

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

10:00 a.m.
Wednesday,
December 12, 2001

Capitol Extension
Room E1.012
1400 Congress
Austin, Texas

COMMITTEE MEMBERS:

MICHAEL JONES, Chairman
C. KENT CONINE
SHADRICK BOGANY
VIDAL GONZALEZ
NORBERTO SALINAS

STAFF PRESENT:

RUTH CEDILLO, Acting Executive Director

A G E N D A

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P R O C E E D I N G S

1
2 MR. CONINE: Let's call the meeting to order.
3 The Board meeting of the Texas Department of Housing and
4 Community Affairs, December 12, roughly 10:18 a.m. Let me
5 call roll right quick, see who's here. Michael Jones is
6 absent. Beth Anderson, absent. Shad Bogany.

7 MR. BOGANY: Here.

8 MR. CONINE: Kent Conine is here. Vidal
9 Gonzalez?

10 MR. GONZALEZ: Here.

11 MR. CONINE: Norberto Salinas?

12 MR. SALINAS: Here.

13 MR. CONINE: I certify that we do have a
14 quorum, barely. I thank everybody for being here.

15 Public comments, we have several witness
16 affirmation forms. Anybody else who would like to make
17 public comments to bring their witness affirmation forms
18 up and turn them in. Let me see if we can go through
19 these right quick.

20 The first name I have is Ann Denton.

21 MS. DENTON: Good morning. My name is Ann
22 Denton. I am the director of the Austin office of the
23 Enterprise Foundation. We're a national nonprofit working
24 with communities all across the country on affordable
25 housing and community development.

1 And I had not intended to be first, but since I
2 am, let me say that my purpose here is to do a couple of
3 things. One, I would like to commend the department for
4 the recent work on the consolidated plan and the low-
5 income housing plan. You know, while no document is ever
6 perfect, I would like to say that it has been a pleasure
7 to work with Sarah Anderson as a member of the advocacy
8 community during this planning process, and that there
9 were a number of concerns raised by the advocacy community
10 that have been addressed in the plan.

11 And I would like to specifically say, and thank
12 the department for holding the tenant-based rental set-
13 aside under the HOME Program at 20 percent, for increasing
14 the special needs set-aside in that program from 10
15 percent to 20 percent, and, in general, making a good
16 faith effort to work with the planning groups on the
17 implementation -- the State of Texas implementation of the
18 Olmstead Supreme Court decision. All good news. Thank
19 you very much.

20 MR. CONINE: Thank you. I appreciate that.

21 Before I go to the next one, I would be remiss
22 if I didn't mention that we have a couple of guests with
23 us today that I wanted to point out. Johnnie Morales from
24 the Speaker's office, good to see you here today. Back in
25 the back of the room is State Representative Robby Cook.

1 Robby, good to see you here today. Thank you
2 for coming. Appreciate your interest.

3 And also, the wind blew in a former Board
4 Chairman, Don Bethel from Lamesa sitting over there in the
5 corner.

6 Don, good to see you.

7 Okay. Moving on to the next public comment I
8 have is Nicole Flores.

9 MS. FLORES: Mr. Chairman, can I speak related
10 to the item that I signed up for?

11 MR. CONINE: Yes, you may. 3(c)? Okay, I'll
12 hold you till then.

13 Jonas Schwartz?

14 MR. SCHWARTZ: Can I wait till the item?

15 MR. CONINE: You may.

16 Tom McMullen?

17 MR. MCMULLEN: Good morning, Mr. Vice chair,
18 ladies and gentlemen of the Board.

19 I had an agenda item before you last month, and
20 I wanted to bring in the documentation showing that I had
21 met all my deadlines. I think that's very important. We
22 don't want a perception that there's a stigma out there
23 that we do not follow the rules, and that the department
24 did not follow the rules when you did.

25 And I was at a disadvantage at the meeting last

1 month because I was not aware of what I was going to be
2 tacked [phonetic] with. So I did not have all this
3 documentation, but I just wanted to take a couple of
4 minutes and just present this to you so that you can be
5 assured that we did make all of our deadlines and follow
6 the procedures.

7 And I also would like to say that since the
8 meeting of the 14th, I have contacted the Kensington SCAN
9 [phonetic] Neighborhood Association to attempt to work
10 with them on the balance of their concerns, and they
11 replied that they were not willing to work with us unless
12 we agreed to downsize the project, and, two, that the
13 issue is that 35 units is too many.

14 And I thought it was interesting that neither
15 of those points was raised last week in their -- or last
16 month in their arguments. So that's the point that
17 they're pushing now.

18 And I really appreciate your letting me do
19 this, because all we have is our reputation. We work very
20 hard, and we've been doing this -- I've been in this
21 business 13 years, and it's important to maintain my
22 reputation. So I appreciate this very much.

23 We had seven deadlines that we had to meet, and
24 commitment notice and commitment fee no later than
25 September 15. So I have all that documentation right

1 here -- the transmittal letter, the signed commitment
2 letter with the appropriate date, and the fee. We had to
3 submit everything by the 13th, and I've got the stamped
4 acceptance by the department. I've got the accountant's
5 letter showing that we made the 10 percent as of the 13th.

6 And it's the signed carryover allocation form as of the
7 13th.

8 The permanent loan commitment showing a
9 stipulated debt service that was submitted on the 13th
10 with the package, right here. The submission of a
11 certification that the site is entirely clear of the 100-
12 year flood plain, according to the City of Austin's flood
13 plain map. And I have a copy of the letter that states,
14 The limits of the 100-year flood plain is designated on
15 the FEMA panel number 48453C0170F dated June 5, 1997. Do
16 not encourage on the subject drag [phonetic]. There are
17 no current City of Austin flood plain maps for this
18 tributary.

19 I've also got the FEMA map showing we're not in
20 the flood zone, and the surveyor's certification claiming
21 that we're in Zone X.

22 I had to have a syndication commitment updated
23 with the rate of 75 cents right here that was turned in on
24 time. Close of construction loan and submit the evidence
25 not later than June 15. Again, I've got the date-stamped

1 document and the transmittal letter, and then an approval
2 letter back from the department saying that what we
3 submitted was what we were supposed to have.

4 And evidence that the general contractor hired
5 met the experience criteria -- that was submitted as part
6 of the carryover, so I actually submitted that seven,
7 eight, nine months early.

8 In addition, the association stated that they
9 were joined in opposition to our project by the City of
10 Austin Planning Commission and the Austin City Council.
11 The City was against a rezone due to the tremendous
12 opposition of that association.

13 I have acceptance into the Smart Growth
14 Program, which is their centerpiece affordable housing
15 program, and a letter of recommendation from the City,
16 saying the City of Austin supports the application for tax
17 credits.

18 The Kensington Association then stated that the
19 original site location on the application filed with the
20 department for this project was incorrect. The site
21 location on the application is the same site location we
22 have today. There is nothing different there except we
23 did add an acre and a half. We did not move the site
24 location.

25 I think they were confusing the points. There

1 was a map in the original environmental phase 1 that was
2 incorrect. It was -- showed a location down the block.
3 We provided the corrected legal description and -- or
4 actually, the report was done with the correct legal
5 description, and we had the consultant change the map,
6 rewalk the site, and it was provided back to departmental
7 underwriting before the Board voted, and I have that
8 departmental underwriting report acknowledging that those
9 issues had been addressed, and I've highlighted those
10 things. It's from the credit underwriting division.

11 The Kensington Association stated that the
12 purchase of the additional acre and a half occurred in
13 December of 2000. There's a requirement that all
14 documents related in the 10 percent test, including all
15 expenditures, must be submitted in May before October 13.

16 It appears to us that this purchase and notification to
17 you was two months in arrears, yet we find no record in
18 the file that there was an extension granted for this.

19 They were referring to my letter, where I had
20 stated, Though it is our understanding that the department
21 is not requiring the partnership to purchase this
22 additional 1.584 acreage prior to the end of the year, we
23 elected to purchase the property in 2000. We felt that it
24 would enhance our carryover for federal purposes by
25 closing prior to the end of the year. And the reason is,

1 the department requires us to make this deadline by
2 October 13 -- that anything that we spend between then and
3 the end of the year will count for 10 percent on the
4 federal tax return, so that's what my letter was alluding
5 to. We did make our 10 percent test as of October 13.

6 The Kensington Association stated that it turns
7 out there's a 100-year flood plain as defined by the City
8 of Austin on the Kingfisher site. The condition was that
9 it states that there must be a certification that the site
10 is entirely clear of the 100-year flood plain, according
11 to the City of Austin flood plain maps. It is not.

12 So that's what they said.

13 We submitted both the survey and the
14 certification, which I presented earlier. And so we're
15 not in the flood zone, and there are no current City of
16 Austin flood plain maps. The City did not map that area,
17 so there is no -- they can't produce a map because there
18 isn't one. So we're not in the flood zone.

19 Then they've gone on to say that -- to assert
20 that the -- in fact, both the three-acre tract and the
21 1.5-acre tract on the back, both have 100-year flood
22 plain. This is clearly indicated on the site plan that
23 was recently filed with the City of Austin.

24 My response is, there's no portion of the
25 property that is designated as a flood plain by the FEMA

1 or the City of Austin's flood plain-mapping division. The
2 notations on the site plan were within the boundary of
3 stream that abuts the site, and simply show the limits of
4 the water level at a 100-year event within the stream bed.

5 This was a calculation by the engineer. That's how he
6 chose to notate it. It's not within the area of
7 construction. It's important to note that all drainage
8 ditches, streams, creeks, culverts, retention ponds, and
9 rivers anywhere in the country will have a water level
10 given a 100-year event, because they are designed to
11 convey water. That's what they're there for. So if you
12 have a 100-year event, it's going to have water in it.

13 MR. CONINE: Mr. McMullen?

14 MR. MCMULLEN: Yes, sir?

15 MR. CONINE: Can I create a pause right here?

16 MR. MCMULLEN: Certainly.

17 MR. CONINE: You're aware that we, a couple of
18 months ago, passed an appeals process that has a formality
19 to it, rather than making your specific appeal to the
20 Board. Is that something that you want to take advantage
21 of, or I might encourage you to take advantage of?

22 MR. MCMULLEN: Well, my extension was approved.
23 I just felt that I needed to get before you to --

24 MR. CONINE: Set the record straight?

25 MR. MCMULLEN: Yes, sir. I mean, it was

1 fairly --

2 MR. CONINE: I don't know that the Board needs
3 the nitty-gritty detail, but continue on.

4 MR. MCMULLEN: If you're comfortable that
5 you've heard what you need to hear, I'll just present it
6 in writing.

7 MR. SALINAS: Don't you have public -- you have
8 public zoning?

9 MR. MCMULLEN: Sir?

10 MR. SALINAS: Have you gone through the city
11 zoning --through the City of Austin for permit, or --

12 MR. MCMULLEN: Yes, we're that close -- I'm
13 meeting with them this afternoon. So --

14 MR. SALINAS: You don't have that, then you
15 don't have a project. They don't zone you or they don't
16 give you a program.

17 MR. MCMULLEN: Right. That's right.

18 MR. SALINAS: So then FEMA might have changed
19 their minds.

20 MR. MCMULLEN: No, I've seen those maps, too,
21 and we're not in the flood zone. We're not in the flood
22 zone.

23 MR. SALINAS: You might call them, then. Maybe
24 they have new lines.

25 MR. MCMULLEN: Sir?

1 MR. SALINAS: You might call them, because they
2 might have new lines.

3 MR. MCMULLEN: New lines that --

4 MR. SALINAS: rezoned that in a bunch of areas.
5 Changing the flood zones in the lines.

6 MR. CONINE: Go ahead and wrap up. I'm sorry I
7 didn't --

8 MR. MCMULLEN: Okay.

9 MR. CONINE: Just didn't want this to drag out
10 too long.

11 MR. MCMULLEN: Okay. Just two or three more
12 things and I'll leave.

13 The Kensington Association say that they
14 supported two other projects before the City Council in
15 Austin. Actually, they spoke of a lot of tenant profile
16 issues as well, which not necessarily in a favorable
17 light, and the record of your own hearing of Tuesday, May
18 15, when these two other projects were being considered,
19 they stated their philosophical opposition to further tax
20 rate allocations.

21 They further stated they do not oppose
22 affordable housing programs and the Smart Housing Program,
23 but qualified that by saying that we do strongly support
24 the concept of affordable mortgages. And in that case,
25 government agencies won't be subsidizing the rent. And

1 let's look at the reasons that we oppose further tax
2 credits.

3 And the last couple of things I have is Mr.
4 Conine of the Board had a concern that we would not be
5 able to finish the project before April. Our extension
6 request was for commencement of substantial construction,
7 so we basically have to commence construction beyond the
8 foundation stage, which is basically begin some framing.
9 We do not have to complete construction of the project.

10 And then there was additional concern by Mr.
11 Conine that the project amendment was based on a project
12 with certain ramifications and designs, and what's
13 happened is perhaps that the project doesn't come close to
14 the submission. And all I want to say about that was that
15 the project site plan was reconfigured to meet the spoken
16 verbal objections of the Kensington Association. We are
17 providing the 35 units as we submitted in our application,
18 utilizing the exact same site plus 1.5 acres, the same
19 set-asides, amenities, et cetera.

20 So really, very little has changed, and the
21 department approved the reconfiguration and I have that
22 here. And that's really all I wanted to say.

23 MR. CONINE: Any questions?

24 (No response.)

25 MR. CONINE: Thanks for setting the record

1 straight.

2 MR. MCMULLEN: I thank you for the time. I
3 know it was lengthy.

4 MR. CONINE: No problem. Next I have Bob
5 Sherman.

6 MR. SHERMAN: Mr. Chairman, members of the
7 Board, and staff, I am here to speak on two items. First
8 of all, I want to say that when the Spindletop Estates is
9 considered in Beaumont for a possible award of the tax
10 credits, and I've made arrangements to purchase the land
11 with cash we have on hand so we can accomplish the
12 carryover before the end of the year.

13 We've made several representations to that
14 effect, but we were actually able to close it with no
15 problems.

16 The other item I want to speak on today is, I
17 want to ask the Board for some relief as it relates to the
18 qualified allocation plan. And I know it's all approved
19 and everything else. This is something that's come out in
20 a few seminars that have been conducted by both the agency
21 and private sector consultants.

22 I'm submitting three properties under the
23 preservation set-aside in the 2002 allocation round. Am I
24 too close to this microphone?

25 MR. CONINE: Probably.

1 MR. SHERMAN: I believe the QAP contains a
2 fundamental error that effectively prevents me from
3 submitting these properties and prevents preservation of
4 affordable housing. Reading page 1 of the QAP under 49.1,
5 Scope, paragraph B, Program Statement, that section reads
6 in part -- and it's on the first page -- "Prevent losses
7 for any reason to the state's supply of suitable
8 affordable residential rental units by enabling the
9 renovation of rental housing." And it goes on.

10 Beginning on page 18 of the QAP, Exhibit 101
11 under Threshold, demands the following of all property
12 submissions: a certification that the applicant is in
13 compliance with state and federal laws." That's all the
14 current ones. "Staff has advised that this is to be taken
15 literally and rehab deals are to conform to all these
16 codes in the same manner as brand new construction."

17 Item E: "Five percent of the units are to be
18 made accessible according to ADA." This is possible, but
19 don't forget there are people living in these units now,
20 and have been for years -- some of them over 20 years.
21 Some don't want their units torn apart and modified to
22 suit someone else.

23 In the case of a townhome development, I have
24 one I can't renovate 20 percent of the units so that they
25 have the required number of bathrooms and bedrooms

1 downstairs. I would have to pass over the development.

2 The department also under Section F has minimum
3 standards for energy-saving devices. Wall insulation of
4 R-15, ceiling installation, R-30, energy star, HVA speed
5 systems, all appliances including water heaters, energy
6 star rated. Natural gas heating systems and furnaces to
7 have a .85 flue efficiency, which we do in all of our new
8 construction deals. No problem there at all.

9 These items, though, are impossible, or very
10 impractical to use in existing 30-year-old properties.
11 That's what the preservation set-aside is after -- these
12 30-year-old HUD deals, 236s, 236 mortgage.

13 In H, this section identified the need for
14 extensive architectural drawings, but the following
15 section asks for photos of rehab deals, which I think
16 negates the drawing requirements, although it does say,
17 though, technically that we have to provide drawings of
18 the old 30-year-old deal.

19 I would ask that this Board agree with us that
20 the preservation set-aside was invoked to preserve such
21 housing at a reasonable cost, and there was no intention
22 to exact unreasonable demands upon developers who are
23 proposing to save these properties as affordable housing.

24 And I'm in that group. I'm not here to point fingers. I
25 missed it, too. If I'd have seen that, I would have

1 brought it out in the public hearings.

2 It would be impractical, if not impossible, to
3 rehabilitate existing properties up to new, up-to-date
4 codes. The very term "preservation" described in the QAP
5 suggests preserving housing in its present state, at the
6 same time adding years to the life of such properties by
7 conducting a reasonable rehabilitation. I don't believe
8 the intent was to create new housing from old stock.

9 Finally, I have made three deals myself with
10 owners to preserve 100 units of East Texas, 60 units in
11 San Antonio, and 130 in Fort Worth. All of this housing
12 is operated under federal assistance and all the
13 assistance will cease within one year as the owners sell
14 this property to the private, market-driven sector.

15 These are exactly what the agency is after, and
16 what it wants us to preserve. Please exempt these types
17 of deals from the new construction codes, and let us rehab
18 them to current normal code standard, as all of our market
19 rate deals are rehabilitated.

20 And I want to add one little comment. I have,
21 with my partners, assembled 4,000 units. Some of them we
22 bought out of these programs before preservation came
23 along. I addressed to the tenant groups in large
24 meetings, and I provide HUD vouchers for them through HUD,
25 of course -- through the local housing agency. So the

1 people are protected. But you try and tell some elderly
2 lady that walks in with a respirator and a two-wheel dolly
3 for the oxygen bottle, and she's been living there for 23
4 years, as in one case, that she's going to be just fine
5 when we do all this.

6 It's a real hard sell, and in the Fort Worth
7 property, for example, we were going to buy this thing a
8 couple of years ago until I looked at the tenant profile
9 and went back to my partner, and I said, We're not in the
10 business of putting little old ladies on the street. So
11 we wouldn't do it.

12 But that's -- the owners are old. Some of the
13 partners are dead. They're going to sell this thing.
14 It's going to go unaffordable, and those people are going
15 to be out on the street with their voucher, from a place
16 they've lived in for more than 20 -- and some of them in
17 that property, over 25 years. It's a seniors deal.

18 I'd just like to see some relief where we
19 just -- I think we all should have seen this earlier.
20 I'll stop now, and then ask for your comment.

21 MR. CONINE: Any questions from the Board
22 members? I appreciate those comments, and I'm sure the
23 tax credit staff will duly note your comments and see if
24 we can fix it the next go-around.

25 MR. SHERMAN: I'm sorry, I missed that.

1 MR. CONINE: The next go-around on the QAP.

2 MR. SHERMAN: We can't do it this time? We
3 can't correct it, get any relief this year?

4 MR. CONINE: We'll discuss it.

5 MR. SHERMAN: Would you?

6 MR. CONINE: We'll discuss it.

7 MR. SHERMAN: If it was to be discussed, should
8 I wait today? Would it be discussed today?

9 MR. CONINE: I don't know whether the staff is
10 prepared to comment on your comments today. If not --

11 MR. SALINAS: I think we are done with the
12 public hearing.

13 MR. CONINE: Yes.

14 MS. CEDILLO: The QAP has already been approved
15 by the governor.

16 MR. SHERMAN: Right. Oh, I realize that, but
17 apparently there was precedent set that if there is an
18 error in the QAP, it can be corrected. And I believe this
19 was an error. That's the way I'm presenting it, and as
20 I'm saying, I'm just as guilty as the next guy.

21 MR. CONINE: We'll get some staff comments here
22 shortly.

23 MR. SHERMAN: Thanks very much. I really
24 appreciate it.

25 MR. CONINE: Thank you, Bob. Next I have Frank

1 Fonseca, if I pronounced that correctly.

2 MR. FONSECA: I think I was on specifically to
3 the item, but --

4 MR. CONINE: You want to wait till Item 3?
5 It's up to you.

6 MR. FONSECA: I'll wait till Item 3.

7 MR. CONINE: Okay. Mike Fields?

8 MR. FIELDS: I'll wait till the Item comes up.

9 MR. CONINE: 3(b)? Okay.

10 Barry Halla?

11 MR. HALLA: Good morning.

12 MR. CONINE: Good morning.

13 MR. HALLA: Mr. Vice Chair, members of the
14 Board, thank you for this opportunity just to make a few
15 brief comments regarding Agenda Item 3(a). I'm
16 specifically here -- my name is Barry Halla, by the way.
17 I'm sorry. I'm with Life Rebuilders, and I'm here just to
18 make a few brief comments on TDHCA number 01036, Ennis
19 Senior Estates.

20 We responded last month to the request from
21 staff regarding a couple items. I just wanted to state
22 that because Life Rebuilders owns this land, we are able
23 to downsize the development quickly, that we can convey to
24 the partnership just that land that would be needed to
25 accept the return credits.

1 We are also able to -- we've got a new payment
2 loan and a new construction loan and a new equity
3 commitment that, if awarded these return credits of
4 \$286,413, we would be able to finalize that -- those
5 documents this week. And I should have, back at my hotel
6 room, a faxed letter stating that the syndicator will, in
7 fact, help us make carryover. So I just wanted to make
8 sure that the Board was aware that this project can be
9 carried over and that it can be easily downsized.

10 This development, as I've mentioned in the
11 past, is part of an affordable planned unit development.
12 One of the lenders for the land acquisition was Housing
13 Assistance Council. Earlier this morning -- there was
14 some talk in the Programs Committee meeting about needing
15 assistance for additional rural housing. I just want to
16 state for the record that Housing Assistance Council is a
17 nonprofit lender out of Washington, D.C., that very much
18 wants to get involved with Texas and providing additional
19 rural housing for its citizens.

20 They will make loans, not just to nonprofit
21 corporations, but they are able to make loans to for-
22 profit corporations also. And they can do some unusual
23 things, such as very low interest rate loans. They can
24 subordinate to other financing, and I just -- they are
25 part of this development and I'm hoping that we can show

1 them that we want to use them.

2 The last thing -- one of the last things I
3 would like to point out is Ennis Senior Estates is
4 providing housing for seniors, so it would help in the
5 elderly set-aside. It also can help in the rural set-
6 aside, as Ennis, Texas, would be considered to be rural.

7 And that's all I wanted to state. If anyone
8 has any questions, I'll be happy to answer them.

9 MR. CONINE: Any questions?

10 MR. SALINAS: What's the population of Ennis?

11 MR. HALLA: It's right at about 17,000 people
12 in the city itself.

13 MR. SALINAS: Is that considered rural, or --

14 MR. HALLA: Anything under 20,000 is considered
15 rural. Yes, sir. And as long as its border does not
16 touch the MSA.

17 MR. CONINE: Any other questions?

18 (No response.)

19 MR. CONINE: Thank you, Mr. Halla. Appreciate
20 it.

21 MR. HALLA: Thank you.

22 MR. CONINE: The next one I have is Granger
23 MacDonald.

24 MR. MACDONALD: Thank you, Mr. Chairman, Board
25 members. My presentation today is on Boerne Park Meadows.

1 It is an application in Region 8A that was on the wait
2 list. We have also downsized our project in order to
3 accommodate the current amount of credits that are
4 available. It is a rural project. It is an elderly
5 project. I might also add that Region 8A was awarded no
6 rural projects this year. There was no rural set-aside
7 awarded in 8A at all. We own our real estate, and we are
8 ready to make carryover just in a matter of you all
9 telling us to go. We can easily accomplish that.

10 We've got every other condition met. All of
11 our financing is in place. Tax credits are in place. And
12 we're ready to go pending you all's decision. Thank you.

13 MR. CONINE: Thank you.

14 MR. SALINAS: Which one was that?

15 MR. CONINE: That was -- he was speaking on
16 01039, I believe.

17 MR. MACDONALD: Right there in the middle.

18 MR. SALINAS: What's the process here? Let me
19 ask you, for all this -- the ones that are being
20 recommended by staff.

21 MR. CONINE: This is the total list. I think
22 we'll get into that -- we're going to make a decision a
23 little later on.

24 MR. SALINAS: I understand that. But why would
25 somebody want to speak on their behalf if the

1 recommendation from staff is for approval?

2 MR. CONINE: I don't think that's what this is.

3 This is -- we're going to pick one out of this list.

4 MR. SALINAS: Yes, but the rest --everybody
5 make their case already, the staff has looked at it?

6 MR. CONINE: Yes, I'm sure they have.

7 MR. SALINAS: Okay. Well, I'm just saying that
8 their -- what is the staff recommendation? Well --

9 MR. CONINE: Let's wait till you finish the
10 public comment. The next one I have is Tim Merriweather.

11 MR. MERRIWEATHER: I'll wait for the item.

12 MR. CONINE: 3-C? Okay. Thank you. That's
13 all the public comments that I have for witness
14 information forms that I have. There's another group that
15 I didn't mention. Patrick Law and so forth. I assume --
16 where's Pat? You want to wait till 3-A?

17 MR. LAW: Yes, sir.

18 MR. CONINE: Okay. And all those that are in
19 this particular group, the same way? I assume that's the
20 case. Joe Newman, Ronnie McDonald -- all you guys want to
21 wait till 3-A? Robby Cook and Leslie Appelt. Okay. All
22 right.

23 Seeing we're finished with public comment,
24 we'll close public comment; move onto Item 1, Possible
25 Approval of the Board Minutes.

1 MR. SALINAS: So moved.

2 MR. CONINE: There's a motion on the floor. Is
3 there a second?

4 MR. BOGANY: Second.

5 MR. CONINE: The motion was made by the mayor,
6 seconded by Shad. Any discussion?

7 (No response.)

8 MR. CONINE: All those in favor, say aye.

9 (A chorus of ayes.)

10 MR. CONINE: All opposed?

11 (No response.)

12 MR. CONINE: The item is approved.

13 Item 2, Possible Approval of Public Comment
14 Process. We pulled that from this agenda. Okay.

15 Item 3(a). I probably ought to let the staff
16 make their presentation and then go back to some of the
17 public comments, I would think. Why don't we do that?

18 MS. CEDILLO: David Burrell is going to make
19 the presentation.

20 MR. BURRELL: Good morning Mr. Chairman,
21 members of the Board, Ms. Cedillo. I'm David Burrell,
22 director of the Housing Program.

23 Back in the summer of July 31, you all approved
24 the allocation of the 2001 tax credit, and at that time
25 you also approved our 2001 waiting list. Then at the

1 meeting that we had last month in November, you all
2 awarded the available credits that we had at the time.
3 And since that time, we have gotten in \$286,413 in
4 additional tax credits, which we are going to need to get
5 allocated before December 31. And what we are going to be
6 doing is recommending that you allow us to go through the
7 list that we show there on page 2, in that order, to try
8 to allocate these credits for this.

9 MR. SALINAS: What page?

10 MR. CONINE: Tab 3, page 2.

11 MR. BURRELL: We have a list in descending
12 order, and that's the order that we would go through and
13 have our underwriting division rewrite, or re-underwrite
14 these projects to see which one or more could receive
15 these credits. So that'll give you an idea there.

16 But before we go to that part of it, when we
17 were putting together the list, we went in the order of
18 the regional allocation formula to development set-asides
19 to development scores, and then our underwriting
20 recommendations.

21 Back at the meeting in November, we allocated
22 what we had available, and at the time, we allocated
23 \$174,895 to the Mission Oaks Development in Refugio,
24 although we had the recommendation for our underwriting
25 division to allocate 179,350 in credits if we had them

1 available.

2 And since we do have additional credits
3 available now, we're going to be recommending that you all
4 allow us to allocate 4,455 additional credits to Mission
5 Oaks and then, with the balance of 281,958, plus any other
6 credits that we would get in between now and December 31,
7 that we be able to go through and allocate those to the
8 list that we were just looking there on page 2.

9 MR. SALINAS: When you read the list, are you
10 recommending it? Is this the list here?

11 MR. BURRELL: On page 2, Laredo Viejo
12 Apartments in Laredo, 770,000. That's the recommended
13 amount, although we don't have that many credits available
14 now, and underwriting would actually go back and re-
15 underwrite it to make sure that the development would
16 still be feasible.

17 Then we have Laredo Vista in Laredo, 880,406.
18 Spindletop Estates in Beaumont, 704,340. Park Meadows in
19 Boerne, 408,647. Bexar Creek Apartments in San Antonio,
20 548,121. Pueblo Montana, 175,557. Winchester Lake in
21 Bastrop, 477,000.

22 And then we have two projects, Burgundy Palms
23 Apartments in El Paso, and Ennis Senior Estates in Ennis,
24 in which we're not making a recommendation on for any
25 recommended amount. And we have the reasons listed

1 further in the report.

2 MR. SALINAS: How would you deal with this 770
3 and then you only have 281?

4 MR. BURRELL: What we would do is go through
5 and re-underwrite at the reduced credit amounts. It's
6 very possible that the developer could cut down on the
7 size of the project that he's going to be constructing,
8 and just end up with fewer units, is what we'd end up
9 doing. It's possible that they would maybe want to come
10 back at a later date and do a second or third phase.

11 MR. CONINE: Doesn't the chopping up of 108
12 units in that particular specific example down to whatever
13 it needs to be to hit the credits -- isn't that going to
14 affect the cost underwriting and the ultimate score of the
15 project? We're looking at a score on this one -- it looks
16 like 80. What happens when the score -- when you go back
17 through and chop it up and the score comes down to 60 or
18 something at that point, how does that affect your
19 decision making once we leave here and --

20 MR. BURRELL: Well, we would consider all those
21 things, and if for some reason this project would not
22 work, for some given reason, they would move on down to
23 the next --till we found one that would make sense and
24 would be good practical entities.

25 MR. CONINE: Okay. So if in the priority

1 here -- I'm just trying to understand the mechanics of how
2 staff thinks this is going to work -- in the resubmission
3 and underwriting process, the score gets below what you
4 deem to be an acceptable level, and you just move to the
5 next one, and the same process would occur.

6 MR. BURRELL: Yes.

7 MR. CONINE: And since you only got 15 days or
8 so to get this done, you're going to have to do the top
9 two or three just to make sure that somebody's waiting
10 there in a reconfigured basis.

11 MR. BURRELL: Yes.

12 MR. CONINE: So that if you make a decision not
13 to do that one, then you can go to the next one. Is that
14 what you plan on doing?

15 MR. BURRELL: Yes. Like I said, and we will be
16 working with our underwriting division to get one selected
17 as quickly as possible.

18 MR. CONINE: Are there any other questions of
19 staff before we go back to some of the public comments on
20 this category?

21 MS. CEDILLO: Mr. Conine, I would also like to
22 point out that before a final decision would be made on
23 that, that we would run it by our Executive Review
24 Committee within the department.

25 MR. CONINE: Which would -- on a consensus

1 basis --

2 MS. CEDILLO: Consider those items.

3 MR. CONINE: Okay. All right.

4 Any other questions of Mr. Burrell?

5 MR. SALINAS: Yes, I don't understand. You
6 only have 281,000 left.

7 MR. BURRELL: Yes, sir.

8 MR. SALINAS: And you have all these other
9 people that are needing tax credits, and you need to spend
10 your 281- by December 31.

11 None of the other projects were downsized at
12 281-, were they?

13 MR. BURRELL: It's possible, but we won't know
14 until our underwriting division goes through and actually
15 re-underwrites completely.

16 MR. CONINE: Have you not already contacted all
17 these people, and they've said they can get to that
18 number?

19 MR. BURRELL: We have contacted them in
20 writing.

21 MR. CONINE: They've already said they can do
22 it somehow, some way.

23 MR. SALINAS: But your first recommendation
24 would be the Laredo Viejo Apartments, right?

25 MR. BURRELL: Right.

1 MR. SALINAS: So if we take your
2 recommendations, that would run out of tax credits, right?

3 MR. BURRELL: Yes. If they were able to make
4 the project work, it would use up the entire 281,000
5 that's left --

6 MR. SALINAS: Is anybody --

7 MR. BURRELL: -- and possibly any other credits
8 that might come in between now and December 31.

9 MR. SALINAS: You think you might have some
10 coming back? Because we need to know.

11 MR. BURRELL: It's possible.

12 MR. SALINAS: It's possible?

13 MR. BURRELL: It wouldn't -- probably wouldn't
14 be a large amount, but if we get a few dollars here and
15 there, it could add up.

16 MR. CONINE: But you have no knowledge right
17 now of any of them coming back, other than the 281- in
18 specific knowledge?

19 MR. SALINAS: And some of these people are not
20 going to get chosen today -- are they still going to be on
21 the waiting list for the future?

22 MR. BURRELL: As of December 31, the waiting
23 list goes away.

24 MR. SALINAS? Goes away? So they lose
25 everything. So how about 2002? Or this is 2002?

1 MR. CONINE: They'd have to reapply.

2 MR. SALINAS? They'd have to reapply?

3 MR. CONINE: Uh-huh.

4 MR. SALINAS: They're going to make their case
5 today with so many dollars here, and we only have 281, so
6 I don't think it's fair for them that after the 31st they
7 go away and have to reapply. They're going to talk to us
8 here. They're going to make their presentation, but
9 it's --

10 MR. CONINE: It's unfortunate.

11 MR. SALINAS: It's a bad situation that we
12 don't have -- that we make them go away December 31 and
13 they go ahead and compete all over again.

14 MS. CEDILLO: Mr. Salinas, that is based on the
15 QAP; however, we're about to start looking at the 2003 QAP
16 and see if there's a possibility that there might be some
17 changes to allow more time to meet carryover.

18 MR. SALINAS: Okay.

19 MR. CONINE: Yes, Mr. Burrell?

20 MR. BURRELL: I do just want to make sure that
21 you all also approve that we use methods where we use 2001
22 for our commitments along with the 2001 allocations when
23 we're figuring up what our regional allocations are. We
24 use it -- that method when we came up with the chart that
25 you see here, the second chart on the page. And we just

1 want to make sure that you all are in agreement.

2 MR. CONINE: Well, I don't know that I -- I'm
3 not, because those guys were operating under the 2000 QAP
4 but got 2001 for commitments. Different set of rules than
5 the 2001. I remember we talked at the last Board meeting
6 about having the 2002 forwards being included in the
7 regional allocation computation because they're under the
8 2001 QAP, rather than going backwards. And I think we
9 even had testimony to that effect from some of the
10 developers.

11 MR. BURRELL: Well, we want to use the 2001
12 prior commitments or the 2001 allocations because they're
13 actually all coming out of one fund, and for IRS-reporting
14 purposes, we put those two together to determine what our
15 allocations are total, and we'd like to just be consistent
16 across the board in keeping those funds together, or those
17 credits together.

18 MR. CONINE: I'm having a hard time with that.

19 MS. CEDILLO: Let me try to explain. What we
20 were trying to do is use 2001 forward commitments, because
21 they were -- those would be coming out of the 2001
22 regional allocations, so you identified the funding that's
23 coming out of 2001 altogether in the regional allocation.

24 MR. CONINE: I understand that. But if the
25 2001 forward commitments were measured by the 2001 QAP,

1 their score might have been different and they might not
2 have gotten awarded that forward commitment. It's at
3 least more important in my mind to have them all grouped
4 under the same rules of the game versus the same year the
5 credits came out.

6 Now, I know that may present an IRS problem or
7 it may present other issues I'm not aware of, but I like
8 for everybody to be playing by the same rules that we
9 consider this regional allocation mixed.

10 MR. CEDILLO: And actually, as far as the
11 rules, they would have to follow the rules from whichever
12 QAP applied to it; however, the regional allocation would
13 be different. We're looking at the funding that was
14 available out of the 2001 allocation, not specifically the
15 rules that applied.

16 MR. CONINE: I understand. I hear what you're
17 saying, I'm just coming from a different angle.

18 MR. BURRELL: We understand your point of view,
19 and we've discussed it a great deal among staff and
20 general counsel. We looked at all sides of it. But as a
21 group, we ended up recommending that we stick with the
22 2001 for our commitments going with the 2001 allocations.

23 MR. CONINE: And the other issue that I
24 personally have is, are the regional set-asides more
25 important than the other set-asides that we've had

1 historically for years? Elderly, rural, nonprofit, and
2 the like. And how do you blend those two together to make
3 sure we're getting as much of both as we go along?

4 You know, I'm seeing a skewing in my mind
5 toward the regional set-aside, and I think I brought it up
6 at the last meeting, that we had elderly and rural
7 shortfalls in our set-asides we've had for a long time.
8 And I'm curious how staff is reconciling those issues.

9 MR. BURRELL: As far as the regional
10 allocation, that one is legislated.

11 MR. CONINE: I understand.

12 MR. BURRELL: And -- but the other one is not.
13 So we have to give priority to the regional allocation.

14 MR. CONINE: Well, one of them is mandated by
15 Congress. The nonprofit set-aside, I believe, is mandated
16 by Congress. So I tend to perk up when either one of them
17 tell me to do something.

18 And I'm just curious -- maybe we're in a no
19 man's land here relative to this particular cycle, but I
20 would highly recommend that we work through those issues
21 in the next QAP and come up with a little more -- a better
22 understanding between the Board and the staff relative to
23 how we're going to compute these set-asides, whether they
24 be regional or whether they be category. I would like to
25 dialogue that, and it's probably my fault that we didn't

1 do that going into last year's QAP.

2 MR. BURRELL: Well, we'd like to get with you
3 between now and next year and work out any of those.

4 MR. CONINE: Okay. Any other questions of
5 staff before we go back to the public comment?

6 (No response.)

7 MR. CONINE: All right. Frank Fonseca, is
8 yours 3A, B, C?

9 MR. FONSECA: Yes.

10 MR. CONINE: 3A? Okay. Come on up.

11 MR. FONSECA: Thank you very much Vice Chair
12 Conine and Board. First of all, let me speak to the issue
13 that Mr. Burrell just raised. I agree wholeheartedly with
14 you, Vice Chairman Conine. This is exactly what is giving
15 the TDHCA program such a bad name. Its rules seem to
16 change constantly. The 2002 QAP did not have a regional
17 allocation formula to it. The 2001 QAP did.

18 Staff is now recommending that forward
19 commitments in 2000 be considered in the 2001 formula,
20 regional allocation methodology. That impacts our deal.

21 If you look at Region 8B, Region 8B has
22 historically been underserved and overlooked by the TDHCA.

23 MR. CONINE: Which one is your deal, if you
24 don't mind me --

25 MR. FONSECA: It's in Region 8B. It's Laredo

1 Viejo Apartments. And there's a reason that there are two
2 Laredo deals on the wait list right behind each other.
3 It's not a surprise. It's the biggest, most underserved
4 area and city in the program. So I want to make that
5 point, to get on the record on that point.

6 The other problems that occur is, if you look
7 at the scoring -- Mr. Burrell just mentioned the
8 methodology or priority is regional allocation, there is
9 some set-aside priority, and then there is scoring.

10 In 2001, this past round, 19 family projects in
11 the general set-aside scored less than our project and
12 received allocation. Nineteen. Of the ten projects
13 receiving allocation in Region 8B, eight scored less than
14 our deal. Of the two general family projects receiving
15 allocations, one less scored less than our project. I
16 guess scoring doesn't matter.

17 During the 2000 round, nine family projects in
18 the general pool received allocations and scored fewer
19 points. And of the three projects that received
20 allocations in 2000 in Region 8B, two scored fewer than
21 our project in Laredo, and that was after Laredo had gone
22 two years without an allocation.

23 Now we have the regional allocation
24 methodology, and we're underfunding Region 8B by several
25 hundred thousand dollars, and all of a sudden we're moved

1 to the wait list, at the top of the wait list. Seems to
2 me that a city like Laredo -- the fastest growing city in
3 the state, second largest growing city in the country over
4 the course of the last ten years -- doesn't suddenly need
5 affordable housing. They've needed it for 20 years.

6 Laredo Viejo Apartment Homes should have been
7 funded in 2000 under the rules of the QAP, and it
8 certainly should have been funded in 2001 under the rules
9 of the QAP. And we're sitting here before you today with
10 \$281,000 in returned credits, 300,000 of which were -- or
11 it was 500-, and 300,000-and-change were used to settle a
12 case because a gentleman didn't receive a credit
13 allocation in the past and the Board settled that case.

14 And our deal is suffering as well as the
15 balance of the deals on the wait list. Doesn't seem fair.

16 So here we are, Mr. Burrell says that it's likely that
17 additional credits might be returned, and he said "a few."

18 Well, it doesn't work like that. If a deal doesn't make,
19 all of the credits associated with that deal are returned.

20 So what do we do? Yes, we've contacted the
21 seller. Yes, we're rejiggering, or reworking our deal to
22 try to restructure it and make it work. Can we make
23 carryover? Not a problem. But the truth of the matter
24 is, this is 108-unit family deal, as Mr. Salinas
25 suggested, that had a near \$8 million credit allocation

1 underwritten by the TDHCA, and that's what it's going to
2 take to get this 108 unit family deal done.

3 Now, we can downsize it some. But you're
4 looking at the lowest median income in the state, or
5 certainly one of the lowest median incomes in the states,
6 with one of the highest land costs in the state. Our land
7 costs alone on our project is nearly \$600,000. We've been
8 in Laredo three years now.

9 You've received, or made allocations to Laredo
10 three or four deals since the beginning of the program.
11 And the frustration of the program that we're
12 experiencing, as well as probably a number of other
13 applicants that are sitting on this wait list, is the one
14 that I just laid out before you.

15 So I just want to make those comments and put
16 that on the record regarding Mr. Burrell's comment on the
17 allocation methodology and specific to the point-scoring
18 system, both of which are priority items, and yet we're on
19 a wait list two weeks before the end of the year and the
20 expiration of our application.

21 MR. CONINE: Any questions?

22 MR. SALINAS: Is credit supposed to be 770?-
23 770,000? And we only have 281-.

24 MR. FONSECA: That's correct, as of today.

25 MR. SALINAS: And staff is recommending your

1 project, so what are you going through there?

2 MR. FONSECA: I'm sorry?

3 MR. SALINAS: I mean, I don't know this guy at
4 all. I mean, he talked about what we did the last time
5 about the case, but what do we do now? He needs 770-. We
6 only have 281-, and we got I don't know how many other
7 people that want to talk to us about their projects.

8 MR. FONSECA: Mr. Salinas, you mentioned that
9 what happens at the end of the year. Your --

10 MR. SALINAS: No, I mean, if you don't take the
11 281-, I guess you need to reapply, right?

12 MR. FONSECA: Well, here's the interesting
13 dilemma that we're faced with. Mr. Burrell says that
14 there may be other credits and probably would be other
15 credits returned. But we don't know when or how many
16 those will be between now and the end of the year.

17 MR. SALINAS: That's an agony here for this
18 guy. I mean --

19 MR. CONINE: Nobody knows.

20 MS. CEDILLO: We don't know.

21 MR. CONINE: We got to make a decision today
22 because the Board meeting today because --

23 MR. FONSECA: And we do know that there are a
24 number of developers out there probably saw that, but we
25 won't know. Certainly they're doing their best to meet

1 carryover and do whatever they need to do between now and
2 the end of the year. So we're in this dilemma. We're
3 working to restructure our deal to make it work at
4 \$281,000, but it may be \$500,000.

5 MS. BOSTON: To clarify, you had said you
6 thought the credits --

7 MS. CEDILLO: Excuse me.

8 MR. CONINE: Introduce yourself.

9 MS. BOSTON: I'm sorry. My name is Brooke
10 Boston. I'm with the Tax Credit program. And to clarify,
11 you had said that it would be all or nothing, and in
12 actuality, we sometimes get credits back in very small
13 amounts, like 1,000 here, 2,000 there, which is what
14 sometimes when people go through carryover, their cuts get
15 reduced a little bit, even sometimes at cost -- so it
16 wouldn't always be a huge chunk.

17 MR. FONSECA: I understand. But typically, is
18 it fair to say that deals that have gone through the
19 process that can't meet carryover -- the entire allocation
20 would be returned.

21 MR. BURRELL: Not necessarily. There could be
22 a reduction in number of units.

23 MR. FONSECA: No, my question was, Mr. Burrell,
24 if a project doesn't meet carryover, would the entire
25 credits be returned?

1 MR. BURRELL: If they --

2 MS. BOSTON: That's not where they generally
3 come from.

4 MR. BURRELL: We generally have a reduction in
5 units and they would have to re-underwrite some regions to
6 have a small reduction.

7 MR. FONSECA: Okay. Do we have a sense, for
8 those of us who are on this wait list trying to make our
9 projects work at reduced credit amounts, does the staff
10 have a sense of how many credits might be returned?

11 MR. BURRELL: No.

12 MR. CONINE: We're dealing -- this is the facts
13 as of today, and we have to deal with the facts as of
14 today. What we're hearing you say, or what I thought I
15 heard you say, is that you are willing to adjust your
16 project -- that you wanted 700,000 down to the 281- to get
17 there.

18 MR. FONSECA: Right.

19 MR. CONINE: And I think that's what we needed
20 to hear. And if it becomes an issue later on of a Phase
21 2, or next year's allocation, we understand that. But we
22 all sense your frustration, and we all feel a little bit
23 the same way. I mean, you know, sometimes you have two
24 fish and five loaves to feed 5,000 people, and that's
25 where we're at right now, and that's all we got. So we're

1 trying to do the best with what we have.

2 MR. FONSECA: I appreciate the Board's time.

3 MR. SALINAS: It would be how much per unit?

4 Tax credits per unit, if he takes 281-?

5 MS. BOSTON: It depends on how many units they
6 reduced it to.

7 MR. CONINE: He hasn't reworked his deal yet.

8 MR. SALINAS: My biggest complaint about this
9 whole thing is that South Texas gets on some credits 6,000
10 per unit, or maybe 5,000, or \$4,000 per unit. And you go
11 to Dallas or Houston and you get 11,000 per unit. And I
12 still haven't been able to understand that -- why it would
13 cost more to build in Houston or Fort Worth than South
14 Texas or Laredo or --

15 There's a project in Harlingen I think they're
16 getting something like 5,000 per unit.

17 MR. CONINE: It depends on a lot of different
18 factors.

19 MR. FONSECA: Let me leave you with one
20 thought. There is a reason that projects score higher,
21 and that's driven by the QAP and the fact that there are
22 high-cost burden areas and poverty areas. And as a result
23 the QAP allocates or provides for more points.

24 Our frustration is that that's exactly what
25 we've done. We've matched up to the QAP in an area that

1 meets those requirements for points, and yet we don't seem
2 to get the benefit of the high score even though we meet
3 all of the other tests. And that's all I want to leave
4 you with.

5 MR. CONINE: Thank you for your comments.

6 Patrick Law, et al? Do you know if the rest of
7 your group wants to speak, or are you going to take up --

8 MR. LAW: I'm going to take very little time.

9 MR. CONINE: Okay.

10 MR. LAW: I'm going to address two issues.

11 My name is Patrick Law. I'm with Windover
12 Housing Partners [phonetic]. Our entity, Winchester Lake,
13 will be the applicant for a 72-unit development in
14 Bastrop. Originally we applied for 120 units. We have
15 re-sized the property, and the project is 72 units and it
16 is feasible at that level.

17 281,000 would work out to about \$3,900 a unit.

18 Originally we had, I think it was 415,000, which is
19 approximately \$3,600 a unit. The differential is
20 primarily some increased proportional costs, because the
21 clubhouse and so on is not being reduced. However, we
22 have removed the portion of the land which would have been
23 used for the balance of the development, to make 120
24 units, so we don't have a land burden in order to proceed.

25 I want to introduce primarily for the purpose

1 of speaking -- I think one of the important things in this
2 business is having these developments go into communities
3 that want them and are not opposed, where it's possible.
4 This particular community has been very, very supportive,
5 and I'd like to introduce a few people to speak for it,
6 and then I'm available to answer any questions with regard
7 to the -- any technical questions about tax credits.

8 Mr. Joe Newman is the president of the Bastrop
9 Economic Development Corporation. He's speaking on behalf
10 of Mayor Tom Scott, who could not be here today for the
11 city. Honorable Judge Ronnie McDonald, County Judge, will
12 speak for the community. Honorable Robby Cook, state
13 representative for District 28, will speak for the area.
14 Mr. Leslie Appelt is the property owner and prominent
15 citizen out there, and he can speak to the issue that
16 we've reduced the size of the land and any other questions
17 you might have. Thank you.

18 MR. NEWMAN: Mr. Vice Chairman, members, I'm
19 Joe Newman. I'm representing the city. Mayor Scott, as
20 he mentioned, couldn't be here today. He's also the vice
21 chancellor of the University of Texas, and they have a
22 meeting that he couldn't get away from.

23 Basically what I thought you might want to know
24 is that there is a tremendous need for apartments in our
25 area. For instance, our school teachers have housing

1 needs. We pay the highest salaries of any independent
2 school district in the Austin area. I mean, we pay more
3 than anyone, but we still can't retain some teachers
4 because of housing.

5 The other thing is police officers. We have to
6 import our police officers from Austin or other places,
7 and housing is a major issue. Bastrop County is the
8 tenth-fastest growing county in the state. Out of 254
9 counties, this last census showed us as the tenth-fastest
10 growing.

11 There's a lot of economic factors involved, as
12 you know, with having housing available. Right now we're
13 having to import people to work because there's no places
14 for them to live. They spend their money elsewhere
15 instead of buying locally, and that's a very big thing as
16 far as the Economic Development Corporation is concerned.

17 We respectfully request that favorable vote on
18 our project, and if you have any questions, I'll try to
19 answer them later or I'll let Judge McDonald also.

20 MR. MCDONALD: Yes, I'm Judge McDonald, Bastrop
21 County Judge. I was born and raised in the Bastrop area,
22 and one of the most important things we have is the
23 quality of life. As Mr. Newman was talking about, we have
24 teachers, we have law enforcement, and all these
25 individuals are role models in our community. And the

1 development of this type would allow those individuals to
2 be able to stay in our community, and also to be involved
3 in different aspects of our community, adding to our
4 quality of life, and also letting our youth be able to see
5 these types of role models in their day-to-day lives.

6 So I think this project will be very important
7 to Bastrop County, because one of the things that we're
8 trying to do is transition from a rural to moving towards
9 an urban society, and we want to make sure that we keep
10 these important aspects as far as quality of life. And
11 I'm going to transition to our great state representative,
12 role model Robby Cook.

13 MR. COOK: Thank you, Judge McDonald.

14 Mr. Chairman, Board members, thank you very
15 much for the opportunity to speak to you. The main reason
16 I'm here today, and involved in this at this point, is
17 because of the community support that you see. And a lot
18 of times in projects that seem to come before you, there's
19 not that much community support. There's a lot of
20 dissension.

21 In this particular case, with Judge McDonald
22 here, the mayor of Bastrop, Tom Scott, who was called away
23 on business, when they picked up the phone and asked me to
24 come up or at least look at the project, I was quite
25 impressed.

1 But also, Bastrop County -- I'm very familiar
2 with Bastrop County because we've just gone through a very
3 enlightening redistricting process, so I'm well aware of
4 the growth that we see in Bastrop County. And a couple of
5 things stood out on this project -- in my mind, anyway,
6 and I would hope it also would in yours.

7 If you look at the growth in Bastrop County and
8 the commute that a lot of the folks -- commuting goes both
9 ways, and a long commute, in my mind, has a lot to do with
10 the development of the community. Whereas a lot of the
11 commuters seem to go from Round Rock to Georgetown into
12 Austin, whereas in this particular case, we're starting to
13 see a reversal of that. Bastrop County and the leaders
14 have been somewhat successful in their development and job
15 growth and industrial development.

16 An important part of that is what you folks do
17 to develop the community, is housing. And as was
18 mentioned earlier, when you talk about schools and the
19 teachers, also see an important part of the community
20 development as the fact that, if you're away from your
21 home, you can't make the PTO meetings, you can't make the
22 civic organization meetings -- Lion's Club, Rotary Club,
23 Kiwanas Club. All that's a part of developing a great
24 community, because you're just away from home too much.

25 One of the aspects of this -- I guess getting

1 into some more specifics of this project -- surprised me
2 that there has not been an affordable housing project
3 since 1989 in Bastrop County, and that, my understanding
4 was, a 48 unit-rehab project.

5 Also because of the growth we've seen in
6 Bastrop, the occupancy rate is over 97 percent. And if we
7 don't do something pretty quick, that's only going to
8 continue to get worse.

9 The location of this project -- if you're
10 familiar with Bastrop County and you drive through Highway
11 71, it's a very beautiful area. And this project is going
12 to be located in a very pristine area where you have a lot
13 of trees. It's going to be very pleasant to look at. The
14 quality of life -- it's going to be a wonderful place to
15 live. It's not going to be located in an industrial area
16 or place where the land values are such that it just makes
17 the project work.

18 But first and foremost has been the community
19 involvement, the community that's been behind this
20 project, because otherwise I wouldn't be here. So I would
21 certainly hope that you would give this a favorable
22 report. It's my understanding that because they -- we're
23 down to 72 units now -- is that it does work within the
24 tax credits.

25 You folks have the same kind of job we do when

1 we go through the appropriations process. Everybody has
2 their hands out, and there's a lot more hands than there
3 are loaves of bread, Mr. Chairman, to put in them, so I
4 can certainly understand, can certainly relate.

5 And Mayor, you asked a very good question about
6 why the difference in the cost of some of these units.
7 That is very valid.

8 MR. SALINAS: It was a good presentation, but
9 we don't have any tax credits to give them. And my point
10 is, why waste your time?

11 MR. COOK: Well, we're hoping that this project
12 will --

13 MR. SALINAS: You're out of the program
14 December 31. We only have 281 tax credits. The staff is
15 recommending Laredo Viejo, so what do we do here?

16 MR. COOK: We're hoping we can kind of move our
17 project up a few notches. Since it's within 72 units, it
18 may fit. And they're ready to go.

19 MR. SALINAS: No, I mean, we can continue the
20 process, but the QAP would not allow us to do that. You
21 would just have to reapply, you know?

22 MR. CONINE: Thanks for your presentation.

23 MR. SALINAS: That's my --

24 MR. COOK: Yes, sir. Very valid questions.

25 MR. SALINAS: If we had a million, \$2 million

1 to deal with, then there would be --

2 MR. CONINE: Is there any other -- I have one
3 more witness affirmation form with your group.

4 MR. LAW: Only if there was a question of the
5 landowner.

6 MR. CONINE: Okay.

7 MR. LAW: Thank you, Chairman.

8 MR. CONINE: Thank you very much. Appreciate
9 that.

10 MR. CONINE: I think that's all the witness
11 affirmation forms I had for Item 3(a). We can go back and
12 make a decision, Board, on what we need to do here.

13 MR. SALINAS: Well, we have the recommendation
14 from the staff.

15 MR. CONINE: Yes. Let's bifurcate this. I
16 think staff's recommending two requests -- two specific --
17 the first one should be --

18 MR. SALINAS: The 4,000 --

19 MR. CONINE: Yes, fairly easy to do. Let's go
20 ahead and get that one done and get that one behind us.
21 Is there a motion?

22 MR. SALINAS: I move.

23 MR. BOGANY: Second.

24 MR. CONINE: Motion to approve the \$4,455 to
25 Mission Oaks Development so that they can meet their

1 complement. And the mayor motioned, and I think Shad
2 seconded. Any other discussion on that motion? If not,
3 all those in favor say aye.

4 (A chorus of ayes.)

5 MR. CONINE: All opposed? So ordered. And
6 then on the balance of -- what we do with the balance of
7 the credits, any discussion amongst the Board?

8 MR. SALINAS: I would say we would take the
9 recommendation for Laredo Viego. And it's 281-, and
10 whatever else comes in by the 31st. Then you work with
11 the Laredo group, or what?

12 MR. BURRELL: But we would like you to actually
13 get you to approve us going down through the list so that
14 if, take for instance --

15 MR. SALINAS: If you cannot work --

16 MR. CONINE: Okay. One through six has --

17 MR. SALINAS: Okay. One through six, and I
18 think we just go ahead and --

19 MR. CONINE: Is there more than that? How many
20 of them is there? Are there actually six?

21 MR. BURRELL: Actually six.

22 MR. SALINAS: Yes, but there's only enough
23 credits for one, right?

24 MR. BURRELL: Correct.

25 MR. CONINE: Right.

1 MR. SALINAS: And what you're saying is, if you
2 all can't work it out with the first one, you go on to the
3 second.

4 MR. BURRELL: Then we move to the second, and
5 if that doesn't work --

6 MR. SALINAS: I move that we go ahead and do
7 exactly what the recommendation for this stuff is.

8 MR. BOGANY: Second.

9 MR. CONINE: There's a motion by Mayor Salinas,
10 seconded by Shad, that we accept the staff recommendation
11 list for the waiting list from priority. Any other
12 discussions?

13 MR. SALINAS: What is it?

14 MR. BURRELL: We'd also like to see if you
15 could make it part of your motion that if any more credits
16 come in, that we be allowed to go ahead and reallocate
17 those using the same formula.

18 MR. CONINE: I think the QAP says that, but
19 we'll be glad to add that. Will the maker of the motion
20 accept the adding of --

21 MR. SALINAS: I do accept.

22 MR. CONINE: If any future credits come in, we
23 can proceed down the waiting list in this order. Do you
24 second or accept that amendment?

25 Any other discussion on the motion? All those

1 in favor say aye.

2 (A chorus of ayes.)

3 MR. CONINE: All opposed?

4 (No response.)

5 MR. CONINE: Item 3(b), Approval of the Request
6 for Extension of Commencement of Substantial Construction.

7 Mr. Burrell, you got this one?

8 MR. BURRELL: Yes, sir. The next item is for
9 an extension to place a project in service for Evergreen
10 Townhomes in New Braunfels. Back in October, the Board
11 granted an extension which would have been through January
12 15 of 2002. However, since that time, the developer had
13 planned on selling this project to someone else, but they
14 were not able to. So now they've gone back and they've
15 found a syndicator that has said they could probably work
16 with them but they need a little bit more time, and they
17 need an extension through April 1, 2002.

18 MR. SALINAS: Is this the first extension?

19 MR. BURRELL: Second.

20 MR. SALINAS: This is the second?

21 MR. BURRELL: Second extension.

22 MR. SALINAS: I don't know about that.

23 MR. CONINE: What's your thoughts?

24 MR. SALINAS: How many credits is that?

25 (Laughter)

1 MR. SALINAS: You know, you have to be fair
2 with everybody.

3 MR. BURRELL: Part of their problems stem from
4 the fact that their initial investor, which was Southern
5 California Edison, had problems last summer because of the
6 energy crisis. It got them set back. They lost their
7 investor, so they had to go back and try to find some
8 additional investors. It took time. They were having
9 trouble, so they tried to find someone that would actually
10 just buy them out. They thought they had someone that
11 could do it, but then that buyer changed his mind.

12 MR. SALINAS: How many credits is that?

13 MR. BURRELL: 340,000.

14 MR. SALINAS: Okay, I'm not going to expect
15 that. I mean, if they guy's tried to buy a buyer for his
16 project and we have a bunch of other people here that need
17 tax credits -- I mean, this is his second extension? I
18 don't think so.

19 MR. CONINE: Has he met carryover, or had to
20 have carryover? Will he meet carryover?

21 MR. BURRELL: Let me double-check and see. He
22 has met carryover.

23 MR. CONINE: Okay. So he got real money in the
24 deal at this point.

25 MR. BOGANY: What is your recommendation?

1 MR. BURRELL: We're recommending that we grant
2 them the extension. If for some reason they don't --
3 they're not able to move forward sometime in the future,
4 we will get those credits back. We just wouldn't get them
5 back now.

6 MR. CONINE: We have a public comment on this
7 particular project. Why don't we call public comment up
8 and let's hear from them.

9 Mike Fields? If you could use the mike,
10 please, and introduce yourself.

11 MR. FIELDS: My name is Mike Fields. I
12 represent Amstada [phonetic] Affordable Housing. I hadn't
13 planned to make any comments, but I'm getting a little bit
14 nervous after I heard the mayor.

15 MR. SALINAS: Yes, well, we get nervous. The
16 problem is that we got to follow the rules. You want to
17 get a project done, you get a first extension, now you're
18 asking for a second one, and I don't think it's fair for
19 everybody else here that are serious about -- it's like
20 the one here we just saw a few minutes ago in Bastrop.
21 Even have the county judge here.

22 And those are the projects that I like to see.
23 I mean, they want to get it done. And then we have here
24 your company that says, Well, we need another extension
25 because we're trying to find a buyer for the project.

1 It's just not a good style of doing business.

2 MR. FIELDS: I'd like to respond to that.

3 MR. SALINAS: Okay.

4 MR. FIELDS: The credits that -- basically, our
5 heart is in South Texas. We're natives of New Braunfels.

6 Our other project is in Rio Grande City, and the \$286,000
7 of credits that were given back were from Hebronville.

8 And the reason they were given back is because we received
9 approval but we didn't receive enough credits to get the
10 project done.

11 We have followed the rules. Between ourselves
12 and the investor there's over approximately \$800,000 of
13 our money and the investor's money. There's no way that
14 we can pay that back if the Evergreen Townhomes project
15 doesn't go through. You know, who could have foreseen a
16 company like Edison Capital would not be able to fulfill
17 their investment commitments? And that has started a
18 chain of events that has made it very difficult for us to
19 syndicate the Evergreen Townhomes project.

20 We are -- and we're willing to do anything to
21 make this project work, and we have tried just about
22 everything. We've had syndication agreements with other
23 syndicators. We've negotiated with scores of syndicators
24 and lenders. It's a good project. It will work. After
25 the sale was abandoned by the potential buyer, we

1 immediately got on board with a new syndicator. We're
2 talking to a lender who's willing to do the construction
3 and the permanent -- you know, things are progressing.

4 But we did not create this situation. We
5 reacted to, I think, very rapidly and very -- with an
6 attitude that whatever it takes to get the job done. And
7 it is possible. I think the new syndicator would tell you
8 that, the new lender would tell you that. We just need
9 more time.

10 MR. CONINE: What happened to the Bozrah
11 International Ministries? Why did they abandon purchase?

12 I can understand why Southern California Edison's not
13 here, but I don't understand why they're not here.

14 MR. FIELDS: Between the time that we signed
15 the sales agreement with them and within -- that happened
16 in September. We signed the sales agreement with them in
17 September. On October 17 at that board meeting, the Board
18 granted us a January 15 extension for slabs in place.
19 That was based on the sale of that project to Bozrah, and
20 Bozrah's closing -- you know, their syndicator and their
21 lender were on board. Everybody agreed that January 15
22 was a realistic date for slabs in place at that time.
23 Therefore, we came to the Board and asked you for an
24 extension until January 15, and you granted it.

25 About ten days after that October 17 meeting,

1 Bozrah could not meet -- could not proceed with the
2 project, and the reason that they stated was that they
3 couldn't handle the construction capacity -- that they had
4 received some other projects, some other construction
5 projects that had come up, and they could not fulfill
6 their sale, or their purchase commitment.

7 We talked to other potential buyers that they
8 put us in contact with, and for those people -- nobody
9 could meet that January 15 --

10 MR. CONINE: Let me stop you there. October 17
11 they could; ten days later, they can't. That's not quite
12 making sense to me. Can you help clarify, or can I get
13 staff to help clarify what the issue is?

14 MR. FIELDS: That is what happened. On October
15 17, we asked you for the January 15 extension. On about
16 November 1, Bozrah said they couldn't --

17 MR. CONINE: Staff, you have any comments unto
18 your knowledge? Tell me what state this project's in.
19 You got a piece of land bought. Have you got plans done?
20 Full set of plans done?

21 MR. FIELDS: Yes. We're ready to issue
22 building permits -- pay the building permit fee.

23 MR. SALINAS: You don't have any comments --

24 MR. CONINE: And why --

25 MR. FIELDS: We've got about \$800,000 in the

1 project up to this point.

2 MR. CONINE: Okay, but at some point, you said
3 that we're going to sell it to Bozrah. And now, because
4 they've gone away, you're stepping back in.

5 MR. FIELDS: Right.

6 MR. CONINE: So you had some motivation to sell
7 it to Bozrah to begin with.

8 MR. FIELDS: The reason for selling --

9 MR. CONINE: Refresh my memory.

10 MR. FIELDS: The reason for selling it to
11 Bozrah was that their ability to do the construction in a
12 speedy -- you know, it was a sure deal. It seemed like to
13 us a sure deal that that would be in the best interest of
14 everyone, to get the project done in the most timely
15 manner.

16 MR. CONINE: I never seen anyone turn down
17 construction work before. That doesn't -- that's just not
18 making much sense.

19 MR. FIELDS: It didn't make sense to us either,
20 but it was obvious that the sales agreement was not going
21 to go the way it --

22 MR. CONINE: Staff, you're recommending we
23 grant the extension?

24 MR. BURRELL: Yes, sir.

25 MR. CONINE: Any other -- you have anything

1 else, Mr. Field?

2 MR. FIELD: No.

3 MR. CONINE: All right. We'll close the public
4 comment for him. Any other discussion amongst the Board?

5 Do I hear a motion?

6 MR. BOGANY: I move that we grant them this
7 extension.

8 MR. CONINE: There's a motion made by Mr.
9 Bogany. Is there a second? I'll second the motion.
10 Discussion?

11 MR. SALINAS: You know, why should we be
12 responsible now to hold those tax credits, and then in
13 April you have nobody. In April we're just losing time
14 ourselves here. And you put us in that position here,
15 that now we have to kind of fund it or else you lose
16 \$800,000. And you want us to kind of feel bad about that
17 project.

18 And we're here to make decisions and who's
19 going to do the best project for the state and for us.
20 And here, you know, you want an extension, a second
21 extension for April. I get funny feelings that you're not
22 going to be able to get that project through in April.

23 MR. CONINE: Well, let's ask the question to
24 again refresh my memory. If they made the carryover
25 requirements -- staff?

1 UNIDENTIFIED: Yes?

2 MR. CONINE: If they made the carryover
3 requirements, failed to get the thing done and closed, we
4 get the credits back at some point. What point would that
5 be? Would that be April?

6 MR. BURRELL: That'll be in January. If you
7 all approve it today, then they still have until January
8 15.

9 MR. CONINE: No, assuming that we grant the
10 extension -- let's just make that assumption just for a
11 minute -- the deadline becomes 4-1-02. Then the credits
12 come back, we go back to the waiting list at that point?

13 MR. BURRELL: No, next year.

14 MR. CONINE: But we don't "lose" the credits?
15 Okay, so we won't lose the credits, it just gets to the
16 next deal. So --

17 MR. SALINAS: I'll support it if you don't come
18 back in April for another extension. You know, if you
19 don't get that done, don't come back. And we'll keep our
20 credits and then later on -- I think it's a fair deal for
21 us to work out here. I mean, a third extension would
22 be -- I mean, wouldn't be a good thing for us to do. If
23 you're saying that by April you don't have anything done,
24 you won't come back and ask us for a third extension.
25 Would that work?

1 MR. FIELDS: That's fair.

2 MR. SALINAS: That's fair. Okay.

3 MR. CONINE: Any other discussion? All those
4 in favor of the motion say aye.

5 (A chorus of ayes.)

6 MR. CONINE: All opposed?

7 (No response.)

8 MR. CONINE: Motion passes. Thank you.

9 Item 3(c) -- Mr. Burrell, are you going to do
10 these?

11 MR. BURRELL: Yes, sir. Item 3(c), the first
12 that we have is Westchester Woods Apartments. Westchester
13 Woods is a tax-exempt bond project. The bond issue will
14 be [indiscernible] Housing Finance Corp. The applicant
15 has requested 662,124. We're recommending that there be
16 an allocation of 663,155. Of course, that recommendation
17 comes from our underwriting division tax credit staff, and
18 from the Executive Award and Review Committee.

19 The reason that we're recommending a little bit
20 more than they had requested is because there was an
21 adjustment in their applicable rate from the time that
22 they submitted up through the time that it was
23 underwritten.

24 This will be a 250-unit apartment complex, of
25 which 248 units will actually be occupied by low-income

1 housing. Tenants on this one -- it will be located in
2 Pflugerville, and the interim construction financing will
3 be provided by ARCS Commercial Mortgage Corp. There will
4 be 15 million in tax-exempt bonds issued, and one million
5 in taxable. And the proposed syndicator is First Union
6 Affordable Housing, where they are offering a net
7 syndication rate of 83 cents.

8 MR. CONINE: Do I hear a motion for approval?

9 MR. BOGANY: I move.

10 MR. GONZALEZ: Second.

11 MR. CONINE: There's a motion by Shad and a
12 second by Vidal on 011451 Westchester Woods. Any other
13 discussion? All those in favor say aye.

14 (A chorus of ayes.)

15 MR. CONINE: All opposed?

16 (No response.)

17 MR. CONINE: Passes. Next?

18 MR. BURRELL: Next will be Fallbrook
19 Apartments. This is a proposed complex in Houston. A Mr.
20 Onion with our Multifamily program made a proposal earlier
21 this morning.

22 MR. CONINE: Do I hear a motion for approval?

23 MR. BOGANY: So moved.

24 MR. CONINE: Mr. Bogany made a motion.

25 MR. SALINAS: Second.

1 MR. CONINE: Mr. Salinas seconded the motion
2 for 01452, Fallbrook Apartments. Any discussion? All
3 those in favor say aye.

4 (A chorus of ayes.)

5 MR. CONINE: All opposed?

6 (No response.)

7 MR. CONINE: Next?

8 MR. BURRELL: Next will be the Oaks at Barton
9 Creek. That's here in Austin on South Congress in the
10 7400 block. This would be a 150-unit complex. The bond
11 issuer on this deal is Austin Housing Finance Corp. On
12 this one, the interim to permanent financing will be
13 provided by Sun America. That will be 6.5 million in one
14 series of tax-exempt bonds, 900,000 in a taxable series,
15 and then a 1,860,000 in another taxable series.

16 MR. CONINE: Do I hear a motion for approval?

17 MR. BOGANY: I move that --

18 MR. CONINE: Second?

19 MR. GONZALEZ: Second.

20 MR. CONINE: There's a motion for approval by
21 Mr. Bogany, second by Mr. Gonzalez that we do an 01453
22 Oaks at Barton Creek. Any discussion? All in favor say
23 aye.

24 (A chorus of ayes)

25 MR. CONINE: All opposed?

1 (No response.)

2 MR. CONINE: Passes. Next?

3 MR. BURRELL: Next is Circle S Apartments,
4 which will also be in south Austin. The address would be
5 7201 through 7401 South Congress. The bond issuer is
6 Travis County Housing Finance Corp. It's a 200-unit
7 complex. On this one, the interim to permanent financing
8 will be provided by Charter Mac. There will be 9.3
9 million in tax-exempt bonds, and 2.2 million in taxable
10 that's proposed. And the syndicator is First Union, and
11 they are providing a net syndication rate of 79 1/2 cents.

12 MR. BOGANY: So moved.

13 MR. GONZALEZ: Second.

14 MR. CONINE: Okay. There's a motion and a
15 second. Motion by Mr. Bogany, second by Vidal. I
16 inadvertently forget that we had a couple of public
17 comments on a couple of items on 3(c), one of them Nicole
18 Flores.

19 Would you like to make a public comment here?

20 MS. FLORES: Good morning, Mr. Chairman,
21 members of the Board. My name is Nicole Flores with
22 Madhouse [phonetic] Development Services, and I'm here
23 this morning representing One SDI Limited, the applicant
24 for TDHCA project number 01458, the Circle S Apartments
25 located in Austin, Texas.

1 I'd like to start by thanking the Board for the
2 opportunity to speak on this project this morning. I'd
3 like to thank the tax credit program staff and the
4 underwriting staff for their timely and careful
5 consideration of this transaction that got us to this
6 Board meeting so quickly.

7 Fortunately, we have been recommended for a
8 credit allocation this morning. I would like to point out
9 that this is a tax-exempt finance action, which comes with
10 4 percent tax credits that do not affect the credits that
11 are available under the 9 percent volume cap. This deal
12 is 200 units of housing that is critically needed here in
13 the city of Austin.

14 Unfortunately, the credit amount that is
15 recommended by staff of 321,000 is a significant reduction
16 from the original requested amount of 484,000. It
17 resulted in a net decrease of \$160,000 per year, and a
18 \$1.6 million [indiscernible] overall to the transaction.

19 This credit amount as recommended effectively
20 terminates this deal. It will not be financially
21 feasible. Fortunately, we have a basic agreement on the
22 numbers between the underwriting department and the
23 development team. The primary issue that affected the
24 adjustment of the tax credits was its termination of the
25 land value itself.

1 The development team is confident that, with
2 additional information submitted to the department, the
3 department could reinstate the original land value of \$1.2
4 million. It's my understanding that Senate Bill 322
5 precludes staff from considering additional information on
6 this transaction because the underwriting report has been
7 published on the Internet and is available to the public.

8 So one of the reasons I'm in front of you today
9 is to request that you ask staff to consider additional
10 information. There is an identify of interest that exists
11 between the applicant and the land seller on this
12 transaction. Because of that identity of interest, the
13 development included -- they clearly identified this
14 identify of interest throughout the application, and
15 included the appraisal and other documentation as
16 required.

17 The appraisal supported a \$1.3 million
18 valuation on this land. The applicant has requested a
19 \$1.2 million valuation, which is supported by the
20 appraisal in the other documentation. The underwriting
21 staff established the value of the land at \$461,000,
22 disregarding the information that was available to them in
23 the appraisal. The staff did not have knowledge of the
24 process that occurred to entitle this land since the time
25 it was acquired, and I'd like to just briefly walk you

1 through the chronology of what happened with this land
2 from the time it was acquired by the land seller until the
3 time it was sold to the partnership and the applicant.

4 The land seller originally contracted for this
5 land in May of 2000. At that point, this land was six
6 single family unplotted irregular lots in south central
7 Austin. I know many of you are not from Austin, but if
8 you've heard the stories of how difficult it is to entitle
9 land here, you can understand the value-added process that
10 occurs.

11 The developer took this land from its previous
12 state of six single family lots, went through a rezoning
13 process, worked with neighborhood groups. After that
14 zoning occurred, went through the site development
15 process, and proceeded to entitle this land, thus
16 rendering the original acquisition price of 435,000 as
17 immaterial to the value today. The purchase price of
18 435,000 that is the basis for the underwriting
19 department's land value is not a valid value for this
20 property. This property is now entitled. It is now a
21 single multifamily parcel, and has gone through a lengthy
22 process in the years since it was acquired.

23 Based on this, there has been a dramatic
24 increase in the land value. It has gone from the \$435,000
25 acquisition price as single family lots, through an

1 entitlement process, through a zoning process, and valued
2 today at \$1.3 million.

3 Because of this, we're respectfully requesting
4 that the Board please redirect staff under the auspices of
5 322 to reconsider this -- to not recommend the 321,000 in
6 tax credits but instead allow the development team to
7 submit the additional data, which would include the survey
8 of the original lots and their configurations, the new
9 plat, additional supporting documentation from the land
10 appraiser, including comps that show similar land
11 transactions in the area, whereby a single family parcel
12 or an unzoned parcel went through the entitlement process,
13 was purchased pre-entitlement, resold post-entitlement,
14 and supported significant increases in land value.

15 So we're asking that the Board -- I understand
16 you've taken action on this item, but I'm asking that you
17 reconsider this item and instead redirect staff to re-
18 view it and bring it back to you in January.

19 MR. CONINE: We haven't taken any action on it,
20 have we? We got a motion on it?

21 MS. FLORES: Oh, I apologize. I thought the
22 motion had closed.

23 MR. CONINE: Okay. Any questions of Ms.
24 Flores?

25 MR. BOGANY: Well, no, I have question of

1 staff? What's your thoughts on the additional
2 information?

3 MR. BURRELL: We would welcome obtaining
4 additional information so that we could reevaluate, see if
5 there was a way to substantiate the increased --

6 MR. SALINAS: Would that allow you? The Senate
7 Bill 322 would allow you to give her --

8 MR. BURRELL: We could accept some additional
9 information.

10 MR. SALINAS: But she's saying you're saying
11 that it doesn't allow --

12 MS. FLORES: I'm saying that because the
13 underwriting report was published on the Internet as a
14 precursor to this Board meeting, Senate Bill 322 precludes
15 staff from taking any action until the Board considers it
16 at a Board meeting. And that's what I understand from
17 staff.

18 MR. CONINE: So if we redirect staff, you bring
19 it back next month or so, or whenever they get finished,
20 and it won't hurt the deal. The seller is staying still.

21 MS. FLORES: Yes, sir. We have actually until
22 February 2 to close the tax-exempt financing. We have a
23 tentative closing date of the 25th of January. So we
24 specifically work with staff, and again I want to thank
25 them for their timely consideration to come to this Board

1 meeting so that we would have plenty of time to get the
2 financing in place.

3 MR. CONINE: Would the maker of the motion like
4 to withdraw their motion?

5 MR. BOGANY: I'd like to withdraw that motion.

6 MR. CONINE: Would you like to make another
7 motion?

8 MR. BOGANY: I'd like for staff to relook at
9 the additional information and bring it back up at the
10 following Board meeting.

11 MR. CONINE: That's on 01458, Circle S
12 Apartments, correct?

13 MR. BOGANY: Uh-huh.

14 MR. CONINE: Is there a second to that motion?

15 MR. GONZALEZ: Second.

16 MR. CONINE: Mr. Bogany and Mr. Gonzalez made a
17 second. Is there any other discussion?

18 MR. SALINAS: Would this item be dead or
19 tabled?

20 MR. CONINE: We would just ask staff to go
21 read --

22 MR. BURRELL: Primarily table it till --

23 MR. SALINAS: Because we need somebody's motion
24 to also table this item for next month.

25 MR. CONINE: You wanted staff to go reconsider

1 the information and bring it back next month.

2 MR. SALINAS: Table it? Table this item here?

3 MR. BOGANY: We could table it. I mean, you
4 cant do it either way.

5 MR. SALINAS: Yes, that and the information.
6 You need to do something with this item It's a for action
7 item.

8 MR. BOGANY: All right. Once again, I'd like
9 to withdraw my motion. And what we'd like to do is table
10 this motion for staff to reconsider the additional
11 information, and if it's appropriate, bring it back up at
12 the next Board meeting.

13 MR. GONZALEZ: Second.

14 MR. CONINE: Let me finish this one first,
15 please. All right. There's an amended motion now on the
16 floor, and did you agree to the second?

17 (No audible response.)

18 MR. CONINE: Okay. Amended. Any other
19 discussion? All in favor say aye.

20 (A chorus of ayes.)

21 MR. CONINE: All opposed?

22 (No response.)

23 MR. CONINE: Thank you.

24 MS. FLORES: Thank you very much. I appreciate
25 your consideration of this issue.

1 MR. CONINE: You're welcome. I also
2 inadvertently skipped Tim Merriweather.

3 Would you like to come up?

4 MR. MERRIWEATHER: It would be difficult to
5 improve on Ms. Flores' presentation.

6 MR. CONINE: Okay. All right. Thank you very
7 much.

8 I think I'm finished with Item 3(c). Item
9 3(d)'s been pulled from the agenda. Move on to Item 3(e).

10 MR. BURRELL: Under Item 3(e), the Executive
11 Board and the Review Committee is recommending to the
12 Board that you grant approval to the executive director to
13 execute the 2001 Tax Credit Carryover Allocations before
14 our December 31 carryover deadline.

15 What's happening is, as we're going through our
16 carryover, there might be a few cases where developers
17 need to make adjustments, and we have to try and get those
18 adjustments made before the end of the year without having
19 to bring it back to the Board. So we need to get the
20 Board to give the authority to the executive director.

21 MR. CONINE: What kind of adjustments are we
22 talking about? Give me an example.

23 MR. BURRELL: We might have someone that needs
24 to reduce the number of units for some reason, say for
25 zoning or for some type of city ordinance. They might

1 have to reduce a few units, so they would come to us with
2 a carryover with that reduction, and we would actually be
3 able to grant reduction if it's practical and feasible.
4 But the executive director would actually make that
5 decision, and then we could re-underwrite and make a
6 reduction in credits, if necessary. That way we can still
7 have them make carryover without killing the entire deal.

8 We can just reduce credits if necessary. In some cases,
9 credits might stay the same, so that all depends on the
10 underwriting.

11 MR. SALINAS: I move for the approval.

12 MR. BOGANY: Second.

13 MR. CONINE: There's a motion for the approval
14 by Mr. Salinas and a second by Mr. Bogany. So the
15 adjustment would be a downsized adjustment, not an upsized
16 adjustment.

17 MR. BURRELL: It's downsized.

18 MR. CONINE: Another area that I hope in next
19 year's QAP we can get a little clearer is, we get a lot of
20 moving parts here, and when you vary too far from the
21 original submission and what the score was based upon and
22 what the environment was at the time that we go through in
23 the spring -- we go through all this spring and summer,
24 and then we get to the tail end and the project doesn't
25 look a whole lot like it was originally intended to. I

1 have a large problem with that.

2 So I know this isn't probably the time to do
3 that, but I want staff to note this concern of mine. I
4 know the internal auditor's going to go back and take a
5 look at some of these projects in the past and compare
6 their original submission to their ultimate realization
7 and see how far off they were. So I want to make sure for
8 the record that we understand that the Board has a concern
9 in that area.

10 MR. BURRELL: We are looking for ways now to
11 tighten that up so that there's not that much of variance,
12 especially without you all knowing about it beforehand.

13 MR. CONINE: Any other comments or discussion
14 on 4(e)? I believe there's a motion on the floor. All
15 those in favor say aye.

16 (A chorus of ayes.)

17 MR. GONZALES: I missed the motion. I was out.

18 MR. CONINE: I'll restate the motion.

19 MR. SALINAS: To authorize the executive
20 director to --

21 MR. CONINE: The acting executive director on
22 4(e) to go ahead and do the carryover allocation before
23 December 31, I believe. We'll revote that one more time.
24 All those in favor of the motion say aye.

25 (A chorus of ayes.)

1 MR. CONINE: All opposed?

2 (No response.)

3 MR. CONINE: Carry on. Okay, Item 4(a).

4 Mr. Bogany?

5 MR. BOGANY: Program Committee met this morning
6 and we have brought up several programs we'd like to
7 recommend for Board approval. Item 4(a), approval of 2001
8 HOME Program CHDO Set-aside Rental Housing Development
9 Recommendation for Award, 20010149, East Austin Economic
10 Development Corporation, Region 7, Score 212, 20 units,
11 999,890, and Programs Committee recommended approval.

12 MR. CONINE: Set in form of a motion?

13 MR. BOGANY: Yes, sir.

14 MR. SALINAS: Second.

15 MR. CONINE: There's a motion and a second by
16 Mr. Bogany, second by Mr. Salinas that we approve Item
17 4(a). Any discussion?

18 (No response.)

19 MR. CONINE: All those in favor say aye.

20 (A chorus of ayes.)

21 MR. CONINE: All opposed?

22 (No response.)

23 MR. CONINE: Continue on.

24 MR. BOGANY: Program Committee recommends St.
25 John Colony Neighborhood, Region 7, Score 211, 36 units,

1 Award, 324,000. We recommend approval to the Board.

2 MR. SALINAS: Second.

3 MR. CONINE: There's a motion made by Mr.
4 Bogany, seconded by Mr. Salinas for the St. John Colony
5 Neighborhood. Any other discussion? All those in favor
6 say aye.

7 (A chorus of ayes.)

8 MR. CONINE: All opposed?

9 (No response.)

10 MR. BOGANY: Foundation Communities,
11 Incorporated, Region 7, score was 158. They had 85 units,
12 award of \$1,000,000, and Program Committee recommended
13 approval.

14 MR. SALINAS: Second.

15 MR. CONINE: Motion by Mr. Bogany, second by
16 Mr. Salinas on the Foundation Communities, Inc. award.
17 Any discussion? All those in favor say aye.

18 (A chorus of ayes.)

19 MR. CONINE: So ordered.

20 MR. BOGANY: In 4(b) we had approval of the
21 2002 State of Texas Low Income Housing Plan and Annual
22 Report. We recommended approval to the Board.

23 MR. SALINAS: Second.

24 MR. CONINE: Motion and second to approve Item
25 4(b), the 2002 State of Texas Low Income Housing Plan and

1 Annual Report. Any discussion? All those in favor say
2 aye.

3 (A chorus of ayes.)

4 MR. CONINE: All opposed?

5 (No response.)

6 MR. BOGANY: Approval of 2002 State of Texas
7 Consolidated Plan -- One Year Action Plan. Program
8 Committee recommended approval.

9 MR. SALINAS: Second.

10 MR. CONINE: Motion by Mr. Bogany, second by
11 Mr. Salinas that we approve the 2002 State of Texas
12 Consolidated One Year Action Plan. Any discussion? I
13 have one that I'd like to bring up if I might, Mr. Bogany.

14 MR. BOGANY: Yes, sir.

15 MR. CONINE: And the appropriate staff, I
16 guess, could come forward, Ms. Cedillo.

17 On page 50 in the Rental Housing Development
18 section, we seem to be targeting this program, which I
19 think to my knowledge has changed from inviting both -- in
20 the Rental Housing Development Program, inviting both
21 nonprofit and for-profit participants in this program, to
22 just CHDOs, and I guess my concern is that we are
23 eliminating some of our for-profit guys out there who have
24 done a good job with this program in the past, and I would
25 like staff to comment on that and see about making an

1 amendment.

2 MS. CEDILLO: I'd like to ask Pam Morris.

3 MS. MORRIS: I'm Pam Morris. We did do a
4 thorough analysis of our activities, our legislation, of
5 the previous subscription of what we've had in demand over
6 the program with the last couple of years. And being that
7 our focus is now nonparticipating jurisdiction, pretty
8 much all of the programs will go into rural areas.

9 And the fact that we have a 15 percent CHDO
10 set-aside that's a requirement by HUD, we've been
11 concerned because of the undersubscription we continue to
12 have with the CHDO set-aside and even more so now that
13 they will be limited to the nonparticipating jurisdiction
14 areas.

15 Taking that into account, and taking the
16 oversubscription that we have on owner-occupied, the
17 special needs set-asides, home buyer assistance, TBRA, the
18 other activities that we serve -- it's very hard to find
19 an easy way to achieve all the goals and all the needs
20 from everyone, legislative-wise and department-wise goals.

21 Preservation is important, and the department
22 is looking as a whole to try to figure out how we can fund
23 that mandate. But we also have a colonia model
24 subdivision that there were limited funds. We pulled some
25 of that in out of CHDO funds to go toward that

1 legislation. Special needs, we increased because of the
2 demand that we had last year and the fact that we couldn't
3 fund everyone that we had apply in special needs.

4 And it gets to the point that we have to try to
5 narrow down to the activities that we've got the most
6 demand on, and that is just the fact of it. And CHDO is
7 something we fall short on, and we're trying to get our
8 applicants to direct their activity toward the CHDO and
9 those collaborations to try to keep those monies going so
10 we're not at risk of having to return any funds back to
11 HUD if we don't expend enough of our CHDO set-aside in the
12 rural areas.

13 MR. CONINE: Well, my concern was that, one,
14 that we again are eliminating a certain sector of the
15 private sector, if you will, that have done a good job in
16 this area, and that potentially we are violating a section
17 of the U.S. Code on the HOME money just in general. Can
18 we not make an amendment to get our for-profit guys back
19 into this program, and then instruct staff to work with
20 the various trade groups out there that deal with the
21 CHDOs to try to get an interest in this particular program
22 so that we can meet our legislative 15 percent goal but
23 still meet the letter of the law and not be subject to
24 some potential liability under the U.S. Code.

25 MS. MORRIS: This certainly -- the decision of

1 the Board and Ms. Cedillo as to how we change the
2 Consolidated Plan and those set-asides. We do have for
3 profits that apply, and Homebuyer Assistance is primarily
4 where they would focus on for single family development.

5 We did fund four demonstration awards last year
6 out of that demonstration fund set-aside. They were
7 approximately about 300,000 apiece.

8 You know, it's when you're oversubscribed in
9 the other activities so severely, and you get the 30
10 percent and below for our goal for the agency, of which
11 HOME was able to pull close to 25 million in the last
12 cycle because of the activities we had, I think we can
13 even do a better job by the structure we have. But that's
14 certainly up to the Board as to how --

15 MR. CONINE: Mr. Bogany, would you accept an
16 amendment to your motion that would include for-profit
17 entities and encourage staff to go solicit the CHDOs out
18 there to be involved in this program to meet the 15
19 percent set-aside?

20 MR. BOGANY: Yes, I would.

21 MR. CONINE: But do you second or agree to that
22 amendment? Who seconded that motion?

23 MR. SALINAS: I did.

24 MR. CONINE: Did you agree to that --

25 MR. SALINAS: Why do you have a problem with

1 the private sector?

2 MS. MORRIS: Oh, it's not that at all.

3 MR. SALINAS: You don't have any problem with
4 the private sector?

5 MS. MORRIS: It's not that at all. It's trying
6 to just narrow down to where we see the highest demand in
7 what we get in, and trying to achieve, like I said, the 30
8 percent and below rider owner-occupied --

9 MR. SALINAS: It won't misguide you out of the
10 plan that we've just approved this morning?

11 MS. MORRIS: Well, we'll have to remove a
12 percentage of what's been structured to set-aside for
13 demonstration. We don't have that in the plan, so it
14 would --

15 MR. SALINAS: You would meet your goals anyway?

16 MS. MORRIS: I'm sorry?

17 MR. SALINAS; You would still meet the goals
18 that we talked about this morning?

19 MS. MORRIS: We'd have to reanalyze it a bit,
20 but you would pull a percentage out, and a percentage
21 would have to be dictated for demonstration fund, as it
22 was last year, which was 10 percent. So we would pull
23 that off of the top like we did for the CHDO set-aside and
24 for the colonia model subdivision we pulled out. Or
25 actually, that was within the CHDO set-aside. But we had

1 to determine what percentage you want for that
2 demonstration fund.

3 MR. SALINAS: I'll second this amendment. I
4 don't have any -- I mean, private sector is --

5 MR. CONINE: There's an amended motion now on
6 the floor that both the maker and the seconder have agreed
7 to the amendment. Any further discussion?

8 (No response.)

9 MR. CONINE: If not, all those in favor of the
10 amended motion signify by saying aye.

11 (A chorus of ayes.)

12 MR. CONINE: Opposed?

13 (No response.)

14 MR. CONINE: Thank you, Ms. Morris.

15 Mr. Bogany? 4(d), I believe.

16 MR. BOGANY: Approval of 2002 TDHCA Regional
17 Allocation Formula. Program Committee recommended
18 approval.

19 MR. SALINAS: Second.

20 MR. CONINE: There's a motion on the floor from
21 Mr. Bogany, second by Mr. Salinas, approval of the 2002
22 TDHCA Regional Allocation Formula. Any other discussion?
23 Just out of curiosity, does that include the 2003
24 carryforward or the 2002 carryforward?

25 MR. BOGANY: I thought it was 2002.

1 MR. CONINE: Does that come up in this
2 particular item -- the issue that we talked about earlier?

3 MS. BOSTON: Brooke Boston again. The
4 calculations of the regional allocation formula by Housing
5 Resource Center looks strictly at the IRS allocation for
6 the year, which is -- so, for instance, for 2002 coming
7 up, it's going to be roughly \$39 million.

8 MR. CONINE: This sets the targets.

9 MS. BOSTON: Right. And then how it's handled
10 beyond the targets is what was debated earlier.

11 MR. CONINE: Got you. Motion on the floor.
12 Any other discussion?

13 (No response.)

14 MR. CONINE: If not, all those in favor of the
15 motion please signify by saying aye.

16 (A chorus ayes.)

17 MR. CONINE: All opposed?

18 (No response.)

19 MR. CONINE: So ordered. Thank you, Mr.
20 Bogany. Appreciate your work on that committee.

21 Item 5, Presentation and Possible Approval from
22 the Finance Committee. 5(a) -- we can walk through this
23 right quick. The Finance Committee heard this morning all
24 the issues in front of you. Item 5(a) is the Approval of
25 the Sale of Collateralized Home Mortgage Revenue Bonds,

1 Series 1991A, Ginnie Mae Mortgage Certificates and Other
2 Related Matters. The Finance Committee recommends
3 approval, and I'll make that as a motion.

4 MR. BOGANY: Second.

5 MR. CONINE: A motion and a second. Any
6 further discussion? All those in favor say aye.

7 (A chorus of ayes.)

8 MR. CONINE: All opposed?

9 (No response.)

10 MR. CONINE: Item 5(b), the Additional Funding
11 for the Single Family Down Payment Assistance Program and
12 Other Related Matters. The Finance Committee recommended
13 approval.

14 MR. BOGANY: Second.

15 MR. CONINE: Motion by Mr. Conine, second by
16 Mr. Bogany. Any other discussion? All those in favor say
17 aye.

18 (A chorus of ayes.)

19 MR. CONINE: All opposed?

20 (No response.)

21 MR. CONINE: 5(c), Approval of the
22 Recommendations Related to the Issuance of Taxable Junior
23 Lien Single Family Mortgage Revenue Bonds, Series 2002A
24 and other Related Matters, Program 58. Do I need to throw
25 away the resolution number on there or not? I don't think

1 so. Okay. Recommend approval, and I'll make that as a
2 motion.

3 MR. BOGANY: Second.

4 MR. CONINE: There's a second by Mr. Bogany.
5 Any other discussion? All those in favor say aye.

6 (A chorus of ayes.)

7 MR. CONINE: All opposed?

8 (No response.)

9 MR. CONINE: Item 5(e), Approval of Amendments
10 to Board, Resolution Number 01-50. Approval of
11 Multifamily Mortgage Revenue Bonds for the Hillside
12 Apartments and Other Related Matters. And I think we need
13 to make this a motion subject to the Vice Chairman being
14 able to sign the bond resolutions later on today since the
15 Chairman is not here.

16 Thank you, Mr. Onion.

17 And hopefully the Vice Chairman is capable of
18 pulling that off. I'm not sure.

19 There's a motion by Mr. Gonzalez.

20 MR. SALINAS: Second.

21 MR. CONINE: Second by Mr. Salinas of Item
22 5(e). Any other discussion?

23 (No response.)

24 MR. CONINE: All those in favor say aye.

25 (A chorus of ayes.)

1 MR. CONINE: All opposed?

2 (No response.)

3 MR. CONINE: Item 5(f), Approval of the
4 Amendments to the Board, Resolution Number 01-51,
5 Approving the Issuance of Multifamily Mortgage Revenue
6 Bonds for Oak Hollow Apartments, again with the signature
7 of the Vice Chairman. Is there a motion?

8 MR. SALINAS: So moved.

9 MR. CONINE: There's a motion by Mr. Salinas.
10 Any second?

11 MR. BOGANY: Second.

12 MR. CONINE: Second by Mr. Bogany. Any
13 discussion?

14 (No response.)

15 MR. CONINE: All those in favor say aye.

16 (A chorus of ayes.)

17 MR. CONINE: All opposed?

18 (No response.)

19 MR. CONINE: And that's approved, and Item
20 5(g) -- we had that pulled from the agenda, so we'll take
21 no action on that particular item.

22 That moves us to the executive director's
23 report.

24 Ms. Cedillo.

25 MS. CEDILLO: Byron Johnson is going to give us

1 a presentation on the RMRB Series 2001, A through E,
2 Pricing and Closing, and then the Projected Single Family
3 Bond Issuance in 2002.

4 MR. JOHNSON: I'd like to ask if we may
5 postpone this until January. There was some handouts that
6 I wish to pass out to the Board, but due to the sheer
7 volume of data we have to put on the Internet, we couldn't
8 get those posted. And I just think it would be a much
9 better presentation if we have the handouts next month.

10 MR. CONINE: Okay with me. Okay with everybody
11 else?

12 Okay with you, Ms. Cedillo?

13 MS. CEDILLO: Okay.

14 MR. CONINE: Okay. Great. See you next month.

15 MS. RIPPY: Mr. Chairman.

16 MR. CONINE: Yes?

17 MS. RIPPY: I think you skipped an agenda
18 item -- (d) -- the Fallbrook transaction.

19 MR. CONINE: I apologize.

20 MS. CEDILLO: Sure did.

21 MR. CONINE: Thank you, Ms. Rippy, for bringing
22 that up. Let me go back to Item 5(d), Approval of
23 Proposed Issuance of Multifamily Mortgage Revenue Bonds
24 for the Fallbrook Apartments in Houston, Texas, in the
25 amount of \$15,135,000 and Other Related Matters. There's

1 a motion on the floor, and do we need Vice Chairman
2 authority on this one as well?

3 UNIDENTIFIED: Yes.

4 MR. CONINE: Would you accept that amendment,
5 or include that? Thank you very much. Mr. Gonzalez made
6 the motion; Mr. Bogany seconded it. Any discussion on the
7 Fallbrook Apartments?

8 (No response.)

9 MR. CONINE: My apologies for skipping it. All
10 those in favor say aye.

11 (A chorus of ayes.)

12 MR. CONINE: All opposed?

13 (No response.)

14 MR. CONINE: Anything else, Ms. Cedillo? I
15 don't believe we need an Executive Session today. Is
16 there anything else to come before the Board?

17 MS. CEDILLO: No, sir. Not at this point. We
18 just thank you.

19 MR. CONINE: Thank you, and thank all the
20 members of the Board for being here. We stand adjourned.

21 (Whereupon, at 12:15 p.m., the meeting was
22 concluded.)

C E R T I F I C A T E

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MEETING OF: TDHCA Board Meeting
LOCATION: Austin, Texas
DATE: December 12, 2001

I do hereby certify that the foregoing pages, numbers 1 through 92, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

12/27/01
(Transcriber) (Date)

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