

BEFORE THE

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

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Capitol Extension
Room E1 030
1100 Congress Avenue
Austin, Texas

Thursday, November 9, 2006

The above-entitled board came on for
meeting, pursuant to notice, at 9:30 a.m.

BOARD MEMBERS:

ELIZABETH ANDERSON, Chairman (Not present)
C. KENT CONINE, Vice Chairman
SHADRICK BOGANY, Member (Not present)
NORBERTO SALINAS, Member
GLORIA RAY, Member
SONNY FLORES, Member

STAFF:

MICHAEL GERBER, Executive Director
KEVIN HAMBY
BROOKE BOSTON
LUCY TREVIÑO
EDDIE FARISS
ROBBY MEYER
TOM GOURIS

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P R O C E E D I N G S

MR. CONINE: Welcome to the meeting. We have a quorum.

We'll proceed with our first witness in the public hearing on the State Low Income Housing Plan, Felix Briones.

MR. BRIONES: Good morning. My name is Felix Briones. I'm a member of ADAPT of Texas, but I'm mostly here on behalf of myself.

My job at ADAPT is to actually transition people out of nursing homes into the community, and so I want to make sure there's going to be vouchers out there that TDHCA is going to have out there because without the vouchers, finding affordable, accessible, integrated housing for people is really a problem. So if those vouchers aren't out there, then whatever I'm doing is not going to do any good because without the housing out there, I can't transition people out of the nursing home.

So I'm just hoping that there is going to be money in there for the vouchers, and also I hope that all the PHAs are actually going to apply for these vouchers because without them even applying for them, having the money is not going to do any good.

So that's just my comments. I juts want to

make sure that everybody has an equal chance to live out in the community, so I'm hoping you do make sure that there's going to be money for vouchers and also that the PHAs are going to apply for the vouchers. Thank you.

MR. CONINE: Thank you. We are going to impose a three-minute time limit on this for the rest of the day so we can move through the agenda. Gene Rodgers is next.

MR. RODGERS: Good morning, Mr. Chairman. My name is Gene Rodgers. I'm here to speak to the great need for vouchers in this program. Without the vouchers, people coming out of nursing homes will need large startup costs to get out to pay their first rent and deposit in apartments which most times are just not accessible. So the need for the vouchers is great and it just can't be overstated, so please put the vouchers in. Thank you.

MR. CONINE: Any questions of the witness?

Thank you, Mr. Rodgers. Next Stephen Harvey, and after that I have Bill Fisher.

MR. HARVEY: My name is Steve Harvey. I'm from the Heart of Central Texas Independent Living Center in Belton and Waco. My job is to monitor the HOYO Program and to help people out of nursing homes.

Two main points I would like to make about cutting the funding for the two programs. First, the HOYO

Program is providing our community partnerships with other nonprofits such as our local Habitat for Humanity to provide home ownership for people with disabilities that are around the 50 percent median income level.

The second point I'm speaking to is Tenant Based Rental Assistance. I'm against the cut of funding of this. I realize in the first couple of years there were vouchers that weren't even used. There are two problems with Tenant Based Rental Assistance. Number one is the complexity of the program. For a nonprofit that has not been in the business, it takes a full year learning curve to learn the housing industry. Number two, it allows us to help people to get out of nursing homes which saves the State of Texas approximately \$2,000 per person when they come out of nursing homes, and without the Tenant Based Rental Assistance funding affordable housing on \$603 a month is nearly impossible.

The third point on Tenant Based is the agency capacity. The system is so complex and requires so much of the agency just to administer the program.

And those are my comments. Thank you very much.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you.

Bill, do you want to speak on the QAP?

MR. FISHER: Open comment, yes.

MR. CONINE: Okay, thought you might. Nelson Peet, come on up. Jennifer McPhail is after that.

MR. PEET: Good morning. I want to tell you it is so good to breathe this Austin, Texas air. I was in a nursing home for 19 months, and if you wanted to go outside and get a breath of fresh air, you either had to smoke to get the code to the door to go out, or you had to have a family member come up there and take you out.

They say you're going to be there for 60 days of therapy, you've got to transfer from the hospital, and after many days a social worker comes out and tells you that you will be there for the duration of your life. Well, I was 48 then, and what's that, 30 years.

Thanks to the voucher program, I've been able to have a life. They took my voucher away from me because I was in the nursing home too long, and so I got another voucher so I was able to get out of the nursing home. And it's wonderful. I can eat what I want to eat, when I want to eat it.

I'm on the Medicare Part B plan now where they pay for my medicine so I can get Celebrex instead of them

trying to OD me on ibuprofen. They gave me eight ibuprofen in 45 minutes one morning and said that was nursing home protocol.

It's just wonderful to be out in the free world again, the real world where I get to pay my bills, and I get to eat what I want to eat, and I get to go to the store, actually get to get out. In the nursing home it was like if you want to make a phone call, it was like who are you going to call. That's none of their business. And some friends came up and said, Let's go across the street to the store and we'll buy you a coke. I said, I've got to go sign out. They said, You can't go except with these three people listed on your medical information page. That's for medical information. I can go out with whoever I want to go out with.

And then [indiscernible] came out and they denied me because the nurses lied about me and said I couldn't catheterize and I've been catheterizing since 1990. And then the doctor lied about me and said I couldn't be without supervision but he had to finally agree with the state nurse. So luckily I'm out in the real world again. Thanks very much.

MR. CONINE: Thank you. Jennifer McPhail, and then James Meadows after Jennifer.

MS. McPHAIL: I'm Jennifer McPhail, and I'm with the ADAPT of Texas, and I wanted to say that I fully support the voucher program, getting people back into the community. I think that you need to really rethink the cut. We've worked a lot of years to get where we are now and it's taken a long time and a lot of sacrifice from people. And the time that people are forced to spend in institutions because these programs weren't in place can't be given back. If you make a financial mistake, you can replace it with more money or shift money around, but if you make a mistake with people's time and people's lives, you can't give that back.

Also I wanted to say that there are many members of our group that benefit from HOYO, Home Of Your Own. Many of us want to be part of the American Dream but can't because we're very low income, and unless we have a program like Home Of Your Own, we will not be a part of that dream.

And it's as simple as this, you can live without many things but where do you go at Thanksgiving? You go home. Where do you go when you're mourning the loss of a loved one? You go home. Where do you go to celebrate a victory or a great moment in your life? You go home. Well, many of us don't have a home, and people

are forgotten and they fall through the cracks.

So it's not in front of your face and it's not a sexy subject, so people don't talk about it very often, but many, many people, especially baby boomers are getting older and they're going to need some help, many, many people are going to be falling through the cracks. Unless we have programs like this, unless we have the ability to ensure that people are supported in the community, we will be making both a fiscal mistake and a social mistake.

You talk about the denigration of the American family. Well, part of the reason why the American family is changing as much as it is is because families are torn apart by public policy like this that that is unnecessary.

We can make changes in public policy that will transform the way that we live in such a profoundly positive way that we'll save millions of dollars and thousands of lives. So what are we waiting for? Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: James Meadows. Next I have Monique Carle after Mr. Meadows.

MR. MEADOWS: Thank you for letting me speak today. I'm James Meadows and I'm representing Texas Advocates.

Texas Advocates is a statewide organization for people with [indiscernible] disabilities and people with cognitive disabilities. We're in favor of the voucher program because we believe in community living because a lot of times people like ourselves do not have the opportunity to live in their own or their own places because of services where they live. We believe you should have vouchers for us because we want to be successful in the community and help us to be successful because we can be taxpayers, we can make a contribution in the community, and to help us to be successful.

I'm not saying dumping people but really supporting what they want to do because like the money follows the person model. Take the money [indiscernible] to a place of their own, a place they like to live, a safe area they want to live. It's like you guys, you guys want to live a place to be safe, and talk about being safe, live in the community. We want the same thing, we want to be safe and to be successful, and also we want to be taxpayers, be employees of the local jobs, the things we want to do, the things we take for granted in our life. Because of the voucher, a lot of us could be more successful and to see us be accepted who we are in the community, not look at our disability or our faults but

more look at me as James and look at people like Ricky, or people like Charles, and people we know in this room and other people around Texas, because we believe people should look at them as a person first, not the disability.

But really help us to be successful in the community if you keep the voucher program going because I believe people should be at home of their choice, to be in a safe area. I cannot stress about that, be safe, because a lot of times vouchers only give you a choice of a good area or a bad area of living, but we're saying we want to live where we want to live, next door to our family and friends and our relatives, they want to call their home. Thank you very much.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Appreciate it.

May I remind everyone to turn off their cell phones or we're going to be getting to congratulate the next one for a donation of \$100 into the Housing Trust Fund.

(General laughter.)

MR. CONINE: Monique Carle.

MS. CARLE: Hi. My name is Monique Carle, and I'm the TBRA program director and a relocation specialist

with Coastal Bend Center for Independent Living. Under our TBRA Olmstead contract we have 84 consumers who have relocated from nursing homes and into apartments. Many of those apartments are Tax Credit properties which are designed for low income but without our vouchers, they would not be able to afford those, the Tax Credit properties.

Thirty-nine of the 84 people who have relocated, I personally relocated myself, and we October 5 we had ten consumers come down to the TDHCA public hearing in Houston and give comment as to what the vouchers mean to them and their lives. And for most of them, it simply breaks down freedoms and they expect freedoms that you and I all take for granted, and without the vouchers, a lot of them won't have those freedoms.

So what I would like to ask is that we continue TBRA Olmstead Program. We also include continuing the HOYO Program, the Home Of Your Own Program, to provide independent living opportunities for people with disabilities.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: The next couple up are Cathy Cranston and Regina Blye.

MS. CRANSTON: Hi. I'm Cathy Cranston. I'm with ADAPT of Texas and also Personal Tenant Coalition of Texas.

I don't know if you guys noticed my T-shirt. It says "Accessible Affordable Housing The money can't follow the person when there's nowhere to go." And you guys have the power to decide if people with disabilities coming out of institutions have a place to go. If you choose not to continue funding the TBRA Olmstead vouchers program, then that's what you're going to be doing. You need to continue this program.

The other thing I wanted to say is that the HOYO has done so much for the state of Texas and the thing is if you're going to be cutting the whole funding, I think it's \$750,000, from what it used to be -- and the gentleman that spoke about it takes about a year, the learning curve. This program is very important to people with disabilities that want to purchase a home. As Jennifer said, several of our members in a lot of organizations -- there's about five or six -- have been able to purchase homes under HOYO, and without this program, we're not going to be able to purchase that.

Many of us live on fixed incomes, and in fact -- I know you won't mind -- J.T. is a great example

of a gentleman that's been able to purchase a home under the HOYO. He and his wife used to live in a nursing home, they came out into the community, and they were able to, under the HOYO, buy a home. And I think he has been in the home for eight years or something like that, and now Karen has passed away.

But these people believe in this program, and you're going to be affecting people like Karen and J.T. that want to purchase their own home by not funding HOYO more but cutting it down to \$750,000 statewide. I know you've got to go statewide with it but if you don't put enough money, developers just aren't going to want to buy into it.

That's all I wanted to say. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Regina Blye, and then I have Bob Kafka next.

MS. BLYE: Hello. My name is Regina Blye. I'm the executive director of the State Independent Living Council, and also I'm a former relocation specialist.

Speaking on behalf of the relocation specialists, I know how difficult it is to try to find housing for people who are relocating from nursing

facilities. It's very hard to find housing for someone who is getting only \$579 to \$603 a month, and not only that, but to try to get the deposits and all the things necessary for a person to relocate.

I don't know if this is true or not, but heard a rumor that they're wanting to cut funding because of people not utilizing the vouchers. I don't think they understand the process for a person to be able to get on the voucher program. We were able to relocate at least 100 people from nursing facilities and the majority of those people were relocated because of the voucher program and they're able to enjoy the freedoms that you and I tend to take advantage of, or might take advantage.

Also, representing the State Independent Living Council and myself, I benefitted from a voucher program when I was attending college. I utilized the voucher program. I was making \$579 and going to college and trying to pay for housing was difficult, and because of that, I am now today able to be the executive director of the SILC. Not to mention on October 10 I was in a wreck and van totaled, wheelchair totaled, rear-ended by an 18-wheeler.

In September I was told that I received the job. Well, my first day here had the wreck, I spent two

months trying to find housing. Within that time I found lots of places that were beautiful but could not access those because they were not accessible. For me, I was fortunate enough to be able to find things that I could afford but I couldn't get into them. Doors were not wide enough, couldn't get into the restroom, or the doors are not wide enough to even get into the place that was accessible. So I know that there are lots of places here but they're not accessible nor affordable.

So if we cut the voucher programs, we're limiting people being able to have successful lives and live independently and have their own housing.

So I'm not only the SILC executive director, I'm a consumer and I'm an advocate for people with disabilities. Thank you.

MR. CONINE: Thank you. Bob Kafka and Danny Saenz is next.

MR. KAFKA: Thank you. My name is Bob Kafka and I'm an organizer for ADAPT. I'm also a member of the Promoting Independence Advisory Committee and a life member of Paralyzed Veterans of America.

Texas has actually been a leader in this course called money following the person. Starting with Governor Bush and with an executive order and followed by Governor

Perry, there has been a major development to move people with disabilities and older Texans from institutions into the community. The key, obviously, is housing.

What I've handed out to you is some sections of the Promoting Independence Advisory Committee. I just wanted to note for the record that Governor Perry in an executive order said to you that "TDHCA and HHS shall maximize federal funds for accessible, affordable and integrated housing for people with disabilities. These agencies, along with appropriate health and human services agencies, shall identify within existing resources innovative funding mechanisms to develop additional housing assistance for people with disabilities."

Also attached to that is something much more recent that you got, as a PHA, from the U.S. Department of Housing and Urban Development from Secretary Alfonso Jackson, basically also referencing the money following the person, the Move Freedom initiative, and talking about how he, and I will quote, "I encourage all PHAs under existing authority to set local preferences to use public housing units, housing choice vouchers, and mainstream vouchers to joint with state Medicaid office and aging and disability agencies in promoting the money following the person. This will help in implementing the Olmstead

Decision."

TDHCA, I know, is not part of the Health and Human Services, but TDHCA was innovative in their developing funding to move people out of the institutions.

We had some glitches, there needs to be some technical system to move forward, but what you have done is thrown the baby out with the boy. You've slashed it 70 percent, you basically have sort of decimated what is there, and you will almost single-handedly corrupt the money following the person application that the state just submitted to get more federal funds to move people from institutions to the community because of that \$750,000 line item, because of the lack of setting preferences in your public housing and your State Low Income Housing Plan. You are actually pro-actively doing exactly opposite from what Governor Perry's executive order and what Secretary Alfonso Jackson is asking you to do.

I don't know if this is being done because of funding cuts, I don't know if this is being done because of other influences, but the reality is that individuals cannot move into nowhere and that this is critical, we have openly said this many, many times, and we've gotten, I will tell you, very arrogant responses from many members of the staff who are working with people with

disabilities.

We want to work cooperatively with the board to basically make Texas a shining star in this area, and to make not only integrated housing but home ownership something that we all can be proud of. Thank you.

MR. CONINE: Thank you. Any questions?

MAYOR SALINAS: Mike, is this cut, this \$750-
on the vouchers?

MR. GOURIS: It is essentially an increase on HOYO. It's previously been \$500,000 and it's increasing --

MR. KAFKA: That is totally not true. It is \$750,000 for the TBRA vouchers, HOYO and Low Income. It is a reduction from \$2.75 million, it's a 70 percent reduction from 2006. It is totally untrue.

MR. CONINE: Hang on. You've got to let the board member and staff person talk here.

MR. GOURIS: If I could ask Brooke Boston, our deputy executive director of programs, to come up.

MR. CONINE: Do you want to do this after all the testimony? Why don't we do that because I don't want to stop in the middle of testimony.

MAYOR SALINAS: That's fine, as long as we come back to Mike.

MR. CONINE: I promise you. Any other questions of the witness?

(No response.)

MR. CONINE: Thank you. Danny Saenz and Stephanie Thomas are next.

MR. SAENZ: I'm Danny Saenz, I'm with ADAPT of Texas. When I was three years old, I was put in an institution, I was there for two years, and I know what it's like to not be able to be with your family or to be able to be with the ones you love. And I now help people who are in institutions and nursing homes get out.

One of the problems we have, even when we have the state programs that will provide the human services, a lot of times we can't find housing, and it's really hard to hear the people that we're trying to help. And I'll say, for example, just a first name, Henry. He goes, Hey, I want to get out, you guys, I really want to get out, I don't like it here, I don't like it here, they treat me like a baby, I feel like I'm a prisoner, I want to get out, I want to get out. He keeps telling me this over and over, I want to get out.

And it's not just him, it's other men and women who, when I go to see them and I try to encourage them that it's coming but you just have to be patient. And I

just wanted to let you know there's people waiting out there to be able to go out on their own, back into their community. A lot of the people have been in another community and now they want to go back.

And also, I haven't used the HOYO Program but I have visited friends who have a Home Of Their Own house, and to see it, it's really cool. It's their home, the American dream. Right? Thank you.

MR. CONINE: Thank you. Stephanie Thomas, and then next will be Jeff Garrison-Tate.

MS. THOMAS: Hello. My name is Stephanie Thomas. I'm with ADAPT.

President Bush, in his New Freedom initiative, has promoted having people moving into the community out of institutions, out of nursing homes. Secretary Alfonso Jackson, you've gotten letters several times now.

[Indiscernible] by Governor Perry in his initiative to you. And we really need to address this issue of people with disabilities living in the community, and what the State Low Income Housing Plan and the PHA plan do is exactly the opposite, they just devastate all of the efforts that are being made.

To point to the Project Access vouchers that were done about five years ago, there's about 35 vouchers

that have been able to increase that a little bit through working with local PHAs, but only by maybe ten. For the entire state of Texas, that is ridiculous, it's nothing. You guys need to do more, you cannot pull the funding for those vouchers.

And all you have to do on the PHA plan is on page 11 there are two boxes you can check. It's just checking a box saying you will look at applying for vouchers that are especially for people with disabilities, and there's another box that says you will work with nonprofits to try to help people with disabilities find housing. That just can't be too much for you to do. You can do that and you should do it.

You should also fund the TBRA vouchers because there needs to be the availability across the state. Yes, there were problems before, but you have had other programs with problems and you haven't just yanked all the funding from them. Boards before you were funding illegally developed housing and wasn't bothering to make it accessible. Did you just say, well, we're not going to fund any more development of housing? No. You worked with them, got them to fix the problems and moved on. That's what needs to happen here, not just dumping the whole thing.

And as for the HOYO Program, the same thing. You have heard some of the stories. People on incomes as low Social Security disability buying their own homes, developers aren't going to do that. They had the chance to do that for years now and nobody has even bothered to try. The only people that tried to do that was the HOYO Program.

And by dividing that up between the 13 areas with the current funding levels, that's about \$60,000 an area. Now, come on, how many homes are going to be developed with that? That's not going to be a program, that is pulling the plug on a drain and you can just watch the whole thing go down. That is not the way it should be. You've heard some of the stories but that is just the tip of the iceberg of the stories of people's lives and how they're affected.

And if you don't see the connection between getting people out of nursing homes and into housing, it's like this: they will not provide services to you on the street corner. You heard about J.T. and Karen. Karen was in a nursing home for twelve years. She said she'd rather live on the street than living in a nursing home, but they won't give you attendant services on the street. So even if that was your choice, it's not going to be a choice for

you.

You hold the key to this and you need to do the right thing.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Jeff Garrison-Tate, next will be Albert Sparky Metz. Jeff left? Okay. Is Albert here? And next will be Angela Lello.

MR. METZ: (By translator) You've heard about HOYO, and I want to talk to you about how to make a success of this. I have a voucher and have had a hard time finding a house that was accessible. We looked in the newspaper for houses and we would call up some of them and we'd ask them if the house was accessible, and they would say yes, but when we got there, it was not accessible. Part of the problem is people don't know what you're talking about when you say accessible.

Thank you.

MR. CONINE: Thank you, Mr. Metz. I've got Angela Lello and then Otis Larry, it looks like.

MS. LELLO: Hello. My name is Angela Lello. I'm with the Texas Council for Developmental Disabilities, and I did submit written comments to you, so that basically we're giving the gist of our position on this

issue. However, I would like to respond to the question asked of staff regarding the increase in funds by reading to you from the 2006 and 2007 State of Texas Low Income Housing Plan and Annual Report.

On page 213 of the 2006 plan, under the heading Persons with Disabilities, it says, "Subject to availability of qualified applications, a minimum of 5 percent, approximately \$2,225,000, of the annual HOME allocation will be allocated for applicants serving persons with disabilities." Additionally, this is in the third paragraph under Persons with Disabilities: "For program year 2006 the department will allocate \$500,000 to the Home Of Your Own Program for activities relating to the home ownership for persons with disabilities."

Now we turn to page 125 of the 2007 plan. Under that same heading, Persons with Disabilities, we see in the third paragraph: "For program year 2007, the department will reserve \$750,000 for persons with disabilities single family allocation." I don't know about you, but I sure can read, and \$2.75 million is greater than \$750,000.

And if you need to reference it, once again, 2006 State of Texas Low Income Housing Plan in your report on page 213, and the 2007 State of Texas Low Income

Housing Plan in your report on page 125. I realize staff has been listed as saying there has been an increase for these two programs, however, from what I can read, I don't see an increase anywhere, rather I see a decrease. It's in black and white, you can see it for yourself on those two pages.

And I ask you to perhaps have staff explain how it is an increase and also, in concert, have discussions with individuals who are implementing these programs at the community level so that at least we can get a straight answer regarding where these funds are going and why TDHCA is proposing to take the action that it is. Thank you.

MR. CONINE: Thank you. Otis Larry. Next will be Sarah Mills after Mr. Larry.

MR. LARRY: Good morning. My name is Otis Larry, and I just wanted to put an update to the HOYO Program. I am a housing counselor for the HOYO Program, I purchased a home through the housing program, and without that, chances are my life would not be where it is today.

I was a member of the community, I had a nice five-figure salary, I became disabled, I became homeless.

The only thing that was there for me was the HOYO Program to help me pick up my life and put it back together again.

Since then, I have been a housing counselor for

the HOYO Program. In that capacity, I not only try to help people with disabilities in the areas that the HOYO Program serves, but I field phone calls from all over the state of Texas, I field phone calls from all over the United States from people who are going to move to Texas and they want to know what type of housing assistance is available for people with disabilities moving to Texas, and that's what I do.

And to cut a program that is successful is a waste of funds. It would be, I feel, a waste of my time, like everyone else, it's something I've been doing for seven years, I think I do it fairly well, I go way out of my way to try to help people wherever they are, not just federal people but anybody with a disability, explain the program to them and try to help them find a home if it's not within our capacity to help them.

So the HOYO Program, as you can hear, is working, not only because I work there but because I purchased a home through there and I can see how all of the other people that have purchased homes through the HOYO Program have become better citizens for it. Thank you.

MR. CONINE: Thank you. Sarah Mills, and after Sarah, Stephen Hester.

MS. MILLS: Good morning, board and Mr. Gerber. My name is Sarah Mills and I'm with Advocacy, Incorporated and I'm the housing policy specialist, and I'm here just to reiterate what you've heard before me.

The first is about the public housing authority in the plan and we'd like staff to re-look at that and please check the boxes on page 11. These boxes say that they'd be willing to apply for vouchers for people with disabilities and also says they're willing do outreach and work with nonprofits. And that's why I'm here is because Advocacy, Incorporated is a nonprofit, we have a grant called the Texas Team Integration Projects. We have staff Team Integration all over the state and we are helping individuals with disabilities get out of institutions and nursing homes and into the community, and it takes those vouchers for us to help those people do that.

In addition to that, it also just costs less for somebody to live in the community. And I believe, I don't have the actual numbers but I know somebody here who can get those, but I believe it's about half of the cost for somebody to live in the community.

Also, when somebody is in the community, they will have the ability to also go back to work. It's amazing how cut off somebody is when they're in an

institution. If they're in the community they have access to vocation rehabilitation services. If they can get those services, they can get training or get back into an employment capacity and they become taxpayers again and that's a win-win for all of us.

So we just want to really reiterate that you look at the vouchers, you look at HOYO, you look at everything that you're considering and reconsider it, please. Thank you very much.

MR. CONINE: Thank you. Stephen Hester, and next after Stephen will be Matt Hull.

MR. HESTER: My name is Stephen Hester, Jr. and I work for the Houston Center for Independent Living. I'm a housing advocate for people with disabilities. I've been a real estate lawyer for over 25 years, I've worked with insurance companies, developers, builders, architects, engineers, real estate agents, and surveyors.

I understand the real estate business very well. I understand what works and what doesn't work for people with disabilities.

I would like to say first that people with disabilities are discriminated against in almost every facet of the real estate industry. I'll give you a good example. The Texas Real Estate Residential Construction

Commission has a statute that makes it illegal to discriminate people in housing for age, sex, race, ancestry, gender, but specifically and purposefully and willfully, the state legislature and the governor of this state signed the law knowing that they were allowing the Texas Residential Construction Commission and every home builder and developer in the state of Texas to discriminate against people with disabilities in single family housing.

When you hear these individuals coming up here and saying that we have a hard time finding housing, we're not telling you the truth. It's almost impossible to find housing, it does not exist, and it doesn't exist because the market is not there for it. The market is not there for it because they choose to do other things with their profits and the government decides to use taxpayers' money to do other things.

I'll tell you what the government uses their money for. For example, they help developers -- which I did for many years -- they help them get utilities, sewer, streets, lights. All the taxpayers subsidize that, all of us. When you buy a home mortgage, when a builder sells a home and gets that cash, Fannie Mae, Freddie Mac, the federal government subsidizes that, the taxpayers, people

in this room who are people with disabilities, but even though you still discriminate against our mortgages too, we can't get those. If you've got a disability, it's very difficult, if not impossible, to find a mortgage, and the only reason that you can do it through the Texas Home Of Your Own Program is you're talking to people with disabilities and you're talking to a few bankers that under the Community Investment Act, the federal act that requires the banks to assist underserved communities, the federal law that requires them to reach out to the communities, but that's the only reason they're making just a few little loans here or there.

And I'll tell you why I'm saying a few little loans. The companies I used to work for -- and I owned insurance companies, I owned real estate information companies -- I would do a thousand loans in a month and I had a small company, a thousand in a month. HOYO is doing 200 a year -- it's not even 200, I think it's 100; I'd like to know what the real number is -- a hundred or two.

To me that is obscene, it's callous, it's indifferent to treat people with disabilities, strictly because they have a disability, they can't get a home, they can't get a mortgage.

Me, as a Texan, to come to this great city and

sit in front of this board -- and I have great respect for all of you and I don't mean any of this personally -- this is an embarrassment, to come up here and talk about \$750,000 being taken away from the Texas Home Of Your Own Program and the Olmstead vouchers.

MR. CONINE: Can I ask you to wind up, please?

MR. HESTER: I certainly will, sir. And just respectfully, as much as I can -- I'm sorry I'm showing a little emotion here this morning -- but I work with individuals with disabilities every day, I know housing is not out there, and we're going to get it if we have to change the government to get it, but we're going to get housing. We don't want preferences. I heard a couple of people saying we need some preferences. We don't want preferences, we simply want to be treated like everyone else, that's all we're asking. Thank you.

MR. CONINE: Thank you. Matt Hull, and Ron Cranston will be next.

MR. HULL: Good morning, board members, Mr. Gerber. My name is Matt Hull. I'm with the Texas Association of CDCs. We represent about 150 of the nonprofits doing affordable housing and community economic development across the state. And like the gentleman said earlier, the air in Austin is free, it's not free of

allergens, however, and so bear with me as I sniffle my way through this testimony.

The TACDCs fully support the disability community in their efforts to increase funding levels back up to the previous level in 2006, however, I'd like to shift gears and move away from that discussion and talk about Homebuyer Assistance which hasn't been discussed yet.

As you know -- and I think I addressed this last time -- Homebuyer Assistance is proposed to be cut from 20 percent of the Single Family HOME funds that it currently gets down to 10 percent, along with the TBRA Program moving from 20 percent down to 10 percent, with that additional 10 percent going over to the Owner Occupied Housing Program. TACDCs does not support this move, we would prefer that the money stay with both TBRA and Homebuyer Assistance.

I understand why you're proposing to move it. OCC is oversubscribed, it gets the money out quick, you can do it at \$55,000 a chunk per city multiple times over and the program is oversubscribed. Homebuyer Assistance across the state is undersubscribed but in certain regions it's oversubscribed, and by reducing the funding amount from 20 percent to 10 percent, you're actually penalizing

those areas, those regions of the state that are effectively using this program.

Also, there's no reason to actually reduce the funding from 20 percent to 10 percent because in any region where the money is not oversubscribed or is not fully utilized can be moved over to other housing activities in that region, including Owner Occupied Housing. The reason that Homebuyer Assistance and TBRA are not oversubscribed is there's no money in it. It's done by cities and nonprofits that have to get operating support in addition to the 4 percent admin fee and the 10 percent soft cause for doing it. OCC, there's money in it, it's oversubscribed, it's consultant-driven to get 4 percent admin fee and 12 percent soft costs, and those soft costs can then be back into the profit of the consulting group.

Again, we request you leave Homebuyer Assistance and TBRA at the current funding level, and that's it. Any questions?

MR. CONINE: Thank you. Ron Cranston, and Tanya Winters next.

MR. CRANSTON: Hi. I'm Ron Cranston. I'm with United Cerebral Palsy of Texas. I work closely in terms of trying to find accessible, affordable, integrated

housing for folks with disabilities in Texas.

You've heard some really great testimony already today, so I'm going to try to be very brief. It basically comes down to what your next steps are for the future, whether or not this plan will turn around and look at more money, at a grassroots plan to make sure that set-asides are there for Homebuyer Assistance, for the Tenant Based Rental Assistance, or whether or not you follow through with what's been proposed.

You sit on a board that holds a lot of cards here for folks with disabilities, and as you've heard, it's extremely important for the future of folks with disabilities in Texas on a lot of different fronts, so I just implore to you that you look to change the plans as proposed, assist in aggressive action to help people with disabilities find housing with the tools that are already there and to develop new tools to get people from going into the institutions, staying in their own homes and finding accessible, affordable, integrated housing here across Texas. Thanks a lot.

MR. CONINE: Thank you. Tanya Winters, and then Judy Telge.

MS. WINTERS: My name is Tanya Winters; I'm working with the Texas Advocates. I've also been working

since the age of 17, I am a taxpayer, and my dream is to own my own home, and I know that this can't happen if the HOYO Program is not in place.

I want to take you guys back when you were a college student, when you were working so hard and you just wanted your own place to be, you just wanted some mortgage broker to give you a chance, you just wanted a little bit better credit, you just needed that chance. And that's what the HOYO Program does, it gives people with disabilities a chance to have the American dream.

I'm also asking you to keep the housing voucher program because the bottom line is people with disabilities want to live in the community. I live in my own apartment and I would not give that right up for anything in the whole world. If you take these housing voucher programs away, you're taking people's human civil right to choose away. Thank you.

MR. CONINE: Thank you. Judy Telge.

MS. TELGE: Good morning, Mr. Vice Chair and members and Mr. Gerber. My name is Judy Telge and I'm from Corpus Christi, Texas. I'm the executive director of the Coastal Bend Center for Independent Living. We are the largest TBRA contractor in the state. We have actually committed, I think, close to 84 vouchers and

since March of 2005 we've been providing these vouchers in the Valley, Rio Grande Valley, Corpus Christi area, San Antonio, Houston, and I think now in Austin.

Just to let you know that the funds available that remain in the TBRA contract is about \$470,000 and that's for 70 active vouchers of which 55 are less than a year into the program. What that means is that the 158 people that are waiting for us to help get out of nursing homes will have to wait because we can't continue to spend those vouchers at this point.

We need to look at ways that folks that are utilizing these vouchers have obviously a lot, but we really want to see some permanent options, not just the TBRA. To give you some information in terms of the numbers that are relying on this, we've got 70 people who are actually active right now and our fear is that if you do not support the Low Income Housing Plan for 2007 as you did in 2006, those folks are at very great risk to go back into nursing home, and I'm not at all interested in watching that happen.

I also urge that you have the opportunity with Secretary Alfonso Jackson's recent request to establish preferences with HHS agencies in Texas and we hope that you take the lead in doing that so that communities can

see what can be done under this suggestion.

I also urge that you approve a Public Housing Authority plan that has the appropriate boxes checked, and I think that's a very simple thing to remedy. And to target continuing to administer the Project Access Housing vouchers. Those are the 35 and have helped people get out of nursing facilities, I think there's about eight of those left and I'm sure they'll be gone in no time.

I did want to also ask that the history of working with staff continue. It's been very, very helpful at critical junctures in our development working with people with disabilities, and we urge that you continue that. Thank you very much.

MR. CONINE: Thank you. Ginger McGuire, do you want to speak now or at the item?

(Inaudible response from audience.)

MR. CONINE: Adela Vasquez, do you want to speak now or at the agenda item?

MS. VASQUEZ: Thank you for allowing me the privilege of speaking to you. I'm here on behalf of senior housing project in Odessa, Texas. The name of it is [indiscernible] Village. I serve as the chair for the housing authority in Odessa, and I'm here on behalf of many senior citizens who couldn't be here with you today.

Odessa is about 350 miles away. It's an oil community, but like every city, it's got a side of town that's underprivileged, and that's the side of town that we're trying to establish housing for seniors.

We're not asking for money to build it, we're asking for tax credits. We have completed phase one and have been able to provide housing for 120 units. We're asking to get enough tax credits to complete the units and add 36 units.

It's a need that we greatly have. The area, I wish you could see it, it's a beautiful area and provides housing for seniors, it's an oasis on the south side of Odessa that we're all very proud of.

And I'll give up the rest of my time. Thank you for your time.

MR. CONINE: Thank you very much.

We probably need to see at this point if there's anyone else that needs to speak on the public hearing on the State Low Income Housing Plan. Anybody else?

(No response.)

MR. CONINE: I'll close that public hearing.

(Whereupon, at 10:50 a.m., the public hearing was concluded.)

P R O C E E D I N G S

MR. CONINE: We'll move on to the public comment period, then, and Bernie Spears will be next on the public comment side.

MS. SPEARS: Bernie Spears is my name. I'm with [indiscernible]. I'm here asking questions now. I've made my appeal several times and now the question is what do we need to do to be able to be eligible for on the waiting list. I know what the waiting list means to us in Odessa and the housing authority, but what does the waiting list mean to you, the board and staff.

We have applied two years running, there has not been any new construction in Odessa for those two years, and we scored high in this last round, 190 points.

In addition to that, the housing authority owns the land in Odessa, so we have players ready to begin any time you say the word. So I'm asking for your support. Let us know what we need to do to be able to get the tax credits in Odessa, Texas. Any questions?

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you. Robert McVey, do you want to speak now or at the agenda item? I'll put him on the agenda item. And Cynthia Bast, you want to speak on

the agenda item, I presume. Okay.

That's all the public comment I have to go before us, board members, before we get to the agenda items.

I think we'll now move on to the Consent Agenda, and as you recall, we had pulled item 1(c) off the Consent Agenda to deal with it on a separate basis. Are there any other items on the Consent Agenda that any board member would like to pull for consideration.

MAYOR SALINAS: I would like to continue my questioning on the \$750,000 from \$2.2-.

MR. CONINE: Okay. We've pulled that aside. We'll go back to item (c), which will be the Low Income Housing Plan.

MAYOR SALINAS: Okay.

MR. CONINE: Any other items to be pulled from the Consent Agenda? If not, I'll entertain a motion.

MAYOR SALINAS: I move.

MR. CONINE: Is there a second?

MS. RAY: Second.

MR. CONINE: Thank you. Any discussion? If not, all those in favor say aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries on the Consent Agenda.

Now back to item 1(c), which is the State Low Income Housing Plan. Mike Gerber will make a presentation and then we'll open for questions.

MR. GERBER: I'll ask Brooke Boston, our deputy executive director for Programs, to walk us through what's going on.

MS. BOSTON: First, I will just mention that the State Low Income Housing Plan that we heard comments on will be coming before you at the next board meeting in December, and so there will still be an opportunity to make revisions, and right now staff is still making revisions based on public comment. The comments were made on the plan that was approved in September and so that is not necessarily the plan that we will be bringing to you in December, it may include revisions, and we're continuing to work through that.

That being said, I just wanted to touch on a couple of the discussion issues that came up, even though they are not necessarily specific to the PHA plan, which is the item that we've pulled aside.

First is the comments relating to the Olmstead

activity. As Judy Telge mentioned, it was not in the '06 SLIHP, and so the reference to a cut in that activity is a cut from 2005 but it was made in 2006, and I think the comments about the demand for that program and the length of time it takes to ramp up are good comments, and not only will staff be looking at that, but as well, in December if you choose to make a decision about that, that will be an option.

Relating to the HOYO Program, I think what my understanding of what has happened is that the interim discussions at the time this was revised were not necessarily -- it didn't get put in as clearly as we probably would have liked, and I think the comments have been very valuable in that regard.

We did increase what had been the HOYO set-aside from \$500,000 to \$750,000, and when I say had been the HOYO set-aside, there are two issues. One is that it had been a set-aside specifically for the Home Of Your Own Program through United Cerebral Palsy, and it was our hope to make that a competitive program which is more consistent with how we do most of our funding, but we kept it limited to organizations that serve people with disabilities. So we said it wouldn't just be HOYO but it would be people who are doing activities similar to HOYO

which is part of why we also increased it.

Additionally, we feel that under our current statutes we're required to allocate those funds regionally, and so you heard a couple of comments about that today, that that could diffuse the impact of the funds, and I think that's a very valid concern. We actually faced that challenge on several of our programs that have smaller total funding amounts, and one of the ways that we address it, and we've indicating would be an option in this case, is that we are able to open it up competitively, let's say for a period of 45 to 60 days, and then if there's not subscription because they cannot have enough funds for a particular area, then it collapses and then it could be on a statewide basis and then could be for an amount that a contract would be reasonable.

We had comments on that, that that seems a little bureaucratic, and I don't disagree but our statute does indicate that we have to allocate regionally, and at this point we don't know that there's another solution, although we're continuing to try and be creative and think that through.

Another comment that had been made about HOYO activity is that now that \$750- has to be used for TBRA as well, and because the TBRA had already been taken out in

2006, this was not meant to somehow go back and reclaim that at a dramatically lower amount. Again, what we had done, not, I think, believing we were being more extensive with the program, was because it was going to be competitive on a statewide basis at the \$750,000 figure, we thought it doesn't have to be only home ownership or barrier removal, it could also be rental assistance. And it was just meant to add the ability to those funds for a little bit more for people with disabilities, it wasn't meant to say that it no longer could be used just for HOYO. And again, it was not meant to supplant the Olmstead vouchers from 2005.

The biggest question that has been mentioned and I think was your concern, Mayor, is the cuts, and I can definitely appreciate the way it appears, and I think it's definitely a revision we're going to work on as we bring you a plan in December.

Our current statute indicates that at least 95 percent of our HOME funds have to go to nonparticipating jurisdictions or rural communities and that the remaining 5 percent can be used in metropolitan areas as long as they're used for people with disabilities. And so that 5 percent is the roughly \$2.2 million that had been in the '06 plan.

In spite of having deleted that reference, the statute still exists, that requirement is definitely still in statute, and we were not necessarily meaning to take out our use of it in that regard, but because the statute indicates that the 95 percent is an "at least" the 5 percent is not necessarily a set figure. Obviously if you, as a board, chose to do 97 percent in rural areas, then that would only leave 3 percent for urban activities for people with disabilities.

So the reference had only been to that statutory language and it was not meant as an additional cut of any kind. So I can appreciate that it definitely appeared that way and we'll be looking to revise it and we'll add back new reference to that statutory fund for the 5 percent in metropolitan areas for people with disabilities.

That being said, relating to the PHA plan -- which we pulled off the consent agenda -- it's my understanding that the reference made to requesting that we check some boxes differently is actually a reference to our five-year plan, and if I'm incorrect and anyone who comments could point me to where in the -- the one in the board book is a one-year streamlined PHA plan, and because we changed our year with HUD, even though we only got this

six months ago, we needed to bring it back because HUD wanted us to resubmit the plan, and we didn't make changes throughout the plan other than references to the years.

I wasn't sure where in the plan in the board book that we would change the boxes checked. I do understand in our five-year plan which was submitted, the 2005 to 2009 PHA submission plan to HUD that I believe we submitted last year in '05 for the 2005 to 2009 period, in that plan there is a box that references our willingness to access vouchers or at least be open to the idea of accessing vouchers for people with disabilities or special needs, and that box is not checked in our 2005 plan. And I know one person had commented about page 11, and indeed on page 11 of the five-year plan, that is the right page, so I'm guessing that that is the comment.

That document isn't on our agenda today, we can look into bringing that back for you, and I need to double check with HUD just to see what the procedure is for us revising a plan in the middle of a five-year period, but we can definitely look into that for our next meeting.

MAYOR SALINAS: Can we understand that we can go back to the statute, follow the statute of 5 percent so we can go back to \$2.7- for the HOYO Program and do it in December?

MS. BOSTON: You will be seeing that plan in December. The 5 percent I mentioned is separate from the HOYO. The HOYO is above and beyond that or a part of that because many of the HOYO activities are in metropolitan areas that fall into that 5 percent, but it was its own special set-aside. So yes, we definitely can add back in the reference to the 5 percent of the vouchers for the year.

Relating to the HOYO activity, I think that's something that staff is going to be continue to be looking at internally, and to the degree that if we do not recommend that to you, it will be for very sound reasons that we believe aren't permissible. We do feel that the way we have it proposed right now where it is a competitive program allocated regionally is something that we can do. I don't know that we can indicate that it is only available for HOYO.

MR. CONINE: Have previous years' demand in all the programs that we heard reference today, have they been pretty well used up, or has there been some funds sitting there unused?

MS. BOSTON: The Olmstead Program had some funds unused and the expenditure rates have been slow. I do think that there is valid reasons for that that you've

heard today which is that the groups who were most likely to apply for those funds were groups that had not administered rental assistance before and so it did take a little while for them to get ramped up. So the ones who still have those contracts and are using them, they are getting close to having expended all of their funds at this point.

MR. CONINE: But it sounds from your explanation that even though we're trying to reposition the funds to be available for other uses within other categories, that there's been a failure to communicate between the department and the disability community; otherwise, they wouldn't be here today like they are.

So before next month's meeting, I'll encourage the department to have a meeting or two with them to make sure what you're saying where they can use the funds in the amounts that they are used to receiving, quote-unquote. If the verbiage in the plans have been adjusted to where we can shuffle it around more and help different uses in the disability community, we need to better communicate that to them because that's not what we've heard today.

And this board member is not interested in cutting overall funding for that particular group, I don't

see why we should, and to prevent me from having to dig through the nuances of that plan, it would be nice to hear both the department and the disability community come back next month and say, We met, everything is okay, let's move forward.

(Applause.)

MR. CONINE: Any other comments?

MR. FLORES: Did I hear there's some legal reason you can't designate only HOYO funds? If you can explain that because that's getting to be a little confusing up here at this end.

MR. HAMBY: Actually, they could be designated to be HOYO funds only if they operate in all 13 regions. There is a preference in the state of Texas to have competitive bidding on any project that goes out, however, there's an absolute mandate in our statute that we have a regional allocation formula and that each region be provided an opportunity or be given an amount of funds based on what our regional allocation plan is, and you'll be seeing that plan later today. So there is an absolute mandate that it be done that way and whenever we actually looked at the HOYO funds that had been used thus far, they didn't make it into all 13 regions.

Now, whether or not the amount of funding, the

\$750,000 is sufficient to scatter it to all regions, that's completely board interpretation. Whether or not it goes to all regions is directed by the legislature and they have spoken that we have to first, at least initially, spread the funds out to all regions.

MR. FLORES: Brooke, going back to a comment you made, the key -- did I understand you to suggest that you want the plan approved but yet you're going to go back and ask for a funding change at the next board meeting? Is that what you said? Did I understand that correctly?

MS. BOSTON: No. I apologize if I implied that. For the PHA plan which is a document that we have to submit to HUD indicating how we're going to administer our vouchers, we turn it in once a year. Additionally, on top of that we turn in a five-year plan every five-year window. Our five-year plan, we are in the middle of that period and so aren't required to resubmit that five-year plan for several years.

That plan is the plan, I believe, that the commenters are interested in seeing us change the way we checked our boxes, and instead of not saying -- currently our five-year plan says that we are not necessarily seeking to be considered for additional vouchers for people with disabilities, and the suggestion I made was

that at the pleasure of the board we could bring that back in December once I've checked with HUD to be sure that we are allowed to amend that mid period because we are in the middle of the five-year period. So as long as we are permitted to make that revision by HUD, then we could consider bringing it back to you and you could check those boxes if you so chose.

MR. FLORES: Are you saying that you don't know whether HUD would approve that or not?

MS. BOSTON: I'm saying I don't know if HUD allows us to revise our five-year plan in the middle of the five years, but that it would be easy for me to check, and then we'd have to have that five-year plan on the agenda, as opposed to the one-year plan which is currently on the agenda.

MAYOR SALINAS: I would agree with you on that and try to meet with people that were here today and try to change that in December and try to accommodate them on their needs.

MR. CONINE: Mr. Hamby.

MR. HAMBY: I just need to make one clarification on the statutory references. The 95-5 rule -- which is what we normally call it -- the 95-5 rule are the maximums and minimums, and so whenever you talk

about the 5 percent set-aside, the 5 percent is actually a maximum that the department is allowed to spend in participating jurisdictions and the only way it's able to be spent is if it's spent in the disability communities. It is a maximum so we can't exceed that 5 percent, whatever funding we spend in participating communities. It's not a minimum threshold, it's a maximum threshold, unlike the 95 where you can exceed the 95 and reduce the amount going into the other. The 95 percent is a minimum amount we're required to spend across the state in nonparticipating jurisdictions, and the 5 percent is a maximum, so it's a cap, an absolute hard cap.

MAYOR SALINAS: As long as they understand, and the only way they're going to be able to understand is by communicating with them.

MR. GERBER: We agree we've done a poor job in working with the disability community. I take responsibility for that. We will work over the next several weeks to have many conversations with them and hopefully find more points of agreement than disagreement, and we'll come back to the board with some items we believe we'll have consensus on, and if we can't get there, we'll have, I'm sure, another lively exchange and be very clear as to why we can't get there. But I hope is

to strengthen our relationship with the disability community. We recognize that responsibility as being central to the main missions of the department, and we want to be good stewards of that.

MR. CONINE: Do we need to take action on item 1(c) this month or do we need to table it till next month?

MAYOR SALINAS: I think we need to table it till next month.

MR. GERBER: Mr. Farris, any issues?

MR. CONINE: Does this bring up any issues that we haven't heard?

MR. FARISS: Good morning. Eddie Fariss, director of the Community Affairs Division.

As Brooke mentioned, the comments that had been made about the PHA plan were made on the five-year action plan. There was a box that we didn't check. The one-year plan does not give us an opportunity to -- there's no boxes to check for that, and the one-year plan is submitted as it is only when there's no changes to the five-year plan.

I'm sure that HUD would accept a revision to that page 11 that Stephanie referred to.

MR. GERBER: Is there any reason why this issue can't be tabled until the next board meeting?

MR. FARISS: You can table it.

MAYOR SALINAS: 1(c) can be tabled. And then we can get everything together and then we'll see that these people get what they need.

MR. CONINE: Do I hear a motion?

MAYOR SALINAS: I move.

MR. FLORES: Second.

MR. CONINE: Motion to table till December meeting item 1(c). Any discussion?

(No response.)

MR. CONINE: All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Thank you for everybody's testimony.

You know what, I messed up in our public comment period for item 1(a); I had a witness affirmation form from Eric Opiela. Is Mr. Opiela around? Do you need to speak, Eric, on 1(a), or not?

MR. OPIELA: Just here as a resource, if you've got any questions.

MR. CONINE: Okay. Now moving on to item 2.

Mr. Gerber.

MR. GERBER: Mr. Chair, item 2 is the presentation, discussion and possible approval of PMC Division items. This looks like a daunting list of 12 amendments under the HOME Program, however, the board saw many of these items at the last board meeting where the board took no action on staff's denial for extension.

If I understand it, because there was a three-to-three vote, these requests are allowed to come back before the board as they had no final decisions from the board on their appeals. I believe that there will be public comment on these requests, but with your indulgence, I'd ask that the board look at the first eight request together as they all face similar issues and have similar requests. The Town of Anthony, the City of Pearsall, the City of Balmorhea, the City of Presidio --

MR. CONINE: Hang on, Mike. Can we get those doors closed, please, as quickly as possible. Thank you. Go ahead.

MR. GERBER: -- the City of Presidio, the Town of Combes, Frio County and Zapata County were all contracted with the same firm and are in the same stage of their contracts. All seven contracts are requesting a six-month extension to extend the end date of their

contract from September 30, 2006 to March 31, 2007 to ensure proper completion of the contract. To date, 24 months since the contract dates started, none of the seven communities have committed nor drawn contract funds.

Zapata County was not before the board at the October meeting; Zapata County is now also requesting an appeal. Zapata County has not submitted its environmental clearance forms and would require a waiver of the time allowed to appeal staff denial.

Not directly related to the above requests, Alpha Concepts is requesting a 12-month extension to extend the end date of their contract from September 30, 2006 to September 30, 2007 to ensure proper completion of the contract. To date, 24 months since the contract started, the administrator has not completed nor drawn contract funds.

Just to be clear, all the communities signed a contract in the 2004 cycle and have yet to draw any funds or, to our knowledge, take steps to assist the intended recipients. The department has denied the amendment requests and does not recommend approval for any of the appeals. If the board chooses to grant the appeals, staff recommends several conditions be placed on the amendments as listed in your action item in the board book.

These conditions include: replacing the current consultants for the first seven, and requiring compliance with most of the 2006 HOME rules. The application of the 2006 rules recognizes the fact that for the most part these contracts are, in reality, just beginning at the same time as the 2006 awards, even though they were awarded in 2004.

Mr. Chair, would you want to go to those and then we could move on to Lewisville.

MR. CONINE: I think that would be the best. I'm trying to arrange these witness affirmation forms.

MR. FLORES: You said seven used the same consultant and the other one used a separate one, I assume?

MR. GERBER: Yes, sir. And Zapata County used a different consultant.

MAYOR SALINAS: Do you want to hear from witnesses on these?

MR. CONINE: Yes, I do, from that group of cities and counties. And you are throwing Zapata in the mix?

MR. GERBER: Zapata is in the mix, so we'll deal with the first eight.

MR. CONINE: Okay. I've got Katherine Frolow

is the first witness. Next I have Thomas Nance after she comes up. Remember the three-minute time limit, please.

MS. FROLOW: My name is Katherine Frolow and I'm the legislative assistant for State Representative Pete Gallego. I'm representing Presidio on this matter because the city council had a meeting today and could not attend.

The city is requesting appeal. They already have two local contractors set up to make all the construction adjustments for the houses that they have approved which are nine homes for the area. There's a great need in the area for the renovation on these low income houses.

Our district has greater than average of below poverty rate. All these individuals residing in these homes, a lot of them are disabled, many of them are on Social Security. They have already taken pictures of the homes and looked at what renovation needs to be done, they've documented all of that, and they know what kind of construction techniques are needed.

As Mike has said before, everything has been set up, they are ready to go, they're just awaiting the decision of the board to see if they can get an extension on this matter.

So I would request that they be granted the extension based on the great need in the area. Thank you.

MAYOR SALINAS: You're asking for how many months extension?

MS. FROLOW: They are requesting an 18-month extension.

MAYOR SALINAS: Another 18 months so that would be 36 months.

MS. FROLOW: Yes.

MAYOR SALINAS: Why didn't they finish the houses in 18 months?

MS. FROLOW: This area is a very rural area. I believe there were problems finding the contractors that were needed that could make the renovations that were needed for these older homes, and since that time they have set up contractors that will and are ready to work on the project.

MAYOR SALINAS: Do they have enough money to do the houses?

MS. FROLOW: As far as I know, they do. And in fact, Presidio Development Corporation has already given \$55,000 to start construction on the very first home.

MAYOR SALINAS: Did they draw \$55,000 from the housing program?

MS. FROLOW: In their letter that I have a copy that they submitted, it says the development corporation is providing funding for site expenses and was authorized to give \$55,000 toward the construction costs of the first house.

MAYOR SALINAS: The corporation did, not our agency, so we need to reimburse them? Okay.

Are we going to take them all together?

MR. CONINE: Yes, we're going to take them all together. Any other questions?

(No response.)

MR. CONINE: Thank you for your testimony. Thomas Nance. Next would be Mike Rodriguez after Mr. Nance. Go ahead.

MR. NANCE: Thank you, sir. I was going to be here today with the Cit of Balmorhea but I was the previous city manager of the City of Presidio, and they asked me, since they couldn't be here today, if I would come by and address this issue.

The City of Presidio is the oldest continually inhabited city in the United States -- I think in all the Americas, continuously inhabited. Many of these homes are very old adobe homes and they're trying to rehab the homes because they don't want to tear them down. They have a

very hard time meeting requirements. You know, the Historical Commission has a lot to say about this also.

The data was sent to this agency on the adobe homes and was here for like six months, is what I understand. I don't know, I wasn't involved in this particular program, I just got a quick briefing the other day before I came up here. We have pictures here of the homes.

There is like 36 percent very low income people in Presidio and this is the people that they're hitting. They're the hardest ones to get to and then they're living in the oldest homes that are there. Through a program similar to his one, about ten years ago they did a rehab on adobe homes and they have, it's just a different situation than it is regular housing rehab with the City of Presidio.

I just wanted to bring that fact up that I think the agency did have some comments on the adobe and the application sat in this office for six months which used up six months of their time. That was one of the points that the City asked me to make before you today, and the homes have been selected, they've been approved, they do have all the financial deeds, tax records, photos, drawings, and all the data is ready. They're ready to go

out to bid on these right now and they have a commitment, a local commitment to put up funding toward this program also.

Anyway, if that's of any assistance to you in making your decision, I made the presentation for them. Thank you for your time.

MR. CONINE: I also have a witness affirmation form for you to speak for the City of Balmorhea. Do you want to go ahead and do that now?

MR. NANCE: No, sir, there's no reason not to.

I've assisting the City of Balmorhea rehab most of the day. I just recently became closely tied with the City of Balmorhea on this particular project, just pick up the ball and run with it. There was a lot of work done by the City of Balmorhea. The City of Balmorhea has most of their records prepared on this also. I think it was just a distance problem. I don't know what happened with the consultant and why they didn't finish and get to the point where they needed to be to finish these homes.

The local city councilmen are carrying the ball on this thing. We've gone to all the homes, we have all of the records, we have approvals, and we're ready to go out to bid, if you guys approve this thing, we'll be out to bid. I think within the next couple of months we

should be under construction on the first three homes on this project.

The mayor is sitting here and I think he can fill you in a lot better on this than I can.

MR. CONINE: Any other questions of Mr. Nance?

(No response.)

MR. CONINE: Thank you very much. Mike Rodriguez, and I have a Raul Rodriguez after that.

MAYOR RODRIGUEZ: My name is Mike Rodriguez, mayor of Balmorhea, and first of all, good morning.

MR. CONINE: Good morning.

MAYOR MIKE RODRIGUEZ: I've taken this office of mayor June 1, and I've lived there for about 4-1/2 years now, and I do know of all these houses, these people, some of them I know personally, and yes, they are in dire need of some kind of housing.

Now, some of them will be demolition, some of them probably could get by with refurbishing, and I would really like to see the council here agree on giving us that 18-month extension.

Tom Nance probably took most of what I was going to say so I don't see any sense of repeating it again.

Now, Raul Rodriguez right here, he's been with

the city council for two years prior to me, and he probably knows a little more of the history about what was going on than I do. I've just come in and taken the ball and I'm running with it as hard as I can, and I hope that I can get help from the council members here. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Thank you for your testimony.

Raul Rodriguez, and next will be Carlos Garcia.

MR. RAUL RODRIGUEZ: My name is Raul Rodriguez, mayor pro tem of the City of Balmorhea. Thank you, members of the board, for the opportunity. We're here to request the 18-month extension.

As expressed before, we have had a lot of the work done which we took into our own hands. I know there was a question before about why wasn't it done in two years worth of time, but the advice we were given was: We have an advisor or an administrator, make him do his job.

And it's hard to make somebody do their job if they don't answer phone calls, they don't come around, they don't show up to meetings when they're requested, and when we finally got the letter a few months ago that the contract was getting terminated, they were trying to put in for a six-month extension, I advised the city council that that

was not a wise decision.

I come from a construction background, I know what it takes, and without resources, it's an impossibility. But they showed me the letter where they were offering an 18-month extension if we could comply with the terms, and at that moment I knew that we could do the terms. So me and the mayor, we lit some fires and we got this thing rolling, and I believe we've done a lot more in the last six weeks than have been done in the last 24 months.

And we are willing to comply with the terms, we are ready, under inside of 30 days we can have all the paperwork turned in, be out and ready for construction. So on behalf of the City of Balmorhea, I ask that we're given this consideration. Thank you, members of the board.

MR. CONINE: Any questions?

MS. RAY: I'd like to ask Mr. Rodriguez a question. You said the City of Balmorhea can comply with the terms and the number one term is termination of the current consultant. I understand you to say that you can comply with that term?

MR. RAUL RODRIGUEZ: Yes, ma'am. The contract, I guess, was officially over September 30. From that day

on, his services are no longer needed for the City of Balmorhea.

MS. RAY: Thank you.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you. Carlos Garcia.

JUDGE GARCIA: Good morning. My name is Carlos Garcia. I'm the county judge in Frio County.

Due to the no-action vote of this committee at the last meeting, Frio County was given another very important opportunity to appeal to this committee the extension of our HOME Program contract. The needs of our low income, our elderly and our disabled community is at the top of the request this morning.

Frio County has hired a new consultant to administer this contract if extended. We plead to the committee to extend our contract and consider steps taken by Frio County in an effort to obtain this extension by the honorable members of this committee.

I know the committee has a lot of work before you this morning, so I will not take any more of your time, but I do plead with you, with my heart in my hand, that please give another opportunity to the needy

community of Frio County and give them one last chance in order to better their lives. Thank you very much.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Jose Trevino. Next would be George Cavasos.

MR. TREVINO: Your Honor, if I may, he's my mayor so I would allow him to go first.

MR. CONINE: All right. That will be okay with me.

MAYOR CAVASOS: Thank you distinguished board members, Mr. Gerber. My name is George Cavasos. I'm the mayor of the City of Pearsall.

First of all, I want to thank you for allowing us another chance to come up here before you and hope we can gain the support that we so desperately need at this time.

I know that you heard me speak last time, so I'm going to go ahead and give the remainder of my time to Mr. Trevino, our city manager, who is going to brief you up a little bit on our current status on this project. Thank you.

MR. TREVINO: Thank you. My name is Jose Trevino. I'm the city manager of the City of Pearsall.

As you know, the City of Pearsall is a small South Texas community located 100 miles north of Laredo and 54 miles south of San Antonio, along the I-35 corridor. Our population is 7,157 which that approximately consists of 84 percent Hispanic; the median income in our community is \$21,602; the current unemployment rate is 7 percent; and the average cost of our homes is \$37,700.

Pearsall is a typical rural South Texas community struggling to make ends meet. The level of the trickle-down effect of a strong expansion in our national economy over the last decade has bypassed our community. Pearsall has many of the attributes of other small communities. We lack good paying jobs that significantly contribute the flight of the young, educated labor force to more urban areas, thereby increasing the base of our unskilled labor force, not to mention the increase in the elderly population who are mostly dependent on public subsistence programs. Consequently, affordable housing for the base of our older and low to medium income residents is almost nonexistent.

The denial of our request for an extension of our contract came at a very critical period in its execution. While it is true that we had sufficient time

to complete the project within the contract period, we make this appeal on the basis of the following circumstances.

I was here at the last hearing and I see that the board appeals to be well balanced from a community representation standpoint, and some of you are elected or appointed officials and you better understand the impact of decisions made by previous elected officials on newly elected incoming officials.

Our contract was applied for and awarded two years ago under previous administration. During the first year and a half of this contract, the city was mired in political upheaval and was inattentive in noticing the contracted grant provider's progress on this contract.

The primary reason for the increase in activity and progress in this contract over the last six to eight months is the increase in oversight and pressure placed by the newly elected city council and administration on this outside consultant. Unfortunately, the increase in the project activity occurred in the last part of the contract, and consequently, our efforts ran short at the end of the contract period.

The city had completed a significant portion of the contract. Before receiving the denial notice of a

request for extension, the city was in the process of contracting with the already rated and qualified homeowners. As a matter of fact, we had already been talking to a lot of the elderly people, the top ten that we had already selected, or at least that the committee had been rating. In addition, we were ready to start giving them the list of qualified contractors.

It is unfortunate that a small rural community like ours are generally not in a financial position to hire a full-time, in-house grant writer. As a result, we are given to contracting this important essential function. For many small rural communities, this can at times result in cost savings and a more efficient method of applying for and obtaining grants, however, it places the community in a dependent mode and it makes it totally reliant on the integrity and capability of a contracted grant writer.

Since larger cities can afford and generally have in-house grant writing, the outside contracted grant writers are forced to not one, but several small rural communities in order to maintain a viable grant writing business, thereby making the dependent on small rural communities. Many of the more successful contracted grant writers can soon develop a tendency towards extending

themselves on multiple and simultaneous grant applications and projects in progress. We believe that is the case of our current grant writer and the underlying factor as to why our HOME Program was in arrears.

Our observation has already led us to hire a full-time in-house grant writer for replacing him on this grant plus any other future grants that we get awarded.

Given the amount of work that has already been completed and the direction and efforts and oversight and focus on completing this project by the newly elected council and administration, we're confident that if this board can find it in their best judgment to rule in favor of our appeal, that we are prepared to follow the Texas Department of Housing and Community Affairs staff's alternative recommendations and bring this project to completion.

As city manager, I am here representing those in need and the low to medium income residents in our community. I make a personal appeal to you because denial of our request to extend our contract can amount to the death penalty because for all practical purposes we will be blackballed, so to speak, from successfully obtaining housing grants from this agency in the near future. Thank you.

MR. CONINE: Any questions?

MR. FLORES: Just one. Mr. Trevino, are you planning on being around Pearsall for the next 18 months?

MR. TREVINO: Yes, sir.

MR. FLORES: Mayor Cavasos, are you going to be around for 18 months, sir?

MAYOR CAVASOS: I'm already working on it, sir.

MR. FLORES: We know who to look to in case we approve this.

MR. CONINE: I had another witness affirmation form that yields some time to Mr. Trevino.

MR. TREVINO: We yielded time.

MR. CONINE: Thank you. Silvestre Garcia.
After this I have Fred Cantu.

MAYOR GARCIA: Good morning, board members. My name is Silvestre Garcia. I am the mayor of the Town of Combes, and I come to you this morning to ask that you consider the appeal or our request in granting the extension on this project.

Our city is a very low to moderate income people. We have taken some pictures that I would like to pass on to the board so that they can see the conditions of the homes that we've worked on or are considering, the conditions that they're in.

I would like to read a list of the activities that we have accomplished in this process before we were asked to hold on. Number one, we've complied with all the necessary initial administration elements, including direct deposit authorization, TDHCA contract system access request forms, we've reviewed contractor access conditions, requirements and implementation guidelines. We've organized a citizens committee charged with establishing the priority criteria in selecting recipients. We've also prepared the program design handbook which has been approved locally and submitted to TDHCA.

Conducted affirmative marketing and solicited applications from residents. We've reviewed residents' applications, made preliminary determination of eligibility and made preliminary evaluations of scoring. Conducted several workshops with a selected committee to finalize scoring and selection procedures. We've conducted procurement of construction contractors, notified local and area contractors, and asked each contractor to submit a contractor data sheet.

We've conducted detailed inspections of the housing units to determine eligibility and probable cost and also preferred work write-ups. We've posted employee

procurement methods for the selection of construction contractors under the modified competitive bid system and notified participants. We've initiated environmental review of the housing units of the selected recipients and determined the level of environmental clearance. We've prepared documentation for exempt activity and submitted to TDHCA.

The program has progressed to the point at which construction contracts can be awarded upon approval of an extension. Contracts can be executed and construction can begin if the extension is granted. Thank you.

MR. CONINE: Thank you. Any questions?

MAYOR SALINAS: Well, Mayor, you had 18 months. Do you think you can do it in another 18 months?

MAYOR GARCIA: Yes. I would like to also add that we have requested meetings with the staff so that we could determine what's going to go on, and maybe I shouldn't bring this up but I was never acknowledged for my request. We extended certified requests to the former directors, I have certified receipts, signatures where my letters were received, and it was never acknowledged.

We've been waiting on this and then we were notified that it was going to be terminated. If we would

have gotten responses on those and met the meetings that I requested to meet with personally, we would have kept on going from there, but we never got an answer and there was never any response. To this date, I'm still told that my letters were never received, even though I have certified receipts.

MAYOR SALINAS: Who have you been calling?

MAYOR GARCIA: We sent certified letters to the former -- Ms. Edwina Carrington, and we got the certified receipts notices but we were told that they were never received.

MAYOR SALINAS: Anyway, whoever got the letters or didn't get them, the thing is that you got a grant for \$500,000 to rehab. Right?

MAYOR GARCIA: Yes, sir.

MAYOR SALINAS: And it's very disappointing because this board is very much pro fixing homes or taking care of homes, first time homebuyers, taking care of a lot of stuff that we've done throughout the years, and it's sad to hear that we don't get it done in time. Eighteen months is a lot of time, 24 months is a lot of time, and I think we need to respond to these pictures here. This is why I supported you guys the last time because there's people that need our help, and we can only do so much. We

can only fund you but it's up to you guys to do the work, and it's very disappointing to us that we don't get it done in the time that the contract is signed.

And Mayor, you live close to me, you should have called me, you should have told me that you wanted to talk to these guys. One of the things I do, I just don't like to talk to anybody about housing business because I like to come over here and make my mind up on what we need to do, and I see you at the development council sometimes and I should have been told that they were not answering you.

But I see that you're asking for a few months but I think you need 18 months. So I'm still supporting the needs of these people that need housing because this is what we are all about, housing, repairs and first time homebuyers, and I think this board has done a very good job since I've been here in 2001. I think we've done an incredible job, especially in the Valley, and you can ask some of the people that have gotten some of the help.

But this is an example and I think that we can get it done this next 18 months.

MAYOR GARCIA: I agree with you, it should have been done, and I can guarantee you that I will personally make sure that it gets done. I respect you and the

position that you sit in, Mr. Board Member, that I thought that this would be addressed here and I apologize for not speaking to you personally. But I can guarantee you that it will get done. We have a good track record with all the agencies for completing our projects and this will be no exception.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you very much. Mr. Fred Cantu.

MR. CANTU: My name is Fred Cantu. I'm the chief of staff for State Representative Escobar, and in the interest of time, we just want to say that we support the City of City of Combes, and we thank the board for their patience and hopefully you will listen to the appeal.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Robert McVey.

MR. McVEY: Good morning. I am Robert McVey with the office of State Representative Ryan Guillen. The representative asked me to be here in his place today to ask for your support in extending the Zapata request. Our

understanding in our office is they were ready to actually start letting contracts when they got your letter -- late, I'm sure, but they're ready to go -- and they need the extension so they can continue. They've already picked a company to help out with the planning and organization.

Zapata County has no municipalities so the county government is the only one that can provide this kind of service for the local people and there is a great need. Thank you very much.

MR. CONINE: Any questions?

MAYOR SALINAS: The same question and I'll probably get the same answer, that they just didn't do it in time. Eighteen months is a lot of time.

MR. McVEY: That seems to be true, yes, sir, but they would appreciate your support.

MAYOR SALINAS: You need to tell these people that we need to get things done in time.

MR. McVEY: I believe the representative has already talked to both the current judge and the incoming judge on this, sir.

MAYOR SALINAS: Okay, good.

MR. McVEY: Thank you very much.

MR. CONINE: I think that concludes the public testimony on those eight applications -- we've got one

more. What's your name, sir?

MR. COLINA-VARGAS: Carlos Colina-Vargas.

MR. CONINE: Have you filled out one of these?

MR. COLINA-VARGAS: I sure did.

MR. CONINE: All right, I've got you right here. Go ahead and have a seat.

MR. COLINA-VARGAS: Thank you, Mr. Chairman and members of the board for the opportunity to be here this morning. I'm Carlos Colina Vargas. I'm the consultant that was working with these grantees that have this morning.

I worked with TDHCA for six years as a planning supervisor and I feel very close to this agency. I quit the agency to go into consulting business and since then I have worked for over 400 projects for different agencies.

Sixty-seven of those projects have been housing projects from different funding sources, and 41 have been HOME assisted grants or projects for cities and counties in mostly South Texas.

The circumstances of the situation that these grantees find themselves in is my fault. I have been responsible for these, I have no excuse. Yes, it's true that the projects have been late, but these projects for HOME programs are extremely complex and like we heard

before, each household is a separate, individual project.

I owe this board and to the agency an apology and I have submitted an apology. I have apologized to my clients, but I want to publicly and for the record apologize to them for being late in this implementation of the projects. But it wasn't my choice. Circumstances that were beyond my control got me into this situation. My main partner quit and decided to go into a teaching career, nothing he could do about it. Then my principal partner, business partner died a very untimely death. He was a former TDHCA staff too, Richard Mendez. Probably some of you still remember him. He was an expert in housing.

We partnered to go after this funding, we've been very successful, we have nine of these projects funded and were ready to go, but he got liver cancer and he died three months after diagnosis, and I was saddled with all these projects, in addition to my other work, and I had a horrendous miscalculation thinking that I could handle it. I looked for help, I looked for help everywhere, I couldn't get qualified help, and when I got help, it was too late.

Three of the projects that you heard this morning have been matched with USDA. That is another

situation that complicated the problem because USDA has different guidelines, different timing that have taken longer to implement than with the HOME programs alone.

Four months ago the cities got letters threatening termination of the programs. We understand, as small cities, they are very cautious and they still remember when Reeves County was made to pay \$135,000 back to HOME because of problems in the implementation of their project, so they told me do not incur any costs, do not spend any money, do not sign any contract until we find out from TDHCA whether they're going to reimburse the monies for the projects or not.

That, in effect, stopped the whole process. Sure, I continued environmental review, I continued talking to contractors and to the applicants, but we couldn't enter into any construction contracts because there was not one that would take the chance or the risk to pursue the contracting without assurance that they were going to be reimbursed. And this, you can check the record, has been over four months ago.

MR. CONINE: Mr. Colina-Vargas, I need to ask you to wind up, please. Your time is up.

MR. COLINA-VARGAS: Mr. Chairman, I have a summary of the status of each one of the cities that

explains how far we went. All of them are ready to proceed with construction given the authorization and the extension so they can execute contracts.

MR. CONINE: Any question of the witness?

(No response.)

MR. CONINE: I think that's all of the public testimony I have

MR. COLINA-VARGAS: I'd be glad to answer any questions that the board may have, Mr. Chairman.

MR. CONINE: I don't think there were any. Thank you for your testimony.

That brings us back to item 2(a), the first eight cities. Any further discussion from the board needed from staff?

MAYOR SALINAS: Mr. Chairman, in view that the staff is not recommending the renewals, I would like to disagree with staff and I would like to ask this board to give these towns another opportunity and accept their requests for an amendment and approve the seven cities.

MR. CONINE: Eight.

MAYOR SALINAS: Eight cities for 18 months and that our staff get in touch with them on a monthly basis to see the progress and that we get a progress report from these eight communities.

MR. CONINE: Subject to the terms requested by staff.

MR. FLORES: Second.

MR. CONINE: And if the city doesn't agree with those terms, we don't extend.

MAYOR SALINAS: Exactly.

MR. CONINE: Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

The next one is the City of Lewisville, Mr. Gerber.

MR. GERBER: Mr. Chairman, members of the board, I'd like to ask that the board look at the next two cities because they, again, the City of Lewisville and the City of Midland. Both are requesting a reduction in the number of assisted households. The City of Lewisville is requesting to reduce the households from eight to six which is a 25 percent reduction. The City of Midland is requesting to reduce the households from ten to six, a 40

percent reduction. The reduction in the number of units will result in de-obligated funds. Both cities are also asking for a six-month extension in order to ensure that they have enough time to complete assistance at these lower household servicing levels.

If the board chooses to approve these two amendments, staff would recommend that the cities provide the department with a monthly contract progress report.

MR. CONINE: I have one public comment from the City of Lewisville, Jamey Kirby.

For those of you that are interested, we will probably break for lunch at about noon for 45 minutes. Those of you that want to turf-protect, be back at 12:45.

MR. KIRBY: Board members, thank you for hearing me. My name is Jamey Kirby with the City of Lewisville. I'm the grants coordinator for the city and I'm representing the city and the clients that have applied for the grants.

We do have six projects that have been submitted electronically to TDHCA. The environmental reviews are complete, bids have been taken, and we have three contractors ready to proceed. Our request is for a six-month extension, and again, construction is ready to start, with your approval.

The second part of our request is to increase the income limits. We originally targeted all of our units at the 30 percent income level, and we would like, with your approval -- three of the units that we have ready are at that 30 percent income level, three of the units would be at the 50 percent..

I do want to say that we took a look back at that, and in our original application, had we applied that way with half of the units at the 50 percent level, the scoring would have been reduced slightly but our ranking still would have been the same, and in our estimation and I believe your staff agreed that the award would have still been the same.

We did have some challenges both with staffing and with eligibility for clients, and we took 18 applications. Only three were completely eligible at that 30 percent level. We thought we would meet our goal of eight. The seventh client fell out in the last couple of months due to the feasibility determination that we would have to go to reconstruction, and we let that out to bid and the bids that were returned were just too expensive for the program costs. And our eighth client withdrew, again after a feasibility determination that instead of rehabilitation, we would go to reconstruction and that

client withdrew at their own choice.

Thanks for your time, and we respectfully request approval as presented.

MR. CONINE: Any questions for the witness?

MR. FLORES: How much time are you asking for?

MR. CONINE: Six months.

MR. FLORES: Are you sure you can do this in six months, are you cutting it a little short, are you being a little optimistic?

MR. KIRBY: I don't believe so. We're ready to proceed with pre-construction conferences with the clients. I'm not sure if there's any extra time for your staff to execute the amendments or not, but as we presented them, our contractors are ready. There is one contractor who we're not sure he can meet our insurance requirements and we were worried that we'd have to go to the next responsive bid on that one, and that's the only delay that I could think of that might come along.

MR. FLORES: I'm giving you an opportunity to amend this for something longer than six months. If you still want to take it, that's fine, but you will not come back here the seventh month and ask for an extension.

MR. KIRBY: I understand. Actually, I would accept your offer and request nine months, in that case.

(General talking and laughter.)

MR. FLORES: I'm in the business, I know how long it takes to do permitting, and we're the government and you're the government and you use up all that time, and all of a sudden the contract has two months left to do the contract that you only had six months for. That's what I'm concerned about.

MR. CONINE: Any other questions of the witness? Do I hear a motion?

MS. RAY: Are we doing them separately or doing them together?

MR. CONINE: We're going to do both Midland and Lewisville together.

MS. RAY: Is there public comment from Midland?

MR. CONINE: No public comment on Midland that I have.

MAYOR SALINAS: The motion would be to extend for nine more months with the staff recommendation.

MR. CONINE: The staff recommendation except for taking six months to nine months. Is that what you're saying?

MAYOR SALINAS: Yes.

MR. CONINE: On both deals?

MAYOR SALINAS: On both deals.

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

MS. RAY: I second it but I have some discussion.

MR. CONINE: Okay, now we have discussion.

MS. RAY: The discussion that I have is really for the staff on the de-obligated amount. Just an education for me, please. Maybe it's because I'm new I don't understand. The de-obligated amount, is that money going to be lost to the community? Can someone answer me that question? Can we distribute that money to other citizens that might have a need for the use of those resources.

MS. TREVINO: Lucy Trevino, manager of PMC.

The funds are de-obligated from this contract so they're lost to this administrator but not to the state. So they're returned to the de-obligated funds pool for other contracts.

MS. RAY: They available to be used for other citizens of the state.

MR. CONINE: Correct. It goes back in the pot and we have a de-obligation policy that uses up de-obligated funds.

MS. RAY: Sometimes timing makes a difference on what you can do because of the fiscal year and that

sort of thing.

MR. CONINE: Not a problem here. Any further discussion from board members?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Going to Texarkana.

MR. GERBER: The next request, Mr. Chairman and board members, is for the City of Texarkana. The city is requesting additional funds of \$29,755 in order to have sufficient funds to assist an additional household. The city is also requesting a six-month extension.

The city originally requested \$500,000 for reconstruction of nine homes but because of the scoring and ranking of their application, they were awarded a partial contract of \$81,389 for construction of two homes, even though this was less than the cost per home required to construct each home. Because the cost to construct each home is \$55,000, the city currently does not have sufficient funds to complete the second unit.

Again, if the board chooses to approve this amendment, staff would recommend that the city provide the department with a monthly contract progress report.

MR. CONINE: I have a witness affirmation form from George Shackelford.

MR. SHACKELFORD: Mr. Chairman, my name is George Shackelford. I'm the city manager in Texarkana. Thank you for your past support for TDHCA funds that we've gotten in Texarkana.

We're here asking for additional funds. In '94 we did ask for half a million dollars and were funded a little over \$84,000, just enough for one house. The other half house remains. With the average cost of the house of \$55,000, we have a balance in our account with you of a little over \$29,000. The first house was built and is currently occupied, and we're asking for additional funds of \$29,755, added to our balance to finish out that second house.

We'll soon build eight houses. Five of those will be from a TDHCA contract and three from the Block Grant funds, so one more won't be a problem at all. We do have a list of applicants that meet all of the TDHCA requirements, and so six months should not be a problem.

I would add that since 2002 the City of

Texarkana has built right at 45 homes for owner-occupied low to moderate income. Twenty of those are TDHCA homes and 25 are out of our allocation of Block Grant funds. All of those have been in the Rose Hill area. We have a very active community, neighborhood association that has come before this board. In fact, several months ago, this board awarded \$9 million tax credits for Renaissance Plaza, which is an senior adult housing unit located within the Rose Hill community.

We certainly think we're making a positive impact in the Rose Hill community and ask for your support on this issue.

MR. CONINE: Any questions of the witness? Mr. Flores.

MR. FLORES: Mr. Shackelford, you said that you originally thought these houses would be \$40,000 houses and they became \$55,000.

MR. SHACKELFORD: No, sir. The houses we have been building are right at \$55,000.

MR. FLORES: How did you end up with \$84,000 and now you're actually want \$114-? That's what I'm trying to figure.

MR. SHACKELFORD: Well, that's what we were awarded in '04 was the \$84,000. It was just an odd number

that came to be.

MR. FLORES: But you accepted to build an award in the \$40,000 range knowing full well that they cost \$55,000?

MR. SHACKELFORD: No, sir. We knew they were \$55,000 in '04.

MR. FLORES: Where were you going to get the rest of the money?

MR. SHACKELFORD: We accepted the contract that came from this agency. We knew the house was going to be \$55,000.

MR. FLORES: Why did you accept it knowing full well that you couldn't afford to build a house for \$40,000?

MR. SHACKELFORD: We weren't going to turn the money down.

MR. FLORES: I don't see why not. You couldn't do it.

MR. SHACKELFORD: We knew when we made our application that the houses were \$55,000, we knew they weren't going to be \$40,000 homes.

MR. FLORES: What did you ask for and what did you get?

MR. SHACKELFORD: We asked for half a million

dollars for nine homes.

MR. FLORES: And you got something less than that.

MR. SHACKELFORD: Yes, sir, considerably less.

MR. FLORES: Mr. Gerber, when you get a request for houses in a community and they say that the cost of housing is so much, how do you justify putting a lower price on a unit that we know is not going to change it? Now, somebody may have to subsidize it, but how do we decide to award something for an arbitrarily lower price?

MR. GERBER: We try not to be arbitrary in that we want to give folks what they need in order to be able to help these folks. And Lucy, why don't you talk a little bit on how we got to where we are on this one.

MS. TREVINO: With this application cycle, the applicant was the last applicant for that region to get funded so they got the balance of funds for that region. And the process is that they are allocated what was quoted to be one home for \$55,000 and if the balance is \$10,000 or more, then another unit is added that could be done as a rehab if they chose to.

MR. FLORES: So that money could be used for rehab rather than a new house. I see, okay. I think I understand the problem. I'm still scratching my head

trying to decide how to vote, though.

MS. RAY: Mr. Chairman, may I address the staff?

MR. CONINE: You may.

MS. RAY: Thank you. We just had an interesting de-obligation just a moment ago that came up to \$131,381 between the towns of Lewisville and Midland. Would those de-obligated funds be available for application to the increased amounts that we're asking for in the city of Texarkana? And the increase we're asking for in the city of Texarkana is \$29,755. Is that correct?

MS. TREVINO: That's correct. The de-obligated funds are returned to the de-obligation pool, along with other funds that we have there, and they're available to use for this contract.

MS. RAY: Thank you.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Do I hear a motion?

MS. RAY: So moved to approve the request for the City of Texarkana.

MR. CONINE: Subject to staff recommendation.

MS. RAY: Subject to staff recommendation.

MR. CONINE: Okay.

MAYOR SALINAS: Second.

MR. CONINE: There's a second. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Center for Housing and Economic Opportunities Corporation.

MR. GERBER: Mr. Chairman and board members, this last request is from the Center for Housing and Economic Opportunities Corporation. The administrator has previously been granted a six-month extension to the development period. Because of continued delay for the leasing process, the administrator is requesting a second six-month extension so that their first loan payment will be due in March 2007.

The department recommends a one-time board approval of up to six separate one-month extensions, from September up to and including February 2007, to complete the initial lease-up of the property. The one-month

extensions would be granted individually by staff and would cease when the lease-up is at a break-even or 19 units of the 20 total units. At the end of the six one-month extension period, if necessary to grant all six, full payment of the principal and interest would begin in March 2007.

If the board chooses to approve the amendment, staff is recommending that the administrator provide the department with a monthly rent roll, profit and loss statement, and current leasing activities.

MR. CONINE: Witness affirmation, Mike Harms.

MR. HARMS: Mark Harms, executive director of the Center for Housing and Economic Opportunities.

My only statement is we completed construction on the 20 units in Kenedy last August, our first tenant came in in November, and so we've been in rent-up now for about seven or eight months.

When I asked for the six-month extension, we were only at eleven units of rent-up, we are now at 16 out of the 20, and so we're actually about halfway through the extension period. As they said, our payments will start March 1, so we're just asking for a few months to get the last four units rented -- actually three, because we'll be break-even at 19, three more units.

MR. CONINE: Any questions of the witness from the board?

(No response.)

MR. CONINE: Do I hear a motion?

MAYOR SALINAS: I move that we approve the extension.

MR. CONINE: Motion to approve the extension subject to staff recommendations.

MS. RAY: Second.

MR. CONINE: There's a second on the floor. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Let's go to item 4 right quick for travel purposes and take item 4 and then we'll break for lunch. Mark.

MR. GERBER: Mr. Chairman, board members, item 4 is a request for contract extension by Hidalgo County Self-Help Center. The County of Hidalgo is requesting a contract extension until April 30, 2007. The extension

would allow the county's local nonprofit, Proyecto Azteca, who is the Self-Help Center operator, to complete their contractual activities.

Staff is recommending this extension, but you will note, however, in the board book that there are a list of items that they have completed, many are being performed very, very well. We remain concerned about their performance on residential rehabilitation, and we've had conversations with them that they would give that special emphasis over the next six-month period to ensure that they're meeting their contractual obligations.

With that understanding, the department is recommending approval of this contract extension.

MAYOR SALINAS: I move for the approval.

MS. RAY: Second.

MR. CONINE: A motion and a second. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

We're going to recess for lunch. We'll give ourselves till one o'clock, and those that I told an hour ago 12:45, they'll be here early. We're in recess.

(Whereupon, at 12:07 p.m., the meeting was recessed, to reconvene this same day, Thursday, November 9, 2006, at 1:00 p.m.)

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

MR. CONINE: Next on the agenda let's go to the Executive Director's Report. Mr. Gerber.

MR. GERBER: Yes, sir. Mr. Chairman, there's one item I wanted to bring to the board's attention, and that is that we're very pleased to announce officially that the much anticipated second funding for disaster relief for Hurricanes Rita and Katrina was announced on October 30 by the U.S. Department of Housing and Urban Development. For Texas this means an additional allocation of CDBG funds in the amount of approximately \$428.6 million. As you recall, several months ago we received our first tranche of funding in the amount of \$74.5 million.

The time on this is tight but we want to brief you at this meeting about the next steps that we're taking that are needed related to this \$428.6 million allocation.

Texas is now required by HUD to produce an action plan relating to the use of these funds. The action plan is required to be submitted to HUD no later than December 28. Because of the short deadline and the holiday season, the posting requirements for our board meetings and the need for public hearings to gather comment, we anticipate taking a draft plan out for public

comment the week after Thanksgiving. We expect to have a substantially complete draft for your review at the December board meeting, but we still may need some time to make further revisions relative to the public comment that comes in after that December board meeting, and we'll be working to make sure that we brief you all throughout this process.

Based on the requirements of the HUD announcement, the priorities have been identified in the Texas Rebounds Report, and keeping in mind that these funds are awarded to the governors of the states, and it's Governor Perry who has determined that the \$428.6 million will be administered by this board -- again, by this board, it will certainly be administered by the agency.

MR. CONINE: We noted that.

MR. GERBER: Yes, sir. The funding is tentatively expected to be broken out in the following categories: for Katrina assistance we expect that about \$60- to \$70 million will go to Houston, honoring a request that's been made by the City of Houston; \$246.3 million will go to owner occupied assistance in the Hurricane Rita area in southeast Texas; rental housing stock restoration -- which is a requirement, one of the very few requirements that was in the appropriation for these

additional CDBG dollars -- means that Texas has to put \$82.8 million into rental housing stock restoration; additional dollars will be put into Sabine Pass as well as for infrastructure in Orange County particularly related to a hospital there.

Those are the broad categories that we're working on the moment and we'll be working with local officials in the days ahead to make sure that we have an accurate picture of what those needs are and what the actual dollars need to be. But we wanted to make you aware that that is a significant priority of departmental staff and will be coming back to you at the December meeting with a lot more information at that time.

There's other information in your board book, as well, on outreach activities and also a second release of an RFP for property management. By the way, for your information, the property management RFP that was approved by the board several months ago did not receive what staff would identify as a good pool of candidates. The intention is to re-release the RFP and market more aggressively to ensure that we have a qualified property management company to assist us when we end up with property through a foreclosure.

That's all I have on the report.

MR. CONINE: Okay. Any questions of the executive director?

(No response.)

MR. CONINE: Thank you, Mike.

Moving on to item 3, presentation, discussion and possible approval of Policy and Public Affairs items.

MR. GERBER: Mr. Chairman and board members, items 3(a) and 3(b) could be taken together if you desire.

Item 3(a) is the Regional Allocation Formula required under 2306, Section 111(d) of the Texas Government Code for the HOME Housing Trust Fund and Housing Tax Credit funding, and item 3(b) is the Affordable Housing Needs Score Methodology.

The methodology for the Allocation Formula measures the affordable housing need and the available resources to meet that need in 13 state service regions. Based on this need and resource analysis, each region's share of the available funding under each program is calculated. The formula then also allocates funding to rural and urban/exurban areas within each region.

Today you're only approving the Allocation Formula for Tax Credits and the Trust Fund.

Using a similar methodology, the Affordable Housing Needs Score is derived for the Housing Tax Credit

and Housing Trust Fund applicants to encourage them to request funding in communities that have a high level of need. These methodologies went out for public comment and staff has made several adjustments.

Staff is recommending that the board approve items 3(a) and 3(b) as proposed by the staff.

MR. CONINE: Okay. Any questions?

(No response.)

MAYOR SALINAS: Move for the approval of (a) and (b).

MR. CONINE: Motion for approval. Do I hear a second?

MS. RAY: Second.

MR. CONINE: Motion and second for approval of items 3(a) and 3(b). Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Item 5(a), going to the Tax Credit Appeals.

MS. RAY: Excuse me, Mr. Chairman. I think

counsel has some concerns.

MR. CONINE: Yes, sir. What did I do wrong now?

MR. HAMBY: It just seems that earlier someone said they had public comment.

MR. CONINE: No, I didn't see any.

MR. HAMBY: Whenever you asked earlier, it seems like someone had said they wanted to discuss the Regional Allocation Formula.

MR. CONINE: No, I don't think so. Maybe you're hearing things. You know, you get a little older and, you know, things happen.

(General talking and laughter.)

MR. CONINE: Did I miss anybody on the Regional Allocation Formula?

(No response.)

MR. CONINE: All right. Moving on to 5(a), let's go to the Tax Credit Appeals.

MR. GERBER: Mr. Chairman and board members, item 5(a) is an appeal of a rescission of tax credits based on a finding of material noncompliance by our PMC staff.

On October 23, 2006, the department rescinded the 2006 Housing Tax Credit commitment notice in the

amount of \$1,230,646 for Spanish Creek Townhomes pursuant to the 2006 QAP which states, "The department will not execute a carryover allocation agreement with any owner in material noncompliance on October 1, 2006."

The application for Spanish Creek Townhomes was an urban/exurban award in Region 13 which is the El Paso area. The applicant was found to be in material noncompliance on October 1, 2006. The applicant has appealed the rescission of the Tax Credit allocation. Staff is recommending that the board deny the appeal to ensure conformity to the department's rules and policies.

MR. CONINE: I do have some witness affirmation forms on this item. First will be Steve Ortega.

MR. ORTEGA: Good afternoon, board, Mr. Gerber. My name is Steve Ortega. I'm a city council representative in the city of El Paso. I represent about 75,000 constituents in the East Ridgewood Valley area of El Paso. I'm here to petition for Michael Monty [phonetic], who is the president of Investment Builders, to waive the noncompliance for several reasons.

First of all, Mr. Monty has an excellent reputation in our community. He's built one project that went up in my district, Cedar Oaks, of 115 units. It's a first class development, something that the entire

community can be proud of. Additionally, in another part of town he's recently built North Mountain which is 200 units, again, first class development. The developments get done on time and they're done in a manner that makes the community proud.

In our community of El Paso there's a tremendous need for affordable housing. In addition to the natural growth rate, we're having induced growth by the base realignment and closure over at Fort Bliss where in the next five years we're going to experience an increase of 80,000 residents to our community. That's over a 15 percent increase to our population, so there's going to be tremendous growth in El Paso in the next several years, and the need for affordable housing is certainly extremely urgent in our community.

Several of the witnesses after me will testify as to the special circumstances that Mr. Martin was placed, circumstances, in my opinion, that were outside of his control. I certainly believe that it would be unfair to penalize him and the constituents of the city of El Paso because of something that Mr. Monty and his organization have no control over.

I bring you three letters from Congressman Silvester Reyes, from State Senator Eliot Shapleigh, and

from Norma Chavez, who is the state representative for the area, from Mayor John Cook, and from myself, all asking that you grant Mr. Monty's petition on this particular issue. And I'll stand up for any questions that you may have.

MR. CONINE: Any questions of the witness?

(General talking.)

MR. ORTEGA: I have submitted the letters as part of the record for your viewing. Thank you very much.

MR. CONINE: Thank you. I have Cynthia Bast's witness affirmation form and three people handing off to Cynthia. Have you determined the batting order yet, or are you going to do it all?

MS. BAST: Good afternoon. I am Cynthia Bast, of Locke Liddell & Sapp, representing Investment Builders and the owner of the Spanish Creek Townhomes in this appeal.

This is an appeal of the rescission of the 2006 tax credits that were awarded to the Spanish Creek Townhomes in El Paso. We ask that those credits be reinstated and we firmly believe that those credits should be reinstated based on the facts of this situation.

If this appeal is denied, the city of El Paso will lose 130 units of more affordable housing and

Investment Builders will lose a substantial investment which will have a serious impact on its overall business.

The facts of this appeal are set forth in your board book. I will summarize them for you as succinctly as possible, but I note that all of these facts are very important to the story so I appreciate your indulgence in listening to the story and the additional time that has been yielded to me so that I may give you the story.

Let's start with how we got here. Because the story spans over six years, I created a time line to help you with the events, and that is the white handout that you received.

In 1998, Investment Builders formed a partnership with a local El Paso nonprofit called Santa Lucia Community Development Organization. This nonprofit wanted to access TDHCA's HOME funds and construct an affordable housing property, and Investment Builders was willing to provide capacity-building for that nonprofit, and to take the development role in the enterprise.

Because they were seeking funds in the HOME set-aside for CHDOs, the nonprofit had to control the partnership, so the partnership was established with the nonprofit owning 51 percent and Investment Builders having a minority position of 49 percent. That was the long-term

intent of the partners, that this be a property controlled by Santa Lucia.

They received the HOME funds and they constructed 36 units for senior citizens in El Paso, and then the nonprofit partner engaged another nonprofit organization to provide the property management services.

The property rocked along and went without material noncompliance for a few years.

In the spring of 2004, the nonprofit partner was alerted to the fact that there were funds missing from this property. They conducted an investigation and discovered that the on-site manager had been embezzling. Her employment was terminated in October 2004, and this is the very first time that Investment Builders heard from its partner that there was this problem. Before the employee left the premises, she shredded files, destroyed record, and generally wreaked havoc.

So given the severity of the situation, Investment Builders immediately asked to take over the property management and be put in that position for this property. Unfortunately, the board of the nonprofit partner declined Investment Builders' request, and there was nothing Investment Builders could do to compel the nonprofit partner to engage them as the property manager

because they were in the minority position.

In 2005 the nonprofit corporation -- not the partner but the one that they had engaged as the management company -- continued to manage. We have recently learned, they have recently told us that during that they were really focusing on other properties owned by other developers and they perhaps weren't giving their full attention to the Santa Lucia property.

So in late 2005, Investment Builders began to prepare its Tax Credit application for the Spanish Creek Townhomes. At that time it was proactive and it came to TDHCA, it came to the Compliance Department and it said, Please tell me my compliance scores for this list of properties. Because they wanted to make sure that there were no noncompliance issues out there that would affect the Spanish Creek Townhomes application.

They were told by the Compliance Department that the compliance score for Santa Lucia was nine which is well below the threshold of material noncompliance. So based on this information, Investment Builders proceeded.

At the same time, in December 2005, TDHCA conducted its annual HOME compliance audit at Santa Lucia.

In that audit it identified that tenant files had not been timely re-certified which is a violation of the

compliance rules. The property immediately took corrective action, the tenants were re-certified as of December 2005. It is important to note that these tenants were qualified residents. The issue was that the property did not re-certify their tenancy within the required time frame.

So the problem was corrected December 2005. The property did not receive TDHCA's notice of noncompliance until February 2006. TDHCA rules require the department to deliver prompt notice of noncompliance.

On receipt of the notice of noncompliance, evidence was submitted to correct the noncompliance within several weeks.

Meanwhile, the Spanish Creek Townhomes Tax Credit application was proceeding. Per the QAP, the department performed its noncompliance review as of May 1, 2006, and Investment Builders and Spanish Creek Townhomes were cleared to proceed. This means that nothing in TDHCA's database identified that this noncompliance had occurred on the Santa Lucia property in 2005, that that was an impediment for Investment Builders to go forward with Spanish Creek, but yet we know that the noncompliance had occurred, we know that it had been corrected months earlier, but from what I can understand, evidently a

compliance score was not assigned.

I think that's because the department did not send out its acknowledgment of correction of the noncompliance until June 2006, three months after it received evidence that the noncompliance had been corrected. And this is a significant lag time, particularly when you've got a Tax Credit application pending and working its way through the system.

So when Investment Builders received the notice in June 2006 that the noncompliance had been corrected, Investment Builders still didn't know what its compliance score was for the 2005 infractions. Nothing in the TDHCA correspondence indicated what the score was. So in July, Spanish Creek Townhomes received an allocation of tax credits; thereafter, it received its commitment notice.

Now, the QAP states that the department is not allowed to issue a commitment notice to an applicant that has a material noncompliance score, so why then did the department issue a commitment notice for Spanish Creek Townhomes if there was a material noncompliance score for Santa Lucia? I don't know. But clearly, Investment Builders had every reason to believe that the items that had occurred on the Santa Lucia property were not material noncompliance for purpose of the Spanish Creek Townhomes

application.

So as Investment Builders was proceeding to meet carryover for Spanish Creek Townhomes, it was shocked to receive the letter from TDHCA indicating that there was a material noncompliance related to the 2005 issues on Santa Lucia, and shortly after that it received the letter rescinding its credits.

This is devastating for Investment Builders and could have long term implications for Investment Builders' business. So in the weeks since receiving the rescission letter, the Investment Builders team has been working diligently on these issues. Sadly, I have to say that neither the nonprofit partner nor the nonprofit management company have been particularly cooperative or forthcoming with providing information as to how all of these things occurred. They've also prohibited us from talking their employees at this time or their former employees.

By contrast, I do have to say that the TDHCA staff has been very helpful in providing additional information that we needed to try to understand how all of this happened. In the meanwhile, I've been spending some quality time with the compliance rule, and knock on wood, this is the first time I've had to do that, I haven't had to spend a lot of time with these rules before. And so

I'm trying to put the pieces together, and as I'm doing that, I'm seeing some things that honestly make me scratch my head a bit, and those are things that I have highlighted in your yellow handout.

Now, in reading the compliance rules, it appears that HOME projects are scored on a unit-by-unit basis, whereas, Tax Credit projects are scored on a building-by-building basis. So because Santa Lucia is a HOME project, for units that are not re-certified timely, it would receive a higher score on a unit-by-unit calculation than if it had been a Tax Credit project and received its score on a building-by-building calculation. In fact, I think, if I'm understanding the rules correctly, that if Santa Lucia were a Tax Credit property, we wouldn't be here because there wouldn't be a material noncompliance event or score.

Further, another thing that kind of makes me go hmmm is that the compliance rules give the same score for failing to re-certify the tenants timely as they do for renting to over-income tenants or charging excessive rents. Now, that's what the rules say, but it just kind of make me wonder do we have our policies in order here where one is a timing of paperwork issue and one is a more fundamental issue related to the provision of affordable

housing.

I've also learned that HOME properties are audited annually while Tax Credit properties are audited once every three years. Yet for both of them, once you receive a score, it stays with you for three years. So in the HOME program when you're being audited annually, that can have a cumulative effect that's not present in the Tax Credit program.

It also appears from the files that I have reviewed that TDHCA does not regularly communicate compliance scores to the property owners. It seems to me that when TDHCA sends out a noncompliance letter or a corrected noncompliance letter that the letter could say, and should say, this violation results in a compliance score of X, so that everybody knows what the score is.

I've noted the October letter for the material noncompliance was a complete shock. They had received a corrected compliance letter; they had no idea what the score was that was associated with those events.

Another thing is that there's an inherent lag in the compliance monitoring system which makes sense because staff has to take time to process things, but the lag here with the Santa Lucia noncompliance and the Spanish Creek Tax Credit application doesn't make sense.

The noncompliance of Santa Lucia was identified and corrected in December 2005, yet the department did not confirm that the noncompliance had been corrected until June 2006.

Meanwhile, Spanish Creek's Tax Credit application is proceeding, it gets its main one review, it gets its allocation, it gets its commitment notice, all before Investment Builders knew there was a problem. How can could let them get that far without knowing that there's a problem? What can we do to correct this?

So as I conclude, I ask you to think about these rules issues and think about the additional considerations on my orange handout. El Paso will lose 130 units of new affordable housing if this appeal is denied. Investment Builders has participated in the Tax Credit program for over ten years and has developed over 25 Tax Credit properties, none of which have never had a material noncompliance.

The Santa Lucia property is a unique situation and an unfortunate series of events, most of which were out of control of Investment Builders because they were a minority partner. The nonprofit controlled the situation and refused Investment Builders' offers to help. An on-site manager embezzled funds and destroyed records which

created a total situation of disarray. And despite all this, the Santa Lucia property continues to provide 36 units of low income housing for senior citizens in El Paso and no one disputes that fact. We're getting to the right result.

So TDHCA compliance rules have been put into place to ensure that properties maintain their long term affordability. We don't want bad actors who fail to abide by the rules to continue to participate in the programs. As a board, your job is to uphold those standards, but as a board you're given discretion to weigh rules when equity and good cause is shown, and that is the situation that we have here. It's not the right result for Spanish Creek Townhomes to get the death penalty in this set of circumstances.

You have the discretion to grant this appeal. You will not be setting dangerous precedent that open the door for any bad actor to stay in TDHCA's programs, rather you will be acknowledging that these unusual facts merit relief for Investment Builders.

So I very respectfully request that you reinstate these tax credits for the Spanish Creek Townhomes in El Paso; moreover, that this situation not continue to impact Investment Builders with regard to

accessing TDHCA programs. And I thank you very much for the extended time and really appreciate your consideration and will be happy to answer any questions.

MR. CONINE: Any questions of the witness?

MR. FLORES: I don't think so. Do you want a motion?

MR. CONINE: Yes. Well, let me make sure I don't have any other testimony on this item. I don't have any. Go ahead.

MR. FLORES: I'm trying to figure out how to frame the question. Since staff's recommendation is to deny the appeal, I guess mine would be to approve the appeal. I move to approve the appeal in the rescission of the tax credits for 2006 Tax Credit application for Spanish Creek Townhomes. Did I do that right?

MR. CONINE: Is there a second?

MS. RAY: I'll second.

MR. CONINE: Any other discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. FLORES: The other part about the rescission, that was on another portion of our agenda, was it not?

MR. CONINE: If we kept the rescission in there, then we'd have to give away some credits later on, so all we did we grant the appeal and gave them credits back.

MAYOR SALINAS: And be careful who are your partners next time.

MR. CONINE: 5(b), Mr. Gerber.

MR. FLORES: Ms. Ray wanted to ask you something.

MR. CONINE: Oh, I'm sorry.

MS. RAY: The vote has already been taken, but with your permission, Mr. Chair, I would like to ask the staff to take a look at the rules, particularly as it pertains to nonprofit associations. Since we encourage our developers to partner with nonprofits, we need to look at our rules to make sure that the actions or lack of actions on the part of the nonprofits don't negatively impact the developers as they go forward.

MR. CONINE: Staff can be thinking about that as we proceed to the rules later on in today's meeting.

Item 5(b), Mr. Gerber.

MR. GERBER: Mr. Chairman, item 5(b) is a presentation, discussion and possible approval of waivers to eligibility for the 2004-2005 Credit Increase Policy. This agenda item is two separate deals based on a finding of material noncompliance.

This appeal is different than agenda item 5(a) in that the properties in question are properties that are ready to be placed in service and are seeking the increases in development costs.

As you will recall at the October 12, 2006 board meeting, the board approved a policy to address increases in development costs to applications awarded Housing Tax Credits in 2004 and 2005. Pursuant to the policy, the department will not allocate any additional credits to principals that are in material noncompliance with other developments in which they are a party.

Two separate entities, Tejas Housing Development, Inc. and Investment Builders, Inc. are requesting a waiver of this provision as it relates to five properties with 2004-2005 credits. Each of the individuals is currently in material noncompliance and not eligible for the additional credits under the policy. While each individual has represented that their issues of

noncompliance have been cured, it should be noted that even after correction of an incidence of material noncompliance, a corrected score is carried for three years by the department and the corrected scores may still cumulatively exceed the compliance threshold.

Staff does not recommend the waiver of the policy regarding noncompliance for either party.

MR. CONINE: I've got some testimony on this one as well. Randy Stevens, are you up for this one?

MR. STEVENS: Not this one.

MR. CONINE: Not this one. All right. John Pitts.

MR. PITTS: Good afternoon, Mr. Chairman. My name is John Pitts and I'm here today representing Tejas Housing Development, and this is R.J. Collins, one of the principals of Tejas Development.

As Mr. Gerber mentioned earlier, Tejas has remedied and cured the noncompliance and we're here today asking for a waiver on your policy. As he also mentioned, last month at your board meeting you approved a new policy regarding the cost increases in 2004 and 2005 Housing Tax Credit projects. These cost increases were caused by the two hurricanes that affected this state approximately a year-plus ago.

Your new policy is a noble attempt to bring about financial feasibility to those projects affected by cost overruns and not placed in service before 2006. Your policy indicates that the executive director will ensure before additional credits are awarded that the principals of the development receiving an allocation of additional credits are not in material noncompliance on other developments in which they are a party.

I'm here today asking for a waiver to this portion of this new policy. My client has three projects currently on the ground that are affected by this policy and it was awarded an additional 9 percent project in the last round, so that totals four projects.

The project that has been out of compliance is one that is located in Stephenville, Texas. This is a 76-unit project of which all the units are affordable. At the time construction began, the City of Stephenville was involved with the City of Waco in a lawsuit pertaining to their water rates. Waco was wanting to cease providing water to the City of Stephenville. This first-time developer went to the public housing authority and asked how to get a utility allowance and they suggested an company to use, that company not being this department. The developer now realizes that was in error and should

have come to this department instead of the public housing authority.

The city lost its lawsuit, the city then had to go out and drill new water wells. They passed on the increased rates for drilling these wells to the rate-payers. Tejas, with their development, experienced in some cases a sixfold increase in their water rates -- a sixfold increase. The developer was ruled in material noncompliance. In the last several weeks the developer has made all the required refunds, and as Mr. Gerber mentioned, we have cured the noncompliance issue.

The department late last week issued corrected 8823s. The developer has done everything he can to bring this property into compliance.

It is interesting to note if the units were at market rate or if we had at least four units in the property that were at market rate, we would not be sitting in front of you today. The units are all affordable housing units. Our Housing Tax Credit noncompliance score is now 32, material noncompliance, as you heard earlier, is 30-plus. We are just about there. Our score will drop to zero after the three years that you had mentioned earlier that we are burdened with.

I'm not asking for additional tax credits,

obviously, for the Stephenville property, that property does not comply with your policy at all because it was placed in service before 2006. What I'm now asking is for a waiver for these other three properties so one can be built and two will not experience financial hardship.

Your stated purpose for the policy is to ensure the financial feasibility of those projects awarded in 2004 and 2005 and not put into service before 2006. My client's two projects are already constructed, are in place, and they're located in Abilene and Beaumont. The project that was awarded recently is a property that is to be built in Huntsville, Texas. The properties in Beaumont and in Huntsville are in the Rita zone that you have paid attention to for additional funding.

Without additional funding, these projects will struggle financially. The developer is putting his own funds in the Stephenville property and is about to in the Beaumont property and it projects to in the new project in Huntsville.

While I'm not here wanting sympathy for my client, I'm asking that a developer who has tried to do the right thing, a developer who has made the refunds required, a developer who has built quality projects throughout Texas, and a developer who desires to ensure

that the other projects that are in place or about to be in place are not put into financial jeopardy, that this developer not be further penalized because of noncompliance score on one of this projects, as I mentioned, a project that would not qualify for this additional funding anyway.

Therefore, I respectfully ask that the board grant a waiver to your policy in order for the developer to obtain the additional credits for these other developments. Thank you.

MR. CONINE: George Littlejon, you yielded. Mr. Collins.

MR. COLLINS: I yield unless you have some questions.

MR. CONINE: Any questions of either of these two witnesses?

MR. FLORES: Does this problem arise just from one set of units, I guess it's in Stephenville?

MR. PITTS: It's one project in Stephenville, our River Walk project.

MR. FLORES: It's only that one complex, not the other three.

MR. PITTS: The other projects are in full compliance and are being leased up at the present time.

MR. FLORES: Mr. Collins has made repayment for the overcharged rents obviously from reduced rents or something.

MR. PITTS: He's made actual refunds on the overages and the utility allowance.

MR. FLORES: Thank you.

MR. CONINE: When was he notified that the utility allowances were too high? I don't see that here.

MR. COLLINS: We received an audit after we concluded the development, I believe it was in May of '05. There's some confusion about what utility allowance to be used. Actually we've refunded three times. This last time we refunded all the Housing Trust Fund for 2004. So over the last year we've refunded three different times since December of '05.

MR. CONINE: Refunded the tenants?

MR. COLLINS: Refunded the tenants, yes.

MR. CONINE: Okay. Any other questions?

(No response.)

MR. CONINE: Thank you for your testimony.

Let's see, we have multiple ones here. I have Cynthia Bast again.

MS. BAST: Thank you, Mr. Conine. I'm here for Cedar Oak and North Mountain Village which are projects of

Investment Builders. I don't know if you want to take them separately or not.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I respectfully ask that we take a vote on that waiver.

MR. CONINE: Okay. You want to split them up?

MS. RAY: Yes, sir, I do.

MR. CONINE: If you'll hold on for a second, Ms. Bast.

MAYOR SALINAS: I'd like to move that we waive.

MS. RAY: Second.

MR. CONINE: Motion and seconded to grant the waiver to the Tejas Builders. Is that right?

MS. RAY: Yes.

MR. CONINE: Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Now you can go, Ms. Bast.

MS. BAST: Basically for my comment I would like to say ditto. Given your prior action, I believe it is appropriate for you to grant this waiver.

I would add that the Cedar property has been constructed and has experienced a \$675,000 cost increase, as you would expect. That's the whole reason why you are giving these additional credits. North Mountain Village remains under construction and it's projected to have about a million dollar cost increase. So these additional credits are needed by these properties, and based on your prior action, I believe it's consistent for you to provide this waiver for these two properties to receive the additional credits.

MR. CONINE: Any questions of the witness?

(No response.)

MAYOR SALINAS: I move for the approval of the waiver.

MR. CONINE: Motion.

MR. FLORES: Second.

MR. CONINE: Second. Any more discussion?

MR. GERBER: Staff would like to comment.

MR. CONINE: Okay. Ms. Boston.

MS. BOSTON: Brooke Boston. I apologize for interrupting in the middle of your motion.

I would like to suggest that the credits that we give for these additional amounts, instead of coming out of '07 or '08 ceiling -- which would typically would be what our proposal had been presented to you -- that we would use the balance of what's left of our '06 ceiling. Since this is November, it will help to make sure that we don't carry over more funds than we need to.

If it's not enough, then we would still use our '07 or '08, but to the extent that we can use '06 , we'd like permission to do so.

MR. CONINE: Do we have some floating around?

MS. BOSTON: Yes, we have between \$300- and \$400,000 right now, and if more comes back at carryover, then we may have a little bit more.

MR. CONINE: Wasn't that in our policy originally to use any '06 left over? Maybe I'm dreaming that up.

MS. BOSTON: I don't think so. We used '06 leftover for the forwards.

MR. CONINE: Okay. Did you make the motion?

MAYOR SALINAS: Yes.

MR. CONINE: Would you like to amend your motion?

MAYOR SALINAS: Well, I can amend it that we go

ahead and use the '06 tax credits that are left over first.

MR. CONINE: And then go to '07 and '08.

MAYOR SALINAS: And then go into '07 or '08 if you don't have enough.

MR. CONINE: Is there a second to accept that amendment?

MR. FLORES: Second.

MR. CONINE: We have an amended motion on the floor. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Let's see, 5(c) has been pulled. Let's go on to 5(d).

MS. BAST: Sir, I did have comment on 5(c).

MR. CONINE: You did? Well, yes, you did, but it's been pulled as an agenda item, so I guess it's immaterial at this point. I know that whatever you had to say I'm sure is important. We've heard from you twice

already. Is whatever you want to talk about germane to whatever the board has done so far? Come on up.

MS. BAST: And I promise you won't hear from me anymore after this.

You were right that the 5(c) item becomes irrelevant, having passed the Spanish Creek Townhomes appeal because now there are not additional credits available for this Bluff's Landing project in Georgetown, but there's something that has been troubling this particular property that we just want to make the board aware of.

As you know, the QAP states that all properties and all applications are underwritten, and then to award credits the staff does an under and over formula to figure out which regions have been properly allocated and which regions have been overallocated, which regions have been underallocated, because clearly the regional set-aside is not a number that you can just easily meet with your pool of applicants.

So the thing I want to point out to this board's attention is that this year we had an anomaly and that anomaly is that all of the applications were not completely underwritten by the time the tax credits were awarded and the staff did this under/over calculation. If

you take the underwritten numbers -- which often differ from the application numbers -- and do your under/over calculations, Bluff's Landing would have received an allocation. So because of the failure to complete the underwriting before the allocations, Bluff's Landing is left out of the mix.

That table that you have was prepared with the exact same structure as the one you received in July from your staff showing you how they did the over/under calculations. We want you to be aware of this, we want you to think about this. If you think that this is deserving of being rectified because the underwriting was not complete, then there are forward commitments available. And we wanted to bring this to the board's attention, and we thank you.

MR. CONINE: Thank you very much. 5(d).

MR. GERBER: Mr. Chairman, board members, item 5(d) relates to 4 percent Tax Credit awards associated with bond transactions with other issuers. I suggest that we take the first two developments together.

These include: Artisan at Salado Heights, a Priority 2 application, consisting of 252 units proposed to be built in San Antonio, with San Antonio Housing Finance Corporation as the issuer, and a recommended award

of \$1,106,360 in Housing tax credits; and second, Southpark Apartments, a Priority 3 application, consisting of 192 units proposed to be built in Austin, with the Strategic Housing Finance Corporation of Travis County as the issuer, and a recommended award of \$638,559 in Housing Tax Credits.

Staff is recommending approval of both of these developments. There's been no opposition to either development and they're pretty straightforward.

MAYOR SALINAS: Move for approval.

MR. CONINE: Move for approval of all three?

MAYOR SALINAS: No, just those first two.

MR. CONINE: First two, okay. Is there a second?

MR. FLORES: Second.

MR. CONINE: There's a second. Hang on, I've got some testimony here. Jeff Crozier, you're with Toni, aren't you. There's Toni right there, but you're on the last one. Okay. And this one is on the last one too, so all of them are on the last one. Never mind.

A motion and a second are on the floor. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor

signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: The third one, Mr. Chairman, is the Lakes of Goldshire, a Priority 3 application, consisting of 160 units, proposed to be built in Rosenberg with Fort Bend County Housing Finance Corporation as the issuer. The 2006 QAP requires the applicant to submit evidence from the local municipality of consistency with the local consolidated plan. As of the date of board posting, the applicant was unable to obtain this evidence.

While the city indicated that they do not generally refer to their consolidated plan created in 1995, the City of Rosenberg does have a plan that is still in effect for purposes of compliance with the QAP.

Staff notes that if the board should overturn staff's recommendation, they would be waiving the requirement of submission of consistency with the consolidated plan letter from the local municipality, per Section 50.12(b) of the 2006 QAP. The underwritten credit amount for an award of \$660,812 in Housing Tax Credits.

Staff does not recommend approval for the Lakes

of Goldshire development.

MR. CONINE: Now I've got some testimony. Ms. Toni Jackson.

MS. JACKSON: Good afternoon, board members. I sit before you today on behalf of Lakes of Goldshire. We are asking not for a waiver of the rules but for an interpretation regarding the rules.

Under applicable rules for tax-exempt bond developments, it indicates that consistency with local municipality's consolidated or a similar planning document must be demonstrated in those instances where the city or county has a consolidated plan.

Like your staff, we checked into the City of Rosenberg, and the City of Rosenberg, we learned, had a 1995 consolidated plan, however, as they indicated to the staff, that plan has not been in effect and they don't operate under that plan. However, what I have provided to you, we just learned that the County of Fort Bend has a consolidated plan in which the City of Rosenberg incorporated areas are under that consolidated plan.

Therefore, we were asked to submit the information to Fort Bend County which we did, which they did, in fact, review, and they have provided us with a consistency letter, as you have before you. So again, it

is our belief that the Fort Bend County consolidated plan is what we actually, in fact, fall under, and we have provided you that letter of consistency as they have reviewed the plans and all the documents as required by Fort Bend County.

MR. CONINE: Okay. Any questions?

MR. FLORES: Mr. Chairman, this is for you. Are we in an argument about which plan we're operating under? Do we have to decide that?

MR. CONINE: It sounds like it to me.

MR. FLORES: That's what it sounds like to me.

MR. CONINE: If the City of Rosenberg has a plan but they don't review it or use it, it sounds kind of -- I can't believe they'd even say that, you know, we went through the effort to do a plan ten years ago but we ignore it.

(General laughter.)

MR. CONINE: And do I understand this project meets the definition of that plan, the City of Rosenberg's, or not?

MS. JACKSON: The City of Rosenberg's plan really doesn't speak to anything regarding -- it speaks somewhat to affordability and multifamily but it doesn't go into that distinctively. But we have met all of their

other planning requirements regarding the acreage, the setbacks, those things. In fact, we made some changes to our plans in accordance to their requirements.

MR. CONINE: And I didn't realize that counties have plans, but maybe some down in the Houston area do.

MS. JACKSON: If you are participating jurisdiction, you do have a consolidated plan, and that being getting HOME funds, those types of things, but they have, as you see from the executive summary that I've provided you, it shows the areas in which their plan operates under.

MR. CONINE: Is zoning applicable in this case?

MS. JACKSON: No, it is not.

MR. CONINE: There we go again.

MS. JACKSON: There is no zoning, zoning is not applicable, and your staff just also verified that.

MR. CONINE: Mr. Gerber, I think you were talking about waiving a particular rule, Toni was saying it's more of an interpretation, and I guess I'm concerned about that, and I'm also concerned about submitting the letter here at the last minute which typically goes against our grain a little bit.

Can you reiterate what staff's position is right quick?

MR. GERBER: If you should overturn the recommendation, you will be, in effect, waiving the requirement of submission of consistency with the consolidated plan letter from the local municipality.

MR. CONINE: But she just submitted one.

MS. JACKSON: And as I state, your rules indicate in those instances where the city or county has a consolidated plan, and that is in the rules.

MR. CONINE: But the letter didn't come seven days ago so we could have it in our board book and all that kind of stuff, so we've got a timing issue.

MS. JACKSON: That is correct, and that we do acknowledge.

MR. CONINE: So we're going to have to waive the timing issue if we waive anything. Is that correct, Counsel?

MR. HAMBY: Well, actually it's both. And I think, Mr. Chairman, one of the things that our staff has continuously pointed out is that it's the most local community is what we're looking at because we're looking for local control. It's my understanding -- and Ms. Meyer needs to confirm this -- they did actually ask the city and the city did not offer a letter. And so it's not pick the governmental body that you want to, it's the most

local.

MAYOR SALINAS: You didn't ask the city for a plan?

MS. JACKSON: The city said they did not give those.

MAYOR SALINAS: Why not?

MS. JACKSON: The city does not want affordable housing or tax credits or anything in their jurisdiction, and they don't feel that they have to work under the TDHCA rules.

MAYOR SALINAS: Maybe we don't want to work with them either.

MR. CONINE: I have another witness affirmation form from Navdip Sobti. Would you like to speak?

MR. SOBTI: Yes. Good afternoon, board members, Mr. Chairman, Mr. Gerber. About three months ago we went to the City of Rosenberg and I hired Mr. Jim Shaw from the [indiscernible] Company as my public person to go and talk to the mayor and the city about this project, and they were all very happy about it, they were all for it, and [indiscernible] talk to the Texas Bond Committee at that point also.

Three months passed by, they gave us all their input on the project, what we should. The mayor told Mr.

Jim Shaw why doesn't he go to Fort Bend County and to the school district and ask for some funds for beautification because this comes under a beautification zone.

And then unfortunately, one day Mr. Jim Shaw, says why don't you come to the city with me, I want them to get introduced to the developer.

[PA system garbled.]

MAYOR SALINAS: Is that inside the city of Rosenberg?

MS. JACKSON: Yes, it is inside the city of Rosenberg.

MR. CONINE: Ms. Ray.

MS. RAY: Mr. Chairman, something you said interested me about the minority population in the city of Rosenberg. Do you have any idea what the minority population is in the city of Rosenberg? Perhaps we should ask staff, Mr. Chairman or ask the witness.

MS. JACKSON: The minority population, I actually don't know the exact demographics, but I've been told in terms of the need for affordability it's a very high population.

MS. RAY: That's what I'm interested in.

MS. JACKSON: Right. We have looked at the demographics, our market study, everything shows that

there is a great need and they have, in fact, even in the city council meeting that we sat in, talked about the large number of students, over 70 percent of their students are actually on the free lunch program, and they're having a lot of new development, commercial development as well as high end homes, but a large need for affordability because particular the large amount of retail that is being built up in that area.

MS. RAY: My records tell me that there is an extremely high level of minority citizens in the city of Rosenberg and a high percentage in the area where your project is being considered.

MS. JACKSON: Yes, ma'am.

MR. CONINE: Do I understand this is also a townhome type project as opposed to a two-story garden apartment?

MS. JACKSON: That is right.

MR. SOBTI: It's a townhome with attached garage. It's a beautiful project. It's seven to an acre, 22 acres, 160 units, it's a beautiful project. They loved it, it's just bugged me to no end why would they pull it.

In a community where 70 percent of the kids in the school district are on reduced rate or free lunches, how can you say that there is no need?

MAYOR SALINAS: We don't have any tax credits?

MR. CONINE: This is a 4 percent tax credit bond deal. Fort Bend County HFC is the issuer here.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: Are we ready to accept a motion?

MR. CONINE: If there's no other questions of the witness, I'm sure we are.

MS. RAY: Mr. Chairman, I move that we accept the wavier that the developer is asking.

MR. CONINE: There's a motion to grant the waiver.

MAYOR SALINAS: Second.

MR. CONINE: I hear a second. Any further discussion?

MAYOR SALINAS: What if you have problems with your building permit?

MR. SOBTI: [indiscernible].

MAYOR SALINAS: Fort Bend County it's okay with?

MR. SOBTI: Yes. [Indiscernible].

MR. CONINE: Have we underwritten this yet? So his requested amount of \$660,812 is what we underwrote, subject to conditions. So there's no need to change that

in the motion other than to indicate in the motion that we are granting those amounts of credits, along with granting the waiver.

MS. RAY: Mr. Chairman, I accept that amendment to the motion.

MR. CONINE: Seeing no further discussion, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. 5(e).

MR. GERBER: Chairman, 5(e) has been pulled.

Item 6, going to the mortgage revenue bonds.
Mr. Gerber.

MR. GERBER: Mr. Chairman, item 6(a), this item concerns Idlewilde Apartments. Idlewilde is a Priority 2 bond transaction with TDHCA as the issuer for new construction of a 250-unit development to be located in Houston. The applicant is recommended for \$14,800,000 in bonds with \$1.184,604 in Housing Tax Credits.

It should be noted that the Executive Awards Review Advisory Committee, EARAC, expressed concerns about the appropriateness of the primary market area in relation to the location of the proposed development. We'll be

happy to address the concerns with you if you desire.

As is required, there was a public hearing. Eighty-six people attended the public hearing which was held on October 17. Fifteen people spoke in opposition of the development. The department received a petition in opposition containing 505 signatures from neighborhood individuals. No letters have been received from elected officials on this transaction.

A brief summary of the public comment is as follows: there were concerns regarding flooding, lack of available public transportation, concerns that the area would see a crime rate increase, belief that there's a concentration of apartments in the area, there were issues regarding the negative impact this development might have on the school district, and the potential negative implications to surrounding property values.

Staff has reviewed these concerns and staff is recommending approval of the project as presented.

MR. CONINE: We've got some testimony here from the Ford family, Mr. Steve, Jill, John.

MR. STEVE FORD: Actually, they pretty much waived their time, so in the interest of time, I am actually here to answer any questions about the development you might have. I have an engineer here to

address the flooding and traffic issues with quite lengthy studies he has. He can either submit those or present them here at the meeting. But basically I'm here to answer any questions about the development you might have.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: [Indiscernible].

MR. FORD: I'm just here to answer questions in case anybody has any that might be opposed.

MR. CONINE: I have another witness affirmation form from Dwayne Henson.

MR. FORD: He also waives his time to me. They're both on my side. Anybody else? That's all the Idlewilde ones I have.

I'm prepared to receive a motion.

MS. RAY: Mr. Chairman, I move that we accept the staff's recommendation.

MAYOR SALINAS: Second.

MR. CONINE: There's a motion and second for approval of the Idlewilde Apartments and I think there's a resolution number on the agenda. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. FORD: Thank you very much, and to the new board member, thank you very much, we're going to like you a lot.

MR. CONINE: Go ahead, Mr. Gerber.

MR. GERBER: Mr. Chairman, item 6(b) is the Mesquite Creek Apartments. This is a proposed new construction development to be located in Mesquite in Dallas County. As I mentioned, this application was previously brought before the board at the October 12, 2006 board meeting. The application was tabled and the board strongly encouraged the applicant to meet with elected officials. The board specifically urged the applicant to meet with Mayor Mike Anderson.

The applicant has made contact with local officials and he's prepared to provide the board with an update on those meetings. Staff has also spoken with Mayor Anderson and has been assured that the applicant has made efforts to meet with the mayor and has met with the deputy mayor pro tem. The department has received letters of support from the Pleasant Ridge Homeowners Association

and a local church, and letters of opposition from State Senator Robert Deuell, State Representative Elvira Reyna, and Mayor Mike Anderson. Mayor Anderson has rescinded his original letter of opposition and has subsequently voiced his support for the development.

The Mesquite Creek Apartments is included in inducement resolution 06-046 which is for one application that will reserve approximately \$15 million in 2007 state volume cap. Upon board approval to proceed, the application will be submitted to the Texas Bond Review Board for placement on its 2007 waiting list. This application will be the second application approved by the board for the 2007 program year.

It should be noted that approval of the inducement resolution, however, does not assure that the development will ultimately receive approval for Housing Tax Credit determination or the issuance of private activity bonds.

MAYOR SALINAS: Is this 4 percent?

MR. GERBER: Yes, sir.

MR. CONINE: WE have one witness, John Shackelford.

MR. SHACKELFORD: Good afternoon. John Shackelford representing the owner and developer.

What's being passed around is a letter of support from Mike Cantrell. As Mr. Gerber pointed out, we were asked to go back and meet with elected officials, and I apologize for being unable to get the letter into the board book in time, but we weren't able to secure the letter until just two days ago, so brought it with me.

Mr. Anderson, I believe, has submitted a letter now in support, so I think you have that, as Mr. Gerber indicated.

Other than that, I'm available for any questions that you may have.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Do I hear a motion?

MAYOR SALINAS: I move for approval.

MR. CONINE: Motion to approve. Is there a second?

MR. FLORES: Second.

MR. CONINE: Any other discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Moving on the one that's near and dear to everybody's heart, item 7, presentation, discussion and possible approval of final department rules. Mr. Gerber.

MR. GERBER: Mr. Chairman and board members, we're going to attempt to take some of these rules together and batch these, if that meets with your approval. Also, for each item I'd suggest that staff only get into the more detailed topics to the extent that any of you have questions after hearing public testimony on that item.

We'd like to take first item 7(a), 7(b) and 7(c). These are rules relating to the appeals process. Specifically, Section 1.7 of our rules deals with appeals to the board of staff decisions. The rule received no comments during the public hearing process. Rule 1.8 addresses motions to the board to rehear one of their decisions. This rule received comments clarifying that the appeals were only available to the party that initially had the request before the board. That change is reflected in this final rule. And finally, the draft ADR rule, Section 1.17, did not receive any comments and is presented in final form for your approval.

Staff recommends that you approve these three rules as proposed by staff.

MR. CONINE: The witness affirmation forms are difficult for this guy to understand, so I'm just going to get all of the public testimony out of the way, if you don't mind, on all the rules and then we'll go back and do these first three as Mr. Gerber has enunciated so far.

So Ginger McGuire, you want to start us off? And we'll just try to take good notes.

MS. MCGUIRE: Good afternoon. My name is Ginger McGuire and I am senior vice president with Lancaster Polledge Mortgage Company.

I'm here to speak about the 538 Rural Program. It's a multifamily program, and in specifically Section 49.7 which covers the regional allocation formula, set-asides and redistribution of credits, the 538 is specifically excluded from the 5 percent rural set-aside.

The 538, I think when this was done, was first suggested as an exclusion, the 538 could not be used with the 515 rehab; today it can. The 538 program has been rewritten and it's specifically now for use within two instances: one is new construction but secondly, it has been redesigned so that it can be used for rehab with the Section 515 properties.

In the instance where it is used for rehab with the Section 515 properties, there are specific rules within Rural Housing Development that allow subordination of the 515 loan and restructuring as well.

I personally support use of the 515 and inclusion of the 538 program within that 5 percent set-aside because it is the future of the RHS multifamily lending product. The rural administrator, Russ Davis, out of Washington, D.C., has classified the 538 program as the future of RHS lending. So I personally am in support of having it in the set-aside for new construction as well as for rehab.

I have spoken with Socks Johnson just in the last several minutes, and he is also supportive of using this within the 538 with the 515 as rehab, as long as the 515 stays in place. He personally is supportive of using the 538 for new construction as long as the number of units stay within that 76 units or less that are qualified for the rural set-aside program.

So I would ask that staff reconsider and not exclude the 538 program in that 5 percent RHS set-aside. Thank you very much.

MR. CONINE: Any question of Ms. McGuire?

(No response.)

MR. CONINE: Thank you. Eric Opiela.

MR. OPIELA: Thank you, Mr. Chairman. My name is Eric Opiela and I'm here representing Texas United Independent Developers, and in this particular instance, also speaking on behalf of the Texas Affiliation of Affordable Housing Providers. Together these two organizations represent a good portion of the development community here in this state.

We're concerned about the changes in the real estate analysis guidelines for the 2007 rules, and also two issues on the QAP.

I'll address the QAP first to deal with two particular issues. Overall, the QAP for 2007 is a good improvement over the 2007 QAP. The staff listened public comment and accepted public comment and made very good revisions to the 2007 QAP.

There are two outstanding issues, however. First of all dealing with the deadlines for deficiency responses. The original draft 2007 QAP had a three- to five-day window where after three days you receive a point deduction and after five days your deal is terminated if you don't respond. After significant public comment, that was revised to reflect a five- to seven-day range. However, the last sentence in that section was not removed

which provides for the staff not responding to the deficiencies after the third day, so you have to submit it within three days in order to have any issues that are outstanding addressed, or otherwise, the staff doesn't have to comment until your deal can get rejected after seven days. So that sentence needs to be removed.

The second issue deals with notification to the political subdivisions about neighborhood organizations. In the 2007 QAP, it was December 8, just seven days after the governor is required to sign the QAP. We'd like to see that moved to the pre-application deadline to allow for more time to identify the areas where sites are going to be before issuing out those letters to the local political subdivisions for the purposes of gathering the names of neighborhood organizations.

Now moving to the real estate analysis rules. As was submitted in the public comment, both TAAHP and TAID feel that the drastic changes in the real estate analysis guidelines from 2007 to 2007, as well as the significant public comment that was not incorporated into the 2007 real estate analysis guidelines, warrant us moving back to the 2006 REA rules. First of all, what isn't broke, don't fix.

And I have a number of people that have yielded

time for the purposes of continuing my comments.

MR. CONINE: Okay. I'll see if I can find them. Go ahead.

MR. OPIELA: First being Jim Brown. I think Ms. McIver also is going to yield me some time but she also has one issue that she wants to have as well. So let's try and get this done in the next four minutes and we'll be safe. Okay?

MR. CONINE: Sounds good.

MR. OPIELA: Okay. If we do keep the 2006 rules, we would also like to see a change to Section 1.32 of the underwriting guidelines regarding site work costs.

This was something that the development community has requested not only this year, and it was not incorporated into the 2007 REA rules, but also we requested in 2006.

If the applicant's site work exceeds \$7,500 per unit, then the applicant, under the current rules, has to pay an engineer or architect to provide details to support those costs and to see them increased. We'd like to see that increased to \$10,000 per unit which more accurately reflects the actual costs. These costs were last changed in 2003. Since 2003, we've had not only three years of inflation but also increased site work costs due to increased construction costs. And so this is something

that we would like to see changed if we stayed with the 2006 rules, as we're requesting.

We also would like to see a change made to the debt coverage ratio to increase the upper range of the limit to 1.35. This was made in the 2007 proposed rules but if we do keep the 2006 rules, we'd like to see both of these issues changed, the \$10,000 per unit site work cost, and also the 1.35 upper limit under that coverage ratio.

If the board doesn't choose to remain with the 2006 rules and these changes, we'd like to see the following changes made to the 2007 rules as are before you today, the first of these being the \$10,000 per unit site work cost, second being Section 1.32(i)(2) dealing with restricted market rents.

You have a handout that shows that under Section 1.31 (i)(2) if you have a market rent that does not rise up to the 60 percent level, if you selected 60 percent and your market will only support 50 percent rents, you will be required to elect 50 percent and be restricted to that rent. This creates a situation in which the developers are required or forced to elect a 50 percent rent when in the future your market could support a 60 percent rent which is what is allowed under the program.

By forcing the applicant to elect a 50 percent AMI, TDHCA is improperly forcing the deal into a negative cash flow situation which could lead to a foreclosure and loss of affordable units from the program. It decreases the overall financial feasibility of these deals. And you see the comparison, Year 1, Year 2.

This change in Section 1.32(i)(2) where they underwrite the development at the lesser of either the maximum Tax Credit rents or 90 percent of the market rents leads to a number of deals, especially here in the Austin region, becoming infeasible. Just because you elect 60 percent and you charge a lower rent because that's all that the market will support does not, in and of itself, make a deal infeasible.

The second issue that we'd like to address is 1.32 (i)(3) dealing with initial feasibility. This rule is not supported by fact. Just because the projected operating expenses are greater than 65 percent of income does not, in and of itself, make a deal infeasible. And of course, that provision also needs to be eliminated.

And the final issue that we have with the 2007 rules -- and all these items were brought up in public comment and rejected by staff, so they have been brought up at earlier meetings. I know that was an issue in 2006

that Chairman Anderson had brought up -- is Section 1.36 dealing with the property condition assessment guidelines.

Section (4)(c) adds new language this year requiring that PCAs be done for 30 years. This is a situation that we believe is an additional unfunded cost burden on applicants, and they're of little use to the department, as is, and the reason for that is because virtually every part of an apartment complex will need to be repaired within 30 years. This is an extended term that isn't necessary and we'd like to see it left at the 15 years.

So those are our comments regarding the 2007 real estate analysis guidelines in the QAP, and of course, we would prefer to stay with the deal that we have in 2006. If it ain't broke, don't fix it. Thank you.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: I guess I'm curious about the one about the expenses being over 65 percent yet being feasible. How does that work?

MR. OPIELA: There are a number of deals that have either a 68 percent, just right above 65 percent, but still work today, applications that have been proposed for this year and were approved by underwriting that were at

68 percent or somewhere above 65 percent, and there is no basis for this arbitrary 65 percent cutoff, in our opinion

MR. CONINE: How about the site development costs where staff had commented back that the average they had been getting on cost verifications is 6,400 bucks or something?

MR. OPIELA: Well, this is an issue I think that we have some comment from Diana. We had talked about this out in the hall. Do you want to give comment on the \$6,500? We'll let her address that, Chairman Conine.

MR. CONINE: You know, diesel is getting cheaper nowadays.

(General laughter.)

MR. OPIELA: She has some actual data on that that I don't have in front of me right now.

MR. CONINE: Okay. Thank you.

MR. OPIELA: Thank you.

MR. CONINE: Jim Brown.

MR. BROWN: My name is Jim Brown. I'm executive director of the Texas Affiliation of Affordable Housing Providers. I'll be very brief in my comments.

I will say that TAAHP and Mr. Opiela's clients have been working together to come to some consensus of concerns and opinions. The letter I've just handed out, I

will not read the entire letter, obviously. It starts out we talk about the roundtable conducted by TAAHP back on September 29 in which we brought together various stakeholders within the industry, ranging from developers, syndicators, lenders, and a general across-the-board group of stakeholders.

We were unsuccessful -- is that my one minute?

MR. CONINE: Sure was.

MR. BROWN: How about a little credit?

MR. CONINE: Go ahead and finish up, Mr. Brown.

MR. BROWN: I'll make it very briefly. The second paragraph I think Eric covered so I'll not get into that.

But TAAHP requests the board give further consideration to two sections of the QAP which we believe creates a burden on both the staff and the stakeholders, and one is Section 49.8, the pre-application. Eric covered that in his comments, so I'll not belabor that point. The second is in Section 49.9, administrative deficiencies, and again, this is an issue that Eric has covered.

So in closing, TAAHP, on behalf of its membership and stakeholders in the affordable housing providers process requests that the board's consideration

on the three items submitted here within. We believe these changes, as minor as they may be, will make a significant difference in the process and will accommodate staff and stakeholders alike.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you, Mr. Brown. Diana McIver.

MS. McIVER: Thank you. My name is Diana McIver. I'm president of DMA Development and I'm pleased to be able to provide some comments to you today.

I actually had thought, since I was testifying on two different rule items, I'd end up with six minutes, but I don't think the chairman is quite going with that rule today.

The first one I want to comment on is the real estate analysis rules, two issues that I would like to address. One is, as Mr. Opiela said, the \$7,500 per unit site work cost rule has been with us since 2003 and we're just simply asking that it be increased.

The numbers cited by the staff in the rules are based on projects that were placed in service in 2004 and 2005. So we, the industry, have seen a 25 percent increase; the staff has identified 14 percent increase.

So we're simply asking that we take this obsolete \$7,500 and raise it to \$10,000. If you want to meet us halfway at \$9,000, then we'll take every penny we can get. The difference is I know we can go above that but it costs us money. We have to go get an engineer opinion and an accounting opinion, so we're talking an extra \$2,000. We need that money this year to pay for the market study requirements which are going to cost us more money, according to the market analysts. So if you work with us on the \$7,500 and increase it to \$9,000 or more, then we can afford to pay for the new market study requirements.

And the other thing on the real estate analysis rules is there's a section in there on developer fee that limits it to 15 percent and yet the QAP allows a 20 percent developer fee on smaller projects, so we would just ask for consistency on that.

Those are my comments on real estate analysis.

As far as the Qualified Allocation Plan comments, I have to say -- and many of you have seen me here many, many times -- I will say that in my history of working with this program, this is the most open year, this has been the year that the staff and the board has been most willing to work with the development community and incorporate our comments, and I really thank you, I

thank your staff.

I can't tell you how many e-mails I have gotten from Jan Joyce and Robbye Meyer that were way past 6:00 p.m. I have actually gotten one from Jan Joyce at 2:00 a.m. in the morning. So this staff has been working very, very hard on this QAP and have been very, very receptive to the requests that we've had as individuals and the requests that we've had through the Texas Affiliation of Affordable Housing Providers.

(Applause.)

Ms. McIVER: Thank you also to Kevin Hamby for giving us that interpretation at the last meeting where we could be this open.

I do have a couple of comments. One relates to development location, and I think I've got some time yielded to me.

MR. CONINE: Keep going.

(General talking and laughter.)

MS. McIVER: The development location, and in the past years I'd get four points for development location, and in the current year you give us four points for being in an economically distressed area, Colonia or DEA; we get it for being in a federal or state enterprise community; we get it if we're in a county that's had an

agriculture grant in the past three years; we get it for a census tract that has MSI higher than MSI for the county; we get it if we're located in an elementary school with an exemplary or recognized rating; and we get it if we're serving families in a QCP with no greater than 10 percent poverty. We get all those.

And so we've got this whole category that gives us state, it gives us federal empowerment, all of these HUD zones, and yet what the staff did this year was to take out the one section of that that rewards us for working in areas with that four points, rewards us for working in areas that are a city-designated area and that would be if it's a tax-increment financing zone, it's a city-designated area.

And although the idea was that you would get those points for doing rehab in a designated area, you don't get those points in this category if you're doing new construction or if you're doing some kind of adaptive reuse of an existing building downtown.

And it won't hurt the rehab points because we'll get them anyway, so I would just ask you to restore this particular section to that four point category. Once again, it rewards developers for working with cities, and you asked us to do that, and I think that that would be

rewarding good behavior.

The second one is on the development. It's a new category, it was proposed by Mr. Bogany at the board meeting where we were considering this, and he had suggested that you do a separate category to allow seven points for developments in census tracts with no other existing developments supported by tax credits. And I, for one, really supported that. I think it's a great idea, I think it gets dispersion of housing.

As it came back to us in this draft QAP, now rural communities are exempted from getting these points.

And I have to say I have a lot of mixed emotions and I realize that some small towns of 5,000 may only have one census tract, but most of our rural communities do have two, three, four, five and six census tracts, usually get one with every 5,000 of population

So I guess I'm sort of torn. I'm not sure that it's a good idea to exempt rural communities from this particular provision, and I think it's positive behavior for a developer to go into a small city of 15- or 20,000 and put housing in a census tract that doesn't already have housing. It's why I don't believe we should do 150 units in rural communities all in one location. I think if you're going to do two developments, you do them in

different census tracts and give people more options.

So I guess I'm asking that we discuss or we reconsider exempting rural from that seven-point category and I do it because of the public's policy of trying to disperse, even in our smaller cities, but also I think that it's going to create a position where when we get to that point every year that we get to and you're trying to decide how to use excess funds in a region and you have a rural project and you have an urban project and they're competing to get that very last project from that region, that rural project is going to be seven points lower than the urban project because it has no way to make up that extra seven points. So I think that is going to be the issue in that level playing field that we all reach for as we're using those very last credits each year.

The three other issues I have I have discussed with staff and they're all three technical corrections. One I gave you a copy of because it was an issue that we raised with Jan Joyce simply about settlement statements and the threshold requirements for acquisition and showing warranty deeds, and Jan is going to yield me some time on this one. Where is she?

(General laughter.)

MS. McIVER: And so the language or the text

was actually drafted by Ms. Joyce in reaction to some concerns my office had discussed with her on the settlement statements, and it's wonderfully crafted, I would ask that you accept it.

A couple of other technical corrections. One is in the loan section it talks about AFR and it defines it as applicable fair market rate, and AFR, the true term is applicable federal rate, so that's just a simple correction. And then the one inconsistency is that we do a 15-year pro forma to get points in the points section, and then later on in threshold it requires a 30-year pro forma, and that's not required for underwriting as part of the applicant's submission, and I would just ask you to consider striking that additional 30-year pro forma since we already do a 15-year.

And those are my comments and thank you very much.

MR. CONINE: You're welcome. Any questions?

(No response.)

MR. CONINE: Thank you very much. Bill Skeen.

Next I have Barry Kahn afterwards.

MR. SKEEN: Bill Skeen with Dakota Partners. As many of you may know, we partner with housing authorities and nonprofits in Tax Credit developments, and

I'm here to ask the board to consider a change in the quantifiable community participation language as it relates to resident councils. Resident councils are still being treated differently than homeowners associations and property owners associations. We believe that they should be treated, like and kind, the same, so that's what we would request that the board seriously consider. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Barry Kahn, Bill Fisher being next.

MR. KAHN: Good afternoon. Two quick issues I'd like to bring up. One, we've had the \$1.2 million cap for several years. I'd like the board to consider increasing that by the yearly CPI increase. Federal tax credits are issued to the states on a year basis and are increased by the CPI, so the state is getting each year more increases in credits, and thus, it would behoove us to consider increasing the \$1.2 million cap since it's not really taking away from anybody else. And as we've seen, costs are going up and with the added costs, it's making the size of the projects decline. I've run this by staff and I don't think there's too much opposition there, they

were just looking for some input.

The second issue has to do with penalty points. We're in a new era now. Unfortunately, we're facing flat rents in many communities and the rents are just remaining flat, they're actually going down. So rents are calculated with HUD-provided rents and then they're reduced by utility allowances. Well, the utility allowances are increasing where the rents aren't, so the net effect is a decrease in rents.

And unfortunately -- and nobody wants to hear this -- some older projects are going to start running into some trouble, and there's various other remedies, but if everybody decides it's no longer in the best interest to maintain the property, for developers who have been in the industry for quite a few years, they could be penalized not because they've done anything bad but just the changes in the community, things beyond their control.

And the suggestion is that penalty points only apply if you're removed from a deal during the first six years after the allocation, and the reason for the six years is it's usually X number of months before construction starts, and then you generally go through a two-year period of building and leasing it up, and then most guarantees for the developers are for another three

years. So once you're past six years, you're beyond your legal obligation to the syndication community or the investors.

And I've spoken with another syndicators, and believe it or not, they actually agree with it because they want the good developers to stay in the program and if there's situations which are beyond the developer's control, then they agree the developer shouldn't be penalized. And besides, they always have a safeguard because if they feel the developer has not lived up to the obligations he should and he's removed, the word gets around pretty quickly, and other syndicators and investors and lenders will not then deal with that developer.

So the industry should be able to take care of itself, and thus the request for the rule change to be only if you're removed for the first six years. Any questions?

(No response.)

MR. CONINE: Thank you. Bill Fisher, Mike Lopez being next.

MR. FISHER: Good afternoon, board members. Bill Fisher, Odyssey Residential.

Like Mr. Skeen's group, we spend a great deal of time partnering with housing authorities, and housing

authorities are good shepherds of affordable housing in this state and they provide resources, generally leveraged through their local government entity to these affordable housing developments to make them better and allow us to target lower rents, typically serving residents at 30 and 40 percent, and we need to keep them involved in the program.

There have been concerns expressed, by Mayor Salinas here, a couple of meetings ago about potential unfair competition from housing authorities in the program, and you know, frankly, there's a trend that I would agree with him on as far as housing authorities go that is not consistent with the Ronald Reagan program. We're 20 years now since the Housing Tax Credit Program was invented by the Reagan administration as clearly a private program.

I have put in my public comment that the agency adopt a rule that requires housing authorities to retain the services of a private sector company or private sector nonprofit to provide their development services. I don't believe this program was conceived by the Reagan administration to allow government instrumentality to obtain tax credits and utilize them strictly for the benefit of the government instrumentality. I think this

is raised concerns from Mayor Salinas and other board members have heard from other developers that we need to nip at this point in time.

And I had asked the staff to include a rule in the QAP that requires a housing authority to publicly advertise for an RFP for development and construction services that would allow all developers in the state or in that region to compete to participate along with those good shepherds.

It began years ago with the Dallas Housing Authority during their own development; it's not spread throughout the state. Corpus Christi has done their own development; we had an application last year from El Paso that was unsuccessful because of a technical problem but they would have done their own development. And I don't believe that that was ever intended for the Housing Tax Credit Program, and I really ask the board to, frankly, protect housing authorities from themselves by ensuring that the private sector is involved in development involving housing authorities.

Again, housing authorities are good shepherds and they do wonderful things for affordable housing in communities, and their ability to access tax-exempt bonds are important for them fulfilling their mission and we

certainly encourage you to keep them actively involved in the program, however, their involvement really needs to be conditioned upon the use of the stakeholders that were intended in this program when it first came about 20 years ago.

And again, I'd advocate that the board add a rule that I put in my public comments that requires either for a 4 percent or a 9 percent Housing Tax Credit deal that the applicant involve a private sector developer that is receiving at least 51 percent of the fee. Thank you.

MR. CONINE: Any questions?

MAYOR SALINAS: How would we get it involved in the rules?

MR. FISHER: I put it as an applicant eligibility requirement in my comments that in order for an applicant to be eligible to apply for 9 percent or 4 percent credits in which the development partnership was controlled by an affiliate of the housing authority that the housing authority be required to use the services of a private sector developer that was obtained pursuant to a public RFP that allowed all private developers in the state or the region to apply to partner with the housing authority on that development. And I've provided some language to the staff in a WORD format for that particular

item.

MAYOR SALINAS: That would also include the council and the neighborhood association?

MR. FISHER: No. The issue with the residents council is a separate one. This is an issue about --

MAYOR SALINAS: On the 9 percent and 4 percent.

MR. FISHER: I've been involved in eight developments with housing authorities. All the housing authorities I work with in the Rio Grande Valley, particularly, advertise publicly for developers, we compete through RFP, I win some, I lose some, but the private sector is involved in an important way in these developments, particularly with Rio Grande Valley housing authorities.

The trend we're running into now is large municipality housing authorities hiring their own staff and obtaining tax credits and tax-exempt bonds and doing the work themselves. That's not this program, this is not a public program, it's a private program conceived by Ronald Reagan's staff, and it is to involve the stakeholders which are the private development community which is the whole intent of the Tax Credit Program. And I think we need to make that clear to housing authorities that we want them in the program and we value their

participation, but only in conjunction with the private development community.

MAYOR SALINAS: I had said that before.

MR. FISHER: And I support you on that, Mayor Salinas. What's happening is you're hearing from developers saying they're being shut out by housing authorities. They're not really. Those housing authorities that many of them are referring to are allowing developers to compete and partner with them, and they're losing out to a partnership between a private developer and a housing authority that they had the opportunity to respond to in a public RFP process.

Here we have a lot of housing authorities in metropolitan areas now trying to undertake development on their own. That was never intended in this program. I could go on and on about now you're in this mainly competitive areas where they have significant competitive advantage over competitors, for example, to administer the voucher program, and they're tax-exempt so they cut the voucher limit -- which is happening in communities -- back to their 50 percent levels. So when we try to do a 60 percent bond deal as a private bond developer, I can't take voucher holders because the housing authority won't pay their rent, they're my competitor down the street.

The involvement of a private sector developer eliminates that. It ensures that they're 60 percent units and that they're getting 60 percent rents across the board. So I really encourage you to consider adopting this rule that really returns the program to what it was supposed to be which is involving nonprofits and housing authorities in conjunction with the private development community. It was only DHA years ago, it's not DHA anymore, it's DHA, it's Corpus Christi, it's El Paso, who knows what we're going to see coming up, and I think this board needs to send a message that this is a program that involves important stakeholders and that is the private development community as well.

MR. CONINE: How do you balance that with the federal mandate for a 10 percent set-aside for nonprofits and they didn't exclude PHAs in that set-aside.

MR. FISHER: A housing authority is not a nonprofit. They're an instrumentality of the state. We've been through this. They do not qualify for the nonprofit set-aside. Maybe Mr. Gerber can address that. We've replied to the nonprofit set-aside as a housing authority unless you are a nonprofit special designation -- which they don't have -- and now that they cannot control CHDOs because they cannot have more than --

they have to have less than the majority board members. Again, to the extent that they hired a nonprofit developer, we have no problem with that.

The housing authority is an instrumentality of the state. They cannot develop on their own. They need to publicly RFP, obtain the services of a tax credit developer and contractor.

MR. CONINE: This is a great topic for a roundtable sometime but may be a little late for this particular cycle.

MR. FISHER: I always hear that. We don't get included in the roundtable. These comments were early and often, and it's a no-brainer, Mr. Conine. This is a Ronald Reagan program. Ronald Reagan did not anticipate government entities obtaining credits, providing services, and keeping the developer fees. It was never ever intended for that, it was really to get away from that. Remember HUD is the administrator over the housing authorities, it was to get away from that program. It's a simple rule, it just requires them to obtain the services.

It could pass and everyone of them could comply with it here in very short order.

MR. CONINE: Thanks for your testimony. Any other questions?

(No response.)

MR. CONINE: Mike Lopez. Mike is yielding the floor to you? And I don't have a witness affirmation form for you. What's your name, sir?

MR. NAVARRO: Roy Navarro.

MR. CONINE: Don't have it here. Oh, is there a bunch here? Oh, gosh a-mighty. How come these are clipped together? They all wanted to stay together?

I found you, okay. Hang on, let's get Ms. Bast up here. You said we weren't going to have to hear from you again.

(General laughter.)

MS. BAST: I did but I'm here to help Ms. Ray.

After your comment about trying to look at the issues of controlling partnerships and the material noncompliance rules. I note that in Section 49.9(b)(2) of the QAP it talks about looking at the material noncompliance score for someone that owns or controls an interest in another property. If you change that "or" to an "and" then the Spanish Creek problem that you just heard because of the minority ownership I don't think would have been a factor.

So there are several provisions in the QAP where I think a fix could be made fairly simply if you want to pursue that concept of control being the factor in

material noncompliance with regard to the review that's done on May 1, the fact that a commitment notice isn't issued when you have material noncompliance, and a carryover isn't signed when there's material noncompliance.

So that's what I wanted to offer if that's something that you would like to see addressed.

And then the other thing that I was asked to mention is that there seems to be a lot of consternation about the real estate analysis rules, particularly as it relates to market analysis. I just throw out there I believe the REA rules are not ones that have to be passed for the governor's approval by November 15, so if you want more time to take time on those particular issues, there may be a way to take more time on those. Thanks.

And what we were just saying, making this change on the QAP will mean that you won't have to see me with the same problem for Investment Builders next year.

MR. CONINE: Wonderful. Thank you, Ms. Bast. Roy, come on up.

MR. NAVARRO: Mr Chairman, board members and Mr. Gerber, my name is Roy Navarro. I am the executive director of the housing authority of the City of Pharr and a member of the Housing Authority of the Valley, better

known as HAVE. HAVE is an association of 26 housing authorities in the Rio Grande Valley.

The draft QAP unjustly limits the input of public housing resident councils, as mentioned before, by restricting their qualified committee participation, QCP, to rehabilitation and reconstruction of the development. The proposed limitation on resident councils is not consistent with state statutes and may be a violation of the Fair Housing Act.

The limitations of these resident councils are compounded by the proposed definition of reconstruction in 49.3(75) of the draft QAP since a resident council letter of support will not be considered if the proposed development exceeds the number of units that were to be demolished.

I would recommend revising the definition of neighborhood organizations as follows: Neighborhood organizations include homeowner associations, property owner associations, and resident councils in which the council is commenting on the rehabilitation, reconstruction or new construction of a development within the boundaries of their council.

We have several housing authorities, including the Pharr Housing Authority, that need to demolish

obsolete public housing projects and replace them with new construction projects. In our case, we need to demolish a 100-unit public housing project on a 14-acre site. We would like to replace the to be demolished public housing project with a new tax credit project of 120 units. The new project will be a low density project with about 8-1/2 units per acre.

The proposed 2007 QAP will not allow a QCP by the resident council representing the tenants that reside in the to be demolished public housing development because the QAP limits a resident council to a QCP for only rehabilitation and reconstruction. I urge you to revise the QAP to allow a resident council to have a QCP for new construction.

A second concern is the draft QAP's proposed definition of reconstruction as set forth in 49.3(75) does not include HOPE FIX financed developments. Failing to include such developments in the definition of reconstruction penalizes housing authorities and the very low income residents since the developments would no longer qualify for various scoring items under the draft QAP selection criteria.

The proposed definition of reconstruction would also impede some applicants' ability to effectively

utilize their sites which support additional units in compliance with local building codes.

Obsolete public housing is often demolished and replaced with HUD mixed-finance housing developments on sites which are underutilized with very low density developments. By including HUD mixed-finance developments in the definition of reconstruction, applicants would be able to fully utilize their sites in accordance with the density allowed by the local building code and increase their scoring eligibility.

The TDHCA staff is recommending to the TDHCA board of directors that the definition of reconstruction not be changed to ensure the QAP does not provide incentives to increase density on a piece of land. Well, we disagree. Our situation demonstrates that a proposed new development is a low density of about 8-1/2 units per acre, well below the density allowed by the local building code. Similarly, low density developments would be proposed by other housing authorities.

We believe that the density of a development should be governed by local building codes. Accordingly, we recommend that the definition of reconstruction be revised to show that HUD mixed-finance housing developments proportionately increase the number of units

that are considered reconstruction.

If the QAP revisions for a QCP by resident councils and the definition of reconstruction are not made, housing authorities in the Rio Grande Valley and other parts of Texas will not be able to support tax credit applications.

And in closing, 99.9 percent of housing authorities, including the Pharr Housing Authority, that I know of, advertise publicly for a private sector developer for services to partner with housing authorities for tax credit projects, and that is our intent. Thank you.

MAYOR SALINAS: So how do we do the change to be sure an include them, being that they committed themselves to partnership with the private sector, for the resident council?

MR. NAVARRO: Well, like I just mentioned, I know that most housing authorities, especially in the Rio Grande Valley, have gone out for RFPs for the services of developers, private developers for partnering in these tax credit projects. To my knowledge, I think it's only the larger housing authorities in the larger cities that might go on their own. So I don't know what this board would need to do to incorporate that in the QAP.

MAYOR SALINAS: How do we change it on the QAP

here to be able to allow them to use their council?

MR. NAVARRO: I know that we have two projects in the Pharr Housing Authority, and we're just completing one, but we're about to start another one and we've obtained the services of a private developer.

MR. CONINE: Go ahead, Robbye.

MS. MEYER: Robbye Meyer, director of Multifamily Finance.

Mr. Mayor, one thing, that is a very significant change to the QAP and some of it would take additional comment for that change at this time. In order to integrate that, I think we would need additional comment on the QAP.

MR. CONINE: Which issue are you talking about now? I'm confused.

MS. MEYER: On him partnering with the private sector.

MR. CONINE: His question was the resident councils.

MS. MEYER: On the resident councils, that's really the board's discretion.

MAYOR SALINAS: Well, my concern is this, the Rio Grande Valley and much of South Texas has a lot of old housing authorities, especially Edinburgh. I know my

county is doing one right now and the Retama Village might be 70 years old, but they're working on it. And one of the things that the cities are very much in favor of is that they continue allowing the housing authorities to be able to remodel or redo the old buildings, especially Edinburg has one there that I know of that's very old. We want to be able to give those people the opportunity to come after some of the tax credit as long as they partner with the private sector, and that's what I would like to see in our part of the state.

I know you all mentioned Dallas going out on their own and the big housing authorities, I don't know how to help there, but I want to be able to allow at least South Texas on the border area to remodel all the old buildings that we have and the old housing and be able the private sector to partner with our cities. And I want to be able to see the QAP allow that to happen, because I know that the private sector in our part of the area is well contented by allowing the housing authorities to do this, and the people that really benefit out of this whole thing is the people that live in those housing authorities and the cities.

Nobody gains anything but we do have, like in McAllen on the Retama Village, it's an old project and

it's going to look nice after they finish the first phase.

I want to be able to see that the second phase and third phase are going to be able to come and compete and be able to compete in the right way. I don't want to see the QAP doesn't allow them to do that.

That's my concern, Mike, and I don't know how we can do that.

MR. NAVARRO: Mr. Chairman, if I may, and Mayor Salinas and the rest of the board, as I mentioned before, the resident councils are limited of letters of support for rehab or reconstruction and what we'd like to see for them to be allowed to comment on new construction as well.

MAYOR SALINAS: On new construction, yes, that's what we want to see.

MR. CONINE: Robbye, refresh my memory as to why it was left out.

MS. MEYER: Do you want to make a comment, Kevin?

MR. HAMBY: Kevin Hamby, general counsel. Actually, Mr. Chairman, that was done at the board's request, I believe, in the 2005 cycle because there were some aggressive techniques used by some of the resident councils, and if you read the purposes of resident councils, they are not exactly aligned with a neighborhood

association. They have a much broader purpose that's limited predominantly to the benefit of the residents in that community, in that PHA community. And so the board instructed the staff two years ago to put that limitation in for the 2006 cycle, and it's done so.

And currently, I think the board is aware that we have an opinion coming from the attorney general.

MAYOR SALINAS: Oh, yes, with Kino Flores.

MR. HAMBY: The Kino Flores opinion.

MAYOR SALINAS: That might change everything.

MR. HAMBY: It's still floating out there and it might change everything. We don't know exactly what the attorney general's office is doing. The 180-day period for that probably will not come until February.

MR. CONINE: Any other questions of the witness?

MAYOR SALINAS: So we can't do anything until we get the opinion on the QAP, on the change on the QAP?

MR. HAMBY: It was put in a board request so the board can request that it be changed, but the opinion will give us clear direction on whether it's considered to be proper or not. That was the request, I believe, that Representative Flores made. But that would tell you whether or not you could keep it in, it wouldn't tell you

whether or not you couldn't keep it in.

MAYOR SALINAS: So that has to happen before November 15?

MR. HAMBY: No, it can't happen before November 15. I've spoken to the attorney general's office and they may have it done by the end of this year, but the 180-day time line that they have allowed for them, I believe, runs until the end of January or end of February, somewhere in that range.

MAYOR SALINAS: But our QAP has to be out by when?

MR. HAMBY: Well, the QAP is required, if the law changes, we will change the QAP to meet the law, and the attorney general opinion saying something would indeed be a law change, and so whatever the QAP says, if the law goes in a different direction, then it has to change.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: Based on what I just heard Kevin say, I guess the question then goes back to Robbye how difficult would it be to change the language if the QAP was moving forward as it pertains to resident councils based on the recommendation that we've heard.

MS. MEYER: Currently they're excluded from

comment. Now, staff recommendation for this is to leave that alone until the AG opinion is out, until the AG makes their opinion. That is the staff recommendation.

MS. RAY: I see. Thank you.

MR. CONINE: Barbara Holston, next speaker. She had to leave? Toni Jackson.

MS. JACKSON: Board, I'm just here before you to make a couple of quick comments. I actually had not planned to speak earlier today, however, several of our housing authority clients ask that I come up to reiterate some of our comments that were submitted earlier regarding the QAP.

However, I specifically just wanted to make known there were comments made regarding housing authorities self-developing, and reminding the board that this is one of the only programs left for housing authorities to utilize, and HUD is encouraging housing authorities to participate in self-developing and developing through tax credits.

HUD mixed which is one of the programs that housing authorities have had available to them, is being diminished as we speak, and although it is still available, it is not available to as many housing authorities as it once was. And through creative

structuring, housing authorities have been able to partner with developers and self-develop in order to renew the housing stock that they currently have and that exists for them.

So again, the housing authorities participating in the tax credit program and particularly utilizing HUD-mix and capital funds -- which has been specifically stricken from the draft QAP -- is one of the ways that housing authorities are allowed to be successful. They're able to take and utilize the funds that they do have and leverage those funds with existing programs, like tax credits, in order to be able to renew the stock of their 30 percent and below tenants which many developers aren't addressing.

So again, we just ask that the board be mindful of that. Thank you.

MR. CONINE: I'm shocked that HUD would recommend that PHAs use a Treasury program. I'm absolutely shocked, it just amazes me.

Richard Franco.

MR. FRANCO: Mr. Chairman, board members, Mr. Gerber, good afternoon. I'm Richard Franco. I'm the CEO of the Corpus Christi Housing Authority and president of the Texas Chapter of the National Association of Housing

Development Officials.

This afternoon I am speaking on behalf of 260 housing authorities in Texas and I'm speaking specifically to two of the items on the QAP. But before I go on, I'd like to thank Mr. Gerber and his staff for having accepted a great number of recommendations we did during the open comment, however, there are these two remaining that I think need to be revisited and changed.

The draft QAP, Section 49.9 unjustly and inequitably omits the input of public housing resident councils by restricting their quantifiable community participation with regard to rehabilitation and reconstruction of a development.

The proposed limitation of resident councils is not consistent with state statute, and if my memory serves me well from my days in civil rights enforcement, it's contrary to the 1968 Civil Rights Act, as amended, and it's contrary to Title 8 of the 1968 Civil Rights Act, as amended.

The limitations of these resident councils are compounded by the proposed definition of reconstruction in 49.3 of the draft QAP, since a resident council letter of support will not be considered if a proposed development exceeds the number of units that were to be demolished. I

would recommend revising the definition of neighborhood organizations in 49.9 as follows: Neighborhood organizations include homeowners associations, property owners associations, and resident councils in which the council is commenting on the rehabilitation, reconstruction or new construction of a development within the boundaries of their council.

Housing authorities in Texas will be unable to submit competitive tax credit applications if support of the resident councils are not scored for new construction.

Anyway, we need a level playing field and I respectfully request that you reconsider this portion of the QAP and revise it to include resident councils.

From here I'd like to take exception to Mr. Fisher's comments. I happen to have served in the Reagan administration as a HUD official, I was in the executive service of HUD, and his intent was that housing authorities become more entrepreneurial, that they become less dependent on government, and that was the thrust, and thereafter HUD hasn't really engaged in encouraging housing to become more independent, to the point where today we're facing massive reorganizations, we're going into asset-based management of housing authorities.

So I think, Mr. Chairman, your wise comments

are well supported. This is something to be discussed, perhaps, in a roundtable at another time where we can all the parties' input.

I'm not going to touch on the other item on the QAP because Mr. Navarro already has, but I have the same concern.

In conclusion, let me say that most housing authorities provide 10 or 15 percent of their units for disabled people. The QAP only requires 7 percent, we provide anywhere from 10 to 15 percent, so housing authorities are doing their part to accommodate the disabled in our communities, and I would like you to keep that in mind when you go forth in making your decisions.

I would like to also comment on the comment Mr. Fisher made. At this juncture there are perhaps one or two or three housing authorities in the state of Texas that do self-development. After 50 years of serving in social and housing programs, I think I deserve the right to help the housing authority become not dependent on federal handouts.

I commend you and your executive director for the good job you're doing. I know you're faced with a Herculean challenge and I appreciate what you're doing. Thank you very much.

MR. CONINE: Thank you for your testimony.
Fernando Lopez.

MR. LOPEZ: Good afternoon, Mr. Chairman,
members of the board. My name is Fernando Lopez; I am
employed with the Pharr Housing Authority.

I'm here on behalf of Marilyn Vela, who is the
executive director for Alamo Housing Authority. She
wanted to have these comments for the record. She also
agrees with Mr. Navarro and his comments concerning
limiting the input of the public housing resident councils
by restricting their quantifiable community participation
to rehab and reconstruction of a development.

The Alamo Housing Authority owns a 12-unit
public housing development for senior citizens that sits
on a 3-1/2 acre site. The development needs to be
demolished because it is obsolete and does not provide
good housing for the low income senior citizens in the
city of Alamo. We want to replace it with a new tax
credit development with more than the 12 units that
currently sit on the site. The larger development would
effectively utilize the 3-1/2 acre site and be within the
density allowed by the city's building code.

She is recommending that the definition of
neighborhood organization to read as follows: The

neighborhood organizations include homeowners associations, property owners associations, and resident councils in which the council is commenting on the rehab and reconstruction or new construction of a development within the boundaries of their council.

I urge you to revise the QAP to allow resident councils to have a QCP for new construction. This revision would allow the resident council that represents the residents of the to be demolished project to qualify for the QCP. Obsolete public housing is often demolished and replaced with HUD mixed-finance housing developments on sites which are then utilized for very low density developments.

The draft QAP's definition of reconstruction further penalizes housing authorities and their very low income residents served by excluding HUD mixed-finance developments from the definition of reconstruction. By including HUD mixed-finance developments in the definition of reconstruction, applicants would be able to fully utilize their sites in accordance with the density allowed by local building code and increase their scoring eligibility.

I respectfully request that you revise the definition of reconstruction to include HUD mixed-finance

housing developments proposing to increase the number of units considered new construction. And lastly, if the QAP revisions for QCP by resident councils and the definition of reconstruction are not made, housing authorities in the Rio Grande Valley and other parts of Texas will not be able to submit competitive tax credit applications.

In closing, Mr. Chairman and members of the board, I serve as school board president back home, I represent the Pharr-San Juan-Alamo Independent School District, and we have about 100,000 residents, our student population will exceed 30,000 students by the end of the school year. And on behalf of all the residents back home and the residents of the state of Texas, I commend this board and the work that you do. You probably don't get too many pats on the back, I know we don't, so I just wanted to commend the board on the fine work that you do for the residents of the state of Texas. Thank you.

MR. CONINE: Thank you. Brad McMurray.

MR. McMURRAY: Chairman and board members. My name is Brad McMurray and I am here on behalf of Henry Alvarez, the president and CEO of the San Antonio Housing Authority, and I'm here to share our comments on the 2007 Draft Qualified Allocation Plan.

Obviously I am here and I echo the previous

testimony that's been given regarding these two important issues. We echo, as well, the fact that staff has been very open to our comments. We feel that many of them have already been incorporated and we appreciate the serious consideration.

There are these two particular issues, one being the fact that resident councils are not allowed to have their support letters scored on a new construction project. Again, I understand that that's something that we're going to wait on the attorney general's opinion to take action on, but I think I'd like to correct, if I could, staff comment that said a resident council is something that is more specific to just the property.

I'd say in our San Antonio Housing Authority mission statement part of it says that we seek to create safe neighborhoods, and one of the things said neighborhood association but the QAP refers to a neighborhood organization that is supposed to promote the general welfare of the neighborhood. Well, given the NIMBY-ism that we go against every day saying that a project will hurt their neighborhood, the fact that you have an active resident council that ensures the liveability of a project, that is something that it going to promote the general welfare.

So I understand that you all need to wait on that but I think that it's important that we are able to comment on new construction. The reason it's important in these particular instances is because of what you're hearing this term HUD mixed-finance transactions. As you are already aware, what makes it a mixed-finance transaction is not private and public capital but the fact that operating subsidy is used to support the very low income units. That's something that's relatively new for HUD in that they don't own the project but they're giving operating subsidy to it.

So a mixed-finance development is a way to basically replace the obsolete and dilapidated very low income affordable units, and in doing so, these non public housing units support the other units.

Now, one of the things that is required is typically we have to increase the density or we have to increase the number of units. Under the current QAP, that's going to require that we do a new construction. So even though it's an existing development with a resident council that the QAP allows to comment and have their support letters scored, because it's now considered new construction, they're not allowed to comment. And this does, as it's already been said, really inhibit our

ability to submit competitive applications.

Now, you would ask how can we address this when it's not a time to address the resident council issue. Well, one way that you could address it is to specifically include HUD mixed-finance developments in the definition of reconstruction. Now, I understand that this rule is set up because you, in my opinion, wouldn't want people to circumvent the rule and create bigger than the maximum number of units allowed. We appreciate that, but we feel that by making this exception, by making HUD mixed-finance developments included in reconstruction, the only way we can do those is to have operating subsidy, that is something that is dwindling, HUD is cutting back every year. And again, we're going to an asset-based management, this is the way of the future. We have to support our units with other means.

So you're not going to be opening a floodgate in any way, shape or form, but you would, in effect, allow a resident council, because now it's considered reconstruction, they can actually give a support letter and comment on the new development. So we think that this is a way to do that. You can wait on the resident council to comment on new construction until you get that attorney's opinion, but what you can do now is you can

change the definition of reconstruction simply by including HUD mixed-finance developments.

And I'd also like to say, again, with all the passionate comment that was given this morning about persons with disabilities and their housing, HUD has additional restrictions that if we do a mixed-finance development, we're going to have to provide additional housing for persons with disabilities. And so I'd like to close with that.

But I think that there's a way that you could act today to actually change this injustice. Thank you.

MR. CONINE: Thank you. Apolonio Flores.

MR. FLORES: Thank you. I endorse the comments made for resident councils and the mixed-finance developments that the prior speakers have made.

The gentleman from San Antonio mentioned the HUD requirement or density. HUD is not going to allow a housing authority to create a warehouse of poor people and they'll prevent that. That's why you're seeing the very large public housing projects that are being demolished and rebuilt as smaller developments with a smaller number of public housing units in there so that they will have a mix of renters with different income levels.

On the matter of a resident council, I don't

think you have to wait for the attorney general opinion. I think it's a matter of equity, it's a matter of fairness. The gentleman from San Antonio mentioned the NIMBY-ism. A resident of public housing is not restricted to the four walls of their unit, they're members of the community, they shop in the same stores as you do, they go to the schools that serve the entire neighborhood, they're members of the PTA, they worship at the neighborhood church, but yet in the QAP you say you can only have a voice in the four walls of the unit in which you live in.

To me, that is clearly unfair and lacks equity and I strongly recommend that you allow the residents to comment like any other neighborhood organization on rehabilitation, reconstruction or new construction of a development within the boundaries of their council.

I think on Mr. Fisher's comment on developers partnering with housing authorities, I know of only two or three housing authorities that are being their own developers. 99.9 percent of the housing authorities partner with developers, general contractors, subcontractors, lawyers, lenders, investors, everybody. San Antonio is now looking at it, Houston has done it, Dallas has done it, and El Paso I think is looking at it but I don't think they've done that either.

And so I personally encourage the housing authorities to partner with developers, but maybe if a housing authority, like any other entity, meets experience requirements as the developer, then they should qualify to be the developer if that's what they want to do. But maybe what you might want to do if you want housing authorities to partner with developers, why don't you say in the QAP that you reward three, four or five points for a housing authority to partner with a private developer.

MR. CONINE: Any comments, questions?

(No response.)

MR. CONINE: Thank you. Estella Trevino.

MS. TREVINO: Mr. Chairman, members of the board, I'm Estella Trevino. I am still the executive director of the Edinburg Housing Authority after 35 years, and I don't have any papers to pass around, but I'm here in strong support of Mr. Richard Franco, our very able leader for the Texas NAH association, and I'm on the board. I'm also a member of the HAVE association, so I'm also in support of Mr. Navarro's presentation.

But I also would like to just make a short comment that one of our resident councils made to me before I left, and we have six resident councils at the Edinburg Housing Authority. And they don't understand why

the state legislature in their wisdom passed the law to require a resident to be on the board of commissioners of the housing authority and yet they don't have a voice in the state agency.

They wanted me to ask you why they couldn't be allowed if they're allowed to speak on behalf of the residents of this housing, and also they're good members of the community, why they can't be a part of this. And so I need to tell them something when I get back, so would you please tell me when you're going to allow them to do it?

MR. CONINE: We don't control that process, ma'am, the state legislature controls that process, so have them call their state legislator.

MS. TREVINO: I'll speak for them. But thank you so much for listening.

MR. CONINE: Okay. Mike Lopez. Gone? Do I have any other public testimony on this item?

(No response.)

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray.

MS. RAY: Because of such heated debate has caused me some concern about the resident councils, I really need to ask staff to clarify for me, both Kevin and

Robbye. I thought I understood, Kevin -- and perhaps I misunderstood; please straighten me out now -- I thought I understood you to say that the restriction on accepting comment from resident councils was, in fact, a board action, not a legislative action, but that we had sent forward a request for clarification from the attorney general. And I understood Robbye to say that the reason the staff was opposed to changing that board action was we were awaiting the attorney general's determination. Is that what I heard you say?

MR. HAMBY: Again, Kevin Hamby, general counsel. Ms. Ray, I believe my statement is that you certainly can take it out, you do not have to wait for an attorney general opinion to take it out. It was the established by the board back in 2005, and the board had decided after the 2005 cycle -- and I'm making some assumptions here based on what I've been told because I wasn't here for the 2005 cycle -- but based on the 2005 cycle that the board had some concerns.

My comment about the resident council being different is each resident council has a set of bylaws drafted, and each one of the bylaws says what that resident council will do, and frequently it talks what they do inside their community, and some of the HUD

language talked about resident councils working for their community. You can certainly change that particular provision, it was a fairly strongly -- my understanding -- when it was put in it was because of some aggressive actions that had taken place during that cycle. You can change it, you do not have to wait in an attorney general opinion.

The difference is if the attorney general comes back and says you can't do it -- which we have no reason at this point to believe -- but if the attorney general opinion came back and said you couldn't do it, then it would automatically come out.

MS. RAY: That's what I understood you to say.

Another question that I would have for you -- Mr. Chairman, if I may -- another question I would have for you, you mentioned, and it went over my head, how long did we expect the reply from the attorney general?

MR. HAMBY: Technically, they're supposed, once something has been accepted, to have 180 days in which to issue an official attorney general opinion. This one, I believe, if I recall, it was June 23 or June 25 that the letter was sent, and it was accepted in July, but after the fact but they predated it back to June 25 whenever the initial request was made. It was not immediately

accepted.

I believe the major reason the request went in was because we were having some appeals in the July board meeting, the July 12 board meeting, and without putting words in Representative's Flores's mouth, I think they were hoping to have some sort of quick review for that July 12 board meeting. When that didn't happen, there was some pressure taken off of it, but then Representative Flores renewed his request and the attorney general accepted it because they could not get anything done by the July 12 meeting.

MS. RAY: When do we expect a reply?

MR. HAMBY: They have 180 days officially. The attorney general's office, I can tell you there's still some requests for opinion sitting over there that have been --

MS. RAY: What would be the earliest date we could expect a reply?

MR. HAMBY: I'm told that we might be able to get it before the end of this year, but reality, they have until the end of January, so it would be before the March 1 application deadline but it would likely be right in the same time frame.

MAYOR SALINAS: But the whole thing is

something that happened with the Pharr Housing Authority and Representative Kino Flores asked for the opinion.

MR. HAMBY: Right.

MAYOR SALINAS: It was the same deal that we had and we went ahead and approved the housing authority's tax credits or the forward commitments, but Kino Flores came to that meeting and then requested an opinion.

MR. HAMBY: The request was actually make June 25 for that July 12 meeting.

MAYOR SALINAS: I don't know if Kino Flores would continue with asking the opinion of the attorney general, but it was him that asked for it and we can't do very much about it.

MR. CONINE: I think the issue is much broader than this, guys. Let's get above the fray here just a little bit, and our responsibility is to create a QAP that gets tax credit units all over the state. We don't want to create a competitive advantage for either for-profit guys or for our PHAs, and I think the concern is that the PHAs will have a competitive advantage if they can go through and just get their residents to say, Hey, yes, come tear down my unit and let's build a new one here. Who's going to say no to that? Nobody. And so what we would end up doing is rebuilding every public housing

property in the state of Texas and not have any tax credits left over for the areas of the state that need affordable housing.

So what we try to do is create a balance here by saying we will allow for reconstruction and rehabilitation to PHA projects but when it comes to new construction, then they have to go outside their resident council to make sure the area says yes, that would be a good thing to do. And for some reason they have a problem with that.

I don't know if it's right or wrong in the late hour of the day for this balance I'm talking about between for-profit and PHAs, but I don't want to sit here and make an irrational, last-minute decision that would tilt the balance in an area that I think would harm the distribution of tax credits around the state.

MR. FLORES: Was the rule ever the other way?

MR. CONINE: No. I don't recall that it ever has been. Has it?

MR. FLORES: Yes, you've been here for ten year.

MR. CONINE: Yes, but I don't remember everything, Mr. Flores, I promise you.

MR. FLORES: I'm sorry for overestimating your

abilities.

(General laughter.)

MR. CONINE: Go ahead, Brooke.

MR. FLORES: I thought I'd wake you up. It's 3:30. I don't know about you, but I'm pretty numb after all this, and I hope it's going to be over soon.

MS. BOSTON: Mr. Flores, the first year that we instituted this, we did allow letters from resident councils.

MR. FLORES: And what happened? Did the world fall apart, did the sky fall?

MS. BOSTON: No. We got letters from resident councils commenting on things that were not resident council properties being rehabilitated, they were commenting on things half a mile away, a mile away, either positively or negatively, trying to impact how the rest of the tax credit round went for other developers. And so that was what prompted the board instituting the revision.

MR. FLORES: Did it waste a lot of time at the board meetings?

MS. BOSTON: No comment.

(General laughter.)

MR. FLORES: It's a situation where you had a whole bunch of people lined up out in the hallways raising

cane with you, saying the same thing over and over again, just like some people did this morning, you get pretty bored by some of that and I don't doubt that a board could easily change that rule around. I'm just trying to find out the effect. If that rule is in effect, all of a sudden do we have PHAs just swallowing up all the money available?

MR. CONINE: Well, I think it happened in 2005 and that's why it was adjusted in 2006. I think there was a feeling that that happened that was expressed by the for-profit development community. And a lot of the developers in the audience had mixed emotions, like the mother-in-law driving the Cadillac over a cliff. They do deals with PHAs, in addition to doing deals on their own, and they're sitting there going which way do I want to go.

(General laughter.)

MR. CONINE: But I think it led to the decision in '06 to take it out of there, and did we have a good round in '06? Everybody is bragging on how great a round it was.

MAYOR SALINAS: I just think we need to wait for the attorney general's opinion. I was one of the guys that said we needed to protect the private sector. In '05, '04, I was very outspoken about it. Mr. Fisher, you

know about that. Now I know it affects the housing authorities, but I want them to stay within their boundaries, not to go out and do what some other people wanted to do.

Kino Flores was here and he asked for the attorney general's opinion. I just don't think it's going to take that long to find out what he says, and then that would clarify everything.

MR. CONINE: And I can understand the PHAS viewpoint, they're getting killed from the HUD side, so they're looking for ways to go around and get out and do different things, and obviously the tax credit program is the quickest and easiest source of funds to go and rebuild every unit in this country. It's just a question of is that the right public purpose.

MS. RAY: Mr. Chairman, would it be out of line at this particular stage after we just heard public comment -- well, really not out of line but in view of all this discussion, on this particular issue as it pertains to resident council comments on new construction that we accept the staff recommendation to wait for the attorney general's opinion.

MR. FLORES: Is that an action item?

MR. CONINE: It's not necessarily. Here's what

we need to do. We need to go to the QAP, if you don't mind, Ms. Ray.

MS. RAY: That's fine.

MR. CONINE: And let's deal with it first because that's the one that absolutely has to be done today, and if we're all numb, like Mr. Flores, after the QAP we can get up and go home.

Let's go to the QAP, Mr. Gerber. I think you did a presentation on the first two or three, and why don't you go ahead and do a presentation from staff on the QAP and then we can get into amending that particular document.

MR. GERBER: Sure. I would just add, Mr. Chairman and board that comments were received from 60 separate sources and staff has provided a summary of all the comments and staff's response to those comments is in your board book. If the comment resulted in recommended language changes to the draft QAP, the new language change is highlighted. If revisions were made in response to comment, there were also several administrative clarifications that were made by staff. The response to the comment is a black-line version of the 2007 Final QAP as recommended by staff, as well as a final version without the black line language. And again, staff is

recommending that you approve the repeal of the 2005 QAP and adoption of the 2007 QAP as proposed by staff, and Robbye and Brooke and Kevin, of course, are here to answer additional questions that you might have.

MR. CONINE: Okay. Let me just go through my list which is what we customarily do, I guess. The inclusion of the 538s, any problem there that you see?

MS. MEYER: It was discussed at the rural rental housing, and they were find with the new construction being added in there, but it's at the board's pleasure.

MR. CONINE: So let's check that one off.

Mr. Opiela had some comments on the deadlines of something about the three and five are going back to five and seven and something wasn't changed at the bottom of the page or something. Is that okay? Are you going to change that or not change that? What's the issue?

MS. MEYER: The reason why that last sentence was put in there is for timing issues. A lot of the comments come in at the very end of the requirement which leaves staff in a rush trying to get back to them if there's still a deficiency even left. That's why we added that last sentence in there is because it's a timing issue and we just wanted to make sure that staff had the time to

be able to review and if a deficiency wasn't completely resolved, they would still have the time to do it.

MR. CONINE: So give me an example.

MS. MEYER: If they see deficiencies on the third day, staff would have enough time to review it, and if there was still a deficiency outstanding, they would still have time to fix it. Otherwise, if they sent it in at 4:30 on the last day, staff may not have the time to be able to review and get back to them.

MR. CONINE: Why wouldn't a new clock start running once they sent it in to you? Because the clock would just always run. So we're trying to find a cutoff time. Can't you allow line one extension of time? That won't work?

MS. BOSTON: I don't even think that's what they're asking for. We had added language between the August version and now saying that we'll allow the full number of days that they had asked for but there's going to be a certain point at which staff is not going to be able to promise to do a thorough review and let you know what additional deficiencies you have.

And if you want that review and you want to know for sure that you're going to get every deficiency in within five days, then you just need to get it in by the

third day, and if you can't you won't be penalized other than the fact that we can't guarantee we'll do that review for you.

MR. CONINE: So if they don't complete the deficiency, if you turn it in the fourth day and don't do a good job in fixing it and you've still got a problem, then you could be hung with the problem.

MS. BOSTON: You could. And staff will make every effort to continue to get them reviewed timely, it's not to say we won't try, but what happens right now is that pretty much all most every applicant waits until four o'clock on the last day and then if there are batches coming in at once, staff has one hour to review ten different applicants' deficiencies and it's onerous. So we were just trying to find a way to balance the request for the number of days that they wanted with the ability for staff to manage that.

MR. CONINE: I think his other issue with the real estate rules, we'll skip that.

MR. FLORES: Kent, before you go on, let me follow up to that.

MR. CONINE: Go right ahead.

MR. FLORES: I notice it didn't have the day defined as a business day. Is there some reason for that?

I would have thought when we said day, we meant that, but I would want it to be more explicit than the way we had. If it had the word business in front of it, I'd sure like to have that word on there.

MS. BOSTON: Actually that's an excellent point. Thank you. We do have business on several other places but within the new shaded section we do not refer to business, so that's a good addition. Thank you.

MR. FLORES: But I'm still concerned that you're not giving them enough time. I realize it puts you in a bind, but even so, we need to give the development community the benefit of the rule, and you're giving them a week essentially with five days, and on the other you give them half a week.

MS. BOSTON: And I think if that's the pleasure of the board, the only revision that would need to be done, Mr. Conine, instead of adding an extension would be the gray section starting with -- on page 22 of your black line QAP starting with "If administration deficiencies..." that gray section would just be stricken.

MR. FLORES: That's going to be my motion if I ever get to that point.

MR. CONINE: Site costs from \$7,500 to \$9,000, meet them in the middle?

MAYOR SALINAS: I think they wanted \$10,000.

MR. CONINE: I know what you wanted, I'm just asking.

MAYOR SALINAS: I think \$9,000 is fine.

MR. CONINE: Any issues, staff?

MS. MEYER: Staff would agree with that.

MR. FLORES: But is there any scientific basis where somebody actually took costs and went out and figured out how much it is, looking at the last three years, 100 projects or something to that effect?

MS. BOSTON: Actually, Tom Gouris in our Real Estate Analysis Division has done that analysis

MR. FLORES: Is he the guy who came up with \$6,400?

MR. CONINE: He is.

MR. FLORES: If it is, we've got a spread from \$6,400 to \$10,000 is what we've got, and the development community always wants the high number and we want the low number, so here we are.

MR. GOURIS: Tom Gouris, Real Estate Analysis Division. Yes, we've looked at historical from the last year of deals that have cost certified and found that the average was \$6,500 a unit. We established the threshold not to prevent or prohibit the site work costs from

exceeding that but only for ensuring that the applicant knows what those site work costs are because we've found that the top end of that range can get out of hand, and if they don't gauge that right, if they don't evaluate that correctly, that's one of the big reasons that costs get out of control. So that's all we're asking them to do is get more information about what their true site work costs should be.

MR. FLORES: And Mr. Gouris, when you've pointed this out to developers, have anyone of them challenged you and said, My costs were X number of dollars more?

MR. GOURIS: The costs that I'm referring to are their costs, the costs that they've submitted.

MR. CONINE: Are you saying that the \$6,400 was a mean or an average?

MR. GOURIS: It's the average.

MR. CONINE: It's the average. So that means you've got a bunch.

MR. GOURIS: Above and a bunch below.

MR. CONINE: And the complaint was they're having to pay an engineer to sign off, and they're a lot more expensive than they should be, they're almost as expensive as lawyers.

(General talking and laughter.)

MR. CONINE: I'm okay with the \$9-. I've priced a few jobs lately and I can understand their plight.

MS. RAY: You mentioned the debt coverage ration in 1.35.

MS. BOSTON: I'm sorry, ma'am, excuse me.

MS. RAY: The debt coverage ration, the upper limit at 1.35.

MS. BOSTON: That's actually the Real Estate Analysis rules, so we'll get there in a minute.

MS. RAY: Okay.

MR. CONINE: Parenthetically, I think the 1.2 cap needs some fleshing out for next year, not necessarily this year, but I tend to agree with you, it's been there for a while, as long as I've been around, and we ought to take a look at that for next year.

I am interested in the PHAs comments about the mixed-finance where they can get some subsidy on the low income units and do some stuff but the way we've got it kind of prevents that. Can you help me with that a little bit?

MS. BOSTON: I'll admit, first, to say I don't know enough detail about those specific transactions to

say anything that would limit them. I do think if indeed they are doing reconstruction or rehabilitation, they already do fit in that definition, so I think the only thing that would be precluded is from them, for instance, tearing down units on one site and rebuilding on another site, and that would not fit the definition of reconstruction in our current rule. And I guess that would just have to be a decision of the board as to whether you wanted reconstruction to be taken to that degree.

Right now, already, if they're doing reconstruction on the same site, then they would be eligible.

MR. CONINE: If would just define reconstruction one more time just to make sure everybody has got it in their head correctly.

MS. BOSTON: It's the demolition of one or more residential buildings in an existing residential development and the reconstruction of the units on the development site. Developments proposing adaptive reuse or proposing to increase the total number of units in the existing residential development are not considered reconstruction.

MR. CONINE: So it's basically tearing the

building down, maybe keeping the slab, but then rebuilding the building.

MS. BOSTON: And I do think it's a great thing for us to look into for '08 to figure out more about exactly what the needs would be in that area.

MR. CONINE: Brad, why don't you hep us from your perspective, since you did testify.

MR. McMURRAY: Well, everything that was said is certainly accurate. The one exception I would take is that if we are to reconstruct an existing development using a mixed-finance structure, typically we have to increase the number of units so that we can support more public housing units. If we keep it at exactly the same number of units to be within that definition, we're going to be limited to a few public housing units. There's no problem because we have the land, it's on the same site, we're not going to another area, we're not doing anything, we're just following the mixed-finance structure that increases the number of non public housing units to support the existing public housing units.

MR. CONINE: And I get your point and I think that's a great conversation for next year's roundtable. It requires a little more brain power than I've got left today. And I think there's certainly a lot of

opportunities out there with the PHAs and I don't want to say that I'm not for them, because I am in the appropriate percentages and so forth. But I know the mentality of the reconstruction was in our situation was you go into a city and there's a 100-unit deal sitting there and you want to tear it down to the slab and build it all over again and reconstruct it, then you might bring in the element of traffic -- if you increase the units and you're not bringing in traffic considerations and school crowding and all that other negative stuff we keep hearing about, you're replacing it unit-for-unit and the world should be happy. So that's the reason we've limited it to what's sitting there now so it won't get into those battles artificially.

Anybody else have any other QAP comments? I'm out of gas.

MR. FLORES: Two of the real estate commenters had comments regarding capture rate and some other things and so on. Did we satisfy them?

MS. BOSTON: That's also in the Real Estate Analysis rules, so I don't know if we want to take these rule by rule.

MR. FLORES: That's all right.

MR. CONINE: Let me get back to Diana's thing.

We took a city or a county area for the four points or whatever it is. Can you expound upon that, please?

MS. MEYER: Actually, staff doesn't have a problem adding that back in.

MR. CONINE: Okay. I don't think I would either, so go ahead, we'll put that on the list.

And then the next one she had as the seven point rule, I guess, disadvantage on census tracts with no other existing developments. Is that provision in the current draft or not?

MS. MEYER: Actually it's added into the new one.

MR. CONINE: The 2007 has points for a census tract that hasn't had a deal before.

MS. MEYER: Correct.

MR. CONINE: But what she's saying is that the rural projects will be at a seven-point deficit in that case. Can you explain that to me again?

MS. MEYER: Well, it's changed from draft until now. We just had a subject change on urban/exurban developments. The rural developments are going to compete against each other, so they're going to have a seven-point deficit anyway. So they will not be competing against urban transactions, and where we have most of that problem

is in the urban areas.

MS. BOSTON: We had originally only put it in at the request of public comment and she is now indicating that she actually would prefer that it go back, but because we were only being responsive to public comment, we would be very comfortable with it going back as well.

MS. MEYER: To apply across the board.

MR. CONINE: Across the board. Okay. So add that to the list.

MS. BOSTON: Back on the previous issue of development location, the reason why we had stricken that is those four points combined with the seven points that we have added for rehabilitation or revitalization activities, cumulatively if both were achieved would exceed the lowest of the nine items which we're statutorily not allowed to do.

MR. CONINE: Yes, we can't do that.

MS. BOSTON: So actually we would need to keep that stricken.

MR. CONINE: Okay. There's your answer.

She also had three technical corrections. Did you guys get those three technical corrections? One related to the HUD formula and closing statement, I think; one related to the AFR, whatever the heck that was; and

one related to the 15 versus 30, but is that 15-30 disparity in the rules or in the QAP on pro forma?

MS. BOSTON: The comment she was referring to was we give points for a certain length pro forma but then separately in our threshold we're asking for longer pro forma, and my understanding of the comment was that we don't use that threshold pro forma for our underwriting, but indeed, that's not necessarily true, we do, and so I do think we would still want to get a 30-year pro forma.

MR. CONINE: Get the underwriting guy up here and let me talk to him. Why do you need a 30-year pro forma?

MR. GOURIS: What we've recommended in our rules is that the underwriter continues to create a 30-year pro forma just for informational purposes.

MR. CONINE: Informational purposes?

MR. GOURIS: Well, because we are trying to use some of the other tools that we have to see what measures of long term affordability are looking like.

MR. CONINE: So what are you going to do if the lines cross in year 27?

MR. GOURIS: We'll note it and move on. There's not going to be a financial feasibility issue for this year, so that's not what we're recommending. If they

cross in year 15, then we would not recommend it, but if they cross in year 30, we would just note it and move on.

(General talking.)

MR. GOURIS: It's all set up to run, so in essence, if we don't run it, we'll have to actually remove it from our current model and we'd have to put it someplace out of sight and still kind of watch it so that we know if our other mechanisms for looking at long term affordability make sense or not.

MR. CONINE: I happened to notice what I thought was a discrepancy between the 15 and the 30 myself, reading through some of the public comments, and again reiterate, it really doesn't matter because they're going to refinance the thing after the 15-year loan goes off anyway, and the whole next 15 years that you have are blown out the window.

MR. GOURIS: We would agree that the requirement to make the applicant provide that is not necessary and we'll take a 15-year pro forma.

MR. CONINE: I hear what you're saying is that you're just going to do it internally and kind of look and throw it in the file, but it kind of rolls around in the back of some folks heads, and I ever hear of it being used in a negative fashion, I'm not going to be happy.

MR. GOURIS: I understand.

MR. CONINE: Other board members have any comments on the QAP?

(No response.)

MR. CONINE: Do you have a list you could read back to us just to make sure we're all on the same page?

MS. BOSTON: Yes.

MR. CONINE: Okay, go ahead and read it.

MS. MEYER: Staff did want to make one request on administrative changes for referential integrity to have the approval to change the cites if we have them wrong.

MR. CONINE: Okay, sounds good to me.

MS. MEYER: The first one that we have is the 538 add-in, having 538 available for new construction. The deficiency responses, deleting the last sentence on the deficiency responses. Site work, I believe I heard you correctly, Mr. Conine, it would range between \$7,500 and \$9,000, or did you just want the \$9,000?

MR. CONINE: I'm okay going to \$9,000.

MAYOR SALINAS: \$9,000 would be fine.

MS. MEYER: On the development location we deleted. I already stated that one. The census tracts would apply across the board, the census tracts without

existing developments. The administrative issues that Ms. McIver set out, we have those three.

MR. CONINE: Does anybody else have anything else jotted down on the QAP?

MR. FLORES: What did you have in mind?

MR. CONINE: We're going to amend.

MR. FLORES: And then the main motion?

MR. CONINE: Correct.

MR. FLORES: And then Robbye is going to tell us the general language regarding -- fixing the language. I don't know the right words but I know the intent.

MR. FLORES: Who's going to bring this motion?

MR. CONINE: You may.

MR. FLORES: I don't know how.

MR. FLORES: I'm going to pass the buck to the staff. Brooke, maybe you and Kevin together could make that work.

MAYOR SALINAS: The motion would read that we accept the staff recommendation with the additions that we've been discussing here this afternoon.

MR. CONINE: The proposed 2007 QAP.

MAYOR SALINAS: The proposed 2007 QAP and the amendments that we discussed here today.

MR. FLORES: Second the motion.

MR. CONINE: Are you okay with that, Counselor?

MR. HAMBY: Yes.

MR. CONINE: Any discussion further.

MAYOR SALINAS: The only thing is that we wait for the attorney general on the housing authorities, and if that comes positive then it goes back into the QAP.

MR. CONINE: Or we'll take board action later.

MAYOR SALINAS: We'll take board action later.

MR. HAMBY: Well, actually let me clarify that, because what you're doing by the motion you've made is leaving in the resident council restriction and it would come out if the attorney general's opinion is negative, and if it's not negative, then it would just stay in and be part of the rules.

MAYOR SALINAS: Okay, good.

MR. CONINE: Any other discussion from any board member?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. CONINE: I have to leave in 20 minutes.
What else do we want to do today?

MS. BOSTON: We need to definitely do (d), (e) and (f). Those were a batch and one of those has a pretty critical time line for Community Affairs.

MR. GERBER: The next three rules are the primary rules utilized by the Community Affairs Division. They include the energy assistance rules that govern the Department of Energy Weatherization program, the Low Income Home Energy Assistance Program, and the Comprehensive Energy Assistance Program, also know as CEAP. This also would encompass the rules for Community Service Block Grant Program, and lastly, it would be the rules for the Emergency Shelter Grant Program.

Comment was received on all three rules, as summarized in your board book. Revisions were made to be responsive to many of the comments, and staff is recommending that you approve these rules as proposed by the staff.

MR. CONINE: Do I hear a motion?

MAYOR SALINAS: So moved.

MR. CONINE: Do I hear a second?

MR. FLORES: Second.

MR. CONINE: Any discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Going back to (a), (b) and (c)?

MR. CONINE: Yes.

MR. GERBER: Those first three items relate to the appeals process. I think I already identified the issues there.

MAYOR SALINAS: I move that we go ahead and approve (a), (b) and (c) under item 7.

MR. CONINE: Is there a second?

MS. RAY: Second.

MR. CONINE: A motion and second. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: We'd like to go to item 7(k).

Item 7(k) is the application submissions procedures manual. This is the manual that is generated annually to provide applicants the requirements and procedures for submitting and packaging their multifamily applications in accordance with the departmental rules and statutes.

Texas Government Code requires that this manual be presented for approval. Staff is recommending approval of the draft 2007 Multifamily Application Submission Procedures Manual as proposed, with permission to update and revise it as necessary to ensure consistency with the 2007 department rules.

MAYOR SALINAS: I move we go ahead and approve 7(k) as recommended by staff.

MR. FLORES: Second.

MR. CONINE: Motion and second. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries.

I remembered I left something out of the QAP

and that was the page 13 of 69, the controlling language we were going to add that I won't have a problem next year. I think it happens a couple of times in there on that particular page, and I'd entertain a motion that we could get that done, and if applies anywhere else in the QAP, go ahead and make that same change. We're adding the controlling ownership interest provision.

MS. RAY: So moved.

MAYOR SALINAS: Second.

MR. CONINE: All those in favor say aye.

(A chorus of ayes.)

MR. CONINE: Motion carries.

MR. CONINE: Now go back to where you were.

MR. GERBER: Item 7(g) which is the compliance monitoring rules. This item repeals sections of the administrative rules and adopts amendments to the current compliance monitoring rules. There were several comments received about the amendment of the rules, and to the degree revisions were appropriate, changes have been made, and staff is recommending that you approve this.

MR. CONINE: This is one we need to wait on, isn't it? I would prefer to wait on it because Ms. Bast brought up some nice issues we need to take a look at, and I don't want any consequences to happen here and I think

she made some good points, so let's wait on that one until next month or whenever you guys can get it worked out.

MS. BOSTON: Our plan would be to try to bring you a draft in December that maybe is responsive to some of those revisions. It would need to go out for comment and then we'd bring it back as final. In the meantime, the same compliance rules will be the rules in effect as it relates to tax credit applicants.

MR. CONINE: So what have we got left?

MR. GERBER: The Real Estate Analysis rules.

MR. CONINE: Let's wait on those. I think everybody is tired. There may be some timing issues.

MS. BOSTON: If we approve those in December, if we bring them back in December, we should be okay because the applications, they'll come in -- we do our application workshops in November and so there are some things that may be a little hard for staff to train in terms of how an applicant would package their particular underwriting issues. If this isn't done, obviously we could release a supplemental release to them explaining any differences between the workshop and the December meeting, if we needed to.

MS. RAY: Mr. Chairman, I move that we defer that till December.

MR. CONINE: Is there a second?

MAYOR SALINAS: Second.

MR. CONINE: All those in favor say aye.

(A chorus of ayes.)

MR. CONINE: Approved. What have we got left?

MR. GERBER: Item 7(1) and 7(m), these include the Multifamily Housing Revenue Bond rules and the Housing Trust Fund rules. No comment was received on the bond rules and limited comment was received on the Housing Trust Fund rules. Changes to the draft rules have been made to ensure that these two rules are consistent with the other multifamily program rules particularly related to the QAP and will be updated with other changes to the QAP as done here today.

Staff is recommending that you approve these rules as proposed by staff and that you allow staff to make changes to these rules where applicable to be consistent with the other rules that are being approved at this board meeting.

MR. CONINE: Is there a motion?

MAYOR SALINAS: I so move.

MR. CONINE: How about a second?

MR. FLORES: Second.

MR. CONINE: Any other discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: The last is 7(n) on the Rural Rescue policy. The ability to create this policy is generated within the QAP and gives direction on allocating credits as forward commitments to USDA developments which are at risk for foreclosure. The policy enables submissions for requesting funds throughout the year. These developments are called Rural Rescue developments, it's updated annually, and the staff is recommending that the policy is approved as proposed by staff.

MAYOR SALINAS: So moved.

MR. FLORES: Second.

MR. CONINE: I have a motion and a second for approval. Any discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. HAMBY: Before you make your motion to adjourn, I just wanted to make sure that the people who were in the audience who may not have understood, whenever you passed on (g), you also passed on (h) at the same time because they're tied together. So we did not forget (h), it was an intentional postponement on the table with the compliance rules.

MR. CONINE: Anything else to come before this board?

(No response.)

MR. CONINE: If not, we stand adjourned.

(Whereupon, at 4:11 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: November 9, 2006

I do hereby certify that the foregoing pages, numbers 1 through 244, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Stacey Harris before the Texas Department of Housing & Community Affairs.

(Transcriber) 11/16/2006
(Date)

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