TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Room 437
Waller Creek Office Building
507 Sabine Street
Austin, Texas

10:00 a.m.
Friday,
January 28, 2000

BOARD MEMBERS:

DONALD R. BETHEL, Chair
DR. FLORITA BELL GRIFFIN
MARGIE BINGHAM
JAMES DAROSS
ROBERT BREWER
MICHAEL JONES
C. KENT CONINE
LYDIA SAENZ
MARSHA WILLIAMS

STAFF:

DAISY STINER, Executive Director
DELORES Groneck, Administrative Assistant
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ON THE RECORD REPORTING
(512) 450-0342
PROCEDINGS

MR. BETHEL: We'll call this meeting to order.

This is a meeting of the Texas Department of Housing and Community Affairs Board.

I'll do the roll call. Don Bethel, here.

Michael Jones?

MR. JONES: Here.

MR. BETHEL: Margie Bingham?

MS. BINGHAM: Here.

MR. BETHEL: Robert Brewer?

MR. BREWER: Here.

MR. BETHEL: Kent Conine?

MR. CONINE: Here.

MR. BETHEL: James Daross?

MR. DAROSS: Here.

MR. BETHEL: Dr. Florita Griffin?

DR. GRIFFIN: Here.

MR. BETHEL: Lydia Saenz?

MS. SAENZ: Here.

MR. BETHEL: Marsha Williams?

MS. WILLIAMS: Here.

MR. BETHEL: All the members are present, and we do have a quorum.

We have one item on the agenda today, and we'd ask that if any of you would like to speak before this
board, you'd come forward and fill out a witness
affirmation form, because the proceedings of this meeting
are recorded for public record.

Right now I just have four that's wishing to
speak. Are there any others? If you do want to speak,
well, fill out the form and hand it to Penny, and she'll
hand it to us.

At this time, then, we'll do our public
comment, and I have Jonas Schwartz.

MR. SCHWARTZ: Good morning. My name is Jonas
Schwartz, and I'm --

MR. BETHEL: Excuse me just a minute. We're
going to try to limit the comments to around three
minutes.

MR. SCHWARTZ: I'll be brief.

Good morning. My name is Jonas Schwartz and I
am the policy analyst for United Cerebral Palsy of Texas.
I really appreciate the opportunity to come and speak
before you this morning. My issue this morning, of
course, is the Qualified Allocation Plan for the Tax
Credit Program.

And as I said last week in my comments, we
request that the board improve the tax credit application
process by including the needs of people with
disabilities. Specifically, we request that you use
Section 504 standards as a threshold for projects built with tax credit dollars.

We understand, based on what staff reported last week, that developers are taking advantage of the extra points by using Section 504 and making units accessible, and that is a positive thing, because it does increase the amount of the accessible housing stock around our state. However, it's not good public policy to use a minority group as an area to receive extra points. And that's my issue.

So I'm asking the board to revise the policy to make Section 504 the threshold for tax credit properties. And let me clarify any misunderstanding from what I said last week. I'm not asking that all units in a particular project be made accessible. 504 has very specific guidelines about how many units in a given property need to be made accessible, either for individuals with physical disabilities or individuals with hearing and visual impairments. And I'm just asking that the 504 standard be used when looking at the accessible units.

Thank you very much.

MR. BETHEL: Thank you, Jonas.

Stephanie Thomas.

MS. THOMAS: Thank you very much. I also am here to testify in support of making the standards from
Section 504 apply to the Tax Credit Program.

Using Section 504 standards as a requirement sends a message that the Texas Department of Housing and Community Affairs is serious about access and serious about serving people with disabilities in its programs.

Tax credit projects, it's my understanding, are one of your biggest areas of development, and it's going to, therefore, have one of the biggest impacts across the state. And so requiring fully accessible units, there will be more units available across the state, which is something that we very badly need.

Requiring Section 504 standards for the Tax Credit Programs creates greater uniformity and standards between the different programs that you fund. It's a requirement for HOME and CDBG and some of those other programs. This will make it where it's more of a uniform requirement, and packages that have more than one funding source in the development package, it will strengthen the importance of doing that.

A year ago when we spoke with the staff about this, they were adamant that the best that they would do is to make 504 a point incentive, as you have done. And that is definitely better than nothing, but we don't think that it's gone far enough. They were worried that it was too burdensome, but as Jonas testified, it's our
understanding that all the developers that got money this year opted for doing Section 504 standards on their projects. And if it's too burdensome for the Tax Credit Program, why isn't it too burdensome for HOME and CDBG and the other programs for which it already is a requirement?

We feel like that this year only shows that it's very possible to do it and it should be done. And though lately there is a chilling of support for disability, and we shouldn't leave it to the whims and desires of developers from a year-to-year basis whether or not they're going to bother to provide accessible units or not.

Our population is aging, there are more people with disabilities living out in the community and being participants in our society, and there is more and more of a need for accessible units. And we need to be planning for the future, when this is going to be even more true than it is today. By making it a standard, we'll be doing that, so I encourage you to do that. Thank you very much.

MR. BETHEL: Thank you.

Dick Kilday.

MR. KILDAY: You can tell I do a lot of public speaking. Thank you, Mr. Bethel and board.

Just a very quick minute to say thanks to you all for the spirit in which you receive our comments each
year and suggestions on the QAP and other changes of the rules. And each year we've made -- I'm Dick Kilday, and I represent Kilday Realty Corp. -- excuse me -- and Texas Association of Affordable Housing Providers. And again, the spirit in which you've made these changes each year, we appreciate that very much. You made some this year.

We've made recommendations the last couple of years, and you've adopted some of those, in particular some of the date changes for the construction start and construction loan closing, and also for elderly age limits, coinciding those with the HUD limits, and we think those are excellent changes, and we appreciate that very much.

And we just look forward to this year and future years. We think you're doing a good job. Thank you very much.

MR. BETHEL: Thank you.

Chris Richardson.

MR. RICHARDSON: Good morning, Mr. Chairman and board. My name is Chris Richardson. I do have a handout that I will pass to you which reiterates some of the points we made last week regarding the QAP and some of the things that we had opinions on.

Much of the discussion last week had to do with compliance, so I wanted to bring that up this morning and
just reiterate that one of the big items and the big hammer that state and federal government have over the Tax Credit Program is the compliance issue, and we certainly believe that anyone blatantly out of compliance either needs to be made to comply or to be put out of the tax credit business.

We also feel that properties that have a small compliance item, such as a person a few dollars over income because they had a part-time job that they were trying to better themselves with that they didn't report to management that came out in an audit, should not be any type of monetary penalty on the project. The project is required to go back and make corrections and right that wrong.

You know, it's unfortunate that we're kind of in a Catch-22: Our job is to provide housing to try to enable low-income Texans to better their situation through better housing, education, and the services that we provide, and we don't need to take the position that we discourage them to go out and increase their earning power. So I think the threat of the IRS audit, the IRS recapture for blatant noncompliance is enough. And I think the staff did a good job on that for that reason.

I've passed out specifics. The other main issue is -- there's various issues regarding housing and
some of the things that were suggested, although they come from the heart, I think they fall short, just like some of the other things that we've done this year, especially in light of today's financial markets that are changing, that make these harder to underwrite. We've got things that we're trying to target the lower income and suggested set-asides for various things that are very tough. And we hear things about we need more housing in the Valley, we need more housing in rural Texas, but to target the $24,000 suggestion that 60 percent of an area and falls outside the metropolitan areas will only put units in metropolitan areas, unless we have a supplement to help those projects in our underwriting so they can be sustained and be viable projects from now on, and the state doesn't have to come back and supplement those projects in the future.

Several of the issues, a 30 percent AMGI, the way it was suggested, falls in that same category, along with several of the others. The 50 percent set-aside as being a priority for the bond round and the change in the financial market since those came on stream is going to be devastating to those programs. They're not going to underwrite like the people thought. They were very thin at the time, and in today's market they won't make it.

And that's my comments for the day. Any
questions?

MR. BETHEL: Rey Ocañas.

MR. OCAÑAS: Good morning. Thank you for the
opportunity to appear before you today again. I guess you
probably see me as a familiar face now; it's Rey Ocañas
with the State Association of CDCs, and I have very brief
remarks today.

I'm just coming to thank you. Thank you for
listening to the many voices that asked you to take a long
look at the QAP and the Tax Credit Program, the State's
largest housing program. Thank you for engaging
yourselves in a sincere discussion about this QAP and
important revisions to it.

I've just come today to ask you to consider
taking up the issues that I brought up last week, four
very simple issues: expanding the material of the audit
compliance definition; giving CHDOs an extra five points
for their applications; capping the maximum allocation
amount that can be given to any one applicant; and making
the Tax Credit Committee a committee of the whole.

As you consider these important issues, you
should know that there are many other areas of importance
that you may not have time to consider today including
regional distribution of the credits, increasing the
nonprofit set-aside, and preservation. I urge you to have
discussions about these issues throughout the year and not just at the end of the year when we discuss the 2001 QAP.

Thanks go to Daisy and her staff for enduring this time extension and having to respond so quickly to information requests and suggestions. Thank you very much.

MR. BETHEL: Thank you.

Are there any others wishing to speak?

MS. DENTON: One more, but I'll be brief.

MR. BETHEL: Please state your name for the record.

MS. DENTON: My name is Ann Denton. I'm the Director of the Austin office of The Enterprise Foundation, and I just wanted to come and add my voice to the choir asking you to consider making compliance with federal accessibility laws, Fair Housing Act, and others a threshold requirement in the QAP. I think we don't want to give the appearance under any conditions, that compliance with federal law is optional. And that's all I need to say, I think.

MR. BETHEL: Thank you.

MS. DENTON: Thank you.

MR. BETHEL: Is there anyone else?

(No response.)

MR. BETHEL: There being no one else, then
we'll close the public comment, and the only item we have
on our agenda today is to approve the final draft for the
Year 2000 Qualified Allocation Plan and the rules for the
Low Income Housing Tax Credit Program. And I'll turn the
podium over to Ms. Bingham.

MS. BINGHAM: Thank you, Mr. Chairman.

For those of you who received your copy of the
staff's draft plan last week, the committee did go over it
and there were a few changes made as a result of some of
the public comment, as well as suggestions from committee
members.

On page 4 of the plan that you have -- of the
document the staff submitted to you, as a result of a
comment received from the director of the Bond Review
Board, there was a change made to the section that deals
with the time frame that applicants would have to submit
their plans to the agency. In the middle of that page, it
has 60 days after a meeting between the staff and the Bond
Review Board director; that was reduced from 60 days to 45
days.

On page 7 of the QAP, Cherno, you made one
correction. You may want to go over that correction
before I go over the rest of mine.

MR. NJIE: Yes.

MS. BINGHAM: If not, I'll go through mine and
we can come back to yours.

I'll go to page 16 -- on page 17, we talked about the experience of service providers where it was a minimum of five years, I think we changed that to just having documented experience in providing the supportive services.

On page 20, as it relates to tax-exempt bond projects, we also made a change that dealt with the provision of supportive services that had to be provided by a nonprofit entity. We changed that to services that could be provided by a qualified entity, not necessarily made it for-profit or nonprofit.

The last change we made -- or that we talked about making, we didn't really make it -- we talked about the compliance issue and amending the rules on compliance.

I think Mr. Jones has been working with the staff on that item. Would you like to go over that?

MR. JONES: I'd be happy to.

At Ms. Stiner's direction -- is Suzanne here?

MS. STINER: Yes, Ms. Phillips is here, Suzanne.

MR. JONES: Great. I did have the privilege to meet over the telephone with a number of members of the staff with regard to the material noncompliance issue, and a proposal was presented to me that I hope everyone was
faxed. I believe it was.

And, Suzanne, if you would, you might walk us all through it, because it is -- a negative about it is it is very complicated, but a positive about it is it tries to, I think, take into consideration a number of factors and deal with a number of things with regard to this issue. So it might be most helpful if we let Suzanne do that, if that's okay with you, Ms. Stiner.

MS. STINER: That's fine.

MR. JONES: And Mr. Bethel.

MR. BETHEL: That's fine.

MR. JONES: And Ms. Bingham.

MS. STINER: Ms. Phillips.

MR. NJIE: Let me, if I may, just address the issue that Ms. Bingham mentioned before I hand it over to Suzanne. For the record, my name is Cherno Njie. I'm Manager of the Tax Credit Program.

The other change we mentioned was on page 8, and it related to the availability of the submission log.

DR. GRIFFIN: Excuse me, Mr. Njie. Could you speak up? The people in the rear can't hear you.

MR. NJIE: It related to the availability of the submission log, and the ten business days was amended to 15 business days.

MS. PHILLIPS: Good morning. I'm Suzanne
Phillips, the Director of the Compliance Division.

We've been talking to Mr. Jones throughout the week, trying to come up with a definition of material noncompliance. It's very difficult, if not impossible, to try to define material noncompliance in a single sentence, because generally it's not a single incident, but it's a set of issues or a series of events.

Staff has been working really hard for the past year on developing some department-wide risk assessment models, and the product that Mr. Jones has is an offshoot of that.

The team that specifically worked on this was a team that was comprised of Brent Stewart, who represents the lending side of the Department; Cherno, as the allocation manager; Sara Newsom, who is the manager specifically charged with monitoring Tax Credit projects; and Tom Gouris, who is the underwriting manager.

When we started this process, we had several basic premises that we wanted to work with: first, that an owner with multiple properties, there would be no bias there; and second, that we could take into account a housing sponsor's compliance history, because we wanted to be sure that even if there were some corrected noncompliance, that they wouldn't be viewed the same as an owner who had had no violations at all; and finally, that
we wanted to take some minor infractions into account, as well as the major infractions, however, those minor infractions and corrected noncompliance would carry a lesser weight than that of a major infraction.

As we go through this, we might do a tag team, because there were different people who focused on different areas. Brent Stewart was basically our scribe and kept everything centered.

We also took to task, and we realized that when we changed one section where it talked about material noncompliance, it effectively changed a couple of areas in the QAP, so you'll see in what we've presented that there are three different areas that have been affected: 49.2(49), 49.4(f), and also 49.6(a)(6) which is Exhibit 106.

And if you don't mind, I'll turn it over to Brent and let Brent walk through the different -- Sara? -- and let Sara walk through the different sections.

MS. NEWSOM: Actually, I would walk through them --

MR. BETHEL: Sara, would you state your name, please?

MS. NEWSOM: I'm sorry. Sara Newsom. I'm the Housing Program Compliance Manager.

I can walk you through -- the methodology and
scoring is what I can actually walk you through better, unless you want to discuss the wording for the QAP.

MS. BINGHAM: Who needs to go through it totally? I've read it. Does anybody need it to be walked through?

MR. JONES: I can tell you, Brent, do you want to just kind of summarize the thoughts, because I thought you did a real good job. I would like the thoughts of staff to be expressed, as they were to me, to the full board -- it's just the philosophies behind this. And, Brent, you and I and Suzanne have done that, and if you could do that for us quickly, I think that might be helpful to the board.

MR. STEWART: Certainly. Brent Stewart, Director of Multifamily Finance.

First of all, you'll see that there is a new definition being added to Section 49.2, called Material Noncompliance. And basically we've defined noncompliance on a property-level basis. Any property that carries a compliance score equal to or exceeding 30 points will be classified as being in material noncompliance. The scoring system is what Sara referred to with regards to the methodology and the table of points that we're proposing being added to the Application and Submission Procedures Manual.
Section 49.4(f) is being deleted, in essence, and the bulk of what you have in front of you is a replacement for Section 49.4(f).

Section (f)(1) of 49 are three conditions that would make an application ineligible: that involve being barred, suspended or terminated from any state or federal program; being convicted of or under indictment for any kind of federal crime involving fraud, bribery, threat, or misrepresentations of material facts, et cetera; and c) is subject to any enforcement action under any state or federal securities law or under enforcement proceeding with any governmental entity.

And those are items that probably Betty Marks, our general counsel, can discuss a little bit more in depth if you need that, but those are items that are currently in other areas of the QAP, and we're just consolidating them here into this section.

Section (f)(2) lays out five other scenarios which would disqualify an application. The first of those is any material representation made in the specific tax credit application, or any other application or item submitted to the Department under any other program.

Paragraph (b) relates to if an applicant, person, general partner, general contractor, or their respective principals or affiliates active in ownership or
control at other Low Income Housing Tax Credit property
who received an allocation in, in this case, the 1999
round, but didn't close on the construction loan, those
persons would be automatically disqualified from the
subsequent year, in this case the 2000 round.

Paragraph (c) --

MR. JONES: Except for reasons beyond the
control of the applicant.

MR. STEWART: Except for reasons beyond the
control of that applicant, affiliate, person, yes, sir.

Paragraph (c) relates to those same entities
where they had a Tax Credit property and failed to place
those units in service, or had a property where the units
were in service and they were removed from service, for
which credits were allocated for those particular units,
and that can occur either in a carry-over allocation or in
an 8609 allocation.

We've left in an ability for the Department to
consider the facts and circumstances on a case-by-case
basis associated with those incidents, and one of the key
factors that we discussed was whether or not the credits
were returned timely enough for the Department to reissue
them, so we specifically stated that in Paragraph (c).

Paragraph (d) is the operative paragraph as it
relates to the 30-point scoring system. It just basically
defines that if any applicant or person, general partner, general contractor, or their respective principals or affiliates are active in the ownership or management of any property that is defined by the Department to be in material noncompliance, and that determination is made on the closing date of the application acceptance period, or in the case of tax-exempt bond projects, on the date of filing Volume 1 with the Department, the final sentence of that paragraph allows for representation as made by the developer, on Exhibit 106, to be taken into account; however, the records of the Department will be controlling in those decisions.

Paragraph (e) relates to basically those same types of factors in Paragraph (d), but not specific to the Department's Tax Credit Program, but any program, any affordable housing property either inside or outside the state of Texas where we will be able to get information on. We're expecting that most of that information will be provided on Exhibit 106.

Due to the varying differences amongst other states' housing agencies with regards to how much information they share, how much they will confirm the information provided on the 106, we will probably most likely have to rely on what is provided on Exhibit 106.

But to the extent that that can be conferred or
the state agency who is monitoring that program can tell us that that information is correct or not, then we'll use that information as well, and we will try to make an attempt to evaluate those situations based on the same material noncompliance definition and scores that we've laid out here.

To be consistent with all of that, Section 49.6(a)(6) needs to be revised. Most of that language is language that is already there, but the additions include, in paragraph (a), taking into account the definition of persons to capture information that we need on Exhibit 106.

Paragraph (b) is essentially in regards to providing articles of incorporation and other types of documents that we'd need to evaluate who actually, in effect, are the principals in these transactions.

Paragraph (c) was essentially revised. There was a concept that we had previously discussed that was generically called a remediation plan. This proposal eliminates a remediation plan concept, and what we've provided for in paragraph (c) is that should there be a noncompliance situation in another state or through somebody else's program and the developer has some sort of documentation from that entity that tells how they're going to get that property back in compliance, that we
Paragraph 49.6(c)(4)(a)(iii) on the whole is deleted in its entirety, because all those concepts are incorporated into 49.4(f); and 49.6(e) labeled as Past Performance is also deleted in its entirety.

And I think I'll let Sara run through the methodology and the table of points.

MR. JONES: Sara, I would just comment before you speak that that may be pretty self-explanatory.

MS. BINGHAM: Yes. I would think it is.

MR. JONES: I would say that I recommend this from the point of view that, number one, I think it's a good attempt at coming up with something that will balance objectivity and subjectivity; number two, I like the idea of the fact that if we have lost tax credits in the past due to the applicant's conduct, that that is a problem.

The other thing I like about it is it makes a stab at dealing with major violations in one way, but also a history or a pattern of small violations it tries to deal with. But it also has a time period limit there, so I don't think it's too much of a burden on somebody that's been in the business for a long time.

So that's what makes me recommend it to the board. In fact, I would make a motion that we include this as an amendment to the QAP rules, as presented, Mr.
Chairman.

MS. BINGHAM: I second it.

MR. BETHEL: Okay. We have a motion by Mr. Jones, seconded by Ms. Bingham, that we amend the QAP to include the information that was just presented, and we do have a recommendation. Is that not right?

MR. JONES: That's correct, Mr. Chairman.

MR. BETHEL: Is there any discussion? All in favor, say aye.

(A chorus of ayes.)

MR. BETHEL: All opposed, say nay.

(No response.)

MR. BETHEL: Okay. Motion carried.

MR. BETHEL: Njie, can you come back forward to go over any other issues that you've gotten from board members that you want to clarify at this time.

MR. NJIE: I have a memo that is addressed to Daisy regarding certain clarifications in the Qualified Allocation Plan. On page 5 of your document, it relates to material deficiencies in the evaluation of the tax credit projects. We have amended that definition, that entire section, by adding examples of what would constitute a deficiency, administrative in nature, or a conflict in the information submitted.

So the highlighted portion of that document, as
I read it, it will be: "The Department may request corrections of deficiencies which are either administrative in nature or are caused by the need for clarification of information submitted at the time of application."

The examples we give are: "Such deficiencies include, but are not limited to, incorrect calculation of the project's unit mix; gross and net rentable areas; or the submission of exhibits that contain incomplete or conflicting information."

I think that gives some indication of what we will consider administrative clarification for purposes of getting back to an applicant saying: The information you submitted is incomplete, we need to have it clarified.

On item 2, again discussed in your document, page 12 of 25, we have provided the definition of project feasibility. Under the Tax Credit Program, the Department is required to conduct a feasibility test pursuant to Internal Revenue Code.

The definition I have, I will read for the benefit of the public. It will state: "A determination by the Department, pursuant to the Internal Revenue Code, that the amount of credits recommended for allocation to a project is necessary for the financial feasibility of the project and its long-term viability as a qualified low-
income housing property.

"In making this determination, the Department will take into account: 1) the project's total development cost; 2) actual or projected operating expenses and reserves for replacement; 3) project sources of financing; 4) proceeds from the syndication of the tax credits; 5) project's debt-coverage ratio and break-even occupancy; and number 6) the project's overall conformance with Department's underwriting guidelines as stated in the Application Submission Procedures Manual."

The third clarification, again on page 13 of 25, relates to the discretionary items pertaining to the project's impact on the Low Income Housing Tax Credit Program's goals and objectives. Section 42 requires that the Department notifies the local CEO -- in this case, the mayor or the county judge, of any community in which a Tax Credit development is proposed -- and get input about the project's impact on that neighborhood or the local area. The State Legislature has also mandated that all state representatives and senators be informed of proposed Tax Credit projects within their district.

This discretionary item allows the Department to evaluate public input and make a recommendation to deny credit based on compelling public testimony that the project is not consistent with local needs. On the other
hand, the Department may also utilize this if there is a significant commitment of local funding, for example, HOPSIT [phonetic] financing.

So the suggested revision we have for that criterion will read as follows: "Project's impact on the Low Income Housing Tax Credit Program's goals and objectives, including, but not limited to, the project's inconsistency with local needs or its impact as part of a revitalization or preservation fund."

MR. BETHEL: Okay.

MS. BINGHAM: Mr. Jones, I think you had some other items.

MR. JONES: I did, and I don't mean to dominate this. I had indicated that I had a couple of other concerns at our last board meeting, and I left one out when I was giving the answer.

One of the suggestions that we've heard -- and I'd probably address this to Ms. Bingham and Ms. Stiner and the staff -- has been about applying maximum allocations. And that concept -- you know, what do you think about that concept? It's been raised, I know, in public comment; it's been raised in some of the materials I've seen. How would that work? Is it doable? Would it be helpful?

MS. STINER: And that is maximum what?
MR. JONES: Maximum allocations.

MS. STINER: We have a maximum allocation criteria in the QAP currently existing for any -- I suspect this has to do with any one developer, any one applicant?

MR. JONES: Yes. And it would be lowering the maximum allocations on --

MS. BINGHAM: Oh, you know mean the 2.4 million.

MR. BREWER: Oh, the maximum dollars?

MS. STINER: Yes.

MR. JONES: We weren't doing it on a per-unit or per-tenant basis, so you could have more allocations to different people. That issue has been raised, and I was just wondering.

MS. BINGHAM: It's 2.4 million today.

MR. NJIE: The current limitation is 1.2 per project and 2.4 per developer. In practice, we've actually allocated just 1.2 or less than that per developer. In the last two years I can't recall of an instance where one developer has gotten more than, or close than the $2.4 million projected.

I understand the concept of lowering the allocation amount. What we've tried to balance is to ensure that you don't lower the balance to the extent that
you don't have the size economies you need to do a good project. You can spread the credits around by limiting, say, $700,000 per allocation. That would mean that, in theory, more people would get an allocation, but the particular structure of each deal will be constrained by the developer's inability to leverage to get additional units on the ground to make the deal work.

So we're trying to balance, on the one hand, root economies of scale, and putting into place, also, the need that you can get more than 10 percent of the state's allocation. In fact, it has been 1.2 or less than that per applicant.

MR. JONES: What if we lowered it further? It seems to me like it's supply and demand here; we've got more demand than we do supply. If we lowered that allocation figure, would that help to balance that? I mean, is there some indication that we probably can lower it?

It would seem to me like clearly right now the projects are doable, you know, because there are more projects than we can do. The question is could we lower that, or consider lowering that, and still have doable projects.

MR. NJIE: If you look at the recommendation list, actually only a handful of projects are at the level
of a million and above, maybe five, maybe less than ten, this particular allocation round. So the net gain, in my opinion, will not be significant in terms of getting additional units.

The other thing that we're seeing more, that is, people are applying for less credits, and they're doing that because they're building mixed-income properties and requesting less credits of the Department.

MS. BINGHAM: I think there are two answers here. The $1.2 million per property, we have two items that we deal with. We have a maximum of 250 units per development is a maximum. If you lowered the $1.2 million too significantly and they don't request the mixed-income points, then the -- I think most of our deals generally fall around 900,000 to one million when you're up against the 250 units, and with costs increasing to reduce the 1.2 probably would be adverse, would be a problem.

Now, your other point on whether that same developer could get another project for 1.2, that's the 2.4. But to reduce the 1.2 probably would be adverse; it would create a problem.

MR. CONINE: Yes. I would like to echo that sentiment. I think we need to maintain the ability for efficiency in larger projects when the need arises, when the need is obviously there.
I guess my question -- I'd like to address the 2.4 issue, I guess, and see what is the average? Is the average number 700,000, 600,000, roughly? Just take a stab at it.

MR. NJIE: Probably 600,000.

MR. CONINE: Okay. So if were to lower the 2.4 down into the 1.5 to 1.8 range, in theory, an average size deal, they could still get three deals through, in theory, or they could get one big deal and maybe a smaller deal through. I would have some sympathy for that, I think.

We're not providing another unit of low income housing, we're again just spreading it out amongst the people that can participate. And as Mr. Jones said, our demand seems to be plenty of capacity to be there. So I don't know what the right number is, Madam Chairman, but --

MS. BINGHAM: Well, when I've seen deals, I've seen a developer who may have been practicing in both the rural area and in the urban area would have a deal right under the 1.2 maximum in the urban area and would have a deal in the 6- to $700,000 in the rural area, or less, which meant that 1.8 million is reasonable that they could use. And if they used the mixed-income points, they probably could definitely survive it.

MR. JONES: Well, I don't have a suggested
recommendation on it. I guess I just raised the issue. I mean, it's something that, at first blush, makes sense from the standpoint of the supply-and-demand issue.

MS. BINGHAM: I have not seen, in the last two years, anybody get 2.4 million, so I don't have a problem --

MR. CONINE: That just makes the case for lowering it.

MS. BINGHAM: Yes. I don't have a problem with lowering it.

MR. CONINE: Cherno, do you see any departmental problems with, say, a 1.8 number?

MR. NJIE: No.

MR. CONINE: Any departmental problems with a 1.5 number?

MR. NJIE: Let me look at an average.

MS. STINER: I would jump in here. I think we're -- let me just jump in, if you would, please.

MR. CONINE: Great.

MS. STINER: As we talk about this arbitrarily, we could talk anecdotally and historically about what's happening, but the lower you squeeze that number, I think you constrain the staff's ability to stand here and tell you now average what has happened. 1.8, you know, if that is 603-three, that's fine; 1.5 is probably squeezing it if
we don't account for increases in construction costs. We
certainly haven't considered the rate environment right
now of knowing what the market is going to do in terms of
debt and that sort of thing.

So I would think that 1.8 is my confidence
level right now; the 1.5 probably gives us another kind of
problem to consider.

MS. BINGHAM: I agree.

MR. CONINE: Great. I'll make a motion we
change the 2.4 million cap to 1.8 million in the QAP.

MR. BREWER: I second that.

MR. BETHEL: And that's for two deals. Right?

MR. CONINE: No. We're not restricting the
number of deals.

MR. BETHEL: It's still 1.2 for one deal.

MS. BINGHAM: But 1.8 maximum for one
developer.

MR. CONINE: That's correct.

MS. STINER: Mr. Chair and Madam Chair, we're
in the board meeting now. Let us make sure that we are
responding to this procedurally, so Betty, you help us,
but Cherno, you tell us what part of the QAP we're
actually amending so that we can get that on the record,
please.

DR. GRIFFIN: I have a question. Is it 1.2 per
deal still?

MR. CONINE: Yes.

DR. GRIFFIN: Okay.

MR. BETHEL: So then the only change would be 1.2 per deal or 1.8 per one developer.

MS. STINER: The change -- yes, that's the change. So we would actually be amending the provision of the QAP currently that says that the maximum amount of tax credit allocation to any one applicant is 2.4, we're amendment that to 1.8. That's the only change we're making.

MR. CONINE: Then I'm going to amend my motion to add the section of the QAP that Cherno is getting ready to read.

MR. NJIE: It's going to be on 49.6(f), and we will amend that 2.4 per applicant to 1.8.

MR. BREWER: And I second that with that amendment.

MR. BETHEL: What page is that on?

MR. NJIE: That isn't the actual proposed.

MR. BETHEL: I've got one copy --

MS. STINER: I gave him Betty's copy.

MR. BETHEL: -- so the executive director can look at that too.

DR. GRIFFIN: It's not on page 18 of 25 on the
bottom?

    MS. STINER: Yes. It's at the bottom of 18, 49.6(f).

    MS. BINGHAM: Now, Mr. Chairman, it's your job; you can call for a vote on that amendment.

    MR. BREWER: Yes. You've got to call for a vote, Mr. Chair. We're ready.

    MR. BETHEL: All right. It's 49.6(f). That's your motion, to amend 49.6(f) to change the figures from 2.4 million to 1.8 million. It's a motion made by Mr. Conine, and seconded by Mr. Brewer. All those in favor, say aye.

    (A chorus of ayes.)

    MR. BETHEL: Opposed, nay.

    (No response.)

    MR. BETHEL: Motion carried.

    Ms. Bingham.

    MR. CONINE: I've got a couple of other things in my list, if I can chime in here.

    MS. BINGHAM: Okay.

    MR. CONINE: I guess we've talked about a concern about the cost, if you will, of making an application and getting rejected, and there's been some conversation about having a pre-application or two-step application process. And it seems as if, after
discussions with staff, we are mandated, if you will, by four dates on the calendar that have been legislated to us, either from the federal level or from the state level, which based on our timeline for this QAP, I think we're jammed up against and pretty hard to do.

But I asked Cherno to take a stab, if you will, at a two-step timeline, which we've included here at your table. It's a preliminary study of timing requirements for a pre-app process. And it still hits the July 30 target date that we're mandated to hit and the other target dates, but it does move up the opportunity for staff to review a preliminary application and to do some screening, and that's yet to be decided what type of that screening is going to be, but at least we have a timeline here that we know we can achieve.

I don't think it's anything, after discussions with Cherno, we need to put into this particular QAP, but it's something I would like for the board to be aware of that's a thought process. And for the people in the audience who participate in the program, obviously they would need to tee up a project much earlier than they would under normal circumstances if we were just continuing as we go along.

And I think this would be beneficial, not only to the people who are making the application and lowering
the front-end cost for making that application and find
out if they make it to the next level, but it would
probably also take a lot of underwriting work off the
Department when a project, for whatever reason, might be
obvious to our staff or to the committee that that project
is not going to succeed in getting the credits.

So I just put that out for the board's
contemplation. I don't think there's anything date-
wise -- is that right, Cherno? There's nothing we need to
do in here?

MR. NJIE: That's correct. The timeline is
basically designed to prompt us to take into account when
we need to submit and do certain things in order to make a
pre-application.

MS. BINGHAM: Do you have a copy of that?

MR. CONINE: You should have one in front of
you. Did you pass one out to everybody?

MR. NJIE: Yes.

MR. CONINE: It's this one right here. Of
course, we've had a lot of paper thrown at us here this
morning.

MR. BETHEL: It may be on the floor.

MR. NJIE: Presently we have submit the draft
QAP in November and go through the publication in the
Texas Register, the public hearings, and come back to the
board in January for ratification.

We would accelerate that process by making the original draft available in August, and that will then trigger the necessary administrative requirements we have to fulfill.

Under the scenario that I have outlined, we will have a pre-application process in place -- and again, the full details of what that would entail in terms of the submission of documentation is yet to be worked out -- but it will certainly include site analysis to see which sites we deem viable so that we can communicate that to developers strongly enough to hopefully discourage or save them the problem of submitting applications that do not have a chance of being allocated credits. And so the details have to be worked out, but the timeline, I think, is doable.

MR. CONINE: Mr. Chairman, I don't think there's any action needed to be taken here, but I'd like to request that we get this on the agenda for a future board meeting, sometime within the next three months probably, so that the board and staff can adequately analyze this and make sure that the development community has enough time to respond to it.

MR. BETHEL: Okay.

MR. CONINE: Can I keep going?
MR. BETHEL: Yes.

MR. CONINE: Issue number two, there's been some public comment on the regional dispersion issue that we evidently are mandated by state law to have next year, and I wanted to try to create some language, I guess, that would make the board cognizant of the fact that we need to consider that in our deliberation on the ultimate approval of any of the projects that take place.

I've asked Cherno to come up with another amendment to 49.4(h) of the QAP. Has this been passed out to everyone?

MR. NJIE: Yes.

MR. BETHEL: It's on the second page, I think.

MS. BINGHAM: Oh, on the second page.

MR. CONINE: Okay. What it does, it just makes a statement in the QAP saying: "In making a determination to allocate credits, the Department and the board may also take into account the fact that tax-exempt bond projects are generally not financially feasible outside of major metropolitan areas of the state."

You know, again, it doesn't require us to put credits in a strict regional dispersion issue for this particular year, but what it does is it brings into our cognizance and our psyche, if you will, the fact that the 4 percent credits generally do work better in the major
metropolitan areas. And if we can and if we deem
appropriate to take the 9 percent credit out to the rural
areas, then we would at least state that in the QAP.

MS. BINGHAM: I would have some objection -- I
mean, I don't have a problem with this statement in the
current QAP, but the tax credits are awarded per capita,
on the population. That means that Dallas and Houston is
where the people are and that's where the bulk of the
housing needs are, so to take the -- unless Houston can go
to Washington and get their own tax credits, I would have
a problem with having something that's based on population
and deny it to that population.

MR. CONINE: And the other thing, Ms. Bingham,
is I don't want to get stuck in a regional dispersion plan
that forces us to put a project in maybe a location or a
rural area that doesn't want it, for whatever reason, and
I don't think we want to bind ourselves to that. I was
just trying to come up with a generic statement here that
I don't think hurts any of us and --

MS. BINGHAM: Well, I don't think it will hurt
us, but when you say outside of the major metropolitan
areas of the state, fortunately or unfortunately, major
metropolitan areas are where the people live and they need
to be housed.

MR. CONINE: That's true, and they have the
higher median incomes, which make the 4 percent credit work.

MS. BINGHAM: And unlike the CDBG and HOME funds, the cities do not get their own -- Dallas and Houston don't get their own tax credits. So the tax credits are for the population of Texas; that's why it's based on a per-capita basis.

MR. CONINE: I understand.

So anyway, Mr. Chairman, I'd move that we amend the QAP to put this sentence in there.

MR. JONES: I'd second the motion, Mr. Chairman.

Could I also, just while we're dealing with this regional issue, if I understand Cherno correctly, of course we have Senate Bill 1112 going into effect September 1 in the year 2001, which will give us a more definite formula for regional disbursement -- not for this coming year, but for the following year. True?

MS. BINGHAM: And, Mr. Jones, the reason the distribution would not affect the metropolitan areas, I mean, Houston and Dallas are regions among themselves, so that's why I guess I'm a little perplexed by outside -- why do we need this statement about outside the major metropolitan areas, because Houston and Dallas are regions to themselves. So even on a regional distribution plan,
you have those regions covered.

So I don't know where this is leading, other than maybe let's start doing tax credits in all rural Texas and leaving out the metropolitan areas.

MR. CONINE: That's not my intent.

MS. BINGHAM: Okay.

MS. STINER: I'll respond to Mr. Jones'

question. That's correct. The regional allocation provisions of the Senate bill become effective 9/1/2000, which means for those programs, including tax credits, the HOME Program, the Housing Trust Fund, a formula that was currently developed would have to be utilized in terms of allocating those funds in all programs.

I would add, for your edification, that the State Low Income Housing Plan that was distributed and made public on the 24th -- and which will have, I think, eight hearings around the state of Texas -- has published the beginnings of that process. We're inviting the public to take a look at it, to look at the variables and the criteria that the staff is proposing to utilize, as well as inviting the public to comment on other components of that formula that may be utilized. But until that formula is developed for all programs, we thought it was best to make sure that we have a consistent formula that can be used across the board, rather than moving into a formula
this year for just the LIHTC. But it definitely does
become effective and it is certainly something we're
complying with.

Again, I encourage the public to participate in
the public hearings for the State Low Income Housing Plan.
Those copies are available now; it's on the internet at
our website, but definitely the hard copy is available by
calling the Housing Resource Center of the Office of
Strategic Planning, so that the public can begin to start
looking at that and getting your input on what that looks
like.

MS. BINGHAM: Mr. Conine, also in terms of
looking at the tax-exempt bond projects --

MR. CONINE: Uh-huh.

MS. BINGHAM: -- as you saw in this current
round with the new legislation, what probably should be
looked at is that the tax-exempt bond projects have to be
at 50 percent median income on the first round. The only
way you get to 60 percent is that the 50 percent falls
out. Well, the 50 percents are not going to work anywhere
but in Houston, Dallas, and maybe in Austin.

So that's probably where the nightmare occurred
is when the legislation was passed that put all of those
at 50 percent, which meant that they automatically are
going to go to Houston, Dallas, and Austin. That's where
the correction needs to be, not so much in our QAP but in the state law.

MR. CONINE: Knowing the legislature, that's probably when it occurred, in the middle of the night.

(General laughter.)

MR. BREWER: But if this is a concern, can't the agency go to the legislative body with a letter stating our concern and see if they would address that?

MR. CONINE: Yes. Next session, I think we ought to jump right on it.

MS. BINGHAM: Because they're already falling out.

MR. JONES: My question on the geographical issue was just kind of one -- and it's not so much toward the QAP, but just how we handle the next year as we go through this transitionary process.

Would this be something that as this formula is developed, Ms. Stiner, when we are proposed the one this year, when we are given the information on geographical basis, as we always are, that we could get the staff to give us some comparison of how what we're doing this year is going to compare to the formula that's being developed? Would that make sense?

MS. STINER: Oh, sure, and that summary is available in its summary form in the State Low Income
Housing Plan this time around. And that's something we can track to this formula to see how well we think it's going to be applied across the board. But that's certainly something that we can track; we do it now, so we can have certain conclusions drawn -- well, not conclusions drawn -- we can show you where those funding resources have been utilized on a regional basis.

MS. BINGHAM: But, Mr. Conine, I do understand where you're coming from with that item.

MR. CONINE: Thank you.

MR. JONES: That would just be my suggestion, particularly in this transitional year, because I think to try to go read in a definition doesn't make a lot of sense, in light of what's going on. But if we could that, it would give us some input. Thank you.

MS. STINER: Certainly. That's the criteria we're currently looking at as a basis to begin the new formula is what we're currently using, and so that's why it's presented in the State Low Income Housing Plan, as well as an invitation to the public to submit additional criteria that can be considered.

MR. CONINE: Motion on the floor.

MR. BETHEL: Okay. We have a motion on the floor and a second. We have a motion by Mr. Conine and seconded by Mr. Jones that we amend 49.4(h) of the QAP to
include language as follows: "In making a determination to allocate credits, the Department and the board may also take into account the fact that tax-exempt bond projects are generally not financially feasible outside of the major metropolitan areas of the state."

Is there any more discussion?

(No response.)

MR. BETHEL: All those in favor, say aye.

(A chorus of ayes.)

MR. BETHEL: All opposed, say nay.

(No response.)

MR. BETHEL: Okay. That will be amended.

MR. CONINE: Another issue that's come up in the course of our dialog, we had talked, Cherno, about the issue of underwriting and whether some projects, as they go through the application system, do not get underwritten and you have a chart and a scoring system and all that kind of stuff. And we had talked about those who were notified that they were not going to be underwritten, that that list be provided back to the Tax Credit Committee for their review, and if they see something on there or know of something on there that they would like it underwritten, they would have the ability to do that at that time.

Is there any language that you've come up with
that we need to put in the QAP to see if we can make that happen?

MR. NJIE: We have addressed -- let me find the page. On page 8 of 25 -- we received public comment relating to the Department's recommendation process, and on item 3 there, what we are proposing to do is after all the applications have been ranked and the Department is making a recommendation to the committee, currently we send out recommendations to the committee for projects the Department is recommending. We're proposing to include in that listing also all projects that are not being recommended, all projects that have been underwritten, not recommended -- projects that have not been underwritten into that general information. So you will get everything the Department has in terms of recommended projects or not-recommended projects.

MR. CONINE: That's a little different issue. I was talking about after the application and the decision to make on underwriting them or not underwriting them, before we go to full -- I don't want to underwrite them in the last two days left to go in the round, I guess I'm trying to back that up to a particular point that it makes sense to catch the next Tax Credit Committee meeting and let the Tax Credit Committee look at those.

MR. NJIE: Certainly. That will require an
amendment of the QAP to indicate that.

MS. STINER: Excuse me. Let me just jump in, because I'm not following this discussion. Are we saying that you want a date certain when all underwritings cease from the staff?

MR. CONINE: No. What I was trying to do -- I've heard criticism of the Department, for whatever reason, about the methodology on whether we underwrite an application or not, and there's a million different reasons why not to, and I think we all agreed with that. It just becomes another step of communication from the Department to the committee so that they can make sure that they are fully aware of them, and give the committee a chance to disagree with staff, quite frankly, if there is a reason for disagreement.

MS. STINER: So built into our normal SOP of informing the committee what we are recommending, we need to also build into that process communication to the ad hoc committee what we are not underwriting?

MR. CONINE: Yes. He said there was a form that he uses for that, anyway. I'm just trying to get that information to the committee.

MR. NJIE: Yes. When we recommend a project to be underwritten or not to be underwritten, there is a transmittal form that comes from my office to Ms. Stiner's
office to be signed. In other words, the executive
director concurs with the staff decision to either
underwrite or not to underwrite an application.

I guess where you're coming from is you also
want the committee or the board in that loop regarding
what is denied underwriting.

MR. CONINE: You know, rightly or wrongly, the
committee is getting blamed for something not getting
underwriting. I think the committee ought to have the
final authority on whether one does or doesn't, having all
the information from staff that's available.

MS. STINER: I would offer, sir, if that's what
this board desires, that they are copied on the internal
memoranda that goes from staff to the executive director
relative to what's being underwritten, but the
underwriting is only one part of the recommendations for
the allocation process.

MR. CONINE: That's right.

MS. STINER: So what this does is involve the
committee or board much earlier in that process and builds
in another delay -- well, it builds in a time concern of
getting your comments back to the staff so we can proceed
on in time to make a recommendation for an allocation.

But in terms of copying the board members on
that internal memo, that certainly doesn't present a
problem, but that's not the end of it, I would suspect. We have to also build into the allocation process enough time to get your comments back to see if you want to disapprove what's being recommended to underwriting or recommend something else.

I just want to make sure we all understand what we are amending and what the resulting process or procedure will look like.

MR. NJIE: The current process, we send projects to be underwritten on a daily basis sometimes, and projects not to be underwritten on a daily basis. I guess what you're proposing is a date-specific time when, to the extent that staff has made its determination not to underwrite a project, to give those to the committee or the board for consideration.

MR. CONINE: To the committee is where I was headed with it, because I'd want to make sure that there's just that last step in communication there. Quite frankly, it transfers some of the responsibility back to the committee and takes it away from -- it doesn't take it from the Department, it just adds to the responsibility, and it enables the board to answer constituent questions.

If we have a particular constituent that has a direct question, we either have got to go through hoops, or we've seen it and we know.
MS. BINGHAM: As a board member, I think that this process is much more troubling than any other. Like the Housing Trust Fund applications, we hardly hear about them. To have a board or a committee finding out that Mr. Kilday's project, for whatever reason, is not even going to underwrite and we've got to get in the middle of that dispute is getting into day to day.

Underwriting is the day-to-day function of lower -- not lower, lower level staff, but it's even below Ms. Stiner's level, so for us to get involved day to day on who got underwritten and why not, it's just a little bit troubling to me.

MR. BREWER: It seems awful cumbersome to me. I mean, that's, for me, is what the staff is to do, and there's appeal processes if someone feels that they've got a problem with their application and things. And it just kind of bothers me that I don't want to micro-manage that written process myself.

MR. NJIE: Let me just state that of the 200 applications submitted, about 105 were underwritten and about 50 were allocated credits, so we're underwriting far more than we could possibly allocate credits to.

And obviously this is an issue the board or the committee will decide, but I think if you talk to the underwriters, I would bet you the last thing they want to
see is more underwriting. I think that has been the record: We're underwriting far more projects than we could possibly allocate credits to.

MR. CONINE: Well, maybe then just a communication link would be the answer. Can you send us the reports that you generate?

MR. NJIE: Sure. We can provide a report of all the activities that -- where we are in terms of the process. I think we've also made that a requirement that we put some information on our website for the general public, so we can incorporate additional reports for the board.

MS. STINER: Let me just be clear that we're responding to a specific request. This will go to the board; we're not going to put it on the website, and we're not going to --

MR. NJIE: That's correct.

MR. CONINE: Yes. Don't do that.

(General laughter.)

MR. DAROSS: I would like to see a report on what's going to underwriting and why, not so that we can give our thumbs up or thumbs down on it, because that would be micro-managing, but when the rest of the us on the board get to the July board meeting and we've got this ton of material, for me it's really hard to absorb
everything that we've got to absorb in order to make a reasonable decision on it. So if we get the information a couple of months ahead of time, I think that would be helpful to me.

MS. STINER: Okay. Here we go again. Well, you're not going to get it a couple of months; we're underwriting within less than a month. We will provide that information to the board members when the recommendation is made what goes to underwriting, but it won't be two months. I mean, we underwrite along that whole continuum. We underwrite, because of sheer capacity, up until we mail your board books out a week or so before, but we will commit to send you all that, but it doesn't just stop at a date certain where you're going to get this stuff to consider for months.

MR. DAROSS: Well, that's what I understood, was that it is an ongoing process that happens over a period of time, and it would be easier for me to absorb it over a period of time than it would to do it in one week before the board meeting.

MR. NJIE: Yes. We can provide intermittent reports relating to that.

MR. BETHEL: Anything else?

MS. SAENZ: Mr. Chairman, you know we have been discussing deficiencies and all these things. One thing
comes to mind that bothers me, the staff needs to notify. Do you have a time period to notify people that are deficient?

MR. NJIE: The deficiencies, as I've indicated, we will notify you of administrative deficiencies and give you five business days to correct them. That is part of the proposed QAP amendments.

MS. SAENZ: But how prompt do you do this? I mean, how quickly do you notify about deficiencies, the staff, the people that are deficient?

MR. NJIE: As soon as we review the applications.

MS. SAENZ: Is there any time frame to let the applicants know, as far as staff is concerned? You know, remember when we had that public hearing that someone was very concerned about not having been notified for six months or something?

MS. STINER: The 8609s? Yes, we've addressed that in this. Pardon me, Mr. Chair.

MR. BETHEL: Yes.

MS. STINER: As I recall, that particular comment was related to the timing for receiving an 8609 from the agency, and we did respond to that in the QAP. Do you want to read what that response is? We have come up with a time frame by which the staff will respond to a
developer in the cost-certification process.

MR. NJIE: Page 21, and that relates to the issuance of 8609s, which are the final IRS allocating forms that we provide to the applicants. What we're proposing to do is to put a time frame where 30 days will be -- we will notify you within 30 days of submission of that document for any deficiencies to be corrected, and there is a 90-day period, if you specified or corrected all those deficiencies, we will issue the 8609 within that 90-day period.

MS. SAENZ: That's fine.

MR. JONES: Mr. Chairman, just a couple of more things. I would say that we certainly have heard and considered the accessibility issue. I just don't feel comfortable changing the QAPs based upon the information we have in front of us at that point, so I would just kind of move off of that. And I know many board members have considered that and thought about that.

MR. CONINE: Can I add to that while we're on that subject? I think I would invite those who are interested in the subject to help educate me a little more than I am today. If we've obviously demonstrated we don't have a problem with everybody adhering 504, I'd like to know a little more about the cost implications side of the issue, even though everybody is still doing it. And I
think that's fine for this year, and we can have that
dialog as we go down the road this year and talk about it
in next year's QAP.

   MR. NJIE: Yes, let me clarify that. I don't
think my testimony was that everybody is doing 504; it was
that everybody was doing one or the other.

   MR. BETHEL: Either/or.

   MR. NJIE: That's correct. And this has been
an issue that keeps coming up year after year. The
requirement under the Fair Housing Act is that for
projects built after 1991, all first-floor units must be
adaptable. And you have to meet that, regardless of
whether you're participating in the Tax Credit Program or
not.

   The additional requirement the Department made
was that you have to have a 90-day marketability period
during which time those units will be held vacant while
you market to tenants who are eligible, and adapt those
units accordingly.

   That is not a requirement of the Fair Housing
Act; that is an imposition of the QAP. For developers who
wish to elect to fall under 504, they can put 5 percent of
their units, build them to be accessible at the time of
construction for people who are physically disabled, and
an additional 2 percent for people who have hearing
impairment. So those are the two options we have right
now, and some developers are electing to fall under 504
because they don't want to go through this 90-day
marketability period. Some are electing to fall under the
Fair Housing Act and go ahead and market those units based
on the tenant profile in the market area.

MR. DAROSS: There was a comment made earlier
today, though, that there is a requirement of compliance
with Section 504 in other programs. I can't recall if it
was Housing Trust Fund or HOME or what it was.

MR. BREWER: It was both.

MR. NJIE: Yes. For HUD-assisted programs,
that is correct, they have to fall under that 504
definition. The Tax Credit Program does not fall under
that.

MR. DAROSS: Well, just because it doesn't
specifically fall under it under the enabling legislation
doesn't mean it's something we shouldn't consider. I
mean, is there a reason not to do that for this program
when we are doing it for other programs, other than the
fact that it's not specifically required?

MR. NJIE: The 504 assumes that 5 percent of
your units will be built to spec for people who are
physically disabled. And the ANSI standard that we have
in the QAP provides you with an option of looking at
people who have other kinds of impairments. Somebody who is blind, somebody who has a hearing impairment needs other kinds of assistive devices as opposed to somebody who is wheelchair-bound.

That is why we thought that we'd provide that option. People who want to work under 504 still can elect that; it is an election rather than a mandate.

MR. DAROSS: Well, I know that, but that doesn't answer why. I mean, why isn't it a mandate in this when it is a mandate in other programs we do.

MR. NJIE: The reason is it's inflexible.

MS. STINER: I don't know that that's -- it's a requirement because HUD has put it in HUD programs; it's not a requirement in IRS, because IRS hasn't put it in there. It certainly doesn't preclude this body from making whatever decisions you want to make, but the short answer of it is: It is in the other programs because it's a HUD requirement; it's not in this because it's not required by the IRS. But again, that doesn't preclude this body from making other considerations, but that's why it's in the other programs, because it's required by the law.

MS. BINGHAM: I find HUD programs to be more of a burden than an asset.

MR. BETHEL: So if you did HOME and Tax
Credits -- we're still doing that, aren't we?

MS. STINER: We're doing Housing Trust Fund and HOME.

MR. BETHEL: Oh, okay.

MR. BREWER: And CDBG. Right?

MS. STINER: It's a HUD requirement, and we're complying with the law in all the programs that we just named. In this one -- not to repeat what Cherno has just said the last five minutes -- we have the ANSI standards as well as the 504 options under the Tax Credit Program.

Again, I'm just giving you facts; it's up to this body to make a determination of how you want to handle it.

MR. DAROSS: Well, I'm going to move that we amend 49.6(c)(6)(b) to provide that the Section 504 standards be the threshold standard. I still have not heard a reason why we don't do that other than the fact that we're not required to.

DR. GRIFFIN: But, Judge, the reason that I'm hearing why we don't do it is that we're giving the developers a bigger option, because there are people -- if you go with 504 standards and you make bathrooms wheelchair accessible, et cetera, and then you get a blind person in there, they don't have to have wider bathrooms. So we're actually discriminating against people who have
other impairments, other than the physical ones, if we just go with 504. That's what I think. Am I wrong? If we just go with 504, then ANSI -- am I not right about ANSI and the --

MR. NJIE: 504 provides for 5 percent of your units to be built to be accessible for tenants who are physically disabled and 2 percent for those who have hearing impairment.

DR. GRIFFIN: So what does ANSI do?

MR. NJIE: ANSI -- it requires that all of your first-floor units be adaptable. In other words, put in all the blocks so that you can adapt them for persons who may be physically disabled or who have other kinds of disabilities.

ANSI doesn't preclude you from making the units adaptable for people who are physically disabled, you just don't do it at the time that you build a project.

MS. BINGHAM: Yes, a little flexibility.

MR. NJIE: That's correct.

DR. GRIFFIN: So the 504 units would just sit there so that when people with those kind of handicaps come, they'd be ready.

MR. NJIE: That's right.

DR. GRIFFIN: No, it wouldn't?

MR. NJIE: Well, you can technically rent it to
people who want the unit. Sure.

DR. GRIFFIN: Like a hotel, like they rent hotel rooms that are handicap accessible.

MR. NJIE: Sure.

DR. GRIFFIN: Okay.

MR. CONINE: I'm still not quite there on my educational curve yet, Mr. Daross. I'd like a little more education and a little more knowledge before we, I guess, cast that particular requirement all over the development community, both profit and nonprofit.

I think Mr. Schwartz has made an admirable presentation, and I just want that community to understand and know that at least I'm willing to listen and learn and see if we can fix it during the course of this year.

MR. DAROSS: Is the concern that making that as a requirement is going to automatically raise the cost of each unit?

MR. CONINE: And we don't know how much that is, and I think there's also some demographic factors that I'm also concerned about. I want to see some statistics about the current disabled population; I want to talk about what it takes to do a visually-impaired unit as opposed to a handicap-accessible unit. It's just stuff I can't get boned up on in the next five minutes.

MR. DAROSS: Those might be reasons for not
doing it. So far the only reason I've heard is because we're not required to.

MR. BREWER: Right. Well, the problem I've got, too, is, you know, with what we're talking about too, you're going to need it sooner or later. And I'm here to tell you that when you do it later, it costs you a lot more than in the beginning, because I've been through that, and the expense can really be great.

I'm wondering if there's anybody on the public side that might be able to address this, or give some reasons, that would be willing to do that.

MR. BETHEL: We've got a motion on the table. Do we have a second?

DR. GRIFFIN: I'll second the motion.

MR. BETHEL: Okay. We've got a motion and a second, and we're going to -- I got a note that it's time for a break. Do we want to go through the discussion or do we want to take a five-minute break?

MR. BREWER: We're not going to take a vote on who made that suggestion.

(General laughter.)

MS. STINER: What's the motion? I'm sorry.

MR. BETHEL: The motion, I guess, was to include 504 as a threshold standard, so that would be taking points -- doing away with the points. Is that
right?

MR. DAROSS: Right.

MR. NJIE: That's correct.

MS. STINER: There are a couple of other implications, but we could fix that too.

MR. BETHEL: Okay. Let's take a break. We're going to take a five-minute break.

(Whereupon, a brief recess was taken.)

MR. BETHEL: We're going to go back into open session, and the motion on the floor was to put the 504 language as a threshold -- I mean, put 504 as a threshold, and take the point system away, instead of giving the points for the ANSI and the 504. Now, then, the table is open for discussion.

Cherno, did you have something you wanted --

MR. NJIE: No.

MR. BETHEL: There's some implications maybe on the developing side, or is there? We were asking, what --

MR. CONINE: I think there's some confusion, anyway, about what 504 really does, at least, again, on my part, which is what I've said on this subject all morning. And we still all have to deal with the first-floor units being accessible, no matter where you are, and no one is taking the risk today of developing multifamily projects.
anywhere without doing that.

The Justice Department has been running around for the last two or three years, anyway, with bounty hunters, chasing developers who haven't followed those rules. The word's out, and we understand that we need to maintain that first-floor accessibility issue.

It's the other things that probably aren't written on Jonas' memo that I personally would like to explore and understand better than I do, and that's why I still have a concern.

MS. BINGHAM: Mr. Chairman, do we have a problem with a speaker from the development community that may want to speak on the impact? Yes, there's two of them.

MR. BETHEL: You can fill out a witness affirmation form here in just a minute.

MR. LEE: Thank you. Good morning, Mr. Chairman, board. My name is Bill Lee. I'm president of Covenant Communities. We're the developers of the Hamilton Hotel project in Laredo.

One implication of making 504 a threshold requirement for all projects is that you would have a huge impact on historic properties, because it's not new construction, you don't have a clean slate, you've got to work through a lot of units. We are making the required
number of units adaptable accessible units in the Hamilton, but for us to have to do that for 165 units as a threshold requirement, it conceivably could have made -- I don't know the exact implications, but it would have been significant. So, I mean, that came to mind based on our experience. So that's just one thing you need to consider.

And I think it goes with Mr. Conine's comment. It's a pretty wide-ranging subject, but in terms of historic properties and other historic properties we've looked at -- which are key to downtown redevelopment in many cases -- it would have a significant financial impact on those projects.

MR. JOHNSON: I'm Sox Johnson of the Rural Rental Housing Association.

I think you've been on the right course here by keeping some flexibility in it; to me, it's the key thing to do. Keep in mind, these laws were passed at different times for different purposes. The 502 dealt with public -- any public-type facility having some requirements on it. 504 is pretty much the same thing, and it got incorporated on more of the government programs like HUDs and Farmers Home and others. And one of the big distinctions and problems we've had with them is it seems if you say it's a 504 issue, it's always the owner's
responsibility whether or not everybody is agreeing on reasonable accommodation.

And reasonable accommodation is the key of what you're trying to achieve with both 502 and 504: What is reasonably needed for this person to be able to utilize this facility. And so once that is agreed upon, then you can get into the issue of who pays.

I think it's good that you recognize all these, but keep in mind, all these different laws were done at different times and laws were written by lawyers for lawyers. So about the only way you can resolve these things is to get into litigation. And there's no clear guidance --

MR. DAROSS: Is that bad?

(General laughter.)

MS. BINGHAM: Yes, he's saying it's bad, Judge.

MR. JOHNSON: I'm saying that it is because there's no simple way. Look at all the attempts of different guidance books that are out. Homebuilders have put them out, different agencies have different interpretations of how we're going to implement and use these things, and they're all over the board, because we keep having to read what is the legal precedent on how you handle this kind of a deal.

Common sense is what we try to appeal to our
people in our training: Use reasonable accommodations; owners should go ahead and pay for those little things that need to be done; you need to have your 5 percent prepared. But keep in mind, you don't want to get too many, because there's a downside to steering too many and fixing too many of them for a wheelchair handicap, because that's not the only kind of handicap and other people don't always like those high commodes and all those things that go into it for home living.

So I would urge you to keep everything as flexible as you could, recognize -- I'd urge everybody to try to apply the standards, as they understand them, to both 502 and 504 on these projects. But there are too many guidelines; there's not a consistent guidebook that you can read. A lot of them will say you need an 18-inch towel bar over a commode; the other one will say you need a 24-inch.

So that you've got all those subtle differences in it, and that's because, again, there hasn't been a total agreement on what is going to be the guides, how are we going to carry out the provisions of this.

So I feel for the people that like the 504, but most instances I've seen, it comes down to who pays for it if you've got to make a revision to modify something, and it gets pretty strong that the owner/developer is going to
pay the total cost to make that revision if it's a 504. If it's 502, that appears to be more negotiable. I think it should be negotiable in determining what is reasonable accommodation and how it can reasonably be afforded to be done.

MR. BETHEL: Thank you.

Anyone else?

(No response.)

MR. BETHEL: Is there any other discussion?

MR. DAROSS: Well, I'm generally in favor of government keeping its nose out of people's individual businesses, but it seems to me we've already put our nose into the business of the developers under Housing Trust Fund and HOME Funds, and we've got those requirements there, and we still seem to be getting projects built under both of those programs.

Let's say we've got this 504, and you have a 5 percent and a 2 percent requirement. So let's just be simplistic about it and say that increases the cost of the project by 7 percent. Well, what's the net result of that? Does that mean that we build 7 percent fewer units? I just don't understand how it works and why it can work in some programs and not in this one.

MR. BETHEL: Any more discussion? Then we're ready for the vote?
MR. BREWER: Don, some fellow just took a witness affirmation form. Did he want to speak at this time?

MR. ALFARO: Yes, I'll go ahead and do that. My name is Orlando Alfaro. I'm with JR Hudson Housing [phonetic] Capital Tax Credit Syndicator, and prior to this, I was regional manager for Home Savings of America, which was a savings and loan and now it's known as Washington Mutual.

A point very interesting has been raised about the 504 being part of the threshold criteria. It is my humble opinion that this would not work and it would definitely affect the program for the following reason:

HUD does have special programs geared especially for financing these type of projects, and this type of financing not necessarily translates to the financing that is going to be available for tax credits, number one.

Number two, if you make it part of the threshold criteria, it's definitely going to kick in on the break-even point, 90 days occupied for three months and 90 percent occupancy consecutively, and that's when the construction rolls into a permanent, and that is also going to affect the 8609s.

So definitely it's going to be a Catch-22
situation, unfortunately. Thank you very much.

MR. BETHEL: You'll need to fill out that form.

Any other discussion?

(No response.)

MR. BETHEL: Okay. We have a motion then, and we'll call for the vote. All those in favor of the motion, say aye.

(Ayes: James Daross, Robert Brewer, Dr. Florita Bell Griffin, Michael Jones)

MR. BETHEL: All opposed, say nay.

(Nays: Lydia Saenz, Marsha Williams, Kent Conine, Margie Bingham)

MR. BETHEL: All that are for, raise your hand.

(Show of hands.)

MR. BETHEL: All that are against, raise your hand.

(Show of hands.)

MR. BETHEL: Okay. The Chair is going to vote with those opposed, so it will be five-four.

Okay. Next issue.

MR. JONES: And I don't want to jump in there. I just have one more issue, and this addresses one of the things I brought up last time, and that is the criticism that the board has had about our involvement in the program. And in thinking about that, it would be my
suggestion and my motion that we amend Section 50.21 of
the 1999 QAP to read as follows:

"That the ad hoc Tax Credit Committee - that
committee be comprised of all members of the board of the
Department charged with direct oversight of the Low Income
Housing Tax Credit Program, also referred to as the
committee - the board shall meet as a committee of the
whole to administer the program."

And I think this would address some of Judge
Daross' concerns, too, about the board being involved at
such a late date, and in this coming year let the board
act as a committee of the whole to be involved throughout
the process and see how that works. That would be my
motion.

MR. BREWER: Well, I think that's a chairman's
responsibility. He appoints the committees, and if he
wants to do that, you know, that would certainly be his
prerogative. But this is a very important committee, as
is Programs and the rest of them, and I have a little
heartburn with doing that in that I looked through that
Government Code and the chairman appoints the committees.

It doesn't even say in the code what committees he's
supposed to have, so it's at his pleasure as to how we can
run the board and to be able to help the agencies.

And then there is nothing -- although it said
in this excerpt that was given to us by Cherno that the average committee has three, but there's nothing in the code that says how many. I run a company, as you all probably do, and have a volunteer board and the chairman sets the committees at the first of each year and the people serve on them, and the number is determined by what he needs to do.

And I don't have any problem with the chair appointing any committees at all. But as a board member, I don't think it's my responsibility to direct or to say the composition of any committee. I think that I serve at the pleasure of the Governor and I serve at the pleasure of the chair, and whatever the chair tells me to do on serving on committees or numbers, I respect his decision and I would follow that.

DR. GRIFFIN: And I tend to agree with you, Mr. Brewer, to a certain extent. Basically, the policy that had been set up to now was that committees were chosen every two years. And the Chairman made a decision last year that he was choosing the committees and they were technically supposed to serve for a two-year period, as I informed the Governor's Office, to expire in 2001.

It is totally up to the chairman to make the decision as to whether or not the full board will serve as the Tax Credit Committee, and if that is his decision,
that is fine with me. However, if that is his decision, then I recommend that all of the committees that have foresight over any funds of this agency be sunset immediately and that everything come to the full board.

And here I have some sheets that I'd like to give out which tells why I feel this way. The Tax Credit Committee is not the only one that has had allegations alleged against it, but the Tax Credit Committee is the only one that hasn't had anything proven that it has done wrong.

But I have evidence here that the Finance Committee and the Programs Committee -- which includes board members like Mr. Conine, Mr. Jones, and Mr. Bethel -- have done some things that can be proven wrong. So let's just go on and get it on the table, you know, if we're going to talk about committees.

And I have copies for those of you in the audience who want one. And let's discuss it from there.

MR. BETHEL: I don't know that that's what's up for discussion.

DR. GRIFFIN: Well, I'm just making my comment, and then you can decide, based on all the information being on the table instead of midnight phone calls.

MR. BREWER: Mr. Chair, I would like to say, though, that the purpose of what I brought up is, after I
looked into the Government Code, that I wanted to reaffirm my position that I'm here to serve at the pleasure of the Chairman on any committee, and that whatever committee or the makeup that you decide, that's my responsibility as a board member.

MS. BINGHAM: I have one comment. I would think that this morning is certainly -- the full board has been discussing the tax credit issue for over two hours now, so I don't -- I've never had the impression that the current setup would disallow the full board from being involved.

I think it's a very delicate and cute way that the proposal was presented was to reconstitute the committee into the full board; I think the unpleasant -- and I'm going to sleep well tonight regardless if I didn't vote those -- but I think the more definite thing that you are doing, you are not reconstituting the committee to be the full board. Your motive and your desire is to eliminate a committee perhaps because you have some concerns about its members. So I think we need to lay that on the table and be very up front about what we're trying to do.

MR. BETHEL: Okay. Is this an allegation from you, Dr. Griffin?

DR. GRIFFIN: This is a statement of fact, Mr.
Bethel, and the Ethics Committee has been consulted, and they say that the next course of action should be to take it to the District Attorney's Office, those that have that note on it.

MR. BETHEL: Well, is this complaint --

DR. GRIFFIN: These are facts.

MR. BETHEL: You said that the Ethics Committee advised that complaints of this nature should be forwarded directly, so if you have a complaint against me, Dr. Griffin, you need to forward it.

DR. GRIFFIN: Mr. Bethel, don't you worry about it.

MR. BETHEL: Okay. Thank you.

MR. BREWER: Mr. Chairman, I would just like to ask Mr. Jones, you know, he's made a good point and he's put it on the table, and you know, if he wants to take a vote on that, that's fine. My only point that I want to make, really, is that on any of these committees, it's at your pleasure, and I'd like to hear some discussion from the other board members if they feel this is a board responsibility or the chairman's, because I'm willing to serve on any committee that you've appointed me to and I'm ready to do that.

Mr. Jones, do you have anything in regard to that?
MR. JONES: I've made a motion, and I think it dies for lack of a second, if there's not a second to it.

MS. SAENZ: I second that.

MR. BREWER: Well, I'd like to hear somebody else comment, though, I mean, on the committees, because this is very important. How you feel on the committees is that -- I mean, it's written into the Government Code that the chairman appoints the committees. I mean, I don't know what else to do.

MR. CONINE: You're right, it is written in the Government Code that the chairman does appoint the committees, but what we're dealing with here is the QAP. And I think the motion on the floor, if my understanding was correct, was to change the word "committee" to "board," basically, and go from that point forward, and insert the board into all the responsibilities of the committee, within the QAP.

I, for one, have yielded to the committee's recommendations time and time again over the two years I've served because that's what they're charged with their responsibility of dealing with, and you've got to trust those who are charged with that responsibility.

But quite frankly, I'm also kind of getting kind of tired of getting blamed for something I don't think that I have materially participated in. And by
switching the full board to have oversight over the
program that, arguably, is the largest one we've got,
gives me a chance to materially participate, and whether I
choose to do so at that point or not is my decision, but
at least it would give me -- in this QAP, changing that
verbiage has nothing to do with the way this Department is
structured per Government Code or not.

MR. BETHEL: Is there any other discussion?

MR. DAROSS: I've learned, over the last --
let's see, it will be 33 years next month that I've been
married to my wife -- that her intuition is pretty good
and I ought to listen to her. And I was talking to her
last weekend about some of the things that were going on
with the agency and some of the allegations that are being
made in the press, and the fact that -- the same concerns
that I expressed earlier, that I don't feel like I've
really got a good handle on what goes on in that committee
and with the staff until we get up to the July board
meeting, and her response was, Well, you ought to just
make it a committee of the whole. So I'm in favor of
that.

I'm not crazy about the idea of doing it,
because I know it means a lot more work for me personally,
but when I took an oath to be a member of this board, I
took an oath to do the best job I could for the State of
Texas, and I think I can better fulfill that by being more involved, and if it takes being a member of the committee to be more involved, then I'll do it.

MS. SAENZ: Mr. Chairman, I have been serving on this board since I came on; you appointed me -- I mean, to the committee, and I do feel that we need more board members participating in this committee. The magnitude of this committee is very, very vast, and we need -- I am not saying that the committee is not doing its job. I think that we need help, and I agree with Mr. Jones about making this committee the board as a whole.

MR. BREWER: I still have an exception to that because that's the power of the chairman. He can put more members, and if he wants every one of us to serve on that committee, again, I will serve on that committee, but I just don't know if it's an appropriate thing.

What do you think, Marsha, I mean, when you're talking about the composition, I mean --

MS. WILLIAMS: I think the ultimate responsibility does lie with the board, and I have to really echo what James Daross said, except that it wasn't someone's intuition; it's basically how I feel.

MR. BETHEL: Okay.

MR. BREWER: But if we make that recommendation, it's still up to the chairman, because he
is the appointing authority. Correct? Is it or isn't it?

I'd like to hear legal's counsel, what her opinion is.

MS. MARKS: Betty Marks, General Counsel. I

think what Mr. Brewer wanted was just the section of the
Code, and it is -- I'll find it. The enabling statute
bascially makes it at the board chair's discretion to name
committees, and I'll read that section if you want me to.

It's 2306.056 of the Government Code: "The

presiding officer may appoint a committee composed of
board members to carry out the board duties. The board
may consider a recommendation of a committee in making a
decision under this chapter."

Is that what you're referring to?

MR. DAROSS: Well, that raises a question in my

mind from reading the statute which says that the chair
shall appoint all committee members. If we vote to change
the QAP to say that all the board members shall be the
committee, is that a violation of the enabling statute,
because essentially it's taking away the power of the
chair to appoint the members of the committee.

MR. JONES: That was my motion. See, I don't

see a problem with that. I think the chair can clearly
appoint everybody and let the board, you know, act as a
committee on the whole with regard to that issue. I don't

think it violates the statute, but that's just my opinion.
MS. WILLIAMS: I thought the statute read that the chair may, rather than shall.

MR. JONES: Obviously, the board as a whole has the authority to act on all these issues, and we're just saying that with regard to this one committee, the board would work as a committee of the whole.

MR. BETHEL: Was that a motion then?

MR. JONES: I made a motion.

MR. BETHEL: We didn't have a second then?

MS. SAENZ: I seconded.

MR. BETHEL: Is there any more discussion?

(No response.)

MR. BETHEL: All those in favor of the motion, say aye.

(Ayes: James Daross, Michael Jones, C. Kent Conine, Lydia Saenz, Marsha Williams)

MR. BETHEL: All opposed, say nay.

(Nays: Dr. Florita Bell Griffin, Robert Brewer, Margie Bingham)

MR. BETHEL: All those opposed, raise their hand -- I mean all those who are for, raise your hand, please.

(Show of hands.)

MR. BETHEL: All opposed, raise your hand.

(Show of hands.)
MR. BETHEL: It passes five to three.

Anything else? Any other recommendations?

DR. GRIFFIN: Yes, sir. I recommend that we sunset the rest of the TDHCA committees and let the full board serve in the committee capacity for all funds that are being disbursed through this agency to ensure that we don't have conflicts of interest such as those that we've been made aware of.

MR. BETHEL: Is that a motion?

DR. GRIFFIN: It is.

MS. BINGHAM: Second it.

MR. BETHEL: I have a motion and a second. Any more discussion?

MR. CONINE: Since this wasn't on the agenda that was posted, are we violating some statute?

MR. BETHEL: May be, I don't know.

MS. BINGHAM: Probably so.

MR. BETHEL: I think this doesn't have to do with the QAP, so I think your point is well taken. We can put it on the agenda for the next meeting.

Is there any other thing to come before the board? Ms. Stiner, do you have anything?

MS. STINER: No, sir.

MR. BETHEL: Okay. Then there being nothing further, we'll stand adjourned.
MS. BINGHAM: You haven't voted on the full QAP, and you have another item.

MR. BETHEL: Okay. Wait. Okay, we haven't voted on the QAP.

MS. BINGHAM: Yes. You have two other items.

MR. BETHEL: Okay. I was asking -- okay.

MS. BINGHAM: On those clarification items that you requested needs to be added. I'll make that motion.

MR. BETHEL: There were some clarifications that Cherno, language clarifications he mentioned earlier about material deficiencies and project feasibility and project's impact on low income housing and on the goals and objectives. We have a motion from Ms. Bingham that we incorporate that in the QAP. Do I hear a second?

MR. CONINE: Second.

MR. BETHEL: We have a second by Mr. Conine.

All those in favor, say aye.

(A chorus of ayes.)

MR. BETHEL: All those opposed, say nay.

(No response.)

MR. BETHEL: Motion carried.

Now then we need a motion to adopt the QAP as --

MS. BINGHAM: You voted on all the amendments, but you didn't vote on the original.
MR. BETHEL: -- yes, the QAP, as amended. So do I hear a motion?

MS. BINGHAM: I made the motion.

MR. BETHEL: Ms. Bingham made the motion to adopt the QAP, as amended.

MR. BREWER: Second.

MR. BETHEL: Seconded by Mr. Brewer. All those in favor, say aye.

(A chorus of ayes.)

MR. BETHEL: All those opposed, say nay.

(No response.)

MR. BETHEL: Motion carried.

Is there anything else then?

(No response.)

MR. BETHEL: We will stand adjourned now.

(Whereupon, at 12:25 p.m., the meeting was concluded.)
CERTIFICATE

MEETING OF: Board of the Texas Department of Housing and Community Affairs

LOCATION: Austin, Texas

DATE: January 28, 2000

I do hereby certify that the foregoing pages, numbers 1 through 84, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

02/03/2000

(Transcriber)         (Date)

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