I think there was talk a few years ago about all
16 the education jobs being counted due to the location of the
17 ISD headquarters with a certain data set -- I don't know if
18 it was this one. But it was when we were first floating
19 the idea of proximity to jobs, actually, before I was here.

20

21 But if you want to let them correct for
22 something that seems to be inaccurate, then that would
23 encourage others, I think, to do so in the future. This
24 one definitely is within your authority, nothing statutory
25 about the proximity to jobs. It's a creation of the Board.

1 MR. VASQUEZ: Okay. So this one is rules-based
2 not necessarily statutory-based?

3 MS. HOLLOWAY: Correct.

4 MR. VASQUEZ: Okay. We have a couple more
5 speakers who, I believe, have assured Renee that they're
6 speaking on this application, and we've already approved
7 speakers.

8 So Renee, who do you have next?

9 MS. NORRED: I have Zachary Krochtengel, and you
10 are unmuted. Can you hear us?

11 MR. KROCHTENGEL: Hi. Zachary Krochtengel.

12 I don't have a dog in this hunt but I will say
13 that I work with this data a ton and last year I actually
14 did the exact same thing. I submitted both the complying
15 data that was in error and then I submitted the data that
16 was not in error that showed an entire VA hospital that my
17 site was within a half a mile of to show that those jobs
18 were there in previous data sets but were not. And my
19 appeal to you to use that data set was denied, which I
20 think was the correct decision at the time.

21 I am in full support of continuing to use this
22 data. No data set that is this complex is going to be
23 perfect, but we all are using it from the same starting
24 point. And I submitted my appeal more to show that the
25 data had some flaws in it, but ultimately, I think it is

1 the best data set that we can use in terms of this.

2 And I think that everybody should be using the
3 same data and using the same data set and not kind of
4 skewing in a way that's going to help your site.

5 Thank you.

6 MR. VASQUEZ: Thank you, Zachary.

7 Renee?

8 MS. NORRED: We have Donna Rickenbacker, and we
9 are looking to unmute her.

10 MS. RICKENBACKER: Thank you. This is Donna
11 Rickenbacker and I had no intentions of speaking on this
12 item. I just want to remind the Board that this jobs
13 points category is really -- at least in the Valley and
14 probably several other regions -- is really the scoring
15 category that definitely differentiates an application in
16 terms of its competitiveness, and everybody works from the
17 same data set.

18 There are plenty of sites that I was trying to
19 source in the Valley and other places, including Edinburg,
20 but chose not to source those particular sites because they
21 did not qualify for the jobs points to the extent of what
22 they needed in order to be a competitive site. These are
23 rules that all of us work under, and primarily utilize
24 those in connection with sourcing the appropriate sites for
25 application purposes.

1 Thank you very much.

2 MR. VASQUEZ: Thanks, Donna.

3 Renee, do we have anyone else for this item?

4 MS. NORRED: We do not have anyone else in
5 queue.

6 MR. VASQUEZ: Do any other Board members have
7 further questions for Marni or Bobby and Beau?

8 (No response.)

9 MR. VASQUEZ: Again, just to clarify, this one
10 is not statutory. Its rules, based on which data we are
11 saying to use. And in this case the Census Bureau
12 indicated that the 2017 data was incorrect and they
13 corrected it in 2018.

14 Is that correct?

15 MR. WILKINSON: They were a bit more wishy-washy
16 than that in their email, but that's the implication.

17 MS. HOLLOWAY: Yes.

18 MR. VASQUEZ: Okay. The chair would entertain a
19 motion on this item, the appeal of 21259.

20 Paul, are you making a motion? You're muted.

21 MR. BRADEN: Too bad.

22 MR. VASQUEZ: I see your mouth moving.

23 MR. BRADEN: Consistent with staff's
24 recommendation, I would move that the Board deny the
25 scoring appeal of application 21259 Jackson Place

1 Apartments.

2 MR. THOMAS: I'll second the motion.

3 MR. VASQUEZ: Mr. Braden motions, Mr. Thomas
4 seconds. The motion is to deny the appeal by application
5 21259 Jackson Place Apartments. All those in favor say
6 aye.

7 (A chorus of ayes.)

8 MR. VASQUEZ: Any opposed?

9 (No response.)

10 MR. VASQUEZ: Hearing none, motion carries.

11 MS. HOLLOWAY: Thank you.

12 MR. VASQUEZ: Thank you, Marni.

13 All right. The Board has addressed the posted
14 agenda items. Now is the time of the meeting when members
15 of the public can raise issues with the Board on matters of
16 relevance to the Department's business or request that the
17 Board place specific items on future agendas for
18 consideration.

19 And Renee, is there anyone who would like to
20 provide public comment at this time?

21 MS. NORRED: Yes.

22 MR. VASQUEZ: Okay. Again, we will have a
23 three-minute limit. Please keep your comments as brief as
24 possible and ensure that they are addressed to items under
25 the jurisdiction of the Board.

1 If they go too far off base, I'll ask Beau, I
2 guess, to help me chime in and slow you down. And again,
3 please identify yourself and the organization you
4 represent.

5 So with that, Renee?

6 MS. NORRED: We are unmuting Cece Cox.

7 Cece, you are unmuted. Can you hear us?

8 MS. COX: Yes. Can you hear me?

9 MS. NORRED: Yes, we can.

10 MS. COX: Great. Shall I begin? Thank you.

11 Hello. I'm Cece Cox, the CEO of Resource
12 Center. We are the nonprofit owner and applicant for Oak
13 Lawn Place, application 21136, Dallas in Urban Region 3.

14 Resource Center is a trusted nonprofit in North
15 Texas who has served our community for 38 years. Our
16 mission is to improve health and wellness, strengthen
17 families and communities, and provide transformative
18 education and advocacy. We do this through programs and
19 service for all North Texans, including the LGBTQ community
20 and people living with HIV.

21 Oak Lawn Place will provide 84 affordable
22 housing units for seniors in a safe, welcoming and
23 affordable community. Resource Center has partnered with
24 Matthews Southwest and Volunteers of America on this
25 significant development for our city, however, we are

1 facing termination of the application due to a small change
2 in the Real Estate Analysis rules and guideline
3 requirements that was new this year.

4 It has come to our attention that there is only
5 one deal left in Dallas as the seven other Dallas
6 applicants have either suffered scoring deductions or been
7 terminated. Our particular termination is based upon a
8 portion of the rule that is very narrowly applied, only
9 applied in one other deal this round.

10 We are a viable deal that was in the money. We
11 were ranked number four in the region, and we were
12 terminated due to a nonmaterial issue of appraisal, an
13 issue that should not have held up staff's review of the
14 application.

15 This project is new construction and the
16 existing buildings are being demolished, so the cost of the
17 land does not get included in the eligible basis, making
18 the absence of an appraisal immaterial to the application.

19 Accordingly, this matter should be handled as a deficiency
20 rather than a termination. The pertinent documentation
21 submitted with the application would have met the rule in
22 any previous year.

23 Once we discovered the impact on Dallas to our
24 termination, we tried to get our appeal on this agenda
25 today but did not make the cutoff. Dallas is facing a

1 housing shortage of 20,000 units of affordable housing.
2 The need for this project is critical to the well-being of
3 our citizens.

4 Resource Center is all in on this project and we
5 are ready to go. We own the land, the zoning has been
6 approved, and our plat has been approved. I am here to
7 respectfully let the staff and Board know that we will be
8 coming back at the July 22 Board meeting and we hope you
9 will give us careful consideration at that time.

10 I thank you so much for your attention and for
11 your service.

12 MR. VASQUEZ: Okay, Ms. Cox, thank you. And I
13 do believe that this is on the next agenda. Can Bobby
14 confirm that?

15 MR. WILKINSON: Yes. We honestly haven't posted
16 yet, but she'll have her appeal -- or that applicant will
17 have their appeal on July 22.

18 MR. VASQUEZ: Okay, great. So let's prepare for
19 that on the next meeting, and I guess anyone wanting to
20 speak on that application 21136, I believe, please defer
21 your comments to the next meeting when we officially
22 discuss it.

23 Renee, who do we have up next?

24 MS. NORRED: We have Zachary Krochtengel again,
25 but it is for Oak Lawn Place, but that's at your

1 discretion. So you said you wanted to table comments for
2 Oak Lawn Place?

3 MR. VASQUEZ: Yes. Let Zachary know if it's on
4 Oak Lawn Place, next meeting is the time to discuss it, and
5 if he has some other unrelated item to notify you in the
6 comments.

7 MS. NORRED: Great.

8 MR. VASQUEZ: So who's next?

9 MS. NORRED: We are looking for Gary Cohen to
10 unmute him.

11 Gary, you are unmuted. Can you hear us?

12 MR. COHEN: I can. Can you hear me?

13 MS. NORRED: Yes, we can.

14 MR. COHEN: Thank you very much.

15 My name is Gary Cohen, I'm with Shutts & Bowen
16 LLP, and I'm representing Clifton Riverside, application
17 21078, in regards to an appeal that was filed against
18 Skyline at Cedar Crest, application 21004.

19 We filed an appeal challenging the Skyline
20 application as constituting a scattered site development
21 that did not set aside 100 percent of its units as rent
22 restricted, as is required by Texas statute and by the QAP.

23 Staff agreed with our position, but that was overridden
24 and reversed by the executive director by virtue of a
25 letter, which we obtained a copy of, although not sent to

1 us directly, recently.

2 We believe that the Board should engage in a
3 plain reading of the statute on point and reverse this
4 determination and find that Skyline at Cedar Crest is an
5 ineligible application. The Texas Government Code statute
6 directly on point is very clear. It states that a
7 development is a proposed qualified low income housing
8 project consisting of one or more buildings that if it
9 consists of multiple buildings that are located on
10 scattered sites must contain only rent-restricted units.

11 This could not be clearer: if you have scattered
12 sites, you must be 100 percent rent-restricted. There's no
13 reference in the Texas statute or the QAP definition --
14 which is similar -- that allows TDHCA to treat a multiple
15 building project as multiple projects and not as scattered
16 site, as Skyline has claimed in their appeal.

17 Texas is free to, and in many instances does,
18 impose requirements that are above and beyond what Section
19 42 requires. For example, scattered site developments must
20 provide amenities on each site. Note that Skyline in their
21 application actually chose to comply with this requirement
22 and they self-identified as a scattered site application in
23 their application.

24 The definition of development site in the QAP,
25 separate and apart from the definition of development,

1 indicates that if the development is located on more than
2 one tract then either the IRS or TDHCA may determine
3 scattered site status for the development.

4 In their appeal, Skyline notes that since they
5 can make an election to not be treated as scattered site
6 under Section 42 in the Internal Revenue Code, that
7 election should carry forward into the Texas classification
8 and render it as not a scattered site development under
9 Texas law. However, there's no provision in the Texas
10 statute or in the QAP for any such action to be taken by
11 TDHCA. The plain reading of the statute says that if you
12 have a development where it's geographically located on
13 scattered sites, then you must be 100 percent rent-
14 restricted.

15 If there are buildings on separate geographic
16 sites, TDHCA has made a policy determination that that kind
17 of project needs to be treated differently from other
18 applications -- you need to put amenities on all the sites,
19 for example. The fact that the applicant has determined
20 that they can make an election --

21 MR. VASQUEZ: Mr. Cohen, I'm going to need you
22 to wrap up here, please.

23 MR. COHEN: Okay. Sorry for being long-winded.

24 The fact that they can elect out of this status
25 for federal purposes doesn't change the fact that they are,

1 by the plain reading of the statute, a scattered site
2 development under Texas law and must have 100 percent rent-
3 restricted units. Their application did not have 100
4 percent rent-restricted units, so we feel the appeal should
5 be upheld and this application should be disqualified.

6 Thank you.

7 MR. VASQUEZ: Great. Thank you. And I'm sure
8 staff is making note of these applications.

9 Renee.

10 MS. NORRED: We have Alyssa Carpenter. We are
11 looking to unmute her.

12 Alyssa, you are unmuted. Can you hear us?

13 MS. CARPENTER: Yes. Can you hear me?

14 MS. NORRED: Yes, we can.

15 MS. CARPENTER: Great. Thank you very much for
16 the opportunity to speak. My name is Alyssa Carpenter and
17 I'm a consultant representing a competing application, and
18 I'd like to make a couple of comments regarding the
19 reinstatement of Skyline.

20 As Mr. Cohen stated, this was an application --

21 MR. VASQUEZ: I'm sorry. Which application is
22 this?

23 MS. CARPENTER: Oh, sorry. It's Skyline at
24 Cedar Crest, 21004.

25 This application is the subject of several RFADs

1 having to do with it being a scattered site development and
2 not 100 percent affordable. The applicant submitted an
3 appeal to TDHCA --

4 MR. VASQUEZ: I'm sorry to interrupt here again,
5 Alyssa. Bear with me for a second.

6 Can I get direction from Beau or Bobby as to
7 whether this discussion about Skyline 21004 and any
8 competing projects, is this the right time to be speaking
9 about this, or is this something just to ask to be put on
10 the next agenda?

11 MR. WILKINSON: This is kind of the only
12 opportunity for her to publicly address the Board to
13 complain about an executive-director-granted appeal to
14 another application. So a lot of times I kick the can to
15 the Board. This one I actually granted based on staff's
16 recommendation.

17 So the last speaker and the current speaker are
18 complaining about it, so technically this is an item which
19 was not posted on this agenda and so she can tell you
20 whatever, but it just can't be back and forth, Beau will
21 tell you. And then you can ask staff any questions you
22 want, of course.

23 MR. VASQUEZ: Okay. So there's not a procedure
24 for someone to appeal the decision of the executive
25 director before it reaches the Board.

1 MR. WILKINSON: Yeah. They're not a subject of
2 the appeal, they're a competitor, so this is kind of the
3 only way for her tell the Board.

4 MR. VASQUEZ: So Beau, you're good with
5 continuing with this line of speakers, even though there's
6 nothing we can really do about it at this point as a Board?

7 MR. ECCLES: I am certainly in favor of public
8 comment on matters that concern the Board that are not on
9 this agenda. However, this is still just public comment.
10 They're not going to engage the Board.

11 There can be no action by the Board that bears
12 on these applications, but this is their opportunity to
13 speak their mind on these matters within the Board's
14 purview.

15 MR. VASQUEZ: Okay. Just so everyone speaking
16 understands those provisions, let's let Ms. Carpenter
17 finish out her comments and we'll go on from there.

18 MS. CARPENTER: Okay. Thank you very much.

19 The reason why we are bringing this up is that
20 this application received several RFADs about the scattered
21 site issue. And the Board meeting of June 17 had an RFAD
22 report in which staff reported on each RFAD that was
23 submitted and staff originally told you that this
24 application was terminated.

25 Since then the application has been reinstated,

1 however. We are providing public comment here, similar to
2 what happened with other applications, including Laredo, to
3 state that the Board did not, I guess, get an opportunity
4 to actually hear the issue because you were told that it
5 was originally terminated and now it has been reinstated.

6 And we would like there to be some sort of
7 opportunity for people to speak on such an occurrence where
8 you received information firstly that it was terminated but
9 now being reinstated without any kind of reason as to why
10 that has happened. We did receive documents of this
11 applicant's appeal. And the applicant doesn't deny that
12 they are scattered site, but they brought up three other
13 occurrences where other past applications seemed to be
14 scattered site and they were allowed to come forward.

15 And I want to point out to staff that these
16 three other examples that they made were not actually
17 representative of the situation at all and were in
18 compliance with the QAP and the IRS. Barron's Branch and
19 Alizon Lofts were two developments with several parcels of
20 land, but they were separated by streets. Skyline is not
21 separated by a street, it's separated by a parcel owned by
22 the power company.

23 In a year prior to submission of Barron's
24 Branch, I asked staff if streets in between parcels created
25 a scattered site, and the answer from staff was: if the

1 properties are only separated by a street, it is not
2 considered a scattered site. And also, the IRS LIHTC audit
3 guide states that parcels are still considered a single
4 tract even if there is the interposition of a road or
5 street.

6 The third property that the applicant mentioned
7 in their appeal was Liberty Square and Liberty Village
8 which was two noncontiguous sites, however, the application
9 was 100 percent affordable and it was awarded as 100
10 percent affordable in 2015. It was only after amendment
11 all the way in 2018 where they asked to add market-rate
12 units. So that situation also is not at all like Skyline,
13 because that application, which was Liberty, met QAP and
14 IRS requirements because they were 100 percent affordable.

15 So I would just like to bring these issues to
16 staff's attention and ask that the Board direct staff to
17 re-look at this issue and perhaps bring it to the next
18 Board meeting. Thank you very much.

19 MR. VASQUEZ: Thank you, Ms. Carpenter.

20 Renee, who do we have up?

21 MS. NORRED: Next we have Sandy Watson. We're
22 looking to unmute her.

23 Sandy, you are unmuted. Can you hear us?

24 MS. WATSON: Yes. Thank you.

25 Board, I'm very sorry for interrupting earlier

1 and not using the right time frame. My name is Sandy
2 Watson. I'm with Albatross Development, and I'm the
3 co-developer on the application for Calle del Norte in
4 Laredo.

5 I just want to ask a question, and I'm not sure
6 if you can even answer this because Beau stated that you
7 can't. But I'm confused that the Statute 2306.6704(c)
8 which states: The Department shall reject and return to
9 the applicant any application assessed by the Department
10 under this section that fails to satisfy the threshold
11 criteria required by the Board in the Qualified Application
12 Plan.

13 It's my understanding that y'all do have
14 discretion and that's why you're there to exercise
15 discretion in these situations. I could be wrong on that.

16 I know you've taken a vote, I don't know if you can even
17 bring it back at this point, but I would ask that you look
18 at this holistically.

19 You've got a developer -- not myself, it's Jeff
20 Beckler that spoke today. He spent months and months
21 building relationships in this community with state reps,
22 school boards, superintendents, board members, city
23 council, the list goes on. It's extensive.

24 Y'all opened up public comment in May that
25 allowed people to call in and speak on these developments.

1 You had a city manager speaking on behalf of the city; you
2 had another council member with a total of six minutes of
3 public comment. I don't know how many other cities did
4 that. There may have been but I didn't hear too many that
5 did that. You had an entire city sitting in there today
6 asking for your consideration in this situation.

7 Chairman Vasquez, for years you have said you
8 don't like the "gotcha" culture and that you want to change
9 it. When you became the chairman and you were elected, we
10 got excited. We thought this might change.

11 So we became very transparent, presented it to
12 the Board with good intentions. The staff determined we
13 were good to go, so did Mr. Wilkinson, so we moved on. At
14 the final hour a competitor decides she's going to spend
15 five minutes soliciting allies to argue against this based
16 on statute, these same people earlier today, the irony of
17 that. And they don't want you to play the "gotcha"
18 culture, but they're the ones doing the "gotchas".

19 So I don't understand at this point how you
20 don't reward hard work and building in a community and all
21 of the elected officials, because there's a piece of
22 statute that if someone didn't get notified in the right
23 school district immediately but was done before full app,
24 there was no damage done. The damage that's going to be
25 done on this is that the City of Laredo doesn't get housing

1 because one competitor influenced this for your decision
2 today.

3 So I will keep it short, but Mr. Marchant. You
4 asked earlier do you overturn these appeals and how does
5 that fall and what does that look like. It comes down to,
6 these are competitors just trying to knock us out based on
7 some little piece of something that they can find.

8 I'm asking y'all to make a decision or to
9 revisit those statutes and do you have the ability to grant
10 this, but also to revisit it. Do you want to continue to
11 perpetuate the "gotcha" culture.

12 MR. VASQUEZ: Ms. Watson, thank you for your
13 comments.

14 MS. WATSON: Thank you so much. And I
15 appreciate and I want to say thank you to the Board and all
16 the time that you spent on this project and everyone else.

17 But if possible if you could bring this back on the 22nd,
18 we'd love to be there to revisit this. Thank you so much
19 for your time.

20 MR. VASQUEZ: Thank you.

21 Renee, back to you and the next speaker.

22 MS. NORRED: We have Zachary Krochtengel again.
23 We are looking to unmute him.

24 Zachary, you are unmuted. Can you hear us?

25 MR. KROCHTENGEL: I can. I'm sorry to go out of

1 order. Unfortunately, I am actually speaking on the
2 reinstatement of application number 21004, and I'll keep it
3 brief.

4 This project does not comply with federal
5 regulations, nor with the QAP. It did not file a timely
6 waiver for the rules, nor did they in their application
7 propose any sort of remedy that was issued for this issue.

8 You can't, you know, cut it both ways in terms of deciding
9 that you're one project under one rule and scattered site
10 under another set of rules.

11 There's a definition for scattered site. They
12 have a private property that's being owned between them,
13 and to me if you grant this waiver that they didn't even
14 ask for, you're now proposing to award two different
15 developments in Region 3 Urban that is under the rules of
16 the two-mile/same-year rule. And so you're now violating
17 statute by giving them two developments and two development
18 sites.

19 Because their development as proposed, with
20 private property running between the two, does not
21 constitute a development under the definitions of the QAP.

22 It would be two separate developments. And statute is
23 very clear that you can't award two separate developments
24 within two miles of each other in the same year in a county
25 that's over a million.

1 At a previous Board meeting I represented my
2 application that had filed a timely waiver of appeal of the
3 rules and was told that even though there were numerous
4 fair housing issues, that the Board and the Department's
5 hands were tied and I could not be given relief.

6 To see the Department reinstate an application
7 without going before the Board, an application that
8 violates IRS guidelines and I believe violates the statute
9 of the State of Texas in a 100 percent minority population
10 census tract with a 42 percent poverty rate, without the
11 applicant even applying for a timely waiver of the rules
12 that they're in violation of, is extremely troubling and
13 leads me to believe that there are different rules for
14 proposed projects in low minority, low poverty census
15 tracts than projects in high minority, low poverty areas,
16 or that the rules can be waived for projects with state
17 representative support whereas projects without state
18 representative support are judged to a different standard
19 to ensure that they are not funded.

20 They submitted an application that did not
21 comply and did not request a waiver, and they are being
22 granted one without in any way supporting that waiver.

23 Thank you.

24 MR. VASQUEZ: Thank you, Mr. Krochtengel.

25 Renee, do we have one more speaker?

1 MS. NORRED: We do. We are looking to unmute
2 Cynthia Bast.

3 Cynthia, you are self-muted. Can you please
4 unmute yourself?

5 MS. BAST: I've done so. Thank you.

6 This is Cynthia Bast with Locke Lord, and I will
7 be brief.

8 I submitted the appeal to the executive director
9 with regard to the Skyline application and with three
10 comments upon it, I felt like I needed to respond for the
11 record.

12 First of all, we all know that an applicant
13 cannot appeal another application's results. The granting
14 of an appeal by the executive director is permitted by
15 statute and by rule and happens every year in every
16 application cycle. There's not anything extraordinary
17 here.

18 The appeal showed the executive director how
19 Skyline does meet the federal and state requirements and
20 how the executive director's decision would be consistent
21 with past treatment of similarly situated. And therefore,
22 it was our position that, of course, this item does not
23 need to be brought to the July 22 meeting.

24 Thank you.

25 MR. VASQUEZ: Thank you, Cynthia.

1 And Renee, do we have anyone else?

2 MS. NORRED: Yes. We have Matt Gillam and we
3 are looking to unmute him now.

4 Matt, you are unmuted. Can you hear us?

5 MR. GILLAM: Good afternoon. Yes, I can. Can
6 you hear me?

7 MS. NORRED: Yes, we can.

8 MR. GILLAM: Thank you for your time this
9 afternoon, I greatly appreciate it. I'll keep my comments
10 brief. My name is Matt Gillam. I am the managing partner
11 of Overland Property Group and here representing Clifton
12 Riverside, application 21078, and I'm speaking on behalf of
13 Skyline at Cedar Crest 21004.

14 I'm speaking today regarding this application
15 that has been apparently reinstated between now and the
16 last Board meeting. At the last Board meeting, RFAD report
17 presented to the Board showed them being terminated, but
18 apparently that has been overturned and staff does not
19 appear to be bringing that RFAD report outline to you.

20 A few points at issue with the reinstatement of
21 this application, but will highlight only a couple which
22 clearly show the need to reevaluate the application and
23 appeal, as it does not merit overturning staff's original
24 determination and that the application is ineligible.

25 From the letter from the executive director

1 reversing staff's decision, the applicant appears to claim
2 and seems to have been granted the appeal due to their
3 claim that the scattered site box was checked in error and
4 that they were intending it to be a federal election that
5 isn't related to the QAP. However, all of their other
6 documentation in the application does not support this
7 claim of an error but supports the entail election of
8 scattered site.

9 Additionally, I would ask these questions about
10 scattered be considered. You have two tracts that are
11 miles apart but they are included in one development
12 application. Would TDHCA allow them to opt out of the
13 scattered site requirements in the QAP simply by saying
14 that they were going to federally elect on the 8609 to not
15 be treated as scattered site?

16 Would this site not be required to have the same
17 amenity points, green building points under the QAP just
18 because they were making a federal election that has
19 nothing to do with the QAP requirements? And would they
20 not be required to submit multiple tract information as
21 required for a scattered site? I'm pretty confident the
22 answer is no.

23 Making the election federally doesn't change the
24 physical characteristics of the site that makes them
25 scattered sites to begin with. So why is this development

1 being allowed to opt out of scattered site definition and
2 QAP requirements using the federal election on their 8609?

3 This is not a "gotcha" item, this is a major issue with
4 Texas statute, QAP and IRS regulations and requirements.

5 And unlike -- I disagree with Cynthia in the
6 fact that these applications that they refer to being
7 similar are in no way similar, as Alyssa Carpenter has
8 pointed out previously.

9 I appreciate the time and your consideration on
10 this matter.

11 MR. VASQUEZ: Thank you, Matt.

12 Renee, do we have anyone else lined up?

13 MS. NORRED: There is no one else lined up to
14 speak.

15 MR. VASQUEZ: Thank you.

16 MS. NORRED: You're welcome.

17 MR. VASQUEZ: Again, we appreciate everyone's
18 comments and we appreciate both your cooperation and we
19 recognize frustrations in this process. I think it's a
20 good reminder for everyone that this is kind of, as we say,
21 a zero sum game when it comes to tax credits: for any group
22 that loses there's someone else that wins, and vice versa.

23

24 But the process has been developed over many
25 years. There are things that are out of our hands as a

1 Board, statutorily driven, and everyone needs to be
2 speaking to their legislators to decide whether things need
3 to be hard-coded or whether the Board needs some ability to
4 have discretion dealing with statutes.

5 So one other piece of announcement is that
6 starting in the September meeting it is our intention to
7 start meeting again in person in Austin, so y'all can start
8 putting that on your calendars. And the next scheduled
9 meeting is later this month on July 22 and will be one more
10 virtual meeting as we close out this cycle.

11 So with that, is there anything else, Bobby that
12 I missed?

13 MR. WILKINSON: I don't think so. Thank you,
14 members. It's been a good one.

15 MR. VASQUEZ: Again, appreciate everyone's
16 participation and we will see you on July 22. And it is
17 1:25 p.m., and we're declaring the meeting adjourned.

18 (Whereupon, at 1:25 p.m., the meeting was
19 adjourned.)

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MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: July 8, 2021

I do hereby certify that the foregoing pages,
numbers 1 through 183, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Nancy H. King before the
Texas Department of Housing and Community Affairs.

DATE: July 14, 2021

(Transcriber)

On the Record Reporting
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