TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Friday, August 19, 2005
Waller Creek Office Building
Room 437
507 Sabine
Austin, Texas 78701

BOARD MEMBERS:

BETH ANDERSON
KENT CONINE
SHADRICK BOGANY
NORBERTO SALINAS
VIDAL GONZALEZ
PATRICK GORDON

EDWINA CARRINGTON, Executive Director

I N D E X

2005-0214	El Paso Collaborative for Community and Economic Development	13	CFD	$500,000	$20,000	10
2005-0215	The Housing Authority of the City of Del Rio	11	CFD	$495,000	$19,800	9
2005-0216	Alianza Para El Desarrollo Comunitario, Inc. (El Paso)	13	CFD	$495,000	$19,800	9
				$2,490,000	$99,600	46

b) Discussion and Possible Action on Disaster Relief Program Recommendations: 149

Application Number	Applicant	Region	Activity	Project Funds Requested	Admin. Funds Requested	Units Requested
DR2005-0001	Wharton County	6	OCC	$500,000	$20,000	9
DR2004-0207	Newton County	5	OCC	$479,000	$19,160	13
DR2004-0209	Hardin County	5	OCC	$303,500	$12,140	5
DR2004-0210	City of Wharton	6	OCC	$495,000	$19,800	9
DR2004-0211	City of El Campo	6	OCC	$500,000	$20,000	9
				$2,277,500	$ 91,100	45

c) Presentation, discussion and possible approval of 2005 Single Family HOME Investment Partnerships Program Recommendations: 150

Application Number	Applicant		Region	Activity	Project Funds Requested	Admin. Funds Requested		Units Requested
2005-0008	Christian Community	3	Urban/E	TBRA	500,000.00	76.00	$500,000.00	41
2005-0015	Tri-County MHMR	6	Urban/E	TBRA	500,000.00	90.66	$343,209.00	34
2005-0141	Affordable Housing of	3	Rural	TBRA	494,232.00	78.00	$217,857.00	15
2005-0035	Housing Authority of	3	Urban/E	TBRA	250,000.00	73.00	$205,265.00	22
2005-0087	Buckner Children &	5	Rural	TBRA	200,000.00	88.50	$200,000.00	20
2005-0014	Tri-County MHMR	6	Rural	TBRA	250,000.00	91.00	$165,249.00	17
2005-0191	Bluebonnet Trails	7	Rural	TBRA	450,000.00	90.00	$106,154.00	11
2005-0194	Bluebonnet Trails	7	Urban/E	TBRA	450,000.00	90.00	$101,178.00	11
2005-0199	Marble Falls Housing	9	Rural	TBRA	500,000.00	77.00	$97,601.00	3
2005-0113	El Paso Community	13	Urban/E	TBRA	193,666.00	62.33	$93,793.00	10
2005-0005	Burke Center	5	Rural	TBRA	491,375.00	66.66	$62,907.00	6
2005-0195	Bluebonnet Trails	9	Rural	TBRA	50,000.00	91.00	$50,000.00	5
2005-0196	Bluebonnet Trails	9	Urban/E	TBRA	50,000.00	91.00	$50,000.00	5
2005-0213	Alpha Concepts, Inc.	5	Urban/E	TBRA	45,216.00	83.00	$43,155.00	4
2005-0006	Ellis Townhomes, Inc.	9	Urban/E	TBRA	500,000.00	82.00	$29,477.00	3
2005-0041	City of McKinney	3	Urban/E	OCC	500,000.00	77.00	$500,000.00	10
2005-0056	City of Groesbeck	8	Rural	OCC	500,000.00	94.00	$500,000.00	9
2005-0067	CDC of Brownsville	11	Urban/E	OCC	500,000.00	67.50	$500,000.00	10
2005-0081	City of San Benito	11	Urban/E	OCC	500,000.00	78.00	$500,000.00	16
2005-0096	City of Venus	3	Rural	OCC	500,000.00	96.00	$500,000.00	9
2005-0098	City of Splendora	6	Rural	OCC	500,000.00	97.00	$500,000.00	9
2005-0114	Laredo-Webb N'hood	11	Rural	OCC	495,000.00	81.00	$495,000.00	9

2005-0144	City of Taft	10	Rural	OCC	495,000.00	95.00	$495,000.00	9
2005-0145	City of Amherst	1	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0147	City of Nome	5	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0148	City of Turkey	1	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0150	City of Lone Oak	3	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0151	City of Malakoff	4	Rural	OCC	495,000.00	96.00	$495,000.00	9
2005-0152	City of Kemp	3	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0153	City of Berryville	4	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0155	City of Princeton	3	Urban/E	OCC	495,000.00	86.00	$495,000.00	9
2005-0156	City of Bronte	12	Rural	OCC	495,000.00	95.00	$495,000.00	9
2005-0159	Institute of Rural	3	Urban/E	OCC	495,000.00	78.00	$495,000.00	9
2005-0162	City of Hitchcock	6	Urban/E	OCC	495,000.00	83.00	$495,000.00	9
2005-0163	City of Bells	3	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0164	City of Bandera	9	Rural	OCC	495,000.00	95.00	$495,000.00	9
2005-0167	City of Miles	2	Rural	OCC	495,000.00	95.00	$495,000.00	9
2005-0172	City of Garrison	5	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0173	City of Odem	10	Rural	OCC	495,000.00	96.00	$495,000.00	9
2005-0174	City of Rising Star	2	Rural	OCC	495,000.00	97.00	$495,000.00	9
2005-0184	City of Van	4	Rural	OCC	495,000.00	94.00	$495,000.00	9
2005-0186	City of El Cenizo	11	Rural	OCC	495,000.00	92.00	$495,000.00	9
2005-0187	City of Asherton	11	Rural	OCC	495,000.00	96.00	$495,000.00	9
2005-0189	City of Wickett	12	Rural	OCC	495,000.00	95.00	$495,000.00	9
2005-0190	City of Carrizo Springs	11	Rural	OCC	495,000.00	90.00	$495,000.00	9
2005-0192	City of Encinal	11	Rural	OCC	495,000.00	87.00	$495,000.00	9
2005-0200	Housing Authority of the	11	Rural	OCC	495,000.00	81.00	$495,000.00	9
2005-0028	City of Nash	4	Urban/E	OCC	495,000.00	93.00	$492,463.00	9
2005-0178	City of Marble Falls	7	Rural	OCC	500,000.00	95.00	$424,616.00	8
2005-0083	City of San Marcos	7	Urban/E	OCC	500,000.00	72.00	$404,712.00	8
2005-0097	City of Willis	6	Rural	OCC	500,000.00	95.00	$396,397.00	7
2005-0149	Wharton County	6	Rural	OCC	495,000.00	95.00	$392,433.00	7
2005-0175	City of Yoakum	10	Rural	OCC	500,000.00	92.00	$364,039.00	7
2005-0007	City of New Braunfels	9	Urban/E	OCC	500,000.00	77.00	$317,909.00	16
2005-0169	City of Ingleside	10	Urban/E	OCC	275,000.00	92.00	$275,000.00	5
2005-0055	City of Whitney	8	Rural	OCC	500,000.00	93.00	$266,675.00	5
2005-0036	Ebenz Inc.	6	Urban/E	OCC	250,000.00	65.50	$250,000.00	5
2005-0115	City of Bellmead	8	Urban/E	OCC	250,000.00	90.00	$245,304.00	5
2005-0137	City of Center	5	Rural	OCC	300,000.00	92.00	$234,247.00	5
2005-0020	City of DeKalb	4	Rural	OCC	495,000.00	93.00	$223,683.00	4
2005-0127	City of Winnsboro	4	Rural	OCC	495,000.00	93.00	$223,683.00	4
2005-0161	City of Eustace	4	Rural	OCC	495,000.00	93.00	$223,683.00	4
2005-0134	City of Corsicana	3	Rural	OCC	200,000.00	94.00	$200,000.00	4
2005-0119	City of Denver City	1	Rural	OCC	500,000.00	96.00	$172,286.00	4
2005-0165	City of Plains	1	Rural	OCC	495,000.00	96.00	$170,564.00	3
2005-0071	City of Midland	12	Urban/E	OCC	150,000.00	73.00	$150,000.00	5
2005-0044	City of McCamey	12	Rural	OCC	330,000.00	77.00	$143,485.00	3
2005-0019	City of Socorro	13	Urban/E	OCC	255,299.20	89.00	$132,811.00	3
2005-0021	City of Daingerfield	4	Rural	OCC	275,000.00	93.00	$124,269.00	3
2005-0157	City of Dell City	13	Rural	OCC	495,000.00	96.00	$121,180.00	3
2005-0158	Hudspeth County	13	Rural	OCC	495,000.00	96.00	$121,180.00	3
2005-0170	Kendall County	9	Rural	OCC	495,000.00	91.00	$95,403.00	2

2005-0139	City of Bogata	4	Rural	OCC	200,000.00	93.00	$90,377.00	2
2005-0045	City of Stamford	2	Rural	OCC	165,000.00	88.00	$71,343.00	2
2005-0061	Webb County	11	Rural	OCC	500,000.00	79.00	$67,559.00	2
2005-0197	La Salle County	11	Rural	OCC	495,000.00	79.00	$66,884.00	2
2005-0198	City of Roma	11	Rural	OCC	495,000.00	79.00	$66,884.00	2
2005-0143	City of West Tawakoni	3	Rural	OCC	495,000.00	91.00	$10,889.00	1
2005-0070	City of Dublin	3	Rural	OCC	300,000.00	91.00	$6,599.00	1
2005-0037	Community Council of	11	N/A	ADDI	500,000.00	74.50	$500,000.00	50
2005-0039	Edinburg Housing	11	N/A	ADDI	500,000.00	71.00	$500,000.00	50
2005-0062	Temple Housing	8	N/A	ADDI	500,000.00	73.66	$500,000.00	48
2005-0112	Southeast Texas Housing	6	N/A	ADDI	500,000.00	70.13	$500,000.00	60
2005-0168	City of Mexia	8	N/A	ADDI	500,000.00	76.00	$500,000.00	50
2005-0140	City of Los Fresnos	11	N/A	ADDI	450,000.00	68.00	$450,000.00	45
2005-0182	El Paso Collaborative	13	N/A	ADDI	450,000.00	92.00	$450,000.00	50
2005-0002	FUTURO Communties,	11	N/A	ADDI	300,000.00	75.00	$300,000.00	30
2005-0082	City of San Benito	11	N/A	ADDI	300,000.00	86.00	$300,000.00	30
2005-0120	El Desarrollo	13	N/A	ADDI	300,000.00	83.00	$300,000.00	30
2005-0142	Travis County Housing	7	N/A	ADDI	214,500.00	75.00	$214,500.00	30
2005-0054	City of Whitney	8	N/A	ADDI	200,000.00	70.00	$200,000.00	20
2005-0004	Coto De Casa,	11	N/A	ADDI	190,000.00	92.34	$190,000.00	19
2005-0034	City of Bonham	3	N/A	ADDI	100,000.00	70.00	$100,000.00	10
2005-0103	City of Commerce	3	N/A	ADDI	100,000.00	72.00	$100,000.00	10
2005-0203	Kingsville Housing	10	N/A	ADDI	100,000.00	79.00	$100,000.00	15
2005-0069	La Gloria Development	11	N/A	ADDI	120,000.00	67.00	$54,752.00	6
2005-0059	Housing Authority of the	5	N/A	ADDI	50,000.00	68.67	$50,000.00	5
2005-0105	City of Mineola	4	N/A	ADDI	100,000.00	67.00	$45,626.00	5
2005-0086	Midland Habitat for	12	N/A	ADDI	40,000.00	88.00	$40,000.00	4

P R O C E E D I N G S

MS. ANDERSON: Good morning. Call to order the August 19, 2005 meeting of the Texas Department of Housing and Community Affairs governing board. First item of business is to call the roll.

Vice Chairman Conine.

MR. CONINE: I'm here.

MS. ANDERSON: Mr. Bogany.

He's in the area.

Mr. Gonzalez.

MR. GONZALEZ: Here.

MS. ANDERSON: Mr. Gordon.

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas.

MR. SALINAS: Here.

MS. ANDERSON: We have five members present at the moment and one on their way, so we do have a quorum.

Normally what we do at this point in the board meeting, of course, is begin public comment, but we have one very important agenda item this morning before public comment, and that is to recognize someone that pretty much everybody in this room knows and loves, Ms. Delores Groneck.

(Applause.)

MS. ANDERSON: And we're just getting started, so -- you know, Delores has already been honored by TAAHP in a very wonderful and fitting tribute at the TAAHP conference. I understand there was a great time had by all last night at a gathering that some of the members of the affordable housing family here in Texas hosted for her.

And this morning it's really the board's turn. But before that, I would like to read into the record a letter from state -- and a proclamation from State Representative Jose Menendez from San Antonio, who is on the urban affairs committee, our authorizing committee.

Dear Ms. Groneck, Having just learned of your upcoming retirement after over 21 years of public service to the citizens of Texas, I would like to add my appreciation and congratulations for a job well -- truly well done.

Throughout my tenure as a state representative and former San Antonio city councilman, I have had numerous occasions to work with the Texas Department of Housing and Community Affairs. Invariably, you were there to lend a courteous and helping hand, not only to me, but more importantly, to the thousands of citizens who depend on TDHCA for their housing needs.

Public service is a great challenge at any time, and the professionalism and dedication you brought to work every day will long serve as a model of excellence for those who will follow you. I want to personally thank you, wish you the very best in your future endeavors, and let you know that you will be missed by all of us here in Austin and across Texas. Warm regards, Jose Menendez.

(Applause.)

MS. ANDERSON: There will also be coming to you a certificate from the Texas House of Representatives that I have the pleasure of reading the text to you this morning:

Let it be known to all those present Delores Groneck, upon her retirement from the Texas Department of Housing and Community Affairs after more than 21 years of outstanding service to the citizens of Texas, is hereby recognized and commended by the Texas House of Representatives.

As the executive assistant and board secretary, Delores Groneck has provided a measure of professionalism, courtesy and accomplishment that is in the finest tradition of public service. Her contributions to providing affordable housing opportunities to thousands of Texas citizens will continue to have a profoundly positive effect on the future of families for generations yet to come and will forever serve as an outstanding example to all.

With the very best wishes for the future and with profound appreciation for her many contributions, the Texas House of Representatives now hereby recognizes Delores Groneck as an outstanding Texan.

(Applause.)

MR. CONINE: It's my turn now. We got the House of Representatives; now we're going to the governor's office. We have a little proclamation from the governor that I'd like to read into the record as well as present to you:

The State of Texas governor: To all whom these present shall come, greetings; know ye that this certificate is presented to Delores Groneck. Congratulations on your retirement from the state of Texas after 21 years of service to the people of our state, including 15 years of dedicated service to the Texas Department of Housing and Community Affairs.

Public service is an honor, for its foundation is in the public trust. Daily, state employees earn this trust, demonstrating dependability, initiative and wise stewardship of public resources. Their endless dedication highlights that this state's greatest asset lies with the people who call it home.

Anita joins me in sending best wishes for an enjoyable and fulfilling retirement. Rick Perry, governor of the state of Texas.

(Applause.)

MS. ANDERSON: And now if I can ask my fellow board members to join me with Delores down on the -- behind this wall.

MR. CONINE: In front of everybody.

MS. ANDERSON: We're just like you all. We're all -- you know, more so, we're all going to miss you. And I don't know if you want to -- everybody has a little something they'd like to say.

MR. SALINAS: Well, Delores, I really want to thank you for everything you've done for us, and I'm really going to miss you myself. Thank you very much for everything you've done for us.

MR. GONZALEZ: Delores, a great friend. You should all -- keeping me in line and telling me what not to do, so -- appreciate it.

MS. GRONECK: Thank you.

MR. CONINE: As I said last night, we'll find somebody to take your place, but you'll never be replaced.

We all do appreciate it. Thank you very much.

MR. GORDON: Yes. Delores, thanks for everything. She kind of showed me the ropes. A funny story. I first got on the board. Delores calls my office and says, I'm Delores, and I'm -- I work with the executive director. I'm going to send you a few materials to get you up to date as a new board member. I said, Okay.

So two days later, four banker boxes show up. My secretary opens them up and says, I don't know if you know you got into --

MR. CONINE: Hold on. Just in time.

MS. ANDERSON: Yes. Mr. Bogany, we've all just sort of said our little piece to Delores.

MR. BOGANY: Well, you know, my thoughts about Delores I've told over and over. Love her and I'll miss her. And I've dealt with a lot of executive secretaries, but you're the best, and I just want to let you know that.

MR. GONZALEZ: One other comment. Delores -- after our confirmation hearings for Shad and myself, Delores talked us into staying on and not resigning.

MS. ANDERSON: So on behalf of the board, Delores, we have a little something for you.

(Opening gift.)

MS. ANDERSON: And it reads, With appreciation for your outstanding service, Delores Groneck, TDHCA, 1989 to 2005.

MS. GRONECK: Thank you.

(Applause.)

MS. GRONECK: Mr. Bogany, thank you. You've been so great to me, and I just admire all the standing up for what you believe in.

Mayor, keeping the colonias in our minds, people in South Texas. Keep fighting for them.

Ms. Anderson, thank you for keeping the board in line. For a while there was a time that I wouldn't leave because we were very low. I thought this agency was in bad shape, and I wouldn't leave. I didn't want to go out on a low. I wanted to go out on a high. I think it's there now.

With you and the rest of the board, I don't think you'll ever be in trouble again like we were in the past. Thank you for your time, and thanks for taking up for staff.

Vidal, the banker, you're a great friend, and I appreciate all you've done for us. Thank you.

Pat, I'm glad you joined our board. I think it's good to have someone from El Paso, and I know you bring your expertise as an attorney and a CPA to this board. And thank you for your courtesies that you've given me.

Mr. Conine has been here for a long time, and He's done a lot for me. He's invited me to some events. I had to pay my own way, believe me, but -- that's the state way. But I did get to go and see him.

MR. CONINE: Had to pay for my coffee and donut.

MS. GRONECK: That's right. I got to see him when he was sworn in as president of the National Association of Homebuilders, and that was an honor for me.

I've worked with 32 board members, and I think eleven acting or full-time executive directors, and I couldn't run Ms. Carrington off like I did the rest of them, so --

I appreciate everything you have done for me, and I'll never forget you. Thank you.

(Applause.)

MS. ANDERSON: Well, I think that's a great way to start the day.

And I note for the record that Mr. Bogany has joined us, so we have six board members presents.

As is our custom, our first item of business is to take public comment. And I -- if you would like to make comment to the board in this meeting, please be sure that you've completed a witness affirmation form. There are some of those forms both outside and on Penny's desk here.

The first witness I have is Representative Corbin Van Arsdale.

MR. VAN ARSDALE: Thank you. I am state representative, district 130, and am here today representing some folks. Am I doing all the wires right? Am I talking -- okay -- here to represent some folks who live in northwest Harris County near the Tomball area.

It has to do with the Willow Creek project, which -- I've had a number of projects in my district since I've been elected. I've only been here two terms. And most of them have been uncontroversial and gone through just fine.

There have been a few that I've opposed on behalf of my constituents. But this one is different in that -- in the level of controversy and the level of opposition that's taken place. This is the second go-around on this particular project.

And I've had lots of constituents e-mail me specific flaws that they feel are in the paperwork, and I don't want to go into all that now, because I don't know if it's -- I haven't verified it. I'd prefer to do that in writing to the board.

And what I do want to say, just for the record quickly, is that this is the only project I've seen where every single elected official in the area has -- is -- has written in with opposition. And that includes the county commissioner, the state senator, the state representative, the school board president, the superintendent, the homeowners president.

And just -- even though you all don't live in Tomball, I'm just telling you that some of these folks rarely ever -- there are a couple of them that don't often take positions on things like this. And so that's -- that, to me -- this is a remarkable difference in this particular project, and I just wanted to share that this morning.

Also, I wanted to mention that Carson McCall's office is represented today by Victoria Miller. She will not be making public comments, but she is here.

And also, the last thing I want to say is I wanted to just thank you all for Robbye Meyer, who has been very helpful in getting information to us. And, you know, there's a lot of e-mails, obviously, that go on back and forth.

And just like we have to deal with -- I mean, constituents, when they don't like things, when they're getting their point across, sometimes they don't do it respectfully. And I just wanted to commend you all for Robbye. She puts up with a lot of treatment that she ought not to have to put up with.

It's one thing to say -- get your point across. It's something else to do it in a way that's disrespectful. And I just wanted to tell her that she needs a raise, so --

MS. ANDERSON: Any questions?

(No response.)

MS. ANDERSON: Thank you.

MR. VAN ARSDALE: Thanks.

MS. ANDERSON: Cynthia Bast.

MS. BAST: Good morning. I'm Cynthia Bast of Locke Liddell & Sapp, and we're here today representing the applicant for TR Blanca Apartments in Hereford, tax credit application number 05100. I'm sure you recall that in the past several board meetings, this board heard from the applicant for the Central Place Apartments, also in Hereford.

The applicant for Central Place alleged that he had been wrongfully advised by TDHCA staff that a housing finance corporation would not qualify as a local political subdivision for purposes of funding under Section 49.9(g)(5) of the QAP. As a result, the Central Place applicant did not pursue those points in his application.

The Central Place applicant presented his concerns to this board, and because of that extraordinary circumstance, the board voted to award his application the number of points that he would have received from the local political subdivision as if the applicant had rightfully applied for and received such points from the beginning.

As a result of this action by the board, Central Place received a commitment for tax credits. But the TR Blanca Apartments' application, which had been recommended for funding by the staff, was knocked out of the money and failed to receive a commitment. Thus, the harm that was caused by the staff error was cured as to Central Place, but a new harm was created as to TR Blanca, one that we believe should be remedied.

The purpose of my appearance today is by way of courtesy to advise the board that the applicant for TR

Blanca Apartments would like to seek alternative dispute resolution of this matter.

To highlight the argument briefly, I have prepared a chart that I will hand to you. It compares the Central Place and TR Blanca applications. You will see that both applicants started in the same place, in Hereford, Texas.

Both applicants asked the department whether a housing finance corporation would qualify as a local political subdivision. Both were told that a housing finance corporation would not qualify as a local political subdivision.

But you can see on the chart that this is where their paths diverged. The applicant for TR Blanca continued to pursue its opportunity with the panhandle regional housing finance corporation. The applicant for Central Place did not.

The applicant for TR Blanca made application to the housing finance corporation within the time frame required by the QAP. It received a response letter from the housing finance corporation within the time frame required by the QAP.

It continued to work with department staff to clarify the staff's definition of a local political subdivision. In short, TR Blanca went through the process the way it should and did everything right.

Please understand that TR Blanca does not have an axe to grind with the applicant for Central Place. This was stated by Ms. Kelly Hunt in her testimony at the July 27 board meeting when she requested a forward commitment for TR Blanca to cure this situation.

When TDHCA staff initially declared that a housing finance corporation would not qualify as a local political subdivision, TR Blanca forged ahead with the housing finance corporation anyway, and it pursued appropriate process with department staff. Eight other applicants did the same thing.

We understand this board's desire to correct the problem that was created for Central Place. But by doing so, it created an inequitable result for TR Blanca, an application that started in the exact same position with bad information from the department but worked through the process the way it should.

We appreciate your consideration of this matter, and we'll have our request for ADR to you as soon as possible. Thank you.

MS. ANDERSON: Thank you.

Granger MacDonald.

MR. MacDONALD: Good morning. I'm here once again to ask that on your next agenda that you place the issue of forward commitments as an agenda item and to discuss New Braunfels, Texas, again. As I told you at the last meeting, New Braunfels, Comal County has never had a tax credit property.

Later in your agenda today, you're going to review Mr. Volkler's letter about concentration. I fully support his discussions about concentration, and this is a perfect example of what we've had happening.

San Antonio has gotten all the credits for the region for the past four years. We've had three applications. We simply cannot score high enough due to the fact that we don't get HOME funds; we don't have organized neighborhood support.

Since the last meeting, when we didn't get credits, I was asked to take and review the possibilities of doing this project as a bond deal. Rural senior bond deals do not work. I think the only one that has been done, we did. It was very -- you know, it was extremely tight all the way along.

We looked at the numbers. If we get a housing trust fund loan, if we get HOME funds and partner with a not-for-profit, we still can't make it work as a bond deal. So literally what's happened is all the options to the city of New Braunfels in Comal County have been foreclosed to get a credit property.

I know that's not the intent of this board. I know that's not the intent of the QAP. I do think the intent of the QAP and the legislation -- I was asked if I'd been to the legislature with this problem. Four years ago, we successfully argued that the board had the opportunity to correct anomalies through forward commitments.

This is just that such anomaly, and I'd ask you to put it back on the agenda at your next board meeting for discussion.

MR. CONINE: Mr. MacDonald, do you know -- you said you had applied three times in New Braunfels. Do you know of how many other New Braunfels applications have been -- in the last ten years or so down there?

MR. MacDONALD: I know of six.

MR. CONINE: So there's been quite a -- this has a pattern of repeating itself, basically.

MR. MacDONALD: Yes, sir.

MR. CONINE: Okay. Thanks.

MR. BOGANY: I have a question for staff. And I guess to staff, why is an exurban working in San Antonio like some of the other areas that's beginning to get tax credits that didn't get them in the past? So what's going on with San Antonio -- and why we're not being able to have the same thing happen there?

MS. CARRINGTON: I would like to ask Ms. Boston to come up and address that question. This is something we have looked at, Mr. Bogany, very extensively.

MS. BOSTON: Brooke Boston, director of multifamily finance. In our review, the -- obviously, there's no way to categorically say exactly why it's not working, but our observations would be that two primary reasons are two categories of points.

Right now, the exurban points are below the nine highest items that we're required to statutorily scored based on. Two of those nine statutory items are quantifiable community participation, which is the neighborhood organization points, and funding from local political subdivisions.

In those cases, a lot of the small communities cannot get those points. Just -- they're non-PJ, so they don't get HOME funds. They don't have any local source, so they're immediately precluded from the points for Section 5.

And then if they don't have neighborhoods or a neighborhood whose boundaries include the development site, then they would also not be able to look for those points. Those two categories of points combined far exceed any point incentive we can give below the nine.

MR. BOGANY: Okay. So what if in the QAP -- that we give more points for an area that's never gotten them -- gotten a tax credit program?

MS. BOSTON: The amount of points you would need to give would need to be the combined 24 plus 18, which is the points for QCP and local, and we don't have the authority to add anything with points that big.

MR. BOGANY: Okay.

MS. BOSTON: Unfortunately.

MS. ANDERSON: If I remember right, also -- and I don't know if Steve Schottman is in the room.

MS. BOSTON: He is.

MS. ANDERSON: Would you come up here for a minute?

Steve wrote a very -- I asked about why the exurbans work, why the exurban communities are getting it in region 3 in Dallas and not in 9. And would you explain how you looked at that?

MR. SCHOTTMAN: I think the issue was that they are -- there's a lot more larger cities right around the

Dallases and other places that share market -- and for example, Dallas County, they get HOME funds just as Brooke had mentioned.

So any of the cities next to Dallas that have high market rates and everything else; they can offer lower rents; they have neighborhoods, they can compete with the Dallases.

But if you got a region like San Antonio, where you basically have San Antonio and then you've got not too many exurban places -- I think there's two or three, maybe Seguin and New Braunfels and that's --

MR. MacDONALD: And Kerrville.

MR. SCHOTTMAN: And Kerrville. That's basically it. So in this case, I think like Brooke was saying, they just -- those particular areas have a very difficult time competing under the current point structure, which is legislatively mandated.

MR. BOGANY: And I have a question for Brooke.

So Brooke, do we start a program for ex-exurban?

MS. BOSTON: I'm not sure if our acting council wants to address this. She was -- she and I were talking about this earlier today and her concern of adding any item that would be a set-aside or an additional allocation that is somehow different from the statutory requirement to regionally allocate.

I can't give you the legal description that she could, but --

MR. BOGANY: So how do we fix it? There's got to be a way to fix it. So, I mean, what's your suggestion, or do you have one?

MS. CARRINGTON: I believe that's up to the board, Mr. Bogany. And I think, you know, our answer is really in other areas of the state -- I think Houston, Dallas -- as Ms. Anderson has pointed out, this exurban concept has worked well.

I think when you look at the allocations in Houston, many of those are outside Houston proper, the major Houston area, as is true with Dallas. But I think as Mr. Schottman said, sort of the anomaly in the San Antonio area is you have San Antonio, and then you've got to go a ways to find some of these other communities that qualify as exurban.

But yet they're far enough away that they don't have the advantage of the higher rents; they don't have the advantage of the neighborhood organizations. And so San Antonio is receiving some different kind of treatment. That region is being treated differently by virtue of how the population has settled in that area.

MS. BOSTON: And Mr. Bogany, we did do a lot of research after listening to the public comment on our working groups, and staff did go back and try very hard to come up with a solution.

We looked at the suggestions from the public about potentially for QCP and local funding, granting the points if there was no opportunity for the local funding or if the QCP points weren't there. We didn't feel like that that's statutorily permissible, because it says you can give the points if you do that.

We looked at the concept of a set-aside. And again, our counsel advised that that's probably not something that we should do. So we've tried to look at all the avenues. We agree -- we kept going down that path. There's got to be a way to do this. And unfortunately, we haven't identified what that is yet.

MS. ANDERSON: May I get a sense from the members of the board about, you know, adding an agenda item for forward commitments at an upcoming board meeting?

MR. SALINAS: But you all have constantly said that we were not going to do anymore forward commitments, you know. And I've been telling you guys --

MS. ANDERSON: I know. That's why I'm --

MR. SALINAS: -- that we need to do that. I mean, cases come across like New Braunfels, and I can understand. How can they compete with San Antonio? Maybe you can do just another -- create another region for you. I mean, that would be a small region for them, New Braunfels, Kerrville and --

MR. MacDONALD: That would be quite all right, but I don't think we can get that in for last year's QAP.

MR. SALINAS: Well, I know. But I can understand your situation, doing -- having -- being close to San Antonio. We don't call San Antonio south Texas. You know that. It's part of central Texas.

MR. CONINE: I have one more question for Mr. MacDonald.

MS. ANDERSON: Yes, sir.

MR. CONINE: One of the two things that Brooke mentioned was city financial participation within the point structure to be able to get some of those points. Has New Braunfels come to you and offered any financial incentives in order to try to achieve those points, or are they just saying no way?

MR. MacDONALD: They just don't know how to. We're dealing with the level of sophistication in smaller communities where they don't -- they haven't gone to the trough, shall we say, previously for any type of funds. And they just don't have any funds to give.

You know, they'll yield parking lot requirements, things like that, things that are within their purview, but that's the extent of it.

MR. CONINE: They don't have a funny money kitty somewhere that they can --

MR. MacDONALD: No, sir.

MR. CONINE: -- help you out? Okay.

MR. SALINAS: But can we do former commitments for them on the next item on the agenda next meeting?

MS. ANDERSON: That's why I was asking, you know, does --

MR. SALINAS: Well, I'm all for it, so --

MS. ANDERSON: The first step would be to get your sense of the board's receptivity to putting a forward commitment agenda item on an agenda.

MR. SALINAS: I promise you I won't ask anything for the valley.

MR. CONINE: I'll take that bet.

MR. MacGREGOR: I'll go to work there next year. Okay?

MR. CONINE: Okay. I'm okay with putting in on there.

MR. SALINAS: I think we need to do something on the next item on the agenda.

MS. ANDERSON: All right. Looks like we have consensus.

MR. CONINE: We're going to have some other cases coming along before the day's over.

MR. MacGREGOR: Thank you.

MS. ANDERSON: Mr. J.J. Perez.

MR. PEREZ: Good morning. My name is J.J. Perez, and I work for the Bee Committee Action Agency in Beeville, and that's in the County of Bee.

Essentially what we got here is a concern. We received a letter that was faxed to us from the staff on August 11. And that specific letter indicated that they are -- we were going to be recommended for an award to the governing board in the amount of $275,000. So needless to say, we were very ecstatic.

Word got out real fast, and we got numerous calls from different homeowners very interested in having their houses rehabbed or reconstructed. And we did indicate to them that basically the letter indicated that it was just a recommended.

The following day, we received a letter recanting that recommendation indicating that there was some type of scoring correction that had not been applied, and it was required. So consequently, we were out of the picture, no longer in the recommendation process.

So we are concerned. And just like everybody else, there is a need for housing in Bee County. And we don't know exactly the mechanism behind the scoring correction, how it applied or how it affected Beeville, other than the fact that we were not recommended for an award.

So we're here simply to appeal to you to reconsider our application. And we would strongly appreciate that, if you would reconsider our application for the recommendation that's specified in our application. Thank you.

MS. ANDERSON: Thank you, sir.

Diana McIver.

MS. McIVER: Thank you. Chair, board, my name is Diana McIver, and I'm here today at this particular juncture on behalf of a property that I own in Llano. And I had written Edwina Carrington a letter back earlier this month in support of approving renewing TBRA vouchers for the Marble Falls Housing Authority and was disappointed to learn a few days ago that that had not been selected for that HOME TBRA funding.

Just wanted to know that in Llano we have 48 senior units. And our 60 percent rents are $370, which doesn't sound like a lot, but we actually have ten residents who are using those TBRA vouchers. And those residents, their monthly incomes are $550 to $600, so it's really important to be able to get out that TBRA money to those rural communities.

And I want to compliment the Marble Falls Housing Authority, because they do own a lot of competing properties to our Legend Oaks in Llano, but they've been very generous in making those vouchers available community-wide.

And I just came here to say if there's anything you can do to get some TBRA money out to the Marble Falls Housing Authority, there's a lot of folks out there that would benefit from it greatly. Thank you.

MS. ANDERSON: Thank you.

Mr. Mark Mayfield.

MR. MAYFIELD: Before my comments, I'd just once again like to wish godspeed to Delores in her retirement.

My name is Mark Mayfield. I'm the director of the Marble Falls Housing Authority. And again, just as Ms. McIver spoke of, we -- I find myself whining quite a bit about assistance programs. And, you know, the federal government has cut the housing choice voucher program, and it has a tremendous impact upon our housing authority.

Our housing authorities continue to expand because of growth in the communities that we represent, being Marble Falls and then a lot of other central Texas communities. We did -- because of the loss of housing choice vouchers through the federal program, we decided to engage in rental assistance programs through the tenant-based rental assistance program and were fortunate two years ago to receive some monies for a rental assistance program in Marble Falls, and we have engaged in that program, and the program has worked very well. The program is due to expire in March of next year.

And we have made, I guess, a tremendous mistake in offering this rental assistance to a lot of seniors. In fact, 40 of the 50 vouchers -- I use the term vouchers -- have gone to senior citizens, and now they're facing eviction because of a lack of ability to pay their rent.

There's one thing to require certain parameters for those to work under, employment, things such as that. But we have several that are in their 80s that I cannot make go get a job in order to meet their rental requirements.

And I get to face these folks face-to-face and tell them these things, and it's not easy. It is not easy at all. And I just hope that I have not made a tremendous mistake in applying for these and then having to spread the news I have to spread to them that there's no longer rental assistance available.

So if there's any way -- we applied this year in region 7 and also in region 9. Region 7 is where we have the ongoing assistance program going now. We do have property in region 7 now that we have developed as a housing authority. We were trying to get some rental assistance programs over there. There is none whatsoever.

The city of -- primarily in the city of Fredericksburg, where we have property -- there is no housing authority there. All the section 8 assistance has to come through us. That program -- or that application did receive a small allocation, three units.

And, you know, we would have to begin a program in that region with three units, and then we would have to stop our program in region 7. And it's just tough. It's a tough thing to do when you're a public housing authority director.

And so if there's any way that this money can be found, somehow or the other -- it doesn't go to us. You all know how the money is out there. This goes to direct services. We subsidize this program as a housing authority in order for it to be implemented.

There's no money to be made from a public housing authority's perspective with this program. And so if there's ever a program with integrity that we do as a housing authority, this is one that we do. So if there's any way possible, I would certainly appreciate it. Thank you.

MS. ANDERSON: Thank you.

Barry Kahn.

MR. KAHN: Good morning. A couple of things I'd like to bring up today. The first has to do with when public money notices are due under the new QAP. This past year it was due August 15, and it's moved forward to May 1 for next year.

The reason I bring this up is the cities and counties are going to have a real processing problem in most cases. With the city of Houston, we provided a letter, and the city didn't want to get started until they knew what the pecking order was for the tax credit allocations.

And the cities get -- you know, have anywhere from ten to 15 applications. They don't want to be processing, having to take to review councils at city council and then final city council the applications prior to the time that, you know, they know who's going to be getting credits and who isn't.

And you're putting a huge burden on these cities where they can't even do something in a preliminary sense. It has to be in an absolute final sense. And an absolute final sense isn't going to happen in most of these cases. Even with the August 15 date, it's a problem.

We created a new process this year in the city of Houston. The city of Houston, in order to give an absolute final commitment, has to have final loan documents. Well, final loan documents can't occur until you have the construction lender involved, because this is a junior lien to the construction lender. They're going to have to approve it.

And so the city of Houston's never had a process before where they've taken something to city council without final loan documents. Well, they created a process with taking a commitment this year, and they did a resolution.

Well, the resolution does have certain

conditions, which basically tie to final loan documents. And to expect final loan documents to be created before a construction loan is in place is a virtual impossibility. So we're kind of getting into a circle here which is going to be a real problem.

I've got this resolution here. They're giving us until June or July of next year to get final loan documents. That's when it's going to go back to city council. And until that time, it's not going to be an absolute final. But it did go to council. They did prepare a resolution behind the commitment.

And I want the board to consider how this can be incorporated and, you know, the staff to, you know, accept this type of letter, because I'm not sure where it can really go for anything final beyond this. But this comes back to the point May 1 is just too early for cities and counties, particularly in larger municipal areas, to get something that's in a final sense, which is, I think, what the board is looking for.

Secondly, I'd like to bring up the difficulty of getting letters from homeowners associations. And in the QAP, it's being brought up that the letter that's presented to the department -- the applicant can't assist with that letter.

Well, these homeowners associations aren't particularly sophisticated in many cases. They aren't -- many of them are not high-end neighborhoods. Many of the people are very blue collar workers, and they don't understand this process. It needs to be explained to them.

When they see three reasons, well, what type of reasons? I mean, their hands have to be held through this process, and to say an applicant can't do that hand holding in order to embrace the homeowners association seems to be, you know, not the intent of what the program is.

What I think the board and the department want to see and what the legislatures look for is for homeowners associations to embrace these applications, not to resist them, not to be upset, not writing letters and so forth.

So if they're happy and willing to support it, we've got to help them. They don't understand this process. It's very complicated. And to say that we can't assist them is, you know, something that's just not going to work.

There is a couple suggestions I'd also like to make. We've got concentration issues. And in order to qualify as a neighborhood association -- one can have a neighborhood association that's new, but if there aren't people living there yet -- for instance, let's say a developer's doing a 500-acre, you know, multi-use neighborhood, and he wants to embrace an elderly tax credit property.

That new neighborhood association can't support the property, because there aren't people living there, even though -- if it's in the early stages.

So I'd like for staff to consider incorporating a new rule and an exception to neighborhood associations that if the applicant has no relationship to the land developer, if the applicant's parcel of land is 5 or 7 and a half percent, whatever the number is, of the entire, you know, master-planned community, then that master-planned community can support a tax credit application.

Because we constantly hear this moving deals out of the center cities. And if exurban -- well, they aren't even exurban areas, necessarily, like in Harris County, because they aren't really any area. They aren't in an incorporated city.

So if something's out in Harris County, somebody's doing a 500-acre a thousand acre master-planned community, why can't they embrace at its early stages the support for a tax credit development there? And I'd like for staff to consider that. Thank you.

MS. ANDERSON: Thank you. Questions?

(No response.)

MS. ANDERSON: Robert Joy.

MR. JOY: Good morning. Robert Joy, Encinas Group of Texas. I just came here this morning not planning to speak, but after Mr. MacDonald's comments and Brooke's comments on the community participation and also the infusion of local funds, I thought I wanted to comment.

One thing in 2003, neighborhoods or projects that did not have a neighborhood organization got the average points that were given statewide. In 2004, those were not given at average, so any project that did not have a neighborhood organization was penalized against ones that did.

I understand your concern about New Braunfels. I think it's terrible they've never had a project. But there are other projects in the state that if they had gotten those community participation points would have also qualified and scored higher than other projects.

On the infusion of local funds, the issue there that Mr. MacDonald raised that isn't available -- where there's developers throughout the state that have either gotten through those same points through the waiver of fees, other things other than HOME funds and the items that you were discussing.

There are ways to get those points. You can also get a housing authority, which -- I'm sure New Braunfels has a housing authority. So there are ways to get those points. So it's not penalizing New Braunfels from that aspect.

But the community for neighborhood organizations does penalize them. And I think you should consider that though statewide, that there are a lot of projects that were penalized this year. Thank you.

MS. ANDERSON: Thank you.

That concludes the public comment for the beginning of the meeting, and then we will have additional public comment at particular agenda items.

Mr. Young, Mr. Orviss Young.

MR. YOUNG: Yes. My name is Orviss Young, and I'm here to serve each board member a subpoena for civil process. And I can serve the secretary, and she could, you know, provide them to the board.

MS. ANDERSON: Where's Anne?

Ms. Reynolds, he has introduced himself as a processor with subpoenas to serve on the board, and if you could --

MS. REYNOLDS: Let's go outside.

MS. ANDERSON: Thank you.

Let's proceed with our agenda. Item 1 is presentation, discussion and possible approval of minutes of the board meetings of June 27 and July 14.

Ms. Carrington. I'm sorry.

MS. CARRINGTON: It's the minutes.

MS. ANDERSON: Oh, I'm sorry.

MR. CONINE: Move for approval.

MS. ANDERSON: Thank you.

MS. GRONECK: Thank you.

MR. GONZALEZ: Second.

MS. ANDERSON: Hearing no discussion, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Item 2 is presentation, discussion and possible approval of housing tax credit items. The first is some extensions of construction loan closings.

Ms. Carrington.

MS. CARRINGTON: Thank you, Madam Chair.

We have four requests for extension on closing of construction loans. The first one was a 2004 allocation. It was a forward commitment from 2003, Palacio Del Sol. This is located in San Antonio. They have been working with HUD.

They are seeking a 221(d)(4) loan. I am told by the representative for the developer this morning that they are planning on closing that loan on Monday of next week. Their current deadline was August 1. They have asked for October 1 for their extension, and staff is requesting that extension to October 1.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The second one for the board's consider is O.W. Collins Apartments, a 2004 allocation of tax credits located in Port Arthur. They are also working with HUD on securing a 221(d)(4) loan. They are moving through this process but expect a delay and are requesting until September 30 of this year for their loan closing, and staff is recommending that deadline of September 30.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next one for the board's consideration, Renaissance Courts, a 2004 allocation located in Denton. And they are also working with HUD on a 224(d)(4) -- 221(d)(4) loan. The city of Denton does have the building permits ready. They are requesting an extension until August 31, and staff is recommending that that extension request be granted.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The last one for the board's consideration is Samaritan House Apartments, a 2004 allocation located in Forth Worth. In this particular situation, they had a historically underutilized business, a HUB, that was part of the applicant in this particular allocation, and the HUD did withdraw from the proposal.

Since it was a point item and it was necessary to fill the requirements in the application, they have identified another HUB, which is Carleton Construction. They are going to enter a codevelopment agreement for the replacement of the HUB.

And this has caused somewhat of a delay. They are requesting October 31 for the close of this construction loan, and staff is recommending that that deadline of October 31 be granted.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Item 2-B on the agenda is any potential housing tax credit appeals. There were none on any -- actually, item B has two parts to it, and there are no appeals to come before the board today under item 2-B.

Item 2-C is a discussion of a letter that was dated June 10, 2005, from the law firm of Munsch Hardt Kopf & Harr to the Honorable Robert Talton, chairman of the house committee on urban affairs; Edwina Carrington, executive director of TDHCA; Robert C. Kline, who is the executive director of the Texas bond review board.

It also went to all members of the Texas Department of Housing and Community Affairs board as well as all members of the bond review board. And the letter concerned the proposed 2006 low income housing tax credit qualified allocation plan and chapter 1372 of the Texas government code. Chapter 1372, for the board's information, is the state statute that governs the bond review board.

And what the letter expresses is concern that tax credits in multifamily tax exempt bond projects are being allocated in a manner that perpetuates racial segregation and poverty concentrations in inner cities.

TDHCA staff has reviewed this letter very carefully. We are looking at our portfolio, tax credit transactions, our 9 percent transactions and our 4 percent transactions. We are always interested as we put together our qualified allocation plan and as we look at our 4 percents in deconcentration and dispersion.

We believe that there have been some provisions of legislation over the last couple of years that help encourage that. The department is working to encourage that as much as we can in our existing policies. And what we will say to the board at this point is that we are looking at our portfolio.

We are looking to determine the legitimacy of the concerns that are expressed in this particular letter and want to present this information to the board.

MS. ANDERSON: I have public comment on this item.

Mr. Henneberger.

MR. HENNEBERGER: Thank you, board members. My name is John Henneberger. I'm the director of the Texas low income housing information service, and I'm here today to speak to Mr. Voelker's letter. And I believe this is a matter of great importance, and I believe that Mr. Voelker is correct in his analysis of the effects of the low income housing tax credit program and the bond program.

I believe that both programs, as they are currently operated by the state of Texas, promote both racial segregation and a concentration of low-income people -- a disproportionate concentration of low-income people in low-income neighborhoods.

And I'm here to ask that the board take some immediate steps in order to make an assessment of the -- an independent factual assessment of these effects. Mr. Voelker has offered you evidence in the form of a series of charts of the impact of the current process in the cities of Austin, Dallas, Houston, Forth Worth, I believe.

We are -- we've been conducting for six months our own analysis of this of all the cities in the state of Texas, and we'll be releasing a report within the next few months in conjunction with a number of Texas civil rights organizations.

But fundamentally, there is a need for state data. There is a need for state analysis of the data. And I would ask that the board take a step of gathering that data and performing that analysis itself, rather than relying solely on people like Mr. Voelker, civil rights organizations and my organization, in order to inform you about this matter.

Affirmatively furthering fair housing is an absolute obligation, paramount obligation, and the failure to do so by this agency will result in the loss of low income housing tax credits and the ability to issue the bonds.

So it is important that the state take the step to gather the data and do the analysis. Specifically, I'd like to ask -- suggest that the following steps be taken. First of all -- that all applications and preapplications submitted to the Texas Department of Housing and Community

Affairs be geo-coded with latitude and longitude so that you know the actual location.

In performing our analysis in conjunction with civil rights groups, we found that it is impossible to establish accurately for the collective whole of your portfolio the exact geographic location of your developments, because often at the preapplication stage, they lack specific addresses.

So the simple requirement to require geo-coding of all the data will allow your staff to prepare maps for you and information for the public to allow you to know exactly where the projects are being proposed to be located.

Secondly, I would suggest that the staff link the data between the applications which are funded and the fair housing sponsor report data which you require of all the applicants. The fair housing sponsor report is required by TDHCA and collected on an annual basis of all of the participants in your multifamily housing programs.

It provides information about the racial composition of the tenants within each of the developments which you fund. That data is currently not -- you generate a report as required by law, but that data is a rich resource for you to use to assess the fair housing implications of both current developments and to look at the implications for proposed new developments.

And that critical link that uses the data for that purpose is not taking place right now.

Third, I would suggest that the staff engage in a process of collecting and mapping for the board the location of projects which are withdrawn by developers, either at the initial stage, the preapplication stage or at a later stage, and those projects which are rejected based on points received for quantifiable community participation and government official support, so that you can assess the effects and inform the legislature of the effects of the quantifiable community participation and these public official point scoring effects.

Currently, there is no way for that data -- it is not being captured. There is no way to assess whether or not these structures which have been put in place recently in state law are having an effect, which we believe it is, of promoting racial segregation and concentration of poverty.

The data -- there -- a system could be developed to collect that data and to map it, and you would know the answer to that question. You could tell the legislature the answer to that question, and you could take that into consideration.

Fourth, I would suggest that the board receive with each application that it's asked to consider a map noting the racial composition of the census tracts of a city and the location of the proposed project so that you can at least subjectively apply some judgment about whether or not that development affirmatively furthers fair housing.

There is no structural way that I can see in your consideration process where you take into account the fair housing effects of the location of proposed projects, and this would allow you to do that.

And then finally, I would suggest that the department engage in a process of using the fair housing sponsor report data to identify projects which are all-white or all-black or all-Hispanic and to target those projects for increased compliance enforcement efforts or at least increased investigation.

We note in looking at the fair housing and sponsor report data that there a large number -- not a large number, but a number of all-white, all-black or all-Hispanic projects located in communities where there is a very diverse racial population, especially in east Texas.

This is very troubling. Because where we have an example of an all-white project in a town where we have 35, 40 percent African American population, and this is a project funded with public funds, that should be a subject of concern in terms of fair housing aspects.

Taking these steps collectively will begin the process of -- for the department of obtaining data it needs to obtain in order to do its obligation to affirmatively further fair housing, and I ask the board to take these interim steps. Thank you very much.

MR. CONINE: Questions?

(No response.)

MR. CONINE: Appreciate your testimony today. You came up with some good ideas.

Part of my concerns with this particular issue deals with the feasibility of the projects and the fact that when Congress established the program and created the 130 percent boost in the qualified census tract, that it encouraged development in areas that typically were either -- had strong minority populations or the other definitional issues that are created by the qualified census tract.

So how can you say at a state level that we can do things that would dismantle or divert the intent of Congress when they created the 130 percent boost?

MR. HENNEBERGER: Well, I agree with you that the qualified census tracts pose a potential problem in terms of concentration of poverty for the department. However, the department's obligation, as I understand the federal fair housing law, is to take that problem into account along with its resources and tools and to figure out a way to balance out these things.

I mean, this is a -- there is, in essence, a contradiction here, but I don't believe that Congress's intention was to promote economic or racial segregation through that -- through passing that law. I believe that may be the effect if the department takes no other actions in addition to providing for the extra points within those areas.

MR. CONINE: Well, it just seems to me that financial feasibility is a key aspect of this particular program. And I don't -- far be it from me to try to figure out what the intent of Congress was or if they even thought about the fair housing law at the same time they put the boost in.

But I can tell you I think with the practical application, at least on the application side and consequently the award side -- has been over the last 18 years this program's been in existence. And I think it -- you run into a real obstacle there that needs to be dealt with in a very sensitive nature relative, again, to the intent of Congress.

Because until they change that particular aspect of section 42, we have to live with it.

MR. HENNEBERGER: I would agree with you that it is a problem, but I would also suggest that there are a number of locational considerations that are being made, including neighborhood oppositions, which have nothing to do with the location of projects in qualified census tracts, which are producing an effect of increasing racial segregation and economic segregation within the tax credit and the bond programs.

MR. CONINE: That's a different deal, and we'll take a look at it, I'm sure with your help. Thank you.

MS. ANDERSON: And I would -- there are a couple of things in this draft QAP that I think are an effort to try to take some steps, so we'll be interested on your comment on those things when you review the QAP.

MR. HENNEBERGER: Look forward to giving that.

MS. ANDERSON: Any other discussion from the board?

(No response.)

MS. ANDERSON: We'll move on to item -- agenda item 2-D, which is the issue of determination notice on tax exempt bond transactions with another issuer and a potential award of HOME CHDO funds.

Ms. Carrington.

MS. CARRINGTON: Thank you, Madam Chair.

This is Sundance Apartments. It's located in Texas City in Galveston County. This is an acquisition rehab. The property was built in 1976. And the rehab on the hard costs on this particular development are about $10,100 a unit.

It does have a housing assistance payments contract on 63 of the 240 units, and that HAP contract will be staying on the units. It is generally -- it's a general development. That means it's built for families. Priority 1-A. There are no compliance issues related with this transaction.

And the staff is recommending the allocation of tax credits in the amount of $362,060 and also award an award under the HOME CHDO funds in the amount of $1.5 million.

MR. SALINAS: Move for the recommendation.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Item 2-E.

Ms. Carrington.

MS. CARRINGTON: Item 2-E is a report to the board and a request for action on recommendation made following alternative dispute resolution, which was held in the apartment on August 11 of actually last week. And the alternative dispute resolution was held regarding the disqualification, the termination of the Green Briar Village Apartments, which was a 2005 application in the tax credit round.

And what staff is requesting the board to consider is basically three items, the revocation of the determination of knowing violation in the application, a reinstatement of the application in the 2005 application cycle with the two points for HUB involvement, and approval of a 2006 forward commitment for housing tax credits.

When staff held the ADR last week with a qualified mediator, what was determined during that mediation was that in all other situations where points had been deducted, that developers had been given a deficiency notice and an opportunity to cure that deficiency.

In this particular instance, the two points for the HUB ineligibility were deducted, and then staff also at the same time terminated the application. It was discussed last week at alternative dispute resolution that that was not the way that we had treated applications, so that basically we had treated this application differently.

And based on the alternative dispute resolution -- and if you go to page 2 of 2 of this board action item, you do see the recommendations that are being made by staff, which is basically reinstate this application, reinstate the two points -- because the HUB has removed themself.

They have come in with another HUB -- and that a forward commitment of allocation of credits be awarded to this transaction as a result of information that was discovered during the alternative dispute resolution process.

MR. CONINE: What was that information, Ms. Carrington? Because as I -- I distinctly remember this conversation during the appeals process and staff testifying that they've -- you know, are absolutely in the 180 degree position from what this is now saying. So can you enlighten us a little more?

MS. CARRINGTON: I would like to ask whichever staff person they feel is appropriate to come who participated in the alternative dispute resolution. I did not participate in it. We did have four staff, I believe. Anne Reynolds, our acting general counsel, participated; Bill Dally, our interim deputy director; Brooke Boston and who else? Am I missing someone else? Three staff participated?

MS. ANDERSON: And just for the board's information, I do have people here who are prepared to make public comment on this topic too.

MS. REYNOLDS: We have a concern, and this proceeding was confidential. If we can discuss it with their attorney, I think that they would probably agree that we could discuss it, because it would help for the understanding of what happened.

But we agreed to the confidentiality when we went into dispute resolution.

MR. CONINE: Is this something we need to discuss in the executive session?

MS. REYNOLDS: No. If we could just have a minute with their attorney and get his agreement that we can discuss it --

MS. ANDERSON: Okay.

MS. REYNOLDS: -- right now.

MS. ANDERSON: Very good point. While they're doing that, why don't we --

Mr. David Clark, would you like to address the board?

MR. CLARK: Good morning, members of the board and Ms. Carrington. My name is Dave Clark. I'm director of community development for the city of Wichita Falls and here to speak in favor of the actions that is potential here.

This project has been under development for several years. And on the -- behalf of the city, I know that the city council has previously passed a resolution endorsing a project -- this project, which it does not normally do.

It's been supported by the local board of commerce and industry, which is our chamber of commerce, and I have that information here for you that I'll leave here.

MS. ANDERSON: This is the same --

MR. CONINE: Same deal. Okay.

MS. ANDERSON: This is the one that --

MR. CLARK: I don't know what information you have and don't -- I'm sorry. But the -- this would help to fill a continuing need for quality affordable housing. This is a -- frankly, a popular project because of its potential location, which is very near the main entrance of Shepherd Air Force Base, therefore offering opportunities to serve that base.

And I know that it's also been supported by the local neighborhood association who has supplied -- or letters -- a letter along the way to do that. So I'm not aware of any opposition to this whatsoever, only support. And I certainly hope that you will take into consideration the -- what has come before you and go for a positive recommendation. Thank you.

MS. ANDERSON: Thank you, sir.

MR. SALINAS: What's the dispute? Are they working on it or --

MS. CARRINGTON: They are -- what is going on, Mayor, is that discussions in alternative dispute resolution are confidential discussions. And so as the board asked questions about what happened in alternative dispute resolution that resulted in a different recommendation from staff than what you all saw a month or so ago, the attorneys are discussing whether they mutually will agree to disclose the discussion.

MR. CONINE: In the meantime, I'm going to move to table until later on in the meeting when they get done.

MR. GONZALEZ: Second.

MS. CARRINGTON: It looks like maybe they're done.

MS. REYNOLDS: We've discussed this with the attorney, and we would like to further discuss it in the executive session.

MR. CONINE: Move to table until after the executive session.

MR. BOGANY: Second.

MS. ANDERSON: That'll be this afternoon.

Okay. As -- if you picked up a copy of the agenda on the way in -- you know, Delores's celebration is just one that never ends, and so we are going to be leaving shortly to continue our celebration and honoring of her.

So we're going to take a much longer than normal kind of lunch break beginning at 11:30, and we think we'll be back around 1:45. So my question is, do we want to take -- the next item is -- are the rules. There's a lot of public comment on the QAP. Should we skip maybe there, go down to item 4? I think we --

MR. SALINAS: Item 4.

MS. ANDERSON: With the board's approval, we'll kind of take some things out of order so we can continue our business.

And item 4 is presentation, discussion and possible approval to publish in the Texas Register to receive public comment for the department's affordable -- regional allocation formula for housing tax credits and the trust fund, and also the affordable housing needs score for the same two programs.

MS. CARRINGTON: Thank you, Madam Chair.

The first item is the approval of the methodology for the regional allocation formula for housing tax credit and housing trust fund. Next month you will be asked to consider the regional allocation formula for the HOME program. They are slightly different, and that's why we are taking them separate. We do treat the HOME funds slightly different than what we treat the housing tax credits and housing trust fund.

By statute, as you all know, the department is required to allocate our funds in a regional basis -- on a regional basis, and there are 13 of those state service regions around the state. And those state service regions are determined by the comptroller. And so we follow that lead in developing our 13 state service regions.

The formula that we are presenting to you all today will become part of the state low income housing plan, which you will also see next month as a draft. What is in the board's materials today is attachment A, which is a summary of the changes from the 2005 regional allocation formula and what we're proposing for 2006.

Attachment B would be the distributions for housing trust funds and housing tax credits in the 13 state service regions based on our proposed 2006 funding recommendations. And then attachment C is a summary of the allocation differences between 2005 and 2006.

If you go over, beginning on pages 2 of 7 on your backup material, attachment A is our proposed methodology. And we've identified for you three changes in the methodology for 2006. And the first one is how we will consider HOME funds.

In the past, we had been considering the entire participating jurisdiction's HOME fund award. We decided that was not an accurate representation, since this allocation really relates to multifamily activities or rental activities. Then what we will be doing is considering those resources in participating jurisdictions that go to fund rental activities.

We have removed from this formula funding for the emergency shelter grants program. That program basically funds emergency shelters for rehabilitation. It is not primarily directed to actually creating additional housing. So we thought that that was not an appropriate factor to consider.

And then the valuation of our multifamily bond funding -- and this has changed, really, from year to year, because we haven't been able to come up with something that we really felt like was a good determination of what is the value of a development that is financed with tax exempt bond.

It has been as much as 100 percent of the dollar value of the bonds on a particular development. It has been as small as 20 percent of the bonds on a development. And what we have come up with is on an average we think that affordability gap is about 52 percent.

And if you're looking at page 2 of 7, this is item number 5. And I did ask staff to put together an example for the board so that if you all have an interest, you can look through it or we can walk through it with you and show you how we came up with the 52 percent.

The four factors that we do use and the weighting of those factors -- 50 percent of the factor is weighted for poverty. Cost burden is 36 percent of the factor, and what that means is families who are paying more than 30 percent of their income for rent.

Overcrowding is 12 percent of the factor. And substandard housing is 2 percent of the factor. And we have provided you a table showing you how that would be distributed also.

So with that, I will turn this over to Steve Schottman to come up. Steve is our researcher and statistician in our division of policy and public affairs and has worked over the years in coming up with an explanation that is crisp and clear and concise.

And he and I meant a couple of weeks ago with Representative Menendez and his chief of staff. And, you know, I think we're getting there, at a pretty good explanation.

MS. SCHOTTMAN: Ms. Carrington did a great job of describing all the changes to the formula. This year, unlike a lot of years, since we didn't have any legislative changes, the basic changes were just as she had described, that we're just kind of taking a different look at the funding that's included.

I might point out the most substantial effect this year, not so much of changes to the formula but just the way the formula works in general, is that the amount of funds that's going to region 9, which is the --

MS. CARRINGTON: And this is attachment C.

MR. SCHOTTMAN: I'm sorry. Attachment C --

MS. CARRINGTON: Attachment C.

MR. SCHOTTMAN: -- on page --

MS. ANDERSON: Six of 7.

MS. CARRINGTON: Six of 7.

MR. SCHOTTMAN: -- 6 of 7. And I'll probably -- speaking also on 7 of 7, but -- in region 9, the San Antonio region is going to -- the region that contains San Antonio is going to contribute $950,000, at least under the draft, due to availability of other funding.

And by contribute, I mean an adjustment's being made to the amount of credits that region will have and that those credits are being shifted throughout the state to other regions that didn't have as much access to other available funding sources.

The -- San Antonio typically is not sort of a big donor region. And in this case, the change is because last year San Antonio received quite a substantial amount of the multifamily bond money. On page 7 of 7, you can see in 2005 they had only received about $25.3 million, and then last year they were very successful and received about -- almost $148 million worth of bond funding.

And that doesn't even include all the 4 percent credits that go with it to even bring the value of those awards even higher. They basically got 12 bond boards -- yes, 12 multifamily bond project awards. So in essence, they received a lot of money didn't have access to.

A substantial part of their money is now being distributed to other regions. And I think to some extent, that's exactly what the legislation had in mind, to spread the money where -- via a method similar to that.

If there's no other questions -- I think Ms. Carrington did a great job of explaining it.

MS. CARRINGTON: Might also note that Houston -- the Houston region also went down steep, certainly not to the extent to the San Antonio region went down.

MS. ANDERSON: No; you mean Dallas.

MS. CARRINGTON: Oh, I'm sorry. Dallas. Yes. Thank you.

MS. ANDERSON: For the same reason, that they --

MS. CARRINGTON: Yes.

MS. ANDERSON: -- had a lot more bond deals.

MS. CARRINGTON: Yes. Correct.

MR. CONINE: This is going out for public comment and come back to us in September. Is that correct?

MS. CARRINGTON: That's correct. And it's the methodology, of course --

MR. CONINE: Right.

MS. CARRINGTON: -- that's going out.

MR. CONINE: Right.

MS. CARRINGTON: But then that methodology is exemplified in what you see in attachment C.

MR. CONINE: I can't wait to hear what the big guy in the pink shirt's going to say about this.

MR. SCHOTTMAN: Right. The board will have the final approval of this in November.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Thank you, Madam Chair.

The second item -- and Mr. Schottman, you might just go ahead and stay up there -- is the presentation of the proposed methodology for the 2006 housing tax credit and housing trust fund affordability housing needs score. Again, for the same reason that I just articulated, we will be bringing the HOME methodology to you next month.

But what you're being asked to look at is the methodology for tax credits and for the trust fund on the affordability housing needs score. Unlike the regional allocation formula, which is mandated by statute, the affordable housing needs score is not a mandate in our statute.

However, there are a couple of requirements that we follow as we have put this together. And one of them is the section 42 requirement that says that the allocating agency should use selection criteria to award tax credit funding in areas that -- you have to include housing needs characteristics when you are allocating credits, and also the state auditors' directions to us that call for objective need based criteria to award TDHCA funding.

So knowing, of course, that not all regions are the same, then we have developed this affordable housing needs score that allows us to identify areas in regions that have a greater need for housing than in others.

I want to say that, for the public, attachment B was not on the website. The board did receive both attachment A, which is our methodology, and attachment B were the actual scores for the affordability housing needs score.

If some of you all printed your book off the website, you don't have attachment B, but the board did have that. And since what the board is voting on is the methodology, the board still does have the ability to take action on this item.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Let's do 5-A.

MS. CARRINGTON: 5-A, Providence at Marine Creek, has been withdrawn from the agenda. 5-B, Waxahachie Senior Apartments. This is an application for -- a recommendation for an allocation of tax exempt bonds and 4 percent bonds and tax credits for 187 units. It is senior apartments in Waxahachie.

One note I want to make to the file, and that is on -- behind tab 3, where you have an outline of the basic development information and the owner of the development team. This does indicate that MMA is the syndicator on this transaction. The syndicator on this transaction is now Boston Capital.

There has been -- there was public hearings. TDHCA is the issuer. We have a transcript. There was no opposition noted to this developed in the -- at the public hearing. And staff is recommending the issuance of the bonds in the amount of $10,000,100, and the recommended credit amount is $442,401.

MR. CONINE: Move for approval along with resolution 04-067.

MR. GONZALEZ: Second.

MS. ANDERSON: Questions. Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Let's do this -- 5-B, and then we'll break.

MS. CARRINGTON: Okay. The next item for the board's consideration is the addition of a trustee to the list of approved trustees for multifamily. We currently have four trustees on that list. You all may remember we don't really do this by an RFP. We do it by an open process.

The four that we currently have on the agenda are Wells Fargo, JP Morgan Chase, Wachovia and the Bank of New York. And we are recommending that US Bank, which does have an office in Dallas, be added to our list for trustees for multifamily.

MR. GONZALEZ: So move.

MR. CONINE: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

I have just one announcement, and then we will break for lunch until approximately 1:45. You know, like I said, this meeting is not about housing in Texas. This meeting's all about Delores. And we wanted to make sure that everyone in the audience knows that the Texas flag that is flying over the Capitol today will be given to Delores Groneck.

So we stand adjourned until 1:45.

(Whereupon, at 11:30 a.m., the meeting was recessed, to reconvene at 1:45 p.m. this same day, Friday, August 19, 2005.)

A F T E R N O O N S E S S I O N

MS. ANDERSON: On this day, August 19, the regular meeting of the governing board of the Texas Department of Housing and Community Affairs held in Austin, Texas -- the board adjourned into a closed executive session as evidenced by the following.

The board will begin its executive session today, August 19, 2005, at 1:25 p.m. The subject matter of this executive session, deliberations as follows. The board may go into executive session and close this meeting to the public on any agenda item if appropriate and authorized by the open meetings act of Texas Government Code chapter 551.

The board may go into executive session pursuant to Texas Government Code 551.074 for the purposes of discussion personnel matters, including to deliberate the appointment, employment, evaluation, reassignment duties, discipline or dismissal of a public officer, employee or to hear a compliant or charge against an officer or employee of TDHCA.

Consultation with attorney pursuant to 551.071 of the Texas Government Code with respect to pending or contemplated litigation -- Hyperion (phonetic] et al versus TDHCA filed in state court -- discussion of charges of discrimination filed with the equal -- US equal employment opportunity commission.

So we stand in recess until the conclusion of the executive session.

(Whereupon, at 1:28, the meeting was recessed until the conclusion of the executive session.)

MS. ANDERSON: Thank you all for coming to order so nicely.

Let's see. The board has completed its executive session of the Texas Department of Housing and Community Affairs on August 19, 2005 at two o'clock p.m. What the subject matter of the executive session -- I don't have to read it -- I don't have to read all that again, do I?

And I'll just report the action taken was none. I hereby certify that this agenda of an executive session of the governing board of the Texas Department of Housing and Community Affairs was properly authorized pursuant to section 551.103 of the Texas Government Code.

The agenda was posted at the secretary of state's office seven days prior to the meeting pursuant to 551.044 of the Texas Government Code -- that all members of the board were present and that this is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act chapter 551 Texas Government Code. Thank you.

And now we will resume our agenda and return to item 2-E, which we tabled earlier. This is action on recommendations made following alternative dispute resolution conference held on August 11, 2005, for Green Briar Village.

MR. CONINE: Are we -- is staff going to make any more -- I guess we already did, didn't we?

MS. CARRINGTON: Yes, we --

MR. BOGANY: I'd like to make a motion that we approve staff's recommendation on Green Briar Village.

MR. CONINE: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

MR. GONZALEZ: No.

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Then moving back to item 3 --

MS. ANDERSON: Yes, ma'am.

MS. CARRINGTON: -- on the agenda, 3-A, B, C, D and E, five sets of rules for the agency. And these are proposed rules. We will begin with item 3-A, which is the draft 2006 qualified allocation plan. And on all five of these sets of rules, we are going to -- we are proposing that we repeal the current rule, and then we will be proposing a new rule.

The first one is qualified allocation plan. And we had this year two roundtables, two focus groups specifically related to soliciting input for the qualified allocation plan. We had probably approximately 50 to 75 folks who do -- who did attend those meetings.

And beginning at the bottom of page 1 of 5, we have a summary of the recommendation from staff of the changes in the qualified allocation plan. What we have done this year, as mentioned earlier, since we did not have any new legislation to implement that impacted our tax credit program --

As we worked on the draft QAP we worked to further ensure that we had compliance with all statutory requirements, that we incorporated initial input, and we included recommendations for revisions of necessary policy and administrative changes to further enhance the housing tax credits programs operation.

We've done a couple of things. In your summary on pages 1 through 5, we give you the page number in the draft QAP that this change refers to. And also in the body of the qualified allocation plan, we have provided you either the federal or state statute reference with that section.

So as the board discusses and as this goes out for public comment, as it's discussed whether some sections should stay in or not stay in, you see the references to either federal or state statute.

And I can probably say this once on all of these five sets of rules, and that is they are going out for public comment the last week of September. The first week of October we will have 13 public hearings around the state. We do call those our consolidated public hearings, where the public will have an opportunity to comment on these five sets of rules, along with our state low-income housing plan.

And with that, I would ask Brooke Boston to come up. And the board can direct how you would like us to go through the recommended changes in the draft qualified allocation plan. As Brooke is coming up, if you go to page 5 -- on page 5 of 5, for the board's information, we do have the scoring breakdown in descending order of points for the draft QAP.

So you can see these particular sections in scoring. And I think last year it was 206 points, 205, 206. And you can see we're down to 191. And as Ms. Anderson has reminded me --

MS. ANDERSON: We'll have some -- take our public comment on this item now.

Before we do that, I want to welcome Mr. Scott Sims from Speaker Craddick's office who has joined us this afternoon. Thank you for being here, Scott.

Cynthia Bast.

MS. BAST: Good afternoon. I've learned to leave a blank after good so that I can decide if it's morning or afternoon by the time I get to the podium. I'm Cynthia Bast of Locke Liddell & Sapp. We represent various parties who participate in the low-income housing tax credit program, and I have been asked to give you several comments today regarding the draft 2006 QAP.

We do object to the new provision that an application is ineligible if it relates to new construction in the urban, exurban areas of regions 3, 6, 7 and 9 unless it has received a resolution of support from the local governing body.

This is unduly burdensome. The stated purpose for this new provision is to address continued concerns about dispersion of tax credit projects. We believe there are already sufficient controls in place to address that concern. You have a housing needs score, a concentration policy, and a two-time state average rule. All of them address dispersion.

Requiring approval of the local governing bodies creates an overtly political situation that will have the developers vying for votes instead of focusing on developing the highest qualify affordable housing product for the community.

We also would like you to consider as policy imposing a cap on the amount of tax credits that can be received by any one applicant or related party in one region. You already have a cap of $1.2 million per development and $2 million per developer.

There has been some concern expressed about one applicant taking up most of a regional allocation in a particular region to the exclusion of others, and such an applicant would currently fit under all existing other caps. So if an additional cap were imposed, that applicant could not exceed a certain amount in that particular region. It may provide opportunities for more and other applicants.

We do appreciate the work that has gone into this year's draft QAP and appreciate your careful consideration of all the testimony that you're going to receive today. Thank you.

MS. ANDERSON: Thank you.

Diana McIver.

MR. CONINE: She's back. Did she sign two witness affirmation forms?

MS. McIVER: Oh, I've got a lot of witness affirmation forms.

MS. ANDERSON: And she's got a bunch of people yielding to her.

So we're going to, you know, be generous with our time, and you'll be generous with your judgment of how you use that time.

MR. CONINE: She's wound up tight. Is that what you're saying? Sweet, soft-spoken Diana.

MS. McIVER: Thank you. Good afternoon. I'm Diana McIver, and I'm here today as president of the Texas Affiliation of Affordable Housing Providers. And although I have had numerous people yield me their time, I don't think I'm going to need all that time.

What we have focused on is just some of the key issues that we felt were so major that they could not be corrected after a draft was published, so that's really going to be the focus today. And you will also note that the major emphasis -- and really, what we're trying to correct today is the inequity that continues to exist for those smaller cities and smaller communities in Texas competing for this rare housing resource.

So I want to take it by category. And the first one is going to be the non-ending debate that we have all had on quantifiable community participation. We did not have an opportunity to get that corrected in legislation this year, and because of that, I've provided three different options.

The first option is the simplest, and that would simply be that instead of awarding zero points where there is no neighborhood organization that covers that particular location on record with either the state or county -- in that situation where there's no neighborhood organization, they would get the full points, and full points this year being 12.

As you've noticed, the staff has changed so that last year, for no neighborhood association or no comment, you got 12 points. People with support got 24. This year it's zero and 12, so it's still a 12-point gap. I mean, 24 minus 12 is still 12. Twelve minus zero is still 12.

So there still is the opportunity for an application in an area without a neighborhood organization to just simply not have the ability to score 12 points. So my first option would be let those without neighborhood organizations qualify for the maximum points. That really resolves everybody's concern.

Now, I know that when we discussed this last year, the concern was that that doesn't really follow the letter of the law as it exists. And I would only say to that this year -- that in the meantime we have -- although it did not pass, we had the Talton bill, and it did have that same concept in it.

So we do -- we don't have a true technical legislative intent, but we certainly did have a piece of legislation that said there are certain legislators who recognize that we're not treating those communities fairly. So that's the easiest option.

Beyond that, option 2 would be to simply compress the scoring a little more so that the quantifiable community participation doesn't create the major gap that it does. And what I've provided you in this letter is a different way of looking at scoring.

It still follows the legislative order. We know we have to do that. But if you notice under QCP, we have structured that to be 18 points for our full supportive letter, nine neutral, zero for the opposition. And that can take a lot of different directions.

But basically, what this would mean is that an application with no neighborhood organization present would get, under this scenario, nine points. They wouldn't get 18, but they'd go nine. And then if you look at the next page, the way we propose to offset that -- because no longer we'd have to offset 12; we're just offsetting nine.

Eight is the magic number for anything that you want to do that's below the line. And so in this particular option, we would recommend that we have an item that scores eight points that's available to applicants who can prove that there are no neighborhood associations for their area.

So that would be a way to soften it. They would get the neutral points under the big category, the quantifiable community participation. But then they would be eligible to get these extra points because there were no neighborhood organizations.

So that's option number 2. That doesn't quite offset, but it gets to where your applications without neighborhood organizations could achieve 17 points, whereas the others could achieve 18 points. So we've got it down to one point.

Option 3 is to take the very same scoring that you have from your draft QAP right now and allow still these eight points for applications where there's no neighborhood association present, and then that reduces that margin to four.

So in that case, they couldn't qualify for the 12, but they could get this additional eight. So we're cheating four, but it's sure better than cheating 12 -- cheating them out of 12 points. So those are the ones on the community participation.

Now, some other ways to promote projects in smaller cities. And one is to take that small project category that you've already got. And right now the QAP, as it did last year and this year, allows three points for projects not greater than 36 units.

If you were to increase the size of these to 76 units and say maybe increase that three to five or six points -- or you can go as high as eight points, but a sufficient number of points -- then at least you're taking and encouraging smaller projects.

And that means more dispersion within the state and within each region. And it's another way -- because generally, the smaller cities are going to have smaller numerically-sized projects. So that's another way that I think we could help the smaller communities and benefit smaller projects.

Now, the next one gets into this whole idea of set-asides. And I know that in a sense, your hands are tied a little bit when any -- when you try to do a set-aside, because if you were to do an exurban set-aside and you have it over 10 percent, then it's got to be done evenly among the regions.

There are regions that simply can't handle an exurban set-aside, because they don't have enough units. They're basically going to be your regions that have funding under 1.2 million. And they also are going to be where you have maybe a city of 95,000 competing with a city of 105,000.

So one option under set-asides is to do an exurban set-aside and basically apply that only to regions 3, 6, 7 and 9. And in that case, as long as that was 10 percent or under, then that would be a way that it could be a legal set-aside.

Now, that doesn't quite get you where you need to be, but that would at least allow that one exurban project, smaller community project got funded in each of those regions.

What I did then in thinking about that is I flipped the concept. And the concept that I think I like better is to basically say, again, regions 3, 6, 7 and 9, which I think are your big controversial regions -- to basically that -- let's not fund more than -- and I'm throwing out a number just because I've heard that roughly there's about 30 percent exurban versus urban.

Let's not put more than 70 percent of the funds in regions 3, 6, 7 and 9 into urban projects. Therefore, you're not creating a set-aside, but you're leaving 30 percent available for the exurban smaller city category. Okay. So that's smaller cities.

A couple of our other comments from TAAHP are the local political subdivision funding. And a couple of comments there that, again, you know, would allow more favorable participation by our smaller communities. One of those is to continue to allow TDHCA's HOME funds to be used towards that 18 points.

This year, non-participating jurisdictions that don't have their own allocations of HOME and CDBG were allowed to get points in that category. This is being stricken for 2006. And so we now are to a point where those 18 points can only be gotten by the big cities, because generally they're done with HOME and CDBG funds.

So I would argue that HOME funds, whether they come from a city or whether they come from the state, they're still coming from HUD. Your intent is to get them out to cities. The cities don't have another options. And so let's don't strike HOME funds for those non-PJs, the cities that don't get HOME and CDBG.

And the other part on community -- on local political subdivision funding is to request that you continue to allow the rental vouchers to qualify for these points, because that is a place where the rural areas and the small cities generally have housing authorities and they've been able to use the rental vouchers to get to that, even though they have not been able to use the direct rental development funds from a city.

So -- and then aside from that -- and it's not in this particular letter -- the rural rental housing association would like you to consider their rural rental vouchers for those points as well.

Another point that I would like to make is on ineligible applications. And Cynthia Bast addressed a lot of these, but essentially two new classifications have been added. One is projects located in census tracts which have in excess of 500 units of housing supported by tax credits, and the other is new construction in urban -- exurban areas in region 3, 6, 7 and 9.

And in these two situations, we will not be allowed to submit an application unless we have a resolution from the city in those particular situations. We see that as very unfair, putting a test for those areas.

And it's just not the city of Dallas. It's going to be the city of Plano, the city of Lewisville. Everyone is going to have to do that resolution in order to compete, so we believe that is unfair.

One other comment that also is not in the letter, but I'd like to mention a point Barry Kahn made this morning, and that is that whole concept of assistance to neighborhood organizations. Last year it was clear that it was financial assistance, and this year it's any kind of assistance.

And I will tell you quite frankly that the first thing you do when you're meeting with a neighborhood organization is you give them your packet of the website. But you do provide it to them, and that is assistance. And then you talk with them about the various things that they can put in a letter that qualify -- that's assistance.

So I'm hoping that we can make that much clear, that you're talking about giving them money and not giving them assistance and advice and educating them about the program, because that is part of what we have to do to even get those points in the first place. So Barry Kahn's points were well taken. I'd just like to echo that.

Now, ending on a good note, we are very pleased to see the staff's alteration of ineligible building types and the increased flexibility in the number of bedroom units that an applicant can propose and would encourage you to actually adopt that part of the QCP.

Thank you. Are there any questions?

MR. CONINE: I have a question of legal counsel related to her testimony. She -- Ms. McIver stated at the beginning of her testimony that the changes that she was going to submit to us today had to be taken care of today because they were too radical, I guess, or whatever the word she used, to be taken up later on after these things make the loop and come back to us a couple of months from now.

I've always had difficulty with that particular provision, because I think if anyone makes a public testimony at any meeting, whether it's this meeting or 13 -- what was the word you used earlier?

MS. CARRINGTON: Service regions, 13 public -- consolidated public --

MR. CONINE: Yes, consolidated.

MS. CARRINGTON: -- hearings.

MR. CONINE: Consolidated. And we have the ability to review that public testimony, and we can incorporate those changes into the QAP or the HOME rules or whatever it happens to be. So I guess my question is, do we have to do something with this today, or can we wait until the thing comes back around?

MR. HAMBY: Kevin Hamby, assistant attorney general liaison to the Texas Department of Housing and Community Affairs. The answer to your question, as any good lawyer will tell you, it depends.

MR. CONINE: It depends. Well, depends are those things that adults buy in the grocery store.

MR. HAMBY: I am not going to go there with you. But no, the provision is that the public has to have an opportunity to comment on proposed rules, and they need to see them in substantially the finished form that they will be in.

So if you have a significantly material change after you publish the first time, then they would have to be reposted or republished in the Texas Register and have another open-comment period. So your debate comes into what is a substantially material change, and that would be the question.

MS. REYNOLDS: Was the question concerning changes you would make or the public would make during public comment?

MR. CONINE: No, the changes the board would make, ultimately. Because, I mean, to go through all these today will take, you know, a long time, and we got other people that want to testify and so forth. And again, I think -- I'm pleased that she had such a well-presented viewpoint except for the last point she made. Wonderful. But --

MR. HAMBY: That the staff did well was the part you didn't like?

MR. CONINE: I just -- I'm trying to, you know, save the board a lot of time, obviously, by dealing with all the issues that get presented at one time as opposed to piecemealing it out. And I don't view anything she's recommended here as substantial in my opinion.

Because if you change some points or you change, you know, a bedroom mix or you change this, that or the other, it's not substantive to the entirety of the section 42 program of the state of Texas.

MR. HAMBY: Well, I think that would be based on past actions that we've taken, and Anne would be a better person to address that. Anne and Brooke would be a better person to address that than myself.

The rule comes under the Administrative Procedures Act -- is that the public has the right to comment on a rule before it gets adopted. And then at the point that they have a right to comment, you are allowed to modify that rule. The question then becomes how substantial is the change.

And the argument could go either way, that if you did an eight-point change below the top nine, that's a very significant change that could have a radical impact on -- to use your word -- radical impact on the amount of points awarded, and that might be a substantial change to the entire process and therefore be required to go back out for public comment.

MR. CONINE: Well, isn't there some incumbency upon the public to be aware of other public comments to the board or the department so that they would be advised of the potential of those changes that might be coming?

MR. HAMBY: Well, it would be much like the comment that was made in the presentation that there was a bill filed that did not pass. The fact that someone files a public comment --

MR. CONINE: Yes. I didn't pay any attention to that anyway.

MR. HAMBY: Well, I understand. But the fact that a bill gets filed and does not pass does not have any statutory effect.

MR. CONINE: Right. I understand.

MR. HAMBY: The fact that people have filed questions in a rule-making procedure does not mean that the board is going to accept them, so they would not be necessarily on notice that they were -- that those rules were passing.

MS. ANDERSON: Well, as our --

MR. HAMBY: Does that answer your question?

MR. CONINE: No.

MS. ANDERSON: -- previous chairman, Mr. Jones, was fond of saying, not too often but just often enough, sometimes this board just has to use its common sense.

MR. CONINE: True.

MS. ANDERSON: Okay. Mr. Robert Joy.

MR. JOY: I spoke earlier to you. Robert Joy, Encinas Group of Texas. And after I spoke, Jennifer Joyce said she wasn't sure whether I was speaking to the QAP or to the forward commitment, so she said I should speak again now.

And basically, my comments reiterate what Ms. McIver said, that the neighborhood organization points -- we are penalized because we don't have a neighborhood organization. We would like to see some modification to that. She gave you three opportunities to do that.

The section 8 vouchers have allowed the smaller cities in some of the regions to also get the 18 points where the local city does not have HOME funds, et cetera, to give. So those points were just -- I want to reiterate those points. Thank you.

MS. ANDERSON: Mr. Bob Coe. Oh, I'm sorry. Wrong item.

Mr. Jeff Spicer.

MR. SPICER: Jeff Spicer with State Street Housing Advisors, and I'm here to propose a definition of intergenerational housing and amendments to the ineligible building types.

As brought forth from a working group of the Texas bond review board and as proposed by Senator West's office and as a member of that working group, the definition we'd like to propose is that intergenerational housing, housing that includes specific units that are restricted to age -- to the age requirements of an elderly development as defined in the QAP --

In specific, units that are not age-restricted in the same development that have building -- have separate and specific buildings exclusively for the age-restricted, have separate and specific leasing offices proposed and leasing personnel exclusively for the age-restricted units, have separate and specific entrances and other security measures for the age-restricted units, provide social service programs that encourage intergenerational activities but also provide separate amenities for each age group, share the same development site, and are developed and financed under a common plan and owned by that same person for federal tax purposes, and also meet the requirements of the federal fair housing act.

That's our proposed definition of intergenerational housing. We'd like that added to the QAP.

And also, amendments to ineligible building types. To add ineligible building types are buildings that would require -- or change the building type to require elevators in two-story or more age-restricted units in intergenerational housing, which is already part of the qualified elderly developments; prohibit more than two bedrooms in age-restricted intergenerational housing, as already prohibited in the QAP; and define as ineligible any development that includes age-restricted and not-restricted units and is not intergenerational housing or a qualified elderly development.

MS. BOSTON: Can I get a copy?

MR. SPICER: Yes.

MR. CONINE: Could you provide --

MR. SPICER: I can make a copy for everyone.

MR. CONINE: Could you provide the department and the board a written comment -- your written -- your comments in a written form, please?

MR. SPICER: Certainly. There you go.

MS. GRONECK: I've got them. I'll get them to you.

MR. SPICER: And the other comment, which is separate from the working group, is that we'd like -- in looking at what was done last year in urban and exurban, I'd like to change the definition of an urban development to be any development that gets more than $1 million annually as a participating jurisdiction.

We think that would be a better definition of participating -- of urban development rather than the arbitrary 100,000 in population. Thank you.

MS. ANDERSON: That concludes the public comment on this item.

I'm sorry. Mr. Bogany.

MR. BOGANY: Is it now time that I can make a comment on the QAP?

MS. ANDERSON: Absolutely.

MR. BOGANY: Couple of things, and I don't know if we can -- I know this is going out to the public, and I had a couple of questions I wanted to get right to.

The first one is Mr. Kahn's deal about moving from May 1 -- from August back to May 1 -- and wanted to know if that was something that staff felt -- why did they want to move it to May 1 -- and dealing with the larger cities, permitting and all of that. That does seem to be a problem, and I want to know what was our rationale behind moving it to May 1.

MS. BOSTON: Brooke Boston. We actually did quite a bit of research on this. For the past three or four years, we've had points for having financing, and every year we've tried all different months. We've tried around April or May. We tried June. We've tried this year with the commitment notice being due in August.

And unfortunately, there's not a great time to have it due. There's always going to be a population of applicants who can't meet whatever deadline we have. Because we called a lot of the big cities. We called at least one major city in every region, and in some we called two, to say, you know, When are you doing this? How could we try and marry ours up together and try and find something that might work?

And statewide, there's just no uniformity to this. I think the problem we're seeing this year -- and of course, we won't know exactly how bad that problem is -- is that people have been given commitments. Now they're having to try and prove up their financing.

People who are on the waiting list below them may be waiting all the way until September, October, even November to know if they're going to have their credits when indeed, some of these people may really not be able to get their financing proof.

So it kind of makes everybody -- it drags it out much longer. Hence, our recommendation to move it back. The choice for May versus June was to try and make sure on the staff side we have enough time to adjust the scores and still underwrite deals before we bring them to the board.

We didn't go all the way back to April because we were trying to give more time to the applicant. It's a hard -- we appreciate that there's not going to be a perfect time to do it.

MR. BOGANY: Okay. Second question.

MR. CONINE: I got a follow-up on that question. Can we then modify the definition of what we are asking from these cities so that the issue Mr. Kahn raised about loan documents and so forth -- you know, to me, a city council resolution subject to that project getting the tax credits and subject to legal documents to satisfy the city seem to be a reasonable position.

MS. BOSTON: And we totally agree. In Barry Kahn's case, his resolution from the city refers directly back to a conditional commitment letter. The resolution refers to this letter.

MR. CONINE: Right.

MS. BOSTON: And the letter says there still needs to be council approval and does not refer to loan documents. Now, that may be the reality, but the documentation that we have does not support that statement.

If we -- if they wanted to revise their conditional letter that goes behind the resolution, there still could be a solution for that particular applicant this year. But at this point, it's -- our interpretation of the documents is different than what was portrayed.

MR. CONINE: Maybe we should indicate the types of things that need to be in the council resolution. Not to craft a draft resolution for a city. I don't think we should get in that business. But to have the points -- like, you know, in the letters from the neighborhood, certain points that have to be in there.

MS. BOSTON: And we did. We were -- we applied a standard similar to what we use here at the agency. We said it makes total sense that these local subdivisions would have conditions. If it's still conditioned on HUD approval, we get that.

We understand that they still want to do financial analysis. There may still be outstanding environmental issues. The types of things that we see in our conditions --

MR. CONINE: Right.

MS. BOSTON: -- when we grant a commitment notice -- we kind of applied that same logic. So we were not trying to hold a standard that said you can't have any conditions, just for information purposes.

MR. CONINE: Okay.

MR. BOGANY: Second point I wanted to bring up. Ms. McIver talked about in region 3, 6 -- I guess these are the major cities -- giving less points for new construction, if I understood her right. And I was hoping that if we had a deal in those areas giving more points for rehab in those regions or -- you know, versus the new construction. Is that possible?

MS. BOSTON: I'm not sure exactly which item of hers you're referring to. I know when she was referring to those four regions, it was --

MR. BOGANY: We were talking about those regions. And it's -- and I probably was asleep, but I thought she said that new construction in urban, exurban areas -- I thought she -- what she was trying to do -- we're doing -- we're overconcentrating those areas, and so the smaller areas are not --

So -- but to keep those people in those larger regions not from getting credits, why not get more credits if they did rehab work in those regions and consider rehab --

MS. ANDERSON: I think Ms. Bast and Ms. McIver both objected to the proposed requirement that -- and for the purposes of dispersion and concentration that you'd have to have a resolution from the local government. They don't want to have to go get resolutions from the local government in those jurisdictions is the way I read their --

MR. BOGANY: Okay.

MR. SALINAS: Well, you don't need one in

Houston. Right? Houston is region what?

MS. BOSTON: Six.

MR. BOGANY: Six. Okay.

MS. BOSTON: So currently -- any development proposing new construction in region 6 would need a resolution --

MR. BOGANY: From the city.

MR. SALINAS: From the city?

MS. BOSTON: Correct. To do new construction, as currently drafted.

MS. ANDERSON: But there are some points for rehab, aren't there?

MS. BOSTON: There are.

MS. ANDERSON: There are some preference points for rehab, to address your comment.

MR. BOGANY: Yes. Because I'm thinking, instead of concentrating putting more units in those cities, why not give points for rehab and raising it, making those developers go in and be interested in buying and fixing up old units and making them look nice?

MR. SALINAS: Sooner or later, you'd have to start doing that.

MS. BOSTON: Sure. And actually, in response to -- last year, we added some extra points for rehab at that point. In our bond program, we've done so. And then this year again, we've tried to add additional incentives at different points throughout the QAP to try and promote rehabilitation versus new construction.

MS. ANDERSON: It is a seven-point item in the draft.

MR. BOGANY: Okay.

MS. BOSTON: But it's not specific to just a couple regions.

MR. BOGANY: Okay.

MS. BOSTON: It's in any region.

MR. BOGANY: Okay. Last question. I noticed that the HUB points had been removed from the QAP, and I still believe that the HUB points are viable. And if we're going to put this out for -- the thing that bothers me about removing HUB points is just that I've never seen a solution.

All I -- it's constantly throwing in -- the baby out with the bath water. And it just doesn't seem that you guys have ever been able to give a solution to getting more minorities, more people involved. I'm sure -- some abuse, but there's some abuse in everything.

And I would like to continue to see the HUB points in. And especially going out for the comment where it makes the regional round -- makes this, you know, round of regions -- I would like to continue to get public comment.

And maybe for those who don't like HUB points, maybe you can come up with a solution that gets people more involved into this program. Why don't TAAHP turn a mentoring program in to try to teach people how to do these sort of projects?

So I've yet to see a solution yet, but we're constantly taking HUB points out. And I think last year when we did -- if you graduate, if you drunk at the water trough, you don't need to get points anymore. That -- you're not a HUB anymore. You're not underutilized.

And I think that's the fairest way to do it until we can come up with a better way. And I'd at least like to see it continue to be in the QAP going through these regional round -- and maybe opposition will come up with something better.

Because as yet -- give me something better I've yet to hear at all. And that's it. And I -- you know, I'd like to see it in, and I'd like to make a motion that we leave the --

MS. ANDERSON: Let's have a motion on the whole thing, and then we'll amend it, I think is --

MR. BOGANY: Okay.

MS. ANDERSON: -- the right way to do it, when we finish asking our questions.

MR. BOGANY: Okay.

MR. GORDON: Did we get guidance on the HUB point issue?

MS. CARRINGTON: Yes, we did.

MR. GORDON: And what was that guidance?

MS. CARRINGTON: Ask one of our legal counsels.

MR. SALINAS: You need a motion on what?

MS. ANDERSON: Before we amend what's in the draft rule, you know, to address Mr. Bogany's and other comment, let's get a motion on the floor after we finish. We can do that now or after we finish discussion.

MR. HAMBY: Kevin Hamby, assistant attorney general. The HUB points. It was raised as a question and referred to my office for a review and a discussion, and we ran through several analyses. We had several attorneys working on it.

The primary problem with it, of course, is that it has a potential unconstitutional effect, because it segregates points based on a protected class. And the -- that has some problems. We do not believe that it has the city of Richmond versus Crowson problem, because the state of Texas has identified historically underutilized businesses as a goal to achieve.

So I think we've satisfied the Richmond test. However, with the recent opinions out of the University of Michigan, the HUB program would have to come up with a beneficiary to the state as a whole for diversity. The questions become -- in the state of Texas, the way that we have dealt with the HUB program is it's through the contracting process.

And the contracting process says any contract over a hundred thousand dollars must come up with a plan to use historically -- HUB, the HUBs. However, the issue is and the basic premise of that is if you do not use -- if you do not have a HUB plan, your contract is immediately not considered in the competitive bid process.

Obviously, we're not buying goods and services here, so it doesn't qualify particularly under the building -- the requirements of the state program. There are some things that you could do. You could ask people to participate in that program voluntarily in the percentages that are identified by the state of Texas.

Clearly, that would not fall into an unconstitutional pattern, because we have identified that.

We satisfied the historically -- the historical nature that Crowson identified.

You could, at some point, request a plan and in the future potentially award points -- or have questions about developers who did not use a HUB plan. But that's something we'd still have to -- work on the language exactly. It is -- there is no easy direct solution. But the reason it was pulled out on the advice -- not an official attorney general opinion. We did not seek one of those.

But in speaking with several of the counsel from the attorney general's office, we do believe there could be a constitutionality problem, even though the amount of points awarded for the HUBs are de minimis and they're only two out of 191 -- or they have historically been two out of -- or 2 out of 206 or -- now at this case it would be 191.

But the alternatives are basically to adopt the same type of proposals, although not the exact same plan that the state of Texas uses, for contracting and encourage people to involve HUBs in their development plans.

MR. BOGANY: Well, I'm willing to believe that the reason you got HUBs -- historically underutilized business -- because people wouldn't utilize them. And -- without a doubt. So, you know, if we didn't need it, it wouldn't be there.

And it bothers me that we can't come up with a solution. I'd like to know what other states are doing. I'd like an official AG opinion on it before we take it out. I'm just sharing with you that at this point, I'd like to know what other states are doing, how they're dealing with it. Maybe it's not an issue at other states. Maybe somebody's come up with a solution.

But I'm just -- since I've been on this board -- you guys have been shooting at this since I've been here. And I don't want to say some of the things I want to say, but I'd like to find out just how diverse your staff is, how diverse that -- when you submit a project to this board, how many people in your -- how diverse are you on your -- on your own staff as it comes up?

The deal -- and I challenge TAAHP. Why don't you guys start a mentoring program? Why don't you get out there and says, Hey, we're going to do some classes on understanding tax credits, how to pick teams, and get these groups so they understand and so they can participate in the program.

And I continue to say that I would like to keep this in here until we can come up with something better. The two months will give us time to see what's what. If you want to do an AG's opinion on it, then let's do one. Let's -- you know, that would probably push it forever -- for awhile longer.

But I really don't want to do that. What I'd like to do is see a better program. And I don't mind change, have no problems with it. I just want to see something done better. And I think when we rely on just good faith, it ain't going to happen.

MR. HANLEY: Well, and the -- obviously, when we start talking about the changes, if you're starting to talk about adding and subtracting points -- I believe Mr. Conine's question -- you really end up with -- that is a material change, given how close some of the points are. So those are --

MR. BOGANY: Well, that's what the program is for -- to do, is to get people who are underutilized part of the deal. But if you've been to the -- if you've drunk some water before, you don't need to drink anymore, and you don't come back.

So once again, somebody new is able to come in again and get involved. And it's two points. And I've asked Brooke in the past to do me studies on how many people are getting business. And when you really look at the money, it's a very small percentage.

MR. HAMBY: Well, part of our consideration whenever we looked at it was -- is that we actually asked that question of staff to get a breakdown before we looked at it at the attorney general's office. And again, because the point structure is so tight, even though it's a de minimis amount, it does have an impact. And that's where the challenge comes in.

I agree with you that an aspirational goal often means think about it when you come up and make a presentation. But the question becomes how do you meet the challenge. And the state of Texas has had this same question overall. I mean, it's not unique.

You know, they've set thresholds. If you have a certain size agency, you're required to meet the HUB guidelines. It is an issue that has been dealt with by the state of Texas frequently. If we get into the discussion -- and really, it comes down to is it an unfair collection -- or an unfair benefit to a protected class of people.

And that's the University of Michigan question. And the only way that the -- the primary way that Sandra

O'Connor, when she wrote her opinion, said that they could continue to use affirmative action programs in school is that diversity itself provided an educational component and therefore was a goal of the school in itself.

Absent that -- and they actually indeed did throw out in the underclass version of the University of Michigan awarding a flat basis of points for minority status or for protected class status. It wasn't just minority status.

It's -- from that standpoint, it's pretty clear. That said, I'm happy to work with you in any way I can to come up with a program that --

MR. BOGANY: Well, I would like --

MR. HAMBY: -- can pass constitutional muster. If you want to insert something in here to talk about recognition of HUB contracts or recognition of HUB questions and that could be fleshed out, that may indeed work. But --

MR. BOGANY: Well, I personally -- I can come up with some ideas that are much -- and I don't want to debate the issue. I -- my point is, Kevin -- or Mr. Hamby, what I'd like to see done is something -- give us two months.

Let's see -- let's do a round robin with it.

I'd like to see some people that are involved in it and who've gotten them, and I just would like to see them. Because I can come up with an idea that would be worse than this. So I'm just sharing with you that I'm just hoping to --

MR. HAMBY: Not bad. Unconstitutional. There's a difference.

MR. BOGANY: Well, right. But the developers wouldn't want my idea. I -- that I can tell you. And so my feeling is that I'd just like to see it included in that as we go around and just -- and give two months for somebody to give me a solution.

Check with some other states. See how they're doing it. What are they doing?

MS. BOSTON: And actually, one of the HUBs in our audience, I believe Ms. McIver, has had an epiphany of a suggestion in response to your comments, if you would like her to get up and speak about it. I don't know. But I was asked to pass along that someone had an idea.

MS. McIVER: Yes, I do have an idea. And this would be -- and this is coming from me, not TAAHP. And I appreciate your comments about TAAHP doing a mentoring program. I think that's an outstanding idea.

My idea on the HUB points would be that it seems like -- that when we focus them on inexperienced developers or inexperienced owners, we're not accomplishing the right things. But I think if you had a menu of HUB options that counted for points, then you might have something meaningful.

And my suggestion -- and I've had just a couple of conversations with Brooke about this, nothing real concrete. But my idea would be -- let's say you had up to four points for working with HUB organizations. You could get, you know, two of those for a HUB developer, two of those for a HUB owners.

But what if also in your menu you could get one for using a HUB architect, one for using a HUB contractor -- maybe two for a contractor, or any HUB where you're paying them more than, you know, you name the amount, 20,000, 25,000, so that we're encouraging HUB attorneys; we're encouraging civil engineers and folks out in the community that are HUBs.

That, to me, is more meaningful, because instead of them risking the sham HUB developers, we're actually putting money and contracts in the hands of minority-owned businesses.

MR. BOGANY: And I think that's a great idea, Ms. -- Diane. But my other thoughts are why can't there be developers too -- and why --

MS. McIVER: Oh, there should be. Absolutely.

MR. BOGANY: -- they can't sit at the main trough and drink.

MS. McIVER: Exactly.

MR. BOGANY: And so I think your idea is good. I think it's a start. And I -- you're smart people out there. I know you guys can come up with an idea. But I do believe -- and I know my board -- the board has to go, but I just would -- I think that's a great idea, but I want to see them as a -- I want to see them lead also, not just follow --

MS. McIVER: Right.

MR. BOGANY: -- and not just be an employee. I want to see them employ other people too. And so that's my thought and my goal for the HUBs general -- we would need -- we need to spread it out a little bit.

MS. McIVER: And maybe that's why a HUB developer is two points and a HUB architect is one point. I think there's --

MR. BOGANY: Okay.

MS. McIVER: -- variations on that. But I agree. But I think it does need to -- I think if we could also build business out of it, then we're doing more than just HUB developers.

MR. BOGANY: Okay.

MS. McIVER: So anyway, that was my idea.

MR. BOGANY: Thank you. I think it's a great idea.

MS. ANDERSON: If I can ask Mr. Hamby to rejoin us. I may not follow all of your legal arguments, but I think part of what I heard you say is -- and if I try to take what I think I heard you say and sort of smash it together with what Ms. McIver's comments are -- that if this was in the QAP as a development plan, that that's different than -- or is what she proposing as she proposed it -- does that steer clear of the concerns that the AG has?

MR. HAMBY: Well, I think it would, again, depend on how the points were awarded and whether or not it's just an awarding of a point for being a protected class. The issue that the state is that you seek to right historical wrongs, and the question would be, are they historical wrongs.

MS. ANDERSON: So if it's a -- if there is a menu or a -- you know, an ability to submit a development or however it's done that would actually be using a HUB architect because we select -- because the applicant selected that HUB architect, then that's not -- then that seems different to me.

MR. HAMBY: If you -- the problem is because you have the point system in place for doing it --

MS. ANDERSON: Right.

MR. HAMBY: -- that you end up with a difficulty in are you granting awards for a protected class. And I think the -- I hate to say this, because it sounds so silly. You need to see it before you can actually pass that judgment.

And the other side of the question -- and maybe I'm unfamiliar with the process. At what point do those people -- do the people get selected to do all of those things down the pike? And would it be good faith intentions, or it would it -- I mean, you may have some administrative problems that --

MS. ANDERSON: Evidence of a contract or -- right.

MR. HAMBY: Right. So there are some, I think, logistical questions that aren't legal but that could obviously create a whole different series of challenges as to whether or not someone's wife filed as a builder or as a architect and, you know, it met the NWBE rules. Is that sufficient to award those?

That's why it's difficult absent seeing what was actually proposed. But almost to the point -- I guess my comment was if you're asking to put a placeholder in there, I'm not sure just awarding the two HUB points is sufficient to not have it be a material change if you create a laundry list of activities that may be used in the future.

MR. GORDON: What if we said that we were setting aside these two HUB points subject to staff or someone coming up with some kind of game plan, recommendation, you know, running it through counsel? And that way you've kind of earmarked these two points, and we've kind of -- can come up with a legal way.

I mean, what the problem here is -- and I share Mr. Bogany's view. I'd like to support these HUBs, but here we are sitting here. We have our legal counsel telling us that, Yes, you can do it, but you got a lot of risk.

And I don't know if we're serving the agency's purpose by that. We're putting it at risk. And we're being told we're putting it at risk.

MS. ANDERSON: And the way the state has handled it is a pretty complex body of rules, so you can't just forklift the TBPC's -- if we could forklift their rules into the QAP, that'd be one thing, but they don't all --

MR. HAMBY: In essence --

MS. ANDERSON: Part of what I understand is that we have to tailor their rules to sort of meet our ends.

MR. HAMBY: Well, I mean, their rules would not directly apply, or else you'd already have to do them. And because their rules start at the threshold of a hundred thousand dollars, virtually every issue that you do would be responsive to that.

MR. BOGANY: Well, our situation is complicated, and I realize that. That's why I'm suggesting we leave them in and turn around -- and we don't have to -- we've got two months to get you guys the research -- other states, see what other states are doing, maybe giving you a little bit more time at the attorney general to do a little bit more research.

Because I know it was kind of pushed down you real quickly. And just -- what are we losing here at this point?

MR. HAMBY: Well, the problem is if you have the two points and you redraft the rules and you take them out at the end because it just can't work, the question would be is that a significant rewrite of the rules -- and so then required to go through public posting again, be registered -- be sent to the Texas Register again to have the 30-day posting.

And if your deadline at this point, I believe, is November --

Is that right, Anne?

MS. ANDERSON: November 15.

MR. HAMBY: November 15 to have them posted or to have them --

MS. ANDERSON: Oh, I'm sorry. Got to be approved.

Ms. Boston, do you -- do I understand from Ms. Carrington you have some information from other states? Would you share that with us?

MS. BOSTON: Yes. It might take me a minute to grab it in here.

MR. HAMBY: And that's why -- it's a question of logistics and the timing of posting that's required by the Government Code section 2001apa that says that you have to give the public sufficient time to comment on the rules, and then you have to address the public comments that you receive on the rules. And --

MR. GORDON: Then what if you said we're going to have two points sent aside for some type of HUB program that we derive by staff, approve by board, run by legal counsel, something to that effect?

MR. HAMBY: And that's -- I mean, I think that would be -- the question is are you going to say on the rule that there -- the published rule --

MR. GORDON: We don't know what they're going to be. That's --

MR. HAMBY: There are --

MR. GORDON: -- what we're going to tell them.

MR. HAMBY: -- potentially two points that are available for utilization of historically underutilized businesses. We can't tell you if that's developer. We can't tell you if that's architect. We can't tell you what that is. But we're going to look at it.

MR. BOGANY: Can I ask you a question just real quick? And you can say it real quick. What's a --

MR. HAMBY: I probably can't.

MR. BOGANY: What's a protected class? Would you name the people that are in a protected class?

MR. HAMBY: Sure. It's race, national origin, religion. And basically it's the MWBE groups, the people who can be certified by the minority, women and business enterprise certifications. And so they're -- they have standards. And it varies from region to region as to who can be certified --

MR. BOGANY: Okay.

MR. HAMBY: -- by the MWBE, but it's normally race, religion, national origin, gender. I'm trying to think of the -- I know there's at least two more, and I'm sorry I don't know them off the top of my head.

MR. BOGANY: Okay. Well, and I think I get the gist of what my next question is. And I don't think Brooke has this with me -- with her today, but I surely would like to see the breakdown of which minorities are getting these HUB points.

I know it's -- the gap is closed very -- fairly quickly. It's gotten better and better each year since I've been here. I've seen it get better and more people getting in. But I also know the developers are using their wives for HUB points.

And I really would like to see how much of the oil is trickling down to the people that it really was set up to help, and so --

MR. HAMBY: Well, and I will -- just a little bit of a correction. It's not minorities. It's historically underutilized businesses, which are largely minority --

MR. BOGANY: I'm sorry. Excuse me. Historically underutilized business.

MR. HAMBY: I just don't want anybody to walk away thinking we're talking about that one class.

MR. BOGANY: Okay.

MR. HAMBY: Brooke, are you --

MS. BOSTON: Okay. We have 14 states that we had done research on trying to come up -- to see what other states were doing for sponsor characteristics. Three of those 14 are giving points for minority business enterprise participation or women business enterprise participation.

Then it looks like three or four of them are doing it for experience, which is something that Texas used to do, and we moved it to threshold. Several of them do it for having the ownership organization in the state, basically that the owner entity is -- in our case it would be a Texas applicant.

MS. ANDERSON: Would you back up and explain that these are for sponsor characteristics?

MS. BOSTON: Yes.

MS. ANDERSON: This --

MS. BOSTON: I'm sorry.

MS. ANDERSON: And explain why we worry

about --

MS. BOSTON: Thank you. We're required under section 42 to have an item in the QAP that is for sponsor characteristics. So as there was discussion of removing the HUB points, whether that did or didn't have additional language elsewhere as an incentive, we knew we needed a replacement of the sponsor characteristic point that was something else we could give a point for that tied to the actual ownership entity or sponsor entity. So that's what prompted our research. So --

MS. ANDERSON: So this was not a survey to see whether or not other states used HUBs. This was a survey to see how did other states handle the section 42 requirement that you ought to have something in there about a sponsor's characteristics. Is that -- I mean, I just want to make sure you understood what the --

MS. BOSTON: And then most of the remainder are that the ownership entity is in -- is basically a non-profit or a joint venture with a non-profit. Sometimes those are limited to CHDOs. I mean, obviously, everybody's kind of permutations of how they do this are a little different.

And one was that the applicant entity is in the county of where the development will be located. And then the other one is kind of the takeoff of what we actually put in our QAP, which was that if they haven't had poor performance, basically interpreted as that you were able to get 8609s on any allocation you've been given, so --

MS. ANDERSON: So that does not -- that shows that they did some research that ran across some of these HUB issues, but they did not answer your mail. They didn't go out and do HUB research. Right?

MS. BOSTON: And we, for sure, can do that and ask each state what they're doing, especially for the ones who aren't doing the points, specifically ask them elsewhere in their QAPs those non-point issues -- are they doing anything to promote that.

MR. BOGANY: Okay. You know, I still believe we ought to have two months to do some research and put it in there subject to us getting some research again. And if not, then we can always pull them. But I still believe that if you don't give people an opportunity, they're never -- it's going to be a close-knit group, and these people are not going to get an opportunity to do HUBs.

I just -- not -- and then when I sit in a meeting, I hear the governor specifically tell entrepreneurs sitting out here, I believe in historically underutilized businesses, and I think they ought -- we should get a shot. We need to open it up more to expand the economy. And I hear him say that.

And then we over here are closing the door on the real estate side and the development side. And even though it's not the same thing -- and I hear Beth, and I understand her point. I understand your point. And actually, I understand the people who are against the point.

My thoughts are until we can come up with something better, I'd like to see it in there. And I thought last year was a graduated thing, and I thought it was fair, and I thought it would get people in and get new people in.

And I just want to see us at the head, not just doing architecture work, doing the building, hitting the hammer. I want to see us involved. And if we were involved now, we wouldn't need HUBs. And the reason you got them -- because we're not getting the business. And that's my deal.

And so I am still -- I think it should be there. I really do. I still believe that. And I don't want to put this agency at risk by any stretch, but I'm also willing to say make -- come up with something better. Just -- I'll tell them it's not right. Show me something better.

MR. GORDON: I don't have a problem putting them in there, but I just want to make sure that if we're not comfortable at the end of two months or whatever, that we can take them out. And I'm not hearing that. Is that -- or, you know, if we can come up with a plan that we can adopt at a later time, I'm comfortable with that.

MR. HAMBY: I think the question becomes -- because so many of the aggregate scores are so close that two points are a fairly material amount of points.

MR. GORDON: Right. But I think --

MR. HAMBY: And so it's --

MR. GORDON: I mean, I want to come up with a plan too. And I think that -- so I'm sharing Mr. Bogany's desire for that. But I guess what I'm -- I want to make sure that we have the mechanics of being able to do that.

MR. HAMBY: I guess I'm saying if you put it in and then you take it out, it could be that you need another 30-day cycle to publish the rules.

MR. GORDON: Well, I don't have a problem -- well, I personally --

MS. ANDERSON: I mean, there's a way to do it. Right? I mean, it would go to -- I mean, you know, the -- you'd have an emergency rule situation and --

MR. GARRISON: I mean, you could. I mean, what you --

MS. ANDERSON: Not an ideal situation with the trouble we've had with this QAP for the last -- this would be the third year in a row.

MR. GORDON: Right. So what I was trying to say is is there a way that we could structure it now so that we would have the flexibility of coming up with a plan that everybody's comfortable with and not have to republish?

MR. HAMBY: What we're talking about is whether or not we could do two points for ARB, and if we determine something can't happen, then it --

MS. ANDERSON: You take one of them out.

MR. HAMBY: Take one of them out, because then you still get your two points on the list.

MR. GORDON: I mean, would that -- you think that would --

MR. BOGANY: Yes, that would work. Let me say this. When we had this discussion last year --

MR. HAMBY: I wasn't here.

MR. BOGANY: You wasn't here. But I distinctly asked the development committee to come up with something better. You had a year to do it. You still haven't did it. And your research is just to pull it out. And my feeling is to leave it in there for 2006, and now you got another year to do it and come up with something better.

But you've had each year to do it, and yet you have no proposal. Ms. McIver came up with her proposal. Well, I would have liked to seen it just as well typed as she did this and brought it to us and said, Hey, I got an idea.

Because everybody out there knows that's been my hot button. So -- and, you know, I don't mind competing with anybody. I want an -- but if I don't know the process, I'll never get a chance to compete.

MR. HAMBY: Well, I think that if you're going to do that two-step process -- and again, it'll take some research to make certain that it is -- I would probably suggest that you use broad language as something consistent with the state's policies utilizing historically underutilized businesses.

MR. BOGANY: I'm okay with that.

MR. HAMBY: So you would end up with -- if you're going to have the two points in or being part of the leadership, that you also then discuss it in fairly broad terms. Obviously, we're not going to adopt the particular contract issues, but it is consistent with the findings of the state of Texas on underutilized businesses.

MR. GORDON: And that's what other agencies are doing.

MR. HAMBY: No. Other agencies don't have this issue --

MR. GORDON: Okay.

MR. HAMBY: -- because they are required under the contracting. They're purchasing goods, and so it's a hundred thousand --

MR. GORDON: I understand. Okay.

MR. HAMBY: -- dollars.

MS. ANDERSON: We're requiring our --

MR. GORDON: I understand.

MS. ANDERSON: I have a question about the intergenerational housing definition that Mr. Spicer put forth. Has anyone -- have you all on the staff had an opportunity -- I mean, I think I get why we want -- why it's being proposed that we add this.

And I -- I'm -- you know, feel conceptually supportive, but I want to make sure we're not putting in a definition that's got -- or maybe there's a reason I shouldn't be conceptually supportive. Has somebody got something to say about that?

MS. BOSTON: I can say programmatically staff has had a chance to look at it, and we don't see a problem with putting it in the draft. However, Ms. Reynolds has not seen it, so I would imagine we would need to get that down to you.

MS. REYNOLDS: Mr. Gouris told me that this is the definition that we submitted to the review board yesterday. And if so, that's fine.

MS. ANDERSON: And it was -- and that was deemed acceptable over there. Okay. All right. Thank you.

Other questions for staff? What's the board's pleasure?

MR. BOGANY: I'm sorry. I'd like to amend the QAP --

MS. ANDERSON: Let's just move --

MR. BOGANY: Just tell me what I need to do, and I'll do it.

MS. ANDERSON: Okay. Actually move adoption of the staff draft and then amend it.

MR. BOGANY: Okay.

MS. ANDERSON: Does that work?

MR. GORDON: I've got one more.

MS. ANDERSON: Okay.

MR. GORDON: The comments on the assistance of the neighborhood association. Was the intent the economic assistance or any kind of assistance? I mean, what -- I mean, I know it's a thin line there, but --

MS. BOSTON: When we first crafted it, we had used the word material, and I think we immediately thought, Oh, that's going to be hard to gauge.

MR. GORDON: Right.

MS. BOSTON: So then we switched to any. Personally, I would not have thought that a developer telling a neighborhood, Hey, go to the agency's website and tell them about the packet would have been a violation of any assistance.

So I -- in our review, I probably wouldn't have kicked those folks out. And I actually, hearing the testimony earlier, kept thinking, But if you send them to our website, then they'll know what to do. We give them a template.

At the same time, I understand there is a lot of back-and-forth dialog, so it could be alleged by someone else that --

MS. ANDERSON: Because we have these allegations. And then when you look to the documentation, you could see, you know, on one page the neighborhood organization had given -- as -- you know, that we asked for a fax number, and they gave the developer's fax number.

MR. GORDON: I know.

MS. ANDERSON: You know, I'm --

MR. GORDON: No. I -- and those are the abuses that I'm just --

MR. SALINAS: But that is happening every day, you know. Associations are very rare in the state of Texas, you know. And we all have to believe that, because that is what it is. Associations, they cost a lot of money, and these associations that I've been seeing here are a few people who were created by developers.

I mean, you all want to do away with them, do away with them, because maybe they're not even there. Associations -- the ones I know about are costly, and they have dues. And what you're saying is they are going to stay there, or they're going to be creating more associations for projects?

MR. GORDON: What I was concerned about is if you say any assistance to a neighborhood association, what does that mean? Because we got to live by these rules too. And so if we have one developer that gave them a packet and another developer complains, and we're going to be up here for an appeal -- saying, Hey, that developer did give some assistance. He physically handed them a packet, he or she. Is that -- that's what I'm trying to avoid, having that --

MS. ANDERSON: Yes.

MR. GORDON: -- a bunch of disputes like that.

MS. CARRINGTON: And we did have that this year, of course --

MR. GORDON: Right.

MS. CARRINGTON: -- with the allegations.

MR. GORDON: Right.

MR. SALINAS: The change in the QAP of the year is nonsense, you know. You all know what to do. This is going -- this is getting real bad, you know. Every time -- every year we try to change it for certain groups. That's the way it is here. That's what we're doing here.

Certain people didn't like the way we did it last year. So we're trying to change the rules every year. And that's the way it is. Now, we'll do it. I don't have any problem with that if that's what you all want to do.

But you're all going to go back to the legislature, and they're not giving the city council members and the mayors and city, county commissioners any points. It's the same points, only for the state reps and the senators. I mean, they're not letting the communities get involved.

Then you all are asking for resolutions from the city councils. And those resolutions could be two things, a resolution accepting a resolution ordinance on the zoning, or it could be a letter of support from the council on that project. But it really doesn't mean that you have support from the city because of the zoning. So what are you really doing when you're asking the cities for resolutions?

MS. BOSTON: Right now on several of the statutory requirements -- for instance, the two times the state average of credits per capita and on the one-mile rules -- the resolution actually needs to refer specifically to those statutory requirements. So it's not a resolution of zoning or financing.

MR. SALINAS: So are you going to ask the cities to give you a resolution on that one mile or two miles?

MS. BOSTON: We currently do that, and it's statutory.

MR. SALINAS: Okay.

MS. ANDERSON: I think our effort is not to redo the QAP every year. And I think -- and -- we'll wait for the testimony of our members of our community, but I think there are far fewer changes in this QAP probably --

Now, some of them may strike some people as significant, but I think the staff endeavored to make fewer overall changes to try to create a more stable business environment where we weren't making dramatic changes every year. And I know that that was -- you know, that was certainly their intent.

MR. BOGANY: I have one question --

MS. ANDERSON: Yes, sir.

MR. BOGANY: -- for Brooke.

Brooke, in regards to -- I've heard testimony about the 12 points. If you're in a -- not having a political argument -- not political organization but a neighborhood organization, can we legally change that -- that if you're in an area and you have no political organization and -- not political but neighborhood organization, could we give those people 12 -- can we legally do that?

MS. BOSTON: In our opinion, no.

MR. BOGANY: Even if we wanted to, we could not.

MS. BOSTON: Correct. Not as part of that item. Now, the suggestion to have it potentially be below the line -- below the nine and have it be a separate item if they don't have one --

MR. BOGANY: Could we do that?

MS. BOSTON: I guess we would need legal opinion, but that's separate from what we had originally said wasn't okay. So I guess that we'd need a separate --

MS. ANDERSON: Yes. I --

MS. BOSTON: -- legal comment.

MS. ANDERSON: I think a lot of the public comment today has raised some good issues. And I'm not talking about the HUB issue. I'm talking about QCP and other things. Okay.

And -- but I am struck as I listen to Ms. McIver and others that the -- you know, and I understand we're not supposed to dramatically change the QAP and so forth -- but that in order to get an informed opinion from staff on do you want --

You know, what do they think are the pros and cons of option 1, 2 and 3 and the smaller cities alternatives that Ms. McIver has advanced -- that, you know, I would feel more comfortable that we were reflecting public input if we asked for this verbal testimony today to be repeated to us in the public comment process and let staff have a reasonable period of time to think through the implications of these various options and make a recommendation to the board rather than just us try to make sausage here this afternoon.

MR. BOGANY: I agree.

MR. SALINAS: We agree.

MS. ANDERSON: So I --

MR. GONZALEZ: I'd like to propose a motion that we approve the 2006 qualified allocation plan and rules to be published for public comment.

MR. BOGANY: Second.

MS. ANDERSON: We have a motion on the floor.

MR. BOGANY: I'd like to make an amendment that we take Mr. Gordon's suggestion with the attorney with the right language -- to amend it in regards to the HUB points.

MS. ANDERSON: And for clarification, Mr. Bogany, that would be at sort of an A or B, and the B would be --

You have it? Okay.

MS. BOSTON: A would remain as what we have in here, and then the or B would be that the two points would be -- may be awarded for submitting a plan to use historically underutilized businesses in the development process consistent with the guidelines for contracting with the state of Texas.

MR. BOGANY: Okay. And that's the amendment I would like to make.

MS. ANDERSON: Second.

MR. BOGANY: I have some thoughts, but that's the amendment I would like to make.

MS. ANDERSON: I'm -- and I second that amendment. So is there discussion on the amendment?

MR. SALINAS: Do you have any problem with the amendment, Vidal?

MR. GONZALEZ: No, not at all.

MR. SALINAS: Okay.

MS. ANDERSON: Hearing no discussion on the amendment, I assume we're ready to vote on the amendment. All in favor of the amendment, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The amendment carries.

Are there any other amendments?

I move to amend the motion --

MR. GORDON: Do we need to repeal the old QAP --

MS. ANDERSON: We haven't voted on the main motion yet.

MR. GORDON: I guess that's right. All right.

MS. ANDERSON: Okay. I move to amend the 2006 draft QAP by adding the definitions on intergenerational housing -- both proposed definition and the amendment to the ineligible building type per the language that was read into the record by Mr. Spicer earlier and that I will provide staff with a written copy of.

MR. BOGANY: So move.

MS. ANDERSON: So we --

MR. BOGANY: Second.

MS. ANDERSON: Discussion on the amendment.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote on the amendment. All in favor of the amendment, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The amendment carries.

Any other discussion on the main motion?

Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Thank you, Ms. Boston.

We're going to take a ten-minute break, and we'll reconvene in -- which makes it 3:30 on this clock.

(Whereupon, a short recess was taken.)

MS. ANDERSON: We are still on agenda item 3-A, which is the proposed repeal of the 2005 -- or 2004 and then the proposed new title 10.

Mr. Gordon, do you have a motion?

MR. GORDON: Yes, I have a motion to repeal title 10 part 1 chapter 50 - 2004 housing tax credit program qualified allocation plan and rules.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Item 3-B, Ms. Carrington.

MS. CARRINGTON: This is the proposed repeal of the existing HOME rules and proposal of draft, new HOME rules. We had one roundtable, 30 participants. The main focus on these rules is to ensure consistency with the federal HOME program rules and to combine that also with any rules related to multifamily, the QAP.

With that, we actually have three, then, statements of change related to these HOME rules. The first would be incorporating the definition for intergenerational housing in the HOME rules that we just put in the QAP.

The second one -- and this was not in the board book, but I am -- like to read this into the record. And this would make it -- this would make the way we treat past due audits consistent with a policy that has been approved by this agency.

And the language would read, Submit any past due audits to the department in a satisfactory format on or before the application deadline. The HOME rules read differently. This would be consistent with our current policy for when we -- when an applicant must satisfy past due audits.

And then the third I would like to read into the board is that an applicant shall provide certification that no person or entity that would benefit from the award of HOME funds has provided a source of match or has satisfied the applicant's cash reserve obligation or made promises in connection therewith.

That basically ties with the qualified allocation plan, which does not allow developers to pass funds through to cities or counties and have those dollars act as match -- act as contributions from local political subdivisions.

So these are two provisions that would make it consistent with our qualified allocation plan -- and actually, three provisions.

MR. BOGANY: So move.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Item 3-C is the housing trust fund rules.

MS. CARRINGTON: Actually, that would have also been a repeal and proposed.

MR. GORDON: Yes. I have a motion to -- we're going to repeal the proposed?

MS. CARRINGTON: On B.

MR. GORDON: Oh, okay.

MS. CARRINGTON: I'm sorry.

MR. GORDON: All right.

MS. CARRINGTON: And then do the same thing on the rest of them.

MR. GORDON: Okay. Motion to repeal the proposed repeal -- well, title 10, part 1, chapter 53-2004 HOME program rules.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: Housing trust fund rules. Again, one public hearing on the 19th of July. I think five people attended that. We are looking for working for consistency with other multifamily rules and provide as much clarification as possible.

The addition I would like to add would be the definition of intergenerational housing that was previously approved by the board. And staff is recommending the appeal of the existing rule and the adoption of the new draft rules.

MR. GONZALEZ: So move.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: The next item for the board's consideration is the real estate analysis. It's the draft underwriting, market analysis, appraisal, environmental site assessment, property condition assessment and reserve for replacement rules and guidelines.

And we did have a workshop on these rules and received some comment. Three years ago, we did substantially overhaul these rules, so we have not made very substantial changes in these rules at all. And the board is -- the staff is recommending repeal of the existing rule and adoption of the new proposed rule.

MR. BOGANY: So move.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next for the board's consideration are the rules for portfolio management and compliance. The rules that the board received were blacklined copies of the rules. I do need to say that the rules that were on the web were not blacklined. We did have copies of those for the public today.

Again, we're working on these rules to provide clarification and consistency. And we do recommend that the board repeal the existing rules and propose adoption of the new portfolio management and compliance rules.

MR. GONZALEZ: So move.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

We now proceed to item 5-C. And I do have public comment on this item after the staff's --

MS. CARRINGTON: We have two applications to go on the waiting list for private activity bond allocation at the bond review board, and these are applications for a portion of the 2005 private activity bond program. Behind tab 5-B, item number 1, we have a writeup.

This is the board action request, and these two properties are identified. One of them is the Willow Creek Apartments. This property would be located in the ETJ of Houston and Harris County. It is south of the city of Tomball.

This is an application that had previously applied to the department for an inducement, and there was a deficiency. There was an issue with the notice of the sign on the property. They did withdraw their application. They have reapplied. They have renotified.

As we have indicated to you in the writeup, there has been substantial opposition related to the inducement by the board of this transaction. This was the transaction that Representative Van Arsdale spoke to the board about this morning.

The second one for your consideration is Skyline at City Park Apartments. This would also be located in Houston. And on Skyline at City Park, we have not received any comment, either positive or negatively.

Staff is recommending that both of these transactions be approved by the board for inducement to go on the waiting list at the bond review board for an allocation of 2005 private activity bonds.

MR. BOGANY: So move.

MR. SALINAS: Second.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Mr. Bower. Do you --

MR. BOWER: I was just here to answer questions the board may have.

MS. ANDERSON: Great. Thank you.

MR. BOWER: Thank you.

MS. ANDERSON: And just for the record --

MS. CARRINGTON: Resolution 05068. Item 6-A for the board's consideration is moving into the HOME program. And staff is recommending approval of five HOME program awards for contract for deed conversions. These would total $2,589,600.

In January '05, we released a notification of funding availability for 6 million for contract for deed. We have received five applications. Those five applications are outlined for you on your writeup. It would be a total number of 46 units, 46 homes whose contracts for deed would be converted.

We are recommending the 4 percent administrative funds that is eligible for this activity. The dollar amount -- this NOFA is open until August 31 of this year. My staff does tell me that we have perhaps two or three more of these contract for deed applications that we are working at this point.

So we can't tell you exactly how much we'll roll over into next year's allocation, but there will be some amount of the 6 million that we originally had available that will roll over to contract for deed that we will be using for next year.

But we are recommending the 2,490,000 in project funds and 99,600 in administrative funds for conversion of these five contract for deeds.

MR. GONZALEZ: So move.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Next item for the board's consideration is item 6-B, and this is the awarding of funds for five communities under our disaster relief program, our disaster relief policy. These requests were as a result of severe storms and flooding which occurred in November and December of last year.

This area has been declared a statewide disaster area by Governor Perry. All of these activities are for owner-occupied housing, and what that means is we of course provide HOME funds to go in and do rehabilitation or rebuild on homes that have been badly destroyed.

And this is for a total of 45 homes that would be rebuilt in five counties. We are recommending project funds of 2,277,500, administrative dollars; which is 4 percent; of 91,100. We do have sufficient disaster relief dollars to make these awards.

And at the time that we provided this writeup, we have about 155,000 left in deobligated funds, although as is our process, we deobligate funds on a regular basis, and we will be having more deobligated dollars available to us.

MR. BOGANY: So move.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: The next item is 6-C, and this is the staff's recommendations for awards in our very large HOME application cycle that we do once a year, which is a competitive cycle for the department. We are recommending 99 applications for a total of $30,077,280.

There are three activities related to this allocation of funds. All of these are single-family activities through our HOME program. And that is the American dream down-payment program. OCC is owner occupied. TBRA, which you heard about earlier today, is tenant-based rental assistance.

And you can see that we received 205 applications. And what we are recommending are awards in the amount of 99 awards.

I would like to note that this was one item that, when it was posted -- that we had made a mistake initially on scoring of these applications. However, we did discover our mistake. We did correct that scoring. What the board originally received in the way of funding recommendations region by region were initially incorrect in the board book. We have corrected that with the board.

However, what was posted on our agenda was correct. What was posted on our website was correct. And so counsel has advised us that the board is on very solid ground in approving these recommendations and these awards today.

So with that, we do have staff that's available to answer questions. You may remember that we have $500,000 that's available per award -- per activity in this single-family portion of our HOME dollars.

MR. BOGANY: So move.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: I just have one question, Ms. Carrington, about the public comment we had this morning. Just in the interest of making sure we hear the staff's side of that comment, could we have someone address that please?

MS. CARRINGTON: Yes. And actually, I think I remember two comments this morning. One of them was from the gentleman from, I guess, Bee County who said that he had been on the initial list, and then he was no longer on the recommendation list or recommended list. So that was one comment that we've heard.

And then the second one was TBRA, which was tenant-based rental assistance, and that was the discussion that Ms. McIver brought up and that Mark Mayfield from the Marble Falls Housing Authority also brought up.

So I would like to ask Eric Pike, who is our director of single family, to come up and address both of those issues.

MR. PIKE: Good afternoon. Eric Pike, director of single family. The gentleman from Bee County was one of the organizations that had initially been recommended for funding, and when we went back and adjusted the scores, their organization was not recommended to receive a funding amount.

And so what they would need to do if they wanted to pursue that is to go through our appeal process. And we have had discussions with them and e-mails and stuff back and forth and have made them aware that that's what they would need to do.

MS. ANDERSON: Can you briefly explain the nature of the scoring change that led to -- I see them in region 10, you know, with 88 points. I mean, did they lose some points and somebody else gained some points like we're familiar with in the tax credit program or --

MR. PIKE: Believe what happened on that particular instance is that some other entities gained some points that leapfrogged them. Basically what happened was -- it concerns rider 3. We give additional points in our scoring criteria for counties that are rider 3 eligible.

And basically, if an organization is proposing to serve a population at or below 50 percent and they are in a rider 3 eligible county, they receive an additional ten points as -- over a county that is non rider 3 eligible, let's say, that's serving zero to 30.

So what it attempts to do -- it is attempts to put a rider 3 eligible county, which typically has a very low income level, on a level playing field so that they can compete with other counties.

That being said -- and it's fairly complicated, but that being said, we went through the list of rider 3 eligible counties, identified them, and put together the scoring criteria that staff was to use to score the applications. And they used that list of counties as they went through and assigned points for applications.

What we failed to do was -- there are some counties that are in MSAs, and some of those counties are actually rider 3 eligible. And we failed to include those on that list. That was brought to our attention. We had posted this a day ahead of time, fortunately, and -- to the website.

And so we were able to pull that information back, rescore the information, recalculate the items and put it back up and make it correct.

MS. ANDERSON: So this list represents, then, the right list of people based on all the scoring elements to receive this funding.

MR. PIKE: Correct.

MR. BOGANY: I have a question. The city of Dublin getting 300,000 -- and I guess the same question of the city of West Tawakoni. But they're only requesting one unit. You know, you've got your units on the side. Some people requested four. Some people requested five.

And I guess we're giving them 495 and 300,000 respectively, but they're only requesting one unit. Is that --

MR. PIKE: Can you tell me what page you're on, sir?

MR. BOGANY: I'm on page 5 of the agenda. And I see city of Dublin and city of West Tawakoni.

MR. SALINAS: Those are points.

MR. PIKE: Okay.

MR. BOGANY: Where is says unit request, so --

MR. PIKE: What's happened, I believe, there -- that's West Tawakoni and the city of Dublin. West Tawakoni requested 495,000. We only had enough funds available after we funded everybody who scored higher than they did --

MR. BOGANY: Okay.

MR. PIKE: -- to make an award of $10,889, and that results in one unit being --

MR. BOGANY: Okay.

MR. PIKE: -- recommended.

MR. BOGANY: And that --

MR. PIKE: And that's the same --

MR. BOGANY: So that's where the difference is.

MR. PIKE: And that's the same as the case on Dublin.

MR. BOGANY: Okay. So everybody requested more, but some didn't get --

MR. PIKE: Exactly.

MR. SALINAS: Some didn't get it. Yes.

MR. PIKE: Because we didn't have sufficient funding to fund those.

MR. BOGANY: Okay. How did you determine which one was going to get funding and which ones wasn't?

MR. PIKE: Well, it's based on, basically, who -- the applicant that scores the highest number of points. We take the amount of money available and then --

MR. BOGANY: Okay.

MR. PIKE: -- until we just run out of money.

MR. BOGANY: Okay.

MR. PIKE: If we have a tie, then we split that money between --

MR. BOGANY: Okay.

MR. PIKE: -- so those applicants.

MR. BOGANY: All right. Thank you.

MS. ANDERSON: Thank you, Eric.

Okay. Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Item 7-A. Thank you.

MS. CARRINGTON: 7-A is the operating budget for the department for fiscal year 2006, and I'll ask Mr. Dally to come up to do this presentation.

MR. DALLY: Good afternoon. Mr. Dally, chief of agency administration. I'm going to go ahead and defer and let David Cervantes, our director of financial division, go ahead and bring this budget to you.

MR. CERVANTES: Thank you, Bill.

Good afternoon. David Cervantes, director of financial administration. And let me begin by saying that at the July 14 meeting, we came before the board and brought our first draft of the 2006 or proposed 2006 operating budget for the agency.

And based on the discussions and our proposal and our submission at that time, we now are following up with an updated draft of the 2006 operating budget. Okay. And -- for your consideration and approval today. And I would like to highlight -- just walk you through the highlights.

The format of our budget submission remains fairly consistent with our last submission, but I would like to note one change. Under tab 7-A, roman -- lower case roman numeral number iii, this submission includes an organizational chart that was not present during our last submission.

And I would like to just highlight some of the significant components of this chart here. And let me just begin by stating that you'll notice that we have two -- as you look at the executive director position, you'll note that we have two additions.

One is Ms. Susan Woods, who will be serving the executive assistant to the director, to executive director. If you look to the right, you'll also notice that under the legal services component we also have Mr. Kevin Hamby, who will be joining us as a general counsel for the agency.

As you look down to the chief of agency

administration, the other thing that I will call to your attention is that there is an additional component that has moved over chief of agency administration, and that is the bond finance component. Okay.

And below that you will also note as you work down there is another area dealing with the deputy executive director of programs. As you can note, as we're moving into our new fiscal year, Mr. Dally is currently acting in the capacity of deputy executive director of this component. I believe there currently is -- we do have a posting for this position as we speak today.

And then finally, I'll note to the lower right-hand component of our chart that we do have the components of the real estate analysis group and the portfolio management and compliance groups. And I will note that those two components will report directly to the executive director as we begin our new fiscal year. Okay.

The format of the presentation that we made remains fairly consistent. The main things that we went back and included in our recent submission -- our original submission was for $21.7 million. This submission comes in at 21 million 9.

And just to highlight the differences, at the board's request last time it was noted that we should possibly go back and see if we could include some funding for house bill 1582 related to mortgage foreclosure rates and studies along those lines. We have included an item for $54,000 related to that. Okay.

The second item had to do with some market studies that we wanted to consider. And at the time of our first submission, we had $25,000 budgeted at that point. We have added another $25,000 in this submission, bringing us up to a total for 50,000.

MR. BOGANY: Is that enough?

MS. ANDERSON: It's a great start. It's double the start we had a month ago. I think Mr. Gouris thinks that's a great start.

MR. BOGANY: Okay.

MR. CERVANTES: All right. The other thing we had noted during our discussion last time is the fact that we hadn't been able to incorporate the longevity and some of the things going on with the salary increases as noted by the legislature and what they passed this past session.

And so we have included that in this submission, and that ended up being a net amount of about $66,000. Okay.

And then finally, I think the board also was very interested in us making sure that we went back and took a look at our plans related to the move. And one item that is also included here is a new development, and we've placed a contingency in there potentially for the acquisition of a backup generator for the location that we will be entering.

Yes, ma'am.

MS. ANDERSON: I had a question about why we'd have to buy that and not our new landlord.

MR. CERVANTES: We have the same question. That's why I say we are currently having discussions with TDPC. It is as a contingency here in the event that for whatever reasons, it would be something that will fall in the spectrum of our agency.

But we are strongly pursuing the avenue that it is a capital improvement under their purview. So it is in here under -- as a contingency, but of course, we will continue to --

MS. ANDERSON: We need to take -- we need to have real tough lawyers look at that lease.

MR. CERVANTES: There you go.

So in the end, what we have here is -- from the last submission we have a $210,000 change. It is a $21.9 million submission of our budget. And like I said, today we're here to ask for your possible consideration and approval of that budget as we move forward to September.

MR. BOGANY: So move.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion on the budget.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MR. CERVANTES: Okay. The other item that we have is under tab 7-B. And we are also required to submit to the board a housing finance budget for the agency. And during the last meeting, we submitted our first proposal. Under tab 7-B you'll find the new housing finance budget.

And you'll actually note that it is $133,000 lower than the previous submission. And that basically has been just through the normal adjustments that we've been making as we've been tweaking some of these other things throughout the agency.

So it is slightly under by 133,000. And -- but for the most part, it stayed pretty much consistent with what is in there in terms of the budget itself. So once again, we're here to ask for your consideration and approval of this particular item.

MR. BOGANY: So move.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

And David, am I supposed to --

MR. CERVANTES: There is a -- I believe Nidia has the original form.

MS. ANDERSON: Okay. All right.

MR. CERVANTES: Yes, ma'am.

MS. ANDERSON: Thank you.

MR. CERVANTES: Yes, ma'am. Thank you very much.

MS. ANDERSON: Thank you, sir.

7-C, the third quarter investment report.

MR. DALLY: Good afternoon. Billy Dally, department's chief of agency administration investment officer. Behind tab 7-C is the quarterly investment report for the third quarter ending May 31. Overall, the portfolio did increase by $45.2 million for a total of $1.47 billion.

There were three new multifamily issues during that quarter. We also had an issue of a hundred million dollars in our single family mortgage revenue bonds. That portfolio is -- consistently it's at 49 percent mortgage backed securities, 38 percent of the guaranteed investment contracts investments agreements, 7 percent repurchase agreements and 6 percent other.

I will note I've been bringing to you -- I think probably the most significant number in this is the activity so far as the purchases of our mortgage backed securities. We had another strong quarter, almost $52 million for this particular quarter.

It's not quite as strong as the last quarter where we had 75 million, but it's a very strong quarter. And I think it shows that our-- some of our marketing efforts and some of our adjustments and buy downs are working.

And then the last note is that overall the market value of this portfolio increased by 7 or $9,000 in the last quarter.

And one thing that I do want to set up as a teaser maybe for the next month is there are certain limitations to this quarterly investment report. It's kind of set up under the public funds investment act. And I think you really need to get to and talk about our bonds and interest rates and what the market does.

And we're going to set that up, and Byron's going to lead that discussion. I think at our next board meeting we want to start early in the morning and bring you some discussion of that, because these investments are really kind of derivative of whatever that interest rate market is and where those bonds are. And some of the real positive decisions are really on that bond side and not necessarily these assets.

And with that, I'm -- are there any questions?

MS. ANDERSON: We look forward to that discussion next month.

MR. BOGANY: Move that we approve the third quarter investment analysis.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MR. DALLY: Thank you.

MR. BOGANY: We had an audit committee meeting this morning at 8:30. I'm going to ask David Gaines to come up if he's still here. There he is.

Thank you, David.

We saved the best for last.

MR. GAINES: That's so everyone will stay around all day.

Good afternoon. David Gaines, director of internal audit. I know it's been a long day, so if I go into too much detail, please let me know. We went through the agenda item you see in front of you. The transcript fully documents those discussions. And I'd be glad to elaborate if it's the pleasure of the board.

MR. BOGANY: We had a really -- we are moving in a really good direction with what David and staff is doing. We're seeing -- you know, I've seen this list three or four pages long, and now it's slowly getting -- shrink.

And I think staff -- David and the staff and Edwina, you guys are doing a great job. And I know we're working on the central database where we're merging the two, and we still seem to be ongoing on that. But the good thing is that we're making progress, and we have some light at the end of that tunnel.

MR. GAINES: Any other discussion?

MR. BOGANY: Any other thoughts?

MS. CARRINGTON: Thank you.

MR. BOGANY: Thank you, David.

MS. CARRINGTON: We thank you for that.

MR. GAINES: Thank you.

MS. CARRINGTON: We believe we're making good forward progress also.

MS. ANDERSON: Yes. The paperwork looks clean, doesn't it?

MR. BOGANY: Yes, it does.

MR. GAINES: Thank you.

MS. CARRINGTON: Item number 9. The board needs to take action. This would be resignation of our current board secretary, which would be effective August 31, 2005 -- and our current board secretary, of course, is

Delores Groneck -- and then a recommendation to elect a new board secretary beginning September 1, 2005, for what we would anticipate would be a period of time, perhaps six to nine months.

MR. BOGANY: I'd like to recommend Kevin Hamby.

MR. SALINAS: Second.

MS. ANDERSON: Discussion. Objections from Kevin Hamby in the audience.

MR. GORDON: Duly noted.

MR. HAMBY: I can't do it yet. I don't work here yet.

MS. ANDERSON: So we have a motion and a second. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Now, I would note for the record that that's a unanimous selection of Mr. Hamby as board secretary.

As you've heard many times today, there is no replacing Delores.

MS. CARRINGTON: I think there's two items on the executive director's report -- and Curtis Howe is here -- that I would like to bring to the attention to the board -- of the board.

So, Curtis, if you would come on up and talk about these two particular items that I asked to go on the executive director's report, which would be, I guess, number 2 and number 3, which is the DIR implementation plans for House Bill 1516; which did pass with this last legislative session, and then a software license agreement we have between our agency and the Kentucky Housing Corp.

MR. HOWE: Good afternoon. I'm Curtis Howe, director of information systems. Almost good weekend. And I have to apologize for the first item on the executive director's report. I realize that I must have sent that through the department of redundancy department proofreading department.

But I wanted to give you a quick impact analysis of House Bill 1516, which is the Department of Information Resources's or DIR's legislation, which will -- which affects the management of state electronic services.

This was signed by the governor on June 18, and it becomes effective on September 1, 2005. The bill amends the information resources chapter of the Texas Government Code in three primary areas. And I'm going to focus on one of these areas, because two of the areas have minimal impact to the agency.

But those three areas are the new Texas project delivery framework, and that's for information systems projects; the purchase of commodity hardware, software and technology services; and the third area is statewide technology centers.

The first two areas -- because it is late in the day, I could provide a brief explanation, or I could just move on to the area that really impacts us. I'll say on the first two areas we're pretty much in alignment with those areas already, and the new legislation won't impact the agency tremendously.

The statewide technology centers. Currently, the Texas Government Code requires state agencies and IT departments to request a waiver if any disaster recovery or data center purchases are made. TDHCA is currently completely in compliance with the legislation.

We go through the state data center for our disaster recovery services today. And we currently do not have any data center services as currently defined, because none of our purchases that we've had to go through approval for have exceeded $200,000. That's the current rules.

Those rules will be changing dramatically in

September. And I just wanted to assure you that we've been highly active, as active as we could be, from information systems division and from TDHCA management and executive management in participating in the rule making that will affect how these -- how the new legislation is rolled out.

Effective September 1, the legislative budget board is out of the process of granting waivers -- initial waivers from the use of the state data center, and this authority is rolling over to the department of information resources.

And the scope of what the current state data center is managing is expanded quite a bit. It's been changed to include all state agency IT utility functions, including statewide networks, data centers, print shops and telecommunications to achieve efficiencies in cost savings.

And to give you an example, there's a DIR sponsored Gartner report that was published through their website on April 2005 -- the projection in annual savings of $29.6 million with this plan and a reduction of 568 full-time equivalent positions statewide.

Now, how does this impact TDHCA? Currently, DIR's focusing on the top 25 large agencies. And their -- the legislation requires that three agencies are moved over to the new statewide technology center a year. However, they have a more aggressive time line.

And according to a meeting that I went to yesterday, they're targeting all 25 top -- of the large agencies in September 2007. We'll be meeting with DIR sometime between now and March 2006 and doing a pretty comprehensive requirements analysis of our current data center, our server room, our network services.

And they will be making a recommendation which will -- it's actually a little bit more than a recommendation. Essentially, they'll be sending us a notification at some point after March 2006 saying these are the services that will transfer to the statewide technology center.

And I just wanted to make the board aware that this authority is completely in DIR's court. It's out of our agency's hand once these decisions are made. The -- there is one exception process, which I doubt would be going down unless it was obvious to us that we would be spending a lot more under the new statewide contract than we currently are with our current operations, and we would have to go to the legislative budget board for that.

There is a potential impact on our projects that are designed to get business results because of the work that it will take to move our services to a vendor managed solution.

So that's -- I don't see that affecting us tremendously before September 2007, but things are changing every day. So that's something to look forward to. The short-term impact is it doesn't really have a short-term impact on our move to the new building.

The data center -- or the server room that we're moving into in the new building is already built out with some modifications we're going to have to make, and DIR's not ready at this point to have -- the new state center isn't ready for us at this point.

Long-term -- and we are working with the Texas Building Procurement Commission and DIR's telecommunications services group on every aspect of the building move as we go along, including where our computers and our servers are going to be located. We currently use DIR services for all telecommunications as well.

The long-term impact I've kind of gone over and -- already and just wanted to mention again that DIR will have control over the number of FTEs allocated to ISE and the server resources once this transition is made if we're selected as an agency that will be participating in the state data center.

The next item is the central database software license agreement between TDHCA and Kentucky Housing Corporation. We just wanted to bring this before the board, because it's a very positive item as far as our central database and our contract -- in particular, our contract system is concerned.

Kentucky Housing Corporation contacted me. Paul Gorman, their CIO, contacted me in late May. And they had been doing research at looking at other state agencies to see what other state agencies were using for systems to manage, in particular, HOME draws and contract activities, but other programs as well.

And they ran across our website, looked at our external user guide for the contract system and were very impressed. And so we met internally. And we had never given any of our source code or licensed it to another organization before.

So executive management, legal, information systems division and finance got together and drafted up a software agreement. And we have passed that agreement on to Kentucky Housing Corporation. And just as of yesterday, I contacted Paul Gorman, and it's gone through their legal department, and they've signed it.

The benefits of this to the agency -- we're transferring -- it's an exclusive license where we're transferring the entire central database source code and database architecture as it exists now to Kentucky Housing Corporation.

They'll be able to use it at no cost. However, any modifications they make for any programs in the future will be the property of TDHCA. That -- or will -- not the property, but we'll have the rights to use those for any enhancements in the future.

This is being discussed at other housing agencies as well. And the potential is that different housing agencies across the state can really begin to share what we've done and give back to the agency. So it's a very positive thing.

Yes, Mr. Bogany.

MR. BOGANY: One quick question. Why are we giving it away for free?

MR. HOWE: Well, we discussed whether we would try to charge a licencing fee.

And what it came down to is the amount that we would be able to charge without being able to support the product or -- and provide -- the normal vendor rate would have been so small that we thought the benefits we would gain through getting back future enhancements they might make for housing tax credits or another program would outweigh the relatively small fee that we could ask.

And it is sort of in line with what a lot of the housing agencies that participate in the MCSHA meetings -- there -- a lot of -- there is a lot of talk about sharing between housing agencies right now.

MS. ANDERSON: And this two-page agreement in this stack is the complete agreement between the parties?

MR. HOWE: That's correct.

MS. ANDERSON: And, you know, this agreement's a license agreement, so it's not a consulting agreement. If they are to ask -- I mean, if they were to ask you for consulting services to help install, you know, user training, you know, the benefit of our experience, those services would be priced at no less than the department's costs, fully-loaded labor costs, et cetera?

MR. HOWE: Those services are totally not included in that contract. We're --

MS. ANDERSON: I know that, but I'm -- just -- you have to think ahead when you transfer an asset like this to another department for their benefit, that they may want to -- and I guess I should frame it as a question. I should frame it as a statement -- that were we to be asked -- I'd be very surprised if we wouldn't be asked.

And I mean telephone support. I don't mean if you have to go to Kentucky. They are going to pick up the phone and call you and take you off your mission for us. And all of that must -- you must contemplate an agreement that -- or -- for the provision of those services so that we set the terms and conditions of that agreement, and that needs to be done immediately.

MR. BOGANY: Because they are going to call.

MS. ANDERSON: Mr. Sims loves my forklift. We didn't just forklift software never thinking the phone was going to ring, that it -- you know, that -- I would be stunned if that -- you know, that they're just going to school on it all on their own.

MR. HOWE: Well, it's a very good point, and we'll --

MS. ANDERSON: Did we charge them for the documentation?

MR. HOWE: We have not made a charge for the documentation. Our --

MS. ANDERSON: Does this license agreement give them rights to the documentation?

MR. HOWE: The -- yes, it does. Yes.

MS. ANDERSON: Okay. I'll probably want to talk to you after I review the license agreement.

MR. HOWE: And our documentation is freely accessible on our website for external contractors. It's -- because our external contractors use the system to log in and perform draws. So the -- our user guide -- it's not our internal system documentation, but our user guide is available.

Any further questions?

(No response.)

MR. HOWE: Thank you.

MS. CARRINGTON: Thank you, Curtis.

MR. BOGANY: Thank you.

MS. ANDERSON: Does that conclude the executive director's report?

MS. CARRINGTON: It does indeed.

MS. ANDERSON: Seeing no remaining business to come before this board, I'm --

MR. BOGANY: I move that we adjourn.

MR. SALINAS: Second.

MS. ANDERSON: We stand adjourned until September 16.

(Whereupon, at 4:20 p.m., the board meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: August 19, 2005

I do hereby certify that the foregoing pages, numbers 1 through 186, 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.

08/27/2005
(Transcriber) (Date)

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