

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

John H. Reagan Building
Room JHR 140
105 West 15th Street
Austin, Texas

December 12, 2013
10:00 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice-Chair
LESLIE BINGHAM ESCAREÑO, Member
TOM GANN, Member
J. MARK McWATTERS, Member
ROBERT D. THOMAS, Member

TIMOTHY K. IRVINE, Executive Director

I N D E X

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ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	

EXECUTIVE

- a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summary for September 12, 2013

LEGAL

- b) Presentation, Discussion and Possible Action on the adoption of an Agreed Final Order concerning Willow Pond Apartments (HTC 94039)

RULES

- c) Presentation, Discussion and Possible Action on proposed new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Concerning Reasonable Accommodation Requests, and directing its publication for public comment in the *Texas Register*
- d) Presentation, Discussion and Possible Action on the statutory four-year review with proposed amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2, concerning the Department Complaint System, and directing its publication for public comment in the *Texas Register*
- e) Presentation, Discussion, and Possible Action on an order adopting the repeal of 10 TAC Chapter 1, Subchapter A, §1.19 concerning Deobligated Funds and an order adopting new 10 TAC Chapter 1, §1.19 concerning the Reallocation of Financial Assistance
- f) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 10, Uniform Multifamily

Rules, Subchapter H, Income and Rent Limits, §10.1003 and new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, §§ 10.1004 - 10.1005, concerning Income and Rent Limits

- g) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.21, concerning Action by Department if

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- k) Presentation, Discussion, and Possible Action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 and adoption of new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22, concerning Providing Contact Information to the Department
- l) Presentation, Discussion, and Possible Action on an order adopting 10 TAC Chapter 21 concerning the Minimum Energy Efficiency Requirements for Single Family Construction Activities
- m) Presentation, Discussion, and Possible Action on orders adopting amendments to all sections of 10 TAC Chapter 23,

Single Family HOME Program, and the repeal of 10 TAC Chapter 23, Single Family HOME Program, Subchapter H, §23.80, concerning Application and Certification of Community Housing Development Organizations and directing publication in the *Texas Register*

- n) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter H, Section 8 Housing Choice Voucher Program, §5.801, concerning the Project Access

Initiative

HOME

- o) Presentation, Discussion and Possible Action to authorize the issuance of a 2013 HOME Program Notice of Funding Availability for Single Family non-development Programs, and publication of the NOFA in the *Texas Register*
- p) Presentation, Discussion, and Possible Action on an order adopting amendment to Substantial Amendment to the 2013 State of Texas Consolidated Plan: One-Year Action Plan

BOND FINANCE

- q) Presentation, Discussion, and Possible Action on Resolution No. 14-008 authorizing modifications to TMP Program 79 and MCC Program 80 and 81 Program Fees if required to comply with Federal Qualified Mortgage Rules, and containing other provisions relating to the subject
- r) Presentation, Discussion, and Possible Action on Resolution No. 14-009 authorizing Publication of Public Notice for Mortgage Credit Certificate Program (MCC) (Program 82)
- s) Presentation, Discussion, and Possible Action on Resolution No. 14-010 authorizing application to the Texas Bond Review Board for reservation of the

2013 single family private activity bond authority carry forward from the Unencumbered State Ceiling

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- t) Presentation and Discussion on the Department Snapshot tool for the Multifamily programs

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P R O C E E D I N G S

1
2 MR. OXER: Good morning, everyone. I'd like to
3 welcome you to the December 12 meeting of the Texas
4 Department of Housing and Community Affairs Governing
5 Board.

6 We will begin, as we typically do, with a roll
7 call. Ms. Bingham?

8 MS. BINGHAM ESCAREÑO: Here.

9 MR. OXER: Mr. Gann?

10 MR. GANN: Here.

11 MR. OXER: Professor McWatters?

12 MR. McWATTERS: Here.

13 MR. OXER: Dr. Muñoz is not with us today. I'm
14 here. We haven't heard yet from Robert Thomas, so we'll
15 keep him open, but we have a quorum of four, so we're in
16 business, we can transact today.

17 We'll begin, as we do, with our flag salute.
18 Tim.

19 (Whereupon, the Pledge of Allegiance and the
20 Texas Allegiance were recited.)

21 MR. OXER: Before we really get started on our
22 agenda today, we have a sort of somber note to pass along.

23 We heard this morning that Don Jones passed away last
24 night. He had been suffering from pneumonia -- is that
25 right, Tim? For those of who will recall, he was a long

1 time member of the legislative staff, and he has currently
2 been for the last eight years chief of staff for
3 Representative Jose Menendez. We saw Jose last night
4 before we found out this, and he's on the way back, of
5 course, to San Antonio to help deal with that. But we
6 pass along our best wishes and hopes for Don's family and
7 for Jose, who I'm sure will be at a loss with this. So
8 Jose, if you can hear us, we're thinking about you, Pal,
9 and Don's family as well.

10 Sort of a spectrum change on this, I'd like to
11 point out that -- we'll take care of this item in a bit.
12 All right. Let's go straight to the agenda. On the
13 consent agenda, Tim and others have advised me that we
14 want to pull three items, and that would be 1(h), 1(v), as
15 in Victor, and report item 4. 1(v) and 1(h), are those
16 pulled to be considered later?

17 MR. IRVINE: Yes, sir.

18 MR. OXER: They're not on the agenda at all.

19 MR. IRVINE: No. The items will all be taken
20 up at this meeting and the report will be given.

21 MR. OXER: So all three of those items, we're
22 moving those to the action agenda and not to be pulled
23 completely.

24 MR. IRVINE: Correct.

25 MR. OXER: Okay, good. All right. That said,

1 I'll entertain a motion on the consent agenda.

2 MS. BINGHAM ESCAREÑO: Mr. Chair, I'll move to
3 approve the consent agenda with the exception of the items
4 listed that will be pulled and dealt with separately, item
5 1(h), item 1(v) and report item 4.

6 MR. OXER: Great. Motion by Ms. Bingham to
7 approve the consent agenda as amended. Second?

8 MR. GANN: Second.

9 MR. OXER: Second by I think Mr. Gann was
10 first. Does anybody have a comment? There are no
11 comments in the public comment section and none from
12 staff. All in favor?

13 (A chorus of ayes.)

14 MR. OXER: Opposed?

15 (No response.)

16 MR. OXER: There are none.

17 A quick housekeeping item, just a reminder for
18 those of you here regulars, our first row up here to my
19 left, inside to the outside there, will be for public
20 speaking and for public comment. If you have something,
21 only when an agenda item has been called, line up there in
22 terms of the order that you'd like to speak. If you want
23 to speak and there's nobody sitting in this first chair,
24 don't sit on the last one, fill up from this chair out.
25 And when you come to the podium sign your name so we can

1 make a record of it.

2 All right. Let's take these items from the
3 consent agenda.

4 MR. IRVINE: If we might do the report item
5 first, Mr. Chairman.

6 MR. OXER: Certainly. Elizabeth -- or Kate.
7 Kate, come give us some good news here.

8 MS. MOORE: I'll try. Good morning, Board. My
9 name is Kate Moore. I'm the Section 811 manager,
10 reporting directly to Brooke Boston, deputy executive
11 director. I'm here to give you a final update on the Real
12 Choice Systems Change Grant, which is a project I started
13 working on when I was a policy advisor in the Housing
14 Resource Center, then reporting directly to Elizabeth
15 Yevich.

16 The Real Choice Grant was a \$330,000 grant
17 provided to TDHCA in 2011 from the Centers for Medicaid
18 and Medicare Services, or CMS. The Texas Department of
19 Aging and Disability Services, or DADS, was the lead
20 agency awarded these funds, with a grant period of
21 September 30, 2011 to September 29, 2013. DADS and TDHCA
22 partnered in 2011 to develop a successful application to
23 CMS to receive this grant. Together we successfully
24 completed the following activities: one, we applied for
25 the HUD Section 811 Project Rental Assistance

1 Demonstration program; two, we created and implemented a
2 Housing and Services Partnership Academy; and three, we
3 built the Housing and Services for Persons with Disability
4 Online Clearinghouse.

5 So DADS, through an interagency contract,
6 transferred the funds to TDHCA to administer the
7 activities, and I, along with Steve Ashman, the project
8 director for the Money Follows the Person Demonstration
9 Project at DADS, acted as co-directors for this grant.
10 The grant is one of several excellent examples of how the
11 strong partnership between TDHCA and DADS has brought in
12 additional federal funds to Texas to create greater
13 affordable housing opportunities for people with
14 disabilities in Texas.

15 For this grant, TDHCA created an advisory team,
16 called the 811 Team, to provide feedback and guidance on
17 the grant activities. The 811 Team included
18 representatives from all the Texas housing human service
19 agencies, consumer representatives, and affordable housing
20 developers.

21 I'd like to give you a brief overview now on
22 the three main activities completed with the grant funds.

23 The first activity was applying for Section 811 Project
24 Rental Assistance Demonstration program. You'll hear me
25 talk more about this in a later agenda item. But for this

1 activity, TDHCA contracted with the University of Texas at
2 Austin, the Center for Disability Studies, to assist with
3 the state's application to HUD for the Section 811 Project
4 Rental Assistance program, and we were successful, we were
5 one of 13 states awarded these funds.

6 The grant, however, allowed us to have
7 extensive public comment into the program design,
8 including consultation with the 811 Team and targeted
9 outreach to consumers and consumer representatives at five
10 roundtables held throughout the state in June 2012, with
11 more than a hundred people in attendance.

12 So the second activity with the grant is the
13 Housing and Services Partnership Academy that was held May
14 14 and 15 in Dallas, with 16 local community teams
15 participating with over 70 total participants. The grant
16 paid for the UT Disability Center and their subcontractors
17 to assist with the implementation of the academy.

18 The goal of the academy was to provide local
19 communities with education and technical assistance to
20 create affordable housing for people with disabilities in
21 their communities. TDHCA staff, health and human service
22 agency staff, and other non-profit and for-profit experts
23 provided extensive education to the participants at the
24 academy, to include small group breakout sessions on
25 affordable housing and services resources, the local

1 participating teams, including housing providers, service
2 providers, and consumers.

3 In addition to the training at the academy, all
4 of the teams were provided a facilitator to assist with
5 team goal creation based on what they were learning at the
6 academy. The grant paid for the development of resource
7 material for each team, as well as four webinars and
8 ongoing technical assistance after the academy.

9 Results of the academy include significant new
10 community partnerships between service agencies and
11 housing agencies, and new plans to create affordable
12 housing. Not only did participation exceed our
13 expectations, but we were encouraged by the amount of good
14 comments and feedback we received upon the academy's
15 conclusion.

16 The third activity was the creation of a new
17 online resource called the Housing and Services for
18 Persons with Disabilities Online Clearinghouse on the 211
19 Texas website. The website provides a central location
20 for affordable housing and services resource for people
21 with disabilities. TDHCA entered into an interagency
22 contract with HHSC to build this new online resource as
23 they run the 211 program for Texas.

24 The clearinghouse provides an easy to navigate,
25 online searchable tool that provides resources by

1 geographic area. The clearinghouse was released as a
2 draft for public comment with an online survey, and based
3 on the public comment, the clearinghouse was finalized and
4 made live on the 211Texas.org website in September 2013,
5 and we have received nothing but positing comments about
6 this new online tool.

7 So the grant officially ended September 29, and
8 all three activities I've just discussed were completed
9 before that time. At the moment we're in the final stages
10 of closing out the required financial reports which always
11 accompany a grant such as this. We actually anticipate
12 returning some of the funds to CMS, so in other words, I'm
13 delighted to report to you that we not only completed all
14 activities on time and we came under budget.

15 So are there any questions?

16 MR. OXER: Any questions of Kate? It sounds
17 like you guys did a pretty good job there, Kate.

18 MS. MOORE: We tried.

19 MR. OXER: We like to start off with a little
20 good news.

21 MS. BINGHAM ESCAREÑO: That is great news. No
22 questions, just awesome job, and it really sounds like you
23 made a difference.

24 MS. MOORE: Thank you.

25 MS. BINGHAM ESCAREÑO: I was remembering my

1 first Board meeting, I actually -- I don't know, Tim, if
2 you remember, Tom will remember for sure, but we had
3 advocates for persons with disabilities and they actually
4 threw toilet paper at us at that meeting.

5 MR. OXER: You know, I have a hot button here
6 below me.

7 (Microphones accidentally shut down, but was
8 able to hear the following on the backup recording.)

9 MS. BINGHAM ESCAREÑO: And it was actually
10 crepe paper, she wouldn't really throw toilet paper at us,
11 so she threw rolls of crepe paper. But I think the agency
12 has demonstrated over and over again a commitment to
13 working with persons with disabilities, and we do in lots
14 of our other multimillion dollar things that we do, but
15 this is an example where you took a fairly limited amount
16 of resources and were able to accomplish three really
17 awesome things that sound sustainable. Right?

18 MS. MOORE: Yes, they are.

19 MS. BINGHAM ESCAREÑO: The 211 and the
20 partnerships will continue.

21 MS. MOORE: Definitely.

22 MS. BINGHAM ESCAREÑO: Congratulations.

23 MR. OXER: So you basically built the
24 intellectual capital protocol to be able to maintain this
25 as we go forward without so much more funding, it's just a

1 change in the way we think about things.

2 MS. MOORE: Exactly.

3 MR. OXER: Congratulations, and thanks, Kate.

4 MS. MOORE: Thank you.

5 MR. OXER: Let the record reflect that Thomas
6 has joined us, so that definitely gives us a quorum today.

7 Okay. All right. Since we're on these items
8 that we pulled form the consent agenda, let's get to the
9 next one too, 1(h), whoever is handling 1(h). Okay,
10 Patricia, you get to go first.

11 Hold on a second. Madam Recorder, are you
12 picking that up? We're not picking it up over the top.

13 (Pause and general discussion about microphones
14 being cut off.)

15 MR. OXER: All right. We've got to be able to
16 record these folks, so we're going to have to take a brief
17 recess until we get the sound system back up. We'll take
18 a five-minute break here.

19 (Whereupon, at 10:12 a.m., a brief recess was
20 taken.)

21 MR. OXER: Okay, everybody, back in the box.
22 We got it figured out and we're back in business here.
23 The power is on.

24 Okay, Patricia.

25 MS. MURPHY: Good morning. Patricia Murphy,

1 Chief of Compliance.

2 Item 1(h) is adoption of amendments to Rule 1.3
3 which is about delinquent audits and related issues. The
4 Texas Association of Community Action Agencies had
5 submitted some public comments during the public comment
6 period which staff did not recommend any changes based on
7 those comments. Since then, we've had a little bit of a
8 dialogue with them, and I think I did misunderstand some
9 of the comments that they were suggesting, so I would like
10 to suggest an amendment to 1.3(d), and I'll read into the
11 record what I'd like the amendment to be.

12 "In accordance with OMB Circular A-133, Section
13 .225, and the State of Texas Single Audit Circular Section
14 .225, the Department may suspend and cease payments under
15 all active contracts and/or not renew or enter into a new
16 contract with a subrecipient or affiliate until receipt of
17 the required single audit certification form or single
18 audit."

19 So I recommend approval of the rule with that
20 amendment to it, and I think that we do have some public
21 comment on this item.

22 MR. OXER: Okay. Before we move this, make
23 sure on rules particularly, I just want to make sure that
24 we're clear on this, we don't want to be making amendment
25 son the fly too fast, make sure everybody has got time to

1 comment on that. Tell us the difference between what
2 you're doing now, Patricia, with the amendment and what it
3 was before so that it's clear we're not making a
4 substantive change, if that's the case.

5 MS. MURPHY: The way the rule was originally
6 proposed to you, it made it sound like if you didn't turn
7 in your single audit certification form or your single
8 audit on time, that even after you turned it in, we still
9 were not going to release payments under active contracts
10 or enter into contracts with you, because it was a "will"
11 instead of a "may" and it didn't have the "until you turn
12 it in." So if you don't turn in your single audit, we
13 don't enter into new contracts with you and we suspend
14 payments on your active contracts, but once you turn in
15 the audit certification form or the audit, then we go
16 ahead and do business with you again.

17 And the way the rule was written doesn't
18 actually reflect what we do, and I misunderstood their
19 comments, I thought that they were saying that we
20 shouldn't be requesting the single audit certification
21 form, and Mr. Manning may still have some comments about
22 that, but so when they commented and we didn't accept
23 their comments, I was more focused on we do need this form
24 rather than looking at the actual wording, and it was a
25 little bit too restrictive.

1 MR. OXER: Okay. So basically, if they're
2 late, we hold off until they deliver, and when they
3 deliver, we're back in business.

4 MS. MURPHY: Yes.

5 MR. OXER: Got it. Okay. All right. Motion
6 to consider, please.

7 MS. BINGHAM ESCAREÑO: I'll move to approve the
8 item with staff's recommended amendment.

9 MR. OXER: Okay. Motion by Ms. Bingham to
10 approve staff recommendation as amended -- or as modified,
11 since it's not amended -- as modified.

12 MR. THOMAS: Second.

13 MR. OXER: Second by Mr. Thomas.

14 MR. OXER: Okay. We have public comment.

15 MR. MANNING: Good morning. My name is Brad
16 Manning, and I am the executive director of Texas
17 Neighborhood Services in Weatherford, Texas. I appreciate
18 the opportunity to address the Board this morning, and I
19 will keep my comments brief because I know that you're
20 only going to give me three minutes.

21 MR. OXER: The clock is running.

22 MR. MANNING: I understand. I am a 20-year-
23 plus CPA with the State of Texas, and have actually done
24 audit experience with A-133 audits.

25 I want to make sure that our public comments

1 were clear in that our public comments were not a concern
2 with turning in the A-133 audit and with any sanctions or
3 penalties according to those, because clearly, the A-133
4 audit is required by OMB Circulars, required by other
5 federal statutes, and we're very clear with that. We
6 understand that the state single audit certification form
7 is a requirement with the state Single Audit Circular.

8 Our issue is not with the form, we've been
9 filling out the form for years. Our issue specifically
10 was with the penalties that were imposed with that form
11 because those penalties, we believed, were in violation of
12 federal law under the CSBG Act, which the CSBG Act states
13 that you cannot impose sanctions or penalties without due
14 process, and we felt like this rule circumvented those due
15 process regulations.

16 We believe that what we have now with the
17 amendment, we believe that it is a much better wording.
18 It's not as good as we would like, but then again, we'll
19 never get exactly what we like, but we believe that it is
20 something we can live with.

21 And I appreciate the opportunity to address
22 this Board, and I yield the rest of my time back.

23 MR. OXER: Great. Thanks, Mr. Manning.

24 All right. Any other questions from the Board?

25 MS. DEANE: Mr. Chair, let me just mention also

1 that we'll be amending the preamble that the Board has
2 been provided in the Board book to reflect that an
3 additional changes has been made, so when you vote, you'll
4 also be approving us making that modification to the
5 preamble to tell the public that that additional change
6 has been made.

7 MR. OXER: And these are essentially are
8 appropriate changes.

9 MS. DEANE: Right. You're allowed to make
10 changes in response to comment. You would have to
11 republish it if it was such a significant change as to it
12 would be a substantial change or a change that affects
13 additional people or affects them in an additional way.
14 This is not that kind of a change and it is in response to
15 comment, so there shouldn't be any problem in making this
16 change, and we'll reflect that in the preamble that's also
17 attached with the rule.

18 MR. OXER: Great. Thanks, Barbara.

19 Okay. Motion by Ms. Bingham, second by Mr.
20 Thomas to approve staff recommendation on item 1(h) pulled
21 from the consent agenda, as modified by Patricia. All in
22 favor?

23 (A chorus of ayes.)

24 MR. OXER: Opposed?

25 (No response.)

1 MR. OXER: There are none. Thanks.

2 Okay. Let's see, 1(v), as in Victor. Tom,
3 welcome home.

4 MR. GOURIS: Good morning. Tom Gouris, deputy
5 executive director for --

6 MR. OXER: We haven't had you for a target for
7 a long time.

8 MR. GOURIS: I know. Good to be back -- deputy
9 executive director for Asset Analysis and Management.

10 This morning we asked to pull 1(v), as the
11 Asset Management staff has continued to discuss with our
12 local HUD staff possible ways to resolve some of these
13 older HOME multifamily assets. Previously this Board has
14 authorized the use of TCAP program income for resolving
15 these matters. One of the potential resolutions we are
16 now exploring is the acquisition and rehabilitation of
17 another multifamily property in the same area which would
18 be made subject to the same HOME restrictions. We'd like
19 the Board to clarify that this authority extends to such
20 acquisition and rehab, and would like also to include any
21 due diligence costs.

22 Working with our broker, we have identified
23 some potential specific properties. This approach is
24 acceptable to HUD. We believe it is the most direct route
25 to providing the required units of affordable rental

1 housing in Dickinson. Therefore, we recommend approval of
2 a motion to authorize and direct the executive director,
3 or his designee, to enter into contracts or associated
4 actions to acquire property that will result in the
5 ability for the Department to clear the HUD monitoring
6 requirements.

7 MR. OXER: Okay. Any questions from the Board?
8 (No response.)

9 MR. OXER: Okay. Motion to consider?

10 MR. THOMAS: So moved.

11 MR. OXER: Okay. Motion by Mr. Thomas to
12 accept staff recommendation on item 1(v).

13 MR. GANN: Second.

14 MR. OXER: Second by Mr. Gann. Is there any
15 public comment?

16 (No response.)

17 MR. OXER: There is none. Any other questions?

18 (No response.)

19 MR. OXER: All in favor?

20 (A chorus of ayes.)

21 MR. OXER: Opposed?

22 (No response.)

23 MR. OXER: There are none.

24 MR. GOURIS: Thank you.

25 MR. OXER: Thank you, Tom. Nice to see you

1 again. Merry Christmas.

2 MR. GOURIS: Merry Christmas.

3 MR. OXER: Okay. I think we're straight into
4 now the formal action agenda. Is that correct, Tim?

5 MR. IRVINE: That's correct.

6 MR. OXER: Okay. It looks like Brooke is up on
7 this one. Item 2(a).

8 MS. BOSTON: Thank you.

9 MR. OXER: Good morning, Brooke.

10 MS. BOSTON: Good morning. I haven't been up
11 here in a while either. Brooke Boston, another one of our
12 deputies.

13 As I did in September, I wanted to take a
14 chance to brag to you guys about some of the great behind
15 the scenes work going on, some of the less sexy stuff.
16 Those things are part of the significant body of work that
17 we do at the agency, but that don't require Board action,
18 so on behalf of my management, I wanted to take a few
19 moments every few months and just share some of that with
20 you.

21 So the first thing is relating to our HOME
22 program, and as is always the case with accomplishments of
23 the agency, our successes are really based on the success
24 of our subrecipients. When they help clients and spend
25 funds appropriately, then obviously that drives our

1 success. I gave you guys an example last time relating to
2 the Amy Young funds that moved in record time, and when we
3 really start reservation funds, it just moved like that.
4 And so that was really because a strong pool of
5 administrators had been set up and qualified by staff to
6 enable that to happen.

7 So today's example similarly is of an all-time
8 record relating to the HOME program Persons with
9 Disabilities funds. We call those the PWD funds, and
10 within the HOME program, a certain portion of funds are
11 set aside each year for persons with disabilities anywhere
12 in the state. Historically, at the end of a year that
13 money still has some balance left which has to be rolled
14 forward which then continues to increase the balance.

15 MR. OXER: What's the percentage on those funds
16 that's held?

17 MS. BOSTON: It's 5 percent of the annual
18 allocation. And this year, for the first time, those
19 funds are actually being fully depleted before the end of
20 the year, which is huge. So it's a huge testament to the
21 subrecipients who have gotten themselves set up, we're
22 actually hitting most of the regions of the state, and
23 it's also a big testament to staff and to the director of
24 the HOME program, Jennifer Molinari.

25 From the staff side, we have made a couple of

1 initiatives to try and get that to happen. One is that we
2 have an employee who now is specifically designated to
3 work on PWD funds and activities, and then we also have
4 paired up with some funds that we get relating to Money
5 Follows the Person from DADS, which Kate had mentioned to
6 you earlier, and we use those funds to help pay for
7 another FTE who works to get people with disabilities to
8 access agency funds, not only HOME, but it includes HOME.
9 So we're thrilled about that, it's a huge success. It's
10 an all-time new thing for us.

11 MR. OXER: What was the total on those funds
12 again?

13 MS. BOSTON: I don't know how much we just
14 finished because if you include the roll forwards.

15 Do you know, Jennifer?

16 MS. MOLINARI: (Speaking from audience.) The
17 annual allocation is approximately \$1.2 million.

18 MS. BOSTON: \$1.2 million for this allocation,
19 but it would have had some funds that have rolled forward.

20 MR. OXER: So. \$1.2- to \$1.5-, somewhere in
21 there.

22 MS. MOLINARI: (Speaking from audience.) For
23 multifamily and single family.

24 MS. BOSTON: It's for multifamily and single
25 family.

1 Another initiative that's actually an agency-
2 wide initiative, since we've had our reorg, we have tried
3 to do more things that are cost-cutting, and one of the
4 things is an improvement we've made to our rulemaking
5 process, which sounds dull just to even mention it. But
6 as some of you realize, even from looking at your agenda
7 today, when you look at the amount of rules we bring
8 before you in draft and then final adoption forma -- which
9 you'll always see every rule at least those two times --
10 you can imagine the volume of that and then the additional
11 process of us getting that turned in to the *Texas*
12 *Register*. They have a very specific type of coding that's
13 a little bit archaic, and we have to use that to turn in
14 our rules, and it is tedious at best, it takes a lot of
15 time, it takes immense attention to detail on behalf of
16 several people in the agency for every single rule.

17 And so one of our staff, Chad Landry -- who is
18 already one of our resident superstars, he had been a
19 prior Employee of Excellence -- he made a huge improvement
20 where he designed a tool that has a macro that essentially
21 with a click of a button, it does all the coding. We need
22 to probably market this. So it has saved an immense
23 amount of time for a lot of different areas.

24 MR. OXER: Put up a message on the interagency
25 bulletin board that will code for funding.

1 (General laughter.)

2 MS. BOSTON: Right. Will code for cash.

3 So we're really pleased about that and are
4 always very happy at Chad's work. I'm actually thrilled
5 to say that as of just this morning that Chad has moved
6 out of the HOME Division where he had been housed and is
7 actually now working directly for me in Policy Planning
8 and Metrics so that we can use his skills across the whole
9 agency.

10 Similarly, another cost-cutting thing that
11 we've been working on is since the reorg in March of 2012,
12 one important effort was the creation of a more focused
13 single family initiative that included essentially where
14 kind of all things single family get evaluated together.
15 So whether that's HOME funds, Trust Fund, Bootstrap, NSP,
16 instead of looking at each of those separately, we thought
17 where can we find the commonality in processing forms,
18 rules, training. And so the directors of those areas,
19 Homer Cabello, Marni Holloway, Jennifer Molinari, Tim
20 Nelson and Eric Pike, have put a ton of time in since
21 early 2012 on trying to find what are these ways we can do
22 this.

23 We also, at Tim's direction, put a lot of
24 internal support to try and make that happen, and he has
25 designated Homer Cabello as our Single Family coordinator,

1 and then we actually have one employee whose time we
2 pretty much put fully into this, Dee Patience, who we
3 designated as a Single Family implementation leader. So
4 one of the first things they looked at, and that you guys
5 had presented to you earlier, was the Single Family
6 Umbrella rule, and that's now been in effect since the
7 fall of 2012.

8 One of the other big aspects, though, was doing
9 a survey and identifying what are our subrecipients
10 experiencing that they find the most problematic, that
11 either slows them down, they get deficiencies on from us,
12 they really struggle with, and then to what extent are
13 those cross-cutting. And one of the biggest implications
14 of that or one of the biggest critiques that we got was
15 procurement. There are a lot of different procurement
16 requirements that change depending on different funding
17 sources. They also change depending on the entity who
18 we're funding and whether they're a local government or a
19 non-profit.

20 So they created an academy, this group of
21 Single Family folks created an academy, and as part of
22 that, they created a new procurement web training, and
23 that has just been lauded internally. Everyone who could
24 have had a concern about, well, are my subs going to get
25 this, is quality control still going to be okay, what if

1 we imply something incorrectly, everyone loves it. So
2 that's been huge. And that academy is going to continue
3 to work on different modules and roll things out.

4 And last but not least, and this may be stuff
5 you've noticed in your Board book, each month you've been
6 getting a snapshot report that David Johnson produces, and
7 it's been in the report section of your book. And he had
8 been rolling those out to you guys program by program so
9 you could see just kind of focusing in on for this program
10 here's how you read it. So that's been happening for
11 almost a year, and in January we will present to you for
12 the first time the cumulative full report, real numbers,
13 the whole thing.

14 So that's great, and that's it, I just had to
15 brag.

16 MR. OXER: Stay there for a second. Any
17 comments from the Board?

18 (No response.)

19 MR. OXER: I have a couple, because one of the
20 things that I do in my day job, where I buy groceries and
21 pay the rent, is a lot of post-acquisition integration,
22 mergers and that sort of thing, and there are two ways to
23 look at those, and I'm happy to say that the mentality
24 that you're saying is now becoming evident in the agency
25 is it's cost-cutting is an important thing to do, but it's

1 cost-efficiency, gaining more performance for the costs
2 you get, the benefit-to-cost ratio.

3 So in a reorganization -- and of course,
4 everybody here, I think everybody in this room, certainly
5 all the staff know that we went through a reorganization
6 at the agency, and it's a little smoother and it's
7 working, but a strategic redevelopment and a
8 reorganization like that never really ends because it's a
9 process that has to be monitored continuously forever
10 because there will be varying influences, requirements for
11 the agency, and demands on your time, things will change.

12 And so having a more organic structure that you're
13 demonstrating here today to be able to respond to those is
14 exactly what I think everybody on this dais was looking
15 for, and I'm proud to say that you guys got it, and I'm
16 happy that's keeping going.

17 So stay with it because there will be, I think
18 I've said several times from up here, I don't know anybody
19 who sees budgets increasing or demands decreasing, so to
20 the extent that you're building a system that can respond
21 to that, and frankly, have a good time at it, to get more
22 done with the dollars that we have, I'm entirely behind.
23 And so I applaud your efforts. Thanks very much, Brooke.

24 MS. BOSTON: Thank you.

25 (Applause.)

1 MR. IRVINE: Stand up, Jennifer.

2 MR. OXER: Jennifer, you don't get to let her
3 take all of it, so come on, stand up.

4 MS. BOSTON: On behalf of many.

5 MR. OXER: Yes, I'm sure. And as I have said
6 on several occasions, I have the best job in this room
7 because I get to take credit for all the hard work that
8 you guys do, so I know there's a lot of hard work that's
9 going on out there.

10 Let's see, that's item 2. Cameron, before you
11 jump in, I want to point out just something a little bit
12 lighthearted here since it's nice to have some good news.

13 At the end of the last meeting, I said, All right, wear
14 some holiday colors. I have a colorful tie, I think Mr.
15 Gann has got his Christmas red on, and all the staff seems
16 to have responded, Megan, and Jean has got on some red,
17 Patricia is back there. Elizabeth, where's your hat?
18 There you go.

19 Now, I've got to call this out. This is a
20 shout out, okay? I said wear some colorful ties. Michael
21 Lyttle, stand up, Michael DeYoung, stand up, and Tim
22 Nelson, stand up.

23 MR. IRVINE: Tim had to leave.

24 MR. OXER: Okay. Well, I'm sorry Tim had to
25 leave because he had a beautiful blue tie. And the shout

1 out here, they wore some colors, but I've got to tell you,
2 Michael DeYoung has got on the Christmas tie, I can see
3 the Christmas Tree from here, you know. I might give
4 Michael Lyttle a dime's worth of lead on this because not
5 only does his have Christmas ornaments, it's got the
6 Looney Tunes on it, which is more reflective of this
7 meeting, anyway.

8 So congratulations to all of you, and thanks
9 for being colorful.

10 (Applause.)

11 MR. OXER: Okay. Back in the box here.
12 Cameron.

13 MR. IRVINE: Wait. 2(b).

14 MR. OXER: Oh, I'm sorry. I thought Brooke had
15 that one. Yes, 2(b), please -- or not to be.

16 (General laughter.)

17 MS. MOORE: Good morning again. Kate Moore,
18 Section 811 manager. We're here for agenda item 2(b) for
19 approval to take some specific next steps regarding the
20 Section 811 program.

21 As you may recall from our update to you in
22 April of this year, in February 2013, the U.S. Department
23 of Housing and Urban Development, HUD, announced that
24 TDHCA was one of the 13 states selected to participate in
25 the first ever Section 811 Housing for Persons with

1 Disabilities Project Rental Assistance Demonstration.
2 This new Section 811 PRA Demonstration is designed to
3 assist specific hard to serve populations through the
4 provision of project-based vouchers. The vouchers expand
5 integrated supportive housing opportunities for people
6 with the most significant and long-term disabilities and
7 was the centerpiece of the Frank Melville Supportive
8 Housing Investment Act of 2010.

9 The awarded \$12 million is anticipated to
10 provide 350 Section 811 PRA project-based vouchers for
11 extremely low income persons with disabilities. A
12 partnership with the Health and Human Services Commission
13 and some of the agencies it oversees contribute to the
14 clients' needed services.

15 I know you recently discussed this program with
16 our Multifamily staff as it related to the drafting of the
17 QAP, so I was not planning to present all of the program
18 details to you again, but if you'd like me to, I'd be
19 happy to recap some of the details of the program.

20 MR. OXER: Any members of the Board care to
21 hear it, or are you confident with what we've heard?
22 Okay. Carry on. Thanks.

23 MS. MOORE: So as it relates specifically to
24 the actions in this action item, the success of the
25 program is based on the identification of existing

1 multifamily properties funded with TDHCA programs through
2 a competitive NOFA in seven geographic areas specified in
3 TDHCA's application. Properties awarded from the NOFA
4 will enter into a rental assistance contract with TDHCA
5 committing to, among other things, a set number of units
6 that they will be setting aside for use by one of the
7 target populations. Those units will receive project-
8 based rental assistance.

9 So next steps. In terms of where we are to
10 date, TDHCA received a draft in November of the draft
11 cooperative agreement that will govern our contractual
12 obligation to HUD. In response we submitted extensive
13 comments to HUD just last week.

14 So first, in anticipation of resolution of our
15 concerns and the final execution of the agreement,
16 sometime in the next weeks or months we are asking for
17 authority to move forward with executing a signed
18 cooperative agreement for this grant.

19 Second, as part of the implementation of the
20 program, staff anticipates the need to procure HUD
21 required software called Tenant Rental Assistance
22 Certification System, or TRACS, and potentially other
23 software to implement the program. The Department may
24 also choose to procure an outside vendor to assist with
25 the program software requirements. Staff is requesting

1 permission to release a request for proposals and/or a
2 request for information to procure for these activities if
3 needed.

4 And third, the Department also anticipates
5 releasing a notice of funding availability to solicit
6 interested TDHCA financed multifamily properties to
7 participate in the Section 811 PRA program. So staff is
8 requesting permission to release this NOFA.

9 MR. OXER: Any questions from the Board?

10 (No response.)

11 MR. OXER: I have a question, Kate. Who is it
12 that actually develops this type of software?

13 MR. MOORE: They're private consultants, is my
14 understanding, private companies that do that, so
15 apparently there are a few that are normally used that do
16 this business.

17 MR. OXER: Okay. In this case who is it? Do
18 you know?

19 MS. MOORE: I don't know the names of them
20 offhand.

21 MR. OXER: Okay.

22 MS. BINGHAM ESCAREÑO: Mr. Chair, I'll move to
23 approve staff's recommendation.

24 MR. OXER: Okay. Motion by Ms. Bingham to
25 approve staff recommendation on item 2(b)

1 MR. THOMAS: Second.

2 MR. OXER: Second by Mr. Thomas. Any other
3 comment? Any other questions from the Board?

4 (No response.)

5 MR. OXER: There appear to be no public
6 comments. All in favor?

7 (A chorus of ayes.)

8 MR. OXER: And opposed?

9 (No response.)

10 MR. OXER: There are none. Thank you.

11 Now, Cameron.

12 MR. DORSEY: Good morning. Cameron Dorsey,
13 director of Multifamily Finance.

14 Item 3(a) is an item we expected to have some
15 public comment on and it doesn't look like we're going to
16 have any of that comment, so we probably would have
17 included it on consent if we had known. But since I have
18 the opportunity, I'll talk just briefly about each deal.

19 (General laughter.)

20 MR. DORSEY: I think that there's some
21 uniqueness here. You guys have heard a lot about the RAD
22 program, for example, and three of these deals is a
23 portfolio that are involved in the RAD program, and I just
24 wanted to kind of acknowledge that. And the other thing
25 is I think we can take them all as a group and just do one

1 approval, but I'll kind of run through each of them real
2 quick.

3 Master's Ranch is a 252-unit new construction
4 deal down in San Antonio. It's going to be right on a
5 golf course down there, the Pecan Valley Golf Course.
6 It's part of a master kind of redevelopment of the golf
7 course and the kind of general area down there. There are
8 some drainage improvements that are going to be done, and
9 what-have-you, and the golf course is going to be
10 basically redeveloped into a fully accessible golf course
11 particularly for veterans with disabilities, and what-
12 have-you, and so this development is kind of a piece of
13 that overall redevelopment plan.

14 We are not the issuer on the bonds, but we are
15 doing the credits on this deal, so we're recommending a
16 determination notice of, let's see, \$808,526. So that's
17 that deal, pretty cool little deal.

18 Hunter Plaza is a Fort Worth Housing Authority
19 deal. It's an existing property, existing building. It's
20 an old eleven-story hotel that was built in the '50s and
21 in the early '70s it was renovated into a senior housing
22 facility, and due to some circumstance I won't talk about,
23 it has been vacant for a little while now for a couple of
24 years. And the housing authority is going to go in and
25 completely rehab the structure. A portion of it will have

1 historic credits, as well, historic tax credits, so
2 they're going to be working with the Texas Historical
3 Commission, what-have-you, so it's a pretty interesting
4 deal as well.

5 The next three deals on the list are kind of a
6 portfolio redevelopment, they're all kind of being done
7 together. These are existing public housing deals and
8 they're going to be redeveloped, there's going to be some
9 public housing, there are going to be some units that are
10 Section 8 converted under the RAD program, and there's
11 going to be some Section 8 units that basically the
12 housing authority will take a portion of their housing
13 choice voucher pool and project-basing vouchers to support
14 the debt and operating costs of these developments.

15 MR. OXER: So these are truly mixed income.

16 MR. DORSEY: Well, those three sources
17 generally are going to target really quite low income
18 folks. I think the really interesting piece of this whole
19 deal, though, is it's 216 units total, three different
20 sites, and so in a sites transaction you're actually
21 relocating units out of an area that has higher poverty
22 and what-have-you to an area that the census tract is 12
23 percent poverty. It's an area that while we didn't check
24 to see if it would qualify in the opportunity index
25 because it's a 4 percent deal, it's akin to that type of

1 area that would qualify.

2 You also have demolition of 100 units in an
3 area that is higher poverty with only rebuilding 66 of
4 those, and the other units are going to be part of the
5 Velma Jeter reconstruction. It's technically new
6 construction because they're adding units there. The 44
7 units that they're not going to place back on the Pine
8 Grove site are going to move over to this transaction
9 that's also in a lower poverty area. So it's a really
10 great kind of deconcentration type portfolio transaction
11 that's utilizing a whole host of resources to carry out
12 this redevelopment.

13 In all cases we're recommending approval.
14 They've passed all of our tests, and so there we are.

15 MR. OXER: Sounds like they're actually using
16 all those resources the way they were intended to be used.

17 MR. DORSEY: Yes, I think so. I mean, it's
18 tough to layer all of these resources this way. To work
19 through HUD's process to get these units, approval to
20 relocate these units, the mixed finance aspect of the
21 transaction, as well as project-basing vouchers, these all
22 require all these separate approvals and everything and
23 they're putting all these pieces together in a great way.

24 MR. OXER: Great. Any questions of Cameron
25 from the Board?

1 (No response.)

2 MR. OXER: Okay. Entertain a motion to
3 consider.

4 MS. BINGHAM ESCAREÑO: Move to approve.

5 MR. OXER: Motion by Ms. Bingham to approve
6 staff recommendation on 3(a), all inclusive.

7 MR. THOMAS: Second.

8 MR. OXER: Second by Mr. Thomas. Is there any
9 public comment? There appears to be no public comment.
10 Therefore, all in favor?

11 (A chorus of ayes.)

12 MR. OXER: Opposed?

13 (No response.)

14 MR. OXER: There are none.

15 MR. IRVINE: All right. If it's okay, I think
16 taking 3(c) before 3(b) makes a little bit more sense
17 here. Both of them relate to the same two transactions
18 but these are layered transactions with 9 percent credits
19 and with HOME funds. So 3(c) is specifically staff is
20 recommending the ratification of tax credit awards for two
21 developments. One is La Esperanza Del Rio, and one is
22 Royal Gardens. Both of these transactions are located in
23 Rio Grande City, and we were able to select these
24 transactions off of the waiting list due to a return of
25 credits in that same region, as well as combining -- at

1 least for one of them -- with some statewide collapse
2 funds and what-have-you.

3 So it's the ratification because we utilized
4 the authority granted by the Board to go ahead and get
5 those commitment notices out. Those commitment notices
6 have 30-day windows where we have to get a bunch of
7 documentation back and we have to get carryovers, after
8 all that is done, executed by the end of the year in order
9 to fully utilize that credit. And so due to the timing,
10 we went ahead and utilized that authority and are simply
11 asking you all to ratify these two awards. So staff
12 recommends ratification.

13 MR. OXER: Okay. Questions from the Board? A
14 quick question here. The credits that were returned, were
15 they unused or just in excess of the project?

16 MR. DORSEY: Sure. It was an allocation or an
17 award that was approved back in July for another 2013 9
18 percent deal that they went out and I think they simply
19 had some difficulty putting all the financing together and
20 what-have-you, so they went ahead and returned credits so
21 some other folks could use it. It's a great thing that
22 they did return credits. Oftentimes folks will hold onto
23 them as long as possible, and it results in us not being
24 able to reach down and get those next units awarded and
25 under construction quickly.

1 MR. OXER: So it sounds like they did what they
2 were supposed to do once they knew they couldn't do it.

3 MR. DORSEY: Exactly.

4 MR. OXER: And rather than being an excess of
5 credits on any one deal, this is one that didn't work,
6 returned, and so we go to the waiting list.

7 MR. DORSEY: That's right.

8 MR. OXER: Okay. All right. Sounds like the
9 process is working. I'll consider a motion to consider
10 for the item.

11 MS. BINGHAM ESCAREÑO: Move to so ratify.

12 MR. OXER: Okay. Motion by Ms. Bingham.

13 MR. THOMAS: Second.

14 MR. OXER: Second by Mr. Thomas again. I'm
15 liking this.

16 Any other questions of the Board?

17 (No response.)

18 MR. OXER: There's no request for public
19 comment. All in favor?

20 (A chorus of ayes.)

21 MR. OXER: Opposed?

22 (No response.)

23 MR. OXER: There are none.

24 MR. DORSEY: All right. Back to 3(b). This
25 item is the recommendation to approve two HOME awards for

1 the same two transactions we just did the ratification of
2 the tax credit awards for. Each transaction applied for
3 and is competitive for a million dollars apiece in HOME
4 funds. This is gap financing money, it's oftentimes a
5 very critical piece for these transactions. And we have
6 funding available, and so we're recommending approval of
7 the HOME awards for a total of \$2 million, a million
8 dollars apiece.

9 MR. THOMAS: Motion to approve.

10 MR. GANN: Second.

11 MR. OXER: Motion by Mr. Thomas, second by Mr.
12 Gann. Is there any other questions from the Board?

13 (No response.)

14 MR. OXER: There appears to be no public
15 comment. All in favor?

16 (A chorus of ayes.)

17 MR. OXER: And opposed?

18 (No response.)

19 MR. OXER: There are none.

20 Use at least six more minutes. Okay?

21 MR. DORSEY: Oh, I'm done. Now it's back to
22 Gouris. I was easy today.

23 (General laughter.)

24 MR. IRVINE: This is really messing up the
25 over/under.

1 MR. GOURIS: Well, let me tell you, when I was
2 a young man --

3 MR. OXER: Tom, put the phone book away, you
4 can't read that.

5 MR. GOURIS: I know *Green Eggs and Ham* by
6 heart.

7 MR. OXER: "The sun did not shine, it was too
8 wet to play, so he sat in the house on that cold, cold wet
9 day."

10 (General laughter.)

11 MR. GOURIS: That's right.

12 So this next item is item 3(d), and I, again,
13 am Tom Gouris, deputy executive director for Asset
14 Analysis and Management.

15 This item involves a 9 percent tax credit award
16 made last year that is now at the status check-in point
17 which is known as the 10 percent test. For this
18 development there are three key items that are intertwined
19 to be accomplished by this check-in point. The first is a
20 federal requirement that the applicant has spent or
21 incurred 10 percent of the reasonably expected basis in
22 the property. The second is a state QAP requirement that
23 the ownership of the property has been transferred to be
24 in the control of the new partnership. And the third
25 intertwined issue is an underwriting condition that the

1 applicant receive approval by the USDA of the transfer of
2 existing financing to the new ownership structure.

3 This property has previously been assisted with
4 significant amounts of USDA financing which USDA needs to
5 approve the transfer or the financing needs to be repaid
6 for the ownership change to be accomplished. The 10
7 percent test is typically due in July, and this
8 development has received two prior extensions of this
9 request in order to get the USDA approval. The applicant
10 has submitted their 10 percent test package as of the last
11 extension date, December 1, but has yet to be able to
12 provide the documentation of USDA approval.

13 They've asked for a waiver of the closing
14 requirement and staff recommends denial of that waiver but
15 to provide an extension of the deadline for USDA approval
16 until December 27, 2013, which is consistent with the
17 absolute federal deadline for the 10 percent test.

18 I have received some more correspondence from
19 USDA this morning suggesting that that's going to be a
20 very difficult time frame for them to meet, but beyond
21 that, we wanted to give them every opportunity to try to
22 get that accomplished, and if they can't get it
23 accomplished, they can always reapply in a subsequent year
24 to attempt to do this project.

25 MR. OXER: As is the case on most of our

1 projects, in the event that they don't succeed, they have
2 the opportunity to apply again for next year. Right?

3 MR. GOURIS: Correct.

4 MR. OXER: On most of them within most of the
5 programs that we have.

6 MR. GOURIS: That's correct.

7 MR. OXER: Nobody ever gets the door fully
8 slammed on them. Right?

9 MR. GOURIS: That's correct.

10 MR. OXER: Okay. Any questions of the Board?

11 MR. GOURIS: And I believe David Marquez is
12 here to speak on behalf of the applicant.

13 MR. OXER: Now, David, you know better. Get up
14 here.

15 We've got to have a motion to consider here
16 first. Is there a motion to consider?

17 MR. GANN: I so move on 3(d).

18 MR. OXER: Motion by Mr. Gann to move staff
19 recommendation on item 3(d).

20 MR. THOMAS: Second.

21 MR. OXER: Second by Mr. Thomas. Are there any
22 questions of the Board?

23 (No response.)

24 MR. OXER: There are none. And we have public
25 comment. David, you can go first because you were there,

1 even though we have them lined up the wrong way. You've
2 got to keep him in line. Okay?

3 (General laughter.)

4 MR. MARQUEZ: Mr. Chair and Board, we're here
5 to kind of plead our case on what we're doing and why
6 we're doing what we're doing.

7 Mr. Lopez here is the executive director of the
8 Hidalgo Housing Authority. They have owned and managed
9 this property for 40 years. It's 246 units.

10 MR. OXER: David, you've got to identify
11 yourself.

12 MR. MARQUEZ: Oh. David Marquez, the co-
13 developer for Memorial Apartments in McAllen, Texas.

14 This is a USDA set-aside, it's 246 units, it's
15 161 project-based rural assistance, and 64 Section 8. It
16 has over 1,200 residents, and some of the most poorest
17 people in the Valley. These are farmers and farm workers.

18 The other thing is that we have worked with
19 USDA since October 12, and so we seem to get closer and
20 closer every single time. There is emails from them
21 stating that yes, they cannot get there before the end of
22 the year, and we understand that. It has been a process.

23 I have over 300 emails since June to USDA national. What
24 Temple office has been telling us -- and I have a letter
25 to that regard too -- is that this has to be approved on

1 the national level. Well, back in June we did go and meet
2 with the director of the housing services for USDA. We're
3 now dealing with Mr. Davis, who is the acting director,
4 Brian Hooper, who is in charge of multifamily for USDA,
5 and his deputy, Mike Steininger. So we have over 300
6 emails to them since June, so we have been working
7 diligently.

8 And during that time we've also been spending
9 money. We have over \$300,000 in a full set of plans, both
10 engineering, we had some engineering nightmares in there.

11 That's one of the issues that USDA doesn't quite seem to
12 come to grips with, but as of late of December 9, they
13 have started to ask for information as to why we need a
14 pumping system for our detention pond, and starting to
15 understand that after even a good rain it fills up to the
16 capacity where a young child can actually drown. So some
17 of the things that we've actually put above and beyond
18 what their scope of work is, and that's been the main
19 disagreement, I think we're going to come to terms with.

20 And so we have approvals from WNC, our tax
21 credit provider, we have an interim loan from Stearns Bank
22 that has already been approved, and Lancaster Pollard has
23 already underwritten the transaction, it's gone through
24 their credit committee, but the thing is that we can't
25 make it till the end of the year. We have made the 10

1 percent, and I'll let Novogradac address that issue. Our
2 attorneys have rendered legal opinions for that, given
3 state law.

4 She's given me her time. And so I think it's
5 something that's kind out of the ordinary, it's dealing
6 with another government body, and we ask for at least till
7 January 31. At that point you can take the credits back
8 and redistribute them. It does not hurt the agency or
9 their ability to fund if you give us the extension.

10 MR. OXER: Any questions of the Board?

11 MS. BINGHAM ESCAREÑO: You mentioned that the
12 27th aligns with a hard stop with the deadline. What is
13 that?

14 MR. GOURIS: The deadline is the federal
15 deadline for the 10 percent test being met. It's one year
16 from the date when the carryover was signed, and the
17 carryover was signed on the 28th of December, so 28th is a
18 Saturday so it's the 27th is what we came to a deadline.

19 MS. BINGHAM ESCAREÑO: And the applicant is
20 requesting a waiver?

21 MR. GOURIS: We had some dialogue before the
22 Board meeting, recognizing what had come in and what
23 wasn't there, and we suggested that they might ask for a
24 waiver or ask for something and they needed to take this
25 Board meeting opportunity to do whatever they needed to

1 do. They did ask for a waiver. Probably the more
2 appropriate thing would be to be an extension of that one
3 part of the 10 percent test that we feel is intertwined bu
4 they would like to separate out.

5 MR. OXER: And the essential issue here is that
6 the USDA can't react.

7 MR. GOURIS: Well, no. They've reacted and
8 suggested that they would not be able to approve the
9 request, and they've said that repeatedly. The applicant
10 has indicated that they think they can get them to approve
11 the request. Not wanting to get in the middle of that
12 dialogue, we've set a deadline -- or recommended a
13 deadline be set for the USDA approval and if they can get
14 it, great. USDA has repeatedly told us, as they did this
15 morning, that they weren't able to give that approval at
16 this point and don't think they could give that approval
17 by the end of the year. That's what the letter said, but
18 they actually denied the approval and said they couldn't
19 meet the requirement by the end of the year. So they're
20 going to have to reapply, I assume, and go through the
21 process.

22 MR. OXER: So they said they couldn't meet the
23 approval deadline or they don't expect to approve the
24 project?

25 MR. MARQUEZ: I have their email.

1 MR. OXER: Hold on, David. You can't do that.
2 You've got to speak into the mike so it can be recorded.

3 Do you have a quote on that, Tom?

4 MR. GOURIS: "Due to the aforementioned
5 discrepancies, we are unable to initiate the underwriting
6 process which includes analyzing the financial viability
7 of the project as a whole. This being the case, and also
8 the fact that this office received a Section 538
9 application for this project on November 29, does not
10 allow adequate processing time, as stated in the previous
11 letters, to meet the December 31 deadline for tax credits
12 to TDHCA."

13 The opening sentence said, "We are unable to
14 approve the transfer of the rehabilitation due to the
15 following." And it listed a bunch of issues that they
16 have had for quite a while with regard to how much rehab
17 was being done versus how much rehab they felt should be
18 done.

19 MR. OXER: So staff's position is this is not
20 just a scheduling problem, this is a substantive issue.

21 MR. GOURIS: It appears from USDA's
22 correspondence with us that that's the case, but again,
23 not wanting to get into that detail of it because that's
24 between them and USDA, we set the deadline. And the
25 deadline was set initially because the ownership transfer

1 and all these things should take place simultaneously.
2 The approval of the financing should take place when the
3 ownership transfer takes place; otherwise, the ownership
4 transfer kind of is --

5 MR. OXER: No reason to make it happen unless
6 you've got financing.

7 MR. GOURIS: Right, yes.

8 MR. IRVINE: Well, pulling it back and giving
9 more context to show how these things are interrelated,
10 there is existing financing in place, and USDA has a lien
11 position. So the question is really how can you transfer
12 the ownership to the development entity when a USDA
13 consent is required for that, and it's really all tied up
14 with how or if USDA moves forward with the new structure.

15 And I believe, without putting words in Mr. Marquez's
16 mouth, the applicant is optimistic that they can further
17 educate USDA and obtain their agreement to proceed with
18 this overall change.

19 And what we're saying is that clearly they have
20 to meet the federal 10 percent tests, that's simply there,
21 and I believe that with their opinion from counsel and
22 advice from Novagradac, they have addressed that and
23 they'll explain to you how they've addressed that. Then
24 they have a state law 10 percent test that also requires
25 that ownership, not necessarily record title, but that

1 ownership be conveyed to the development entity, and I
2 believe they'll address that. Third, we have a condition
3 that was imposed in connection with our underwriting that
4 said specifically: Oh, and we want this to occur with the
5 USDA approval by this deadline. And that deadline, as
6 they've described, is something that they believe they
7 need more time to meet it.

8 MR. THOMAS: Mr. Chairman.

9 MR. OXER: Mr. Thomas.

10 MR. THOMAS: So Tom, the issue for us is from
11 the staff's perspective is trying to set a deadline to
12 provide certainty and transparency of process for all
13 applicants without interspersing or putting ourselves in
14 the issue between the applicant and the federal agency.
15 Is that the idea?

16 MR. GOURIS: That's right. In essence, that's
17 what we did with the original deadline with tying it to
18 the 10 percent test, and then those extensions were
19 granted internally by the executive director. This is
20 like the last -- I mean, they actually submitted the 10
21 percent test but weren't able to meet that last element
22 and now need an extension of that last element -- further
23 extension of that last element.

24 MR. OXER: What is the impact to the system or
25 the process or scheduling for anything else or anybody

1 with giving them 30 days? Does it have any detriment to
2 our programs?

3 MR. GOURIS: I would imagine not. I think Jean
4 might be able to speak to that. The credits, if they were
5 returned by the end of the year, would just roll into next
6 year. That would be the big issue. The issue from a
7 process standpoint for the development is they have a year
8 to do the rehab once they get the approval. Once they get
9 the ownership transfer finalized and all the financing
10 transferred, they would have to the end of next year to
11 place in service, and that's a pretty short time frame.

12 They've indicated to us that they don't think
13 it will take quite that long to get it all done, and we're
14 willing to see that through. But oftentimes, at this late
15 date in the status of a project, if they haven't met these
16 requirements, it usually is a great concern to the lender
17 and syndicator to be able to get the property accomplished
18 in the time frame that's required under federal law.

19 MR. IRVINE: Logistically, where it is right
20 now, if the credits were returned within this year and we
21 had identified somebody who fit into our waterfall
22 structure, then we could award those returned credits to
23 somebody else and they would have to meet carryover by
24 year-end. If the credits were returned after year-end,
25 then it would simply go into next year's round.

1 MR. GOURIS: Actually, I think at this point in
2 the year --

3 MR. OXER: Okay. Let's don't guess. Cameron?

4 MR. DORSEY: What our goal is always is to try
5 and allocate it and get as many deals allocated credits by
6 year-end. It's very late, and so I think it would be a
7 tossup whether or not we could get that accomplished, I'd
8 say 50-50 really. We'd have to call the next folks on the
9 waiting list, see if they've still got their site under
10 contract, there would be a series of things we would need
11 to do.

12 MR. OXER: There are implications for having
13 this roll over.

14 MR. DORSEY: Right. Well, I mean, if they got
15 returned this year, we could choose to roll it over or do
16 the next deal in line, and doing the next deal in line
17 just is not totally certain because we would have to work
18 with --

19 MR. OXER: It's so late in the game.

20 MR. DORSEY: That's right.

21 MR. OXER: Okay. Anything you wanted to add,
22 Jean? Hold on, David.

23 MS. LATSHA: (Speaking from audience.) Not at
24 this time.

25 MR. OXER: Okay. David.

1 MR. McWATTERS: Mr. Chairman.

2 MR. OXER: Professor McWatters.

3 MR. McWATTERS: What's the basis by which you
4 think an extra 30 days is going to make a difference?

5 MR. MARQUEZ: That we're dealing directly with
6 national now and the issue has been what Tom mentioned,
7 was the fact that we think that the construction budget is
8 \$5.4 million, it's 246 units, they're saying it's \$2.9-.

9 MR. OXER: That seems like a pretty substantial
10 discrepancy.

11 MR. MARQUEZ: Well, it's less than that now
12 because they've given into the fact of the roof
13 structure -- there's two roofs on there -- the roof
14 structure, the sidewalks, the water heaters and the
15 detention pond. All this comes up to about a million
16 dollars so now it starts to narrow the focus, and that's
17 what we need is just to be able to come up and say okay,
18 it's \$4.5- or it's \$4.8-, or whatever it is, and so that's
19 what the discrepancy is on the C&A. I think we need more
20 than that.

21 Our investors, who are still involved in this,
22 we have phone calls every Monday, they're still involved.

23 Our attorneys are still involved. They think we can get
24 it done in the nine months that we say it can take our
25 reconstruction. I mean, we've been preparing for this for

1 over a year. I mean, all of our people have been
2 certified already, we've gone through them all. All the
3 residents know that we're going to do this. So it's not
4 just for myself or the housing authority, it's like I
5 said, there's 1,200 people that live there that want this
6 to happen. And we wouldn't be up here driving this thing,
7 we're big boys, we can take our hits, but what happens is
8 that after being there a year, year and a half and knowing
9 all the residents, we can't stop now.

10 I mean, for 30 days, and your own staff says it
11 has no bearing on the credits for next year, so if we go
12 to January 31 and we don't get it done, you just put it in
13 the next cycle and let's go about our business.

14 MR. OXER: Okay. Anything else, Mark?

15 MR. McWATTERS: Well, I'm trying to determine
16 from the email that was read a moment ago if there's any
17 negotiating room on behalf of the United States Government
18 here, if they feel like this thing is done and that you're
19 going to continue to make arguments to them and they're
20 just simply not going to pay attention because they feel
21 like their analysis is correct right now.

22 MR. MARQUEZ: Well, Professor, I have an email
23 December 9 from their state architect that asked the list
24 of questions that I just mentioned, and we went over them
25 with our engineers and our architect, and so it seems to

1 answer the question.

2 MR. McWATTERS: So I mean, have they given you
3 any indication, through an email or otherwise, that hey,
4 if we have a little more time, I think we can reach an
5 accord?

6 MR. MARQUEZ: What their email exactly says is
7 that we're still working through the process, we can't
8 make it till the end of the year.

9 MR. OXER: Maybe it's by the end of the year.

10 MR. MARQUEZ: By the end of the year. But
11 that's what I'm saying, there is correspondence between us
12 and them continually, so there's no lack of communication.

13 There's no we're not talking to you, the prices are too
14 far off, there's not any of that. We are talking.

15 MR. OXER: And you're caught in the holidays
16 too. I understand the bind that you're in, and based on
17 the fact that there's probably we wouldn't be able to do a
18 credible job of rolling over these credits, I'm inclined
19 to offer you to the end of next month, if the rest of the
20 Board considers that appropriate.

21 MR. MARQUEZ: We'll be working through the
22 holidays.

23 MR. OXER: I know. You better be.

24 MR. MARQUEZ: I understand that.

25 MR. OXER: Okay. We have a motion by Mr. Gann

1 and second by Mr. Thomas to approve the staff
2 recommendation on item 3(d) which, if we decided to go
3 this way, we'd have to modify. You're speaking on behalf
4 of all three of you right there.

5 MR. MARQUEZ: Yes.

6 MR. OXER: That's all right. If you don't want
7 to speak, that's fine.

8 Is there any other comment from the Board? We
9 need to either tell them no or tell them they've got till
10 the 31st and be done with it and it's over. That's
11 basically what's coming down.

12 MR. THOMAS: Mr. Chair.

13 MR. OXER: Mr. Thomas.

14 MR. THOMAS: I have some concern based upon our
15 prior discussions on these very issues, being also very
16 sympathetic to the concerns and the issue of the timing of
17 interjecting the agency, and staff in particular, in
18 speculation, and more importantly, for purposes of
19 transparency and consistency with all of the folks who
20 have come to us on these issues in the past

21 MR. OXER: Who have got their deadlines.

22 MR. THOMAS: And so while it is a critical need
23 in a critical part of our state -- which if I had a magic
24 wand, we would fix -- I have some concern about
25 granting -- or opening a Pandora's box or slippery slope

1 going forward.

2 MR. OXER: And in the event that this is turned
3 down, you have the option -- Tom, in the event that this
4 is turned down, which it's not been yet, but in the event
5 that it's turned down, they have the option to reapply.

6 MR. GOURIS: They do under, I guess, the
7 general set-aside but not under the USDA.

8 MR. OXER: Jean, have you got any more detail
9 on that?

10 MS. LATSHA: Jean Latsha, Housing Tax Credit
11 program manager.

12 Not really. I just pointed out to Tom earlier
13 that they applied under the USDA set-aside in 2012, and
14 under those rules they could qualify for it just because
15 of our definition of rural, and since that's changed, they
16 could come back and apply again but it wouldn't be under
17 the USDA set-aside.

18 MS. BINGHAM ESCAREÑO: I have a question just
19 for clarification. So when we mentioned kind of the three
20 little benchmarks, the three hurdles, we're pretty clear
21 they meet the 10 percent test, the literal 10 percent.
22 Right? They have somebody here that can attest to that.
23 And the ownership hurdle. So the USDA is actually a
24 condition of the underwriting is how you defined it.
25 Correct?

1 MR. GOURIS: That's correct.

2 MS. BINGHAM ESCAREÑO: So it's not a rule that
3 applies to all deals, it's just because it is a USDA that
4 they have that additional hurdle. Correct?

5 MR. GOURIS: In this case it was added because
6 of the unique circumstances of this transaction, which in
7 order to fully transfer the ownership of the site and
8 complete the rest of the 10 percent test, they would need,
9 in our eyes, to have received USDA approval of the
10 transfer of the funds.

11 MS. BINGHAM ESCAREÑO: It is unique and I just
12 wondered if it might help clarify for my peer that in a
13 way we kind of already insert ourselves into that. Right?

14 Like we can't really act like it's an anonymous, generic
15 deal because it isn't. We know those deals are always
16 really dicey and so we put that for a reason, but we're
17 already in it. I mean, we're not involved directly in the
18 dealings with the USDA but it's not a generic deal, so we
19 know that there's that complicating factor.

20 MR. GOURIS: There was when the award was made,
21 yes.

22 MS. BINGHAM ESCAREÑO: And David, did you
23 mention there's been leadership changes, that for a while
24 you were having to deal with somebody who was an interim
25 USDA leader.

1 MR. MARQUEZ: There was what they call the
2 housing administrator, Tammy Tamayo. She was there,
3 that's who we met with. And now there's an acting, Rich
4 Davis. But we feel is that we process everything through
5 USDA Temple, but D.C. is made aware of this because in
6 some of the funding issues they do have to be approved by
7 national, and so since June that's who we have been
8 dealing with.

9 MS. BINGHAM ESCAREÑO: You really do think if
10 you got an extension you can get the project done in the
11 remainder of the coming year?

12 MR. MARQUEZ: Yes, ma'am.

13 MR. OXER: In the remainder of the year, or by
14 January 31?

15 MR. MARQUEZ: January 31. I'm sorry.

16 MR. OXER: Point of clarification.

17 MR. MARQUEZ: For the record, January 31.

18 MR. OXER: Just a second, Mr. Lopez. It occurs
19 to me that we recently asked some folks to go after some
20 documentation from HUD under some duress also. They were
21 pretty pinched over the holidays.

22 MR. MARQUEZ: Well, the other thing too is
23 that, you know, the government being shut down October 17.

24 MR. OXER: I'm sure this didn't help out.

25 MR. MARQUEZ: We turned in an application and

1 then all of a sudden it was closed for two weeks, and so
2 even the people in D.C., we could not get a hold of, and
3 so that did hurt us.

4 MR. OXER: Tim.

5 MR. IRVINE: Could you clarify for the Board
6 how you specifically addressed our ownership requirement?

7 MR. MARQUEZ: Well, actually I'm going to let
8 Novogradac do that. How's that?

9 MR. LITTLEJOHN: I'll fill out a comment card
10 after. My name is George Littlejohn with Novogradac and
11 Company. I'm a partner in the CPA firm. Susan Wilson
12 actually signed the report; we have a two partner review
13 process on these engagements.

14 In this case when the 10 percent test was
15 met -- and I did want to sort of address that there is a
16 federal deadline of 12/27, one year after the carryover --
17 we've issued the opinion based on a special warranty deed
18 and an assumption of the debt that was prepared by their
19 attorneys. We talked and received documentation from
20 their attorneys that based on all the facts under Texas
21 state law this would be a legal transfer of title and that
22 they would have all the benefits and burdens of ownership,
23 so we went forward on that respect and said, This is good.

24 Again, there are other ways to spend money by the end of
25 the month, that's not really meeting the 10 percent test.

1 We believe they've already met it, that's not a concern.

2 I did want to point out one point, because we
3 brought that up, in terms of timing, and that was an issue
4 I personally have addressed with David. It's like, okay,
5 if you get this and you have an extension, you have a
6 rehab, can you get it done by the end of the year. The
7 rehab plan I think is about nine months, so they should
8 have plenty of time to do it. One advantage, I think, in
9 this deal is that as opposed to new construction, the way
10 the Federal Code is written with respect to placed in
11 service dates for rehab, there is more flexibility with
12 meeting that deadline and more ways to make sure that the
13 credits aren't lost for another year, that they can meet
14 that deadline.

15 MR. IRVINE: And the special warranty deed has
16 been executed and delivered but not recorded.

17 MR. LITTLEJOHN: The special warranty deed has
18 been executed, it's been delivered, but it has not been
19 recorded in the courthouse, and we got correspondence from
20 their attorney and discussed with their attorney on
21 whether that was still a valid legal transfer under state
22 law, and they said it was.

23 MR. OXER: Tom. Thank you, Mr. Littlejohn.

24 I'm going over a summary of where we're at on
25 this because this is one of those things where we like

1 to -- and I'm entirely in favor of what Mr. Thomas just
2 recounted a moment ago because I think I'm the one that
3 started that some time ago, but the discretion to waive
4 these sorts of requirements is something that should be
5 exercised rarely and lightly, in my estimation, but
6 perhaps we are there but I'd like to get a summary on
7 this. This is a unique project, it's not going to be
8 something that's going to be -- the USDA contribution to
9 this would be different next year if they had to roll it
10 over. Is that correct? If they reapplied next year.

11 MR. GOURIS: Yes, that's correct. As far as
12 being different, I stand corrected. Staff reminded me
13 that all the properties that had USDA associated with them
14 had the same or similar underwriting condition placed on
15 them, and all of those other transactions met the
16 deadlines.

17 MR. OXER: How many others were there?

18 MR. GOURIS: Half a dozen?

19 MR. DORSEY: Yes.

20 MR. OXER: A dozen?

21 MR. GOURIS: At least a half dozen, if not
22 closer to a dozen.

23 This one is a fairly large transaction, I think
24 probably one of the larger transactions, and there are
25 other things that make it different, but the condition

1 that staff put on it was consistent with the other USDA
2 transactions.

3 MR. OXER: So it's not a unique requirement for
4 this project, it's just -- come on, Cameron.

5 MR. GOURIS: Every project is unique,
6 obviously.

7 MR. OXER: Obviously. But it's not unique in
8 the terms -- is it more complex than others that would
9 require more time?

10 Here's the question, David: Why were you late?

11 MR. MARQUEZ: I can address that.

12 MR. OXER: Let's hear it.

13 MR. MARQUEZ: What happens is that you have a
14 514-516 loan. Most of the other USDA loans that come
15 through are for-profit. This was a non-profit grant that
16 was given eight years ago, and so we had to address that
17 grant, and so that grant has to be closed out and
18 forgiven. In order to do that, you have to go to D.C.
19 Right now USDA wouldn't even be talking to us if they
20 didn't think that that grant was going to be closed out,
21 because when we started this process -- and, Jean and
22 Cameron, I think you remember -- they kept on saying
23 you're going to have to pay it back, you're going to have
24 to pay it back. Well, we finally addressed that issue at
25 national.

1 And so now what they're saying is that in order
2 for us to transfer, we have to address the funding, the
3 C&A, the 514 loan all at one time. So it did have a
4 different piece because most of them are for-profit
5 developers and they don't have a grant.

6 The other thing is, too, this project is 246
7 units. It's one of the largest USDA projects in the
8 country, not just here but in the country, and so when you
9 start talking about a project of that size, many of the
10 ones that they're talking about are 20 units to 50 units,
11 so it's not as massive of a transaction. And so anyway.

12 MR. OXER: Okay. Thanks.

13 Cameron, of the rest of the, quote, dozen or so
14 projects that are there, were there any more than had a
15 USDA 514 grant that went with them?

16 MR. DORSEY: Not a 514.

17 I did want to address a little bit the timing.
18 You know, I'm responsible for carrying these transactions
19 through carryover the end of the year that they're
20 originally awarded and then they transfer to the asset
21 management group to manage them from there. We have
22 monthly conference calls with USDA throughout the tax
23 credit cycle to make sure that we're all on the same page
24 and we understand what's going on. And so I don't know
25 what has happened since the end of 2012, but I know that

1 Mr. Marquez was the last to contact USDA about the USDA
2 deal.

3 USDA didn't have any idea what was going on
4 with the deal until very, very late in 2012 which is most
5 certainly different from each of the other transactions
6 that were USDA deals, despite them being a different
7 source of USDA financing. So I think USDA most certainly
8 felt like that there was a delay and they hadn't been
9 brought in the loop early in the process.

10 MR. OXER: So you're saying it's a product of
11 Mr. Marquez being late communicating last year with USDA.

12 MR. DORSEY: I can't say that there's a direct
13 correlation between the delay, I don't know if that would
14 have resolved the timing issue, but I can most certainly
15 speak to the fact that there weren't those initial
16 conversations that we generally expect to see early in the
17 process with both of the key financing entities.

18 MR. IRVINE: This isn't really a waiver
19 request, it's an extension request ostensibly because USDA
20 says it needs additional time to take definitive action on
21 the matter, and the question floating around here is:
22 Okay, why is USDA saying that now?

23 MR. OXER: David.

24 MR. MARQUEZ: We received our allocation in
25 September -- or our underwriting, and so we had contacted,

1 because Mr. Lopez and I actually went to USDA in February
2 of '12 and informed them that we were going to be
3 submitting an application -- so when we received our
4 actual commitment from the Department, we were the last
5 ones underwritten in September.

6 MR. OXER: Your application from the
7 department, USDA or from TDHCA?

8 MR. MARQUEZ: No. The actual commitment.

9 MR. OXER: Our department.

10 MR. MARQUEZ: Yes. We got that in September.
11 And so what happened then, some of the language was not
12 correct and so the Department went back and corrected it,
13 and so what we needed to do was submit a full transfer
14 package to USDA for the closeout and for the transfer of
15 the 514. We did that in October of '12, October 15 of
16 '12, probably less than 30 days than when we got our
17 commitment. I know commitments usually come out a little
18 bit earlier than that, but ours was the last one
19 underwritten. So we got it as soon as -- it's three
20 binders long.

21 MR. OXER: Hold on. So they would have gotten
22 their commitment September of last year, as he said or
23 suggested that you did, and that was a product, since we
24 made the decision in July and it rolled over, is it only
25 because it would have been the tail-end of underwriting

1 that you issued the final?

2 MR. DORSEY: Yes. It would have been something
3 related to that, most likely. But you know, I wouldn't
4 have an expectation that folks wait to talk to everyone
5 else until we've acted, you know. The expectation is that
6 you're communicating with our state agency as well as the
7 other federal agencies involved with the transaction
8 throughout the process, particularly because it's fairly
9 well known amongst folks that do USDA transactions that it
10 can take quite a while to get transfer approvals and these
11 types of things. It's quite rare, however, to have this
12 type of situation occur because folks know that they need
13 to start working very early in the process.

14 MR. GANN: Mr. Chairman, I've got a question of
15 Cameron if I can, sir.

16 MR. OXER: Mr. Gann.

17 MR. GANN: Cameron, you mentioned something
18 earlier that if these funds were to come back that you'd
19 have a 50-50 chance of maybe given them to someone else.

20 MR. OXER: For this year.

21 MR. GANN: For this year. I mean, if it was 10
22 percent and I was in the 10 percent, I would really want
23 to see that. But there is a real chance that you could
24 find somebody to use these.

25 MR. DORSEY: The next transaction in line is

1 about a \$1.2 million deal. This return is slightly under
2 \$900,000. We also have a pot of about \$100,000 in credits
3 sitting there. So it would require them to figure out how
4 to resize, make their deal work with slightly -- well, not
5 slightly, \$200,000 in credit is quite a big piece. I've
6 seen it done before but I hedge primarily for that reason.
7 I'm not sure if they would feel comfortable or have the
8 resources available to them to resize that transaction
9 that substantially.

10 MR. IRVINE: It's about a \$1.8 million cost
11 swing.

12 MR. DORSEY: Could be up to that amount.

13 MR. GANN: But it's still possible.

14 MR. DORSEY: I've seen it done before. I've
15 seen applications for HOME funds in order to fill the gap,
16 they've made that work. Allegro Point up in Austin, it
17 was a 2011 deal, it was a tail-end deal just like this
18 would be.

19 MR. GANN: I actually think that would be one
20 of our issues if we did not approve the staff
21 recommendation.

22 MR. OXER: Barbara.

23 MS. DEANE: May I ask a question?

24 MR. OXER: Madam Counsel.

25 MS. DEANE: If these credits do come back and

1 you try to award them to someone else and it can't be done
2 by the end of the year, they carry forward to the next
3 year. Right?

4 MR. DORSEY: That is correct.

5 MS. DEANE: What about the national pool, does
6 that impair our ability?

7 MR. DORSEY: No, it does not. The way the
8 regulation is written, if credits are returned in the last
9 three months of the year, we can accept those as returned
10 on the first of the following year so as not to miss out
11 on national pool. It's kind of a reasonableness thing.

12 MR. OXER: What is the national pool?

13 MR. DORSEY: The national pool --

14 MR. OXER: When is that distribution made?

15 MR. DORSEY: It's generally made around
16 November of the allocating year. So this year, for
17 example, in November -- or maybe it was October -- October
18 we got an additional 300,000 or so in credits. It varies
19 from year to year, it can be none some years. But that
20 wouldn't be at risk an that wouldn't be at play in this
21 particular instance. We would most certainly still
22 qualify for national pool because the amount we've
23 allocated thus far is sufficient to qualify next year, and
24 in addition to that, if a return occurred, it would occur
25 in the last three months of the year, we could accept it

1 as returned on the first of next year so as not to kind of
2 put us in a really tough allocating spot needing to get
3 that money out super fast.

4 So I think it would be a correct statement to
5 say if we were not able to allocate to the next year
6 deal -- which I am not certain we can do -- it wouldn't
7 result in us losing out on some resource or it wouldn't
8 result in any kind of adverse thing for the Department or
9 the state.

10 MR. OXER: So it's not use it or lose it at
11 this point.

12 MR. DORSEY: That's right.

13 MR. OXER: Okay. Professor McWatters.

14 MR. McWATTERS: Cameron, I'm having some
15 difficulty following some of this, so just let me ask this
16 sort of simple question.

17 MR. DORSEY: Sure.

18 MR. McWATTERS: What's the basis for the need
19 for the extra 30 days, and is that reason reasonable?

20 MR. DORSEY: It's really hard for me to say.
21 You know, you kind of have to accept both things at face
22 value, I think. They've communicated, for example, that
23 they started in February 2012 of talking to USDA. Our
24 communications throughout the 2012 cycle did not reflect
25 that USDA knew what was going on with the transaction, if

1 it, in fact, was going to move forward, these types of
2 things. So you know, I'm kind of the middle man here and
3 I don't want to say Mr. Marquez is wrong at this point
4 because I don't know what they did in 2012, I can only
5 speak for the conversations we had with USDA.

6 I think, you know, generally speaking this is
7 significantly longer than it would take. I haven't seen
8 this type of situation happen with USDA to where they were
9 this late in the process and didn't have the approval. I
10 think that's typically because folks that do USDA deals do
11 a lot of USDA deals and they kind of have an understanding
12 that USDA works slowly, they've worked out all the kinks
13 in how they communicate with USDA, and these types of
14 things.

15 These folks don't have a portfolio of a
16 significant number of USDA deals, I don't think, and so
17 there was probably some figuring that out, and I don't
18 think that's any fault of theirs. It can be tough to
19 figure out our process too sometimes for a new person. So
20 it's hard for me to assign who's at fault or if the
21 additional 30 days are reasonable.

22 MR. IRVINE: But regardless of how it got here,
23 USDA has been pretty unambiguous that they cannot speak
24 definitively by the year-end.

25 MR. OXER: And that's what Tom read off the

1 email.

2 Hold on a second, David. I echo, and I know
3 where Professor McWatters was going, I think, and Mr.
4 Thomas and Mr. Gann. We're big on rules around here,
5 David, big on schedules, and it seems like that was a lot
6 of time to get this done.

7 Tom, do you have another comment?

8 MR. GOURIS: I was just going to mention that I
9 think we included in the Board package a timeline from
10 USDA of when things occurred from their perspective, and
11 it showed kind of repeated start and stop points and
12 significant time periods before the next start was had
13 again. So they received an application in October of
14 2012, they sent an adverse decision letter in November,
15 the applicant appealed the decision in January, and then
16 in April they withdrew their appeal, and then it wasn't
17 until August that they applied again.

18 MR. OXER: Wait a minute. They applied again,
19 reactivated?

20 MR. GOURIS: To USDA.

21 MR. OXER: So they reactivated that application
22 or they made a new application?

23 MR. GOURIS: I believe they had to submit a new
24 full application because they withdrew their previous one.
25 And I don't know the workings of USDA and the technical

1 components, but it appeared that they had an application
2 that was denied and then they appealed it, withdrew their
3 appeal, and then several months later applied again. And
4 this was all during the same period of time when they were
5 asking for extensions for the 10 percent test from us,
6 saying that they were very close to getting these issues
7 resolved.

8 Just one other issue that I want to make sure
9 is clear. The concern about the transfer or the repayment
10 of the federal grants is pretty significant to this
11 transaction, and by implication, I think Mr. Marquez
12 suggested that they've gotten that resolved at the federal
13 level, the D.C. level. We haven't seen any documentation
14 of that. I don't think he can confirm that that has
15 formally been resolved. I think what has happened is it
16 needs to be resolved at the local level, and if the local
17 level is okay with it, they can get through it at the
18 federal level.

19 MR. OXER: Mr. Marquez.

20 MR. GOURIS: Did I say that correctly?

21 MR. MARQUEZ: Because there's a lot of things
22 that USDA tells you to move forward on, it's not in
23 writing, but what it is is that the timeline that they
24 have are not indicative of the 300 emails that we have
25 back and forth to USDA talking to them, from at least May

1 of '13 all the way through. And so one of the issues, you
2 asked me earlier do I think we can get it done by January
3 31, in your Board book we put what they call an unnumbered
4 letter in there, and that is from the acting director,
5 Rich Davis, that says that state offices now have to have
6 USDA tax credit projects as a priority, and they list that
7 in there. And so that's what we're pushing in D.C. and
8 that's what we're pushing now is that we're under a time
9 restraint and we were at the end of the year, and so if we
10 are granted a waiver till January 31, this is why we feel
11 we can get it done.

12 MR. OXER: Let's clarify. That's an extension,
13 not a waiver.

14 MR. MARQUEZ: Okay. An extension. It's an
15 actual directive from the housing administrator, and I put
16 that in your Board book as well. It's called an
17 unnumbered letter, dated September 30, from Rich Davis.
18 And that's why I put it in there because all our
19 correspondence with national and Temple stresses that
20 point because that's exactly what we've been told, that
21 this is what they are trying to do and this is what
22 they're moving to do in their 40 and 50 year old projects.

23 This is a way to preserve USDA.

24 And the state and the staff, I know that
25 they've been in contact with USDA, I know that they've met

1 them at housing conferences, and I think that everybody
2 agrees that this is what should be done, it's just how do
3 you get there.

4 MR. OXER: Apparently everybody doesn't agree.

5 MR. MARQUEZ: Well, agrees that tax credits
6 with -- everything you read from USDA is this and this
7 unnumbered letter dated September 30 states that better
8 than I do. So that's why we feel we can get there by
9 January 31. And then given what Tom has said, and Cameron
10 as well, I mean, it really doesn't have an adverse effect
11 to the delivery of credits to individuals for next year.

12 MR. OXER: It doesn't have an adverse effect to
13 the delivery of total credits that the state manages. It
14 does potentially have an adverse effect on the next deal
15 in line which would be potentially able to use those
16 credits, and that's one of the things I'm focusing on, and
17 I think that's what Mr. Gann's point of concern was. Is
18 that correct?

19 MR. GANN: That's correct.

20 MR. OXER: Okay. Any other comments? Ms.
21 Bingham.

22 MS. BINGHAM ESCAREÑO: David, is the
23 congressman engaged, or no? I mean, we saw like your
24 support letters and things from the county judge, but are
25 you getting any help from anybody in terms of the USDA?

1 MR. MARQUEZ: Congressman Cuellar has
2 interceded on our behalf, Congressman Hinojosa has, the
3 entire delegation has, and so we're just pushing forward.

4 MS. BINGHAM ESCAREÑO: Okay.

5 MR. OXER: Mr. Lopez.

6 MR. LOPEZ: I was going to address that.

7 MR. OXER: You have to identify yourself.

8 MR. LOPEZ: Mike Lopez, Hidalgo County Housing
9 Authority executive director.

10 I have met with all three congressional
11 offices, they've been very supportive in terms of trying
12 to help out between USDA and ourselves.

13 This is a unique application to USDA. In terms
14 of communications between us and them, that's been overly
15 communicated. I mean, I've been at the housing authority
16 22 years and I've dealt with USDA every day and this is a
17 real tough deal because the limited knowledge that I have
18 from them in terms of what they do with tax credits,
19 they've never done one of these. Temple office has never
20 done one of these, so it's been a big problem back and
21 forth, but I think we're almost there.

22 MR. OXER: I got the impression that the Temple
23 office had gone along with this and the problem wasn't
24 there.

25 MR. LOPEZ: If they'd have gone along with it?

1 Yes, I agree with you. I think we spent -- I don't know,
2 time flies, but I think we spent about six, seven months
3 going a discussion over the structure. We had to have a
4 meeting in D.C. with the director and all her legal people
5 there, and the people that manage the multifamily, Mr.
6 Steininger and Mr. Hooper and those members, for everybody
7 to tell us that all they had to change was one phrase in
8 the language which, in my opinion, they could have told me
9 the first month I was at Temple.

10 MR. OXER: They could have told that over the
11 phone too.

12 MR. LOPEZ: They could have told me that over
13 the phone and we would have fixed that. We spent six to
14 seven months just doing that. But I think we're almost
15 there. Thank you.

16 MR. OXER: Okay. Any other thoughts? Any
17 other comments?

18 (No response.)

19 MR. OXER: Okay. We have a motion by Mr. Gann,
20 second by Mr. Thomas to accept staff recommendation on
21 item 3(d) with respect to the Memorial Apartments in
22 McAllen, Texas. There's no other public comment, no other
23 comment from the Board. This is to accept the staff
24 recommendation which is to deny the modification to
25 extend. All in favor?

1 MR. IRVINE: Wait. Was it also to extend?

2 MS. BINGHAM ESCAREÑO: Tom, why don't you read
3 the resolve?

4 MR. OXER: Read it again, Tom.

5 MR. GOURIS: That the request for the waiver of
6 the closing requirement is denied, however, the extension
7 is approved -- extension of the approval by USDA of the
8 transfer of the loan is granted until December 27, 2013,
9 after which the condition is if the carryover is not met,
10 the commitment and carryover agreement shall expire. So
11 deny the waiver but grant an extension through the 27th.

12 MR. OXER: Which the extension to the 27th is
13 from when? When was the original?

14 MR. GOURIS: The original due date was July 1,
15 and we've extended twice, through December 1. They
16 submitted the package with a piece incomplete. It's that
17 piece that's going to be extended until December 27 is
18 what we recommended.

19 MR. OXER: All right. All Board members clear
20 on the resolution? Okay. Motion by Mr. Gann, second by
21 Mr. Thomas to approve staff recommendation on item 3(d).
22 All in favor?

23 (Ayes: Gann, McWatters, Oxer and Thomas.)

24 MR. OXER: And opposed?

25 (Aye: Bingham.)

1 MR. OXER: There is one, Ms. Bingham is
2 opposed.

3 MR. MARQUEZ: Mr. Chair, may I make one
4 comment?

5 MR. OXER: Yes. Identify yourself, David.

6 MR. MARQUEZ: David Marquez, Memorial
7 Apartments.

8 So I just want to make sure that if we receive
9 a letter from USDA as the 10 percent test -- and I'm
10 asking staff -- USDA/RD approval of the proposed rates,
11 terms and transfers of existing USDA RD loans and
12 acceptance of the additional permanent loan funds as a
13 first lien, that's the verbiage that we need, and our
14 carryover?

15 MR. GOURIS: That's correct.

16 MR. OXER: Basically what we're telling them,
17 Tom, is you get your letter by December 27, you're in good
18 shape.

19 MR. GOURIS: Right.

20 MR. MARQUEZ: Just wanted a clarification.

21 MR. OXER: And I know it's going to be hard.

22 MR. MARQUEZ: Well, you know, unless they shoot
23 you, you still have a chance. Right?

24 MR. OXER: That's one of my single
25 prescriptions in here: you can't use live ammo.

1 (General laughter.)

2 MR. OXER: We appear to be at the end of this
3 agenda. We do have to go into executive session today,
4 it's 11:50. Everybody sit still and listen to this. The
5 Governing Board of the Texas Department of Housing and
6 Community Affairs will go into closed session at this
7 time, pursuant the Texas Open Meetings Act, to discuss
8 pending litigation with its attorney under Section 551.071
9 of the Act, to receive legal advice from its attorney
10 under Section 551.071 of the Act, to discuss certain
11 personnel matters under Section 551.074 of the Act, to
12 discuss certain real estate matters under Section 551.072
13 of the Act, and to discuss issues related to fraud, waste
14 or abuse under Section 2306.039(c) of the Texas Government
15 Code.

16 The closed session will be held in the anteroom
17 right behind us. The date is December 12 and the time is
18 11:51. I expect this is going to be about an hour and 15,
19 maybe 20 minutes on the exec session. We'll be prepared
20 to go back into session at 1:15. If we get back at one
21 o'clock, we'll be here. At that time we will receive
22 comments for the next session. With that, we're in
23 executive session.

24 MR. IRVINE: I doubt it will take that long.

25 MR. OXER: All right. It won't take that long,

1 so we'll be back at 12:30, executive session until 12:30.

2 See you then.

3 (Whereupon, at 11:50 a.m., the meeting was
4 recessed, to reconvene this same day, Thursday, December
5 27, 2013, following conclusion of the executive session.)

6 MR. OXER: We're reconvened in open session at
7 12:30. We received advice from legal counsel about
8 pending litigation and no decisions were made. So we're
9 to the point now in the meeting where we take public
10 comments, having completed the entire agenda, we now take
11 public comment. Is there any public comment for agenda
12 items in the future?

13 (No response.)

14 MR. OXER: No other public comment. Is there
15 any staff comment? Why, Cameron, there's Cameron.

16 MR. DORSEY: Yes. I was hoping that we would
17 have several folks from the development community in the
18 room to hear it, but it will be helpful for it to be on
19 the record, as well. We've gotten a little bit of concern
20 recently, I've gotten a couple of emails and calls from
21 folks about the previous participation rule and how it's
22 going to be implemented, and I just wanted to proactively
23 address it because it kind of blew up into a bigger issue
24 than I think it really needs to be, and we're going to
25 work on kind of making sure we clarify this with folks.

1 So the previous participation rule is changing,
2 as you all know, so it doesn't have this strict material
3 non-compliance score. Instead we get a report, and the
4 report is going to come from two areas, one is Cari
5 Garcia's area and one is from Patricia Murphy's area, and
6 it's going to come to our Executive Award Review and
7 Advisory Committee, so I'm kind of speaking as a member of
8 that committee, really.

9 The concern is that some of the information
10 that will be supplied from Asset Management is really new,
11 and it's going to relate to the financial status of
12 existing deals that are in a particular applicant's
13 portfolio, such as the debt coverage ratio on their deals,
14 the expense-to-income ratio on these deals. And the way
15 the rule is written -- and I think this makes a lot of
16 sense since it's the first year and we're still kind of
17 going to be in the learning process -- we're keying off of
18 those thresholds utilized when we underwrite a deal up
19 front, so what will be included on the report are those
20 transactions that are operating at under a 1.15 debt
21 coverage, that have over a 65 percent expense-to-income
22 ratio, et cetera.

23 The concern was I think that the development
24 community felt that those weren't appropriate ratios and
25 that that would automatically result in the ineligibility

1 of an applicant, and one thing we're working on is
2 clarifying that that is, in fact, not the case, and you
3 all might hear from some folks on this matter. That is
4 simply the thresholds that warrant inclusion in a report
5 to the ERAC committee and that gets reviewed, and where
6 something is operating at a 1.15 debt coverage, I will
7 say, quite honestly, that that in and of itself isn't for
8 me going to warrant me voting to make that applicant
9 ineligible. It's a confluence of issues that we're
10 looking for, and those are simply triggers that may help
11 us ask additional questions.

12 That's how I view this report. It's going to
13 have some key information that enables us to ask
14 additional questions and get additional answers. And that
15 point I would need a body of information in order to make
16 an actual vote to make an applicant ineligible. But there
17 is that feeling out there that they're inappropriate
18 thresholds to use and that it's going to result in
19 automatic ineligibility, and we're going to try and
20 address those, like I said, proactively and wanted to let
21 you all know about it.

22 MR. OXER: So this is essentially just one
23 piece of information that's not used independently or
24 unilaterally but more in conjunction with a bunch of other
25 things to guide your decision-making.

1 MR. DORSEY: Right, and it helps us figure out
2 what questions to ask. That's how I view it.

3 MR. IRVINE: And I think it's also important to
4 underscore that it isn't final decision-making. The ERAC
5 will receive these reports, consider them and so forth,
6 analyze them, and then make recommendations to the full
7 Board. And then the Board, based on those recommendations
8 can take such actions as it deems appropriate to award, to
9 not award, or to award with changed conditions. So
10 ultimately, applicants will have the ability to be heard
11 by the Board before any final action is taken.

12 MR. OXER: So it's portfolio data to guide
13 collective decision-making.

14 MR. IRVINE: Correct.

15 MR. DORSEY: Yes.

16 MR. OXER: Okay, good. All right. We are
17 accepting public comment. Since the public has made no
18 interest, is there any other staff that wants to make a
19 comment?

20 (No response.)

21 MR. OXER: Okay. Is there any member of the
22 staff or the Board that would like to say anything?

23 (No response.)

24 MR. OXER: Okay. As chairman, I get to say the
25 last word. I think we do good hard work here. It's been

1 a great year. We did some really hard things in the early
2 spring pushing this QAP through and getting those
3 decisions made, so I compliment everybody on their effort
4 and their work. I hope everybody has a merry Christmas,
5 happy and safe holidays. Be careful, because I need you
6 back.

7 I'll entertain a motion to adjourn.

8 MS. BINGHAM ESCAREÑO: So moved.

9 MR. OXER: Motion by Ms. Bingham to adjourn.

10 MR. THOMAS: Second.

11 MR. OXER: Second by Mr. Thomas. And I think
12 today, just as a chairman's note, Ms. Bingham and Mr.
13 Thomas get gold stars for their participation ratio.

14 MR. GANN: Call the question.

15 (General laughter.)

16 MR. OXER: All right. All in favor of
17 adjournment.

18 (A chorus of ayes.)

19 MR. OXER: Opposed?

20 (No response.)

21 MR. OXER: There are none. All right, folks,
22 see you in January.

23 (Whereupon, at 12:36 p.m., the meeting was
24 concluded.)

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C E R T I F I C A T E

MEETING OF: Texas Department of Housing & Community
Affairs

LOCATION: Austin, Texas

DATE: December 12, 2013

I do hereby certify that the foregoing pages,
numbers 1 through 90, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Nancy H. King before the
Texas Department of Housing and Community Affairs.

(Transcriber) 12/16/2013
(Date)

On the Record Reporting
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