

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Thursday, May 8, 2008  
9:30 a.m.  
Capitol Extension, E1.028  
1500 North Congress Avenue  
Austin, Texas

BOARD MEMBERS

KENT CONINE, Chairman  
LESLIE BINGHAM ESCAREÑO  
TOM CARDENAS  
SONNY FLORES  
JUAN S. MUÑOZ  
GLORIA RAY

STAFF

MICHAEL GERBER, Executive Director

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Item 1: Approval of the following items presented in the Board materials:

General Administration:

a) Minutes of the March 13, 2008 Board Meeting

Legal:

b) Presentation, Discussion and Possible Approval to publish in the *Texas Register* a notice of intent to conduct a rule review pursuant to Government Code §2001.039 of certain rules in 10 TAC Chapter 1, concerning administration

c) Presentation, Discussion and Possible Approval of a Request for Proposals for Disclosure Counsel

Texas Homeownership Division Items:

d) Presentation, Discussion and Possible Approval to use deobligated Housing Trust Fund (HTF) funds for homebuyer counseling services in support of the Texas Foreclosure Prevention Task Force

Multifamily:

e) Presentation, Discussion and Possible Approval of Housing Tax Credit Extensions for Completion of Substantial Construction

Real Estate Analysis:

f) Presentation, Discussion and Possible Approval of Housing Tax Credit Extensions of Cost Certification Submission

Community Affairs:

g) Presentation, Discussion and Possible Approval of the Draft Program Year (PY) 2009 Low Income Home Energy Assistance Program (LIHEAP) State Plan for posting to the TDHCA website and Public Comment

- h) Presentation, Discussion and Possible Approval of the Request for Application Packet for the Weatherization Assistance Program in Maverick and Hidalgo Counties

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P R O C E E D I N G S

MR. CONINE: Good morning.

VOICES: Good morning.

MR. CONINE: I call the May meeting of the Texas Department for Housing and Community Affairs Board to order. Good morning to see everybody here today, and we have got a lot of stuff on the agenda we need to get done. First thing we will do is to call the roll and see who else is here.

Leslie Bingham?

MS. ESCAREÑO: Here.

MR. CONINE: Tom Cardenas?

MR. CARDENAS: Here.

MR. CONINE: Kent Conine is here.

Juan Muñoz?

DR. MUÑOZ: Present.

MR. CONINE: Gloria Ray?

MS. RAY: Here.

MR. CONINE: Sonny Flores?

MR. FLORES: Here.

MR. CONINE: We have got six of us here. That should work as a quorum.

The first thing we typically do is the public comment. As you know, if you haven't signed a witness affirmation form and

affirmation form and you want to speak to the Board today, please do so. And either indicate whether you want to speak now during the public comment period or during the particular agenda item that you may have in question. We have several folks that want to speak today. So we will go ahead and get started with that.

The first public witness affirmation form that I have is from Mayor Tom Scott of Bastrop.

Mayor Scott?

MR. SCOTT: Mr. Chairman, members of the Board, good morning.

MR. CONINE: Good morning, Mayor.

VOICES: Good morning.

MR. SCOTT: My name is Tom Scott; I am the Mayor of Bastrop, Texas, a -- like a lot of central Texas communities, a rapidly growing community. We are located down river, about 30 miles southeast of here. And I am here today to voice my support and that of our community for the Fairwood Commons Senior Apartments. It's your project number 08-229.

As I said, we are a growing community. Our school district area has a population of approximately 50,000 people now. We are building our second high school, which is a unique event in the life of a 175-year-old community. About 10 percent of our



old community. About 10 percent of our population are age 65 and greater, and that population segment is growing.

This project that's before you would address the needs of seniors age 62 and greater whose incomes fall within 30 to 60 percent of the median income of the area. Most of these residents I am informed, would have annual incomes of \$20,000 or less. It is a much needed project. Our city council unanimously endorsed this project at a meeting in February. I have submitted a letter to you all outlining that community support.

This location is unique for this project. It is situated in an area where we have hike and bike trails. It is located adjacent to a major HEB center with a pharmacy. So those kinds of amenities are available to the residents of this project in a unique way. So I commend this project to you, urge you to favorably consider it and would be glad to try to answer any questions you might have.

MR. CONINE: Any questions for the Mayor?

(No response.)

MR. CONINE: Appreciate your testimony this morning.

MR. SCOTT: Thank you, sir.

MR. CONINE: Thank you for being here.

MR. SCOTT: Thank you, sir.

MR. CONINE: Barry Kahn?

MR. KAHN: Good morning, everybody. My name is Barry Kahn; I am a developer in Houston. I would like to bring a couple of things to the Board, and I think a few other people are going to address this issue later in public comment. It has to do with underwriting this year, and some of the things going on in this industry.

I think a lot of things have changed. We -- the tax credit law came into effect in 1986. Utilities were very low at that time. And utility increases probably will dramatically affect tax credit properties in the next, upcoming year. Oil has gone from around \$80 a barrel to in excess of \$120 a barrel. Natural gas has gone from under \$7 to over \$11. All these are going to cause an impact on the utility allowances that affect our rents.

And with the flat rent environment that we have experienced in the last few years with HUD switching from using the Bureau of Labor Statistics methodology to determine rents to the American Communities survey, which is still untested, and -- whether or not we'll be getting an increase or not is an unknown factor -- or for how long it will take.

We're fortunate in Texas, but in many parts of the country, it is going to take several years for them to catch up, under the American Communities survey to the Bureau of Labor Statistics. And in the meantime, utilities are increasing, unfortunately, beyond gross rents, and operating expenses, continue to increase. And it is likely to cause a problem for many tax credit deals, particularly new ones.

Currently, they say approximately 40 percent of the units nationally are at break-even or less. And a point I would like to make is I think underwriting this year is going to be much more important than ever before. There is only -- you know, there is not enough money to fund all deals that will get allocations.

And from -- the word a number of us have received from some of the syndicators is that they are going to be underwriting much more stringently. The pricing is going to be different, depending on the developer. There is going to be a flight to quality. And a suggestion on behalf of several others, as well as myself, is that TDHCA does look at these deals much more carefully than it has in the past from an underwriting perspective.

And another suggestion may be that -- when allocations

allocations are made this summer, an additional item be added to the list of what everybody has to meet for initial carryover, which is due in October and November.

And that is: that they get updated letters from their lenders and syndicators reaffirming the pricing of the deals, because pricing is coming down, and reaffirming that the syndicator and the lender -- if re-underwritten, both the deal and the developer are still willing to proceed with the transaction, because if we could shake out some deals that otherwise won't get done because of the shift in the flight to quality and perhaps lower pricing, deals that otherwise are on the waiting list that won't hit the allocation by the end of the year, may otherwise get allocated and get done, because our sole goal is to get as much affordable housing on the ground as possible.

Thank you. If there's any questions --

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Thank you, Mr. Kahn.

Jim Brown?

MR. BROWN: May I step aside and let Granger go in front of me? And then I will follow him.

MR. CONINE: That will work just fine.

Granger McDonald?

MR. MacDONALD: Thank you, Mr. Chairman. Good morning. My name is Granger McDonald, from Kerrville.

MR. CONINE: Good morning.

MR. MacDONALD: I would like to add my support to what Barry said. Many of the syndicators around the country are just not able to perform like they felt they would; lots of things have changed from application time. It is rare that you will see developers asking for additional requirements, but I think that is good for the industry and for all of us to get the housing product on the ground.

If we could do some sort of reaffirmation of the syndicators' participation at the time of carryover, I think it would allow -- that there will be some credits that might come back that then could be reallocated this year and go to the wait list and get other deals funded.

Secondly, I would also like to ask that you all support with personal letters and possibly even put on the agenda for next month a resolution from this body asking Governor Perry to, in his capacity as the Chairman of the Republican Governors, ask the White House to support the housing stimulus package.

The housing stimulus package is being debated in

in congress as we speak, and it has many, many items for the improvement of the housing tax credit program in it. One of them is a fixed AMT, which would help raise the price of credits, and the other one is to adjust the 9 percent adjuster. Right now, 9 percent credits don't mean 9 percent; they mean 7.9856432-whateve

(General laughter.)

MR. MacDONALD: Anyway, if we could get that number to full 9 percent, it would help replace some of the money we have lost as these credit prices have failed. And if you all could either do that directly, asking the Governor, or a resolution on your next month's agenda, I would appreciate that.

And the third thing I would like to do is, if you could put it on the agenda, I would like some discussion of the 8823 standards on compliance on your next agenda. Currently, many of us -- I applaud the Agency for trying to get the bad actors out of the program, but a lot of us are getting 8823s on some very ridiculous items.

For example, kids going up to the mailbox leave their bicycle on the sidewalk while they are getting their mail. The inspector happened to be there and wrote them up for having a sidewalk obstruction.

I had a tenant who had just finished frying chicken on the stove and had grease out. We got written up for having a toxic flammable substance, not contained, on the property. Not a dirty stove; just a pot of grease sitting there.

And there are a lot of these items. I mean, I understand what it has been trying to accomplish, because we had a lot of people that need to be challenged on what they are not doing on their properties, but some of it has gone a little too far. And I would like to see some discussion next month if we could.

MR. GERBER: Mr. Chair, if I just could add?

MR. CONINE: Mr. Gerber?

MR. GERBER: I think this may be a great opportunity for staff to meet with industry and others who are interested in this topic -- and see if we can maybe have Patricia Murphy and have a staff discussion prior to coming back to the Board.

We would certainly -- I would welcome the chance to hear from you about some things that we might need to do in order to improve that process. We will have to work out something from both sides.

MR. MacDONALD: We would love to.

MR. GERBER: That would be great. Thank you.

DR. MUÑOZ: Just a minute.

MR. CONINE: Yes, Mr. Muñoz.

DR. MUÑOZ: Granger, you had a phrase early in your presentation, Reaffirmation-something of the voucher. What was that phrase?

MR. MacDONALD: Well, I would like to see us reaffirm the -- right now, you have a syndicators' letter in your application. And I would like to at least see that reaffirmed and -- as to -- as Barry was pointing out, as to the price and the underwriting of the project, and the underwriting of the developer himself.

DR. MUÑOZ: I just wanted to get the language --

MR. MacDONALD: Yes, sir.

DR. MUÑOZ: -- for when I ask the question for you.

MR. MacDONALD: Thank you.

MR. CONINE: Thank you, Mr. MacDonald.

Jim Brown?

MR. BROWN: Good morning, Chairman Conine and members of the Board.

MR. CONINE: Move that microphone right over there, in front of you.

(Pause.)



MR. CONINE: There you go.

MR. BROWN: How about that?

MR. CONINE: That's perfect.

MR. BROWN: Is that better?

MR. CONINE: That is perfect.

MR. BROWN: Thank you. I need all the help I can get.

My name is Jim Brown, and I am the Executive Director of the Texas Affiliation of Affordable Housing Providers. And I am here today to follow up on a discussion that a select member of TAAHP board of directors presented to you at a meeting in the past quarter, and that is: the cost of credits and the equity market issue as a result of the cost of credits. If you will bear with me, there's a couple of points that I would like to read into the discussion this morning.

Equity sources remain seriously limited as the surviving syndicators are trying to work through deals through their historical investors, while only a limited number of new investors are coming into the market. The lenders that continue any activity in this area today or -- today's market are very selective in the structure of the deal, the location and the sponsorship of the projects.

Fannie Mae is still shopping a large portion of their portfolio. Typical CRA-driven investors such as large banks are caught under the Basel I regulations and require that a Basel II bank be brought into the deal in order to wrap their obligations or, otherwise, we are looking at a balance sheet that is not attractive and in most cases would be considered a deal killer.

The low income housing tax credit industry, including Freddie Mac and Fannie Mae or both or -- all of us are out here praying today that we will be able to seek some relief from the current AMT situation which is creating some great deal of the problem that we are faced with today. This, the relief of the AMT would mostly likely bring Freddie Mac back into the purchasing mode and acquiring more LIHTCs and other tax-deferred types of access and investments.

Apparently, Freddie Mac has decided to return to the bond credit enhancement business only for variable rate deals, unfortunately, setting out terms that low income housing tax credit syndicators cannot accept under any circumstances today. Other than the CRA lenders and investors, the debt market in the affordable housing area is severely limited. Some taxable deals are getting done through FHA, Freddie Mac and Fannie Mae, but with Fannie Mae's offerings in these deals fairly wide of that of

Mae's offerings in these deals fairly wide of that of Freddie Mac's.

As for the TAAHP's personal or -- as far as the TAAHP team that spoke to you last week or -- last quarter -- I'm sorry and the issues that they had mentioned with you, Citibank indicates they are considering investing in new deals, though their preference remains in the secondary market. DNC notes that a current pricing is most likely less than the 82 percent to the 86 percent, a common price of which most of us saw in the 2008 tax credit cycle.

Red Capital reports that it is attempting to close three deals; one was to have funded on May 5, and I believe that deal has been consummated. The equity position continues to be the problem that the industry is facing at this point. Capital Resources, unlike it was a year or 18 months ago, reports -- Red Capital reports with a very high level of demand for quality sites, deals terms, considerably more favorable to the limited partner and investor.

MR. CONINE: Let me ask you to wrap it up please, Mr. Brown.

MR. BROWN: All right, sir. And then a final comment.

Even TAAHP has seen the effect of the current market in the sponsorships of our Texas Housing Conference. One of our platinum sponsors has been unable to meet its commitment, and we are seeing other syndicators who have yet to sign on and come on board. So while there may be some slight window out there, we are a long way from being back to where we were a year ago.

MR. CONINE: Any questions for Mr. Brown?

(No response.)

MR. CONINE: We hear you.

Jeff Crozier?

MR. CROZIER: Good morning, Mr. Chairman, Board member. Wow, that was a pretty ugly picture, wasn't it? But just think.

By the way, when my time expired last month, I was just getting to the good stuff. So now I get to come back this month to finish what I was going to tell you last month before the new rules got put into effect.

(General laughter.)

MR. CROZIER: But, you know, Mr. Brown is up there, painting a pretty ugly picture of what is happening out there in the real world. Well, just think to remember, that rural Texas isn't even a blip on that radar screen. There is a lot of lender and investors out there that are very skittish right now, about

that are very skittish right now, about loaning money in rural Texas. And, hopefully, that is going to change in the near future.

However, right now there is a lot of deals out there that are floating around, that could use some help.

Obviously, the big investment guys, the big bankers, are not interested in going to rural Texas. So what we have to do is -- we have to turn to the people that can help us out. One is the federal government that -- providing their loan programs. And they don't seem to be doing that right now.

Secondly, we have the state, which is you guys. Right now, you all are going to be considering three NOFAs later on this morning, and those really do help us get to be where we want to go.

We support the Department and all their efforts to get this where it needs to go. Is it the final aspect? I don't think so. We probably need to make a step or two further. And one of those issues would be on Housing Trust Fund. At some point in time, we probably need to consider using trust funds and credits together.

When we come to you guys for money, you know, we have a lot of tools in the toolbox. And if it takes a hammer, a wrench and a screwdriver to build a house, we can't quite get the

house, we can't quite get there with a hammer and a screwdriver. We need that wrench. Or we can't get there with a wrench and a hammer. So we have got to have all the tools to make this happen

One other thing I wanted to mention about -- so, I mean like I said, I am very much in support of the NOFAs. I hope you all agree with them.

And if at some point in time, you look down and you say "Well, gee whiz, the rural guys aren't really taking all this money," maybe that is a signal that we need to, you know, reevaluate what we are doing out there. And maybe there is a better way we can make this program work, but I absolutely would like you all to approve these NOFAs today, because I think they really do help a lot of rural housing especially for the guys that are funded by the rural development.

The one other thing I wanted to bring up, I meant to last week. It kind of goes along with what Mr. MacDonald was saying. There was a gentleman here about two months ago that had a purple jacket on that I remember hearing. And got up there and started reading the riot act to everybody on the count on the day

And even though his method of delivery was -- lacked something to be desired, his message wasn't totally lost.

Property management out there in the world today is very, very difficult. You are talking about like Mr. MacDonald getting written up on his properties. I have seen now that people are going to -- these tenants are going through recertifications two and three and four times a year, because RD has their rules, HUD has their rules, tax credits have their rules. None of this you all can fix. It is just something that is out there.

What I want you all to do or what I would like you all to do, anyway, is, when you start thinking about passing new laws and regulations and rules and things like that, remember that there is somebody down there at the end of that food chain that probably makes about \$1,000 a month that has got to run drug deals out of their apartments. They have got to put up with all kinds of commodes backing up and everything else. They don't know if their bosses are just coming down the road saying, Do this, fix this, go here.

Remember, there is somebody out there that is, you know, probably going to get screwed at the end of the day at -- being at the bottom of the food chain. So thank you all again for everything you are doing. And any help you can give us we are certainly willing to take.

MR. GERBER: Jeff, if you would, join Mr. MacDonald and

MacDonald and others when we have that discussion.

MR. CROZIER: Absolutely. I'd love to.

MR. GERBER: We'd really love your participation in that.

MR. CROZIER: I would love to. Thank you.

MR. CONINE: Thank you for those encouraging words.

(General laughter.)

MR. CONINE: Kelly Nelson?

MS. NELSON: Good morning. My name is Kelly Nelson, and I am the director of the Clear Creek of Fort Worth Property Owners Association. And we are the association for Four Seasons at Clear Creek, TDHCA number 08273.

Our POA encompasses 156 acres of the Clear Creek Village master plan and is located at the southwest corner of Oak Grove, Shelby Road and South Ray Street, in Fort Worth, Texas. The Clear Creek Village master plan is currently under development and includes single family, multifamily, duplexes and park space.

I would like to express support on behalf of the POA for the Four Seasons at Clear Creek multifamily development. The Association has confidence in Merced Housing and in the NRP Group. This multifamily project is consistent with our master plan and



consistent with our master plan and will fill a housing gap that exists in this area by providing quality affordable housing to the people that need it most.

The development team has a reputation for producing aesthetically pleasing properties and providing resident services and community support. Safety and security is also its top priority. And we look forward to working with this development team and its residents.

On April 4, 2008, I received a letter from the TDHCA regarding the letter we submitted for the purpose of scoring quantifiable community participation points. The letter stated, "The letter submitted for points under Section 50.9(i)(2) of the 2008 QAP is from a property owners association representing a community that is planned but does not yet exist. For this reason the organization does not meet the QAP definition of a neighborhood organization and is ineligible.

We formed our POA primarily for three reasons. First, we wanted to create a sense of community. Second, we wanted to protect the rights of our property owners and the future residents.

And the third was that the existing former neighborhood organization, Garden Acres -- it was actually an association that was inactive. And in order to be considered a property owners association through the City of Fort Worth, we had to go to them

City of Fort Worth, we had to go to them and ask the president to agree to let our boundaries -- our project out of their boundaries because we can't have overlapping boundaries, in order to be recognized.

So we were granted permission by this president, and w became official. But Section 50.363 of the QAP defines a neighborhood organization as an, Organization that is comprised o persons living near one another within the organization's defined boundaries for the neighborhood and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. A neighborhood organization includes a homeowners association or a property owners association.

Also, according to Chapter 209 of the Texas Residential Property Owners Protection Act, a property owners association is defined as an incorporated or unincorporated association that, A, is designated as a representative of owners of a property in a residential subdivision; B, has a membership primarily consisting of the owners of the property covered by the dedicatory instrument for the residential subdivision, and; C, manages or regulates the residential subdivision for the benefit of owners of property in the residential subdivision.

The last sentence of the QAP's definition does not read that a neighborhood association may include a homeowners association or a property owners association. It clearly states a neighborhood association includes HOAs and POAs.

And in a phone conversation on March 20th, I was told by staff that because no one currently lives there, we don't meet the definition, and that we were ineligible for participation. We believe that there is weakness in the argument because, by that definition, a POA is made up of owners, not necessarily residents.

And staff expressly included POAs when they made the definition of a neighborhood organization in the QAP. We know that the Board has the power to overturn staff's ruling, and we are here to ask that you consider our case and declare us eligible for participation in the QAP process. Thank you. Are there any questions?

MR. FLORES: Mr. Chairman, may I?

MR. CONINE: Mr. Flores.

MR. FLORES: Ms. Nelson, way back then, you tried to tell me what the Clear Creek association is. Tell me again what it is.

MS. NELSON: We are Clear Creek of Fort Worth Property Owners Association.

MR. FLORES: All right. And --

MS. NELSON: And we are a master planned community, 15 acres. We have 414 single-family lots, 102 duplex lots, over 28 acres of park, and then a multifamily tract, which is where the proposed project, the Four Seasons at Clear Creek, is going to go

MR. FLORES: Is there -- I am sorry. Go ahead.

MS. NELSON: That is it.

MR. FLORES: Is there any development there yet?

MS. NELSON: We are in the process of development. We have done all of our preliminary approvals. We have done all of our soils testing. We have done all of our environmental studies. We have got our preliminary plat approved. We are now soon to be starting our final construction drawings. So we are technically in the process of development, because those steps are part of the process.

MR. FLORES: Are there any people living --

MS. NELSON: There are not.

MR. FLORES: -- outside the 156 acres?

MS. NELSON: Right now, there are not. There is not a new --

MR. FLORES: Are there any people right outside on the

on the perimeters of the 158 acres?

MS. NELSON: There is a school to the north, and there is vacant land to the west and to the south. There is a subdivision, another subdivision, that is actually separated by a small piece of land. But there is another subdivision to the south. And there is vacant land to the east.

MR. FLORES: And this project is -- do you know where are on the agenda with that one, what number it is?

MS. NELSON: I don't believe it's -- I am just speaking during the public comment. And I don't believe that is on the agenda for today.

MR. FLORES: Oh. It is not on the agenda for today.

MS. NELSON: No, it is not.

MR. FLORES: Okay. Thank you.

MS. NELSON: Any other questions?

MR. CONINE: Any other questions?

Dr. Muñoz?

DR. MUÑOZ: Are there individual owners of plots?

MS. NELSON: Right now, the entity that owns the entire plot is actually made up of three -- one individual and two other

individual and two other entities at the moment.

DR. MUÑOZ: Three?

MS. NELSON: So, three technical owners through one entity.

DR. MUÑOZ: And they constitute a property owners association?

MS. NELSON: At the moment, yes. We have formed it, basically, kind of like how a developer -- if he only has a single family residential subdivision, he will begin his property owners association so that then, when people are living there, they join. And you are all -- but basically to protect the value of that property now, versus later, to have a say now, for those 414 single-family future homeowners -- to protect them now, versus, you know, waiting until it is too late.

MR. CONINE: I assume that the idea is to -- on the major roads through the development, you are going to have landscaping and beautification that the property owners association will take care of into perpetuity?

MS. NELSON: Yes. We have over 28 acres of park, five acres of which is a public park. However, it will be privately maintained.

MR. CONINE: And we haven't gotten an appeal on this, but it will be coming later, I guess. That is what it sounds like.

it sounds like to me.

MR. GERBER: We have not gotten an appeal yet? Okay.

MR. CONINE: Okay.

MS. NELSON: Any other questions?

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Thank you, Ms. Nelson.

MS. NELSON: Thank you for your time.

MR. CONINE: Appreciate it.

Phil Woods?

MR. WOODS: Mr. Chairman, Board, good morning.

MR. CONINE: Good morning.

MR. WOODS: I am Phil Woods; I am the Chairman of the Bastrop Housing Authority Board of Commissioners. The Bastrop Housing Authority currently administers programs that provide assistance to 102 low income families in our community.

As Bastrop continues to grow, the need for quality affordable housing for low income placement basically continues to grow. Currently, we are -- have a waiting list for our low income and our Section 8 people that have to wait two to four years for assistance. We have worked very diligently over the last several years to try to help low income people. Over the last three year

try to help low income people. Over the last three years, we have acquired lots from the City of Bastrop, and then also with a back tax.

MR. CONINE: I am having trouble hearing you. If you would just make sure you talk right into that microphone.

MR. WOODS: Okay. All right. I will get closer.

MR. CONINE: Thank you.

MR. WOODS: Over the last three years, we have been able to build three houses for low income families, it being the first time to buy. In the last twelve months, we have assisted five families in helping them to get monies for down payment for houses where they can be first time home buyers, as well.

The application for low income housing tax credits submitted for Fairwood Commons Senior Apartments is vital to our community, because it will provide quality affordable senior housing in Bastrop as the Baby Boomer generation nears retirement age. In addition, it is vital to our agency because it will provide the housing authority with additional sources of revenue that will allow us to maintain our current housing stock as our operating expenses increase and operating subsidies continue to



continue to decrease.

It will also provide our agency with the capacity to undertake similar projects in the future, as well as the necessary resources to promote additional affordable housing opportunities in Bastrop, furthering our mission to promote decent, safe and affordable housing to the low income population.

Finally, upon termination of the ground lease, ownership of the improvements constituting the project shall revert to the housing authority and its instrumentality, adding 66 units to our portfolio.

The site for Fairwoods Commons Senior Apartment is an ideal location for senior housing, as the mayor mentioned earlier.

It is across the street from HEB and the pharmacy, as well as banks, fast food outlets, retail shopping and medical facilities. And the proposed site has trails leading to these facilities that will allow many of the seniors to walk to these locations on existing sidewalks.

The housing authority has served the low income population in Bastrop for over 40 years. We have local ties to the community and responsibility to the citizens that we serve. As such, we can monitor the management and upkeep of Fairwood Commons Senior Apartments and be available to address citizens' comments.

available to address citizens' comments and concerns related to this development as they may arise.

I want to thank you for the opportunity to be here this morning and thank you for considering our application for low income housing tax credits. Thank you very much.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: I'm sorry that I didn't get you right behind the Mayor, Mr. Woods. I will try to do better next time.

Carlos Garcia?

MR. GARCIA: Good morning, Chair, members of the Board

MR. CONINE: Good morning.

MR. GARCIA: My name is Carlos Garcia; I am the county judge in Frio County. And Frio County is requesting an extension on the HOME program contract that it has, and it will be on the agenda in June, before the Board. And we are asking support from the Board for that project.

In short summary, in early 2007, the County of Frio was given a contract extension for HOME project 1000308. Under the new agreement, the county was instructed to abide by the 2006 HOME

instructed to abide by the 2006 HOME program rules. In 2006, the rules required that the county use forgivable loans instead of grants.

Since that time, the county has closed loans for five homeowners; in addition, three units are complete, one is under construction, one has been demolished and ready for construction, and the county is still working with one other homeowner who is waiting for the loan documents. The county is requesting a six-month extension in order to close a loan with Mr. Trevino, who is an elderly gentleman whose wife is in a nursing home. In addition the county needs the additional time to complete the work on the remaining units.

The county is also requesting an amendment to this contract, because only six units will be assisted -- as opposed to ten. The county had additional applicants, but they were disqualified either due to income or home ownership. Some of the applicants had deeds but did not have their clear titles.

Again, we ask you for your support in the next month.  
Thank you very much.

MR. CONINE: any questions?

(No response.)

MR. CONINE: Thank you.

Kathi Mussonheimer [phonetic] Masonheimer?

MS. MASONHEIMER: Masonheimer.

MR. CONINE: I got close, couldn't tell if it was an A or a U. So it is my fault.

MS. MASONHEIMER: Good morning, Chairman, Board.

MR. CONINE: Good morning.

MS. MASONHEIMER: I am Cathy Masonheimer; I serve as the Executive Director of the Palestine Chamber of Commerce, and I am also the District 1 City Council person for the city. We have quite a bit of growth going on in Palestine right now, and two of our needs are historic revitalization of our downtown area, as well as affordable housing.

And our Mayor contacted the Landmark Group to see if they would help us in our downtown revitalization efforts. And there, a relationship was born. They have come to Palestine. We are very excited about what they have proposed to provide affordable housing in our downtown area.

I often say that the planets have aligned in Palestine because all of our entities are finally on the same page. We want to see growth in Palestine, we want to see our historic integrity kept intact, and we also need affordable housing. So as a member

affordable housing. So as a member of our city council, and a representative of our chamber of commerce, I really hope that you will give every consideration to the Historic Palestine Loft application. Thank you.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Neely Plumb?

MR. PLUMB: Let's see if I can talk into this. Good morning, Mr. Chairman and Commissioners.

MR. CONINE: Good morning.

MR. PLUMB: My name is Neely Plumb; I am the Main Street Manager, and the Historic Preservation Officer for the City of Palestine. The City of Palestine, like Kathy said, is experiencing growth at this time. We have a serious need for affordable housing.

And this marriage that has come about, if you will call it that, with the Landmark Group and Historic Palestine Lofts is a vital key element to the revitalization of our downtown and supporting our community with affordable housing. So I ask that you would give every consideration to the tax credits for this project. I will be happy to answer any questions that you may have.

MR. CONINE: any questions?

(No response.)

MR. CONINE: Thank you, Mr. Plumb. We appreciate you being here.

MR. PLUMB: Thank you, sir.

MR. CONINE: Ginger McGuire?

MS. MCGUIRE: Good morning, Mr. Chairman and Board members. My name is Ginger McGuire, and I am with Lancaster Pollard Mortgage Company. We are a mortgage and investment banking firm. And I would like to talk today about the 538 Rural Loan Program. And specifically, I would like to address a project that the Department has considered.

Lancaster Pollard -- one of the products we provide is the 538 Rural Loan Program. And we attempted to work with Creek View in Johnson City with a HOME loan on this particular product. 538 is a guaranteed loan, made through a lender. It is a 40-year amortization with a 2-½ percentage point interest credit subsidy.

Lancaster Pollard does not portfolio loans. Most of the lenders that originate the 538 loan do not portfolio loans. That means that we need to sell them in the secondary market.

There are a few lenders nationally that really use this

use this loan in volume. Lancaster Pollard has originated the 538 program in 13 states. And I have to say Texas is the most restrictive in being able to use this 538 program. It is for several reasons, which I will go into. Ginnie Mae is the only one right now that buys these loans. Fannie Mae is talking about it, but right now, we have not had them purchase any loans.

The point I want to make is that we are leaving money on the table here in Texas with that 2-½ percent federal interest credit subsidy. That subsidy is given to the lender. We coordinate that subsidy so that the borrower does not feel any -- so that it is a seamless process.

Today, if you -- for example, today, if you closed a 538 loan, you would be paying AFR which is 413 on a 40-year loan. That goes a long way into helping some of these tax credit deals right now that are having a problem closing. It provides on a million dollars another 200,000 or 250,000 in debt, just because of the 1 percent interest rate. And so, it is something that I really would like to urge the Board to think about and get on their radar screen.

Last year, the legislature in legislation on the -- which was legislating on the QAP, put in a provision that said that the 538 program cannot be used in whole or in part in the USDA set aside. Now,

in the USDA set aside. Now, TDHCA interpreted that to mean the -- thank you.

MR. CONINE: Go ahead and wrap it up.

MS. MCGUIRE: Thank you. Okay. -- interpreted that mean the at-risk set aside, as well as the USDA set aside. We tried to use this with HOME funds in looking for another way to find equity like money to put into a deal. The HOME funds didn't work, because TDHCA required a first lien. I really urge you to look at that situation. It is the situation that Jeff Crozier talked about, in using all the tools that you have.

HOME funds are intended to be flexible. And I hope that you will consider and reconsider the use of both flexibility with HOME funds and other loans, and using the 538. Thank you very much.

MR. FLORES: Don't go away.

MS. MCGUIRE: Okay.

MR. FLORES: May I?

MR. CONINE: Mr. Flores.

MR. FLORES: There have been some extensive conversations on this subject matter with staff.

MR. GERBER: We have.

Tom, why don't you come on up?

MR. FLORES: Please, Tom. It sounds like something we



something we might be able to do here.

MR. GOURIS: Hello. Tom Gouris, Acting Deputy Executive Director for Programs. That is a mouthful.

We have had extensive dialogue with this particular application and the city. And we will talk about it a little bit later, as well. But at first they brought in a 538 transaction that would have had a majority of funding from the HOME area, about \$3 million, and about a million dollars or so from the 538 program.

We thought it would be prudent for the Department to have at least a parity lien if not a first lien in that sort of situation so that the Department's funds would be secured in that sort of structure.

That -- we've, after extensive discussion and dialogue determined that that wasn't going to be possible, because of the Ginnie Mae acquisition at the back end. So we talked to the developer about restructuring it as a HOME-only transaction, or primarily a HOME-funded transaction and reducing the size of it, and we are still looking at that as an option.

Where we are with that transaction right now, is that the HOME requirements are that there is some leveraging as part of the transaction. And at this point, he has not been able to bring up the 10 percent of the funds as leveraging unless he uses Housing

funds as leveraging unless he uses Housing Trust Fund dollars to that. So that is that transaction.

With regard to the other comments about 538, I mean I think there are some additional restrictions in Texas. I do think we have done a fair number of 538 participating -- a fair number of 538 transactions. I think it is a wonderful, terrific tool, but we are a little bit constricted by, you know, the statutory language that prevents us from giving it preference. It still can apply and allow participants to participate in the tax credit program; it just can't get the conditional preference.

MR. FLORES: Well, if there's any way where we can do something with our rules, where we have control over, to help the situation along, I think it is to our benefit. And I think you ought to bring that up to our attention in some private meetings with Board members.

MR. GOURIS: Okay.

MR. FLORES: And thank you for bringing that up. I appreciate it.

MS. MCGUIRE: Thank you.

MR. CONINE: Ms. McGuire, I would echo. I think there have been attempts in the past couple of years to meet with the staff of the USDA and the RD folks to try to coordinate a little better between the two groups. And I would encourage both you and

I would encourage both you and Mr. Crozier and others to -- let's encourage that meeting to happen, because I think there is a lot that we can do and -- but we have got to be able to talk back and forth first.

MS. MCGUIRE: I agree.

MR. CONINE: So I continue to extend the olive branch those folks to come meet with us, and let's see if we can coordinate, and make the bucks go a little further.

MS. MCGUIRE: Happy to be any part of that in any way can.

MR. CONINE: Great. Thank you.

Frank Fernandez?

MR. FERNANDEZ: Good morning everyone. My name is Frank Fernandez, and I am the Executive Director for Community Partnership for the Homeless.

We are a nonprofit housing organization here in Austin focused on providing safe, quality affordable housing and access services to extremely low income individuals and families. I am here today to testify on behalf of our low income housing tax credit application, Manor Road SRO, application number 08-271.

We are proposing to develop a 110-unit efficiency development for folks who make less than \$25,000 a year. Two-

\$25,000 a year. Two-thirds of the units would be targeted to extremely low income men and women who can pay rents between \$500 a month, and the remaining 1/3 would be targeted to folks who have struggled with homelessness in the past, including homeless veterans, who have been our historic focus.

In Austin, there is a dramatic need for this type of housing. Recent housing studies suggest that there is a shortage in Austin of over 20,000 units for folks who make less than \$25,000. Moreover, this shortage is over 3,000 units for individuals who are struggling with homelessness or have struggled with it. Further exacerbating this challenge is that no for-profit developers and very few nonprofit developers are willing to tackle this type of housing or development.

Currently, our application ranks third in our region, behind, interestingly, two senior projects, 264 units total, proposed for the town of Buda, which has a population of about 5,100 folks. The scoring competitiveness of our project has been hampered by structural challenges specific to this type of development or housing that we do in trying to serve extremely low income households.

First, we are developing in an urban and not exurban

exurban area. Because of the supportive service needs of our residents, it generally does not make sense to locate our developments in exurban areas, which tend to be a little more isolated from the services and opportunities our residents need.

Second, we are doing new construction as opposed to rehab, which scores better, as you know. We are doing new construction, because, One, it is much harder to find existing efficiency complexes that make sense to rehab, and, Two, because our organization is committed to doing very green development, and that is harder to achieve when you are doing rehab.

Third, we are grappling with the human challenge of citing a type of development that often scares neighborhoods: a project serving folks who have been formerly homeless. While we have received some neighborhood support for the project -- we received a letter of support from the primary neighborhood association in the area -- we have also experienced considerable pushback from the neighborhood.

Unfortunately, there has been a core group of neighborhood opponents who have disseminated false information about our project and incited fear. Specifically, just to give you some examples, they have referred to our project as a homeless

referred to our project as a homeless hotel. They have likened it to a homeless shelter or halfway house, serving convicts and sex offenders, that threatens the safety of their families, and even though we have told them repeatedly that is not the case.

And even during the tax credit hearings last month, they compared it to a concentration camp. Also, this group has violated the spirit of the tax credit neighborhood engagement process by creating or fabricating four neighborhood groups that do not exist except for the purposes of this application.

Collectively, these challenges make it difficult for this type of affordable housing development to score competitively vis-a-vis the other projects. For these reasons, I would respectfully request that you consider supporting our project as a forward commitment.

Forward commitment projects are usually projects where the developer is serving the hardest to serve. As has been highlighted, this project fits that description. We are providing housing for the working poor and folks who have exited homelessness or who are at risk for homelessness. Very few developers are willing or able to do this type of project, and our community has a desperate need for this. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Caitlin Uzzell?

MR. FLORES: You know, Kent, I have got a quick question.

Do you have any idea what percentage of those people that might come into this facility would be veterans?

MR. FERNANDEZ: For this project, we are planning to serve probably about 20 veterans. We have an existing program that's transitional housing for vets, serving men and women. Actually, a couple of them are going to be talking.

MR. FLORES: Okay.

MR. CONINE: Thank you. Caitlin Uzzell?

MS. UZZELL: Hi.

MR. CONINE: Or -- I hope that is close to being right

MS. UZZELL: I am sorry?

MR. CONINE: Uzzell? Is that right?

MS. UZZELL: Uzzell. You said it right. Most people say Uzzell. You must be a Texan.

MR. CONINE: You ought to hear how they butcher mine.

mine. Go ahead.

MS. UZZELL: Good morning. How are you guys? Again, I am Caitlin Uzzell. And I work with Community Partnership for the Homeless. And today, I am speaking on behalf of the Mayor Pro Tem for the City of Austin, Betty Dunkerly, who is in support for this project, Manor Road SRO, number 08271. Ms. Dunkerly was unable to attend the hearing, but just due to a scheduling conflict.

So here is the letter: "I am writing to support Community Partnership for the Homeless' housing tax credit application for a supportive affordable housing project proposed for 5908 Manor Road in Austin, Texas. As Mayor Pro Tem of the City of Austin, I am confronted daily by our community's acute need for supportive housing for our most vulnerable citizens.

"Community Partnership -- and other like-minded organizations -- provides housing options for extremely low income individuals and families that few other organizations are able to develop. They play a pivotal role in helping meet Austin's community goals for ending homelessness and preventing others from entering it. Further, this project also would help meet the City of Austin's affordable housing goals associated with its HUD consolidated plan.



"Based on the information that Community Partnership has provided, I believe the development will be an asset to Austin. Community Partnership is designing an attractive green project that will fit well with its surroundings. In addition, the City of Austin has partnered successfully with Community Partnership in the past, and I strongly believe that Community Partnership will ensure that the project will be high quality and well managed.

"Our community truly needs this type of supportive affordable housing. I urge you to support their application. If you have any questions, please do not hesitate to contact me. Sincerely, Betty Dunkerly."

Up next, we have two of our current residents in our veteran's reentry program that are going to be speaking about their experiences as well -- life experiences, as well as their experience with Community Partnership for the Homeless. Thank you.

MR. CONINE: Great. Thank you.

Any questions?

(No response.)

MR. CONINE: Mary Ann Mattern?

MS. MATTERN: Hello.

MR. CONINE: Hello.

MS. MATTERN: Let's see if this works. Can you hear m

MR. CONINE: Sure.

MS. MATTERN: Sorry. I am a little bit nervous.

MR. CONINE: That is quite all right.

MS. MATTERN: I haven't had to do anything like this f  
a long time.

MR. CONINE: No need to be nervous here.

MS. MATTERN: Okay. Well, my name is Mary Ann Mattern  
I am a 34-year-old mother of three. I was raised as a military  
brat and, at 17, decided it was fit for me to join the military a  
did so. I worked when I got out. I joined as an intelligence  
specialist.

And when I got out of that, I worked for the sheriff's  
departments and then eventually the State of Texas as a prison  
guard. And then from there, I went to the Postal Service. You  
know, in 2004, '05, '06, my average income was probably over 40,0  
each year.

I am also a recovering drug addict and didn't start ou  
that way. In high school, I was always the designated driver. Y  
know, I was very good. My friends did all the drinking and  
drugging, and I sat back and told them what they did the next day  
That is the way it went. It was more fun for me that way.

It was more fun for me that way.

But when -- I guess when I was 23, I kind of went into rough marriage. And it was more fun for me to stay out instead of going home to a bad marriage, and so I got involved with alcohol, and ended up having wrist problems from injuries in the Service, which I get 20 percent disability for. And I finally figured out what was going on as far as the drinking and then quit that for awhile.

In '98, I threw out my back, ended up having surgery on the problems that I had. But nobody in high school told me back the late '80s that pills could be a problem. Back then it was, you know, cocaine, meth and all the big ones; nobody really got into pills. So, needless to say, I ended up finding out that I am a substituter. And from alcohol, I went to pills. It took me quite a while to get through that.

From needing the pain pills to being an insomniac and needing sleep medications, I kind of bounced around from one thing to another and finally figured out that I needed to get out of that. I ended up having migraines, severe migraines, when I was getting off the medications. And so, as things go, I ended up picking up marijuana because it helped with migraines. So one thing to another, led to another.

to another, led to another.

And I was in desperate need of a second surgery on my wrist. And I ended up seeing pain pills at my job and took them, you know, committed a felony crime. So -- and then you make stupid decisions as an addict. As soon as I was off work with that, I was finally able to have the surgery that I needed and had started recovery in -- on April 20 of last year.

I used to hang out with people that thought that my recovery date being 4/20 was cool. Now I have people who are like well, "What does that stand for," you know. And so it is kind of nice to be with a different crowd of people.

But when I moved back over -- I decided to move back over to Austin to be with my family and go to school. And I ended up getting a pretty decent job. But I ended up relapsing in the fall of last year and drank and got a DWI, which violated my probation. So I ended up in a recovery center, which was really, really nice. But, coming out of the recovery center, I really didn't have a place to go without burdening more family, and things like that.

So I was talking to one of my VA reps about where I was going to have my checks go -- my disability checks. And she found

checks. And she found out that I was pretty much homeless and was telling me about the VA reentry program. And so they put me in contact with them. I am trying to make sure I go over all my little notes and stuff, because I wanted to hit some pertinent information for you.

But they told me about the VA reentry program, and it has just been a blessing. They just have been great since the very beginning. I go to one to two groups a week at the VA clinic. They have a budget plan set up for me, which was something that I really needed, coming out of everything I have been coming out of with a divorce and everything else.

The rent is awesome for me. I have been able to find a great job with one of the top companies in the country. And it has just been real nice. They provided me with the house, all the supplies, shampoo, conditioner. I mean, and the people are just awesome. You know, the landlord and my VA rep -- everybody that I deal with has just really, really worked well. And they worked with my probation officer also.

So it has just been the best blessing for me. They provided me with internet so I could try to get out and find a job.

One of my case workers -- she helped me to put my resume together so that I could get it online and get it going. And job searching.

and get it going. And job searching has been wonderful.

So the biggest thing is this is a wonderful program for the ones -- you know, for people who need it. It is just great. Being a disabled vet, I never dreamt that there was things like this to help us out, but it is nice to have it. It's definitely nice to have it.

MR. CONINE: Any other -- questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

William Marshall?

MR. MARSHALL: Good morning. My name is William Marshall, and I am also a resident now of the Partnership for the Homeless. And after listening to everyone, I think maybe I should just maybe speak of the impact it has on us as people, rather than the money situation. Who gets tax credits? I don't care. You know, I don't really care. All I need, the reason I came down here, was to let you know what it has done for me.

For 25 years, I was a respiratory therapist. I worked in the emergency room in just about every big hospital on Long Island and Pennsylvania. And five years ago, I had a tragedy in life, and I came to the point where I was financially strapped. And I ended up on the street because I couldn't afford to pay the

street because I couldn't afford to pay the rent. Simple as that

I ended up living in my car for six months. I had just gotten a divorce. I lost my job. After they repossessed my car, then I didn't have a car. And at that point, I became homeless. I traveled the streets for a couple of years.

A year and a half ago, I ended up living underneath an underpass, with an infected foot. I had resigned myself to the fact that that was it. Well, for some reason, it healed, and I started walking again. And I walked 80 more miles until I walked into Austin. On that day, I was directed to the ARCH.

At that point, I met Linda Cecidos [phonetic]. She referred me to Greg Willis, who works at the VA center, and he referred me to the partnership. And he told me about the program but I couldn't get right into it; they have a very stringent screening process.

I ended up being on -- as a case management at the ARCH for about six months. At that point, I had gotten a job. And then Greg talked to me. And we discussed -- we had various -- a lot of meetings -- several, probably ten meetings -- until he finally decided I was a person that could be put in the program. At that

point, I entered the program, about a year ago, a year-and-a-half -- a little over a year ago. And I met the people involved with the partnership management team.

Putting a roof over your head is just part of it. They put a roof over my head, but it gives me the opportunity to have life now. Before, all I did was worry about getting another meal that day and finding a place that I could lay down and sleep that night. My entire -- 100 percent of my day, all my energies went towards those two goals.

When I got affordable housing after I got my minimum wage job, I could afford a house. I could pay the payments every month. And now, I had time to think about what it is I wanted to do. And what it was was I wanted to enter into society again and get back to my old way of life. And that is what it gave me the opportunity to do.

I now own my own business, color interior consulting. I work as the supervisor for all the metro security in Austin, a supervisor in the third shift. And I can't tell you what it has done for my life -- just that small change of being able to afford a roof over my head.

And now I would like to speak about the people involved. They are tough. Everybody that comes up there says, Oh, they are really nice, but, you know, there are some times you just cuss



some times you just cuss them, because they are very strict.

(General laughter.)

MR. MARSHALL: They don't let you mess around. They have rules, and you follow them or they will kick you out. It's simple as that. And I tell you, I could not do the job. I couldn't do it. They have the patience.

I am amazed, because some of these people are a lot younger than me. They have taught me so much. Since I have started getting my self respect back, they have taught me to answer for myself, take responsibility for the actions and to help myself rather than go around begging.

A year-and-a-half ago, I was the guy out there with the sign saying, "Please give me a dollar," until I got a ticket for \$250 I couldn't afford. And I stopped doing that.

So I am asking you. I don't know about the money thing. You guys decide how the hell you do that, where the money goes and everything. But I am telling you this is more than just money allotments to companies and people and mayors and county and council people. This is a lot more than that. This affects people. People can change their lives. It is not just the roof

change their lives. It is not just the roof over their heads; that is just the very start, but it gives you a start. And that is what that roof is.

Anyway, thank you very much for listening to me. I appreciate it.

MR. CONINE: Thank you, Mr. Marshall.

MR. MARSHALL: Thank you.

MR. CONINE: We appreciate your testimony.

Steve Moore?

MR. MOORE: Good morning, Chairman and Board members.

MR. CONINE: Good morning.

MR. MOORE: I am a bit nervous, also.

MR. CONINE: No need to be.

MR. MOORE: The number for this tax credit application is 08140.

MR. FLORES: Would you pull the microphone closer to your mouth? Thank you.

MR. MOORE: The number for this tax credit application is 08140. I bought this property about a year ago. It is 400 units in one of probably the four highest crime parts of Houston. When I bought it, I realized I had created for myself an opportunity to improve the whole neighborhood, and so I formed an organization that I personally have been funding a nonprofit called the Westwood

funding a nonprofit called the Westwood Association.

My first job, of course, was to get control of the crime on my property, which is now somewhere between a third and a fifth as much as it was before I bought it. And in addition, I have been working, owner to owner with the other high-crime properties in the neighborhood. My personal goal is to get the Westwood neighborhood from one of the highest crime areas to average for Houston.

Then I started working on getting services into the neighborhood. This week, I signed a lease for a dollar a month with the Gulf Coast Community Services Association; they have dozens of programs specifically targeted to the residents of this kind of neighborhood, and they are now working out of Premiere Apartments.

The last goal that I have for this neighborhood is for it to be self-sustaining. And this means trying to get the owners in the neighborhood into some kind of a permanent organization where they can keep pressure on those owners that get a little too slummy.

This is a really important part of controlling a neighborhood. And the other part of it, I believe, is empowering the residents of a neighborhood. And that is not just through resident organizations, but it is also an attitude change.

And I will finish with just one little example. When I bought the property, there was never anybody in the swimming pool because they were afraid. They were afraid the kids might get shot. And awhile after buying it, I got a big projection TV and painted part of the front building white and started having movie night in the front parking lot, about twice as far as I am from you, from where the prostitutes walk by on the street.

And this was an in-your-face way to tell the people that it is -- now, you know, this neighborhood has changed. This was the way. I have got kids out there eating popcorn and watching *Batman* on the wall. And it worked. It is working.

Thank you for your time. Any questions?

MR. CONINE: Any questions of the witness?

(No response.)

MR. MOORE: Thank you.

MR. CONINE: Thank you.

That is all I have on witness affirmation forms that I want to deal with the public comment period of the agenda. Let's move to the consent agenda right quick. And I have one witness affirmation form -- make that two witness affirmation forms on Item 1(e) of the consent agenda.

Barry Kahn?

MR. KAHN: I'm only present if there is any questions.

MR. CONINE: Jean Coburn? Same way, probably.

Just if there is questions?

MS. COBURN: I am sorry?

MR. CONINE: Just if there is questions?

MS. COBURN: Yes.

MR. CONINE: Good.

Do I hear a motion on the consent agenda?

MR. FLORES: So moved.

MR. CONINE: Is there a second?

MS. RAY: Second.

MR. CONINE: I have got 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: The motion carries.

Let's move, if we will, to Agenda Item 7. We have got some folks that need to move on.

Mr. Gerber, go ahead.

MR. GERBER: Sure. Mr. Chairman, before we move to Seven, if I could, I'd just mention, on one of those items on the consent agenda is the Board's just-now approval of \$130,000 for foreclosure prevention counseling.

This Department has been very active in the Texas Foreclosure Prevention Task Force. We have been participating in press events around the state, many in communities that have Board members in them and many in those that do not. But we are trying to get the message out about a line that is available to assist 2 hours a day, seven days a week, called the HOPE Home Ownership Hotline, for foreclosure counseling services that are free, fully HUD-qualified.

And we would welcome others in the affordable housing community out there who are interested in this issue and work with people who may be undergoing foreclosure proceedings or may be in danger of foreclosure to contact us. We would welcome your participation and partnership in the Texas Foreclosure Prevention Task Force.

I saw JoAnn DePenning here a few minutes ago; she has been coordinating that effort. But we appreciate your support

your support of -- that \$130,000, which will make a real difference in providing additional counseling to real people.

I would like to move into Item 7, Mr. Chairman, as you called up.

7(a) is -- this item is really just a status report on Round 1 and Round 2 of the CDBG funding. Reporting briefly on Round 1, I wanted to share with you that we now have completed 15 homes throughout southeast Texas using -- through our Council of Government partners. We have an additional 389 units that are underway or in the process of being contracted for.

So those monies are obligated. And there is some wrap up that we will need to be doing to complete the remainder of the homes that we have these funds set aside for, but this is the light at the end of the tunnel for that \$40 million on the housing side of that Round 1 funding. We expect to see all of those houses built by the fall, but there is a lot of activity, construction activity that is ongoing now and that will continue throughout the summer and early fall as we wrap that up, again, with our COG partners.

Infrastructure funds are also continuing to go well. I know that there are ten out of 91 projects that have been

have been completed; most of the other infrastructure projects are well under way.

And so our objective to complete those infrastructure funds and have that first round of money fully expended by the fall -- we look like we are on target to having that completed. It may slip a couple of months, given the weather and other issues that are associated with just the intensive case work we are having to do with many of these families and the challenges of small communities, because the infrastructure projects are being built in very small rural towns for the most part.

And so we are working through those. But, again, that's good news, I think, in general, on Round 1.

At the time that the Round 1 funds are starting to diminish and the construction on those homes is completed, Round 2 of funds, the larger pot of \$428 million, has really ramped up. And just to give a quick overview of those activities, as you know, \$81 million has been set aside for multifamily rental rehabilitation.

All of those five project awards which this Board made are close to closing or -- and will -- should be closed really at the April -- the May, June and July time frame for almost all of them. So we are seeing those funds getting ready to move.



We are also working extensively -- we know that ORCA is making good progress on the movement of infrastructure funds to the folks who have been awarded those dollars. And I have asked Don Atwell, who represents ACS, to talk about the biggest pot of funds which is the \$210 million for the Housing Assistance Program and the \$12 million for the Sabine Pass Recovery Program.

And, Don, why don't you take just a few minutes to outline those, the positive steps that you have been taking?

MR. ATWELL: Sure.

Mr. Conine, Mr. Gerber and members of the Board, I am very happy to be here this morning. It has been a busy time since I last spoke to you. There has been a lot of activity on the project, and I am happy to report that the project is on schedule.

We currently have almost 4,900 applicants. I think last time we spoke, there was about 4,600. There has been 300 additional applicants that have come in.

The call center and the service centers are staffed now. We have people that can come in and either talk to somebody on the phone or talk to somebody in person in Jasper, Beaumont or Port Arthur. The policies are complete, related to how the program is

are complete, related to how the program is going to run.

The RFPs for the contractors, those companies that are actually going to be doing the homebuilding or home restoration, are complete. Those will be published next week, and the actual notice for the publishing will take place starting this weekend. So that's --

MR. GERBER: So in newspapers in Austin, San Antonio, Houston and Dallas, there will be advertisements for home builder and for those who can do rehabilitation work.

MR. ATWELL: That is correct.

We are now into the pilot part of the project. Sabine Pass Restoration Program is representing the pilot. That was a nice contained bucket of money, and a very active homeowner population. We had 66 original applicants. Out of the applications that were transferred from Round 1, we have spoken directly to almost 80 percent of those people. They have come in what we are calling Community Days.

A lot of the conversation has been about, How do we get people to go; how do we get them to a completed application. And we are doing that with a lot of personal interaction with people, setting up Community Days, either in the evenings or on the weekends, in Sabine Pass at the high school, and having people co

high school, and having people come in and meet with the service center folks and walk them through their application.

MS. HIROMS: Could you speak up a little bit? I am sorry. They can't hear you back there.

MR. ATWELL: Sure.

We have been very successful with those Community Days. We have had one on a Saturday, we had one last Tuesday night, and then there is another one scheduled for the day after tomorrow; there are two more scheduled later in this month, all focused on Sabine Pass.

One of the other things that we are really focusing on is the casework and the gap financing and title work. We have had a lot of meetings with faith-based organizations, with the legal aid societies and are trying to put together a team that can help people through the process.

Someone earlier mentioned the fact that proving title was difficult on another program. We know that that is going to be an issue here, as well. And so we are working with the legal aid folks, as well as the faith-based and local communities, to make certain that we have support for the homeowners as they move through this process so that they can prove title.

So, all in all, I would just like to report that the program is on schedule. We are excited about now actually interacting with homeowners, getting to talk to people face to face. As we are talking to people, they are very excited about the program moving forward as well.

MR. GERBER: And now we are looking forward to construction starting in Sabine Pass in?

MR. ATWELL: August 29, no later than.

MR. GERBER: All right.

And, of course, all the homes in Sabine Pass will have to be put up on the 14-foot stilts. And there are many disabled and elderly residents. So there are accessibility features and other things that are allowed with the Sabine Pass fund that we're going to fully utilize to their benefit.

Two weeks ago, Don and I went and visited in -- we went to the Southeast Texas Regional Planning Commission, as well as to the Deep East Texas Council of Governments, and held an elected officials meeting to update them on the progress that we are making on Round 2. They were well attended, with all of the relevant elected officials and stakeholders present. And it gave them a good understanding.

The issue continues to be you know, How soon are these

are these funds going to be out there. But I think they too see that the program is developed. It is sophisticated. They -- I think their concerns were addressed.

One of the biggest concerns were, We have very desperately poor people who don't have the ability to get into our storefronts, locations that are now open in Jasper and in Beaumont and in Port Arthur; what services do you have. And Don and their team have -- basically 20 percent of the applicants will have access to -- almost 800 or so mobile visits are built into this process.

So there is a large number of mobile van visits where people can be outreached to -- who can't make it into those centers. So that is important to make sure that we are hitting, again, those disabled and those seniors who may have mobility challenges.

It is also important to note that we had strong representation by the county judges because, as we work to address titling issues and other property issues, ownership affidavits and other types of things, we are really going to need their help. And we got near-unanimous commitment from them in that regard, and that was helpful in the partnership.

The last thing is, I think, that this Board has heard

heard from a number of folks like John Henneburger and from Robert Doggett, from the Legal Aid Society and from Joe Higgs, who represents the faith-based community. We have continued to do strong outreach. We have not always seen eye-to-eye, because running a program is different than sometimes what advocates and others are seeking.

And we've left the professional management of the program to Don and his team, but I think that they are better -- the policies are better informed and will have fewer glitches because of the active, robust discussions that are taking place. And I think I would characterize those relationships as strong, which are -- which I think bodes well for the success of the program, because we think we have captured those real concerns that people have expressed.

The last thing I wanted to share on this is that, related to both Round 1 and Round 2, HUD spent a week in our conference room. And I can tell you there is no greater thrill than having HUD there doing an monitoring visit.

(General laughter.)

MR. GERBER: But with the exception of concerns about the fact that we just have too many environmental assessments that we have to do on each of these properties and that the staff is

and that the staff is overworked and occasionally is missing checking some boxes -- although they were extremely complimentary of that staff, with the exception of that and with the exception the fact that HUD, despite our -- the state's intent to give Houston and Harris County full control over their \$60 million, because they are serving Katrina evacuees and we've -- you know, the Governor felt strongly to let those who have expertise -- the infrastructure is being done by ORCA -- Katrina evacuees' service and housing are being done by the City of Houston and Harris County.

HUD is very concerned and wants the state to have a monitoring role for the City of Houston and for Harris County. S we will have a finding, no doubt about that.

But with the exception of those two issues, we were determined to have great files, well documented, clear controls, excellent coverage of and oversight of the Councils of Government and their activities, you know, and that there were clear procedures in place that I think we can be proud of.

Jennifer Molinari, who is sitting next to Don, has been a leader of the Round 1 effort, and I think she has just done yeoman's work in making sure that we have the kind of clean audit

the kind of clean audit trail in this program that we have seen. It is auditable, it is understood, and it meets -- it's fully compliant. So that was a great comfort to all of us, having that kind of review.

We'll get the letter, we will send it to you in time for the next audit committee -- for the audit committee meeting at the June meeting. But we were pleased by that. And so the work continues.

MR. CONINE: Mr. Atwell, tell me a little bit about how the individual casework is going as you are going through the files, getting people prequalified, if you will, to have their homes reconstructed.

MR. ATWELL: It is interesting. Everybody has a different story. Some people pulled themselves up by their bootstraps and took their savings and did some work on their own home. And addressing -- how that fits into the program is one of the things we are addressing.

We're looking at people that haven't cleared title since their great-grandfather built the property 100 years ago. And working through the heirship affidavits is another thing that we are doing, both with the service center folks that work as part of the team and getting the legal aid groups involved, so that they are able to use their experience, having done this in the past in Texas, to make certain that it's running smoothly.



to make certain that it's running smoothly.

I think what I hear when I am talking to people at Community Days is that they appreciate the opportunity to be able to come in and sit down with somebody and then walk through the packet of papers that is required.

I think one of the things that is really important about this program is that when we are all done, we are going to be certain that everybody really was eligible; there is not going to be a need to ask for money back from anybody. And that requires fairly sophisticated application and a number of affidavits. So I am hearing that they appreciate the fact that they can actually sit down with people and walk through the process.

MR. CONINE: I just saw a news report on CNN not too long ago where, in Louisiana and Mississippi, that -- HUD is asking for some of the money back.

MR. GERBER: Well, in Louisiana --

In fact, would you mention that, the Resnick? Because we expressed concern about that report and mentioned the Resnick audit.

MR. ATWELL: Right. There is -- in Louisiana, there was -- I think they are asking back for up to \$175 million of what they had disbursed originally. In Mississippi, a program that is

Mississippi, a program that is run by Resnick Group, which is part of our team -- out of \$800 million that they disbursed, HUD found possibly \$20,000 that was unallowable. So we are really focused not having to ask for money back.

MR. CONINE: And, back to the individual files for just a minute, have you actually fully completed one file where it says this is going to fit into the box the way we want it to fit into the box, or are you still going through those processes? And if you have done one, how many have -- where are you at in that process?

MR. ATWELL: We actually have -- the first Community Development was two weeks ago. And so that was the first time to sit down and get sort of a completed application. Out of that, I know for certain that there is one person that is completely qualified.

MR. CONINE: Okay.

MR. ATWELL: So we have Number 1.

MR. CONINE: Great. That is good to hear. Okay. I know it is a long process, and I was just curious as to where you were in the time line.

Mr. Flores?

MR. FLORES: Mr. Chairman.

Mr. Atwell, on this request for quotation that you are

you are asking for, I've got two questions. Number 1 is, how big are the bid packages? How big are the bid packages? Are they for two houses, or two hundred? The second question is, who is doing the permitting work for all of this?

MR. ATWELL: The bid package -- is actually, the RFPs that are going out right now are to qualify the contractors. It is not saying, Mr. Contractor, we want you to build 15 homes. It is focusing on their capacity to build, you know, up to 500 homes.

MR. FLORES: Right. I understand. It is a prequalification process. What is the second step?

MR. ATWELL: The second step will be -- after someone is found eligible, there is going to be an inspector from my team that's going to go out and determine the cost to bring the home back up to code. And if that cost is less than \$40,000, then they'll -- that home will be rehabbed. If it is more than \$40,000 then it will be reconstructed.

Those packages -- after the inspections, there will be groups of homes packaged, probably in the 10- to 20-home range, that will go out to the contractors that have qualified, and they will bid on those. And so that allows us -- again, you know, we sort of are taking advantage of a competitive procurement in

advantage of a competitive procurement in qualifying the contractors up front, because they do have to say that they are going to come in at the pricing that the program allows.

Additionally, they are going to bid on those packages homes, and they know that that is going to be a competitive bid, well. So we are looking forward to that, again, focusing on the quality, and reducing the cost of those homes.

MR. FLORES: Okay. So then you have got a scheduling problem. How tight are you on their requirements on meeting certain time lines?

MR. ATWELL: There are liquidated damages associated with them not meeting their time line.

MR. FLORES: Damages?

MR. ATWELL: Yes, sir.

MR. CONINE: Liquidated.

MR. FLORES: Yes. I get the idea. That's okay.

MR. ATWELL: We are very focused on making certain that --

MR. FLORES: You get my attention when you put liquidated damages on my contract.

MR. ATWELL: Yes, sir.

MR. FLORES: And the permitting?

MR. ATWELL: On the permitting, that is going to be done through the normal permitting process for each of the municipalities that are responsible for the homes in the areas we are working with. And one of the things we are doing is going out and meeting with those permitting agencies now, so that they understand that there is going to be a lot of paperwork coming through their offices in the very near future.

MR. FLORES: But who files the application for a permit -- for a building permit in each?

MR. ATWELL: The contractors.

MR. FLORES: The contractor does?

MR. ATWELL: Yes, sir.

MR. FLORES: So he does the permitting, as well as the building, as well as liquidated damages, and so on.

MR. ATWELL: Yes, sir.

MR. FLORES: So you are staying pretty much pretty tight on that guy.

MR. ATWELL: We're trying.

MR. FLORES: I would be curious to find out what the response is when you get back. There is a bunch of out-of-work homebuilders in the Houston area that you are probably going to be getting in there, so -- but the package has to be big enough to

package has to be big enough to attract them to go there. Forty houses ought to be enough to attract them to get them to that part of the state.

MR. ATWELL: Yes, sir.

MR. FLORES: Great.

MR. GERBER: We have had some excellent discussions already with the Texas Association of Builders, and we believe that we have come up with a package that their larger builders will find attractive.

MR. FLORES: Good.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Don, thank you to you and Jennifer, both. We appreciate all your hard work to this point. Let's keep it going.

MR. ATWELL: Yes, sir.

MR. CONINE: We are going to take a five- to seven-minute break and be right back.

(Whereupon, a short recess was taken.)

MR. CONINE: We're back in session. I want to acknowledge the former executive director who's walking out the door now.

But, Edwina Carrington, thank you for being here. Good to see you. You fought the good fight.

Okay. Let's move on to Agenda Item Number 2, the Community Affairs Division.

MR. GERBER: The first item, Mr. Chairman, is the 2008 Emergency Shelter Grants and the funding recommendations.

MS. OEHLER: Mr. Chairman and Board members, Item 2(a) relates to the review and possible approval of staff's recommendation to award the 2008 ESGP funds to 77 applicants.

The Department received 5.2 million of ESGP funds from the U.S. Department of Housing and Urban Development. Eligible applicants include local government and private nonprofit organizations. The funds can be utilized for the rehabilitation conversion of buildings for use as emergency shelter for homeless for the payment of certain operating expenses and for essential services and for the homelessness prevention activities. The Department projects to serve over 84,000 homeless persons with these funds.

The ESGP request for proposals was released November 1, 2007. The Department received 120 applications for the Emergency Shelter Grants Program funding, with requests totaling over 10.2 million; of those applicants, 77 are recommended for funding.

Funding for the City of Denton is contingent upon the receipt of the House Bill 1196 form. The attached document details the 2008 Emergency Shelter Grants Program funding recommendations and lists the applicants recommended for funding by region and by rank within the region.

MR. GERBER: Mr. Chairman, I would just add that we all meet our mandated performance measure of 76. We exceeded by one, with 77. So it was good to meet our performance measures.

MR. CONINE: Okay.

Any questions?

MS. RAY: Do we have any public comment?

MR. CONINE: No public comment.

MR. FLORES: Mr. Chairman?

MR. CONINE: Yes.

MR. FLORES: How many applications did we get?

MS. OEHLER: 120.

MR. FLORES: 120 and 77? Okay. So you had a lot of papers to look at it, it looks like.

MS. OEHLER: Yes, sir.

MR. CONINE: Ms. Ray?

MS. RAY: Mr. Chairman, I move staff's recommendation.



MR. CARDENAS: Second.

MR. CONINE: We have got a motion, and a second from M  
Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, Item 3(a) is the presentati  
and possible approval of the final Project Access Program rules.

Brenda, do you want to talk about that?

MR. CONINE: Okay. Brenda?

MS. HULL: Good morning.

MR. GERBER: Brenda Hull is our manager of the Housing  
Resource Center.

MS. HULL: Mr. Chairman and Board members, Project  
Access is a program that utilizes Section 8 housing choice vouche  
from the U.S. Department of Housing and Urban Development to assi  
low income, non-elderly persons with disabilities in transitionin  
from institutions back into the community by providing access to

to affordable housing. The purpose of this rule, is to define the eligibility criteria that apply to the Project Access voucher recipients.

The Board received significant public comment at the January 31, 2008 meeting regarding the proposed Project Access rule. Following that Board meeting, staff convened several meetings with the disability advisory work group, and individual stakeholders. As a result of those discussions, staff recommended the draft rule that was approved by the Board on March 13 and released for public comment.

The Department received no additional comment during the public comment period for the draft rule, between March 28 and April 30. Staff recommends the approval of the final rule.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: Is there any additional public comment?

MR. CONINE: No, there is not.

MS. RAY: I am impressed.

MR. FLORES: Very. You did your homework.

MS. RAY: Very impressed. Given that there is no additional comment from the public and considering that that we

that we have in the past, I move staff's recommendation.

MR. CONINE: Motion on the floor. Do I hear a second?

MS. ESCAREÑO: Second.

MR. CONINE: There is a second by Ms. Bingham. Is there any further discussion?

(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.

Nice job, staff.

MS. RAY: Good job, staff.

MR. GERBER: Thank you.

The next item, Mr. Chairman, is Item 4, which is a possible issuance of an RFP for market analysis in Deaf Smith, Parmer and Castor counties.

Brenda, why don't you go ahead and talk about that one as well?

MS. HULL: Mr. Chairman and Board members, this RFP is similar to the RFP approved at the March 13 Board meeting for a market study for the McAllen and Brownsville area. And we are

area. And we are currently reviewing proposals related to that Valley RFP.

MR. FLORES: Would you ask them to please talk into the mic? For some reason, that mic is not --

MR. CONINE: Sure.

We are having a hard time hearing, Ms. Hull.

MS. RAY: Yes.

MS. HULL: The Department has been working with the stakeholders and the Center for Public Service at Texas Tech University in Lubbock to define the collaborative market analysis for three counties in the western panhandle of the State. In addition to analyzing the existing affordable housing supply and demand, the proposed RFP requests information on the housing needs of migrant farm workers.

The structure of the RFP is unique in the collaborative effort it represents with Texas Tech. As proposed in the RFP, the Department will fund the multifamily portion of the study and Texas Tech will provide the single-family portion of the analysis.

The market analyst selected through this proposed RFP will serve as consultant to Texas Tech, and will provide a professional review of the single-family market analysis. Staff recommends the approval of the request to publish the RFP and gra

request to publish the RFP and grant the Executive Director the authority to execute a contract with the successful respondent.

MR. CONINE: Okay.

Any discussion?

(No response.)

MR. CONINE: Dr. Muñoz, would you like to make a motion on a Texas Tech deal?

DR. MUÑOZ: Yes. So moved.

MR. CONINE: There you go.

MR. HAMBY: He wouldn't. He was about to abstain, as matter of fact.

MR. CONINE: Oh. He has got to abstain?

MR. HAMBY: Yes.

DR. MUÑOZ: I beg your pardon.

MR. CONINE: Come on, man.

(General laughter.)

DR. MUÑOZ: I beg your pardon. I have to, apparently, abstain.

MS. RAY: Mr. Chairman?

MR. CONINE: You should have gotten another cup of coffee.

MS. RAY: As my seatmate over here -- I will to move on your behalf.

MR. CONINE: Very well.

Motion on the floor. Do I hear a second?

MS. ESCAREÑO: Second.

MR. CONINE: 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: Motion carries.

MR. GERBER: Madam Chair and Board members -- Mr. Chair and Board members, Item 4(b). Bad habits.

MR. CONINE: We've got a long memory.

(General laughter.)

MR. GERBER: This talks about the development of our 2010-2011 LAR, Legislative Appropriations Request, and our 2009-2013 Strategic Plan. Every biennium, each agency is required to develop and submit to the Governor's Office of Budget, Policy and Planning and the Legislative Budget Board a strategic plan, as well as our legislative appropriations request.

The strategic plan will outline the framework for the LAR, which is in turn used by the Legislative Budget Board and the Senate Committee on Finance and the House Appropriations Committee

House Appropriations Committee, to determine appropriate funding levels for our Agency and all state agencies. The end product, obviously, is a successful result in the General Appropriations Act that is passed, usually at the very end of the legislative session.

We are in the process of developing our strategic plan and our LAR; Brenda Hull and all of our directors and managers are taking the lead in that. We will be bringing to you much substantive information about that, including proposed exceptional items that we might wish to bring forward in that legislative appropriations request, to the Board starting at the June meeting. So just -- so you can anticipate that coming.

Also, we have received word from the Legislative Budget Board and the Governor's Office of Budget, Policy and Planning that they want us to submit a budget that will hold steady at 100-percent funding of what we received for this biennium. But, also they want us to submit a supplementary budget of what we would do with a 10-percent cut.

And so, obviously, eyes are on the potentially a tight budget period coming up. So we will be talking to you all about what we can -- what we would propose to be appropriate cuts with that 10-percent recommendation.

But, just more or less to just give you the heads up, budget discussions are coming, and we will need your approval on those budgets at that July 30. So it runs at the same time as a tax credit cycle and sometimes gets overlooked, but this is really an important part of your role as Board members to give us feedback about how you might want to see priorities shifted or things changed.

I can tell you that two items that are of interest to staff that we are thinking about are -- expansion of the Housing Trust Fund, which has been high priority of the affordable housing community and with many legislators. So we will be talking about -- we did get an additional \$5 million last session -- what we would do if we continued to see that additional funds in the Housing Trust Fund.

That is likely to be one exceptional item. Another would be certainly a focus on our compliance program.

We want to, despite the -- given certainly the -- take seriously the concerns that were raised in today's public comment but, also, just understanding that we have a limited staff, but, also that each year we add about 45 new multifamily developments our portfolio and we haven't really expanded. It has been the sa



we haven't really expanded. It has been the same 15 people over many years.

So there is a need to add some additional capacity there, as well. So we will be looking to talk to you all about that over the next two or three Board meetings.

Brenda, anything you would like to add in that?

MS. HULL: The Strategic Plan Steering Committee.

Under the leadership of Mike Gerber, staff has convened a Strategic Planning Steering Committee made up of senior members of the staff, and the purpose of this committee is to provide oversight and general review of all these planning documents. And we have taken an active role in looking at the LAR strategic plan and we will continue to do so.

MR. CONINE: Mr. Gerber, because our budget has a lot of subparts to it --

MR. GERBER: Yes, sir.

MR. CONINE: What if you have -- if you are instructed to put together a budget with a 10-percent cut in it, well, how big is that number, just for the rest of us, so the rest of the Board members would get an idea of what size we are talking about?

MR. GERBER: It would be 10 percent of general revenue. We get about \$17 million. The Department's budget is about --

Brenda, isn't it 17-?

About 17-. So you take 10 percent of that.

MR. CONINE: A million-seven?

MR. GERBER: A million-seven.

MR. CONINE: Okay, just so everyone here has a framework of understanding.

MR. GERBER: Now, you will be interested to note that we did propose -- we were required to submit a cut last time -- a budget that had a proposed reduction in it last time. LBB thought we had actually cut it too close. And our very conservative Deputy Executive Director for Agency Administration, Bill Dally, who is not here today because he is testifying in Washington, felt that could comfortably absorb that cut. LBB thought we had given ourselves too much of a haircut, and so put back actually 4 percent.

So we only wound up ultimately -- and ultimately, we got everything back, because it was a more strong budget year, as certified by the Comptroller. So we will submit, and we will sort of see where the state's economy is taking us. Thus far, the revenue is holding strong, we hope.

strong, we hope.

MR. CONINE: Any questions?

Yes, Ms. Ray.

MS. RAY: Just a question for Mr. Gerber.

We were talking about you had been instructed to take 10-percent -- submit a budget considering a 10-percent cut. But what you articulated was an increase in two different areas.

MR. GERBER: Those are --

MS. RAY: And that was -- how did the instructions really go?

MR. GERBER: Those are what are known as exceptional items. And they -- the rules of the game are that you cannot include in your budget -- anything that is an addition you need to submit as exceptional items. And those are things that agencies might wish to fill -- might believe are -- would add to their programs and enable them to get their missions accomplished.

So anything that goes beyond the 100-percent baseline that we are operating from now would have to be an exceptional item. It is appropriate to -- those are two areas where, in this Strategic Planning Steering Committee, we as management team have identified areas of need for funding.

The Housing Trust Fund hits those lowest income Texans. And if we can provide additional subsidy to more -- if we can provide additional subsidy to hit those lowest income Texans to make some of these more challenging deals doable, that might be one area that would be appropriate for expansion of -- it is for additional use of general revenue.

In addition, there seems to be a lot of interest in compliance and monitoring. That was something that the legislature was very committed to last session when they gave this Board the authority to impose the -- up to \$1,000 penalties. So, obviously having adequate staff to manage that program seemed like an appropriate area.

But -- this won't be here for dramatic expansions of programs, but we will, you know, have a couple of items that will seek to -- you know, try to address some of the things that the Board has struggled with a lack of money for or has sought to try to do and make some reasonable improvement in those areas.

MS. RAY: Good point. Thank you, Mr. Gerber.

MR. GERBER: Yes, ma'am.

MR. CONINE: Any other questions?

MR. GERBER: And, Mr. Chairman, if I could just add, i

add, if there are thoughts and ideas that Board members have, we would certainly welcome your thoughts as well. We are also working on -- the last thing I'll mention is performance measures and trying to make sure that those line up with the real operations of our Department.

For example, in the last two years, the HOME Division has changed. Where technical assistance had previously been provided by Portfolio Management and Compliance, that is now fully underneath the HOME Division, where they award the grants. And they give the technical assistance to make sure that those people can be successful.

That hasn't been reflected in our bill pattern in the past, and we want to make sure that those things are unified to reflect the actual -- how we conduct our business. So we are working pretty hard on that part of it, as well.

MR. CONINE: Okay. Thank you very much, Brenda. We look forward.

Tom, I don't have to thank you at all.

(General laughter.)

MS. RAY: You're always great, Tom.

MR. CONINE: You are in enough trouble as it is.

Moving on to Item 5, the HOME Division item, Mr. Gerber

MR. GERBER: Mr. Chairman, I am going to let Jeannie Arellano, our Director of the HOME Division, walk us through a number of items and awards.

MS. ARELLANO: Mr. Chairman and Board members, on December -- oh. Agenda item 5(a), presentation, discussion and possible action for HOME Division appeals.

On December 13, 2007, an application was submitted to the Department for Creek View Apartments in response to the HOME Rental Housing Development program notice of funding availability. The applicant, however, did not include sufficient leveraging to meet the 10 percent threshold requirement. Section 8(e)(iv) of the NOFA emphasizes the involvement of other public agencies and private entities in providing funding for affordable housing.

This application included a funding request of \$250,000 from the Housing Trust Fund from the Department, which the applicant expected to use as part of its leveraging. A termination letter from the Department was sent on April 24, 2008, informing the applicant that this threshold requirement had not been met.

On April 28, the Department received a request to appeal

to appeal the termination decision and a requested presentation of the appeal at today's Board meeting. On April 30, the Executive Director denied the appeal request, based on the applicant's request to seek a waiver of a Board-approved requirement that provides no authority for such a waiver to be approved by the Executive Director.

It is also worth noting that the applicant requested deferred developer fee as part of the leveraging. In a HOME-only transaction, this has not been allowed historically. The Executive Director denied the original appeal, and staff is recommending that the Board also deny the appeal. This was also the project that I mentioned earlier today.

MR. CONINE: Could -- before we get into the public comment on this, Jeannie, could you articulate actual requirement for the leveraging and what it actually says, either statute wise or in our rule?

MS. ARELLANO: The requirement is not in the statute. It is something -- it is a requirement that we had been directed the Board to include in NOFAs -- in the previous NOFAs for rental housing development for the HOME program. So the only requirement is that it is in the NOFA. And it is for leveraging, to get local funds.

MR. CONINE: But it says -- okay. Describe who it can come from, I guess, per the rules.

MS. ARELLANO: Other -- it states that involvement of other public agencies and private entities in providing funding for affordable housing.

MR. CONINE: Okay. All right.

Any other questions of staff before we go to the public comment?

(No response.)

MR. CONINE: Jeff Spicer and Mark Mayfield are the two that I have got. Whoever wants to, go first.

MR. MAYFIELD: Good morning.

MR. CONINE: Good morning.

MR. MAYFIELD: Board members, I appreciate the opportunity to be before you again. I hope I am not wearing my welcome out.

We have been working with this deal in Johnson City for several years, and it has been very difficult. It is a rural housing development. It has been a very difficult process. And started as a private activity bond deal, coupled with another community in Llano. And just due to market situations and other things that we have been experiencing, we were unsuccessful in the attempt.



Then we went through working with the 538 loan that we spoke of earlier this morning. And because of the parity issue, we were unable to make that deal happen. And now we have scaled it down to only 24 units in the City of Johnson City using the HOME funding, and a combination of that in the Housing Trust Fund and all.

But there was a 10 percent issue and a little bit of a difference or a misunderstanding I guess, of the other public places where the 10 percent could come from. We were under the impression that that would be a part of the Housing Trust Fund, that that money would work with that.

As a public housing authority, which we are, it is very difficult sometimes to meet that, some of those financial requirements, and especially in rural communities. It is just a difficult proposition for a public housing authority trying to work as a developer. But we are committed to rural Texas; we have been trying to develop housing in rural Texas for quite awhile, had some successes and have a whole lot of bruises.

But our request today is to have our application reinstated and be able to move forward to try to -- I guess, which is really going to be a last-ditch effort, to try to salvage anything at all in Johnson City. With me is Jeff Spicer, who has

With me is Jeff Spicer, who has been our consultant and advisor through this.

And, Jeff, do you have any comments?

MR. SPICER: Sure.

Yes. I just want to speak briefly to the difficulties of doing rural deals in Texas. We have some tools out there; unfortunately, they are all not working for us, as Jeff Crozier mentioned earlier today. Unfortunately -- that is not necessarily through any fault of the staff or the Board. We just have tools that don't quite work together well.

And what we are here requesting today is a waiver of one of the rules that we found that isn't allowing us really to put housing where we need housing. We have gone down the route of trying to find -- do a combined scattered site, a rural bond deal which everyone said couldn't be done. And we found out the hard way that it couldn't be done.

But we are trying to look at alternate avenues other than simply the 9 percent credit. Nine percent credits in general will get one deal per region in areas where there is no other tax credit housing. Some cities sometimes need more than just one. you have a deal that is 15 years old or 14 years old -- sometimes you need new housing. That is where we are at today, and we just

new housing. That is where we are at today, and we just don't have the tools right now.

The housing authorities don't have the capital to come up with 10 percent. Each individual city doesn't have the ability to come up with 10 percent. We have gone to the city. The city is going to pave a road for us. We have gone -- but they don't have enough money to come up and say, Hey, we are going to invest in your deal.

Because, really, when you get down to it and you put all these funds in, there is not a lot left for any return on these deals. We are really not looking for investment here. This is a housing authority. We are looking to provide housing that the city needs, and that is why we are here asking today for the waiver.

MR. CONINE: Okay.

Any questions of the witness?

MR. CARDENAS: Yes, Mr. Chair.

MR. CONINE: Mr. Cardenas?

MR. CARDENAS: I have got a question for either Mr. Gerber or for Jeannie.

Have we ever come across anything like this before in a rural area that -- similar to what they are facing?

MS. ARELLANO: We have had a transaction before the

the Board previously that ran into the same issue. That --

MR. GOURIS: If I could?

Excuse me.

Tom Gouris, Acting Deputy --

MR. CONINE: What are you?

MR. GOURIS: Just a couple of things. We have a transaction that we are going to see this afternoon or a little later here, in Floresville, that had the same issue. It had a leveraging issue, and they have been able to -- and they had some other issues. And they have been able to come back again and finish the leveraging to make their deal successful.

It is very difficult. I mean I applaud these guys for making the effort and for trying. It is very difficult to get local funds, that kind of local funds. But a 10 percent requirement or some requirement for that local contribution, I think, is -- you know, has been the Board's desire. And I think provides a strong case for that local involvement, that local contribution, that local effort, to marry up and partner with our state funds.

MR. CONINE: Thank you.

Mr. Muñoz?

DR. MUÑOZ: Well, let me follow up on your modifier of Some requirement. So if it is not 10 percent, what could it be? And could it -- and then would that be something that could be secured?

MR. GOURIS: You know, that is a good question. I don't know that there is a magic formula for that, that we could say what that would be. I know that they have a commitment from the mayor of the city. The commitment needs a little work, but there's -- they committed to pave the road. We need a little work on exactly how much that is going to cost and making sure that the mayor recognizes that and the city council recognizes that.

MR. CARDENAS: All right, because -- here is my point -- a representative of rural Texas. If this 10 percent is increasingly or continuously prohibitive for developments in rural communities, that to me is a problem.

That is an issue we are going to have to address, and it is on a case by case basis, so be it. And if it is not 10 percent, then maybe, you know, 7.5 percent or something thereof, but I think we should provide some opportunity for these proposals that are facing increasingly, you know, the crisis issue and then developing in these rural communities.

I know towns like where I live, at Hereford, Tahoka, L Mesa, to try and get anybody out there to build is virtually impossible. It just -- there is all kinds of complications. And so I am not sure what the magic number is, but --

MR. GOURIS: And if I would, if I might, I mean the --

DR. MUÑOZ: Your comments to me suggest some ray of hope, when you say there is some number perhaps.

MR. GOURIS: Well, I think that it is a partnership. And I think that, you know, there -- I know, in the other transaction I mentioned, they have gone back. They have found so other resources locally to be able to help their transaction to move forward.

I also know that we are trying to expand the rules so that we can recognize existing USDA funding and make sure that th is clear, because I think we have been doing it, but it wasn't clear in the NOFA. So we are trying to expand what can be considered as part of that leverage so that we can reach out as f as we can and still make sure that there is some local commitment to the transaction.

MR. CONINE: All right.

MS. ESCAREÑO: Mr. Chair?

MR. CONINE: Yes, Ms. Bingham.

MS. ESCAREÑO: Tom or Jeannie, can you just explain? What is the spirit of that rule? What is the purpose of the 10-percent leverage?

MR. GOURIS: Well, again, it is to allow our funds to further by -- and have a local partnership or local support for a transaction that is monetary. In this case, it would be about \$300,000 on -- where we would be booting in about \$3 million.

MS. ESCAREÑO: All right. So the road -- I mean there is kind of an in-kind local participation. Right?

MR. GOURIS: It is estimated to be about 50- or MS.

ARELLANO: \$35,000.

MR. GOURIS: \$35,000. I'm sorry.

MS. ESCAREÑO: Yes. Okay.

MR. CONINE: Mr. Gouris, I am having a little bit of difficulty with the word you are using, called, "Local," because, in the write-up that I have got and the quote from the rules, I don't see the word, Local.

MR. GOURIS: Yes. And you are right. I am using that word. I think we'll allow any kind of other support, other participation in the transaction. I think that old intent was that it would be some local source, but -- you know, a local bank or

but -- you know, a local bank or what have you. But really and truly, it could be from another entity.

The NOFA itself reflected an "other" entity, not the State of Texas, not the Department's funds. And that is where the hangup is.

MS. RAY: Mr. Chairman?

MR. SPICER: I think the wording was, Other agencies. Is that correct?

MR. GOURIS: Other public agencies.

MR. SPICER: Other public agency. And so, therefore, that was the reason the Housing Trust Funds -- even though we applied for \$250,000 in Housing Trust Funds, we can't use that toward the 10 percent, based on this, "Other," agency wording.

MR. GOURIS: And from a practical standpoint, it would be -- I mean, if we were moving forward with this but allowed the Trust Fund to be the other source of funds, it would be a little less efficient than having it be sole-sourced from HOME. There is not a federal requirement to be sole-sourced from HOME. It would be a simpler transaction to be sole-sourced from HOME. So if you were going that direction, having it come out of Housing Trust Funds in order to, you know, meet that leveraging, actually makes the transaction a little bit more complicated than it needs to be, a



more complicated than it needs to be, a different set of rules and what have you.

MR. CONINE: Well, this transaction has been complicated for several years.

MR. GOURIS: Yes.

MS. RAY: Yes. It is.

MR. CONINE: And I don't necessarily want to open the floodgate to matching up HOME funds and the Housing Trust Fund; I think that needs some policy thought processes that we need to shake out. However, I am sympathetic to the numerous tries that these folks have tried to take care of the folks in Johnson City.

And so I guess what they are asking us to do when it says, "Other public agencies and/or private entities" -- you know the deferred developer fee, to me, is an and/or private entity, because any time you see the source in use and it shows deferred developer fee, that is a source. Granted, it may go back later on -- it would be the equivalent in my mind of getting a cash flow grant from the City of Johnson City, because, as you have cash flow, it would be paid back.

So we can argue about this philosophical issue later on. I am just setting the developers' fee thing aside for me. It's I am okay with that. But using 250- out of the Housing Trust Fund

250- out of the Housing Trust Fund on this particular project see to be an attractive alternative for me, subject to us then working out some of this policy issue on this language where we want the leveraging and we want it to be local. We -- if we want it to be local, we need to say it, is my issue with it.

Any other concept? Any other?

MR. FLORES: Have we done that before -- what you are suggesting -- with the Housing Trust Fund? I don't remember. That is why I am asking.

MR. CONINE: I am having a hard time -- and I have been around too long.

MR. FLORES: Well, what I was going to ask the developer was if there is any possibility of taking one month and seeing if they can squeeze anything, in-kind, out of kind, of any kind, from any of the local groups in Johnson City and see if our folks can come up with some kind of mix so that we could take a dollar from here, a dollar from there, and make all this work.

Is that a possibility? Is that a probability? I know it is a possibility, but is it a probability?

MR. MAYFIELD: I would hate -- I would not say that it is a not a possibility, because all things, I guess, are possible. But it would be very difficult. And it's -- it would be very

it's -- it would be very difficult for me at this stage, too. I believe the City has almost given up on me. This has just been a tough deal. It has been a tough deal.

Some of you are new to the Board. But those that are not that have been a part of this process -- I applaud the staff and their patience with this and their help with this as we have gone through this. But -- it has just been a tough deal. But to go in at this point and to try to do it would be a very tough sell, yes, sir.

MR. FLORES: And so all I can see is that road as actually the only local contribution that we can say. And that is a long way away from \$300,000.

MR. MAYFIELD: And it is also -- just keep in mind that we are a public housing authority. And it is difficult for us, under the restrictions and things that we work under, to be able to have the flexibility to just go out and so some of the things that -- we have got restrictions.

And so, you know, frankly, if we -- if it wasn't a public housing authority doing this, there wouldn't be any housing whatsoever. It is only because of the fact that we are the public housing authority that there is even the possibility that the housing could come at all. But to answer your question, it would be difficult at this late hour to try to round up more money.

difficult at this late hour to try to round up more money.

MR. FLORES: It sounds like we have to take care of it today. That's what I am hearing.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes.

MR. SPICER: Yes. In part, we have gone from a 64-unit deal down to a 48 --

MS. RAY: I know, yes.

MR. SPICER: -- down to a 28 now, just to try and salvage what is left of -- you know.

MS. RAY: Yes.

MR. FLORES: There is no doors left. That's what you are talking about.

MR. SPICER: There is no doors left, you know, to --

MR. CONINE: Ms. Ray.

MS. RAY: One comment and one request. My comment that -- I heard from Jeannie that this is not a statutory rule. And, Number 2, I would like to hear from our counsel.

MR. CONINE: Well, he has stepped to the table.

MS. RAY: I want to hear what he has got to say.

MR. CONINE: Mr. Hamby?

MR. HAMBY: Kevin Hamby, General Counsel.

Mr. Conine, the concern I would have with the -- reading the Housing Trust Fund as meeting the test for other agency or private entity funds is several of our statutes do require that we have additional private or public sources. Even if this is not statutory, many of our other statutes do make that.

And my preference if the Board is so inclined would be to waive the 10 percent requirement altogether, as opposed -- and let it be 100 percent funded out of the HOME funds, as opposed to straining the interpretation that we have that may impact other statutory issues that we have, also.

MS. RAY: A very good point, Counsel.

Mr. Chairman, I just --

MR. CONINE: Just a second. I am thinking about what Counselor just said for just a minute.

MS. RAY: I like that on this case.

MR. CONINE: Okay. I think I know where I want to go. Go ahead, Madam Ray.

MS. RAY: Mr. Chairman, I move that in this particular singular instance, we waive the 10 percent requirement for local contribution.

DR. MUÑOZ: Second.

MR. CONINE: There's a second for that.

Could I ask the maker of the motion? Would they accept a friendly amendment, hopefully, that would still require both the City of Johnson City and the deferred developer fee contribution, but then waive the balance of what is left, coming out of the Housing Trust Fund, essentially substitute the Housing Trust Fund contribution with HOME funds?

MS. RAY: I will accept the friendly amendment to my motion.

MR. CONINE: Okay.

MR. FLORES: I just want to make the point that I am going to vote against this, because I can just see the hallway getting full of the same situation over and over again, because I don't remember us waiving this before. And I am going to vote against it on that basis.

I think I am going to lose, but that doesn't matter. I just see a stream of folks lining out the door now, because now we are going to waive this. I hate to do this to these folks here, because I know that they have certainly tried hard enough.

MS. RAY: Mr. Chairman, I would like to speak in favor of the motion.

MR. CONINE: Okay.

MS. RAY: Considering the difficulty that we have had with this particular deal and -- but, most importantly, the difficulty in developing affordable housing in rural communities our rural communities are growing -- there is a need for affordable housing. I am a strong proponent of affordable housing in metropolitan as well as rural communities. And for that reason, strongly support the motion as it now stands.

MR. CONINE: Well, let's -- we are going to vote on the amendment and then vote on the amended motion, if that is the way it goes, just so the Board will know.

Dr. Muñoz?

DR. MUÑOZ: Yes. I just want to amplify what Gloria said. I just -- you know, when you hear these figures, that a house hasn't been built in ten years, 15 years, 13 years, I mean, that is just, to me, shocking. And we have got to think about wa to be -- while statutorily consistent, we can't be so intransigent and inflexible that we give no opportunities in particular to the kinds of projects in these rural communities.

So I mean, I appreciate what Mr. Flores is suggesting; think it will create a precedent that people will attempt to exploit, and we just have to be conscientious of that. But we al can't allow that to prevent us from giving opportunities for theses

prevent us from giving opportunities for these kinds of projects rural communities that have, in some cases, for decades not seen these kinds of development projects.

MR. CONINE: Okay. Unless there is further discussion let's vote on the amendment.

(Pause.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

MR. FLORES: Aye.

MR. CONINE: Motion carries on the amendment. Now let go to the amended motion.

Is there any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: Opposed?

MR. FLORES: No.

MR. CONINE: Motion carries.

MR. FLORES: Mr. Chairman, when is the appropriate time for us to review this rule again? This will be back next spring, believe. Isn't that --



MR. CONINE: Staff?

MR. HAMBY: Well, actually, I believe part of the -- a that is one of the clarifications that I was going to make as Board secretary. I believe the Board instructed staff to come back with some sort of motion or some sort of policy directive on this issue. This is actually not a rule. Again, it is a Board direction.

MS. RAY: Right.

MR. HAMBY: And so we can come back with that discussion.

MS. ARELLANO: The amended NOFAs are actually on the agenda today, where staff is making some suggested changes to the NOFAs. And that could be an opportunity to provide some of this direction.

MR. FLORES: Where are we in the agenda on that, Jeannie, for that particular item?

MS. ARELLANO: I believe it is 5(f).

MR. FLORES: 5(f)? Thank you.

MR. HAMBY: And you can also, although we don't recommend it, delay them to get further policy discussion if you have that desire.

MR. FLORES: Thank you.

DR. MUÑOZ: Mr. Chair -- and I am not sure if this is previous sort of iterations of this proposal, but if there is other

but if there is other documentation to try and -- to further support the development, vis-a-vis the City of Johnson City, for the file, I mean I think that also attests to the spirit of cooperation. Letters of endorsement from the city council, the mayor, and what have you, to me, also speaks of that issue, of mutual sort of investment in the project.

MR. SPICER: Well, I sincerely appreciate this. I really, really do. Thank you very much.

MR. CONINE: Good luck.

MR. SPICER: Thank you.

MR. CONINE: Okay, Item 5(b).

MS. ARELLANO: I just wanted to remind the Board that this award recommendation for this project, if it is recommended, will be coming before the Board in the coming months.

MR. CONINE: Right.

MS. ARELLANO: Okay.

MR. CONINE: Just got it back on the track, is all we did.

MS. ARELLANO: Item 5(b) is a presentation of the April 14, HOME fund balance report. This item will provide a status of all current HOME funds, and many of the remaining items today will refer back to this item. You last saw this report in January, wh

You last saw this report in January, when you took action to postpone any programming on available funds awaiting subscription rates to our current open NOFAs.

Since January, the report has been further revised to provide additional internal monthly accounting and tracking of HO funds. The report now includes a monthly reconciliation of the available balances in IDIS to our internal contract system and includes uncommitted funds, deobligated funds and program income.

The report separates this available balance into two categories of funds: Community Housing Development Organizations referred to as CHDO, funds, and; also, non-CHDO funds. As you will note, CHDO funds are presented first and set aside as a federal minimum mandate. And staff attempts to ensure an over commitment of CHDO funds and a pipeline of committed awards.

The CHDO and non-CHDO categories are further segmented into federal and programmatic set-asides and open Notices of Funding Availability, NOFAs. Additionally, please note a column reflects the obligated funds that are reserved to be used for reprogramming into specific set-asides, namely CHDO, which is required by HUD, disaster, persons with disabilities, the American Dream Downpayment Initiative, known as ADDI, and contract for deed

for deed of conversion.

Finally, the fund balance report provides a grand total of HOME funds available for programming after mandated set-asides, Board-approved awards, and open NOFAs have been reserved. The current report reflects a total of \$18,180,750 in funds available for programming at this time; this amount includes approximately \$1 million in deobligated funds since September of 2007 and approximately 5 million in declined 2007 awards, as detailed in the second footnote.

The Department has received its funding agreement for the 2008 HOME allocation of \$40,043,225, but the funds are not reflected on the report yet since the allocation was not available in the IDIS at the time of the report. Also included with this item is a brief status of the various activities listed on the fund balance report.

Lastly, the Program Year 2008 HOME allocation is presented with the actual funding agreement amount and reflects the balances available for the various programs and set-asides, in accordance with the Department's previously approved One-Year Action Plan. And some of those proposed 2008 NOFAs are being presented today for Board action.

MR. CONINE: Thank you.

Any questions on the report? No action required.

(No response.)

MR. CONINE: We'll move on to 5(c).

MS. ARELLANO: Mr. Chairman and Board members, on April 13, 2007, Baylor County experienced severe storms and tornados which devastated certain areas of the county. And on June 16, 2007, Liberty County, including the cities of Cleveland and Ames, also experienced severe storms, tornados and flooding.

The Department's HOME program rule makes HOME deobligated funds available no sooner than 90 days after the date of the federal declaration date. The Department notified county officials of the Department's HOME program and offered technical assistance for completing and submitting an application.

Applications for disaster relief are accepted within six months after the first day assistance is made available. The Department has received four applications, totaling \$2 million in requests, for disaster relief from Baylor County, Liberty County, the City of Cleveland, and the City of Ames. The applicants have been reviewed for eligibility.

And these applications are being recommended for funding under the 2008 HOME program rule, and the awards are in accordance with the Department's rule on deobligated funds adopted by the Board on April 12, 2007. Staff recommends approval of these disaster relief award recommendations, for a total of \$2,080,000 investment in the rehabilitation of 27 homes affected by disaster.

MR. CONINE: I have a public witness affirmation form, only if there are questions. So any questions so far?

(No response.)

MR. CONINE: Do I hear a motion?

MR. FLORES: So moved. Move to approve.

MS. RAY: Second.

MR. CONINE: A motion to approve, with a second coming from Ms. Ray. Mr. Flores, and Ms. Ray. Any other 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.

MS. ARELLANO: Item 5(d)?

MR. CONINE: 5(d). I am sorry. Go ahead.

MS. ARELLANO: These are our Tenant-Based Rental Assistance award recommendations. On December 20, 2007, the Board approved a Tenant-Based Rental Assistance program, known as TBRA, NOFA, which made available approximately \$3 million of deobligated and uncommitted HOME funds.

The TBRA program provides eligible households rental subsidies, including security and utility deposits, to tenants -- for up to 24 months -- and earning 80 percent or less of their area median family income. Tenants must also participate in a self-sufficiency program, and the rental unit must be their primary residence.

To date, a total of six applications have been received for funding requests, totaling slightly over \$1 million in project funds and \$40,000 in administrative funds. The applicants have been reviewed for eligibility, and staff recommends the approval of the HOME TBRA program award recommendations, totaling \$1,068,509 in project and administrative funds, for the rental assistance provided to 109 households.

If the above recommendation is approved, a balance of

balance of \$1,972,588 will remain available under the NOFA. And applications will be accepted through the deadline of May 28, 200

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I move staff's recommendation.

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

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

5(e).

MS. ARELLANO: These are Homebuyer Assistance award recommendations. On December 20, the Board approved a Homebuyer Assistance program, known as HBA, NOFA, which made available approximately \$6 million of deobligated and uncommitted HOME and American Dream Downpayment Initiative funds. The funds were made



funds. The funds were made available, subject to the Regional Allocation Formula, until March 3, 2008.

The integrity of the Regional Allocation Formula was maintained through the award recommendation process, ensuring that funds were made available first in the regions and area types. In cases where a region was oversubscribed, funds from undersubscribed regions were utilized to fully fund the eligible applicants in the oversubscribed regions.

On March 4, 2008, any funds not awarded were made available statewide. The HBA program provides assistance to first time homebuyers earning 80 percent or less of their area median family income, as defined by HUD, for downpayment, and closing cost assistance.

On March 3, 2008, a total of 14 applications had been received for funding requests, totaling over 3 million, and were processed subject to the RAF. One application totaling \$200,000 was received after March 3, 2008 and is also being recommended for funding, since funds were available on a statewide basis at that time.

The applications have been reviewed for eligibility. And staff recommends approval of the homebuyer program award recommendations, totaling \$3,531,925 in project and administrative funds, which are proposed to provide assistance to 363 units.

proposed to provide assistance to 363 units.

MS. RAY: Mr. Chairman?

MR. CONINE: Madam Ray.

MS. RAY: I move the staff recommendation.

MR. CONINE: Motion --

MS. ESCAREÑO: Second.

MR. CONINE: Motion to approve, seconded by Ms. Bingha

Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

5(f).

MS. ARELLANO: On July 2007, the Board approved the HO  
Rental Housing Development Notice of Funding Availability, which  
made available \$15 million to be utilized for qualified applicant  
to develop affordable rental housing. The NOFA allows applicants  
to apply for funding on a statewide, first-come-first-served basi  
and the application deadline is June 2, 2008.

To date, the Department has received 34 applications f

applications for funding requests totaling over \$31.6 million. Thirty of the applications received include a Housing Tax Credit allocation request and are continuing to be reviewed for possible award recommendations in conjunction with the tax credit awards at the July 31, Board meeting.

Three of the applications have requested only HOME funds and have completed all three phases of the application and review process, in accordance with the HOME program rule and the eligibility and threshold criteria established in the NOFA. The applications have been reviewed for eligibility, and have been underwritten by the Real Estate Analysis Division.

And of the three applications, only Buena Vida is being recommended for an award, and subject to conditions in the underwriting reports. Based on information that we received recently, there are -- we request time to reevaluate the information that we have received from USDA regarding the two remaining applications that are being reflected as not being recommended in the write-up.

And staff recommends approval of the Rental Housing Development program award recommendation in the total amount of \$1,118,980 for investment in 58 units of affordable housing for

affordable housing for Buena Vida.

MR. GERBER: And we expect to bring the other two back in June, provided that the underwriting standards are met. But it is nice that USDA has cleared that hurdle.

MR. CONINE: Okay. I have got a couple of or, actually three witness affirmation forms on this item.

Murray Calhoun?

MR. CALHOUN: Yes, sir.

MR. CONINE: You are welcome to come up and speak to the Board if you would like or if there are just questions.

MR. CALHOUN: I believe I spoke with Mike about this, and I'd just like to confirm that. I don't really need to add anything.

MR. CONINE: You are good?

MR. CALHOUN: Thank you, sir.

MR. CONINE: Jason Rabelais.

MR. RABELAIS: Rabelais.

MR. CONINE: Rabelais. Excuse me.

Mike Harms?

MR. HARMS: No. I'm on the next item.

MR. CONINE: You are? Okay. I'm sorry. Your G looks like an F.

Okay. That is all the witness affirmation forms I have on this item. Any further discussion?

MS. RAY: I guess the only discussion I would have on this item -- and I didn't hear it in the narrative or the articulation. We were talking about the previous item that we approved for the Johnson City project.

MR. CONINE: Uh-huh.

MS. RAY: There was a comment that said there would be language in 5(f) that would deal with that issue. I need to understand where that is.

MS. ARELLANO: It is not in this one. I apologize. It is in Item (h), (j) and (k).

MR. GERBER: It is the amended NOFAs.

MS. RAY: Okay. Thank you. That is the only concern that I have.

Then, given that clarification, Mr. Chairman, I move to staff recommendation.

MR. CONINE: Motion to approve staff recommendation. there a second?

MR. FLORES: Second.

MR. CONINE: There is one from Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify b

signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

5(g).

MS. ARELLANO: HOME staff would also like to present for your consideration discussion and possible approval of the HOME CHDO Single Family and Rental Housing Development program NOFA award recommendation, which made available \$6 million to be utilized for qualified CHDOs to develop affordable rental housing. Like the rental NOFA just presented, the Department released and republished the amended NOFA in December 2007.

The NOFA allows applicants to apply for funding on a statewide, first-come-first-served basis. And the application deadline is June 2, 2008.

The Department has received eight applications for project funding requests, totaling over \$8 million, and CHDO operating fund requests, totaling \$166,500. Seven of the applications received include a Housing Tax Credit allocation request and are continuing to be reviewed for possible reward recommendation in conjunction with the tax credit awards at the July 31 Board meeting.

One of the applications has requested only HOME funds and has completed all three phases of the application and review process, in accordance with the HOME program rule and the eligibility and threshold criteria established in the NOFA. The application has been reviewed for eligibility and has been underwritten.

As noted in the underwriting report, the application has been reviewed previously for a 2006 request for funding for the same project. At that time, the project was not recommended, because it failed to meet the 10-percent leveraging requirement. However, the financing structure results in a higher portion of the award being attributed to the forgivable loan or grant portion than the repayable portion of the award. Staff recommends approval of this award recommendation, which resulted in an investment in 24 affordable housing units in Floresville.

MR. CONINE: Okay. And now I have got two witness affirmation forms on this item.

Mike Harms?

MR. HARMS: I am here to answer any questions and respond to any other public comments.

MR. CONINE: Jesse Perez?

MR. PEREZ: The same thing, Mr. Chairman. I'm just here

just here to answer questions.

MR. CONINE: Okay. Thank you very much.

Any further discussion?

MR. FLORES: Move approval.

MR. CONINE: There is a motion to approve. Do I hear second?

MR. CARDENAS: Second.

MR. CONINE: 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 does carry.

MR. GERBER: Mr. Chairman, I would just mention that a lot of people worked morning, noon and night to move a lot of money that you all just awarded today. And Jeannie has led that team - along with others on staff who are here today -- Laura Lang. And I just wanted make note of that.

So great work.

MR. CONINE: Good job, guys. Good job.

MR. GERBER: Then to NOFAs. Sorry. One more.



MR. CONINE: No.

MR. GERBER: 5(h).

MR. CONINE: Who said one more. Was that you?

MR. GERBER: Yes.

MS. ARELLANO: Too many items.

Mr. Chairman and Board members, this is one of the open NOFAs reflected in the fund balance report and the two prior items of award recommendations. This NOFA was originally approved by the Board in July of 2007 and made available \$6 million in CHDO funds and \$15 million in HOME funds for qualified applicants to develop affordable rental housing developments.

Again, the Department has received requests, totaling over \$34 million in response to the Rental Housing Development program NOFA and totaling over \$8 million in response to the CHDO NOFA. No applications for single-family development have been received in response to the CHDO NOFA.

The Board postponed action on programming available funds at the January 2008 meeting to allow sufficient time to pass to evaluate subscription levels of open NOFAs. The fund balance report reflects slightly over \$18 million available to the program.

And due to the levels of over-subscription for both of

both of these NOFAs, staff recommends an increase of \$12 million the total amount of funds available under the Rental Housing Development NOFA, and \$6 million in the total amount of the funds available under the CHDO NOFA.

Staff also recommends several other changes, based on discussion with interested applicants. And some of these highlights include that developments with existing and continuing USDA 515 program loans and rental assistance for project-based Section 8 be able to use these units -- substitute for units targeting households at or below 30 percent AMFI.

Staff also requests a waiver of 10 TAC 53.47(a)(6) to allow an increase in the maximum award amount for rental housing development activities in the CHDO NOFA from 3 million to 4 million, and an extension in the deadline from June 2, 2008 to September 1, 2008. Additionally, staff requests approval of the transfer of the remaining unsubscribed and unawarded balances in each of the NOFAs on September 2, 2008 and October 1, 2008 respectively to the applicable 2008 RHD and CHDO NOFAs to be presented in items 5(j) and (k) today.

The reason to move these funds to existing NOFAs first is to address the current over-subscription. The original amended NOFAs are attached, with the black-lined reflecting the changes

lined reflecting the changes proposed by staff. And additionally both of these NOFAs have that 10-percent requirement in them.

MR. FLORES: Jeannie, on the 10 percent, it says something to the effect that the Board has the authority to waive that or change that --

MS. ARELLANO: It's in --

MR. FLORES: -- 10 percent.

MS. ARELLANO: I am sorry. It is in the NOFAs, as we were directed in the -- as we have been directed. But yes.

MR. FLORES: It has that in there? That 10 percent can be --

MS. ARELLANO: It has the 10 percent in it.

MR. FLORES: -- moved to something or nothing or something -- some change from that ten?

MS. ARELLANO: Well, the change that staff has proposed regarding the --

MR. FLORES: No. That is not what I am talking about. That is not what I am talking about.

The same rule remains in place about you have to have the 10 percent, and allows the Board the authority to change that to nothing or something in between zero and 10 percent. Do I have that correct?

MR. HAMBY: Mr. Flores, Kevin Hamby, General Counsel.

Counsel. Because you all -- you put out these NOFAs -- the Board puts out these NOFAs, they are subject to the changes that you want to make to them, providing it doesn't diminish the amount of funds available.

So if you are expanding the amount of funds available, you would have the ability to do that. And so if you waived a requirement that made the funds more available, you would have the right to do that.

Normally, obviously, we would prefer for the NOFAs to stand on their own and -- to provide the community with the information that they know what they are applying for, so people don't spend money on applications and then do not know whether or not they do or do not get a waiver of those funds.

So the preference is always to be as clear as you can in the NOFAs. And that is why the discussion on what this Board wants to do as a policy is very important to the public at large.

MR. FLORES: Yes, it is. And that is the reason for my question.

Mr. Chairman, my question to you fellow Board members is, do we want to continue that same rule, or do we want to change it at this point, or do we want to just postpone it and rethink it for the next 30 days? But I mean it is important to some of these

mean it is important to some of these folks out there. 10 percent is a lot of money when it comes to a little town like Johnson City.

MS. RAY: It is.

MR. FLORES: \$300,000, to be exact, in that particular case. And to some of these small towns, that may be a years worth of taxes from folks in the county.

MS. RAY: Mr. Chairman, may I ask?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: Jeannie, I am trying not to be obtuse here, could you please give me chapter and verse on this NOFA where it addresses that 10 percent? I am flipping through this. It is a lot of writing.

MS. ARELLANO: It is on page 2 of the NOFA.

MS. RAY: Okay.

MS. ARELLANO: Under Item -- the Paragraph (c).

MS. RAY: Okay. Thank you.

MS. ARELLANO: And if you will note, one of the recommendations that we were making was to expand the criteria for meeting that 10 percent by adding developments with USDA or other government-sponsored loans that will keep that permanent financing in place be used to satisfy that requirement.

MR. CONINE: Let me follow up with a question. But we

But we still haven't resolved the first lien/second lien issue with the USDA. So we are saying it is out there and you can use it, but then we hoodwink them at the end.

MR. HAMBY: That is correct. We are under direction from this Board that whenever we have more money into a property, that this Board prefers the Department to have a first lien position. And USDA has similar direction, as do some of our other partners that we work with. And, most notable, Habitat for Humanity in many cases has that same first lien direction on another program.

So we have found some conflicts, and -- but we have been following this Board's direction that any time we have more money in the deal, you want us to be in the first lien position. And so there is no resolution, per se, on that, and we have had many, many discussions on that question.

MR. GOURIS: But I will note, on the transactions that we had a little earlier today that we are postponing, the work that was being done that caused us to want to postpone them is with USDA. And on those two transactions, they have agreed in writing to at least a parity lien, if not allowing us to a first lien, for our new fund. So I mean it actually looks -- it actually happens

happens on a case-by-case basis with USDA, whether or not they are willing to provide us with first lien or not.

On the transaction we talked about that Ms. McGuire talked about, the 538, that was a little different transaction. That wasn't USDA's issue about the first lien. It was Ginnie Mae issue, because they were buying it on the back end. And they didn't want to buy a second lien on the back end, just to be clear.

MR. CONINE: And then that really makes the case for Mr. Flores' suggestion about maybe waiting 30 days and letting you go through those two that are still out there. Maybe we can have a meeting with some of the USDA folks and we can resolve as a Board in our own mind the 10-percent test. And --

MS. RAY: I agree.

MR. GOURIS: Would we want to expand what is presented here, so that we can move forward with these transactions, but then bring back that one issue of leveraging -- two issues, I guess, leveraging and parity, versus first lien, in a month? Is that what you are asking?

MR. CONINE: So you are saying, if we go ahead and pass this now, it enables you to do what is in the pipeline or in the shop today?

MR. GOURIS: And continue to move those forward. And the applicants that are working under that -- because we are also extending the deadline.

MR. CONINE: I am going to need some verbiage to help through that to accomplish what we want to accomplish.

MR. HAMBY: Can we -- this was new to me. So --

MR. CONINE: Yes. It is new to me, too.

MR. FLORES: Do you want to fix it here?

MR. HAMBY: Can I confer with colleagues --

MR. FLORES: Why don't you put -- why don't we postpone it -- if you want to, we can postpone the agenda and let them have time to --

MR. CONINE: Let me ask this. Can we go ahead and pass this the way it is written, but, yet, bring it up again next month?

MR. HAMBY: You can. But in effect, what you are doing is telling the public that we are going to pass this, but we are going to change it potentially in a month. So that is why I am trying to figure out -- if the goal is to move things that are currently in the pipeline, that is a very different issue than if we are putting out this in the NOFA.



MR. CONINE: Let me suggest that maybe we table this during the lunch hour --

MS. RAY: Yes.

MR. CONINE: -- and come up with some language.

MS. RAY: Yes.

MR. FLORES: Let's do that. Mr. Chairman, I so move. Great idea.

MR. CONINE: Motion to table during the lunch hour. D I hear a second?

MS. ESCAREÑO: Second.

MR. CONINE: No discussion?

(No response.)

MR. CONINE: All those in favor say aye.

(A chorus of ayes.)

MR. CONINE: Okay.

MR. FLORES: Here are the little messy things. Bring them back up, Jeannie.

(General laughter.)

MR. CONINE: We are -- the Board is going to take a -- go into Executive Session during the lunch hour and do a few other things. So I would dare say 1:15, probably the earliest, or 1:30 more probable, when we'll be back.

Mr. Gerber, would you read our Executive Session?

MR. GERBER: Yes, I would.

Mr. Chairman, on behalf of you and the Board, on this day, May 8, 2008, at a regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session as evidenced by the following.

a) Opening announcement by the presiding officer that the Board will begin its executive session today, May 8, 2008, at 12:10. The Board may go into executive session on any agenda item if appropriate, and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

The Board may go into executive session pursuant to Texas Government Code 551.074 for the purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation or reassignment of duties, discipline or dismissal of a public officer or employee.

c) Consultation with attorney pursuant to 551.071(a), the Texas Government Code:

1) With respect to pending litigation styled

*Brandal v. TDHCA* filed in state court in Potter County.

2) With respect to pending litigation styled *Rick Sims v. TDHCA* filed in federal court, which is a new filing of a previously dismissed suit.

3) With respect to pending litigation styled *The Inclusive Communities Project, Incorporated versus Texas Department of Housing and Community Affairs, et al* filed in federal district court.

4) With respect to any other pending litigation filed since the last Board meeting.

(Whereupon, at 12:10 p.m. the Board went into Executive Session.)

MR. GERBER: Mr. Chair, the Board has completed its TDHCA Board executive session on May 8, 2008, at 1:47 p.m.

Mr. Chairman, I would like to respectfully recommend that we move to Item 10, which is financial administration. And Mr. Cervantes will come forward and present real quickly the second quarter investment report.

MR. CERVANTES: Good afternoon, Mr. Chairman and members of the Board --

MR. CONINE: Hello, Mr. Cervantes. How are you?

MR. CERVANTES: -- and Mr. Gerber.

I am David Cervantes, Director of Financial Administration, and I am here this afternoon to present the second quarter investment report for the period of December 2007 through February 2008. And this quarter, the portfolio was made up of \$1 billion worth of investments that we have.

The makeup of our investments at this time is -- 73 percent of our investments is in mortgage-backed securities. About 18 percent is in guaranteed investment contracts and in investment agreements. And then we have some shorter-term investments that have that make up the balance of our portfolio. I think it is important to note that the majority of our investments are involved -- about 95 percent are in respect to the sale of bonds that we have for single-family and multifamily housing.

This quarter, we had a very good quarter in terms of the loans that we originated for the quarter. We had about \$93 million that we originated this quarter. We also had associated loan payoffs of about \$18 million.

And one thing that we are required to, of course, inform the Board of is the fair value and the calculation of our fair value for the quarter. And we had about a \$10.3-million unrealized gain this quarter. Okay?

So the other thing that is involved in our report regarding the investments for the Agency is also parity for the Agency in terms of the assets and the liabilities of the Department. And, also, the interest income and interest expense for the Department and the ratios at this time were running about 107 and 110 percent respectively, so a very healthy condition at this time.

The interest rates for the quarter. Once again -- mortgage rates on average, dropped a little bit again, from about 6.56 to about 6.42, for the quarter. So they are still declining

Our position is still favorable at this time, but, again, we are monitoring the market very carefully to see what our rates are going to do.

Also, in terms of our investments and our guaranteed investment contracts and our investment agreements, in terms of the deals that we structure in the future, it is just trying to see how the market is going to play out in terms of where we want to -- what kind of securities and investments that will be best so that we can continue to secure the cash flows for the Agency.

MR. CONINE: Okay. David, have we in essence taken pretty much all of the hit we are going to take on the mark to market on our MBS portfolio?

MR. CERVANTES: Mr. Conine, I probably would have to

have to defer to our bond finance unit to respond to that.

MR. CONINE: Okay.

MR. CERVANTES: That's a good question.

MR. CONINE: All right.

MR. GERBER: Matt or Gary, do you want to come forward and offer your thoughts?

(Pause.)

MR. GERBER: Matt Pogor is our director.

MR. POGOR: Matt Pogor, Director of Bond Finance. As far as write-downs on MBSs?

MR. CONINE: Yes.

MR. POGOR: The MBSs are mortgage-backed securities that are backed by Ginnies and Fannies and Freddie's.

MR. CONINE: That used to mean something.

MR. POGOR: That did used to mean something.

MR. CONINE: Or at least more than it does today.

MR. POGOR: Yes. Everybody is, I guess, having liquidity issues and concerns that -- you just never know from a day-to-day or week-to-week basis. But I can't really affirmatively say one way or the other if there is going to be any additional downgrades or improvements to the situation. But for right now, think our portfolio is solid and stands for itself.

is solid and stands for itself.

MR. CONINE: Well, all of that stuff is Triple-A. I understand that. And it's -- you know. But we have got over a billion dollars in -- sitting parked in MBSs that -- you know, if we held them to maturity, I wouldn't have -- I know there is no problem and it is going to be fine.

It is just the mark to market in between, and having to liquidate some to fund some of the mortgage programs we are doing. That's, I guess, my question. Are we going to take a hit when we liquidate?

MR. POGOR: Well, if we were to liquidate -- I haven't worked with our swap financial group to take a look at what we have as for liquidation, if we were ever going to need to, let's say, get out of a swap and fix them, let's say.

We are taking steps, as you know, with the bond structure. We are able to do -- on a six month basis, take a look at any excess or surplus we have within those structures. And currently, on this past go-around, we have taken a look at the surplus, and we, kind of like housing, are going to be making sure that like \$1.8 million is in a spot that we'll be able to use for any sort of a time we may need to use those funds to liquidate, t

liquidate, to help liquidate. So we are going to be looking at that on a quarterly basis.

MR. CERVANTES: Yes. And, Mr. Conine, that is something that -- we are working very closely with Matt's group to make sure that we not only look at these conditions here in terms of contingency reserve, but, also, looking at all areas of the indentures to see where we can come up with additional potential pockets to provide some security in the event that we have to liquidate and move into that direction. Okay.

MR. CONINE: Okay.

Any other questions?

(No response.)

MR. CONINE: Thank you very much.

MR. CERVANTES: Okay. Thank you, sir.

MR. CONINE: All right.

MR. GERBER: Mr. Chairman and staff, with you-all's indulgence, we are going to move to Item 9, which is the Multifamily Division items, Private Activity Bond program items. We are working through some other issues, which is why we are holding off on continuing with the HOME discussion. We are still working on the NOFA. Staff continues to work on that. So we are going to move to Item 9.



And, Teresa, if you would, come forward.

And, Tom, I know you are also heavily involved in this

Item 9(a) is a discussion of Determination Notices for Housing Tax Credits that are associated with Mortgage Revenue Bond transactions with other issuers.

The first is Mansions at Moses Lake. This is a tax-exempt bond application requesting 4 percent tax credits. The Southeast Texas Housing Finance Corporation is the issuer of the bonds. It is a Priority 3 application, proposing the new construction of 240 units targeting the elderly.

The Department has received one letter of support from Congressman Ron Paul and no letters of opposition. The applicant is requesting \$845,545 in housing tax credits. Staff is recommending \$385,687 in housing tax credits, and we urge the Board's approval of that recommendation.

MR. CONINE: This is on 9(a). Right?

MR. GERBER: 9(a), sir.

MR. CONINE: I do have some public comment here on 9(a)

Lee Birchfield?

MR. BIRCHFIELD: I'd like to speak in favor of the

the project, Chairman. If there is any questions or comments from the Board, I'll be on standby and willing to answer them.

MR. CONINE: Okay. Thank you. That's it on Mansions.  
Any other discussion?

(No response.)

MR. CONINE: Anything from staff at this point?

(Pause.)

MS. ESCAREÑO: Move to approve staff recommendation.

MR. CONINE: Motion to approve. Do I hear a second.

MR. CARDENAS: Second.

MR. CONINE: Any other discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Chairman and Board members, Item 2(b) is discussion about --

MR. CONINE: 9(b).

MR. GERBER: 9(b) is a presentation, discussion and possible action on a waiver of the 14-day submission requirement for consistency with the QAP.

According to the 2008 QAP, if a development is located within the boundaries of a political subdivision which does not have a zoning ordinance, then a letter must be submitted from the local municipality stating that the development is consistent with the local consolidated plan, comprehensive plan, or other local planning document that addresses affordable housing, or the letter must state that there is a need for affordable housing if no such planning document exists.

The applicant was aware of the threshold requirements to submit evidence of consistency with the local consolidated plan and began the necessary steps to obtain the letter at least six weeks prior to its due date. The letter was due to the Department on or before April 24 to allow the application to be presented at this Board meeting; due to the delay with the City of Houston, the applicant was not able to provide this letter until April 28.

We are asking approval of the 14-day -- that the Board waive the 14-day requirement. We think it is appropriate in this case.

MR. FLORES: So moved.

MR. CARDENAS: Second.

MR. CONINE: There is a motion and a second, but I do

MS. RAY: Second.

MR. CONINE: I did hear a second. But I do have a  
witness affirmation form.

David Russell?

MR. RUSSELL: I am here if there are any questions.

MR. CONINE: Any questions? Okay.

MR. GERBER: Ms. Morales, do you want to do 9(c)?

MR. CONINE: Wait a minute. We haven't voted on 9(b)  
yet.

MR. GERBER: Sorry.

MR. CONINE: Hang on.

MR. GERBER: Yes, sir.

MR. CONINE: Any further discussion?

(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. GERBER: 9(c), Ms. Morales.

MS. MORALES: Chairman Conine and Board, this item relates to the issuance of tax-exempt bonds and award of 4 percent tax credits. This is a Priority 1 C bond transaction proposing 2 new construction units. It will be for the elderly population and will be publicly offered through Citi Community Capital.

There were five people in attendance at the public hearing. A summary of the public concerns and comment heard at the hearing is as follows: concentration of multifamily housing in the area; whether there would be a security officer on site; the position of the buildings on the site, since the site backs up to a cul-de-sac lot of the single-family homes, and; whether or not there would be a buffer zone between the edge of this property and a fence line of the single-family homes. The Department has not received any written letters of support or opposition.

The applicant is requesting \$12,222,400 in tax-exempt bonds and \$845,960 in housing tax credits. Staff recommends approval in an amount not to exceed 14 million in tax exempt bonds in order to preserve the potential bond authority in the event that

bond authority in the event that the variable rate market continues to fluctuate, and \$841,297 in housing tax credits. And this is Resolution Number 08-018.

MS. RAY: Mr. Chairman, I move staff recommendation.

MR. FLORES: Second.

MR. CONINE: Motion to move, with 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.

MR. GERBER: Ms. Morales, would you continue with 9(d)

MS. MORALES: Yes.

Chairman Conine and Board, Resolution 08-019 includes the inducement of three tax-exempt bond applications: Providence Town Square in Deer Park, St. James Manor Apartments in Dallas, and People's El Shaddai in Dallas. The applications will reserve approximately 25 million in 2008 state volume cap. Upon Board approval to proceed, the applications will be submitted to the

proceed, the applications will be submitted to the Texas Bond Review Board for placement on the 2008 waiting list.

The Board has previously approved seven applications for the 2008 program year. The Department has received letters of support on the last two applications, St. James Manor and People's El Shaddai Apartments, both of which are acquisition-and-rehabilitation properties located in Dallas.

No letters of opposition have been received on any of the applications. It should be noted that approval of the inducement resolution, however, does not assure that the development will ultimately receive approval for the issuance of private activity bonds. Staff recommends approval of the Inducement Resolution 08-019.

MR. CONINE: I do have a witness affirmation form.

Kim Canal?

MS. CANAL: Just for questions.

MR. CONINE: Just for questions? Okay. Thank you.

MS. ESCAREÑO: Move to approve as recommended.

MR. FLORES: Second.

MR. CONINE: Move to approve, with a second. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GERBER: Mr. Chairman and Board members, Item 9(e)  
has been pulled from the agenda and will come up at a future Boar  
meeting.

MR. CONINE: Okay.

MR. GERBER: I think we're -- Mr. Hamby?

MR. HAMBY: He had public comment on 9(e), Barry Halla

MR. GERBER: I'm sorry. There is a number of public  
comments on 9(e).

MR. CONINE: Okay. The one that has been pulled?

(Pause.)

MR. CONINE: Barry, come on up.

MR. HALLA: Thank you. Chairman Conine, members of t  
Board, thank you very much. My name is Barry Halla.

My request is fairly simple. We have an inducement



inducement resolution on this development. The Inducement Resolution 08-005 was given us in December of '07. We have been working diligently to make sure that we had debt and equity in place. That was about the time when the wheels fell off the wagon.

We have that debt and that equity in place now. And in fact, the equity provider is a syndicator who is a Dallas-based investor and has gone and checked out the site, likes what we do and wants to do this transaction. We have submitted all the necessary applications to staff and have the TEFRA hearings scheduled for June 3.

There was an issue or a question that came up by staff regarding 80 units -- the maximum of 80 units in a rural location.

The site that we have is right now in -- it used to be in three different sites. We put it together.

Mr. Conine, if you might remember, we were before you in December of '06 to get the bonds approved and the tax credits approved, and discussion arose about rents. And we were unable to complete that transaction then.

We understand -- our interpretation of the QAP allows contiguous sites in a rural location, 80 units each. We have been working with 252 units. We are more than willing to go back to 2

than willing to go back to 240 units. We have senior -- 80 senior units that we want to do, 80 family units and then an additional family units.

I might mention that the TDHCA classifies Ennis, Texas as a rural community. It is really part of the Dallas metropolitan area right now, and we cannot get USDA RD financing in Ennis, Texas. So there is a little bit of discrepancy as to where we fall.

I can cite the two examples in the QAP that clearly talk about contiguous sites. And I think that is the question. I am not sure. But I would like to continue on with the inducement under the Inducement Resolution 08-005.

We have -- as I mentioned, our syndicator has an investor, who needs this closed by August. It is an extremely favorable equity offer. If we wait for any clarification for this at a later date, I can't hold the -- I am not sure that I can hold the equity offer that we have got right now. It is an extremely attractive offer, and it makes the deal work very nicely.

I might mention that there are -- 5,400 jobs have been created in Ennis in the recent time. Part of that is due to the Dallas Logistics Hub. And the city is working very feverishly and hard with us to get this housing on the ground; they desperately

housing on the ground; they desperately need additional workforce housing. I'll be happy to answer any questions.

MR. CONINE: The only question I have got is, how do we do this if it has been pulled?

MR. GERBER: There is a significant legal issue. I am going to ask our counsel to come up, and perhaps even our bond counsel. Ms. Rippy is here. We have had --

Robbye, do you want to take the first?

MS. MEYER: Mr. Conine, Robbye Meyer, Multifamily Director of Finance.

We do have an inducement. The Board induced back in March a bond inducement for the Ennis transaction for 252 units. So we do have an open and active inducement out there. So I mean that -- it is a matter of resolving the 80 unit issue. And we have clarified that -- in the QAP that rural developments have an 80-unit max. And that is where it brings up the issue on the bond side, if that 80-unit limit applies to bond transactions.

MR. GOURIS: Tom Gouris, Director of Real Estate. So we are working with that inducement to try to move the transaction forward. The reason that it was on the agenda for additional inducement was to do a separate transaction or -- to do several separate transactions at 80 units each. We are still working with

80 units each. We are still working with the original inducement and recognize that that additional -- the additional inducement today probably wasn't necessary.

MR. CONINE: Okay.

MR. HALLA: One quick, if I may. This was induced in December of '07. I think that that is significant, One, in that the '07 QAP was a little bit different and we were still working our minds under that.

But, more importantly, we wanted to make sure that we weren't one of the developments that would waste staff's time or the Board's time. We wanted to make sure that our equity investor was there and was on board. And there is no question that they are there and on board. They have taken it far enough that their investor, who has CRA credits, has checked us out and seen what we have done on other developments, and is definitely very much wanting this particular transaction. So we will be happy to --

MR. CONINE: It sounds like you have a live inducement

MR. HALLA: Yes, sir. Yes, Mr. Conine. That is correct.

MR. CONINE: And until you guys kill it for some reason you have a live inducement and don't need any action from us.

action from us.

MR. HALLA: Thank you, Mr. Conine. And that is -- all I am here for is to try to keep that inducement going. We have the TEFRA hearing scheduled for June 3. As mentioned, our investor wants to get this closed up. They would like to get it closed up by the end of July. They have told us confidentially, that if we dribble over into August, that is okay. And even to get that done we have got to go 110 miles an hour and fly on down the road.

MR. CONINE: It is good to see you, Mr. Halla.

MR. HALLA: Thank you, Mr. Conine.

MR. CONINE: And keep that investor in your back pocket.

MR. HALLA: We are. Yes. I just had --

MR. CONINE: Don't lose him.

MR. HALLA: There is a couple of bankers back in the back corner here that say that they have got a better deal. They have got 92 cents. So --

MR. CONINE: Right. Yes. You had better get them and their checkbook at the same time.

MR. HALLA: Exactly.

MR. CONINE: Thank you.

MR. HALLA: Thank you.

MR. CONINE: Are you ready to go back to --

MR. GERBER: Mr. Chairman, I think we're ready to do  
9(h).

MR. CONINE: -- (h)?

MR. GERBER: Yes, sir.

MR. CONINE: 8(h)?

MR. GERBER: We're going to go back to 5(h).

MR. CONINE: 5(h)?

MR. GERBER: Continuing where we were with the HOME  
program. And --

MR. CONINE: There we are. And do we need to take thi  
one back off the table, since we tabled it until after lunch?

MR. GERBER: Yes.

MR. CONINE: Do I hear a motion to take this one back  
off the table?

MR. CARDENAS: So moved.

MR. CONINE: Second?

MS. RAY: Second.

MR. CONINE: All those in favor say aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Back -- it is off the  
table.

MR. GOURIS: Should I?

MR. GERBER: Yes.

MR. CONINE: Go.

MR. GERBER: Mr. Gouris?

MR. GOURIS: Tom Gouris, Director of whatever. What we're -- what we'd would like to do is -- we want to keep -- there are funds in these two NOFAs -- there are applicants in these two NOFAs that there are insufficient funds for. And we would like to reallocate some of the funds that Jeannie talked about earlier that are available, as proposed, into these two NOFAs.

We are -- based on the comments that we heard this morning, what we think we should do is to pull the amendments to those NOFAs off the table and just increase the amount of awards for each of them, and pull the next two items off the agenda, as well, and table them until the next meeting, after which we will have had time to meet with the industry groups and discuss the two issues that were brought up today: the parity issue and the leveraging issue.

And we will have some discussions about that and then bring that, those two NOFAs for '08, back to you next month, in June. The only issue is that there will be a period of time because -- these existing NOFAs are going to expire the first par

to expire the first part of June. So there will be a month or month-and-a-half where there will be no availability of HOME funds on the street, per se, but they will be able to move into the NOFAs as they arrive.

And the other thing is, if there is any of these funds that we are asking to expand into the existing NOFAs -- if any funds are left over after the tax round, that those be moved into the '08 funding cycle. And we will make that as a recommendation when we bring the '08 NOFAs to you next month.

Is that clear? So what --

(General laughter.)

MR. GOURIS: I'm sorry. So, in essence, what we are suggesting is --

Give me the numbers. I need the numbers.

We're adding 12 million --

MS. ARELLANO: Twelve million to the rental housing.

MR. GOURIS: 12 million to the rental housing for a total of 27 --

MS. ARELLANO: 27 million.

MR. GOURIS: For a total of 27 million. We have got applications right now pending of over 30. And so we want to make sure that we have enough money there to cover those or to get clo



cover those or to get close to covering those. Many of them are tax credit transactions, so some of them will fall out. But we want to make sure there is funds there. Whatever is left at the end of the tax round moves into the '08 round.

And then on the CHDO side, there is an existing 6 million. And we are recommending that that be increased to 12 million because, again, we have an abundance of applications there.

When the application round expires, it will expire just like it is, based on these current rules. It's just that the amount of funds that are available at the moment will go up to be able to cover the applications that are there.

Did I cover that? And we have 19 million in CHDO applications right now, again. Many of those are going to have tax credits associated with them.

MR. CONINE: If someone were to make that a motion, Counselor, could you figure that out?

MR. HAMBY: I believe the motion that the staff has recommended is to not take staff's recommendation that is listed in your board book, but to increase the RHD by 12 million and the CHDOs by 6 million. And that would be all the changes that you'd make to this particular one. You'd increase the funding for this particular cycle, and no other changes are made to it.

no other changes are made to it.

MR. CONINE: Leave it to a lawyer to clarify it.

(Simultaneous discussion.)

MR. CONINE: Do I hear that as a motion?

MS. RAY: So moved.

MR. CONINE: Second?

MS. ESCAREÑO: Second.

MR. FLORES: Thank you, Kevin.

MR. CONINE: Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

So that --

MR. GOURIS: And then we pull (j) and (k).

MR. CONINE: We pulls (j) and (k). And that gets us t  
(1).

VOICES: (i).

MR. GOURIS: I'm sorry. (i) and (j) --

MS. ARELLANO: No. We are pulling (j) and (k), and we

and we are at (i).

MR. CONINE: We are now coming down to (i)? Okay. The (i)'s have it.

Go ahead, Jeannie.

MS. ARELLANO: Jeannie Arellano, Director of the HOME Division. Mr. Chairman and Board members, Item 5(i) is being presented in the Department's ongoing attempt to provide funding for the conversion of contracts for deed.

As mentioned in the fund balance report presentation, the HUD grant agreement included approximately \$40 million for the Department's Program Year 2008 allocation of the HOME program. The Department's approved 2008 consolidated annual action plan included a \$2 million set-aside for contract for deed conversions.

Additionally, as noted on the fund balance report, the unprogrammed balance of \$4 million from 2006 and 2007 and the reserved deobligated balance of 3.2 million are also being made available, for a total of \$9.2 million. As proposed the NOFA makes funds available to eligible applicants to provide assistance to eligible households for the purposes of converting an eligible contract for deed to home ownership.

The funds are not subject to the Regional Allocation Formula. The availability and use of these funds are subject to the Department's HOME program rule adopted in December 2007, which included changes to provide additional funding on a per-household basis to address the needs and characteristics of these types of transactions.

Due to the unique challenges of this type of activity, participants are relatively few. And those that have had contracts with the Department have experienced significant delays in qualifying households, closing loans, and expending funds.

As staff has provided technical assistance and oversight to these contracts, any requested extensions have only been approved for households that were qualified, committed and prepared for loan closing; otherwise, the uncommitted balance of funds for households which were not prepared for loan closing were deobligated in anticipation of the availability of funding in a future NOFA to serve these households.

Staff is requesting action to waive 10 TAC 53.421, as cited in the action item, since these administrators may want to apply for funding but may be ineligible as a result of the deobligated funds for the reasons described. This NOFA is proposed

reasons described. This NOFA is proposed to be open until May 1, 2009. And in order to allow applicants to reapply for funding if the applicant has identified additional eligible households, staff is proposing to allow applicants to apply for additional awards under this NOFA if their previous award is 100-percent committed.

Staff is also recommending a million-dollar maximum award amount to any applicant awarded funds under this NOFA. Staff requests approval of this 2008 contract for deed NOFA.

MS. RAY: Mr. Chairman, I move staff's recommendation.

MR. CONINE: I hear a motion. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Motion and a second by Mr. Cardenas. Any further discussion?

(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.

5(1).

MS. ARELLANO: Okay. Mr. Chairman and Board members, Item 5(1) is the presentation of requests for amendments to an existing loan commitment and an existing contract for your consideration.

The first amendment request for your review is for BETCO-Jasper Housing, L.P. You may recall that at the March 13 Board meeting, consultant Diana McIver petitioned you to allow staff review of this request for an increase in HOME funds, awarded to the project in 2006, with an allocation of tax credits as a forward commitment from 2007.

The original HOME award was \$255,000, and the HOME loan was scheduled to close by August 1, 2007. The owner requested and received an extension to a closing date of February 1, 2008. And on November 2, 2007, the Department received a loan modification request from the owner to increase the HOME award by \$420,000 to total loan request of \$675,000.

This increase was based on an increase in construction costs experienced by the owner. During the Real Estate Analysis Division's review of this request, it was lowered by the applicant to a \$200,000 increase. The Real Estate Analysis Division has evaluated this request, and the underwriting report addendum is

and the underwriting report addendum is attached.

Staff recommends denial of the loan modification request, based on the REA Division's assessment. If approved by the Board, staff recommends an increase to designate four of the total units as HOME units, and the Department's loan closing to occur no later than August 1, 2008, and that no additional time extensions be granted.

MR. CONINE: I have a witness affirmation form on this one.

Diana McIver?

MS. McIVER: Hello. Good to see you again, Tom.

Hello. I am Diana McIver, and I am President of DMA Development Company. I am here seeking approval of a \$200,000 increase in our HOME award for a multifamily project that we are developing in Jasper, which is a rural community, which was also devastated by Hurricane Rita.

You have heard a lot today about the difficulty of developing in rural areas. Well, try a rural community devastated by a hurricane.

Prospect Point is a joint venture between our company and BETCO Development under TDHCA's Capacity Building program and includes both tax credits and HOME funds as sources of funding.

funds as sources of funding. Our application to build 72 units was submitted in early 2006, five months after Hurricane Rita struck that area. I have provided you with a more detailed letter that, believe, is in your board book, so I will try to be brief today.

We closed on our partnership and our loan documents in December, and construction is 25 percent complete. This is the first multifamily construction in Jasper in more than 13 years. As you have heard in the staff report, they are not recommending this increase in HOME funding. We are here to appeal this decision because our facts show that the funds are needed.

Why are our financial projections of need for additional HOME dollars differing so greatly from that of staff? It is quite simple. The staff has disallowed \$436,000, of which \$403,000 are in construction costs and \$33,000 are in reserves. And I want to emphasize that our costs are real costs. We've bid construction, and we have closed on these construction and development numbers.

The impact of this failure to count \$436,000 of real incurred costs is that, while staff underwriting shows that the project is feasible with a deferred fee of \$81,000 that can be paid back in 15 years, our shortfall is really \$517,000. And we are now showing that that can be repaid.



be repaid.

Part of the difference is that when -- even though the staff report agreed with our operating number because -- and said they would use our operating number because it was in 5 percent of the variance, when you go to the accelerated cash flow report, really, staff reverted to their own numbers. So there is virtual about \$100,000 over that 15 period, simply based on using staff's operating expenses instead of ours, which exceeds staff's by 6,20 in the first year.

The significance, for those of you who are new to the tax credit program is, in order to get tax credits on your deferred developer fee, you have to be able to repay it in 15 years; otherwise, the investor loses those credits from the IRS. So our numbers show we can support a deferred fee of 318,000.

What I want to emphasize is that TDHCA staff is not being adversarial in their recommendation. This is their job. Their job is to do underwriting. Their job is to use the database --

I think I have some time yielded to me.

MR. CONINE: From Thomas Steinhoff?

MS. McIVER: No. From -- he is our contractor, and he is going to speak also. But --

MR. CONINE: From Eileen?

MS. McIVER: Yes. Eileen.

MR. CONINE: Okay.

MS. McIVER: I will take hers.

MR. CONINE: Okay. You have got two more minutes --

MS. McIVER: Okay. Exactly.

MR. CONINE: Under the new rules.

MR. HAMBY: You don't have to take them all.

(General laughter.)

MS. McIVER: But basically, what happens is underwriting deals with Marshall Swift and databases. And right now, in the real world out there, it is really tough. And we have to throw those out the window. I am the first one to appreciate the role underwriting and databases when we are in predevelopment, but databases do not and should not serve as a substitute for what is happening in the marketplace.

And that is the essence of our request. We are asking you, the Board of TDHCA to review our request and make decisions based on the marketplace rather than a database.

By way of history, our costs went up from the time of application \$1,060,000. Why? One is that our construction was

construction was 1,158,000 more than we had projected. Another was that we had to install a lift station and run a sewer line for more than a mile to the tune of \$100,000. So we had some dramatic costs.

But I'm not hear asking you for 1,200,000 because we bridged some of this shortfall ourselves. We changed our permanent financing to USDA and were able to increase by 325,000 the amount of debt we were able to support. We solicited bids from Equity Partners and we got 91 cents on the dollars which increased our equity that we were bringing to the table by 300,000 and we increased our former developer fee to the extent we thought we could.

All total, that's 860,000. That's why we're sitting here asking for \$200,000. We took tremendous financial risk by closing the partnership and the construction loan in December when we knew our request was under consideration by TDHCA's staff. Why did we do that? We did it because we had a commitment for 91 cents. And you cannot pass on a commitment for 91 cents.

Had we allowed that to expire, our shortfall would be additional \$650,000. So we did what we had to do. And you've heard how bad the marketplace is today. So what I understand is from all the testimony today there's \$18,000,000 out there in HOM

there's \$18,000,000 out there in HOME funds for '07. I am only asking for 200,000. And I think that's such a deal.

MR. CONINE: Only. You sound like one of my kids.

MS. McIVER: And I will take any questions.

(Simultaneous discussion.)

MS. McIVER: I am the best bargain on the table today.

MR. FLORES: Chairman, may I?

MR. CONINE: Mr. Flores, yes. Right.

MR. FLORES: Tom, somewhere in our write-up here, it talks about designating four of the units as HOME units, rather than three. Explain that part.

MR. GOURIS: Yes. That was based on the pro-rata number of units that they had. To me, there are two ways to identify how many HOME units. And they need to add one more unit, basically, meet --if they get the additional funds, they need to add one more unit to meet the statute.

MS. McIVER: Yes. And we agreed to do that.

MR. FLORES: Oh, well that is not in here. Okay. That is good. They're getting past the first one -- the second one is now, can you close by August 1, 2008?

MS. McIVER: Yes.

MR. FLORES: Okay. Well, you passed two of them. You don't expect any additional time extensions, I am sure?

MS. McIVER: No.

MR. FLORES: And you can comply --

MS. McIVER: We are 25 percent complete with our construction.

MR. FLORES: And you can comply with the underwriting report?

MS. McIVER: Are we what?

MR. FLORES: And you can comply with the underwriting report.

MR. CONINE: There's the big if.

MR. FLORES: I am just kind of going through the conditions here.

MS. McIVER: Oh, yes, I can. I can do that. Yes. I can do it in a four hour and the CPA cost certification and any changes. Yes. We can do all of that.

MR. FLORES: Mr. Gouris, before I make a motion, do you have anything to add that I should know about?

MR. CONINE: I have --

MR. GOURIS: Maybe after Kevin I --

MR. CONINE: I have one more witness affirmation form here as well.

MR. FLORES: Okay. I will hold off.

MR. HAMBY: Well, I am not Mr. Gouris, but Kevin Hamby General Counsel. I would remind you that under the rules, that if you are spending deobligated funds, you have to come up with the reason that this is a unique project that deserves funding, so an motion would have to include the compelling reason that you are taking this out of order.

MR. FLORES: Okay. Thank you, Counsel. So I am going to hold off and wait to hear the other testimony.

MR. CONINE: Thomas Steinhoff?

MR. STEINHOFF: Good afternoon.

MR. CONINE: How are you doing?

MR. STEINHOFF: I am Thomas Steinhoff. My company, White Oak Builders was chosen as the builder for this project in Jasper, Texas. I was asked to come forward and identify -- help identify some of the areas that have caused the cost increase of this particular project in Jasper, this rural project.

Since the time the application was put in, we have seen significant cost increase in many of our major materials that we

materials that we use to build these projects. Our wire costs have increased over 100 percent on the electrical category, and all of the panels and things like that have increased also.

Our plumbing materials have increased about 35 percent in the last year, since the time that the application was submitted. Our concrete material costs are up about 20 percent. They are up 20 percent across the state. They are up in particular in this area of Jasper.

You don't get a choice of four or five concrete companies to choose from to buy your concrete. You have -- one or two in the market sets the cost of these items. Our raw steel products are up 20 percent in the last year since the applications were put in place.

We also have had some challenges on the project in particular, on the site work portions of the project. We had to bring in almost 37,000 yards of structural fill. This site heavily drains to the center. We had tremendous costs associated with that.

Ms. McIver identified the sanitary sewer system of \$100,000. In addition to the structural fill, we also had about \$97,000 worth of retaining walls that were required in the site because of the step down site. Some of the other challenges that

of the other challenges that we have had in this area, this rural market does not have the subcontractor base the strength that we need to build this project and to build it on time, based on the time commitments that we have.

With the market being strained because of the storms a just a small market that hasn't built anything like this in 13 years, we have to bring our crews in from the surrounding areas. We are bringing them in from Dallas; we are bringing them in from Houston. We have identified the local subcontractors that we can use for this project, and are using those.

But they are having to be subsidized by our out of town crews. Of course, the cost of bringing those crews in, there is cost for them to travel, a cost for temporary housing that create unique situation for our costs on this particular project. We have specific city requirements for the electrical distribution system. We had to use DC to install the electrical distribution system at the city's cost. Just a few items that have caused the cost to be different than what was originally anticipated when the project was at its inception.

MR. CONINE: Any questions of the witness?

Go ahead.

MR. GOURIS: I just had questions.



MR. FLORES: I can't think of any compelling reason, of my creative mind here, so somebody is going to have to help me here if I am going to make a motion to help this developer here.

MR. GOURIS: Well, in a nutshell, their costs have increased significantly. And we have recognized the majority of those cost increases. We are in agreement there. The key difference is, under the scenario that they would like, they would end up with about \$317,000 worth of deferred developer fee, with the additional \$200,000 in HOME funds.

Without the additional \$200,000 HOME, their deferred developer fee would go up about the \$200,000; it would be \$517,000.

From our analysis, it is marginally repayable in 15 years. And it meets our criteria. So we don't recommend it. It would be a significant -- it would be a very tight deal to do it that way. But our rules allow tight deals to get through.

In this case, it is going against the applicant in that you know, if they are coming to us, we would allow it to go through that way. But they are asking for additional HOME funds to make not such a tight deal, and, in fact, they believe, and their -- I think their lenders believe that they can't move forward with more

than \$317,000 worth of deferred developer fee. And that is the crux of the discussion.

MR. CONINE: Can you refresh my memory on whether we did this as a forward commitment as a response to the storms over there, or -- it seems that my memory is we had an urge to get some units over there in a hurry.

MR. GOURIS: My recollection is that this was part of the original Rita. No?

MS. McIVER: Actually, no. We weren't part of the original Rita, but we were a forward commitment at '06. I think there were two or three projects from that region that were forwarded to try and get the housing moving along.

(Simultaneous discussion.)

MS. McIVER: Yes. We have an '07 number.

MR. GOURIS: We have two numbers there, and so I was trying to recall if the tax credits were '07s or --

MR. CONINE: My write-up says that it was an award in '06 for a forward for '07, which makes sense for me to think that we responded to the storm to get units in that area.

MR. GOURIS: Right. And the [indiscernible] were part of that as well.

MR. CONINE: Do I hear a motion?

MS. ESCAREÑO: I will take a shot at a motion. I would like to move that we approve the applicant's loan modification request due to a unique condition of a rural area negatively impacted by a hurricane.

MR. CONINE: Subject to the staff recommendation?

MS. ESCAREÑO: Subject to staff recommendations and designating the four units as HOME units, any other conditions in the underwriting report, the loan closing by August 1, 2008, and other extensions.

MR. CONINE: Ms. Bingham has a motion on the table. Do I hear a second?

MS. RAY: Second.

MR. CONINE: There is a second. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. McIVER: Thank you.

DR. MUÑOZ: Mr. Chair, can I ask a dumb question?

question?

MR. CONINE: You may.

DR. MUÑOZ: I don't want to ask this after the vote.

No.

MR. CONINE: Tom Gouris?

MR. GOURIS: Yes.

DR. MUÑOZ: Sorry. So material costs in this market have gone up that much -- 20 percent for plumbing materials, electrical conduits, et cetera. Because my understanding, the people that I know who are building homes, is that prices are coming down. I am just curious. MR. GOURIS

Well, and timing is everything. And we have seen a great amount of fluctuation both up and down in some things, and just up in other things. We were able to confirm about an 18 percent increase. They were at 22 percent increase. It ended up that we were still within a range, or pretty close within a range. We were able to confirm with our other measures that significant increases have occurred in that particular market since 2006 and since we were doing the writing.

MR. CONINE: Okay. Moving on to the next one, please.

MS. ARELLANO: Okay. The second amendment request to presented for your review is the contract amendment for the

amendment for the Community Development Corporation of Brownsville referred to as CDCB. In February 2007, CDCB received an award of \$1.5 million in HOME funds for the Colonia Model Subdivision Program. This program was established to fund land acquisition, lot development, construction costs, and down payment assistance for qualified homebuyers.

Eligible organizations received the funding through a zero percent interest lot acquisition and interim construction loan. As structured in the NOFA and approved by the Board, funds for these loans will not be released more than three lots under development at a time in order to prevent the unnecessary warehousing of lots and because units assisted with HOME funds must begin construction within twelve months of acquisition.

Once the units are constructed, they are sold to homebuyers that have been qualified by the organization. All qualified homebuyers are required to have a household income that does not exceed 60 percent of the area median family income. The contract for the award to CDCB was executed in March 2008 and allows a 36-month period in order to provide mortgage and homebuying assistance to 20 households with the construction of affordable single-family residential housing units.

Based on letters received from CDCB and during a conference call in February 2008 with staff, CDCB requested several modifications which are detailed in the action item to the contract with the Department. I would like to clarify that the write-up does not recommend this, but I would like to clarify that staff agrees that there were two administrative requests in CDCB's letter that we do recommend need to be made for the definition of a colonia, and for correction to the service area, service county.

The staff recommends denial of the contract amendment request as proposed by the applicant, but based on the REA Division's assessment, recommends an increase in the award amount to 1.8 million with no reduction in the number of units to be served, or a reduction in the number of units required to 16. Any other conditions recommended in the underwriting report which is included in the Board package, the Department's loan closing on the first commitment to occur no later than July 1, 2008, and that no additional time extensions be granted.

MR. CONINE: I do have a witness affirmation form. Mr. Don Currie.

MR. CURRIE: Thank you, Mr. Conine. I am Don Currie. I am the Executive Director of the Community Development Corporation.

Development Corporation in Brownsville. We are in full agreement with the underwriting report. We are in agreement with all conditions. And I would just like to address condition number three, which is the timing of the units.

Also in that, I would like to note in the underwriting report, the recommendation was for 1.835 million and not 1.8 million flat, so I don't know which -- if Mr. Gouris' number in the underwriting report is the 1.8 and you recommend the 20 units and the increase, we would like to go with that number and not the number in the write-up.

MR. CONINE: We will get him to clarify that when you are finished.

MR. CURRIE: Thank you, sir. As regards the timing of the units, this NOFA was structured basically to allow for the building of three units at a time, and the acquisition of no more than five lots at a time. When we received the contract, part of the contract contained a cap on the outstanding amount for development at any one time, being no more than 15 percent of the total contact amount, or \$225,000 at the \$1.5 million amount.

We have analyzed this requirement. But this amount would not provide enough funds to cover even five lots acquired a

lots acquired at a time and three units fully constructed at a time, even under the original proposal.

That contract restriction would basically put us \$45,000 in the hole under the old agreement and would put us \$52,500 in the hole under the new agreement, based on that kind of timing. We are asking that that \$225,000 or 15 percent cap be removed from the contract.

As far as a NOFA issue, we believe there was a little misunderstanding of our request to remove the limitation of only being able to build three houses at a time and acquire five lots at a time, as it was presented. Every year, our organization, for the last ten years, has built between 103 and 278 houses for the last ten years. We have developed eleven affordable housing subdivisions, and we have provided 1,100 -- 200 new single-family homes for home ownership, virtually all of those to low income families over the last ten years.

Our request was not that the Department release all funds to us at once, and put all risk on the Department. In fact our request was exactly the opposite. We are requesting that once a customer is qualified by the Department for the mortgaged loan, by whatever criteria, other than income, that the Department is going to use to qualify individuals under this program, that we be



that we be allowed to begin construction on that individual unit.

Being able to start each unit as the qualified family approved by the Department will allow us to market the project to the community in its entirety. We'll be able -- to allow us to move qualified families into the new housing more rapidly, rather than having to wait on a waiting list for 20 or 24 months before their house will be constructed. It would reduce multiple closings, reduce costs, and we would be able to expend funds faster.

As protections to the Department, we are basically offering the following: we ourselves would purchase all of the lots, using our own funds. We are not asking the Department to purchase the lots, and we are not asking the Department to put out the money that those lots be warehoused. We are perfectly willing to provide, buy 17 lots straight up with our own funds and have no risk to the Department.

We also have a \$1.5 million interim construction commitment from Frost Bank to basically build all the houses. So however the Department wants to arrange the draw on the construction of each house, we are also perfectly willing to live with whatever kind of draw arrangement you would like to make.

arrangement you would like to make.

Also, again, we are suggesting that Department just fund one house at a time. After the family is prequalified, we begin the construction of the house; based on that family's prequalification, the house is constructed. And either during construction or at the end of construction, you would pay the interim construction financing on the unit, and only at the end of construction at final closing would you actually fund us the money for the lot.

Finally, in the NOFA itself, it basically cited in Section I4 that in the case where a client qualified family failed to close and another qualified family does not come forth within days to close into that unit -- in this case, the NOFA calls for basically the applicant, which would be us, to repay all of the money on that house to the Department, which we are also perfectly willing to do.

But we don't feel that with a zero percent interest rate loan that we are going to have any problem getting people to be qualified for the house and basically get them moved in. Our commitment with the developer, the builder of the homes -- again, we did not build in a big contingency to carry the project for a long period of time. We feel we can build about 20 houses in a

time. We feel we can build about 20 houses in a relatively short period of time. We think at a maximum, you know, 18 months.

And certainly based on whatever the qualifying standards are going to be, which we don't know yet -- whatever those are, we feel we will be able to get people in a lot sooner. And we are just asking that once the person is prequalified for the mortgage loan, let us begin the construction.

We are not asking to warehouse lots. We will provide the interim financing as needed to move it along. And we are not asking you to pay us anything on the acquisition of the lots until the [indiscernible] is closed. And that is it.

MR. CONINE: Can I get your response to that, Mr. Gouris?

MR. GOURIS: There is a concern, and we needed to do a little more research on whether or not the CHDO funds will be eligible as CHDO funds if the HOME funds don't go into the lots at acquisition. We need to check into that, but -- or the construction. But we certainly -- I mean, that would certainly alleviate the concerns that I think we heard from the Board and we have had in the past with transactions where we've warehoused lot

lots. Because if they are willing to do that, then that would take that risk away for us.

But we do need to double-check to see if it would still be a CHDO-eligible funding activity, for our purposes. Because it may be that the HOME funds need to be used for that activity as well, to be, to qualify. And we just want to make sure that that is the case.

MR. CONINE: Did you get the million eight or million 835 number rectified?

MR. GOURIS: Yes, sir.

MS. ARELLANO: The correct number is a million 835,500

MR. GOURIS: Right. A million 835,500. No. A million 835.

MR. CURRIE: Yes, it's a 835 straight.

MR. GOURIS: A million 835 straight.

MR. CURRIE: But we will take another five if you would like to give it to us.

MR. GOURIS: And the issue with the cap that Mr. Currie mentioned, about both the 200 and --

MR. CURRIE: Right. The 15 percent.

MR. GOURIS: Yes. The 15 percent. The issue there was that was a way to keep, to not warehouse more units being built a one time. That is what that was about. In the underwriting

about. In the underwriting report, we actually had, at that time like a \$75,000 cap. And now we have moved that to --

MS. ARELLANO: 91?

MR. GOURIS: 93, I believe. \$93,000 a home -- per home. So what we were trying to do, because there is a variety of different models that they were making, we were trying to get an average and make sure that we are not putting in -- we are not doing all the expensive ones first, then sitting and waiting and warehousing those. We wanted to have an average amount that they could meet.

MR. CONINE: And the concept of him starting one after he gets -- we approve the homebuyer, especially if he is subordinating a lot, are you okay with that?

MR. GOURIS: Yes. But that adds a little bit of a risk. But that risk is mitigated by the fact that if it falls off for some reason and in 90 days they haven't sold it to a new homebuyer then they repay us the funds. There is some mitigation to that risk.

MR. CONINE: It sounds like he is confident in his market down there.

MR. GOURIS: I believe so.

MR. CURRIE: I would just like to clarify Mr. Chairman about subordination. I mean, recognizing we are going to have an

going to have an interim construction agreement with a banking institution to fund interim construction while we await reimbursement, we are not going to be able to give you a security interest in those lots.

MR. CONINE: Right. I understand that as well.

MR. FLORES: I think those lots belong to you --

Tom, I never heard of this warehousing situation that he's talking about where you have the developer out here warehousing properties like that. Is that any problem at all with our processes and our rules?

MR. GOURIS: Well, in fact, we -- a long time ago, in land far, far away, we had a program that provided the opportunity for single-family development to occur in rural areas and be able to take down a significant number of lots, or a significant amount of land, develop the lots, and develop the homes on the lots over time. And we did have, and have had problems with that in the past.

We stopped that program a while back, and this program was encouraged by the Legislature a session or so ago. We introduced this program to try to test that market and see what we can do. And the three-unit limit was an attempt to prevent us from having that warehousing problem. But, yes, we did have that

problem. But, yes, we did have that problem back when we had a more --

MR. FLORES: But we are okay now as it appears.

MR. GOURIS: Well, the limit on the number of units helps us with that. In this case, what he is proposing is not a limit on a number of units, but not moving forward with the next unit until we have a qualified homeowner and assurance that if the homeowner falls out -- 90 days, they haven't found another homeowner, we would get refunded those funds.

It -- and they're not taking down the lots -- they are taking down the lots themselves instead of us taking down the lot. Those things mitigate that concern about warehousing. And also, this is a developer who has done a lot of transactions, a lot of units and has that kind of experience. Whereas, you know, a less known or a nonprofit may be out there in some other town that has only done ten units in their whole time period, would have a hard time taking down 20 and getting them done. So there is a couple things that mitigate.

MR. FLORES: In this particular process, does he have any time limits on how fast he has to act to get through with this project, his 20 lots?

MS. ARELLANO: The way it is structured right now, it

now, it is basically structured as six six-month pots of money. Six six-month commitments.

MR. FLORES: Three units, six months. Three units, six months. And then so on.

MS. ARELLANO: Correct.

MR. FLORES: And if he doesn't meet that deadline, does he forfeit then these funds?

MS. ARELLANO: He cannot close on the next pot of money the next -- until the first three units are finished.

MR. FLORES: Yes. But what if he exceeds his six months, and he violates the six-month rule that you just put together. Does he forfeit his funds, deobligated funds? Obligated?

MS. ARELLANO: No.

MR. FLORES: Well, so then how long does he have? I mean, there's got to be a drop-dead date.

MS. ARELLANO: Thirty six months. Three years.

MR. FLORES: So he has three years for his three units

MR. GOURIS: For the entire transaction.

MR. FLORES: For the entire transaction. Okay. So he gets three units, and it takes him 20 months. He only gets three units in -- and then with the money that gets deobligated back to



gets deobligated back to us. Meanwhile, he is stuck with 17 lots somewhere. Okay. But he is taking a substantial amount of risk his side. Okay.

MS. ARELLANO: I would like to get clarification that what I am understanding is that CDCB would actually acquire the lots and perform all the interim construction with your financing and the point of injection of HOME funds would be when it is being sold to the homebuyer.

MR. CURRIE: Well, again, I think you had a problem with that before, in terms of CHDO requirements. So no, I don't think that is what you want to do. I think what you want to do is, since the NOFA originally required the developer to own three lots -- that was the original requirement -- I am pretty sure that you don't have to use your CHDO money for acquisition. You do have to use your CHDO money to do interim construction.

Our line with the bank is strictly to provide us that can go --

MS. ARELLANO: Cash forward.

MR. CURRIE: We have cash forward to be able to do it, and we wait for you for your HOME reimbursement to use for interim construction. And we are completely happy to -- no problem with doing that. That is what we would like to do. Just to make sure

like to do. Just to make sure you meet the requirement that the CHDO funds went into actual construction.

MR. CONINE: Okay. I am thoroughly confused, so somebody straighten me out. Because Mr. Craig got up here and said, I am happy with all of these things, except, and then he rattled off --

MR. CURRIE: Sounds like the IRS rules, except --

MR. CONINE: So what we need is -- a clarification to the staff recommendation is what we need.

MR. HAMBY: I believe, Mr. Conine, if I understand, from listening to Mr. Currie and the staff, it is a question of how we are writing these loans. The CDC Brownsville will have one large loan, which he can draw down on, based on the number he builds. But what will happen is the security interest in the lot that he has purchased and the security interest in the development will transfer to us.

When we start writing the note to the individual that qualified, and we start building those homes, it will be a normal drawdown process that HOME deals with all the time. And what he is asking for in the change, I believe, if I am understanding correctly is that instead of limiting him to three units, as soon as he qualifies and starts construction on one, he wants that one

qualifies and starts construction on one, he wants that one to be discounted as opposed to being finished, at that time, and start the next one. So he has got a continuing --

MR. FLORES: So he has three in the hopper at all time

MR. HAMBY: Correct.

MR. FLORES: Okay.

MR. HAMBY: That is my understanding.

MR. CONINE: Or he could have six going.

MR. CURRIE: Yes, I can have as many.

MR. CONINE: Many as he says.

MR. CURRIE: Our only condition is, when a family has been prequalified for the mortgage loan, which I guess the Department is going to do -- I really don't know who is going to that, but I guess you are going to do that, under whatever underwriting criteria you come up with, we would like to be able build -- we would like to be able to start construction for that family on that home at the time the family is prequalified.

MR. CONINE: So we have got to amend six six.

MR. CURRIE: Yes. Right.

MR. HAMBY: Right. That is the point I was trying to make. That as soon as he starts a construction, what we are going

what we are going to end up doing, is doing the loan with the family.

(Simultaneous discussion.)

MS. ARELLANO: So you will have two loans on each unit one loan to the CHDO originally. And then you will have the loan closing with the homebuyer.

MR. CURRIE: Right. That is the family. That is what I am talking about.

MS. ARELLANO: And no max on the outstanding individual loans to the CHDO at any given time, as long as it is a qualified household.

MR. GOURIS: It will be a typical real estate transaction that we do in all of our other programs at that point. Once the family qualifies, we will do the construction loan. We will take a security interest in the loan and the lot.

MR. CONINE: Okay. Here is what I am going to suggest. You guys go out in the hall and give me some language. And then come back in here. This should have occurred at the staff level long before it got to us. Okay? So you all go out in the hall, and get it straightened out, and come back in here.

MR. FLORES: Motion to postpone this item.

MR. CONINE: Okay. Move to table. Is there a second?

second?

MS. RAY: Second.

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Moving forward.

MR. FLORES: I think I was right, out of the bat. We have never done one quite like it before. So we are inventing the wheel here.

MR. GERBER: Moving to Item M. Jeannie, don't go far. Let's continue, and then we will go wrap that one up.

MR. CONINE: We are on 5M. Is that right?

MR. GERBER: Yes, sir. This is approval of the amended 2008 Housing Trust Fund rental production program NOFA.

MS. ARELLANO: Mr. Chairman and Board members, Item 5M is a request to amend this NOFA. You may recall that this NOFA was amended at the March Board meeting based on staff discussions with interested applicants. To date, the Department has received one application which was the subject of the appeal presented today in Item 5A.

Based on continued discussions with interested

applicants, applicants with existing USDA 515 loans and the U.S. Department of Agriculture, staff recommends additional changes to the NOFA which are highlighted as follows: to allow the rehabilitation of older tax credit-financed properties as an eligible activity, amending the NOFA such that developments with existing and continuing USDA 515 program loans and rental assistance or project-based Section 8 satisfy the requirements of meeting instead of targeting 30 percent AMFI and below households

Increase the total amount of funds available under this NOFA by million dollars, increase the maximum award amount from 250,000 to 500,000, and an extension in the NOFA deadline from May 1, 2008, September 1, 2008.

It should also be noted that staff is not recommending that funds be available to the current or last year's 9 percent tax credit applicants at this time. Staff has revised the NOFA, which is attached with black line reflecting amendments proposed.

MR. CONINE: Okay. I don't think I have any public comment on this particular item. Any --

MS. RAY: Mr. Chairman, move to accept staff's recommendation.

MR. CONINE: There is a motion to accept staff recommendation. Do I hear a second?

MR. FLORES: Second.

MR. CONINE: There is a second by Mr. Flores. Any further discussion?

(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. Five N.

MS. ARELLANO: On January 31, 2008, this Board approved the Housing Trust Fund 2008 home ownership Super NOFA program, which made available \$1 million to be utilized for the rebuilding or rehabilitation of affordable housing for home owners in gap financing or down payment assistance for first-time home buyers. Applications from units of general local governments, nonprofit organizations, for profit organizations and public housing authorities are being received on a first-come first-served basis for mortgage assistance, down payment assistance or rehabilitation assistance.

The three types of activities are described in more detail in the action item. Today, one application is being recommended, which was received from the Dallas area Habitat for

Habitat for Humanity with a funding request totaling \$250,000 for the down payment assistance activity. Dallas area Habitat for Humanity has built or rehabilitated 660 homes in 20 neighborhoods of different income mix in Dallas County, adding 55 million onto the Dallas County tax rolls to date.

Dallas area Habitat for Humanity has extensive experience in providing down payment assistance to homebuyers through the Federal Home Loan Bank, TDHCA Bootstrap Program and the City of Dallas Mortgage Assistance Program administered by the Enterprise Foundation. Staff recommends approval of the Housing Trust Fund home ownership Super NOFA award recommendation to Dallas Area Habitat for Humanity for \$250,000 for investment in 24 housing units.

If this recommendation is approved the unawarded balance available under this NOFA is \$750,000. As of today, the Department has received six additional applications in response to this NOFA totaling over \$1.2 million in requests and resulting in an oversubscription. These applications are being reviewed for eligibility and will possibly be presented for an award recommendation in June 2008. The final application deadline for the home ownership Super NOFA is June 27, 2008.



Mr. Chair and Board members, before we conclude this item, the HOME staff and I would like to express our thanks for your guidance and approval for the HOME and Housing Trust Fund awards. Based on the approvals of the actual awards proposed today, the Department will be creating or rehabilitating slightly more than 600 units of housing for low income Texans, mostly located in rural Texas. So thank you for your consideration of a of these items today.

MR. CONINE: You are welcome. Good job. Do I hear a motion for Item 5N?

MR. FLORES: So moved, sir.

MR. CONINE: Do I hear a second?

MR. CARDENAS: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. We will move on to - are you ready yet for the revised? She has got to go outside to

to go outside to do that. Let's go to 6.

MR. GERBER: Matt, why don't you come on forward. Item 6A, Mr. Chair and Board members. is a request for approval of a request for proposal for underwriter services from investment banking firms that are interested in developing a drawdown bond for TDHCA single-family mortgage revenue bond recycling program. On January 31, 2008, the TDHCA Board gave approval to convert our commercial paper program to a drawdown bond.

The drawdown bond program will allow TDHCA to capture and preserve tax exempt lending authority by refunding eligible mortgage revenue bonds which are being redeemed for the scheduled mortgage principal repayments and prepayments, and to capture new tax exempt volume cap allocated for use in future single-family bond issues.

Bond Finance has taken the next step to develop a drawdown bond by issuing an RFP for investment banking firms that are interested in providing underwriting services for developing that drawdown bond. Bond Finance will be coming back to the Board for approval of that drawdown bond underwriter at the June 26 Board meeting. And staff is recommending your approval of this item.

Matt, anything you would like to add to it?

MR. POGER: No. Any questions.

MR. CONINE: This is different from the liquidity facility we had done at the last meeting or two, on the variable rate and stuff. This is just the capacity to draw them down. Right?

MR. POGER: Well, liquidity facility is really, you have that as your back pocket, I guess, when you do a swap, in case for some reason, the remarketing of that -- say that swap does not take effect on a weekly basis or a monthly basis, you have a backstop, liquidity facility, to come in and purchase those bonds. Where with the drawdown bond, what we are doing here, we are capturing basically volume cap.

MR. CONINE: Right.

MR. POGER: Which is a completely different agenda. We are taking the repayments and prepayments of our mortgages that are coming in. Normally, those go on a six-month basis. The interest gets paid off to the bond holders. What we are doing, we are taking these prepayments and we are warehousing them; we are storing them for a period of time. Okay?

And at any given time when -- what happens at that point, the drawdown bond holder will give us those proceeds, and will pay off our -- the normal principal amount of the existing mortgages we have, or those bonds we have. So you have every six

we have. So you have every six months, those repayments prepayments come in. You have got your interest that is paid to the bond holders. We take the principal that should go to the bond holders and we kind of warehouse it.

MR. CONINE

All right.

MR. POGER: In that long-term fixture, that drawdown bond, those proceeds from that drawdown bond comes in, and we pay the principal portion along with the normal interest on that six-month basis. And then what we do is we take that out at any given time. If we need volume, let's say, for an \$800 million structure and I found out that we have got capacity for \$150 million, we can draw down that bond and add additional capacity for our next structure.

MR. CONINE: Got it.

MR. POGER: Okay.

MR. CONINE: Any other questions of staff?

(No response.)

MR. CONINE: How about a motion?

MR. FLORES: So moved.

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

MR. CARDENAS: Second.

MR. CONINE: A second. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. POGER: Thank you. See you next month.

MR. CONINE: Item 7.

MR. GERBER: Mr. Chairman, where are you? Item 7 was, of course, disaster recovery items.

MR. CONINE: Yes. That is what we did already.

MR. GERBER: So we will move to Item 8 which will be -

MR. CONINE: Item 8. Fun time.

MR. GERBER: -- Multi-Family Division items. All the fun stuff. I have asked Robbye Meyer and Sharon Gamble -- Sharon Gamble, our 9 percent administrator to come forward. The first item is the presentation, discussion and possible action on Housing Tax Credit amendments. And we will start with the Bluestone in Mabank.

MS. MEYER: Chairman Conine and Board, Robbye Meyer, Multifamily Director. This owner is requesting approval to change

approval to change the site plan. The change consists of modifying the site plan from six one-story buildings to three two-story buildings, and thereby reducing the number of buildings in the development from 13 to ten.

The development owner stated that the change was required to meet the City of Mabank's strong water rules and this did not become apparent until the final engineering determination were completed. Engineering studies were said to have revealed that a one-acre detention pond would be required. And the land that the pond was originally proposed to contain the three buildings would now be eliminated, and that is where the detention pond would be.

The owner states that the additional development costs for constructing this detention pond would be paid from developer fees. Staff is recommending approval of the request with no penalty.

MR. CONINE: I have one witness affirmation form, File Maines on the Bluestone deal.

MS. MAINES: [indiscernible].

MR. CONINE: Okay. Thank you.

MS. RAY: Mr. Chairman, I move staff recommendation.

MR. CONINE: Motion to approve staff recommendation.

recommendation. Is there a second?

MR. FLORES: Second.

MR. CONINE: Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. MEYER: The next one is CityView at the Park, 05-207. The owner is requesting the Board's approval for a conditional release from the LURA restrictions on 1.675 acres of the originally proposed tract of 4.47 acres. The Board previously approved an amendment to the original site plan which resulted in change in the building footprint. The LURA release would be conditioned on the future use of the land released.

In another development for tenants with restricted income, such as development finance with 9 percent or 4 percent tax credits, Housing Trust Funds, HOME funds, or any other state or local source that the Department may find acceptable. The development received an extension to place in service, and must do so by May 15, 2008. Staff recommends the Board approve with no

15, 2008. Staff recommends the Board approve with no penalty.

MR. GERBER: Robbye, are they going to place in service if they don't meet the deadline?

MS. MEYER: Yes, sir.

MR. FLORES: May 15, 2008? Is that right?

MS. MEYER: May 15, 2008.

MR. GERBER: Next week.

MS. MEYER: They received a placement in service extension in December.

MR. CONINE: I have a witness affirmation form. Sally Gaskin.

MS. GASKIN: Only to answer questions.

MR. CONINE: It sounds like Mr. Flores has got one. C  
you finish it by May 15?

MS. GASKIN: Oh, yes.

MR. CONINE: Okay.

MR. FLORES: Thank you. That is a pretty short time.

MR. CONINE: Thank you. Do I hear a motion?

MR. FLORES: Motion to approve.

MR. CONINE: Is there a second?

MS. ESCAREÑO: Second.

MR. CONINE: There is a second. Any further discussion



discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman and Board members, the next item is the presentation, discussion and possible action on 2008 proposed Housing Tax Credit appeals. Robbye and Sharon are going to walk through those with Kevin's help. The first one, well -- ahead.

MS. MEYER: The first appeal -- actually, first I would like to introduce your new tax credit administrator. This is Sharon Gamble. You haven't heard from her yet, but today you will. The first appeal --

MR. GERBER: And we should note that Sharon is a long time member of the multifamily team and has been doing a lot of that behind the scenes work, and is well known to the development community. But this is really her time of leadership, and we have been very excited by that, and that she is willing to take on this tremendous task. She is an important part of getting out an awfu

lot of work every year. So we are off to a very smooth cycle so far. Go ahead.

MS. MEYER: Mr. Hamby is going to take these first two appeals and make comment, and then we will continue with the presentation.

MR. HAMBY: And actually, members of the Board, Mr. Chairman, the first two appeals deal with an IRS that -- key components that are causes for termination in both of these appeals deal with an IRS issue on general use. And we have had continuing discussions with the IRS on what constitutes general use.

I have a meeting scheduled to meet with the IRS the end of May to further this discussion to clarify the general-use provisions as to whether or not they would apply to these two applications. To give you an idea of the confusion we have, we have gotten two different answers from two different parts of the IRS. One of them says that one of them does meet the general use requirement. One of them says it doesn't. And then they say the opposite about the other one.

So we have conflicting issues, and we are trying to resolve those with the IRS. In speaking with the applicants, because they do have a right of appeal, the applicants requested it meets with the Board, that we postpone this issue until the Ju

we postpone this issue until the June 26 meeting, or the next meeting that is available, and that their termination be considered pending the resolution of the IRS and still in the Executive Director's hands, in case the IRS comes up with some ruling that changes it.

There are other issues that are involved that may still come before the June 26 meeting, but because the two general-use provisions in each of those two applications, and that would be Ysleta del Sur Pueblo Homes and Northside Apartments, they have asked that we give them a pending status on the termination waiting for some resolution, if that would meet with the Board's approval.

MR. CONINE: Okay. Do I hear a motion from the Board?

MR. FLORES: You're talking about a motion to postpone one month?

MR. CONINE: Yes.

MR. HAMBY: To the next meeting.

MR. FLORES: Yes. Next meeting. I so move.

MR. CONINE: That's the first two we're talking about here?

MR. HAMBY: The first two. 08301 and 08147.

MR. FLORES: Same applicant?

MR. HAMBY: They are two different applicants. Both applicants made the request in the conversation that I had with them whenever we were explaining the IRS issues.

MR. FLORES: [indiscernible] name is --

MR. HAMBY: They were not happy, but they would prefer to have the issue resolved finally, one way or the other.

MR. CONINE: Okay. Did I get a motion? I forgot.

MR. FLORES: I got the motion. I don't know if I got second.

MR. CONINE: You got a motion.

MR. CARDENAS: Second.

MR. CONINE: You are going to second. And I have four witness affirmation forms on the first two. And I want to make sure everybody is okay with what we are doing here. Albert Josep

(No response.)

MR. CONINE: He left. He must be happy. Carlos Asa [phonetic].

(No response.)

MR. CONINE: Tom Dinan [phonetic]?

(No response.)

MR. CONINE: David Marquez.

MR. MARQUEZ: Mr. Chair, we are happy with Counsel's recommendation.

MR. CONINE: Okay. Thank you. There is a motion and second on the floor to postpone the first two to the next meeting. All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. MEYER: The next appeal is for Lincoln Terrace. Y received a packet this morning for additional items for 8B. The first letter on there is additional information that we received for this first appeal with Lincoln Terrace. And Ms. Gamble is going to handle this one.

MS. GAMBLE: Sharon Gamble, TDHCA. This applicant is appealing the termination of the application. The application was terminated due to a missed deadline and threshold requirement. Section 50.9(h)(6)(E) of the QAP requires all rehabilitation developments to submit a property condition assessment as part of threshold. This application is proposing reconstruction and, by

definition, is recognized as rehabilitation.

During the rulemaking process for the 2008 QAP, the Board determined a PCA to be beneficial to the Department in determining the extent to which the development should be rehabilitated or reconstructed. The applicant asserts that a PCA was not required by the Department in the past for reconstruction and the PCA is not necessary for buildings that will be completely demolished and rebuilt.

Since the applicant believes a PCA is not necessary, the applicant did not submit a PCA by the required deadline date of April 1, 2008. Staff is recommending that the Board deny this appeal.

MR. CONINE: I have three, two witness affirmations on this one. Brian Dennison?

MR. DENNISON: I will yield to Jeff.

MR. CONINE: Okay. Jeff, are you going to yield, or are you coming together? Coming together and yielding at the same time.

MR. FULENCHEK: Thank you for your time. And Ms. Gambis is right in what we asserted earlier. I think it is better worded as we misunderstood the change in the QAP, based on prior -- oh, I am sorry.

Jeff Fulenchek with Carlton Residential Properties. W

Properties. We are the developer for Lincoln Terrace, 08206. As was saying, we had a misunderstanding based on prior year's experiences of what was required for reconstruction. As you know there was a change in this year's QAP that folded the reconstruction definition in with rehabilitation, which is a little different from previous years, and that in our mistaken thinking, we did not need a property condition report.

We understand the reason staff has gone the way they've gone. They have to go by the letter of the law. And we also understand that the Board has to be very careful of setting precedent in situations like this.

But we respectfully ask that you would allow this application, which is an at-risk application that has the support of the Fort Worth HUD regional office, the Fort Worth city council, the state senator, the state rep, and the Como neighborhood organization, and we would ask that you would allow this application to go on.

We do recognize we need a PCA and we'd be happy to get one ordered. We can get one to you just as quickly as we possibly could. And we do, however, understand we're asking for accommodation. And I wanted to be brief because I know you guys have a long agenda. But we're happy to answer any questions that you have.

MR. CONINE: Any questions?

Yes, sir, Dr. Muñoz.

DR. MUÑOZ: So previous applications wouldn't have required this PCA. You presume that because the structure would obliterated, there would be no reason to report on its condition, you know, is that it?

MR. FULENCHEK: Yes, sir. What happened is, and correct me if I'm wrong here, but the definition of reconstruction used to be defined separately from rehabilitation, and the text within the QAP in regards to rehabilitation didn't change, and it always had required a PCA.

And in reading it, because we did not have to do that last, you know, last year, and we had deals last year where we had reconstruction, it just simply didn't click with us that when we needed to get a PCA for this development.

MR. CONINE: Any other discussion? Questions of the witness?

(No response.)

MR. CONINE: I need a motion.

DR. MUÑOZ: So they're asking, Kent -- Mr. Chairman, s you're asking for a waiver, or an extension to submit a PCA?



MR. FULENCHEK: Yes, sir.

DR. MUÑOZ: I move that the group be given an extension to submit a PCA and have their proposal continue to be considered

MR. CONINE: Do I hear a second? Yes, there is a second --

MR. FLORES: There is a second, yes.

MR. CONINE: -- so we're --

MR. FLORES: Yes.

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes, go ahead.

MR. GERBER: If I could ask Ms. Meyer to comment on that? It has -- the extensions have implications for our ability to -- for staff to do their work and due diligence.

And if, Robbye, if you'd talk a bit about that and if get a clear idea of when we're going to get the completed documentation, if that's what the Board so chooses to do so that

MS. MEYER: Okay.

MR. GERBER: -- there's clear understandings on both sides.

MS. MEYER: Okay. Whenever we have a discussion of the 2008 QAP and the rule that governs qualified allocation plans, th

qualified allocation plans, the rule that governs the Housing Tax Credit program -- Mr. Conine, you may remember this conversation it was very beneficial to be able to tell -- to have a property condition assessment to be able to tell whether the best use of funds would be to rehabilitate that property, or to reconstruct that property.

And that's why the rule remained that a reconstruction development would need to have a PCA, or a property condition assessment. Those documents are due on April 1. That is a competitive deadline in the qualified allocation plan, along with appraisals and the other third-party reports; they're all due on the same date.

This does extend that deadline. Not only did they not provide one, but they didn't meet the deadline either. So you've got two things in front of you here. They don't have -- the Department does not have the information to properly underwrite this transaction without the property condition assessment.

MR. GERBER: And, Mr. Chairman, I --

MS. MEYER: And the -- and I mean we're in the process --

MR. GERBER: And most of them are --

MS. MEYER: -- of underwriting the applications for

applications for that list to you in June.

MR. GERBER: And, Mr. Chairman, would it be reasonable to inquire of the developer where -- because they sent the deficiency notice on April 2, where they are in the development of the PCA?

MR. CONINE: Yes.

MR. FULENCHEK: And, I'm sorry, we -- since we were terminated, we have not ordered one yet. We think we can get one put together very quickly within --

MR. GERBER: How quickly?

MR. FULENCHEK: Probably a two to three-week period. Once again, we've had to have someone come and physically inspect the apartments.

MR. CONINE: I would have to, I guess, speak against that motion, just because I'm afraid the flood gates would get opened in this particular circumstance, and this was an issue that was discussed because of some of the issues related to the definition of reconstruction.

It was -- we fleshed it out at some developer round tables, and talked about moving the PCA over to include reconstruction so the Department would have -- or staff would have a better feel for what was there before we decided to tear down what was there. So --

DR. MUÑOZ: Were those discussions -- were everyone

everyone equally -- was everyone equally invited to those discussions? Was this group privy to that possible conversation?

MR. GERBER: Yes. The Department hold numerous round tables and -- that we extend, and through the lists serve an invitation to the community at large to participate in. And this I think, was a condition, along with many others during the QAP development process that should have been well understood.

MR. CONINE: Okay. I've got a motion to grant the appeal on the table. Is there any further discussion?

DR. MUÑOZ: Yes, could I amend that --

MR. CONINE: Sure.

DR. MUÑOZ: -- to give them a fixed time frame?

MR. CONINE: Sure.

DR. MUÑOZ: Within two weeks?

MR. CONINE: There's a proposed amendment to the motion to grant two weeks. Do I hear a second to that proposed amendment?

(No response.)

MR. CONINE: Died for lack of a second.

Now back to the original motion. All those in favor of the motion, which is to grant the appeal, signify by saying aye.

by saying aye.

DR. MUÑOZ: Aye.

MR. CONINE: All opposed?

(A chorus of nays.)

MR. CONINE: Motion fails.

So we don't have to turn around and grant the staff --  
we don't have to approve staff approval on that basis, do we?

MR. GERBER: No --

MR. CONINE: We've --

MR. GERBER: No, sir.

MR. CONINE: Okay. We've already done it.

MR. FULENCHEK: Thank you for your consideration.

MR. CONINE: Sorry about that.

MR. FULENCHEK: No, no, we understand.

MR. CONINE: Okay. Champion.

MS. GAMBLE: The next appeal is Champion Homes at La  
Joya. TDHCA number is 08248. The applicant is appealing the  
termination of its application. This application was terminated  
due to a missed deadline.

Section 50.9(h)(14) requires all applications to submit  
a phase one environment site assessment by April 1, 2008. The  
applicant did not submit an environmental site assessment by April

site assessment by April 1, and has acknowledged the omission.

The applicant asserts the ESA provider was to submit the ESA directly to the Department, however, the provider did not submit the report by the deadline. Therefore, the omission was not the fault of the applicant. Staff disagrees with this assertion and believes it's the applicant's responsibility to ensure submission to the Department.

The applicant asserts that a competitive application in the 2007 round was allowed to submit their ESA report late, and applicant should have the same opportunity. Staff believes that the Board determines all issues presented on a case-by-case basis and each issue must stand on its own merit.

The circumstances and fact patterns with the previous application were completely different from those presented by this applicant. The Board decisions do not set precedent for future applications to disregard the rules. Staff recommends the Board deny the appeal.

MR. CONINE: I have a couple of witness affirmations. Bill Fisher? Paige Ginn. Okay.

MS. GINN: Hi, I happen to be the environmental consultant whose fault it was that it was late. Not Bill's; he d

Bill's; he did tell me --

MR. CONINE: State your name, please?

MS. GINN: I'm sorry. Paige Ginn, Ginn Environmental. I'm the sole proprietor. And Bill told me what the rules were. I messed up. It was a first for me. I have it in, I got it in two days late; everything they needed. But it is my fault, not Bill's. He did tell me.

I am very sorry. But I do understand, as he explained to me, that you have a previous precedent where the environmental consultant made a mess up, I guess missed a time line like I did. And I'm hoping that my fault won't prevent Bill from getting his tax credit. I'm not real familiar with all the stuff, except for what I do.

Anyway, I hope he can get his submission approved, because it was my fault. And I'm sorry.

MR. CONINE: Any questions for the witness?

(No response.)

MR. CONINE: Thank you.

Bill Fisher?

MR. FISHER: Good afternoon, Board members. Bill Fisher, Odyssey Residential. This is a rural Region 11 application in the Rio Grande Valley. I think everyone is familiar with the market there. I know several Board members are. We need more

members are. We need more affordable housing in the Rio Grande Valley.

The region's urban area is under-subscribed this year. There will be credits that will be dropping to the rural region. And the basis of our appeal is, to a certain extent, to leave the Board with an option.

We're at the bottom of the scoring list in the rural set-aside. Grant our appeal, our ESA was complete, it covers the entire site, it's clean, it was through no fault of the applicant and leave us on the bottom of the list in the rural region to all the housing to be built if funding's available.

There is a Board precedent from December, and it is not distinguishable. I included in your package page 167 from the transcript. The basis of the termination of the Region 11 application last year was the ESA was not in by the deadline. How many days was it late? Eight months. Our ESA was two days late, and as I said, we're not really affecting any other application.

There are other reasons why we think the Board should keep their options open. We think there are questions of financial viability in other applications in the region. One of them is counting on a 91-1/2 cent tax credit price to be financial feasible. I think the Board understands that's absolutely not



understands that's absolutely not doable in today's market as a result of the collapse of the tax credit pricing.

We would suggest that there'll be a return of '07 credits as a result of the change in the tax credit pricing market. Transactions that were financed last year are just not going to be financial feasible. There's a bill pending in Congress to allocate an additional 20 percent additional tax credits for this year to the Agency.

And the omission versus the penalty versus the Board having an option to fund a rural development in the Rio Grande Valley, we think outweighs the necessity of adhering as tightly to the rule as was suggested in the previous applicant's review.

We think it's fair. Not only was the waiver granted to the previous application, even though they were terminated for being late, they were also awarded funding. And we'd ask the Board to grant our appeal and waive the termination, or hold the termination in abeyance until a later date to determine whether or not the Board wants an option to fund a rural housing development in Region 11 if funds are available.

And I'd be happy to answer any questions.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Seeing none, I --

MR. GERBER: Mr. Chairman.

MR. CONINE: Yes, Mr. Gerber?

MR. GERBER: If I could just interject, and we enjoy working with Mr. Fisher a lot. He is a sophisticated developer, and we have a lot of respect for the products that he puts on the ground. So it's not personal.

But deadlines in this process are really key for staff to be able to do the things that they need to do. And it impairs their ability to get their jobs done and give you good advice if those deadlines are not adhered to.

Staff is recommending that the deadline be adhered and that this be -- this appeal be denied, understanding the honest mistake that got made, and having a lot of respect and understanding that these are complicated applications. But, again, just making the appeal that we're dealing with a broader systemic issue of deadlines needing to mean something.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I move staff recommendation to deny the

the appeal.

MR. CONINE: Motion to -- made to accept staff's recommendation. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all --

DR. MUÑOZ: Okay. Let me -- there's more discussion.

MR. CONINE: Yes.

DR. MUÑOZ: So as in -- not as in the case previously, they did get it in two days late. And what was submitted was satisfactory?

MR. GERBER: We have not reviewed it to evaluate whether it's satisfactory or not because it was -- because staff terminated them.

DR. MUÑOZ: It was two days late?

MR. GERBER: It was two days late. But on a process that started in January with, in this particular instance, a developer with a significant involvement in our program who was well aware of the rules and had sophisticated counsel and consultants who work with him and for him.

DR. MUÑOZ: All right.

MR. CONINE: Okay. There's a motion on the floor. All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

DR. MUÑOZ: Opposed.

MR. CONINE: Motion carries, three to two.

MALE VOICE: [indiscernible]

MR. CONINE: No.

MS. RAY: Because --

MR. CONINE: -- don't need to.

Next one.

MS. MEYER: The next appeal on the agenda is Fairwood Commons, and that appeal did not come in, so that has been withdrawn from the agenda. Suncrest Apartments is the next appeal.

MR. CONINE: Wait a minute, wait a minute, wait a minute. I had a witness affirmation form on Fairwood Commons from Robert Jenkins.

(No response.)

MR. CONINE: Not here. Okay. Move ahead.

MS. GAMBLE: Our next appeal is for Suncrest Apartment TDHCA number 08182. This appeal is for the ineligibility of a

ineligibility of a letter for quantifiable community participation.

And I'd like to start by saying this is not dealing with the termination of an application.

This appeal concerns the points associated with the quantifiable community participation for scoring in the application. It's a little bit of out order. I apologize for that, and we'll go back to the termination appeals after a while.

The QAP requires letters submitted for quantifiable community participation to be postmarked on or before February 29, 2008. The applicant asserts that the neighborhood organization president sent the letter to the Department prior to the February 29 deadline, and will certify that he faxed the letter prior to the deadline.

The Department has received a letter dated February 18, 2008, postmarked March 11, and received March 17. And a letter dated and signed on March 12, postmarked March 14, and received March 17. And I'll repeat, the QAP requires that letters submitted for a quantifiable community participation be postmarked on or before February 29.

Neither the applicant nor the neighborhood organization has provided evidence of a fax transmittal receipt or anything to show that we -- that they sent it.

Staff is recommending that the Board deny the appeal because the letters were not received by the required deadline.

MR. CONINE: I have two witness affirmation forms. Je Spicer?

(No response.)

MR. CONINE: Kevin Ruf? Looks like Kevin may be going first.

MR. RUF: Good afternoon, and thank you. That was an accurate portrayal of the situation, except that the -- it was actually the president of the neighborhood association who asserted that he sent the letter prior to the deadline, and not just us. I agree with him, of course.

But he asserts in a letter written April 22 that, "Enclosed find the letter that I sent to you on or about the 20th of February 2008. Our neighborhood association meets the third Tuesday of every month. February's meeting was on the 19th of February.

"At that meeting I presented the letter to our members and it was approved by all members present. I put it in the mail the next day, or the following day. I'm hopeful that you can consider it coming to you in a timely manner. If I can help in a

timely manner. If I can help in any way, please let me know.'

And he offered to call the Board on the telephone and say -- to attest that he actually did send it in. Also, if there some way he could certify, or swear, or have a notary witness his statement, he's willing to do that as well.

It's a tough situation for us because we basically put our application in the hands of a neighborhood association president, and this gentleman, a very well-meaning person, he's a small business owner, he owns a barber shop in the neighborhood, and he, as he states, supports the project, as do his membership.

And, again, he, you know, swears on all that is true and faithful that he did submit that letter on time. You know, letters get lost, there's a lot of paper, we all have a lot of paper in front of us. But that's our case, that he does make that assertion, and I for one believe him.

MR. CONINE: Any questions? Leslie?

MS. ESCAREÑO: Just a point of clarification in the Board summary that we have, it's not that the applicant misled us by saying that they sent it, and then us having letters dated in March. I mean the letters that are dated and postmarked in March

are dated and postmarked in March were they're attempt to go ahead and show hard copy proof that there was a letter. I mean we're not -- those came because I think our call to them was prior to that -- no?

MS. MEYER: We had deficiencies that did -- but we didn't actually receive this letter until after the date. So there's -- I mean there's not something that we could have gotten back to them --

MS. ESCAREÑO: Right.

MS. MEYER: -- so we couldn't have done the normal deficiency. The letter that they did send, the February 18 letter didn't have all the required documentation with it. However, they could have resolved that with the deficiency had we received it in a timely manner.

MS. ESCAREÑO: Uh-oh, you lost me. Okay. Just say that again a little slower.

MS. MEYER: The letter dated -- the letter itself is dated the 18th, however, the documentation that came with it -- in our documentation we keep the postmarked letters and all that -- the letter itself -- the envelope was postmarked after the 29th deadline, and we didn't receive it until the 17th.

That letter would have been deficient had we received



received it on time, however, they could have gone through our deficiency process and corrected those issues. So it --

MS. ESCAREÑO: Okay.

MS. MEYER: -- is a possibility that it could have been eligible, had we received it in a timely fashion.

MS. RAY: Ms. Meyer --

MS. MEYER: Yes, ma'am.

MS. RAY: -- this is the same as we have a situation where an individual said he wrote the letter, yet we have no documentation, nor does the developer here have any documentation that the letter was ever received at the time it was supposed to be, but did not get received.

MS. MEYER: That is correct.

DR. MUÑOZ: But had we received it, there could have been additional appeal, had it been received in time?

MS. MEYER: Correct. There would have been a deficiency process just as any applicant has with their application material

MR. CONINE: The key here is the postmarking.

MS. RAY: Yes.

MR. CONINE: I mean what I'm hearing is that somebody

somebody dropped it in the mail on the 20th and it sat there until March 11 before it got postmarked. That's what I'm hearing.

MS. RAY: That's what the evidence shows.

MR. CONINE: That's what the evidence shows.

MS. RAY: The evidence shows that it didn't -- but the date on the letter that was received in March, the date the letter was written was not the 20th of April, it was a couple days before in March. Right?

MS. MEYER: It was February 18. You have a copy of the letter in your Board --

MR. CONINE: Right.

MS. MEYER: -- materials.

MR. CONINE: It's dated the appropriate --

MS. MEYER: The letter itself is dated --

MR. CONINE: It's dated appropriately, and if it was postmarked within the next 10 days or so, it would have been fine

It was just postmarked there weeks later from the date of the letter.

Any other questions of Mr. Ruf before we move to Mr. Spicer?

(No response.)

MR. SPICER: And I believe, you know, really what we're stating here is that I think the original letter -- we're saying

letter -- we're saying we're not sure how it got there. I think this was the second letter we submitted with additional information after talking with staff.

I think that was part of the confusion is that there is a list that says, Here are the letters received that was put out, and I don't know the date of that, Robbye. The list was put out.

Once they saw that they were not on the list, they, I believe, talked to someone at staff and were instructed what they needed to do. But at that point in time it was too late to meet the February 29 deadline, so they submitted what they -- you know a follow-up to that information.

And, again, you know, part of the issue here is as a developer, as a consultant, you know, we're not allowed to help the neighborhood organization. We can't fax it for them; we can't give them a Fed Ex. That would be breaking, you know, breaking the rules. We're not allowed to do that to help them out in that manner.

But he was doing what he thought was right. And we're just trying to -- you know, we're trying to follow the rules as well by not helping him, not doing what we're not supposed to do under the regulations. And we have to put our development kind of in the hands of the neighborhood organizations, so to speak.

neighborhood organizations, so to speak.

And they thought they were doing what was right, and we believe they did what was right. We're not sure why it didn't show up on time. That's kind of where we're at today.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am?

MS. RODRIGUEZ: I move staff recommendation.

MR. CONINE: You move staff recommendation --

MS. RAY: Yes.

MR. CONINE: -- to deny the appeal?

MS. RAY: Yes, I do.

MR. CONINE: Okay. Is there a second?

MR. FLORES: Second.

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

(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.

The next one, Ms. Gamble, or Ms. Meyer, whichever one'

whichever one's going.

MS. MEYER: It will be Ms. Meyer. This is a packet that you got this morning, Evergreen Colony, 08223. This is another appeal that was timely filed, however it didn't get on the agenda

MR. CONINE: Hang on. I got Homes at Cypress Ridge next.

MS. MEYER: You should have an extra packet that was put in your -- in front of you --

MR. CONINE: You just want --

MS. MEYER: -- this morning.

MR. CONINE: -- to take this one out of order. That's what you want to do.

MS. MEYER: I was trying to keep the QCP issues together and --

MR. CONINE: Well, I tell you --

MS. MEYER: -- and then get all --

MR. CONINE: -- what --

MS. MEYER: -- back to determinations here in just a minute.

MS. ESCAREÑO: Which one was it?

MS. MEYER: What now?

MR. CONINE: She's making --

MS. RAY: You're making us work today.

MR. CONINE: She's making me work today.

MS. MEYER: Evergreen Colony, it's in the separate packet that you were left this morning.

MR. CONINE: I don't know that I have it.

DR. MUÑOZ: What's it called?

MS. RAY: Evergreen --

MS. MEYER: Evergreen Colony -- the package started out with --

MALE VOICE: [indiscernible] housing authority on top it.

MS. MEYER: Three of them are hooked together.

MALE VOICE: This one?

MALE VOICE: Yes.

MS. MEYER: They're all --

MALE VOICE: Yes, sir. Yes, sir.

MS. MEYER: -- part of B8.

MS. RAY: Is this it?

MS. MEYER: Yes, sir. Or 8B.

MR. GERBER: And with copies for the general --

MS. MEYER: Yes, they were placed on the table outside

MR. GERBER: Okay. If anyone in the general public would like a copy of it, they're on the tables outside.

MR. CONINE: Even though the first one says Lincoln Terrace, that's behind us, and now we've moved to Evergreen. Oka  
Now I got you.

MS. MEYER: That's correct.

This is another quantifiable community participation issue of ineligibility for the letter. It's not a termination.

According to 50.9(I)(2)(A)(4) of the qualified allocation plan and rules, it states that neighborhood organizations include resident councils in which the council is commenting on the rehabilitation or reconstruction of the property occupied by the residents.

This proposed development is a new construction; therefore the resident council does not qualify as an eligible neighborhood organization for the purposes of scoring. However, their comments will be taken as general comment for the Board in their decision making.

Staff is recommending the Board deny the appeal for ineligibility of the resident council.

MR. CONINE: We do have a witness affirmation form. M  
Tony Sisk.

MR. SISK: Good afternoon, Board members. I'm Tony Si  
with Churchill Residential, the project developer. I wanted to

developer. I wanted to speak first just to give a general context of the situation.

The application for Evergreen Colony was previously filed in 2007, and we went through the zoning process. It was a resident of the apartment community contiguous to the north of the site that was very helpful in getting the site rezoned to allow the use for age restricted senior housing.

The application was refiled for 2008, and there was a request made of this same group representing the apartment community, which is the contiguous site to the north again, to provide a QCP, or support letter.

The group attempted -- and, again, this is a very loosely knit grassroots organization. This organization has been very active in land use matters. Last year, right after the zoning was approved for Evergreen Colony, they opposed successfully the development of a hotel right next door to this site. So they are very active in monitoring land use activities.

In addition to being very helpful in getting this site rezoned in '07, they attempted to provide a support letter for the 2008 application. They were somewhat intimidated.

I will say each year this process is getting easier due



easier due to efforts by staff and Board, and the documents are getting easier to fill out, except that for a very unsophisticated organization, they were somewhat intimidated by the forms.

They did try to fill out the forms as correctly as possible, and did provide a support letter. However, in one of the forms, there was not a box to check that applied specifically to their organization of members that live in a rental apartment community. So they checked the box that they thought was most closely associated with the three options that they had, which was the resident council.

I don't think they meet the definition, the TDHCA definition of a resident council. They checked that box because, again, it was the one that was closest, the one that seemed to be applying to their organization. And since the developer can't be involved in that process, there's some communication that drops through the cracks.

So my point is that the group has been very helpful in trying to get support to build Evergreen Colony, they've been very active in opposing projects they don't like, and there was just some communication errors in terms of how they should fill out the TDHCA forms.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. Barry Palmer?

MR. PALMER: Good afternoon. My name is Barry Palmer and I'm with the law firm of Coats Rose, and we are the attorneys for this developer. And the think that I wanted to point out is that this group is not a resident council.

A resident council is really a term of art in the industry that refers to the leadership of the residents of a public housing development. And a couple of years ago, the QAP was revised in the definition of who qualified for the neighborhood support points, and the resident council language was put in, and limitation that they could only comment on their own development.

In the QAP though it lists the types of organizations that can be neighborhood organizations. It lists homeowner associations, it lists property owner associations, and it list resident council. But it doesn't say that those are the only three types of organizations that qualify as neighborhood organizations

And what we have here is a neighborhood organization made up of renters in an apartment complex, who should have just much right to comment on what's going in next door to them as

going in next door to them as homeowners.

Now I don't think it's ever been the position, that I'm aware of, of the TDHCA that the neighborhood support points could only be obtained by homeowners, that you couldn't be a renter or group of renters that qualified as a neighborhood organization.

So that's what we submit we have here is a neighborhood organization made up of renters. They are not a resident council. They mistakenly filled out that box because the form only had three places to check, and that was the closest to what they thought they were. Later in the deficiency process they pointed out to the TDHCA that they were not a resident council.

So that is the reason that we are asking for these support points to be given, that this is a neighborhood group made up of renters who, again, have every much of an interest in their community as homeowners do.

MR. CONINE: Any questions of the witness?

MR. FLORES: I have a question of you. Are we -- are all we talking about here nomenclature, you know, the misunderstanding of the nomenclature. Is that what we're talking about?

MR. CONINE: Yes, I mean -- I'll let maybe our counsel

counsel speak what his opinion is. Mine, if you're going to include a resident council as being -- as qualifying as a neighborhood association, then that, again, typically refers to Section 8 properties and the like that have neighborhood councils

I mean I know this property fairly well, there's 800 units sitting right next door to it, and that's the group of apartment renters that they went to have respond to this.

MR. FLORES: So then we're talking about also the legal definition, whether renters can be a member of a neighborhood council?

MR. CONINE: What we're talking about is, do you want the opinion of those who are going to be adjacent to the property who happen to be apartment renters.

MR. FLORES: Well, what does the law say -- I mean what does our rules say, not law. We're talking rules.

MR. CONINE: Well, we're going to find out what the --

MR. FLORES: Okay.

MR. CONINE: -- law says.

MR. FLORES: Thank you, Kevin. You're on.

MS. RAY: The same song --

MALE VOICE: Thank you, Kevin.

MS. RAY: -- second verse.

MR. HAMBY: And for the record, and so everybody remembers, the rules are our law. That's when you all pass them, they become laws in the State of Texas.

And I'm sorry, I just got this package this morning as well, and I was looking at it. I know we've had this discussion.

There is no prevention that renters could be part of a homeowners association. There may be some question, and I haven't looked at the creation documents, they're not necessarily a resident council. They've affirmed they're a resident council, and that's probably where the confusion came in. Resident councils cannot comment on neighboring properties.

MR. CONINE: Do resident councils have formation documents?

MR. HAMBY: Resident councils do have formation documents.

MR. CONINE: Okay. That is what would be absent in the scenario then.

MR. HAMBY: Correct.

MR. CONINE: That's my understanding, unless I'm wrong.

MR. PALMER: Yes, a resident council -- the resident council is a HUD term of art for public housing developments, and HUD has a whole series of procedures on how resident councils are formed and how they elect leadership, and, yes, they --

MR. CONINE: They have formation documents.

MR. PALMER: They have formation documents. They are called a resident council in their formation documents. That is not the case here.

MR. CONINE: What he's contending is that we mentioned three different types but it's limited -- in theory not limited to just those three types. I think -- some of my guess would occur that there's no formation documents, other than a set of leases, that one apartment complex owner has. And that would be pretty much it.

And I don't think there's -- there's no any other neighborhood associations around that area that I'm aware of, because they front on a freeway. It's kind of hard --

MR. FLORES: They couldn't go anywhere else.

MS. RAY: I'd like to ask the witness, Bill, this is a group of apartment renters. Do they have -- are they formed into resident -- a neighborhood association?

MR. PALMER: I don't know --

MS. RAY: Are there formation documents legally identifying these people as a neighborhood association, or whatever it is that they are? I mean what -- how do we know who these people are, is this person authorized to speak for them in a legal sense?

MR. GERBER: Robbye, this is the assistant property manager who is --

MS. MEYER: Right.

MR. GERBER: -- speaking --

MS. MEYER: This is --

MR. GERBER: -- on behalf of --

MS. MEYER: -- a resident council of an apartment complex, so that means they have their documents. But they don't meet any of our definitions as far as being a homeowner, being a property owner, and we specifically statement resident councils --

MS. RAY: But we don't know that there are formation documents showing that they are "even a resident council."

MS. MEYER: That's correct.

MS. RAY: And that --

MS. MEYER: That is correct.

MS. RAY: -- in that structure. So --

MR. GERBER: And, Robbye, just, again, to be clear, th

clear, this is not a resident council. I mean to the -- I mean --

MS. MEYER: It's not -- under HUD's terms, no, it's no

MR. GERBER: Which is a public housing term, but for --

MS. MEYER: Correct.

MR. GERBER: -- but for this, I mean it's Crystal Smi  
is the -- who's sending the letters, is the assistant property  
manager for Estancia at Morning Star, the adjacent apartment  
building.

MS. MEYER: That's correct.

MR. CONINE: Any other questions of the witness? Or  
staff for that matter?

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, ma'am.

MS. RAY: I move staff's recommendation on this one.

MR. CONINE: There's a motion on the floor to accept  
staff's recommendation to deny the appeal. Is there a second?

(No response.)

MR. CONINE: Is there a second?

(No response.)



MR. CONINE: I'll second it just for getting it going.

Any other discussion?

(No response.)

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

MS. RAY: Aye.

MR. CONINE: All opposed?

MALE VOICE: Nay.

MS. ESCAREÑO: Opposed.

MR. CONINE: Motion is defeated. Do I hear any other motions?

(No response.)

MR. FLORES: Let me --

MR. CONINE: Yes, sir.

MR. FLORES: -- as a question again. I'm still confused. Robbye, is --

MR. CONINE: We're in no man's land.

MR. FLORES: -- isn't it -- is a renter eligible to be a member of a neighborhood organization?

MS. RAY: Yes.

MALE VOICE: Yes.

MS. MEYER: Of a homeowners association, or a neighborhood organization? Yes, they are.

MR. FLORES: Okay. So they're sin was marking the wro  
box, which said resident council instead of neighborhood  
organization? I mean --

MS. MEYER: They don't have another choice to mark.  
There's three choices that they can mark that --

MR. FLORES: And those choices are --

MS. MEYER: -- they need to certify to. The choices  
are homeowners association, which is a statutory definition --

MR. FLORES: Okay. I know --

MS. MEYER: -- or defined --

MR. FLORES: -- what that is. Go ahead.

MS. MEYER: And property owners, and then resident  
councils. We allow them in the QAP to count as long as they are  
making comment --

MR. FLORES: Yes, but there's --

MS. MEYER: -- on --

MR. FLORES: -- one in between. You went through it  
real fast. What --

MS. MEYER: Property owners -- I'm sorry -- property  
owners associations.

MR. FLORES: Okay. So there is no thing where it says  
renting -- renters, there's no such --

MS. MEYER: That is correct.

MR. FLORES: -- box. And so what could they do? I mean they didn't fit any of those, so they had to -- you know, they're like me. When you see a government form, you have to pin it in a box or, you know, they'll kick it back. And so --

MR. CONINE: Mr. Flores, I --

MR. FLORES: -- I don't think that's a sin.

MR. CONINE: -- I would say they could organize if they wanted to organize, they just haven't.

MS. RAY: Yes.

MR. CONINE: That's the difference.

MR. FLORES: You mean they're not an organization with documents --

MR. CONINE: They're just a bunch of people living in apartments. And if they go kill a hotel deal, they've done it on an individual basis. They haven't done it as any official organization. And that's the difference we have.

MR. FLORES: So what you're saying, they went from door to door on the apartment house and said, Okay, would you sign this petition?

MR. CONINE: Right.

MR. FLORES: Or whatever.

MR. CONINE: You know, somebody got --

MR. FLORES: Why don't we ask the developer. Is that what happened, Mr. Developer? Did these go door to door, your representative go door to door and asking people to sign those things?

MR. SISK: All we're asking for is --

MR. FLORES: I know what you're asking for, but did -- my question is not that. My question is did you go door to door asking people to sign this petition at this particular house?

MR. SISK: It was -- there was a limited number of people that are associated with the apartment. The position we were trying to take is that the QAP and the rules allow organizations to try to register with TDHCA when they don't have all the bylaws and other corporate documents.

That rule was put in a couple of years ago to make it easier for mostly homeowners associations --

MR. FLORES: Okay.

MR. SISK: -- register.

MR. FLORES: Okay.

MR. SISK: The only difference is these are renters, a they tried to fill out the same documents to register their organization with TDHCA, just like the homeowners associations th we deal with. There just isn't a homeowners association nearby.

isn't a homeowners association nearby.

It's only a group of renters, and we felt like because they've been active in land supporting zoning or opposing zoning, that they fit the category of being an organization that could give a support letter.

MR. FLORES: But you said that they actually made some effort to contact our organization and get some kind of documents to make sure that we were -- they were instituted legally according to our rules.

MR. SISK: They tried to fill out the organizational documents as best they knew how. And that's all that I was saying. I'm just trying to clarify what was attempted to --

MR. FLORES: Okay.

MR. SISK: -- be done.

MR. FLORES: Okay.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, ma'am.

MS. RAY: My concern is the letter of support came from the assistant property manager of the apartment complex. The staff, in their defense, has no way of determining what -- we're not against renters being for or against a development and having legal standing to do so.

My concern is, our staff has no way of knowing whether

whether this is a legally authorized a group of people. All they got was a letter from the assistant property manager so affirming

So we don't know how many people in the apartment complex were for or against this property. We have no way of knowing whether they were legally formed, or casually formed as an organized group.

So my concern is that staff has no way of making a determination whether there was any formation of a group. We get this letter from the assistant property owner. I'm not sure that that would hold up in court.

MR. HAMBY: Ms. Ray --

MS. RAY: I'm not too sure.

MR. HAMBY: -- if I can add to that, Ms. Ray. One of the things that we have in the process, which was mentioned to make it a little more simply these days to file your QCPs, if you check that you're a resident council, we don't ask for documentation, bylaws, et cetera. If you check you're a homeowners association, we demand more information, we have to see that the meeting was properly held, that events take place.

These folks checked a resident council --

MS. RAY: Which is --

MR. HAMBY: -- and we would not have followed up for additional information. And I think that's the distinction here.

distinction here. They could be a homeowners association provided they actually went through the effort to become a homeowners association.

At this point they're not a homeowners association, and they can't become one just by sending something to us. They can get on record with the state, which is one of the requirements in statute that you be on record with the state.

It doesn't -- as we found out many times, it doesn't help to be on record with the city; it doesn't matter that they participated in the zoning issue previously. You have to be on record with the state or the county. You can become on record with us.

We took them at their face value whenever they sent in the information that said they were a resident council, so we didn't ask them to provide any additional information. If they're going to be something else, then they're going to have to provide additional information.

MR. FLORES: Okay. Let me respond to that. Now what concern is, our rules obviously are not very -- they don't make a provision for renters to come together and form an organization. There's no way that they -- a simple way that we say, if you want to be a renters organization you should do A, B or C. It's not

written into our rules.

MR. HAMBY: Homeowners associations --

MR. FLORES: It's not -- they're not homeowners. See you're using the wrong nomenclature.

MR. HAMBY: No, but homeowners association is not a term that means you have to own a home to participate. You can be in homeowners association --

MR. FLORES: Is that clear enough in our rules?

MR. HAMBY: It's the law. I mean --

MR. FLORES: Well, I understand it's a law, but I mean when we explained it in our rules, when we say homeowners organizations, did we clarify and make sure that renters qualify do that and show some route that they could take to organize themselves to be eligible under our rules, you know?

MR. HAMBY: We do not have a renters organization, and don't know of one, and I could just be lacking on this, or maybe renters organization that's organized and formed under the laws of the State of Texas.

But a homeowners association -- and that's one of the reasons that you'll hear later we have some questions about what a property owners association. Is it automatically a neighborhood association?

We have certain things you have to do if you're going



going to be one thing or the other. The reason the resident council is treated a little differently is because they can only talk about their property. And we established that in our rules. If you're a homeowners association, you have to show that you meet some certain test and qualifications.

MR. FLORES: Well, I think we're disenfranchizing, you know, anybody who's a renter it looks like to me by the process. And this was an open field, there was a freeway on one side and there was nothing but an apartment house around it. So who could protest? I mean who could --

MR. CONINE: Well, maybe I have a dog in the fight. A look at the map, there's single families to the north. I don't know if there's an association over there or not.

MR. FLORES: Well, the only problem was nobody gave that document that you've got.

MR. SISK: It's not -- it's mostly --

MR. FLORES: I don't have that document.

MR. CONINE: You don't have this document?

MR. FLORES: No.

MR. CONINE: You're out of touch.

MR. FLORES: No, I always have the rules, but not -- I

not -- I didn't get handed one without -- beside the rules.

MR. CONINE: That's okay, we --

MR. HAMBY: This is one of those items you do have to make a motion on.

MR. CONINE: Yes, I mean I'm in no man's land here from what I can tell.

MS. ESCAREÑO: So just one more time, Mr. Chair?

MR. CONINE: Yes.

MS. ESCAREÑO: So there is no provision in the QAP for an unorganized grass-roots kind of -- not --

MR. HAMBY: And that's actually statutory. That's und  
67 --

DR. MUÑOZ: And can I just add to that? I can't imagine, in this situation -- and I appreciate, Kevin, you saying Well, it's the law -- but I can't imagine anybody reading that "homeowners association" and not presuming that it would preclude renters.

Now it may not preclude renters. I just can't imagine anybody reading that and saying, as a renter, I would be --

MR. HAMBY: Okay.

DR. MUÑOZ: -- eligible to form a homeowners

association, unless by default they --

MR. HAMBY: But the antithesis of that is you can form a property owner association and have 400 units of property owners which would be defined as the residents in those apartments. If you want to go through the hieroglyphics of doing it, you could do it.

MR. CONINE: It's not commonly done.

DR. MUÑOZ: All right.

MR. HAMBY: Or if it is done, it's done by the property builder, the --

DR. MUÑOZ: Right.

MS. RAY: I have one last thing to say. I'm not going to say another word. Many members of homeowners associations are renters. They live in an area, they participate because they live there. Many of them are renters. They're not homeowners, but they are renters, but they are members of homeowners associations.

MR. CONINE: Assuming they get the proxy from their homeowner.

MS. RAY: They don't have to have a proxy.

MR. CONINE: They don't?

MS. RAY: No.

MR. HAMBY: It depends on the --

MS. RAY: I'm a member --

MR. HAMBY: -- homeowners --

MS. RAY: -- of one of --

MR. HAMBY: -- association.

MS. RAY: -- those organizations.

MR. CONINE: Really.

MS. RAY: Sure.

MR. CONINE: Okay.

MR. HAMBY: It depends on the homeowners association, their bylaws they set up, if you can vote or you can't.

MS. ESCAREÑO: A point of order. Can a motion be made that's already died?

MR. CONINE: Sure.

MS. ESCAREÑO: I move staff --

MALE VOICE: You were on the prevailing side, and you weren't.

MS. ESCAREÑO: Okay. Thank you. Move staff's recommendation to deny.

MR. CONINE: Is there a second --

MS. RAY: Second the motion.

MR. CONINE: There's a second.

(General laughter.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Now which one are we going to do next, Robbye?

MR. GERBER: Stone -- is it Stoneleaf?

MS. MEYER: We will go back to terminations and this is  
Homes at Cypress Ridge.

MR. GERBER: Okay. So we're back to the --

MS. GAMBLE: All right. Back to the --

MS. RAY: The Homes at where?

MR. GERBER: Cypress Ridge.

MS. MEYER: Cypress Ridge. That is in your Board  
packet.

MS. GAMBLE: Mr. Chairman and Board, the next three  
appeals deal with the terminations of applications pursuant to a  
statutory requirement in Section 2306.6703. This section requires  
an application to have local authorization for any developed  
proposed in an area that has twice the state average per capita of  
households served by the -- by Housing Tax Credit funding.

The statute requires the authorization comes from the  
local governing body of that area, and requires specific language

specific language be used in the resolution.

Our first appeal comes from the Homes at Cypress Ridge TDHCA number 08179. This applicant is appealing the termination of the application. Although the applicant did submit a resolution from a local governing body by the required deadline, the resolution did not include the correct specific language as required by statute.

The resolution does not reference the rule or the statute. Staff recommends the Board deny the appeal because the requirement is statutory and the Department does not have the ability to waive a statutory requirement.

MR. CONINE: I have a couple of witness affirmation forms. Barbara Tarin?

MS. TARIN: Could we have Anita Kegley go first?

MR. CONINE: Anita Kegley? Arlene Spinks?

FEMALE VOICE: Jenks.

MR. CONINE: Jenks. Excuse me. There it is -- Arlene S., that's what it is.

State your name if you would.

MR. KEGLEY: Good afternoon, Chairman and Board. My name is Anita Kegley, and I'm with Dane [phonetic] Development.

[phonetic] Development. And the issue at hand is for the Homes at Cypress Ridge, which I'm the developer for.

And I have to tell you that I feel like a cartoon I just saw in the political paper recently, and it was Hillary laying in a coffin and Obama bending over and saying, Done yet?

So anyway, I have participated in the TDHCA seminars for the past couple of years, and I looked at those QAP rules, I looked at the revised seminar on the website, I mean I beat these things up, ran them over and over. And when I received the termination letter, I read it and then I immediately said, Show me where -- what I missed.

And I looked at it and I toiled over it for a couple of days, and I immediately sent it the City of Nacogdoches, who is the municipality that I got approval and support for this Homes at Cypress Ridge. And, you know, they were trying to figure out where we went wrong, because I mean they're just in full support of this development, even though they are over the state average units per capita.

And I was shocked that I got a termination, not even a deficiency notice that said, Hey, you made a mistake and you didn't include the rule. And I -- after reading it, I had to speak with

reading it, I had to speak with both of these ladies here to say, Help me out here, you know, if I had to do it all over again, I don't know what I would have -- I don't know how I would have -- do it differently. So please help me.

And so then they told me because I didn't have the rule noted on there. So I included today -- I was able to get a draft of a revised resolution from the City of Nacogdoches, which you have. But they will not be able to approve that until their May Commissioners meeting.

And they -- it does not change the content of the resolution that they've previously submitted. They're 100 percent behind this. The resolution did say that they approve and support the tax allocations.

To me, and I don't know maybe I just don't get it, but it just seems like this is an administrative detail that I didn't include the rule number in there, because they fully understand. They have, you know, twice the units, average units per capita, so they are very familiar with tax allocations and the use of these.

And they do have these units there. And we did discuss the number of them, and they were questioning that evening at the Commissioner's meeting that they did have a lot.



lot.

And they asked me -- the units that are right next to this proposed site are one that I'm a small part-owner of, and they said, Well, have you kept these leased, you know, and is there really a need? And I said, Yes, we've never in -- you know, since -- in seven years we've never ever been below 90 percent occupied, and usually it's 95 to 90 percent occupied. And so the need is there.

On the TDHCA website on the Housing Tax Credit site demographic characteristics, the score is six, and this is one of the highest need areas. So I would hate to eliminate 54 homes, or the opportunity for 54 homes to be built to help families there with the high need in Nacogdoches.

MR. CONINE: I failed to notice that Ms. Jenks gave you some more time, so if there's anything else you'd like to say, you've got another minute or so.

MS. KEGLEY: That's it. I think I got it.

MR. CONINE: Okay. All right.

MS. KEGLEY: Well, I'm sorry, I did -- the city planner Aron Kulhavy was going to be here, but because of office vacancies he was unable to attend. But he did give me the draft that you have before you.

And I know that you all can't change the statute, you

statute, you don't have the power to do that. I just ask for your approval for just -- to get this administrative detail approved by their Commissioners Court on their May 20 Commissioners meeting.

MR. CONINE: Barbara Tarin?

MR. TARIN: Good afternoon, Mr. Chairman, Board.

MR. CONINE: Hello.

MS. TARIN: I'm Barbara Tarin. I'm broker/owner of Tarin Real Estate based out of San Antonio. And I am a partner in the Homes at Cypress Ridge, and I was at the Commission meeting in Nacogdoches on February 19 where the resolution was adopted that Ms. Kegley referred to.

In the discussion, the twice per capita ruling was discussed openly. The City of Nacogdoches is well aware of it, acknowledges it. They unanimously supported the resolution. There's a great need in Nacogdoches for affordable housing.

These are 54 single-family units. And we feel like we were denied the application because of just a small administrative clarification that the City of Nacogdoches did not include in the resolution, but were totally aware of and it was discussed in the meeting.

We'd like to ask for an extension to allow the City of Nacogdoches to provide the originally intended resolution. And, again, Nacogdoches was identified by TDHCA as an area of the highest need in affordable housing.

A considerable amount of resources and capital have been extended by a woman-owned business to propose these 54 single-family homes. And it seems, with the great need for this housing that we ask your consideration in a request to lift the denial of the application pending receipt of the amended resolution from the City of Nacogdoches.

No other applications were applied for in the City of Nacogdoches. Denial will only harm those in desperate need of affordable housing in that area. And we probably feel like there should have been a deficiency process in this regard versus a flat-out termination.

And if you have any questions, I'm available.

MR. CONINE: Any questions of the witness?

MS. RAY: I don't have a question of the witness, but I have a question of staff.

MR. CONINE: Sure, Ms. Ray.

MS. RAY: Unless you have a question of the witness, I can --

DR. MUÑOZ: Well, I think I have questions of the staff

MS. RAY: Okay.

MR. CONINE: Somebody go first.

DR. MUÑOZ: Well, maybe I'm misunderstanding. The letter states several reasons for denial, and those testifying suggest that it was a matter of the omission of a rule referenced in some -- in the resolution from the governing body.

Is it the twice as many units in the area, is it the absence of the statement, is it the absence of the reference number, et cetera, because as I hear them, they're contending it's simply the omission of a reference number.

MS. MEYER: It's the absence of the reference of the rule in the resolution, and that's a statutory requirement. And the statutory -- I mean in the statute it states that they have to reference that section of the statute, or give the -- I mean it states that in clear language.

Our general counsel -- if I -- my general counsel has reminded me that even though you can't waive a statute, what you're waiving here would be the deadline to submit that information allow them a deficiency.

MS. RAY: My question -- that was a part of my question to the staff. But my question to the staff is, so what we're saying, you get back a resolution from the city showing that the city is in favor of the development, but what was missing in that resolution was chapter and verse.

MR. HAMBY: The reference --

MS. MEYER: Was the reference --

MS. RAY: Okay.

MS. MEYER: -- to the statute.

MS. RAY: All right. Now did you inform the developer that the resolution was insufficient before you terminated it?

MS. MEYER: no, ma'am.

MS. RAY: Well, that's all I needed to know. That's all I needed to know.

MR. CONINE: And help me understand the process. When -- because you received the resolution on February 25, and April 1 was the cutoff date, or the deadline date. Why didn't we send a deficiency notice in the meantime?

MS. MEYER: It is --

MR. CONINE: Other than being overworked and underpaid

(General laughter.)

MS. MEYER: Besides that, we actually -- there's several tests that we run later in the cycle because there's a lot of other things that are due on April 1.

MR. CONINE: Right.

MS. MEYER: So we don't even run those tests until the deadline, or we'd be pulling files out constantly trying to figure out what we got and what we didn't, so we run the tests all at the same time. The third-party reports we do the exact same thing. We run a test to see who submitted their third-party reports and then if they're not submitted correctly, then they are terminated.

MR. CONINE: And help me with the language in the QAP because I don't have it memorized. But if a person was reading the QAP for the first time, would they know this requirement was in the statute or not?

MS. MEYER: It's very specific.

MR. CONINE: It's very specific.

MS. MEYER: In the statute and in the QAP it --

MR. CONINE: Well, forget the statute --

MS. MEYER: Okay.

MR. CONINE: -- because I don't -- nobody reads the --

reads the --

MS. MEYER: Okay.

MR. CONINE: -- statute. The normal folks in the wor  
don't read the statute, they just read the QAP.

(General laughter.)

MR. CONINE: It's just those un-normal --

MS. MEYER: Okay.

MR. CONINE: -- guys.

(General laughter.)

MR. CONINE: It's the -- but someone reading the QAP,  
because that's the rules of the game, and you refer to the statut  
in there.

MS. MEYER: We refer to the statute and we quote  
statute. I mean the QAPs correct -- I mean quotes the statutes -

MR. CONINE: You know --

MS. MEYER: -- and the requirements

MR. CONINE: -- I guess I have sympathy for the  
overload of work that staff has, especially during this crunch  
time. But, and I can understand, you know, if we'd received the  
letter on March 31 on an April 1 deadline it'd be hard to get sen  
a deficiency notice out. But 30 days, over 30 days to me is, you  
know, a pretty harsh penalty for --

MS. RAY: Yes, it is.

MR. CONINE: -- something that's -- some lawyer probably screwed up on the City of Nacogdoches staff drafting the resolution.

MS. RAY: I agree.

MR. FLORES: Could I make a motion, Mr. Chair?

MR. CONINE: Sure.

MR. FLORES: Move to approve the appeal.

MR. CONINE: Grant the appeal?

MR. FLORES: Grant the appeal.

MR. CONINE: Is there a second?

MS. RAY: Second.

DR. MUÑOZ: Second.

MR. CONINE: Any other discussion?

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes, Mr. Gerber.

MR. GERBER: If I could ask, the intention is to bring the revised draft resolution to the city council on the 20th?

MS. KEGLEY: Yes. Yes, sir.

MR. GERBER: And have you checked with our general counsel to just make sure that the language in that third paragraph --

MS. KEGLEY: Well --



MR. GERBER: -- is compliant?

MS. KEGLEY: -- I've faxed --

MR. GERBER: If you --

MS. KEGLEY: -- I have forwarded this just to --

MR. GERBER: -- if you would.

MS. KEGLEY: -- to see -- to these ladies, if this  
is --

MR. CONINE: Sufficient.

MS. KEGLEY: -- you know, sufficient. And I haven't  
gotten a response, but I just got this yesterday at 5:00 so I don't  
even know if they've even seen the email that I asked them is this  
the --

MR. GERBER: Should the Board approve this motion, if  
you would just check with the general counsel to make sure that  
this is compliant and does the job.

MS. KEGLEY: Okay. I will do that.

MR. HAMBY: May I clarify the motion, Mr. Chairman? The  
motion is to extend the time deadline for them to file, it's not a  
waiver of the statutory requirements.

MR. FLORES: That's what I meant exactly --

MR. HAMBY: Giving your date certain, that -- since they  
have the 20th, is you want this in by the 25th?

MR. FLORES: That's what I said.

MR. HAMBY: The 21st. The 21st is what--

MR. FLORES: No, I said the 21st.

MR. HAMBY: All right. So they still haven't decided

MR. FLORES: Yes.

MR. HAMBY: -- so probably the 22nd would be reasonable. I don't know what date that is -- I don't know what day of the week it is.

MR. CONINE: Just make it the end of the month. That' be --

MR. FLORES: I think that they are going to hurry a lo so you can make a pretty short. Right? You can get that pretty fast, can't you?

MS. TARIN: Yes, they're next meeting is on the 20th o May.

MS. KEGLEY: Yes, May 20th.

MR. CONINE: And, Counsel --

MS. TARIN: It's on the --

MR. CONINE: -- would you have time --

MS. TARIN: -- agenda.

MR. CONINE: -- to review their resolution ahead of time?

MR. HAMBY: I will.

MR. CONINE: Great. Thank you.

MS. KEGLEY: So what is our deadline?

MS. MEYER: The 22nd.

DR. MUÑOZ: Well, I'd like to give them a little bit more time --

MS. RAY: End of the month.

DR. MUÑOZ: -- I mean, you know, the 25th. But you just can anticipate something happens and somebody is the City Hall is distracted, but it seems to me that if the meeting takes place on the 20th, they can get it maybe sooner, but what difference does it make if it's the 20th or the 25th.

MR. CONINE: So we're making the motion to accept the 25th?

MR. FLORES: That's fine.

MR. CONINE: Okay.

MR. FLORES: That's fine. I think people in --

MR. CONINE: The 25th.

MR. FLORES: -- Nacogdoches are going to be in such a hurry they're going to get it to you that day.

MR. CONINE: Any other discussion?

MR. HAMBY: Make that the 26th because the 25th is a Sunday.

MR. CONINE: Thank you. The 26th.

MR. FLORES: The 26th. Getting all tangled up in technicalities here.

MR. CONINE: 5:00 p.m. on the 26th.

(General laughter.)

MALE VOICE: Was that Memorial Day?

DR. MUÑOZ: When is Memorial Day?

MR. CONINE: Yes, I believe that's Memorial Day.

(General laughter.)

MALE VOICE: The 27th.

MR. CONINE: The 27th at 5:00 p.m. How's that?  
Everybody understand the motion?

MS. RAY: Yes, sir.

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. KEGLEY: Thank you so much.

MS. TARIN: Thank you.

MR. CONINE: Which one's next?

MS. GAMBLE: Next one Terrell Senior Terraces, TDHCA  
number 08249. This applicant is appealing the termination of the

termination of the application. The applicant submitted a letter from the city manager of Terrell asserting the city manager has the authority to act on behalf of the city council, but it's not provided documentation to support this assertion.

The statute clearly states the authorization is to be from the governing body. Staff does not believe the city manager meets the requirement of governing body. Staff recommends the Board deny the appeal because the requirement is statutory and the Department does not have the ability to waive a statutory requirement.

MR. CONINE: Mr. Barry Halla. Round two.

MR. HALLA: Chairman Conine, members of the Board, my name is Barry Halla. I'm with Life Rebuilders, and we are the developers of Terrell Senior Terraces III.

Just a quick background on this. This was approved in executive session by the city council of Terrell on March 18. They had a retreat -- I said the letter was issued the next day, I had an email that said that the letter was available. They had a retreat the 19th and 20th, so I got the letter signed by the city manager, both emailed and Fed Exed on the 21st.

My contention is that if you review Section 50.5(a)(7) it says a "written statement." It also says a "written statement

"written statement" in the -- well, it says it two places, actual three places. It says "written statement" in 50.5(a)(7), it says "written statement" in the slides that we got when we went to the workshop, and it says "written statement" in the application submission procedures manual under exceptions. It uses the words specifically, "approval" and "written statement of support."

It does not prohibit a city manager from signing the letter, nor does it define a governing body as the city council. My contention is that a city manager, just like Executive Director Gerber would be authorized if the Board were to give him authority to act on their behalf.

The city manager has the authority to act on behalf of the city council, and that's exactly what he was doing the next day following their approval of this resolution.

They did have the resolution approved, and they put it in the form of a letter, and did, in fact, reference this particular section of the QAP, of the Rule 50.5(a)(7), and it was a letter of recommendation.

I respectfully request that the Board continue processing this application. There are 146 seniors on the waiting list for this housing, for these 80 units. The City of Terrell,

City of Terrell, actually they use Terrell Senior Terraces in some of their PR material; the property is extremely well-known and it's well-liked. We have some existing units there and that's what's generating the waiting list.

MR. FLORES: Mr. Chairman, may I ask a question?

MR. CONINE: Mr. Flores, ask a question.

MR. FLORES: How fast could you produce some document from the city, the mayor, or some officer of the city to -- verifying that the city manager had authority to sign this letter?

MR. HALLA: Mr. Flores, in this particular situation I don't know if they would -- could go back and issue a resolution for the 18th. I'll have to find out --

MR. FLORES: I didn't ask you about the specific date. How soon can you verify that he had the authority to sign that letter?

MR. GERBER: Mr. Flores, if I may interject? In this instance a letter from the -- since it's "the governance," the letter from the mayor would not -- it would require a Board --

MR. FLORES: A resolution?

MR. GERBER: -- a city council resolution.

MR. FLORES: He also mentioned that somewhere in the minutes of that meeting -- there was some kind of meeting of the

meeting of the mayor and city council confirming the action of the city manager.

Did you not, Mr. Halla?

MR. HALLA: Yes, on March --

MR. FLORES: Did you not say --

MR. HALLA: -- 18 they had, in executive session, considered this motion. They -- and they approved that, and then authorized the city manager to issue the letter. My contention though --

MR. FLORES: Yes, but do you have the minutes of that meeting? It sounds like that's all that would take care of this

MR. HALLA: It was approved in executive session. I don't know if those minutes are available. If I may -- excuse me --

MR. FLORES: But if there --

MR. HALLA: -- just one minute, please.

MR. FLORES: -- was a motion made, they should be in the minutes. You cannot make a motion --

MR. HALLA: I agree with you, Mr. Flores. My contention is, though, a city manager has the right to bind a municipality, just like a vice --

MR. FLORES: But only with the authorization of the mayor and city council. And that's what we're looking for. The



for. The mayor and city council has to give that authorization.

MR. HALLA: I'm not a legal expert on that, Mr. Flores but I would guess the vice president, or better, of a corporation could bind the corporation in the same way a city manager would be able to bind a municipality.

It's very -- to me the intent here is very obvious. They issued a letter, they are very much for this housing, and in that letter they exert that expression of interest in having additional units made.

I've even had an executive, a county executive in the area call me on the QT, seeing if he could get one of his people moved up on the waiting list. We've got 146 --

MR. FLORES: Well, I don't want to make a court case out of this. I'm just trying to find out --

MR. HALLA: No, I'm not --

MR. FLORES: -- if indeed -- that if we can get some kind of verification, you know, I'm willing to go ahead and make the motion to extend that date as we did before to go -- to take care of the technicality. But I mean somebody has to pass that resolution obviously, and it takes time to do that. And obviously you think you can do that, can you not?

MR. HALLA: I can do that, Mr. Flores, and I'll get that done just as fast as I possibly --

MR. FLORES: Okay. And how -- within how much time? How often does your city council meet?

MR. HALLA: I don't have that information --

MR. FLORES: Thirty days?

MR. HALLA: -- in front of me. I'm very sorry. I hope I can get it done in 30 days. I will try very hard. I know that they have to post it and then have it on --

MR. FLORES: All right.

MR. HALLA: -- in the agenda, and I just don't know when that next meeting is. But I'll do my best to get it here just as fast as I can.

MR. FLORES: All right. Counsel is dying to say something. I'm going to let him.

Go ahead, Counsel.

MR. HAMBY: Mr. Flores, this is completely different than the last motion -- the last case document that you had. For one, the QAP and the statute, even though nobody reads those, can be any clearer than saying, "governing body."

It's got to be from the governing body, and I would be willing to bet that the city attorney for the City of Terrell would

City of Terrell would be over here immediately saying, They didn't take any action in executive session, so that would be a criminal violation --

MR. FLORES: I'm aware of that.

MR. HAMBY: -- of the Open Meetings Act, and if they did take it, then they took it in public, and those minutes should be available on the website at this point, or they should be available in the city's offices at this point.

This is completely different than what you did last time. There was a mistake in the resolution that was sent. This is completely a disregard for the rules and that statutes that we have.

MR. FLORES: Yes, but you're assuming it's knowingly disregard, and I'm just giving the benefit of the doubt that it was unknowingly. And so if indeed that is -- if indeed the city is in such support of the resolution, they'll immediately come to hoof get it done. And I'm just trying to see if indeed my fellow members here agree with my premise.

MR. HAMBY: And that is the flood gate approach that we talked about, because anybody who doesn't have one of these should then come before you and ask you to let me do it after the fact because it's clearly done after the fact.

fact.

MR. FLORES: Okay.

MR. HALLA: Mr. Flores, if I may, all I know is that they allowed me, because of we're not on the agenda item, to talk about this. They have -- and you approved it earlier, a single-family NOFA -- or request. And this city manager is relatively new. He didn't realize that the meeting before they should have addressed. So he had me come before the governing body, if you can define it as the city council.

I don't see the governing body defined as the city council. I'm not familiar with what goes on in executive session. I know that the email the next morning was -- on mine -- I can produce that email where Mr. Edwards, the city manager, said that the letter was available.

They had a retreat for the 19th and the 20th of March. The letter was issued on the 21st, and I immediately got it here. It references the appropriate section, it is a support letter, it acknowledges two times the number of units.

I don't think it was a blatant disregard, and I'm definitely offended at that statement. It was not a blatant disregard. It clearly states "written statement," and I would

and I would suggest that a written statement from the city manager is as good as a resolution from the city council.

I don't think a city manager is going to take actions himself without the support of his city council. And it definitely was not a blatant disregard. We don't operate that way.

MR. FLORES: I don't disagree with you. But I'm going to go ahead and pass the baton --

MR. CONINE: Any other questions? Yes, Mr. Cardenas?

MR. CARDENAS: I move that we accept staff's recommendation.

MR. CONINE: Move the staff recommendation. Is there second?

(No response.)

MR. CONINE: Dies for lack of a second.

MR. FLORES: Mr. Chairman.

MR. CONINE: Yes, sir.

MR. FLORES: I move that we extend the date for acceptance of that -- for the acceptance of that resolution for 3 days to allow him the opportunity to bring the appropriate resolution forward.

MR. CONINE: There's a motion. Is there a second?

MS. RAY: Second.

MR. FLORES: Mr. Chairman -- okay. Can we get counsel to make sure that I made the motion appropriately to make sure it ticks?

MR. HAMBY: I'm sorry, what was the motion?

MR. FLORES: My motion was that -- to give the applica 30 days to present proper documentation of the resolution from the city.

MR. HAMBY: You're waiving the deadline to file a moti or resolution from the governing body of the city.

MR. FLORES: What did you say?

MR. HAMBY: You're waiving the deadline for filing a resolution from the governing body of the city.

MR. FLORES: I'm extending the deadline.

MR. HAMBY: Well, you're waiving a deadline that exist first, so you're actually creating a new deadline.

MR. FLORES: Yes.

MR. HAMBY: Okay.

MR. FLORES: Now is that the appropriate way of handli this --

MR. HAMBY: Yes, if you want to do it --

MR. FLORES: I'm trying to give them more time, that's

that's all --

MR. HAMBY: Thirty days from today.

MR. FLORES: -- to 30 days from today --

MR. GERBER: Mr. Chairman --

MR. FLORES: It's the 2nd, so I let them figure that out.

MR. CONINE: Mr. Gerber?

MR. GERBER: Staff would respectfully recommend that the deadline be extended to the next meeting of the city council, if that was the Board's will that it be no later than the next meeting of the city council, and that this resolution be on that next --

MR. FLORES: But that won't give --

MR. GERBER: -- agenda.

MR. FLORES: -- enough time for him to get back with us. That meeting, by the way, is May 20, but he has to get the thing executed, signed and then delivered.

MR. CONINE: We don't know when the Terrell -- the next Terrell --

MR. FLORES: Yes, we do, I just found out with my --

MR. CONINE: Oh, you --

MR. FLORES: -- public information officer.

MR. CONINE: Okay.

MR. FLORES: May 20, you need three working days to file the notice and you should have more than adequate time to get -- have somebody put that on the agenda.

MR. CONINE: So the same deadline, the 27th at 5:00?

MR. FLORES: The what?

MS. RAY: That would be fair.

MR. CONINE: The deadline to get it back to us is the 27th at 5:00, just like we did the previous applicant?

MR. FLORES: That sounds like a good date, yes.

MR. CONINE: Okay.

MR. FLORES: May 27.

MR. CONINE: Any other discussion for the motion?

MR. GERBER: Ms. Meyer? I don't know if Ms. Meyer wanted to add anything to -- does this do anything to impact your process and ability to move?

MS. MEYER: It could. I mean we don't have -- this is going to cause movement in the list because this termination is going to be held. It could unsettle the list. But that -- I can't tell you for sure that's what would happen. We're in the process



would happen. We're in the process, so I mean any delays at this point affect the process.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray?

MS. RAY: There was a statement that I would like to see on this action and the previous action. Had a deficiency notice gone out saying that this was not valid, and giving an opportunity to get the proper documentation, we wouldn't be sitting here having this discussion right now. And I strongly believe that we need to take a vote at this time.

MR. CONINE: Okay. Any other discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

MALE VOICE: No.

MR. CONINE: Motion -- let's see, how many ayes did we have? One, two -- and you were aye?

MS. RAY: Of course.

MR. CONINE: Three to one. Motion carries.

MR. FLORES: Thank you, Mr. Halla.

MR. HALLA: Thank you. Appreciate it. So I have until

have until the 27th at 5:00 to have that?

MS. RAY: Not a second later.

MR. HALLA: Appreciate knowing when the next city council meeting is.

MR. FLORES: May 20.

MR. CONINE: Which one's next?

MR. HALLA: Thank you very much.

MS. MEYER: We have one last one. This is the additional timely filed appeal for Silverleaf at Chandler.

MS. GAMBLE: This applicant is appealing the termination of the application. Although the applicant did submit a resolution from the local governing body, the resolution did not have the correct specific language as required by statute.

The applicant did receive additional letters from each council members that included the correct language, however, the applicant did not submit that information to the Department by the required deadline. Staff recommends the Board deny the appeal because the requirement is statutory and the Department does not have the ability to waive a statutory requirement.

MR. CONINE: Mike Sugrue. Last but not least.

MR. SUGRUE: Last is better than not getting here at all. Thank you.

Good afternoon, good long afternoon, Mr. Chairman and Board members, and Mr. Gerber. I don't have a whole lot to say, won't take a lot of time, although I do have a point of clarification.

The city does not believe that the two times is applicable. There's one other property there of 44 units done in 1991, 41 of which are tax credit, which is 17-18 years old, so it should be out of compliance by this time.

However, that notwithstanding, the city administrator did have the mayor, mayor pro tem, each council person sign a letter specific to this point because he couldn't get it before a new council meeting for another resolution. And, of course, they have also committed \$400,000 from the EDC, which shows pretty good support for the property, I'd assume.

MR. CONINE: Okay. Any further discussion?

(No response.)

MR. CONINE: I'm looking at this for there first time well, so give us a second to look at this stuff.

(Perusing document.) On his case he's got a letter from every city council member.

MR. HAMBY: And we would, of course, encourage you to well, you'll just have to appeal this. And if that doesn't happen

that doesn't happen, we would encourage you to do the same thing and seek a waiver and get a motion of the council because one of the hills of these -- another concern of the executive session is the public is supposed to have the right to input into matters of city affairs.

And there's no indication in these letters that they were done in public and the public had an opportunity to comment the events that were occurring. So we would encourage you to do the same type of thing and request a resolution at the next Board -- the next city council meeting, which I'm sure if they all have agreed to, would not be difficult to obtain.

MR. CONINE: How about it, Mr. Lyttle, do you have the City of Chandler over there online?

MR. LYTTLE: Well, I'll find out here.

VOICE: Can't find the chat room.

(General laughter.)

MR. CONINE: Do you happen to know when it is, Mr. Sugrue?

MR. SUGRUE: No, I don't. I believe it's the second Tuesday of the month, if I'm not mistaken. So I believe there's one coming out of -- I think we have time, and obviously, based on what they've done so far, I don't believe it would be an issue for them.

MR. CONINE: Do I hear a motion?

MR. FLORES: Okay. How do I frame it, the same way I did --

MR. CONINE: Same way you just did the last two.

MR. FLORES: Okay. Mr. Chairman, I move to extend the deadline till May 27 at 5:00 for the --

MR. CONINE: For a formal resolution --

MR. FLORES: -- for a formal resolution from the --

MR. CONINE: -- City of Chandler.

MR. FLORES: -- City of Chandler.

MS. RAY: Citing the correct specific language.

MR. FLORES: Citing the specific language --

MR. HAMBY: They have the language, it's in the letter so I'm sure --

MR. CONINE: Is there a second?

MS. RAY: Second.

MR. CONINE: Any other discussion?

MR. LYTTLE: Mr. Chairman, do we have the date so that we know that May 27 works?

MR. FLORES: He's got to have the notice filed.

MR. CONINE: Be lucky if Chandler's got a website.

MR. SUGRUE: It's the second Tuesday of every month.

MS. ESCAREÑO: So next Tuesday.

MR. FLORES: Yes, but he needs --

MALE VOICE: But would they have time under the Open Meetings --

MALE VOICE: Open Meetings? They have May 13 to file and then it would be June 10.

MR. LYTTLE: I don't know if they'll have time, Counsel to get it in under the Open Meetings.

MR. HAMBY: The local requirement, I believe, and it's done in city law some time, but I believe local requirements, they have a three-day posting if they have a meeting scheduled. So it would have to be told to them this afternoon. I don't when they regularly publish their agendas, so it would be close.

MR. GERBER: The recommends then that the motion urge that it be done by May -- by this next meeting, but at no instance to extend beyond the very next -- that second meeting, the June --

MR. FLORES: June 10.

MR. GERBER: -- June 10 meeting.

MR. FLORES: Okay. Let's say it's out to June 13, that's a Friday --

MR. GERBER: That's fine.

MR. FLORES: -- the Friday following the Board -- the meeting.

MR. HAMBY: I think this might be one of those unusual circumstances where we say the next available meeting, not later than -- and be submitted to us not later than three days after the next available meeting.

MR. FLORES: That's what my motion was, right there.

MR. CONINE: Is there any further discussion?

(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. GERBER: Mr. Chairman, we need to go back to item 5(1) which was CDC-Brownsville.

MR. CONINE: Correct.

MR. FLORES: Five what?

MR. GERBER: Five (1).

MR. CONINE: L, 5(1).

MR. GERBER: And staff -- we have some language worked

worked out that should be hopefully acceptable to all sides.

MR. CONINE: Is Jeannie coming back?

MALE VOICE: Yes, she is.

MR. GERBER: She is. While staff's getting their notes together, they're several up from the back, under the executive director's report, for your consideration, including various amendments and various information about outreach activities.

And I would also note that we've given you information on NCSHA's tax credit conference coming up that has been a training opportunity for the Board members. The unfortunate thing about it is that it falls the same week as the Board meeting, that Thursday. But if you can spare that extra time, it's a very worthwhile conference.

And Ms. Ray and Mr. Flores have had the chance to go to it, and can vouch for, I think, the tax credit essentials program that they offer and it's a benefit to all of us.

MR. FLORES: Mandatory for all the new Board members.

MR. HAMBY: Mr. Chairman, if I could, as secretary of the Board, I'd like to clear up just a couple of things. We did



of things. We did not -- and it was pulled from the agenda item 7(b), and also Washington Lofts Hotel and -- Washington Hotel Lofts and Oakwood Apartments were not on this agenda, even though they're listed on our current agenda, the Board took no action on those items.

MR. CONINE: Okay.

MR. HAMBY: Oh, I'm sorry, Fairwood Commons under the previous item -- under the appeals was also not an agenda item that the Board took action on. Just for the course of the record.

MR. CONINE: And while we're kissing and making up, I skipped Bob Coe on a witness affirmation on item 9(a) --

MALE VOICE: Long gone.

MR. CONINE: -- if he happens to still be here -- he's gone?

MALE VOICE: Yes, long gone.

MR. CONINE: Well, apologize to him.

MALE VOICE: I will.

MR. CONINE: I'm sure he misses the opportunity to visit with the Board.

MR. GERBER: Ready, Jennie?

MS. ARELLANO: Yes.

MR. GERBER: Let's go.

MS. ARELLANO: We've revised the staff recommendation for item 5(1), for CDC-Brownsville.

MR. CONINE: And what does it now say?

MS. ARELLANO: Increasing the award amount to \$1,835,5 and no reduction in units, so it will remain at 20 units. The average unit will be \$91,775, the maximum is \$93,000 per unit. A that there's no limit on the number of lots acquired, or units under construction at any one time, except that each acquisition and construction loan must be closed prior to the release of fund

The loan closing for each unit is still conditioned on qualified buyer in its sales contract and a budget per unit approved by the Department, with adjustments made for cost saving which was already in the contract. And that the first loan closing occur no later than September 1, 2008. Any conditions recommended in the underwriting report and no additional time extensions be granted.

MR. CONINE: Do I hear a motion?

MR. FLORES: I'm confused. Sorry. Somebody do that for me.

MS. ESCAREÑO: Move to approve staff's revised recommendation --

MS. RAY: Second --

MR. CONINE: Amended recommendation.

MS. RAY: -- second motion --

MS. ESCAREÑO: Amended recommendation?

MR. CONINE: On -- what's the item -- agenda item --

MS. ESCAREÑO: Five (1), CDC-Brownsville.

MR. CONINE: Thank you.

MR. CARDENAS: Second.

MR. CONINE: There's a second by Mr. Cardenas. 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: Mr. Chairman, there's no other business. We'll see everybody on June 26.

MR. CONINE: We stand adjourned. Thank you.

(Whereupon, at 4:35 p.m., the meeting concluded.)

C E R T I F I C A T E

IN RE: TDHCA Board Meeting

LOCATION: Austin, Texas

DATE: May 8, 2008

I do hereby certify that the foregoing pages, numbers through 300, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

\_\_\_\_\_  
(Transcriber) 5/16/2008  
(Date)

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