TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

9:45 a.m.
Wednesday, November 14, 2001
Room E1.028
Capitol Extension
1400 Congress Avenue
Austin, Texas

BOARD MEMBERS:

MICHAEL JONES, Chairman
C. KENT CONINE, Vice Chairman
BETH ANDERSON
SHADRICK BOGANY
NORBERTO SALINAS

STAFF PRESENT:

RUTH CEDILLO, Executive Director
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MR. JONES: We'll call to order the board meeting of the Texas Department of Housing and Community Affairs for November 14, 2001, and the first item on the agenda is the call to order and roll call.

Beth Anderson?

MS. ANDERSON: Here.

MR. JONES: Shadrick Bogany?

MR. BOGANY: Here.

MR. JONES: Mr. Conine?

MR. CONINE: Here.

MR. JONES: Mr. Gonzalez? He's absent.

Mayor Salinas?

MAYOR SALINAS: Here.

MR. JONES: Michael Jones is here. So we have five members present, one absent, and I certify that we do have a quorum.

The next order of business is public comment and the board will solicit public comment. The way we proceed here is we allow public comment in two different ways, and it's up to the speaker to determine how they would like to make it. For those of you that would like to speak at the beginning of the meeting, you're welcome to do that. I know due to travel schedules there are many people that desire to do that and that is certainly
welcome. The other opportunity, if you would like to
delay your comments until the agenda item you are speaking
about, you have the opportunity to do that also.

I would like to say this, because there's been
some confusion about this in the past, if during a debate
a board member wants to ask questions of somebody who has
made public comment, we certainly allow that and the board
member does do that. However, once all public comment has
been taken on a subject and the debate has begun amongst
the board members, at that point in time public comment is
closed. So the opportunity is to make public comment, but
once the board begins debate, unless there are questions
made to speakers, there is no longer any opportunity for
public comment. I'm sure everybody can understand that,
once the debate has occurred, just so everybody
understands how we proceed.

With that, I do have a number of people who
have submitted witness affirmation forms to speak, and the
first one that I would ask if they would like to speak is
State Representative Hodge. Would you like to speak now?
Thank you.

MS. HODGE: Good morning and thank you very
much, Mr. Chairman and members of the board, for allowing
me the opportunity to come before you to talk about two
projects that are in my district that I wish to speak in
favor of and sort of give you clarifications on a couple of issues that happened in our public meetings in Dallas.

I want to speak on behalf of the Hillside Apartment project and say to you that as you probably know pretty well, having served on the Urban Affairs Committee for two sessions, I am strongly in favor of affordable housing throughout this state and I want to thank this committee for what you are doing to give us the opportunity to provide quality affordable housing in the state of Texas. The Hillside project in my district would provide exactly that: quality, quality affordable housing.

I've had the opportunity to review several projects in my district and outside my district that this particular company has done in Dallas. They do good, quality work; they continue to maintain and manage their properties. So I want you to know that I strongly support that project.

Let me go back to, if you will, the Hillside. When the community hearings were held in Dallas, we had great participation from the community and I was proud of it because it showed that those people were concerned with their community and wanted good, quality housing, if apartments at all. If you listen to the information, you will hear those people very upset, and why are they very
upset? Because what they are used to having in their neighborhoods are developers who will come in, build apartments, let them go bad, rundown, and then they sell them to someone else, and the apartments continue to be nothing but an eyesore in the neighborhood.

Then they rent them cheaply so then they're filled with drug users, crime folk and abusers. So they say no, we don't want apartments in our neighborhood. But what you will have an opportunity to show them with the approval of this project is that they can have good, quality, affordable houses that are apartments with decent people in their neighborhoods, and that is strongly needed in my district.

Then I want to talk to you a little bit about the Oak Hollow Apartment project. There was not much of a problem with the community on that issue, so I want to say to you there too it's a neighborhood that has lots of families, many children who would welcome the opportunity to live in a place that's decent, a place that provides tenant services for children on the property. So I again ask you in your deliberations and considerations, please think of people, as you've done in the past, who need quality affordable housing.

I have been able to see that these people are taking state dollars and doing exactly what it is we want
them to do. Had that not been the case, I guarantee you I would not be sitting here this morning before you asking your strong consideration to approve these two projects. Thank you very much. If you have any questions for me, I'll be happy to respond.

MR. JONES: Thank you so much. We appreciate you being here.

The next speaker is Mr. Garvin, John Garvin.

MR. GARVIN: Good morning. My name is John Garvin; I'm with the Texas Affiliation of Affordable Housing Providers. I'd like to start by thanking you for the opportunity to speak on the 2002 QA -- Qualified Allocation Plan, and secondly I'd really like to commend your staff. This year I found it an incredibly open process, very encouraging of public comment. I knew from my time at that agency that the Sunset recommendations are going to be very hard to put into the QAP; I really commend the staff for their diligence in doing that.

We held a QAP round table in October and we had about 30 to 35 members of all segments of the affordable housing industry. We submitted public comment based on everyone's thoughts there, and I'm really pleased to see the response to the public comment that did incorporate a lot of what we requested. We felt like we were heard; of course, we don't feel like we were heard completely.
There are just two small issues that we have left over that we would like reconsideration of. In our letter that we just submitted now, we asked that you somehow reserve the right as a board to waive penalties on extension. It is in SB 322 that you have to, based on scoring, penalize people who have asked for extensions in the prior year, and in some cases I'm sure you'll find, with the environmental conditions the way they are, that there will be justified reasons to waive a penalty on an extension.

The last issue we had was we had recommended a cap per unit for qualified census tracts and for those outside qualified census tracts, and the staff recommended half of our recommendation. We would like to also see the $8,500 cap for qualified census tract developments put into the QAP. And that's all.

MR. JONES: Thank you, Mr. Garvin.

Mr. Brent Stewart?

MR. STEWART: Good morning. I'm Brent Stewart with Trammel Crow Residential. I'm here to ask for reconsideration of a provision in the QAP that has been an issue that has been discussed outside of the agency in the community as well as inside the agency, and it's one that continues to not really have a resolution. What I would ask is that the board discuss the issue and at least
potentially reconsider the issue.

It relates to the requirement that all townhome units or two-story units have a bedroom on the ground floor. This is Section 49.7(e)(3)(E) on page 57 of your board book.

We certainly agree that visit ability on units is imperative and agree that all units, all townhome or two-story units should have a bathroom on the ground floor, and in the design element of a townhome unit, that's something that can be done easily. We agree that more than 5 percent of the units in a development should contain bedrooms downstairs. There should probably also be a greater percentage of units with bedrooms downstairs than the percentage of the mobility-impaired community at large. There's a current mismatch out in the public in market rate units or other units where people have a hard time finding units that are fully accessible.

But the 100 percent requirement is not consistent with that percentage of the population that is mobility-impaired, and by requiring this bedroom downstairs, I know from our product standpoint, we find it very difficult to figure out how to design a good quality townhome type product that has a bedroom downstairs.

First off, on one bedroom units, there's really nothing to put on a second story of a townhome unit, and secondly, on
a two-bedroom unit, when you have a footprint that is extremely large, it's very difficult to design an efficient, attractive townhome development.

The requirement for the bedroom downstairs is also not consistent with what would happen in a typical two- or three-story garden style walk-up property because the units on the second and third floor, unless served by an elevator, would have the same issues or the same accessibility issues that a two-story townhome unit would have if it had bedrooms upstairs.

There are other examples and justifications in the QAP where staff has done a great job of trying to match what the true need or true policy need is with the product that we're trying to develop under the QAP. The 12-15 percent increase on the elderly set-aside is one example; the deeper targeting income is another example, and I feel that this issue should be treated the same way. So I would just ask that you discuss that and consider it and think about some level of units on a townhome development that do in fact have bedrooms downstairs but just not 100 percent of them.

MR. JONES: Thank you.

MR. CONINE: Mr. Stewart, before you leave. You didn't give us a written paper of your comments. Can you repeat again which section that was in the QAP?
MR. STEWART: The discussion of the section is on page 57 of your board book; the specific section in the QAP is 49.7(e)(3)(E).

MR. CONINE: Thank you.

MR. JONES: The next speaker is Ms. Searles.

MS. SEARLES: I would like to speak with the item.

MR. JONES: Okay, thank you.

Ms. Greebon?

MS. GREEBON (Translated by Jennifer McPhail): My name is Karen Greebon and I would just like to support affordable housing because a lot of people are going to get out of institutions and need a place to go. We also need accessible housing, because like that man said a while ago, you need more downstairs, more bedrooms and bathrooms. Thank you. Any questions?

MR. JONES: Thank you very much for being here.

Mr. Halla?

MR. HALLA: Members of the board, thank you so much for the opportunity to come before you. I'm coming before you on two reasons. One is Item 2(a), Life Rebuilders, whom I represent, a nonprofit is privileged to have Ennis Senior Estates on the waiting list -- it's TDHCA Number 1036 -- and in case the credits do become available, I just wanted the board to be aware of a couple
of issues that we think are pertinent to the possibility
of this project being awarded tax credits if they become
available.

One, it's the highest scoring application on
the waiting list; it's the highest scoring nonprofit
application of the approved applications. To our
knowledge, there have been no senior tax credit
allocations in Ellis County or the city of Ennis -- this
area is just south of Dallas. There have been some family
allocations but no senior allocations. We have tremendous
community and city support for this project. Life
Rebuilders currently owns this land; it's part of a
planned unit development, affordable housing planned unit
development totaling 168 acres of both multi-family and
single family affordable dwellings.

The Federal Home Loan Bank board has issued an
AHP grant for this community in the amount of $500,000
that is in place; that's not something to be obtained,
that is in place at this point in time. I know from
talking with a lot of the people at the Federal Home Loan
Bank board, they want to become more involved in the LIHTC
process; I think this would be an excellent way to show
them that their funds can be utilized in the LIHTC housing
developments.

Housing Assistance Council, which is a
nonprofit lender out of Washington, D.C., also was very favorable of this site, in conjunction with what we're doing with the city, and they provided the acquisition financing at a very low rate, also with a little bit of money to extend the off-site developments which is in keeping with the city's plan to incorporate two different water districts so that they'll have more service in this area.

The City of Ennis anticipates that the 287 bypass will be within the foreseeable future in the center of their community very quickly.

We've got the single family residential ready to go. Right now we're getting ready to start our off-site development. This is not a piece of land where we just are hoping; this is a piece of land that Life Rebuilders is committed to. It's a piece of land that was carefully chosen with the help of the City of Ennis and where their future needs will be and where they would like to see their affordable housing.

We are one of the lowest -- I think there's only one lower -- on the tax credits per unit. This is a good use of the tax credit dollars; we're excited about that. We know that we're in Region 3 and that right now it appears that Region 3 is allocated to its fullest, but we're just making these comments so that if tax credits
become available, we might be more favorably considered.

As I mentioned, our financing is in place, the AHP grant is in place, we own the land; we could literally be closed on this transaction within I'm sure by the end of the year, we're that far along on it. We'd just as soon you gave us credits this year because if not, we'll be back again next year. We're committed to this community; we're committed to this particular development.

We honestly believe that when we are done with this community that you'll see an example that a lot of people will follow: a mixture of multi-family, a mixture of single family, commercial wherein we've got several of our social service providers wanting to lease space in the commercial area, so we're pretty excited about this.

Life Rebuilders is an experienced tax credit developer. Two of our communities are 100 percent occupied with waiting lists. We just finished 112 units that's a family community; we're putting the final touches on it and we're 100 percent leased and we're 90 percent occupied right now. So we know what we're doing. I think we can do another good development for Ennis Senior Estates, TDHCA item number 1036.

Mr. Chairman, that's all I've got on this particular subject. I did submit an affidavit for item 2(e) and I could make those comments now or later,
whatever.

MR. JONES: That would be fine.

MR. HALLA: On 2(e), we're a nonprofit. Many of our comments have been submitted, and we're in favor of the majority of the comments that have been submitted in writing; we also submitted our comments in writing.

There are two issues that I want to bring before the board in that regard on the proposed QAP. One is the points that a nonprofit for-profit joint venture can get by a for-profit teaming up with a nonprofit. Those points are not available for a stand alone nonprofit. We have many of our colleagues in this room who we would love to joint venture with; they're busy, we're busy, they don't necessarily need us except for the points and we don't necessarily need them, and to have to bring in a for-profit company just to score those points and not be able to come in as an experienced nonprofit developer and be penalized -- I believe it's three points -- doesn't make a whole lot of sense to me.

The other comment I've got -- and I know that it's just going to have to be making you aware of the fact that they're requesting -- and I believe this came out of Sunset Bill 322 -- the home addresses of the nonprofit's board of directors. That is ridiculous; to me that's not necessary. The home addresses of a for-profit board of
directors would not be required and to require that the majority of the board be residents of the state of Texas in order to do a rural deal or their home addresses within 90 miles of an urban deal doesn't make sense.

If we were to rely on just one area as an affordable housing developer and if that area gets over-saturated, what are we supposed to do: go out of business? We've got to look to other areas to keep our staff motivated and paid. We work with architects, engineers, and once you establish these relationships, that's when you start producing quality, safe, decent, and affordable housing.

I appreciate the time. I just knew that I would get called after the last gentleman spoke. That's the reason, ladies and gentlemen, that Life Rebuilders is in this business; we like to stay focused on the people we serve. Our last community, Grace Townhomes, was a bond deal. We did not have to provide handicapped/disabled units, but we did and we're very, very grateful that we took that challenge and went ahead and provided those units in a community like Ennis, Texas.

Thank you very much. If there's any questions, I'll be happy to answer them.

MR. CONINE: Do you have the reference section of the one you talked about on the home addresses of board
MR. HALLA: Mr. Conine, I'm sorry, I don't.

MR. CONINE: I've got it written down anyway; that's okay.

MR. HALLA: I know that in the past our board of directors are even a little reluctant to give out their Social Security number, and that used to be required on the tax credit application, not that they're wanting to hide anything; it's just a lot of people don't like to give out personal information like that, depending on where it goes, who has access to it and what's it going to do, and now to have home addresses called for I think is not good.

MR. CONINE: We'll find it.

MR. HALLA: Thank you very much. Any other questions?

MR. JONES: Thank you, sir.

Mr. Wenson?

MR. WENSON: Good morning. My name is Bill Wenson; I'm here to speak on item number 3.

I find myself in a peculiar situation because as an affordable housing provider and advocate, I've never been in a position to talk against a project before. I find myself here today talking about a couple of projects in the negative light.
This is regarding item number 3, the two tax-exempt bond projects, and I didn't bring the name up with me. Hillside Apartments is one of them.

MR. JONES: Oak Hollow Apartments?

MR. WENSON: Yes, sir. I have a map that I'd like to distribute.

MR. JONES: Certainly.

MR. WENSON: My issue with the two projects is a concentration issue. The map that you've just been handed, there are three yellow circles. Those three yellow circles represent three tax credit projects that have been completed since 1996. The one labeled A is Villa of Sorrentos, the one labeled C is Oakwood Place, and the project labeled as B is Las Lomas.

The two red marks indicate the location of the two new proposed bond projects. They are adjacent to A and B; in fact, they are right in front of them and they literally will block the view from Loop 12 of the two existing tax credit projects.

Villas of Sorrentos, which was built as a new construction project in '96, has 245 units, it's a beautiful project, it's one of the finest tax credit projects I've ever seen built. They average occupancy anywhere from 90 to 95 percent. B, which is Las Lomas, which is further down Loop 12 -- and by the way, the
distance between these three projects is less than three miles, to give you a relationship; the distance between A and C is less than one mile -- Las Lomas is 230 units, its average occupancy is 80 to 85 percent. Oakwood place, which is C is 206 units -- I am an owner of that property that has 206 units and we average around 90 percent occupancy. That totals over 600 tax credit units in that particular area.

I recently spoke to Ken Bird who is one of the chief asset managers for HUD in Fort Worth. They just recently took back a project less than a mile from B -- which is Las Lomas -- and he cited a lack of people to fill that property is why that foreclosed.

Also, directly across the street from C is another 200-unit property that is owned by a nonprofit that is an affordable housing development, not a tax credit project.

My concern is that the number of units that are proposed by these two projects -- in excess of 500 units, I think; I don't have a lot of information on these two projects, this just came to my attention a couple of days ago -- will almost double the number of tax credit units in this three-mile area. I am concerned that because there is not a lot of economic growth and population growth in this southeast area of Dallas, they would be
drawing from the existing affordable housing properties in order to fill them. There is a tendency for tenants to move to the newer properties. I think that would jeopardize many of the existing properties in the area.

I have also supplied a copy of a letter from Mark Temple who is a market analyst and familiar with that area, and it is his opinion that that's what will happen is that the existing properties will suffer because there's not a great amount of growth in that area.

If you look at a Dallas map, you can see just in general that that area is not a high-populated area. This is the south side of Dallas; these are the three properties that you're looking at, right here, one, two, three; the new projects are going to be here and here. All the red marks indicate -- I did this a few years ago; these are all tax credit properties; I did it for all of the city -- it shows you that where these are going there's just not a lot of population there like there is in a lot of the other areas.

Not only am I the owner of this one, I am also the limited partner of several of the projects off to the west, and so I'm very familiar with this market. So I would encourage you to really consider the concentration issue in approving these two projects. Thank you.

MR. JONES: Thank you, sir. The next speaker
is Mr. McMullen.

MR. McMULLEN: I'd like to speak on the agenda item.

MR. JONES: Thank you. The next speaker is Mr. Conley.

MR. CONLEY: I also would like to speak on the agenda item, please.

MR. JONES: Thank you, sir. The next speaker is Mr. Washburn.

MR. WASHBURN: Good morning. Mr. Chair and board members, thank you for giving me this opportunity to speak today. My name is Jim Washburn and I represent LCJ Management; we are developers, builders and managers of affordable housing in Texas, and I'm here to comment today on some of the responses that the department gave on the 2002 QAP, specifically in regard to item number 49.7(g), the credit amount.

I want to really kind of make two statements about it. First, it really pertains to the addition of the $6,500 per unit cost that was added into the QAP. In my opinion, I'm looking at the way the department is headed with us, and I think that, in my opinion, we're seeing that we want to start targeting lower income people, we want to try and start providing units for those people, and I think that by limiting our tax credits
$6,500 per unit, we are jeopardizing the ability to do so in this way: if you're going to be offering those units, obviously you're going to be reducing the income that you're going to be producing off of those units; by lowering your income on your project, you're not going to have the same ability to carry the same debt that you might be if you're offering units at higher income levels; by not being able to carry enough debt, in most cases you might have to carry additional equity to offset that to maybe be able to reach those deep income people.

And I think that by limiting the development to $6,500 per unit, you're kind of in a Catch 22 here: we want to be able to offer these units but we're going to be taking in less income, and in some cases, depending on where you're developing in the state of Texas, costs might be higher, materials might be higher, labor might be higher, you could possibly be limiting your ability to do so. I just think that we've got to look at that more closely if we're going to put that in there.

In addition to that, Mr. Garvin brought up earlier the fact that half of his recommendation was not put into the QAP regarding QCT tracts. My opinion or what we're going to be proposing is that we actually strike this altogether. He suggested that you add up to $8,500 per unit for QCT tracts. We have a specific development
in Dallas that we're looking at trying to do, it is in a qualified census tract, and if you start looking at the economics of it, if you're going to limit to $6,500 per unit in a QCT tract, you really have to look at your cost per unit prior to your receiving the 30 percent bump. I mean, there is a reason that we get the 30 percent bump; it is because the cost of building in that certain area might be higher or the incomes in that particular area might be lower, so there was a reason for providing that bump.

But now if you're going to be limiting your tax credits per unit to $6,500 and you're in a QCT tract, now you've got to start thinking, well, if I can't go over that $6,500 per unit, then my costs have to be around $5,000 per unit prior to the 30 percent bump or I'm going to be over the top. So we'd like to make an amendment to that particular section of the QAP to where we strike the $6,500 per unit. I probably would not be in opposition if there was something added to it, like Mr. Garvin said, but I think it is an issue that does need to be looked at a little further. Thank you.

MR. JONES: Thank you, sir. The next speaker is Mr. Kahn.

SPEAKER: Mr. Kahn passed on that.

MR. JONES: The next speaker is Mr. Lynch.
MR. LYNCH: I'd like to wait till the agenda item comes up.

MR. JONES: The next speaker is Ms. Brown.

MS. BROWN: Is that Dora Brown?

MR. JONES: Yes, ma'am.

MS. BROWN: I'd like to wait also.

MR. JONES: The next speaker is Mr. Sherman.

MR. SHERMAN: I'd like to wait till 2(e) comes up, as well.

MR. JONES: Mr. Halla has already spoken. Is that correct?

MR. HALLA: Yes, thank you.

MR. JONES: Mr. Price?

MR. PRICE: I'd like to wait until item 2(a) comes up, please.

MR. JONES: Yes, sir. Mr. Sugrue.

MR. SUGRUE: I'm going to speak on the QAP but I'll go ahead and speak now. My name is Mike Sugrue; I'm with Simpson Housing Solutions; we are an equity provider for low income housing tax credits. I'm also representing today the Texas Affordable Housing Investors Coalition, which is made up of a number of the investors who invest in the low income housing tax credit properties in the state of Texas, and we do in excess of 80 percent of all of the units that are developed; we are the investors for
We're very proud of what we've been able to accomplish in past years, and we were very involved in the Senate Bill 322 and a number of comments. I'm a little surprised that some of the comments that have changed in the QAP which appear to be maybe 11th hour comments, but I'll speak more directly to them as we go through.

I have given you some proposed amendments that the Texas Affordable Housing Investors Coalition would recommend, and I'll talk to those specifically. Of course, there's the valuation factor, Section 49.7(c) -- that's on page 52 of the 236 pages -- we would recommend an amendment that would include language to say: to ensure the allocation of credits are economically feasible consistent with Section 42 of the Internal Revenue Code of 1986, et cetera, based on sound underwriting.

This language appears in Senate Bill 322 on numerous occasions, and we're very concerned from the investment community that these properties remain economically viable, and without this language, there is a potential possibility the board could be placed in a compromising position where they'd have to make a recommendation without the economic viability.

The second recommendation we have -- which appears to be the hottest button based on what's going on
out in the hallway today -- is Section 49.7(f)(7)(C), the Low Income Targeting, and that's on pages 73, -4, -5 and -6 of the 236 pages.

Here we'd like to make a recommendation for an amendment that says, "To qualify for the points for units set aside for tenants at or below 50, 40 and 30 percent of AMGI, an applicant must provide evidence of commitment of funds which specifies the amount of funds committed, terms of the commitment and number of units targeted at the AMG level." In a real quick compromise out in the hall a little while ago, we agree that no more than 50 percent of the developer fees shall be deferred in any event, either to provide lower targeting units and/or deferred developer fees for cost overrun and/or fees for permanent debt.

In the investment community, once we cross that 50 percent deferred line, we get very squeamish on investing in these deals, and if rates go back up -- which we know they will; historically they do, and who knows when to predict that -- we must have a developer fee available to offset an increase in rate and a decrease in perm debt. Unless a rate gets locked early on, there are fees -- cost to do that, and of course we ask everyone to lock a rate while rates are down where they are.

To continue on with that amendment -- I'm sorry to interject that -- "If local HOME funds are used for
units set aside for tenants at 50, 40 and 30 percent AMGI, the applicant shall have proof of submittal of these local funds to receive the points; however, if a firm commitment for the local HOME funds is not received by the department prior to ten days preceding the LIHTC reservation announcements, the points should be deducted."

We realize this will be somewhat burdensome for staff; however, HOME funds and all the ancillary funds necessary to provide the lower targeting, they don't run necessarily in conjunction with the credit application period, so someone may be able to apply but they don't have the hammer to get the firm commitment before they make an application for credits, especially since we're doing pre-app in January. So we'd hope that there would be some consideration there.

My last section that I have is Section 49.7(f)(4) unit size, and that's on page 63 -- I guess I'm going a little backwards here -- and we'd make a recommendation that the one-bedroom units be reduced to approximately 700 square feet and the one-bedroom elderly be reduced to as low as 550. Of course, they obviously can be larger. We believe that you can create a decent one-bedroom unit in those square footages. We also think that in the two-bedroom square footage, while there is a
900 square foot currently for non-elderly, that we would
interject a 750 square foot minimum for elderly two-
bedroom units.

I believe there are many elderly units that
work as a two-bedroom, one-bath or 1-1/2-bath because of
numerous reasons: the couple is still together, usually
the husband snores like an old freight train and he's
banished to the second bedroom and/or people would like a
craft room, a sewing room, and there's many grandmothers
who believe that their grandchild will come spend the
night with them and they'd like to have a place for them,
so two bedroom units have been very popular in senior
housing in many issues.

MR. JONES: Snoring can go both ways.

(General laughter.)

MR. SUGRUE: Yes, it can. My wife will
disagree with that even though I've threatened to record
her.

And the last thing I have is a clarity issue
about a development which is located in a city or county
with a relatively low ratio of awarded credits in dollars
to its population. It says, "Only the first sentence is
quoted, however, Exhibit 201(f) needs to read in its
entirety." So I guess that is a minor change in 201(f)
and it seems that the language doesn't set forth the
variances of age for the old tax credit units that were
issued nor the type, family/elderly.

We had spoken before about trying to have the
centration issue be of like product -- family to
family, elderly to elderly. Because a product is down the
street and it may be family, it doesn't mean that there's
not necessity for elderly in that same community, and
vice-versa. I understand that there's not sufficient data
to track that. I'm surprised at that, but that being the
case, I would suggest that we try to generate that data so
that we do not preclude developing affordable housing as
necessary.

That's the end of my comments. Thank you for
listening to me, and I'd be happy to answer any questions
if there are any.

MR. CONINE: Mr. Sugrue, on your second point
there when you were talking about the commitment for local
HOME funds being received by the department ten days
prior, is that a case of the chicken or the egg? Is it
one of those situations where the local municipality
doesn't want to give up HOME funds if they don't have the
tax credit deal, and of course we don't want to give up
tax credits unless we know they've got the HOME funds?

MR. SUGRUE: More or less. The local community
is going to wait to make sure that they're either on a
short list or they determine you have a great opportunity, but they're going to do it at their own pace in any event.

MR. CONINE: So in your experience, does that put an undue burden on the developer for him to have to have that commitment in hand ten days prior, even though it's virtually unknown whether or not he'll get the tax credit?

MR. SUGRUE: No. I think that gives the developer a hammer to say I have to know within ten days because he can make his application when he makes his application for credits or even when he makes his pre-app, but give him a hammer to go back to the issuing agency to say I have to know ten days ahead of time or I lose the opportunity for this which means this community loses the opportunity for the housing.

MR. CONINE: So the municipalities can do a subject to the HOME funds or whatever.

MR. SUGRUE: Something to that effect.

MR. CONINE: Okay, thank you.

MR. JONES: Thank you, sir. Mr. Howison?

SPEAKER: He'll be speaking later, please.

MR. JONES: Thank you. Ms. Patty Anderson?

MS. P. ANDERSON: Good morning again. My name is Patty Anderson; I am executive director for United Cerebral Palsy of Texas which is a nonprofit organization
serving individuals with disabilities across the state. We are also the lead organization for the Texas Home of Your Own Coalition and a recipient of HOME funds through TDHCA.

I wanted to offer some comments this morning on the Low Income Housing Tax Credit Qualified Allocation Plan, just two points. One is that we fully support the accessibility features that are recommended for townhome units that require that the ground level of a townhome, or other two-story dwelling units, to include one bathroom and one bedroom, and then of course they would meet the Fair Housing Standards.

We're very pleased to see many of the proposed changes in the QAP that have been based on the public testimony that's been taken. The recommendation by staff to remove the provision for special housing development will, we believe, help eliminate or reduce the development of segregated housing, so we fully support the staff's recommendation to remove that provision for special housing development, and we believe that will match the department's adopted policy to discourage the segregation of persons with special needs from the general population.

Staff is proposing that Section 8 grants from HUD be included in the point structure of Exhibit 208. We are in support of efforts to produce affordable and
accessible and integrated housing for people with
disabilities. In Texas, the Section 8 projects have
traditionally been segregated developments -- by that, I
mean exclusively for people with disabilities -- and we
are aware that there are a few scattered sites around the
country, a few 811 projects that are scattered-site type
developments around the country, and so we would also like
to support the development of those types of projects, and
that, of course, would be consistent with the department's
intent to encourage integration.

So in closing, I want to again just thank the
staff for their hours of hard work in putting this plan
together and their receptiveness to many of the comments
that they received through the public hearing process.
Thank you.

MR. JONES: Thank you. Mr. Voelker?

MR. VOELKER: Good morning, Mr. Chairman and
members of the board. The first thing I want to do is
congratulate staff. They have an incredibly difficult
task in trying to balance what the legislature is telling
them that they need to do, that the legislature wants them
to do, and the actual needs of the program and the way the
program needs to work and the economics of our program.

Unfortunately, I think at this point we're
almost behind the 8-ball because the legislature has kind
of told us what they want to see, and so we have to kind
of react to that, and it would almost be more helpful if
we had a little more input -- and we really need to -- in
the development community and the investor community, have
more input into the way the legislation gets drafted. So
I think we've got some situations where the legislation is
kind of pushing us to do some things that are very, very
difficult to make work under the Section 42 Tax Credit
Program.

I've given you my written comments, including,
particularly for Mr. Conine's benefit, code references so
that we can actually find them easily. Some of these
issues have been talked about by other speakers; I'd also
like to comment on them and hopefully give a little more
background information on the way it actually works in
practice and some of the issues that come up because of
some of the changes that are being made in the QAP.

The first one is the Low Income Targeting
Points which is in 49.7(f)(7)(C). The revised draft of
the QAP contains a substantial change from what was
proposed in the initial draft which was disseminated for
public comment. The initial draft had a limitation on the
number of units that you could do at 30 percent and 40
percent of median area income.

Just by way of background, I'm very favorably
inclined to trying to skew units down to try and reach the very low income people in Texas. We've got a development we got approved this year in Fort Worth for tax credits that we're in fact doing; we have a nonprofit that's very substantial that owns 64 houses in a 16-plex spread out all over Fort Worth and Arlington, and they're going to sell some of their houses and provide the support for us to do those units at 30 percent of median area income.

That particular nonprofit does housing for previously homeless families and they provide all the social services and transition those families from homelessness ultimately back into the mainstream of the community.

So those units, we'll probably have 40 to 50 units in that development that will be for people at 30 percent of median area income, but we're just incredibly fortunate to have a nonprofit that can support that, so we have a source for doing that. It wasn't a requirement in this year's QAP; instead, it was just something we decided we wanted to do and I was actually approached by the nonprofit to try and find a way to do a development that would be totally mixed income, including help their families.

So I'm very sensitive to the needs of the very low income people in Texas and trying to find ways to
serve that population; however, it's incredibly difficult to try and have a development that has a large concentration of people at 30 percent and 40 percent of median area income, and I want to raise some of the issues that that raises.

First of all, you end up with a concentration in one development of very low income people and we all know that housing policy by HUD over the last 15 years or so has been trying to disseminate lower income people out into the community and not concentrate them in one particular area. It creates all kinds of social problems over time when you concentrate a large number of very low income people in one place.

One of those issues in particular raised by school districts when we try and locate affordable housing is they don't like having large concentrations of very low income kids in one elementary school because it creates issues for the school in trying to deal with children who have a lot of social needs that go with their home life, and then you try and put them in the school and have the school deal with those during the day.

The second is not-in-my-backyard factors which it's kind of strange for me as a developer to raise not-in-my-backyard as an issue, but it's something we face every day when we go and try to find sites, and then in
particular when you try and go get support -- which is now required -- from homeowners groups, support from politicians. When you say I'm going to do 40 percent of my project at 30 percent of area median income, the red lights are going to go off big time.

   It's very difficult already to place affordable housing, but when you start to trying to deep rent skew and say we're going to have that significant a portion of the development at those income levels, it's going to create real issues with homeowners and politicians.

   The third is marketability of units. If you end up with a mixed-income development -- which we're kind of encouraged to do also -- that has a significant portion of 30 percent units and then 50 percent units and 60 percent units and market-rate units, it becomes very difficult because a lot of those 30 percent units are going to be people on Section 8 just by the nature of that requirement, and it becomes very difficult to try and market the market-rate units and the 60 percent units because people have a little tendency not to want to live around Section 8 tenants in particular and when there's a large concentration of them like that.

   So we need to be real cautious in terms of the marketability, ultimately, of the whole project when we go placing a significant portion of people at 30 percent and
40 percent of median area income into the project.

Social services becomes an issue. The normal social services you do in connection with a tax credit deal may need to be greatly enhanced because of the social needs of people at those lower income levels. You might need to look at things like food pantries, assistance with utilities, et cetera, because of the income level you're dealing with.

The last one is not unimportant. It's the need to balance the major cities with the mid-size cities in the rural areas. It's going to be impossible, really, for a rural deal or a smaller city deal to score the points for being at 30 and 40 percent of area median income because their income levels, to start off, with are a lot lower, and now you're saying we've got the deep rent skew and they just can't make their numbers work. So what you're going to end up with is somewhat of a bias toward the large cities, particularly the higher income large cities, if we go this route.

These issues really need more extensive study. Unfortunately, that change came about as part of the revision which we haven't really had an opportunity to public comment on except now. I would encourage the board to go back to the path that was chosen in the initial draft of the QAP and that said let's start moving toward
having more units at 50 percent and 40 percent, or 30 and 40 percent of median area income, but let's put a limitation on them now, and let's encourage staff to get together with the development community and investment community over the next year and try and come up with a proposal that would really make some sense for next year.

I've given you some proposed changes. One thing that needs to change is right now you score points for being at zero percent of 30 percent, or zero percent of 40 percent, or zero percent of 50 percent. It starts out at zero to nine, so everyone is going to score being at zero to nine which I don't think that's what was intended, so that needs to be dealt with, on particularly the 50 percent of AMGI level.

Then I'd change sub-part (2) to read: The development selecting to set aside 5 percent of the tax credit units for individuals or families at 40 percent would receive five points, and then if you set aside 5 percent of your units at 30 percent of median area income, you'd receive seven points.

Another thing that needs to be clarified is right now it's not clear in those rules that you couldn't have the same unit score for 30 percent, 40 percent, and 50 percent, and I think we need some idea what the factor is; otherwise, you might be able to have qualified units
to score in all those categories which I don't think was the intention.

And lastly -- Mike Sugrue raised this point -- I think we ought to take a look at having a set funding source for the units that are set aside at those lower income levels.

Moving on, an issue that was raised by someone else was 49.7(g) which is a limitation on tax credit awards per unit, and I'd also like to kind of flesh out what the issues are there. The way it's phrased right now, there's no differentiation made between qualified census tract and non-qualified census tract, and there is a federal rule that basically says you're supposed to get 30 percent more in tax credits for being a qualified census tract to encourage you to go into those areas.

The other aspect of it is that it doesn't differentiate between different types of developments, whether it's a rehab or a new construction, whether it's all one-bedroom units or all four-bedroom units -- which obviously there's a huge cost differential in doing that -- whether it's a senior facility with elevators and hallways or a family facility, and whether it's a high rise deal or a one-story deal in a rural area, or if it's townhomes versus apartments, small development versus large development, lots of amenities or no amenities.
And so I think the reason that the federal rule and what we've done in the past is we had staff doing underwriting, and the underwriting process and the caps on hard cost per square foot in essence accomplished the same goal as what we're trying to get to here, and I would encourage us to continue to let staff go through that process of underwriting deals and figuring out what the amount of tax credits are that are needed to make the project feasible versus trying to come up with a hard rule.

The third issue is definition of qualified nonprofit organization. We had an issue with our deal in Fort Worth this last year which was a joint venture with a nonprofit and they were the 51 percent general partner, so we could have applied in the nonprofit pool. That really forces us to go into kind of a fasting choice of do I want to go into a pool that may be a little less competitive -- which sometimes the nonprofit pool is -- but be capped at only 10 percent of the tax credits, or do I want to go into the general pool and slug it out with the for-profit developers who tend to score better but I've got more credits to play with.

Other states don't do it that way. Oklahoma and Arizona are two states I've dealt with in the past; they do the nonprofit set-aside first because it's
supposed to be a minimum of 10 percent of the credits to
nonprofits, then they take all the remaining applications
and they shove them over into whatever pools they go into
after that, and they can compete in those other pools if
they didn't get awarded in the nonprofit set-aside.

That way you don't have a practical ceiling on
the nonprofit deals and you allow them to compete heads up
with the other deals in the other set-asides. I just
think that would probably be a better practice, and the
staff says that they can't administer that in their
comments, but it's done in other states.

And the last one is accessibility features in
townhome units. Some other people have talked about that;
I'll try and be brief.

The proposed rule says you have to have a
bedroom and a bathroom on the ground floor, and in our
townhome deal that we're building in Fort Worth, we put a
bathroom on the ground floor of all the units. The other
thing we're doing is we are, by choice -- because it
wasn't required with last year's rules or this year's
rules -- we have chosen to put all of our -- we don't have
any one-bedrooms, we've just got twos, threes and fours --
the two-bedrooms are where the issues are and we're going
to do 40 to 50 percent of our two-bedroom units as flats
so that we have an up and down as we go through the
development. It's a very nice development style.

In that case, those two-bedroom flats, 40 to 50 percent of them will be completely handicapped accessible with all the bedrooms and all the bathrooms and everything on the ground floor.

If you instead choose to say that you have to have one bedroom on the ground floor of every one- and two-bedroom unit, what's going to happen is that's almost an impossible style to build unless you just do total flats. It's very expensive to build, and I think what will happen is you will see no townhome developments being developed and so they then won't be available either to the low income community or to the handicapped accessible community.

So if I had to propose something -- and somebody else mentioned this, the three-story apartment units really only have one-third of the units on the ground floor -- what I would propose is, and I've kind of written the rule here, is that every unit type has to have at least one-third of the units of that unit type having a ground floor bedroom and a ground floor bathroom, and that way you've accomplished the same basic equation as you have in high rise apartments. We can still build that unit type, we can do the kind of up-and-down style that I'm talking about, and it works for everyone, and
hopefully that's a compromise that everyone could live with.

Those are all my comments. Oh, I have one other kind of technical change that I've listed on the bottom, and staff can take a look at that. There are some little technical things that need to be addressed in some of the rules as well. If you have any questions, I'll take those.

MR. CONINE: On your last comment about the townhome units on the third, third and third, what about the one-bedroom units specifically?

MR. VOELKER: We could do the same thing. We could put one-bedroom flats on the ends of the buildings; you could do a third of your one-bedrooms as flats and you just attach them on the ends of the threes and the fours.

MR. CONINE: But you're using up, obviously, more ground space when you do that.

MR. VOELKER: Sure you are.

MR. CONINE: And you say in your development you say you're doing two-bedroom flats, so you've got the up-and-down thing going on which even uses more ground space.

MR. VOELKER: Sure. We have lots of ground to play with.

MR. CONINE: Okay, thanks.
MR. JONES: Thank you, sir. Appreciate it.

The next speaker is Ms. Donna Lee.

MS. LEE: I'm waiting for the agenda item.

MR. JONES: Thank you. The next speaker is Mr. Sloan.

MR. SLOAN: Chairman Jones, a quick question first. I have a brief statement I'd like to make now and then come back and speak on the agenda item. Is that allowed?

MR. JONES: I tell you what, we've got so many speakers today.

MR. SLOAN: I'll postpone to agenda then.

MR. JONES: Okay, thank you, sir. Mr. Metz, Mr. Albert Metz?

MR. METZ (translated by Jennifer McPhail): Good morning. My name is Albert Metz. I'm with ADAPT of Texas, and I would like to say there needs to be more affordable integrated housing out there for people who are getting out of nursing homes and other institutions. Thank you.

MR. JONES: Thank you, sir. Ms. Jennifer McPhail?

MS. McPHAIL: I'm Jennifer McPhail and I'm also with ADAPT of Texas.

MR. JONES: I want to thank you for your help
today, too. Thank you very much.

MS. McPHAIL: No problem. I wanted to talk to you a little bit about this stuff that you're going to do on the QAP. I want to let you know that ADAPT supports your efforts to provide accessible, affordable and integrated housing. And when I say affordable, I mean affordable to people not only at the 30 percent median family income, but I want you to realize, in case you've forgotten, that most folks with disabilities don't even make that much. We're at like 15 percent of the median family income, so when you hear people talking about how hard it is to provide for folks at 30 and 40, think about those of us with disabilities who are still struggling just to have a place to live, just to be in the community and hopefully some day get a decent education and a good job and be a part of the community.

Many people find that because of a lack of affordable, accessible housing that they either have to go into institutions or flutter about amongst family and friends, and that's no way to live. Having to always live day to day not knowing what your future is going to be like is very unsettling and it's inhumane and it's discriminatory to not make sure that all your programs include those of us with disabilities.

Again, integrated housing is essential. We
wanted to let you know that we support removing special housing development requirements; we agree with staff that that needs to be removed, in other words. Special usually means segregated. People don't usually think of it that way, but it means lesser, segregated, something that the rest of the community doesn't want. So think of it that way when you're looking at that provision.

What it has done for us is created housing that only disabled people are expected to live in -- I mean, elderly and young both. A lot of times people don't think of elderly folks as needing access but they do. You don't need a certain access amenity because you turned 65; you need that because you're disabled. So we support making sure that everyone is in the community and no one is segregated.

Also, I wanted to talk to you about the 811 grants that you get from HUD. We would like to see that you only support scattered site or the projects that take tenant based rental assistance. What this does is ensure that you get a nice mix of folks coming into the project and it's not all a disability ghetto, in other words. Because what that does is it takes away from the community.

If we're going to start seeing that people with disabilities have the right to be in the community, then
we have to be seen as a valuable part of the community, and you can't be that unless you're somebody's neighbor and their friend and their co-worker and a fellow student. If you're not those things, then you're not part of the community. So we need to make sure that that sort of philosophy gets into any kind of housing programs that you support.

And also, we'd like to support the recommendations made for the townhomes. We think it's very important to have access in the townhomes because those are very popular projects nowadays, and we would hate to see that people with disabilities face discrimination on that level too.

Speaking to what the gentleman had mentioned, I don't know very much about townhomes, to be honest with you, but I would remind you actually that three- and four-bedroom that are affordable and accessible to people with disabilities are even more rare than the one- and two-bedrooms. So anything that you do, if it's on the first floor, be it a one- or two- or three- or even four-bedroom, we would like to see that there is some sort of access that meets the Fair Housing Standards in those townhomes because it's very important that people have choice.

We also have families; there are a lot of
people with disabilities who raise their own children, who have their own families, or become old and move in with their daughters and sons. As they're older, they become disabled and they need access too, and it's something that we've neglected in the past, and we need to start looking at townhomes as well as apartments and single family housing as something that people are going to want because we need variety as much as everyone else because we are such a diverse community. Not everyone is going to want and need the same things.

I do fine with a single one-bedroom apartment because right now I don't have anyone living with me, but eventually I hope to have a family and I would like to have a choice in what I can live in, and right now I don't have that luxury. There are people like my mother and father who are both disabled who eventually probably are going to need assistance from me or my younger sister. So what's that going to mean? Probably that one of them will be moving in with my sister or I, potentially, and right now we don't have a lot of choice.

My father actually did get sick recently, and we did look around for a two-bedroom place that was affordable to us, but there weren't very many choices. There were long waiting lists and so we sort of just decided to try his living on his own and seeing what
happened there. Now, eventually he may need to move in with me, but that will take time because there is such a huge demand because there are so few apartments that are affordable that are more than just one bedroom.

If it's hard for me in a large city, I know it's hard for other folks too. You know, it's like a needle in a haystack even more than your average single one-bedroom apartment. So we support the townhomes being accessible; we think it was a very progressive thing to do. I'm looking forward to it, actually, because a townhome sounds pretty good. Thank you.

MR. JONES: Thank you.

MS. McPHAIL: And also, I sort of spazzed this morning when I filled out my card, so let me leave with you our comments about your Low Income Housing State Plan, so that way you can have that. And we'll also be making written comments more formally, so you can expect that. Thanks very much.

MR. JONES: Thank you. We certainly appreciate you being here.

Next we have Ms. Susan Maxwell.

MS. MAXWELL: Hello, again, this morning. I'm Susan Maxwell from the Texas Council for Developmental Disabilities, and I wanted to reiterate our support of the QAP townhome qualifications that they have an accessible
bedroom-bathroom on the ground floor.

One point that hasn't been mentioned but a lot of people with disabilities require attendant care, either family, friends or hired attendant. Having another bedroom for them on the upstairs really helps a lot so that they can have that assistance they need.

Finally, I would like to express the concern about using Section 811 grants so that it results in an integrated housing setting for people and that it doesn't become segregated. And I don't want to beat any more dead horses here, so that's my comments. Thanks.

MR. JONES: Thank you. Appreciate it. Any questions?

Mr. Ricardo Calderon?

MR. CALDERON: Good morning. I'd like to speak at the time that the item is presented, item 2(d).

MR. JONES: Thank you, sir. Mr. John Hennesey?

(No response.)

MR. JONES: Mr. Walter Moreau?

Mr. Henneberger, I'm sorry, I just called you Mr. Hennesey, but that looks like a "Y."

MR. MOREAU: My name is Walter Moreau. I'm the director of Foundation Communities; we're a nonprofit affordable housing and family service provider here in Austin.
On the QAP, I wanted to make some general comments. I think the staff have done really an excellent job of implementing the Sunset Bill, finding compromises between different policy positions, overall developing a more transparent, a more fair, efficient allocation system that targets those in need, maintains quality, and preserves developer profitability.

I think everyone has agreed it's not perfect, there's lots more work to be done for the document next year, especially in terms of clarity and editing.

I really am excited and support the staff's decision to recommend a cap of $6,500 in credits per tax credit unit. Currently it says per unit, and I think the staff's intention, the Texas Affiliation of Affordable Housing Providers meant to say "per tax credit unit" so that mixed-income projects didn't get more credits inadvertently.

I think that it's really a very simple, very clear change that doesn't prevent projects from any part of the state, doesn't prevent developers from doing economically feasible projects, and will result in at least a 10 percent production in the number of units around the state. There are deals that are very expensive that could obviously claim more credits, but the question then is do they really need those credits to work versus
other projects which could go forward with less money.

There's been a lot of discussion about the income targeting, some concern from the finance community that a developer doesn't go in and defer their entire developer fee. I think there's consensus that that should be somehow limited at 50 percent, and some other speakers have some language that they've drafted to submit and that makes sense to me.

I think that's it. I want to compliment the staff, and thank you for your consideration of the QAP today.

MR. JONES: Thanks. Appreciate you being here. Mr. Henneberger?

MR. HENNEBERGER: Mr. Chairman, members. My name is John Henneberger. I'm the co-director of the Texas Low Income Housing Information Service; we're a nonprofit organization which represents the interests of poor people in housing.

I, too, am supportive of the draft that the staff has presented to you today for the Qualified Allocation Plan. It does not represent everything that I would have liked to have seen in the document; I would have liked to have seen more points for lower income units and a variety of things, but I understand the process of compromise, and I understand the process of accepting the
economic realities of the funds which are available. And I believe the staff has proposed a very wise and very careful and very balanced approach which meets the statutory obligations the department is under under the Sunset Bill in terms of the Low Income Housing Tax Credit Program.

We've worked pretty intensively over the past week with members of the development community and nonprofits and advocates in an attempt to understand each other's points and perspectives on this issue. I've come more and more to appreciate how good of a job the staff has done in balancing those issues in this draft.

Mr. Sugrue mentioned to you earlier that among a number of us we have a joint recommendation to offer the board regarding the percentage of developer fees and the way the developer fees could be applied to achieving points in the lower income process, and I trust that this is -- if I may present this.

MR. JONES: Sure.

MR. HENNEBERGER: -- that this is the language which represents what Mr. Moreau, Mr. Sugrue, Mr. Bishop, a number of us have tried to work on which I believe that they believe is economically feasible and will ensure that the program will be able to operate successfully in the financial markets and yet which still recognizes the need
for the department to very strongly and affirmatively
point in the direction of serving lower income people
under the statute.

With that, thank you very much, and again,
thank the staff so much for a remarkable balanced QAP.

MR. JONES: Thank you, sir. The next speaker
is Mr. Rowan Smith.

MR. SMITH: I'm going to wait for the agenda
item.

MR. JONES: Thank you, sir. The next speaker
is Mr. James Fisher.

MR. FISHER: Agenda item.

MR. JONES: Thank you, sir. The next speaker
is Mr. Brian Potashnik.

MR. POTASHNIK: Agenda item.

MR. JONES: Thank you, sir. The next speaker
is Mr. Mike Dunn.

MR. DUNN: I'm afraid I walked in late. I
could wait till the agenda item, too, unless you are on
that right now.

MR. JONES: We're not. Thank you, sir.

At this time I think I've called everybody that
submitted a witness affirmation form. Have I left anybody
out? Yes, sir?

MR. SHERMAN: I had asked to speak at the
agenda item, but because of time constraints, could I use my time now?

MR. JONES: You certainly may, Mr. Sherman.

MR. SHERMAN: Mr. Chairman, members of the board, my name is Bob Sherman. I'm here to speak on the Qualified Allocation Plan.

I have a draft that I think has been presented to you on 49.7(f)(7)(C) Low Income Targeting Points. I'm asking that no more than 5 percent of the tax credit units should be set aside for those tenants earning less than 40 percent of median -- and I'll kind of race through this -- and no more than 5 percent set be aside for those at 30 percent. And I say here to qualify for 5 percent at 30 percent of AMI, the applicant must show additional supplementary funding.

I think after hearing some of the very touching comments here this morning, I would recommend that the agency perhaps serve even lower income levels that I've mentioned here, but give us the financial tools to do it by putting things like caps on the amount of tax credits. When there are several other checks and balances in the application, you're asking for additional low income units with caps that are, in my opinion, impossible to meet in some areas, and I think you'll hear some other arguments about that today.
The draft Qualified Allocation Plan stated similar restrictions on deep rent skewing. It's an economic thing; it really has nothing to do with how to provide the units. We'd like to provide them; we have to have the financial tools and the financial protection to provide them.

This was a last-minute change of pretty major proportions; as opposed to adjusting the QAP, it completely changed it after the public comment period ended. The first draft limited the amount of deep rent skewing, and that was a pertinent one. This is a last-minute change and I think it's too large a change.

What we're concerned about, as well, is that if a developer thinks he can finance a property with 40 percent of the tenants at 40 percent of median and another 40 percent at 30 percent, you're going to get into a situation where it's not viable, once again, economically.

Also, in the past mixed income has been presented by the agency as the way to take this program to integrate people, and we've seen even more of that this morning at both the lower end, the very, very low end, and the higher end.

And I think that's the way this QAP should be developed, where you're bringing all sectors and not loading it up with any particular sector, not the high.
end, not the very, very low end, to integrate -- for want of better words -- the socioeconomics in this program.

We are concerned that public agencies, public housing agencies would be able to take advantage of such deep rent skewing because they have other subsidies at hand available to them anyway, and that would really put us, as private sector developers, in competition with the housing agencies. And I don't think that's what this program was designed to do. I think it's something that has to serve an area in between and some at the bottom and some at the top -- for want of better descriptions -- and that's what I've put here in terms of an amendment which I think should be slightly modified, as I said previously.

If you have any questions?

MR. JONES: Thank you, sir. Appreciate it.

MR. BROTHERS: Mr. Chairman, I also signed up to speak at the agenda item and I was wondering if I could speak now.

MR. JONES: That would be fine. Your name, sir?

MR. BROTHERS: My name is Doug Brothers.

MR. JONES: Thank you, Mr. Brothers.

MR. BROTHERS: Thank you, Mr. Chairman and members of the board. My name is Doug Brothers and I represent Ken Mitchell and his project, Grand Texas
Seniors. Mr. Mitchell had a family emergency yesterday; he wanted to speak to you directly but he couldn't be here, and so he asked me to speak on his behalf.

MR. JONES: Excuse me. For some reason I don't have your witness affirmation form. Does somebody have it? If you would, if you would just fill one out as soon as you get through.

MS. GRONECK: He had one; we'll find it.

MR. JONES: I'm sorry, I can't find it; I apologize.

MR. BROTHERS: Thank you, sir. I'm speaking here to urge approval on the merits under item 2(a) of the Low Income Housing Tax Credit Application Number 1007, Grand Texas Seniors community. It is the highest scoring project for which we understand allocations are available.

I also want to speak to a recent new concern, apparently raised by staff, having to do with the issue of stabilization or lack of stabilization of an adjacent project which apparently, in staff's eyes, resulted in a reduction in priority for this project by staff.

As stated in my letter to Mr. Walker, the adjacent project in question, Country Lane, is a bond project; therefore, the section of the QAP relied upon by staff, Section 50.7(g)(2) doesn't even apply to the analysis. That section addresses stabilization in Tax
Credit programs and the adjacent project in this case is a bond project to which only subsection (3) would apply.

Moreover, and I think even more importantly, the market study on which staff relies predicted full occupancy of Country Lane by May of '01; the prediction proved to be well founded; we have demonstrated 100 percent occupancy on this Country Lane adjacent project, and in addition, a substantial waiting list. Therefore, that project is and has been stabilized even if the section relied on by staff applies.

For those reasons we urge approval, as a matter of high priority, on the merits and allocation at the earliest possible time of tax credits to the Grand Texas Seniors project.

MR. JONES: Thank you, sir.

MR. CONINE: I'm misunderstanding. You're saying it's 100 percent occupied and staff said it wasn't stabilized. Was there a timing issue here?

MR. BROTHERS: I'm not clear in the sense of what the basis of staff's suggestion was that it wasn't stabilized, and I don't know if that's what they're relying on, but it is 100 percent occupied, has been for some time, and has a waiting list at the current time.

MR. CONINE: Okay, thank you.

MR. BROTHERS: Thank you.
MR. JONES: Thank you, sir.

MR. LYNCH: Mr. Chairman, do you mind if I speak too?

MR. JONES: We will let you do it.

MR. LYNCH: I was going to speak at the agenda item.

MR. JONES: I understand that, and I will say this to everybody, sometimes I think for everybody's travel plans, if we do more at the first, it helps everybody. Feel free to, Mr. Lynch.

MR. LYNCH: Thank you. Chairman Jones and board members, first I'd like to say that I commend the board and the staff on the 2002 QAP which is the item that I wanted to speak on today that came up, especially considering Senate Bill 322, which had, in my opinion, maybe some paradoxes in it when you start talking about that you want quality and you want low income tenant targeting to 30 and 40 percent, people who make that amount of money, and the diversification and the size of units.

But with that, I really had -- if I can just pass these out. I had three specific issues that I'd like to talk about. And I would like to think that I'm going to sit here and I'm not going to try to tout myself or my developments; I really want to try to talk about tenants
and what it is in the state of Texas to have real
diversification issues and be able to have quality, and
this is my opinion.

I think that sometimes some amendments are
offered because the developer or an advocacy group targets
what they want, and it's for their own concerns and not
necessarily considering tenants across the whole state of
Texas. The issue that I probably want to bring up first
is quality. I have two requests on that; it just had to
do with specifications which I hadn't seen any of those,
nobody has mentioned those, but one of them had to do with
ceramic tile floors which got scratched off the thing for
two points, and the staff's comments on that was that
someone had said it's a liability for the elderly and that
it wasn't a quality issue.

They also struck out things like crown molding.
Crown molding I can understand; crown molding is what you
would call a cosmetic item. I like it in my house but it
doesn't necessarily make the quality of life better. But
if you start considering things like ceramic tile floors
where a developer or a builder is willing to take part of
their fees or profits or whatever they do and install
things like ceramic tile floors, I think they ought to be
awarded points for that.

The issue that it's also a very quality of life
issue for the tenant. The tenant in that particular case, you could go put vinyl flooring in some of these units, something like a Crown Bay [phonetic]. For as much as 90 cents a square foot, you could put ceramic tile floors in the kitchen and the dining and the wet areas. It's going to cost you $2.50 or $3.00 a foot. And the difference is if they drop a plate on something like vinyl flooring, it scars it, and then when they move out, what do you do? You say, well, you've created this problem so you're going to have to pay for the vinyl floor. You don't have that issue if you have ceramic tile floors; it's there for the duration, it's there for the life of that development.

There was another issue there where they gave the same amount of points -- and I would just ask you to consider this just from a practical standpoint -- they gave the same amount of points for Hardiplank siding as they do for masonry or stucco, and I think the goal of this department and of housing as a whole -- I grew up very poor, I know what it is to be very, very poor -- I don't think that you ought to be able to drive along and see a development and say, Hey, that's a low income housing development.

I think they ought to be able to live in a community and it be separate and nobody know whether or not it's low income; that ought to be the goal of every
person out here is to say, Hey, you know what, I want these people to feel as good as I feel; I don't want to build nothing that I wouldn't live in myself. And I wouldn't build, I'm telling you right now I would not build a development that was just straight siding all the way around it and square boxes and people drive along and say, Hey, that's a low income housing development.

I don't think that it's to the benefit of the people who live there. It classifies them, they feel that; the next thing you know they say we live in the projects, they don't live in the Pegasus or whatever the name of the development is going to be, they don't live in someplace that they call home, it's the "projects." And that shouldn't be the goal of this department to do that. I think there ought to be a differential in points awarded if they're going to do that, so my request is that you strike out siding, that you shouldn't get that. Masonry is masonry, and you can define masonry by any building standards, masonry is going to be stucco -- and usually you have to define that -- or it's going to be brick. And that was my opinion.

The last issue I wanted to talk on, and it's one with all this paradox that you have in trying to get quality and size and diversification and low income targeting, one thing in the QAP -- and we've talked about
things like targeting low income, but you know what, you have the option there. The QAP doesn't say you have to target it, so you have the option of either taking those points or not and trying to go for it. And there's people that want to change that; if I could, I'd write it a different way too, but that's not the deal.

The one thing that I think totally affects the ability to develop the same unit, I think whether you live in South Texas in Laredo or whether you live in Dallas, Texas or whether you live in Tyler or whether you live in Odessa or San Angelo, you ought to be able to live in the same kind of house, the quality ought to be the same. And for people that would say that we limit this number to $6,500 a unit on a tax credit unit, I would challenge any developer that's done that to tell me that they built the same unit in San Angelo, Texas, in Dallas, Texas, in Tyler, Texas, in Austin and in San Antonio or Houston or Laredo. They haven't done it; you cannot do it; you can't build the same unit.

The QAP sets out a way to monitor that. In other words, we're coming here with these numbers that say $6,500, but in fact, the QAP allows for the staff to underwrite these developments and make sure that these developments score. So if a unit scores and it's justified to have $7,500 for that tax credit unit, let it
have the $7,500.

Just for a specific unit, I know that in Tyler, Texas there's a development there that I was the contractor on that was built by Mary May and Dan Elkin, they were the developers; I built that development. That development got $7,514 a unit in tax credits. That is the exact same unit that's built in Weatherford, Texas, that I built and I built it for $6,500 a unit. On the development that they had, they ended up deferring 90 percent of their developer fees; on the unit that I built in Dallas, I ended up receiving about 25 or 30, developing about 75 percent of it and deferring that much.

All I'm saying is that there's a difference in quality across the state. You've already got an issue there that covers that. In other words, when the staff underwrites it, they can say, Hey, it's either justified or it's not justified. And I would just ask you to really consider that. I mean, I know that there's a lot of things that have been thrown out here before you today, but in my opinion, that's the one thing in this issue, in this whole QAP that would say to me as a developer: Hey, you know what, I want you to build a little cheaper house over here for these folks than you do for somebody over here. And I think that's wrong.

I think anything in this QAP that would limit
our ability as developers to build the same quality
development in South Texas as we would in Dallas, Texas is
wrong and it's not fair to the tenants that are going to
live in those units. I think every one of them deserve
the pride and the quality of life and feel like that, Hey,
you know what, this is my home. I said to you before,
that little kid that came out the door and said, Hey, have
you seen my brand new house?

I think that ought to be everyone of our goals,
and that's my goal. I'm pretty impassioned about this, as
you can tell, but I would ask you to really consider that.

MR. CONINE: Mr. Lynch, could I ask a question
about the exterior masonry requirement? I'm a little
confused on what you're asking us to do here, because in
some instances, the Southwestern style, for instance, has
100 percent stucco on the outside which is prevalent in
probably southern Texas but also we want the capacity to
have that architectural style anywhere in the state that
the market demands it. One hundred percent cement board
product, I can think of a New England style with green
shutters on it and that sort of thing.

What are you asking us to do relative to the
points on the exterior masonry? Are you wanting it to be
75 percent brick for sure and then have 25 percent
something else, or are you wanting the flexibility to have
Southwestern style units or New England style units?

MR. LYNCH: I think the point differential should simply be based on the amount of money and the quality that you build. And I understand what you're saying, Mr. Conine, that you have different styles, and you talked about the New England style -- it's not real popular in our state, but I understand that. The situation simply being this, that when you have that New England style, you have a lot of different architectural appeals that go with it that's not required. Generally you have real high pitched roofs, you have a lot of gingerbread style that kind of goes with that.

What we've done here -- and what happened was there were some comments that came in and the QAP was changed; initially it was two points for 75 percent masonry or stucco, and masonry was defined as brick or stucco which are comparable in price. Then what kind of got thrown into was all of a sudden cement board gets the two points too, and all I'm saying is that it shouldn't receive the two points because what it allows you to do is just go out there and build a square box with siding which is one-third the cost, if not less, of what masonry is.

MR. CONINE: Most cities that I'm familiar with are saying that the cement board equates to the masonry requirements in the cities that have their own sets of
rules and regulations. What you're saying is we need to make sure there's a differential in product there and not just allow 100 percent siding all over the building and calling it 75 percent masonry.

MR. LYNCH: That's exactly what I'm saying, Mr. Conine. And you know, my viewpoint is I think if you build those, I think people tend to drive by them and say, Hey, there's a low income housing project. And I think that we ought to try to build something that doesn't have that stigma on it.

MR. CONINE: Thank you.

MR. JONES: Mr. Donald Pace?

MR. PACE: Mr. Chairman, my name is Donald Pace. I represent Merit Housing; we're a developer out of Florida that's been building in Texas for the last two or three years, and we have a couple of concerns.

The first one is found on page 70 of 236, it's Exhibit 105-E. Your experience, they've changed from 100 to 150 and in the rural from 36 to 75. I don't understand why you want to make a change. The difference between 100 and 150, if you were going to make a change, you need to make a big change because most contractors have developed more than 100 units, more than 150 units, so I really don't see a need for the change.

The change in rural is huge, from 36 to 75.
We're doing most of our development in rural areas, and the rule is that 76 units is the most you can build there, but in most of the rural areas, you can't build 76 units, you're restricted to 35 or 40. So I think what they had before, the 100 and 36, is fine and should be left alone.

The other thing is -- talking about what Glenn just talked about -- the $6,500 rule. You've already got things in place to check that, and unless you add the other 30 percent to it, then I don't think you're being fair to rural Texas especially because there's a lot of areas out there that it's not going to get built because of that.

You've got your cost per square foot that limit you to how many credits you get, and if you're in a QCT or DDA, you're out if you keep this rule in, $6,500.

Appreciate it.

MR. JONES: Thank you, sir. I think I've called all the witness affirmation forms.

With that, then we will move to our executive session, and let me say this, at this point the board will go into executive session; after the executive session, we'll take our lunch break and we will come back here. I would anticipate, the best guess I can give you as far as timing is one o'clock, give or take something. We'll probably be out of executive session and be back here.
after our lunch break. So that's the best warning I can give you on the time.

With that, the board will go into executive session. On this date, November 14, 2001, at the regular board meeting of the Texas Department of Housing and Community Affairs held in Austin, Texas, the board of directors adjourned into a closed executive session, as evidenced by the following: The board of directors will begin its executive session today, November 14, at 11:33 a.m.

The subject matter of this executive session deliberation is as follows: personnel matters; personnel matters on the executive director position and applications; litigation and anticipated litigation (potential or threatened under Section 551.071 and 551.103, Texas Government Code Litigation Exception); consultation with the attorney pursuant to 551.071(2), Texas Government Code; consultation with attorneys concerning litigation on Cause Number GN102058, Kenneth H. Mitchell, the Grand Texas, Ltd., and One Buena Vista, Ltd. v. Texas Department of Housing and Community Affairs, in the 53rd District Court of Travis County; number 6, discussion of any item listed on the board meeting agenda of even date.

At this point in time, we will go into
executive session. Thank you.

(Whereupon, at 11:33 a.m., the meeting was recessed, to reconvene this same day, Wednesday, November 14, 2001.)
MR. JONES: I will now call the meeting back to order. The executive session of the board of the Texas Department of Housing and Community Affairs was completed on November 14, 2001 at 12:50 p.m. The subject matter of this executive session deliberation was as follows: personnel matters, action taken: none; personnel matters on the executive director position and applications, action taken: none; litigation and anticipated litigation (potential or threatened under Section 551.071 and 551.103, Texas Government Code Litigation Exception), action taken: none; consultation with attorney pursuant to 551.071(2), Texas Government Code, action taken: none; consultation with attorneys concerning litigation on Cause Number GN102058, Kenneth H. Mitchell, the Grand Texas, Ltd., and One Buena Vista, Ltd. v. Texas Department of Housing and Community Affairs, in the 53rd District Court of Travis County, action taken: none; discussion of any item listed on the board meeting agenda of even date, action taken: none.

I hereby certify that this agenda of an executive session of the Texas Department of Housing and Community Affairs was properly authorized pursuant to Section 551.103 of the Texas Government Code, posted at

ON THE RECORD REPORTING
(512) 450-0342
the Secretary of State's Office seven days prior to the
meeting, pursuant to Section 551.044 of the Texas
Government Code, that all members of the board of
directors were present with the exception of Mr. Gonzalez,
and that this is a true and correct record of the
proceedings pursuant to the Texas Open Meetings Act,
Chapter 551, Texas Government Code, as amended. It will
be signed by myself as chairman of the board.

I will next call the board back into open
session. Mr. Bogany?

MR. BOGANY: Mr. Chairman, I'd like to make a
motion. I move that the board accept the Plaintiff's
offer and approve the settlement of this case as follows:
this settlement is done due to uncertainties of
litigation and does not amount to the admission of
wrongdoing of any kind by the staff or the board. The
board approves the application of Grand Texas, Ltd., Inc.,
for the Grand Texan Seniors Community in McKinney, Texas
in the amount of $357,087.

The executive director and staff will take the
necessary steps to carry out this action and settlement.
The executive director is authorized to sign the
settlement papers that will finalize this action. The
board believes this action does not violate any provision
of the QAP under the specific facts of this case.
MR. CONINE: Second.

MR. JONES: A motion has been made and seconded. Discussion? Hearing no discussion, are we ready to vote? All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, please say nay.

MAYOR SALINAS: Nay. I don't agree with it.

MR. JONES: The ayes have it, motion carries.

That will bring us then to the next item on our agenda. Excuse me, I skipped one, didn't I? The presentation, discussion and possible approval of the minutes of the board meeting of October 17, 2001.

MR. CONINE: Move for approval.

VOICE: Second.

MR. JONES: There's a motion made that it be approved; it has been seconded. Further discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The ayes have it; the motion carries.
We'll then turn to item 2, the presentation, discussion and possible approval of Low Income Housing Tax Credit issues. I have three people that would like to speak on item 2 -- at least they just put down item 2 so I'm going to call them at the beginning of it. The first one is State Representative Price.

MR. PRICE: Thank you very much, Mr. Chairman. Good afternoon, members of the board. My name is Al Price and I'm here on behalf of the Southeast Texas Community Development Corporation.

I'm here because we submitted an application for the Spindletop Estates; our application was submitted under the 2001 allocations and when we didn't get funding, we were placed on the waiting list. We subsequently received a letter informing us that the staff had recommended that we be funded at a lesser rate and we were placed on the agenda for September. We were removed at the meeting here in September and were placed on the October agenda, and we were removed once again, and now we're on the November agenda.

The original letter notifying us that we had been awarded, in our judgement, was the correct decision. The later action came and it combined us the 2001 allocations with the year 2000 allocations and we were moved down on the priority list, and it seems to us that
the rules really were changed after we had made our
submission.

The 2000 allocation should not have been
applicable for anything that we applied for, and my great
concern is that the rules were changed after our
submission and that we have been wrongfully denied, and I
would like very much to see this corrected.

Mr. Bob Sherman, my partner, has something to
say about this same thing, and I would ask that you please
allow him.

MR. JONES: Mr. Sherman, have you already
spoken?

MR. SHERMAN: Not on this subject, sir.

MR. JONES: Okay. I'm going to violate my own
rule but if you would be brief. I mean, we have so many
speakers that I really can't let people speak more than
once.

MR. SHERMAN: Less than a minute.

MR. JONES: Okay, thank you, sir.

MR. PRICE: Thank you.

MR. JONES: You're welcome.

MR. SHERMAN: Mr. Chairman, ladies and
gentlemen of the board, my name is Bob Sherman. The issue
that Mr. Price brings up -- and I'm his consultant in this
case -- is that we received a September 10 memorandum,
using logic taken from the 2001 and the 2002 forward commitments as logic for recommending our property in Beaumont, Spindletop Estates, 028. In October we were taken off the agenda, October 9. We received another memorandum which was puzzling to us because it referenced the year 2000 Allocation Plan and it said, in effect, that when you combine the 2000 and the 2001 allocations and consider the regional allocation formula, Spindletop Estate was then moved into the number three position.

My position is that the 2000 application, number one, there was no regional allocation formula in 2000 so how can we quote it now; and number two, we applied under the 2001 rules, not under the 2000 rules -- they had expired. To make a long story short -- and I promise to be brief -- I think the first logic, as often happens with any kind of logic, the first logic was correct, and I think Mr. Price's development should be recommended as it was reinstated in that September 10 recommendation. Thank you.

MR. JONES: Thank you, sir.

MR. JONES: Mr. Fisher?

MR. FISHER: I'll wait until item 3, Mr. Chairman.

MR. JONES: Item 3, okay. Mr. Potashnik.

MR. POTASHNIK: Good afternoon, Board Chair,
ladies and gentlemen of the board. My name is Brian Potashnik; I am the president of Southwest Housing Development; we are the developer of the Hillside and Oak Hollow Apartments being considered today in items 2 and 3.

I would just like to point out that although we have heard from both very positive levels of support from State Representative Hodge -- who we're very fortunate to have as our state rep in Dallas, who has been a big supporter of affordable housing; support for both developments from the mayor of Dallas, the city councilmen from the district that we are doing the developments in; the local community development corp that is very active in the housing policy for the area in which we're doing the developments; the state senator and other concerned neighborhood groups who are actively involved in the process of us getting the neighborhood support necessary to move forward with these transactions.

I would like to address the concentration issue, what one of our other developers of affordable housing brought up as an issue. Although I'm surprised that another developer would come out with a NIMBY issue, if you will, with respect to housing development, I will address the issue that was brought up as it relates to concentration.

What Southwest Housing is doing in these
neighborhoods is putting in approximately $30 million worth of economic development. Areas that have been depressed for a number of years that we will now see a much higher quality standard and a much better quality of life for the people living there.

There is no question, based on independent market studies and the staff review that has been made on both of these developments, that there is a very strong market for good, quality, affordable housing in these areas. Having said that, I will make myself available, as the developer of these two projects, to answer any questions the board may have with respect to approval of funding for these two developments. Thank you.

MR. JONES: Thank you, sir.

Those are the speakers I had on item 2(a) or the beginning of item 2. Ruth, would you like to present item 2(a) at this point? If we need to skip it and come back to it, we can do that too.

MS. CEDILLO: The department has presented a list of Low Income Housing Tax Credit applicants for 2001. We were requested to prioritize the projects on the waiting list for the Low Income Housing Tax Credit Program, and the staff has underwritten the project and submitted a list to the board. We have approximately $531,982 available and the staff developed the waiting
list using the regional allocation formula, development set-asides, development scores and underwriting recommendations in order to develop the priority list.

We have Mission Oaks as number one, Laredo Viejo Apartments, and Laredo Vista as number three; however, if one of the two were selected, it would cancel out the other, and Laredo Viejo is before Laredo Vista. And then we have Spindletop Estates, Park Meadows, Bexar Creek, Pueblo Montana, Winchester Lake, Burgundy Palms Apartments, Ennis Estates, and Grand Texas Seniors which has been settled through the board's decision to settle the case.

So this is the priority list for the 2001 Qualified Allocation Plan, and in the settlement agreement, it would take $357,087 to settle the case, and that would leave approximately the amount that would be required for Mission Oaks which is the first project on the list.

MAYOR SALINAS: So that means out of the $531,900 you have to deduct what you just settled a few minutes ago?

MS. CEDILLO: Yes, sir.

MAYOR SALINAS: So we are short $350-some-odd thousand on tax credits that some of the members here are not going to get today because of the settlement of the
lawsuit. Right?

    MS. CEDILLO: Correct.

MAYOR SALINAS: Am I correct?

    MS. CEDILLO: Yes, sir.

MAYOR SALINAS: So the only ones that are going to get any tax credits here today is going to be Mission Oaks?

    MS. CEDILLO: Yes, sir.

MAYOR SALINAS: And who else?

    MS. CEDILLO: Just Mission Oaks.

MR. CONINE: Mr. Chairman?

    MR. JONES: Yes.

    MR. CONINE: When this issue came up last month, I had asked for an expanded -- we got the regional allocation breakdown on what we had done but I had asked for what we had done in our set-asides, both rural, nonprofit and so forth, for that to be split out, and I don't see that in the information that I have here.

    And Ms. Cedillo, I was wondering if you either have that information or maybe Charles might have it.

    MS. CEDILLO: Charles could provide that information.

    MR. NWANERI: Good afternoon. My name is Charles Nwaneri; I'm the acting manager for the Low Income Housing Tax Credit Program.
I do have a copy of our spreadsheet showing how the 2001 tax credit allocation was broken down between the set-asides. Excluding the $531,982 that we're talking about today, what we had allocated so far represented 64.25 percent for general set-aside, 13.98 percent for nonprofit, 7.38 percent for elderly, 12.17 percent for rural and prison set-aside, an additional 2.22 percent for Texas rural rental housing development, and those two combined together to give 14.39 percent for the rural set-aside.

MR. CONINE: Hang on, I missed something there. I thought you said rural was 20.17.

MR. NWANERI: The rural is set aside at 15 percent, but 25 percent of that 15 percent goes to the Texas RRHD and those were the two figures. When I combined those two, we have a total of 14.39 percent for rural.

MR. CONINE: So we're, in essence, short on rural.

MR. NWANERI: We're slightly short on rural and much more short in the elderly set-aside.

MR. CONINE: And what was our target there? Refresh my memory.

MR. NWANERI: For rural, our target is 15 percent, and for elderly, our target is 10 percent.
MR. CONINE: So if we had an elderly rural project, it would satisfy a little better in these categories -- forget the regional set-aside for just a minute -- just in the basic set-aside numbers, the best combination of all worlds would be an elderly rural project.

MR. NWANERI: That's correct.

MR. CONINE: And our nonprofit set-aside, our target was 10 and we're at roughly 14?

MR. NWANERI: Yes.

MR. CONINE: So that helps me answer that question, and I'll get back to the one that Ms. Cedillo pointed out, Mission Oaks. It's a rural project -- is that correct, but a rural family project?

MR. NWANERI: Yes.

MS. CEDILLO: And it's also an 8(b) which was under-funded.

MR. CONINE: That's all the questions I have for right now.

MR. JONES: Further discussion?

MS. CEDILLO: Do we need the exact figure on the amount that goes to Mission Oaks? Charles, correct me if I'm wrong. It's $174,894.

MR. NWANERI: $174,895; that's correct.

MR. CONINE: Excuse me, one more question. Do
the numbers you quoted me include the forward commitment?

MR. NWANERI: No, sir.

MR. CONINE: The chart I'm looking at in your memo has the forward commitments included in the ultimate allocations, the regional breakout. So in order to get apples to apples, I need to have the same numbers that you've just quoted as percentage targets in the set-aside, have the forwards in there.

MR. NWANERI: The forward commitment would be included in the numbers and the figures I gave you would be the forward commitment, the 2001 forward commitments, not the forward commitment we made this year for 2002.

MR. CONINE: Is that what I'm looking at in the chart that you have in your memo under the Forward Commitment column?

MR. NWANERI: In the Forward Commitment, yes, sir.

MR. CONINE: That's for '01, not '02? I believe those are for '02, if my memory serves correct. The reason we're including '02, my recollection is here, for the other board members is because those are under the same rules that '01 is under, so you can't really include '01 forwards because they're under the 2000 rules. I'm just making sure I clarify for everybody what I'm asking.

MR. NWANERI: If you give me just one minute.
MAYOR SALINAS: Would you all have any problems if we go ahead and make a motion to approve this Mission Oaks in Refugio, Texas?

MR. CONINE: Yes, I guess I would.

MAYOR SALINAS: And then you could figure out how much you have left.

MR. CONINE: Put it on the floor, that's fine.

MAYOR SALINAS: I move we go ahead and approve Mission Oaks.

MR. BOGANY: Second.

MR. JONES: The motion has been made and seconded; the motion is on the floor and we're discussing the motion. Do we want to vote?

MR. CONINE: Well, I'd like to know the answer to my question.

MAYOR SALINAS: The thing is I'm trying to get this approved before we lose it, before he gives me something else. You know what I mean, Mr. Conine? Being as we're so short here, and 8(b) is in Refugio, and I don't know if they're here but I'm trying to make the motion to see if we can save that little project. We tried to do it the last time, and now with the motion you made a few minutes ago about settling that case of $300-some-odd thousand, it's not very much left, so I would like to get it over with and just take care of those folks.
in Refugio.

I mean, we still have a little few tax credits left from 200-and-some-odd thousand, but I think staff has recommended, and I think Ms. Cedillo made it very clear that Mission Oaks out of Refugio would get it.

MR. NWANERI: The figure that we have shows that the forward commitment, the 2000 commitment to 2001 as forward commitment, and those were the figures that I represented in the chart that you have.

MR. CONINE: So the chart under the Forward Commitment column is '01 forward commitments, not '02?

MR. NWANERI: '01, not '02.

MR. JONES: We have a motion on the floor and it's been seconded. Is there any further discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, please say nay.

(No response.)

MR. JONES: The motion carries. I believe that completes our consideration of item 2(a), so we then move to item 2(b) on the agenda.

MR. NWANERI: These tax-exempt bonds have received some support earlier on today and some
opposition, but we have four of them on the agenda for
your consideration today for issuance of determination
notice. The first one is Hillside; this is a development
in Dallas, Texas and TDHCA is the issuer of these bonds;
it's a family development. Staff is recommending $837,364
which is the amount that is recommended by underwriting.
This project would develop 236 units and the average
square footage is about 1,033 with a debt coverage ratio
of 1.07.

At the time of application, we received an
approval from the city as this adds to their consolidation
plan. Staff is recommending approval from the board for
allocation of $837,364.

MR. CONINE: Move approval for item 2(b)
Hillside Apartments, number 1406.

MR. BOGANY: Second.

MR. JONES: We have a motion made and seconded.

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

(A chorus of ayes.)

MR. JONES: Opposed, nay.

(No response.)

MR. JONES: Motion carries.

MR. NWANERI: On the second one in Dallas, this
is the Oak Hollow development. This one is also producing
153 units. The recommended amount here is $588,062; it has been underwritten; again, TDHCA is the issuer. We also received an approval from the city by signature to the consistency with local consolidated plan on this development.

We're also recommending an approval from the board for issuance of determination notice in the amount of $588,062 to the Oak Hollow development.

MS. ANDERSON: So moved.

MAYOR SALINAS: Second.

MR. JONES: There's a motion made and seconded. Any discussion on the motion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries.

MR. NWANERI: The third one is the Buena Vista Seniors community. This application was received in the regular round in 2001 and it was not awarded credits, so it was submitted under the 4 percent credit, and the issuer is North Central Texas Housing Finance Corporation. It's an elderly development in Cleburne, Texas, and underwriting has recommended an amount of $750,851.
Program staff is recommending $739,295 which is the amount that the applicant has requested. And this development will produce 230 units and it received approval from the city in the rural consolidation plan and staff is recommending approval to the Buena Vista Seniors community.

MR. CONINE: Move approval.

MR. JONES: We have a motion. Is there a second?

MR. BOGANY: Second.

MR. JONES: The motion has been made and seconded. Any discussion on the motion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries.

MR. NWANERI: And finally the Riverside Meadows here in Austin. This development is proposing to develop 240 units and it went favorably at the DCI of 1.10. We received approval from the city in a rural consolidation plan, and the recommended amount for this is $790,031, and the issuer is Austin Housing Finance Corporation. It is a family development and staff is recommending approval of
this development.

MS. ANDERSON:  So moved.

MR. JONES:  We have a motion.

MR. CONINE:  I'll second.

MR. JONES:  We have a motion and a second.

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

(A chorus of ayes.)

MR. JONES:  All opposed, nay.

(No response.)

MR. JONES:  Motion carries.  Item 2(c).

MR. NWANERI:  The last board meeting you gave me a break by approving all these in total.  I don't know if you want to help me out today or if you want me to go through them one at a time, for the interest of time.

(General laughter.)

MR. CONINE:  Just give us a two-minute version on why we're extending deadlines.

MR. NWANERI:  If you decide to approve these in total, I would want to make a comment on the development in Eagle Pass.

MR. CONINE:  Wait a minute.  Are we on 2(c)?

MR. JONES:  Yes, we're on 2(c).  I think the question was why do they need an extension.

MR. NWANERI:  Eban Village development has
received an extension before. This one, they're asking now is to extend the placement in service from October 2001 to December 28, 2001, so it's a couple of months' extension. From the letter we have here, the developer says in the letter they need a little extra time to complete placing all the units in service. Most of the units, as they said here, have been placed in service, but they felt they needed a little extra time.

MR. CONINE: Move approval.

MS. ANDERSON: Second.

MR. JONES: Are we moving for both of them or just one of them?

MR. CONINE: One of them.

MR. JONES: We have a motion with regard to Eban Village Apartments, Phase 11 in Dallas, Texas; it's been seconded. Further discussion on the motion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries.

MR. NWANERI: On the Roseland Townhomes, it's also an extension for placement in service. They have already received a temporary certificate of occupancy on
this and they need, again, just a little extra time of 30
days to complete all their units and place them in
service.

MR. CONINE: Move approval.

MR. BOGANY: Second.

MR. JONES: A motion has been made and
seconded. Further discussion? Hearing none, I assume
we're ready to vote. All in favor of the motion, please
say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries, which will bring us
to item 2(d) of the agenda. Mr. Howison, would you like
to speak?

MR. HOWISON: I'm part of an organized sort of
presentation, if that's possible. The names on there are
Sloan and Brown.

MR. JONES: I've got them. Sloan, Brown,
Howison, come on down. I would make a comment that it's
late in the day.

MR. HOWISON: We're going to try and be very
brief. We will not repeat, I hope.

MR. JONES: Could you just tell us your names?

MR. SLOAN: My name is Lee Sloan.
MR. HOWISON: My name is Jack Howison.

MS. LEE: Donna Lee.

MS. BROWN: Dora Brown.

MS. SEARLES: And Anna Searles.

MR. JONES: Thank you. And you're speaking on which project?

MR. SLOAN: We're speaking with regard to item 2(d), TDHCA Number 00062, King Fisher Creek.

MR. JONES: Thank you.

MR. SLOAN: I'd like to start off with some introductory comments. Chairman Jones, board members of TDHCA, my name is Lee Sloan; I'm the president of the Kensington Park Homeowners Association here in Austin.

We're here today to voice serious concern about the King Fisher Creek project, number 00062, item 2(d) on your agenda. These are concerns that touch on matters of misrepresentation of facts, manipulation of the system, and failure to comply with specific requirements of the application process.

We're joined in this with individuals and neighbors in the neighborhood, with local neighborhood associations, with SCAN which is the Southeast Corner Alliance of Neighborhoods which covers all of the southeast Austin 78744 area, and also with the City of Austin Planning Commission and the Austin City Council,
all in opposition to this project.

There are a number of speakers here who will address specific issues, but for the record I'd like to state the following: We support well thought-out affordable housing but 00062 is not one of them; this is an ill-conceived project on an ill-advised site. We strongly urge you to reject their application for extension.

And now on to the specific issues, there are five of these that we would like to touch on. First is we have questions about the competitive nature of the application; second, there are concerns on the credit commitment requirements; Phase 1 environmental assessments; questions about safety; and finally, questions on the track record of the developer-manager in construction and managing of other LIHTC projects.

The first speaker will be Donna Lee.

MS. LEE: Chairman Jones and board members, good afternoon. My name is Donna Lee and I am the president of SCAN, the Southeast Corner Alliance of Neighborhoods, representing the 78744 zip code area here in Austin.

The original site location on the application filed with TDHCA for this project was incorrect. This may have misled staff in their assessment since the incorrect
site was relatively flat and had no significant
environmental features, unlike the actual site. I can't
help but wonder if the developer is playing a shell game
or attempting a bait and switch.

The incorrect site plan depicted a low-density
development evenly spread over the site which was noted
favorably by staff review. Since then we can document at
least four different site plans, ranging from seven one-
and two-story buildings to two three-story buildings.
These are not minor changes; they constitute significant
deviations from the original site plan, both as to layout
and type of structure; however, to the best of our
knowledge, there has been no amended site plan submitted
to TDHCA.

Additionally, the Phase 1 environmental site
assessment has not been carried out for a portion of the
proposed site.

Since the LIHTC Program is a competitive
program, the submission of incomplete or incorrect
documentation raises a basic and fundamental issue of
fairness. Incorrect information provided by an applicant,
whether intentional or accidental, gives that applicant an
unfair advantage which undermines the process, and I
believe could allow an unscrupulous developer to corrupt
the system and place projects that do not benefit the
targeted community and fail to further the goals of TDHCA. For these reasons alone, we are opposed to an extension of this time. Thank you.

MR. SLOAN: I would like to speak to the credit commitment requirements and have a handout of the credit commitment document.

In reading the credit commitment document, there were several troubling items that I'd like to bring to your attention. First, let me point out that the King Fisher site consists of two tracts of land. First, we'd question the timeliness of the purchase of the second tract of land. It was purchased, according to a letter that we have, to help meet the 10 percent carryover requirements. This purchase occurred in December of 2000, yet if you'll note on page 2 of this document I've handed you up, there's a requirement that all documents relating to the 10 percent test including all expenditures must be submitted and made before October 13, 2000.

It appears to us that this purchase and notification to you was two months in arrears, yet we find no record in the file that there was an extension granted for this. We question that.

The second point is much more troubling. It turns out that there's 100-year flood plain, as defined by the City of Austin, on the King Fisher site. If you will
turn to page 3, under Article (g), Exhibit A, there is a commitment notice. It states that the following specific conditions have to be met, and if you look at condition (g)(ii) it states that there must be a certification that the site is entirely clear of the 100-year flood plain. According to City of Austin flood plain maps, it is not In fact, both the 3.00 acre tract and the 1.5 acre tract on the back, both have 100-year flood plain. This is clearly indicated on the site plan that was recently filed with the City of Austin of which we have a copy here if you would like to look at it. There is flood plains on two different places on this property.

We think this is a clear violation of the TDHCA commitment notice and we think it should be grounds for termination of this project in and of itself.

Thank you. Now Jack is going to speak.

MR. HOWISON: Thank you, Mr. Chairman and board, for allowing us to be here today. I am Jack Howison. My family and I are 27-year residents in the area. We would like for you to deny this extension; there are better developers and better projects or properties available for your type of work. We're working with these folks on larger developments in our area; we have a lot of undeveloped land, and we have a 13-year experience of working with developers, both commercial and in apartment
complexes, and so we have some experience in seeing differences between the way people communicate and approach their projects.

For example, on this project the original Phase 1 environmental site assessment was done on the wrong piece of property -- the original one. The next Phase 1 environmental site assessment submitted to you was done on what we refer to as the 3-acre portion of this tract; later the applicant purchased an additional 1-1/2-acre site which as of yesterday had not had an environmental site assessment submitted to you. That piece of property was purchased last year in the year 2000. If these people were operating in a timely manner, they would have brought that site assessment to you, we feel.

One of our neighbors could not be here today but I'm going to pass on his concerns, Tomas's concerns about safety in our area. We're rural in nature; this property fronts a two-lane rural road which has no shoulders; it's crossed at the entrance to this property by a creek; it's essentially a landlocked property; there's one entrance shown on the site development and the rest of the property is surrounded by private land.

Listening today to your mobility-impaired individuals, I realize that not only the children but other people would be affected by the landlocked nature of
this site. There are no sidewalks in the area, there are
no schools available to walk to, no shopping, no medical,
no parks.

As a taxpayer and informed citizen, I would ask
that you cut these guys loose and apply your resources to
a more suitable site with more organized developers.
Thank you.

MS. BROWN: I'm Dora Brown and I'd like to
start with some show-and-tell. I'm going to speak on the
past history on the part of the developer and the
management of a few other projects.

When the developer met with the neighborhood,
he urged us last spring to go look at projects that they
had completed. One was Douglas Landing in Austin and the
other was Springfield Villas in Lockhart. Well, I took
him up on the offer, and last spring I visited both sites.
I went to Douglas Landing twice and to the project in
Lockhart once.

As you can see from the pictures, it's a pretty
uninviting place, but I wanted to be fair and see if these
problems had been corrected in the last few months, so I
went yesterday again to Douglas Landing which is very
close to our neighborhood and found that there had not
been improvement. As you'll see in the pictures, there's
a sofa by the dumpster; it was there for a very long time.
That sofa was eventually removed, but gee, another one has replaced it.

The mattress in the picture that you'll see is no longer there, but there's another one hanging out of the dumpster. On all of my visits, the dumpsters were overloaded, there was trash piled up beside them, loose trash everywhere. On at least one of the occasions, the creek that runs behind the property was clogged with trash. It's just very badly maintained.

The construction is also very bad. This project in Douglas Landing at the time of the pictures was barely a year old; siding was falling off. Well, I went to check yesterday and someone made a halfhearted attempt to nail that siding back in place; still it's buckled and there are new places where it's buckling.

The burned-out hulk of the car that you'll see has been removed but there are cars up on jacks, cars that apparently don't run, their hoods are up -- maybe they're being repaired, we don't know. And I also discovered a new problem: the asphalt streets were of such poor quality that there's now a giant series of potholes across one of the streets, making it a little difficult to get through.

One of the things that these developers promised us was crack management, and obviously this
management has not been top notch. In fact, one of the
crack management team recently was charged with
embezzlement from a project. When we read about it in the
paper, we just knew it had to be Douglas Landing, and sure
enough, that night on TV there's a reporter standing by
the Douglas Landing site. So perhaps the crack management
team was too busy embezzling funds to see that the trash
was picked up regularly.

It's just a sad, sad tale. Over $700 (sic) of
taxpayers' money went into Douglas Landing, according to
the commitment letter and what we have is, frankly, a slum
of the future. This is not the type of management team or
the quality of construction or the quality of life that
will enhance the neighborhood, that will benefit tenants,
and that will help preserve the environment.

We again want to make clear that we do not
oppose low income or affordable housing. We've appeared
before the planning commission and the city council in
Austin in support of two such projects because they are
well built, well thought out. They have amenities like
pools and security fences, space between the buildings for
green space, all of which are lacking at Douglas Landing
and would be lacking in King Fisher Creek.

So I appreciate your time and attention and
hope that you will spare the neighborhood from this very,
very ill-conceived project.

MS. SEARLES: Thank you. I'm the last person here. I'm the neighbor immediately adjacent; I own the property on the east side of this proposed development. And yes, of course I'm biased. I don't want a big construction project right across the boundary, but that's not my only concern. I come as an Austin citizen today for the environment.

There isn't time but this is the kind of land we're talking about that developers are moving in from all angles to get their bit of the pie, and this particular group have been extremely pushy. Here we are, the neighborhood, we don't want them. And it's not that we wouldn't want anything, it's just that they don't have whatever it would take to be sensitive (a) to the environment and the ecosystem which is very delicate in that region, and according to Lee Leffingwell, when he walked over it -- he's the chairman of the environmental board -- he said I had no idea this was here, and he kept repeating it: I just had no idea this place was here. And I imagine it's probably a bit like Barton Creek and that whole region was when people discovered it first.

It's in southeast Austin and nobody really knows about it, and it's very precious. and if I could, I'd take you all there and show you. But anyone who does
something there needs to be able to walk gently on the land and be sensitive to the environment and to the neighborhood, and it shouldn't bring us all out in force to say: Please don't let these people build this here. They want to go three stories high; that would be a nightmare for me -- I mean, it just will be a nightmare. That's my personal nightmare but that's not the nightmare of the ecosystem which is the head waters of McKinney Falls. Thank you.

MR. JONES: Thank you. The next speaker we have on item 2(d) is Mr. Calderon.

MR. CALDERON: Good afternoon, Chairman Jones and members of the board. My name is Ricardo Calderon; I am the general counsel for the Eagle Pass Housing Assistance Corporation, and we are here today requesting an extension of the commencement of the substantial construction deadline of our 60 units 00163, Las Quintas Apartments.

We have closed the construction loan and we have commenced construction on this project but we will not be able to satisfy the November 15 deadline of substantial construction which requires that we request 60 days extension.

We were initially working with Texas Housing Finance Corporation with Ms. Edwina Carrington, and about
a month ago we released Texas Housing Finance Corporation from their equity commitment on this project and accepted Related Capital out of New York because of the fact that Related Capital was able to provide the construction as well as the equity and debt financing that the project required, so that it can be completed.

Although Texas Housing Finance had provided some commencement funds, they do not provide any debt financing and so we were required to release Texas Housing Finance Corporation, and we are now working with Related Capital which is a large national syndicator of tax credit projects throughout the United States, and we're working on closing the permanent financing of that transaction, but we will require a 60-day extension until January 15 so that we can be in substantial construction compliance.

MR. JONES: Thank you, sir.

MR. CALDERON: Thank you very much.

MR. JONES: Mr. McMullen?

MR. McMULLEN: I also have with me Mr. Carl Conley. He's not going to make a presentation in his own right but he's going to be a resource.

Mr. Chairman and ladies and gentlemen of the board, I appreciate your seeing me today. I'm here basically in rebuttal to the neighborhood association on King Fisher Creek. I also would like to apologize. I
tried to jump on this hand grenade before it went off but I didn't quite make it.

This neighborhood association did not object in the year 2000 when the time in the process was available for them to object. I went to most of the hearings; we had nothing but support, there was no objection, and also the meetings were properly noticed and so forth, so we followed the procedure and now we're about a half million dollars into the project and now there's an objection. So it seems to me that the time frame to object would have been at that time; the project has been funded and approved.

Essentially what happened, we had applied and were accepted and we are accepted right now under the City of Austin's Smart Growth Program. That is the City of Austin's centerpiece affordable housing program. We went through their entire application process and we were approved.

Part of their process was that we had to go visit with all the neighborhood associations, so we did that. We went and met with the Kensington Association and the things that they had problems with at the meeting were crime, traffic, the tenant profile, and the environment. Initially they were going to get back to us, were going to do some deed restrictions and things, so they could ensure
that it was well managed and properly done.

They did not like the site plan layout, and let me back up a little bit on the site plan layout. Initially when we submitted our application in 2000, we had roughly a 3-acre site; we could have fit all 35 units on that site. When we entered the Smart Growth process with the City of Austin, we worked with Stuart Hirsch for several months, he recommended that we -- because we were able to acquire the back parcel for $35,000, it would make it a better project, nicer, we went ahead and did that.

To do that, that meant a rezone of the back parcel, so we had asked for the neighborhood association. No, no, we don't want your product. And we got shot down on the rezoning by the city council, although we are approved in the Smart Growth program which we wouldn't have been accepted if the city didn't want the project, the best we can tell, they just didn't want the buildings laid out too far back on the acre and a half because it goes back towards a stream and there was severe opposition at that point which came up for the first time. It wasn't there last year when this project was before you for consideration.

Secondly, the Phase 1 issue, that Phase 1 was corrected and approved by the department before the credits were awarded. We're well over our 10 percent
test, so the $35,000 site cost had nothing to do with that, and that was submitted and approved back from the department by letter -- which I have with me -- authorizing that purchase. So we have the approval from the department.

So to address the neighborhood's concerns, essentially on the public record before the planning commission and the city council, it was all the environment: we don't want you close to the stream, concerns of that nature. We reconfigured the project and moved back from the stream, and that's where we are right now. And then August 28 we got an approval letter back from the department to make that reconfiguration, so we've done that, and all this has been approved.

We started working with the department back when the opposition first became known and so we've been following the proper procedure. We've closed our construction loan and we're ready to go. I guess we're at your mercy today; we'd appreciate you helping us.

MAYOR SALINAS: Do you have a city permit, a building permit?

MR. McMULLEN: We'll have in about two weeks.

MAYOR SALINAS: You'll have it in about two weeks.

MR. McMULLEN: Yes, sir. We've got a permitted
use which we don't need any rezonings or anything of that nature.

MAYOR SALINAS: But you don't have the building permit.

MR. McMULLEN: No, sir, and the reason we don't have a permit is we reconfigured the project to address these concerns, the environmental concerns that they had.

MAYOR SALINAS: So I think we could approve the extension but they need to get a city permit.

MR. McMULLEN: Yes, sir.

MAYOR SALINAS: I mean, the fight is not here, the fight is over there at city hall.

MR. McMULLEN: That's the whole reason we're here before you for an extension. We closed our loan on time. We did everything that we were supposed to do, but we had to reconfigure it to meet the environmental concerns expressed by the neighborhood. I think the real issue is they probably just don't -- my feeling is that they don't want the affordable housing, and they're not right next to us, they're across the street and catty-cornered, we don't abut them; we abut one property owner who owns a house on one side and the other side is industrial.

MAYOR SALINAS: See, we don't deal with zoning here; you all need to go to zoning and the city council.
I don't see how we could deny the extension here. We'll probably get another one of the few we have gotten before. I think we need to approve the extension and you'll take your arguments to city hall.

MR. JONES: Mr. Bogany?

MR. BOGANY: You know, what I see initially I thought it was the affordable housing, but what I saw that they were complaining about was sorry management, and that's not been addressed in your issues. You're addressing everything else but you've yet to say -- and that could have been a bad day they got those pictures, it happens. But what are doing about the management? Because to any affordable housing, any of these low income, this is all about management.

MR. McMULLEN: I agree.

MR. BOGANY: It's all about management, and you can let it run down and then you'll be back here asking for more credits. It's about management, and what are you guys doing to address the management issue, because that's what I heard them say.

MR. McMULLEN: As the speaker stated, several of the things were corrected, and I think it's very easy to assert deficiencies. I mean, we're in compliance with the department's regulations, we don't have any 8823s on those issues. And secondly, I'm being painted, and that's
okay, I'm not the managing partner of that project; I'm a junior general partner. I am one of the managing general partners on this project and it's going to be a different management company. We did take steps, once I saw their pictures back in April, yes, we passed that on to the syndicator and we passed that on to the managing partner to get that addressed, and they have taken action to do that.

MR. BOGANY: Thank you.

MAYOR SALINAS: I just don't want another lawsuit here. This past board has approved this project, they're asking for an extension, we don't control zoning, we don't control any of that. I think what we need to do is give them the extension, then let city hall decide. Very simple. If not, they can turn around and sue this board. I mean, we just settled one a few minutes ago.

MR. JONES: Have you finished your presentation?

MR. McMULLEN: I just can't overstate the fact that I've worked with the staff for several months on every one of these issues, and every turn I've requested the approvals that I needed to reconfigure and I've gotten every one of them by working with the staff. I mean, I was very up front, we've got these issues, and I think we've done everything the right way with the department,
and we're just asking for your generosity.

MR. CONINE: Let me just ask a couple of questions right quick. You have closed the construction loan on this project?

MR. McMULLEN: Yes, sir.

MR. CONINE: But you haven't started the project because the building permit hasn't been obtained.

MR. McMULLEN: That's correct.

MR. CONINE: Are you in the city limits of Austin or are you in the ETJ of Austin?

MR. McMULLEN: City limits.

MR. CONINE: You are in the city limits. And you're requesting an extension till April 15, or staff is recommending an extension till April 15. I don't know how you can humanly develop and build 35 units in the dead of winter and early spring and not be back in front of us before April.

MR. McMULLEN: Well, your requirement is to go vertical which would be to have the foundation poured, and it's only three buildings. It's a 35-unit project, it's very small. And again, we wouldn't be here if we had not reconfigured the project to try to address their concerns.

MR. CONINE: And my understanding is you're back on the original three acres even though you bought the acre and a half?
MR. McMULLEN: We put the buildings back on the original three acres and we have the office back on the back acre and a half. I'm not required to build the office because I only have to have two amenities, but I'm going to do it because I said I would do it, and credits, I guess, were awarded.

MR. CONINE: But the city denied zoning on the acre and a half for multi-family but it had commercial zoning or something and the office would apply?

MR. McMULLEN: Yes, sir.

MR. CONINE: That's all the questions I have of him; I've got a few for staff.

MR. JONES: Thank you, sir.

We will then turn to item 2(d) on the agenda and will Charles be handling that again?

MS. CEDILLO: Yes, sir.

MR. JONES: So I will let the board members ask staff any questions they have concerning staff recommendations. If that's okay with board members, why don't we go straight to questions since we have the recommendation already.

MR. CONINE: Well, do you want to go through project by project in the order that's shown here?

MR. JONES: Any way the board wants to do that.

MR. CONINE: That's probably the best way.
MR. JONES: Fine. Why don't we take Windfern II Townhomes first. Any questions of staff?

MR. BOGANY: I move that we give them the extension.

MS. ANDERSON: Second.

MR. JONES: There's a motion made and seconded. Any discussion of the motion? Hearing no discussion, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries.

That will bring us to the King Fisher Apartments, Austin, Texas.

MR. CONINE: Mr. Chairman. Charles, I guess I'd like for you to address the issues of some of the neighborhood in response to the determination notice and some of the deadlines, the October 13, 2000 deadline that was missed in the carryover allocation -- allegedly missed. Would you let us know what happened on that?

MR. NWANERI: Actually, our record did not show that they missed the October -- or the carryover deadline. We show in here in the memo that we gave you that there was no prior extension.
MR. CONINE: Right. Well, the document that the homeowners furnished us -- which was obviously one of our documents -- calls for the carryover allocation to be made on October 13, and are you telling us that that was met by October 13 based on the other expenditures that he had made, or was it met in December when he purchased the 1-1/2 acres, or did he purchase the 1-1/2 acres in December?

MR. NWANERI: The extra 1-1/2 acres was not purchased as a requirement by the department, it was something that they did to enhance the quality of the development, and I think that was one of the reasons the environmental site assessment has not been required on it because there was no requirement on the part of the department for the owner to go out and buy this extra 1.5 acres of land and it was not a condition of our underwriting report either.

MR. CONINE: Did he meet his carryover allocation by October 13?

MR. NWANERI: Yes. They did not seek an extension.

MR. CONINE: So the testimony we heard earlier that the land purchase in December to meet the carryover allocation was erroneous. You don't agree with that, in other words.
MR. NWANERI: Well, that's my understanding, because the carryover that I have here did not show that they received any extension, and this is the carryover document, and according to this here -- I can hardly read the date, but anyway, we signed this carryover on -- anyway, I am going to go with the information that there was no prior extension request on this property.

MR. CONINE: That doesn't answer my question. Did they meet the carryover allocation requirement on October 13 at five o'clock is what the commitment letter said they had to do?

MR. NWANERI: I have to apologize. The blue print on this cover here can tell me exactly when this came in and it seems like when we were bringing this -- we might not miss the carryover, but this thing was received on December 19, 2000, so clearly there was an error in saying that they would have met the carryover requirement. They would have to have had an extension in order for these dates to be the date for the carryover.

MR. CONINE: Mr. Chairman, can I ask the developer if he would agree with that interpretation?

MR. JONES: If you have a question, go ahead.

MR. McMULLEN: No. What happened was we did make our carryover of October 13, filing what we were supposed to file -- I've got a stamped-in document
received -- and then what happened was when we came back in December to buy the extra land, I asked if -- I guess I talked to Mr. Nwaneri and there was another gentleman, but anyway, I amended the form. We were way over our carryover, we had 12 or 13 percent, and I amended the form in December which they didn't accept, they came back and said that you didn't need it for your carryover. It was only $35,000; we were way over our carryover.

MR. CONINE: But it's your testimony you met that at the time on October 13?

MR. McMULLEN: Absolutely, and I've got it stamped in that the carryover was submitted on that day; I personally brought it in.

MR. CONINE: Can staff subsequently -- not right now, but subsequently provide the board with that information?

MR. NWANERI: Yes.

MR. CONINE: The second question I want to address is the 100-year flood plain on the survey. Again, one of the commitment letters said that the updated survey was to certify that it was entirely clear of the 100-year flood plain, and then the neighborhood group testified that wasn't the case, and what is staff's opinion on that?

MR. NWANERI: Our response here that we received from the applicant indicates that the developer,
it says, permanent loan commitment meeting they stated was submitted in confirmation there is no land in the flood plain. This is the information we received from the applicant at the time of carryover that no portion of the land, the three acres at the time, was included in the flood plain.

MR. CONINE: As on the application?

MR. NWANERI: As was in the application.

MR. CONINE: And have you found out any subsequent information since then to determine that it actually is on the site?

MR. NWANERI: Well, they revised their site plan. As the people who are opposing this earlier mentioned today, the initial site plan was erroneous and they revised it, and the revised plan did not show that it was in the flood plain.

MR. CONINE: Mr. Chairman, I'm troubled by all this conversation. As you know, I sat on the Audit Committee until recently, and one of the audit plans is to look at our Tax Credit Program and see from whence we decided --

MR. JONES: Excuse me.

MAYOR SALINAS: You know, I come back again saying that we're not in the zoning business, you know. We made a commitment, Ken.
MR. CONINE: But Mr. Mayor, we made a commitment based on a project with certain ramifications and designs and what's happened here is the project doesn't even come close to the original submission.

MAYOR SALINAS: I agree with you, and I would think that would be part of the planning and zoning of the City of Austin.

MR. CONINE: No. I'm questioning the authority of staff to make changes to something that the board has done, that's what I'm questioning.

MAYOR SALINAS: Oh, okay. What I just don't want is for the developer to turn around tomorrow and file a lawsuit in district court against us.

MR. CONINE: And I don't want that to happen either.

MAYOR SALINAS: I want to make sure that that doesn't happen because there is a commitment here from this board. Now, whether staff is at fault or not, I think if those people want to stop this project, they need to go -- and if he's in a 100-year plain, they're not going to give him a city permit, I guarantee that. Our city would never do it and planning and zoning has not voted in favor of a permit. I mean, that's where the fight has got to be taken to: planning and zoning and the city council in Austin. It's not our duty; our duty was
we made a commitment already, and I just would hate for a developer to come back at us.

Now, I think Ms. Cedillo needs to get together with whoever has this project and find out what's happening here.

MR. CONINE: Let me see if I can craft a motion that might make some sense here.

MR. JONES: Okay, that would be fine. Could the chair -- because I know there's a lot of concern in the audience about how we conduct a meeting -- if a board member has an inquiry to make of anybody that's spoken, they certainly are welcome to do that, but at this time on this issue public comment has closed except to respond to board members' questions. So once the debate starts, as I tried to explain earlier today, that's how we've proceeded.

We've allowed everybody to give us public comment and give us any information they wanted to. At this point the board is in debate. If a board member, as Mr. Conine just asked a member of the public to supply information, the chair will certainly allow that, but other than that, the opportunity for public comment on this particular issue is closed. Excuse me. I just wanted to make that clear for the audience so they'd know how I was reacting to all the questions that are going on.
Would you allow Mr. Bogany to make a comment before you craft a motion?

MR. CONINE: Sure.

MR. BOGANY: I'd like to ask the developer is this property in the 100-year flood plain. And I realize that flood plain maps have changed from a year ago today, but are you in a 100-year flood plain?

MR. McMULLEN: No, sir. We were required to respond to that question by the carryover date, October 13, and that was what was on our letter, and this came in with our carryover in this letter right here, and it answers the question. "The limits of the 100-year flood plain, as designated by the FEMA panel" -- blah-blah-blah -- "do not encroach on the subject tract; 2) there are no current City of Austin flood plain maps for this tributary on Williamson Creek."

MR. JONES: Mr. Conine?

MR. CONINE: I'd like to make a motion to approve this extension request, subject to: building permit received by the developer by the City of Austin; staff review of the documentation verifying that critical dates and carryover allocations and so forth have been met per the original board-approved project; and thirdly, independent evaluations that the conceived project as it currently stands can be finished by the existing April 15
MAYOR SALINAS: I'll second the motion.

MR. JONES: And if I could, I would just like to make a comment to staff on behalf of the board. As you know, as we've gone through the audit process, particularly with regard to the Low Income Housing Tax Credits, one of the issues that's been raised here today is an issue that comes before us repeatedly, and that is can you audit the way we handle these matters and make sure the project we approved are those that are actually being built and on the ground.

And I think this raises all kinds of issues in that regard, and I would just like to have the staff focus on that issue. I think this motion requires you to do that, but I'd also just like to make sure we focus on the issue in a broader way.

MR. NWANERI: Also, if you don't mind, before you make your approval, I want to indicate to you because of the substitution of carryover documents from October to the one when he had to meet when he submitted additional information, that actually was what was creating the confusion, and this information just came late yesterday afternoon and we just had enough time to grab it over here. So I appreciate the opportunity that you're giving us to go back and find some detailed information on it.
But the information we furnished you in our writeup that there was no prior extension is still correct, that they met the October 13, 2000 deadline to meet their carryover; that was still correct.

MR. CONINE: In my motion I just wanted to make sure that not only just the carryover allocation was met but all the other conditions were met at the times they were supposed to have been met.

MR. NWANERI: And that was correct. We would never have given them carryover documentation without those conditions being met.

MR. JONES: We have a motion that's been made and seconded. Further discussion by the board? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, please say nay.

(No response.)

MR. JONES: Motion carries, which brings us to the Las Brisas Apartments in Del Rio, Texas.

MR. BOGANY: I move that we give them their extension.

MR. JONES: We have a motion that the extension be approved. Is there a second?
MAYOR SALINAS: Second.

MR. JONES: The motion has been made and seconded. Further discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, please say nay.

(No response.)

MR. JONES: The ayes have it. We will then turn our attention to the Cameron Village Apartments in Alice, Texas.

MR. BOGANY: I move that we give them their extension.

MAYOR SALINAS: Second.

MR. JONES: We have a motion made and seconded. Further discussion on the motion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The ayes have it, motion carries.

The Talmadge at Park Central Apartments, Amarillo.
MR. BOGANY: I move that we give them their extension.

MAYOR SALINAS: Second.

MR. JONES: We have a motion made and seconded. Further discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, please say nay.

(No response.)

MR. JONES: Motion carries. The Las Quintas Apartments, Eagle Pass, Texas.

MR. BOGANY: I move that we give them their extension.

MAYOR SALINAS: Second.

MR. JONES: The motion has been made and seconded. Further discussion on the motion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries. We will then turn to item 2(e). Ruth?

MS. CEDILLO: We have Charles and Brooke Boston
who are going to handle the QAP.

MR. BURRELL: Good afternoon, Mr. Chairman, members of the board, Ms. Cedillo. We're here this afternoon to request the approval of our Qualified Allocation Plan and Rules, and we're also requesting, along with the approval, that we be given the opportunity to make any technical changes that would be necessary for the Texas Register.

Under the statute that we're governed under, we have to have the Qualified Allocation Plan and Rules approved today, with any necessary amendments, and over to the governor by five o'clock tomorrow afternoon. Then when the governor receives the Qualified Allocation Plan, he will have until December 1 to approve the Qualified Allocation Plan, reject it or approve it with any amendments which he would like to make.

In the process of developing this qualified allocation plan that we have, we started by having roundtable discussions back in July, going on into August. We held those roundtable discussions with lenders, syndicators, housing advocates, developers, appraisers, and market analysts. We also held eleven public hearings in our eleven service regions during the month of October. And we also have met several times with individuals that we knew were interested or groups that we knew would be
interested in the Qualified Allocation Plan.

Also, after receiving our comments -- where we actually closed the comment period the first week of November -- we did an evaluation and came up with a list of recommendations that we presented to our in-house executive award and review committee, and the recommendations that we had have been approved by our executive award and review committee. So what we're doing now is asking that you approve the Qualified Allocation Plan as we presented to you back in September, along with any amendments that we proposed in our memorandum that you have.

I have here with me Brooke Boston; she's our QAP specialist; she's primarily worked on the QAP for the last several months and trying to get it all put together, and Charles Nwaneri in our Tax Credit Program.

MR. JONES: Thank you. We have some speakers on this point. Why don't we take a break for a minute or two.

(Whereupon, a brief recess was taken.)

MR. JONES: Mr. Kahn, we'll take your testimony now.

MR. KAHN: My name is Barry Kahn, Mr. Chairman, members of the board, Ms. Cedillo. I would also like to compliment the staff on trying to work with everybody to
the maximum extent possible.

One of the issues that I'd like to bring up and touch on and support a prior recommendation has to do with the deep skewing of units, and staff started off making one proposal, they were receptive to the industry; TAPS made certain proposals, others have made certain proposals.

The proposal as it now is would permit a developer to defer his entire developer fee -- notwithstanding staff at one time having objected to this -- to defer his entire developer fee in order to deep skew units. As you heard from Mr. Sugrue, this would not be smart because a lot of syndicators would not then buy the credits, and that would serve no purpose. Mr. Henneberger and a few of the other advocates are very much for getting as many deep-skewed units as possible.

Mr. Sugrue's language has been passed by them; Mr. Henneberger then made an amendment to it, again to satisfy some of the industry's concerns, and as a developer, I would like to endorse Mr. Sugrue's amendment as amended by Mr. Henneberger. And I truly hope that the board will confer with staff and get their conference on this. It happens to be a very important issue because we don't want deals which get credits and then don't get bought.
Secondly, I'd like to address the point reduction issues. The way it works is if you apply for an extension -- which has to be ten days ahead of time, and you may still be able to meet the due date, you are penalized two points against the future rounds. Well, it's not like with the IRS on April 15 you either file your return or you file your extension. Anything can happen in that ten-day window if you have certain things happening, particularly in an accountant's office, if there's a land sale yet to occur and something happens to a land seller, so if somebody does apply for an extension, they shouldn't be penalized if they meet the due date.

But more importantly, everybody should get certain extensions. The IRS permits six months for carryover, the department has 2-1/2 months. And maybe as a way of simplifying everything, we should move the due date back for carryover to November 15 or December 1 rather than October 15. If somebody gets a credit allocation at the end of July, August 30 a land seller passes away; it can't get through probate on time. It's not the fault of the developer or the applicant that he needs an extension, yet he's penalized the subsequent year.

The alternative is either for the first extension -- as staff proposed, there would be no penalty
points, or in the case of carryover, at least, you have a longer period of time to meet carryover.

Something I suggested to staff is the due date of January 4 for the pre-application process puts a big burden on families. Plus, part of the pre-application process is getting letters from community groups and political organizations. Political groups and community organizations often aren't available during the latter part of December, so in order to meet this date does present a burden. Plus, those of us with families and who want to try to travel during the holidays are now kept from doing so.

If the date is moved back one week, and the suggestion is that the staff would then post the results one week later than is now recommended in the application process, there probably wouldn't be any harm to anybody and a lot of kids would be a lot happier with their parents who are involved in this process, and it would also make it a lot easier for people having to get letters for the pre-application from political and civic organizations.

There happen to be a couple of typos I'd like to address. One is going to back to deep skewing of units. It shows 0 to 9 percent getting points. That needs to be changed to at least 1 to 9 percent or up to 9
percent in each of those three categories. And in the other place, with respect to four-bedroom units in Exhibit 206, item (i), there was a recommendation made that four-bedroom units are excluded from having to meet the market-rate requirement with market studies, and instead, they put the exception in the wrong sentence, so it needs to be moved to the prior sentence from the sentence it is in.

Thank you.

MR. JONES: Thank you, sir. The next speaker is Mr. Dunn.

MR. DUNN: Chairman Jones, Ms. Cedillo, members of the board, appreciate your patience this afternoon. I'll be very brief. My name is Mike Dunn; I'm with the Texas Association of CDCs, community development corporations. I'm sitting in for Ray Ocanes who sends his regards and regrets; he cannot make it today.

Two quick points. First that we want to thank the department and the Tax Credit staff for the procedure during the public comment process. It was user-friendly, staff responses were professional and specific to programmatic issues. Thank you. And leaving policy issues up to you, we feel that's very appropriate, given the magnitude of the program.

Attached is a copy of the letter that we submitted back on October 29 concerning our
recommendations for the QAP. We wanted to specifically ask you to consider point number 2 about the qualified nonprofits applying independently for the tax credits, to be able to receive bonus points for that so that we could build the capacity of medium-level capacity groups, CDCs out there that are doing it on their own and could use some help.

That concludes my comments. Thank you.

MR. JONES: Thank you, sir. Mr. Rowan Smith?

MR. SMITH: Board and chairman, my name is Rowan Smith, I'm from Houston, Texas, and I have a couple of quick comments to make to the 2002 QAP.

One, the first one, I pointed this out to Brooke Boston a little while ago and she wanted me to bring it before you as a possible change that needs to be made. Under Section 2306.6710(g) of the Sunset Bill, in regards to very low income units -- which if you look at the QAP, they have the points for 50, 40 and 30 percent of the units -- I was involved in the writing of this language during the Sunset Bill process. The commitment of development funding by local political subdivision that enables additional units for individuals and families of very low income, those are points that are to be given for that.

As it stands now in the QAP, the 30 percent
units which are considered very low income units are not tied to a commitment from a local jurisdiction in order to get those points for that. So in order to comply with the Sunset Bill, there needs to be a revision to that with some language put in there that would tie it to funding of the local jurisdiction.

Another point that I made during this process that they didn't put in the Sunset Bill, but I want to make it clear to the board and get it on record, is this: you've heard a lot of comment today about the lower skewing would cause deferred developer's fees. One of the things developers may try to do is to get a commitment from a local jurisdiction, say of $200,000, yet they only put one very low income unit in the project.

Well, if you look at the cost per unit of the total development cost, it may only cost about $50,000 to build another unit, yet they're getting $200,000 of grant. So that could be used to offset deferred developer's fees and that is not the intent of the Sunset Bill.

So I think when they revise this language putting in the language for the commitment from the political jurisdiction, they might want to consider putting some kind of language in there that ties the commitment to providing a development cost per unit for the project so the full amount of the funds would be
divided up by the number of units that it would go to build in the very low income category. So those two things I wanted to make a point of.

The second issue, I just want to make this aware. There's been some concern about the penalties for the extensions, and in the bill itself it says, "Imposing Penalties. There will be points given for imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to development supported by housing tax credit allocations made in the application round preceding the current round."

So that is something that is law and I think the staff has basically done a pretty good job with that; however, I think the points should be increased to like five points per extension fee in order to reward developers who have a track record of completing projects on time and in an efficient manner getting housing built quickly, which is the desire of the board that I understand from the several meetings that you have had over the past year or so.

When this language was put in the bill, we were trying to figure out some way to reward developers that successfully completed projects and there was really no way to do that, so the only way to do it was to penalize those who continually get projects every year but have a
history of not completing them. So I'm recommending, and
I recommended to staff in writing, that those points be
increased.

Other than that, that's the only issues that I
have. Thank you.

MR. JONES: Thank you, sir. Appreciate it.

MR. JONES: That would then end public comment
on this issue, I believe. Oh, I have another one. Yes,
ma'am.

MS. McIVER: Diana McIver, and I actually have
a couple of issues on the QAP that I would like to
address. First off, though, I would like to thank you all
for moving Mission Oaks in Refugio off the waiting list.
I'm the developer of that project, and I do appreciate
that.

I do want to commend the staff. I think the
staff has done a very, very good job on bringing together
the development community, both for-profit and nonprofit,
and the investor community in putting together a very,
very good Qualified Allocation Plan. I think we all agree
we don't have a perfect plan; I don't think we could ever
have a perfect plan, but I think we have a very good plan.

I have two issues that I want to address. One
is I think it's just very simply a technical oversight,
and if I had picked it out the first time I read the QAP,
it would have been in my written comments, but if you refer to Section 49.9 on market study requirements, basically there's language in there that says the department intends to limit the approval of funds to new multi-family projects where the capture rate is in excess of 100 percent for rural areas and in excess of 25 percent for urban areas.

I think the wording is incorrect, because when I started to apply mathematics to it, basically the definition of the capture rate is that it's the number of proposed units divided by the total number of income-eligible targeted market units in your market study. So if your market study said that there were 100 individuals or 100 households in your community that were eligible to reside in there and that were eligible renter-targeted households, and suppose it was a rural area and you were proposing 50 units, then the definition of that is that your capture rate would be 50 percent.

Now, if you apply that just to the rural set-aside and go to that next test that the department is only going to fund projects with capture rates in excess of 100 percent, that would mean that I would have to apply for 101 units if my market study said the need was for 100. So I think that it meant to say not in excess of but something like less than. So I think that's a technical
correction that the staff needs to just simply look at.

I tested it on a couple of people and mathematically I think I'm correct in that. I'm not a market study analyst, so I'll defer if I'm wrong on this.

The second issue I wanted to address is basically I was the person who recommended that there be points given for nonprofit sponsors who had allocations of HUD 202 and 811 funds, and I did it for this reason, and I think it's important that it be clarified. Essentially, last year in December, the Congress finally agreed for nonprofit 202 and 811 sponsors to be able to combine their projects with other sources of funding, including the Low Income Housing Tax Credit Program, to produce larger developments and serve more people.

Prior to that we had been doing 202 projects adjacent to tax credit projects but not as part of one facility. Their reasoning that it could have not been done prior to that was simply dealing with that they could only make a 202 award to a single-asset nonprofit corporation. What they amended it to say is that they could now make a 202 or an 811 award to a single-asset nonprofit corporation that is the sole general partner of a limited partnership. That is how they're allowing that in.

They further said that the 202 loan/grant --
it's actually a grant, 202 capital advance -- would not be
deducted from eligible basis, that it would not be
considered a federal grant for the purposes of combining
it with tax credits. Now, how you can say a federal grant
isn't a federal grant, I don't know, but that's what they
did in the law.

So what HUD has done because of that is when
applications were filed for 202 and 811 awards this past
May, HUD actually had 811 and 202 sponsors check a box if
they thought they might want to combine these funds with
tax credits, and my understanding is -- and the 202 awards
came out about two weeks ago -- that only eight sponsors
actually checked that box, so we're not talking about a
large universe of people who even want to tackle combining
these two programs.

But essentially, when HUD did their notice of
funding for 202 and 811, they made some very, very
distinct requirements on those nonprofits that I think are
very important for this board to know about. One is on
the 811s they made it very, very clear that an 811 sponsor
could not increase, could not have in a certain area more
people with disabilities than would be allowed by the 811
program. Currently the 811 program says that you will not
receive funds for more than 16 persons with disabilities
at a single location.
So to translate that to what they would be saying as far as combining that with tax credits, if an 811 nonprofit had an award of 811 funding for ten units, then they would be allowed to get another six units of tax credits that serve disabilities but they very definitely could create a multi-family tax credit property of 70 units as long as no more than 16 of those serve people with disabilities.

So that was how HUD was tying it into their integrated housing approach, and I think there were some concerns voiced this morning about large complexes full of persons with disabilities, but very definitely no one using an 811 in conjunction with a tax credit project could have more than 16 persons with disabilities at that single location. So I think that probably adds a clarification point there.

As far as the 202, it was also very, very clear that if you received a 202 allocation for 50 units and you went in to get tax credits, you had to increase the volume of units. 202 cannot be used like HOME funds simply to make a project more feasible; it absolutely has to expand the number of units. So if you were proposing a 202 of 50 units, then you'd have to do tax credit units of 30, 40, 50 units as well. You simply can't go in, come to the state, get tax credit funding just to make your 202
So basically I think those were the clarification points on that. I propose that we have points for those sponsors because, one, it's very, very few allocations in the state of Texas -- 202s, generally we get five or six projects funded a year in the state of Texas -- and so I believe that a sponsor with that kind of valuable commodity should get points similar to what they get with a HOPE 6 allocation. And that ends my comments. Thank you.

MR. JONES: Thank you, ma'am. Appreciate it. And I have another one that we've received. Rosa Villarreal.

SPEAKER: She left.

MR. JONES: She left, she gave up. I understand.

Then I think that does conclude all the witness affirmation forms I have. We will then conclude public comment on that issue which is 2(e) and turn it over to the board.

MR. CONINE: Mr. Chairman, can we get Brooke to come up here and let's just see if we can plow through some of these issues?

MR. JONES: I think that would be wonderful.

MR. CONINE: We've heard some outstanding
testimony today and I don't know how best to go about
doing this. I've got a long list of notes here.

MR. JONES: I'd make a suggestion. We've had a
lot of things brought up. There may be some board members
that want to make amendments and additions to those
recommended by staff already in their memorandum. What if
we make a list of those you want and we might see if that
whole list could go through as a motion. You don't like
that?

MR. BOGANY: No. I like that. I've got my own
comments.

MR. JONES: Mr. Conine doesn't like that; let's
forget it.

MR. CONINE: I think staff has some amendments
to their own recommendations that are in our books.

MR. JONES: Okay. Well, you're ahead of me
then.

MR. CONINE: Maybe we could start there and
then move forward.

MR. JONES: Good deal. All right, I like it.

MS. BOSTON: Really, the only thing that staff
feels that we would just 100 percent make a recommendation
for different from what's already in the memorandum is the
comment that was made regarding the zero percent on the
low income targeting, basically awarding points for people
who've done nothing. That was just a staff error, and I would definitely ask that you make that change in your other changes.

The bulk of the other comments made I think are more contentious issues that we felt we made a very concerted effort to find compromise on and we had our advisory award review committee go over, so staff in most instances continues to stick with our memorandum. However, if there's suggested changes that you have that you'd like to get our input on a new compromise or something, I'd be happy to.

MR. JONES: Let me just make sure I understand how we proceed here. Obviously, she has one suggestion. Do we want to just take them one at a time, do we want to let each board member address a number of issues, how do we want to do it?

MR. CONINE: What we probably ought to do is get a motion on the floor getting the document on the floor and then make amendments to it one at a time.

MR. JONES: That would be fine. Would you like to make that motion?

MR. CONINE: Move for approval that we approve the staff redirected QAP for 2002.

MR. JONES: Is there a second to that?

MR. BOGANY: Second.
MR. JONES: It's been made and seconded. Why don't we start with Mr. Bogany and just go around the table.

MR. CONINE: That's great.

MR. JONES: Why don't you make your amendments to the motion.

MR. BOGANY: One of the amendments that I wanted to put is that I would be totally against making townhomes 100 percent with one bedroom down, and the reason for that is because if the builders don't build them because it's too difficult to do, then we have no townhomes for anybody, and so it kind of defeats the purpose of it.

I'd like to see us make a percentage of it, you know, 20 percent, 10 or 15, whatever staff thinks is appropriate, I can relate with them.

The other issues, I do think they should all have half baths downstairs and I think that's something that should be on any townhouse is a half bath downstairs, but requiring 100 percent of them to have one bath down I think defeats the purpose of what we're trying to do. And my other comments I'll keep to myself in regard to that.

The second issue is having to do with the penalties if you miss your deadline. I actually don't have a problem with the deadline penalty, but if a
developer files for an extension and still meets his
target dates and never uses the extension, I don't think
they should be penalized the following year because they
filed an extension. I think they've got a lot of money
riding on these projects and if they don't meet the
deadline, then penalize all that you want to penalize the
next year, but if they file the extension for safety
reasons to make sure and they hit those target deadlines
that they're supposed to hit, then don't penalize them the
following year for that amount, and I'd like to see
something like that in there. And that's it.

MR. JONES: Now, we do have to do this today.
Right? Because we've got to get it to the governor on
Friday.

MS. BOSTON: Tomorrow.

MR. JONES: Can you work on language to satisfy
his comments as we all speak? Thank you.

(Pause.)

MR. JONES: Oh, you already did. I like that.

MR. CONINE: Do you want to respond to that
because I'd like to hear your comments?

MS. BOSTON: Sure. The one-bedroom, one-
bathroom downstairs issue, you know, there's really good
merits on both sides of that argument, and I concur that
we probably don't want to lose that whole design by nature
of creating a standard that basically by creating it, no one is going to do it. It seems like the public comment this morning supports having a proportion of it, as you're suggesting. I think one of the concepts this morning was one-third of each unit type which I think would be a very good compromise on that.

Regarding the penalties, I think it's totally logical that if someone doesn't actually follow through on being late that they shouldn't lose points for that. It would be easy to add a sentence.

MR. BOGANY: Well, the 30 percent I think is a little high still; I think 20 would probably be a little bit better. I just don't want the developers to stop doing it and then everybody loses, and my thoughts are that if you're handicapped and you've got a bedroom down, how are you going to get upstairs and look at your kids or your family, how are you going to get up to the second floor and do that. It's like you would want to be in a one-story so you would have access to your whole home -- me personally, I would think that. But I'm sure some families that are together, so instead of a third, I would like to see maybe 20 percent.

MS. BOSTON: And you're saying 20 percent the whole unit would be one level, or you're saying 20 percent one bedroom, one bath down?
MR. BOGANY: One bedroom, one bath down, and then all of them would have a half bath down, because then if you get somebody handicapped coming to visit, how do you get them upstairs to use the restroom.

MR. CONINE: Brent, you had some other percentage relationship that you relayed this morning, I thought, that might be a little different than that. Could you refresh my memory what you recommended in your testimony?

MR. STEWART: I did not suggest a percentage.

MR. CONINE: You didn't? Because I wrote the word "percentage" down here. What did you recommend?

MR. STEWART: Quite frankly, anything less than 100 percent.

(General laughter.)

MR. CONINE: I'd go along with Shad's recommendation then.

MR. JONES: Good deal.

MR. CONINE: Are you done?

MR. BOGANY: Yes, sir.

MR. CONINE: I'll take a stab at it. I think the $6,500 per unit tax credit number, I would move to eliminate that; I think it takes away from the flexibility of being able to provide units in a lot of different special circumstances, and it's just not the right way to
do it. I think we have other checks and balances within the system to take care of that, so I'd like to see that go away.

We had an excellent presentation by, I think, Mr. Voelker on -- let me see if I can find his comments right here. He was referring to the way the language was written originally and it came out differently and suggesting that we put a group together to talk about it over this next year to see if we can get any deeper than currently it's written. I guess I would ask staff's opinion to go back to the original language and then add the I guess negotiated-out-in-the-hall language about no more than 50 percent of the developer fee be deferred to hit those targeted numbers. Could you comment on that?

MR. NWANERI: We have received comments on this, either in writing or people approaching us and discussing it. Initially staff has proposed even awarding points for deferring fewer amount of developer fee, and comments that we received made staff go back and remove that condition. And also, along with that initial staff proposal to award points to developer fees, we were also looking at 30 percent, 40 percent and 50 percent incomes, but obviously the information we received from the public was to the point that we were awarding people to defer their developer fees and that's an incentive actually that
we shouldn't be doing it. We went back and removed it.

Now, I think we can meet them halfway now that we changed the language saying no more than 50 percent of the developer fee, and initially where we said you had to have at least additional subsidy before you can even do 30 percent income, we are willing to meet them halfway rather than our original plan. On the memo that I gave you I think the two groups that were discussing this really extensively have come up with the language in there that seemed to be a compromise from what we had earlier, and I think if it's okay with you, we would be willing to go with no more than 50 percent of the deferred developer fees.

MR. CONINE: Okay, so we're cool on that issue.

MS. BOSTON: Although, actually I guess I'm not exactly positive of what language you're talking about, os if you have the memo that he's referring to and that's what you're going to agree to, if you can just read it into the record for me so that I'm making sure I'm putting the right thing into the document later.

MR. CONINE: Is Mr. Voelker still around? We'll have to work on that here in a minute.

MR. KAHN: Mr. Conine, I've got the language that was proposed.

MR. CONINE: Okay. If you'd like to help us
with that. You're going to give it to Brooke? Okay, great.

The zero percent, I think we need to come up on that, and I would prefer a staff recommendation, whether it's one, two, five, whatever, I'd like to hear your input.

MR. NWANERI: Actually, when we discussed this, we were saying up to 9 percent, and now that it's coming up, we can even leave 9 percent there but maybe say 1 to 9 percent, just to show that we're not awarding people anything on zero.

MR. JONES: Is there a floor by which before we award something we want to see them touch? I just want to make sure 1 percent isn't any more meaningless than zero.

MR. CONINE: So we're going to say one to nine, is that what we're going to do? Is that agreeable with everybody so far? We'll try it out this year and see how it works.

Mr. Lynch had some comments on some of the physical characteristics of the projects themselves, ceramic tile floors in the entry, kitchen and bathroom for two points. Can you comment on that, please? I guess we were taking that out of this year's QAP.

MR. NWANERI: The reason we were really alluding to taking it out from what we had before was many
people, many developers on the other side complained that that was the reason why cost per unit was going up anyway. They think that an average tenant would live comfortably without having those crown moldings and things of that extensive nature, and that was why we removed it from the original. I know Mr. Lynch has a good suggestion for quality but we're trying to make it to where we have quality on one hand but also something that is affordable. But if they're willing to do that level of quality at an affordable price, I think it would be good to add it back on.

MR. CONINE: I guess I would side with him or his viewpoint. I understand running up the cost, it also runs up the credits which also runs up the cost per unit or the credit per unit, but I think it's a long-term maintenance issue and amenity issue, so I'd like to side with him on that one and put that back in.

On the exterior masonry, hopefully staff heard my comments earlier relative to 100 percent stucco on a Mediterranean or Spanish look, and I think we need to provide for that, but on the other hand, I would agree with him that 100 percent cement board siding probably isn't what we would like to see. So I think we need to craft some language that takes care of that issue, either brick or stucco on 75 or 80 percent of the project with
the other 25 percent or 20 percent being something else there, but still have the flexibility to allow for, I think, 100 percent stucco because we need that sort of product out there.

MR. BOGANY: I have a question for Mr. Conine in regards to the stucco deal. I actually don't see anything wrong with using the Hardiplank. First of all, when you do use Hardiplank, you get more square footage in a property than you do on an all-brick unit, and I can take you and show you all-brick units that look like projects to me and they're all brick all the way. The stucco issue, the problem I've got with stucco is the mold issue, and until we get that done, and I know if it's done right, then you don't have a mold issue problem. Maybe what we ought to do is state, if we're going to do stucco, what the requirement is going to be to have that stucco on that particular piece of property so it does not have a mold issue.

MR. CONINE: To answer your comments there, I think it occurs in mainly the Ephis product which is that really thin layer of stuff over Styrofoam. If you do the normal Las stucco, you don't have those sort of mold or moisture concerns, and you can get the same square footage, generally speaking, that you can on an Cementos board product. Maybe we eliminate the Ephis as a stucco
because I don't think we want that anyway in an affordable housing project, so I would agree with you on that.

MS. ANDERSON: Could I just ask a question, Mr. Conine?

MR. CONINE: Sure.

MS. ANDERSON: You're not proposing that you can't use cementos siding but that you just don't get the points for it that you do when you use 75 percent masonry. I mean, isn't that the way the QAP is written, Brooke?

MS. BOSTON: Right. Right now you can design it that way but if we take this out, you wouldn't be eligible for three points, you'd only be eligible for the points if you did it 75 percent brick or stucco.

MS. ANDERSON: Okay.

MR. CONINE: Cities right now are preventing a lot of that to begin with.

MR. BOSTON: Just to make sure I didn't miss anything, did you say you did want ceramic tile back in?

MR. CONINE: Yes.

MS. BOSTON: Okay, that's what I thought.

MR. CONINE: We had some testimony regarding some of the local HOME funds actually being committed to, and I think I had a dialogue on some chicken-and-egg situation. What are your feelings regarding that, the actual commitment of HOME dollars?
MS. BOSTON: Our answer was based more on an administrative nature which is particularly with the emphasis on trying to rank things purely by score and send it to underwriting. If we don't know for sure that they have that to get the points, and let's say it falls through at the last minute, that could totally impact what we sent to underwriting and what recommendations would be made because it is a substantial number of points.

So our sentiment then, and I still continue to agree, is that we need to know if they have it, and I regret that in some cities it is a chicken-and-egg.

MR. CONINE: Does it put an undue administrative burden on you to require that they have it ten days prior to the tax credits being awarded, as was suggested in some of the testimony?

MS. BOSTON: Well, ten days definitely, because according to Senate Bill 322, we're obligated to post to the website 30 days before that June meeting what our recommendations are going to be, so at a minimum, we would have to know then so that we could post the recommendations that we actually would be recommending, and if we're going to recommend something other than what -- for instance, if the funding fell through, our recommendation would obviously be different.

MR. CONINE: Would it make sense to make the
assumption on the 30 days ahead of time that they're going to get it and then inform the board at the board meeting that day: yes, they got it, or no, they don't have it?

MS. BOSTON: And then if they didn't, you would just direct us to go down the list and underwrite more deals.

MR. CONINE: Well, you wouldn't have the time at that point, would you?

MR. JONES: Yes, I think that would be a little problematic to Senate Bill 322.

MS. BOSTON: I mean, the concept of it we totally support, and I understand where they're coming from. If there weren't an issue of how we processed and making sure that we went strictly by score and that everything had to be underwritten in a certain order, I don't have a problem with it.

MR. CONINE: Let me ask you this, would it make sense to in the QAP make sure that your recommendation would be subject to those HOME funds -- I guess maybe they already all are -- if they're subject to and then they don't get it, then the tax credits fall out and they come back to us and we go to somebody else. Does that make sense?

MS. BOSTON: Right.

MR. NWANERI: If this development is among the
ones selected or approved, that's something that could be an underwriting condition that they meet at carryover. However, we're also suggesting -- earlier when we were discussing this in the office -- that they can start working with these local groups that are providing funding a little bit earlier. Maybe they also on their own can make the assumption that they're going to get the credit and go on and give them the funding so we have it earlier in order to work with our deadlines as far as moving forward to underwriting.

MR. CONINE: I think we better just leave it alone then, based on what you guys are telling us. If we can encourage and all that and make it subject to, but I think we want to make sure they get those dollars.

Unit size was addressed and specifically a differential between elderly one-bedrooms and two-bedrooms as opposed to others. I think I would agree with the recommendation that on one bedroom we've got 750 feet for non-elderly, 550 feet for an elderly one-bedroom unit and then 900 for a two-bedroom that's non-elderly and 750 for a two-bedroom that is elderly. Do you guys agree with those assumptions or have different opinions?

MS. BOSTON: Could you repeat them back?

MR. CONINE: 750 and 550 on the one-bedroom and 900 and 750 on the two-bedroom. Do we not have three-
bedroom? I'm sure we've got three-bedroom minimums in there somewhere and fours.

    MS. BOSTON: We don't tend to get three- and four-bedroom elderly

    MR. CONINE: But for regular stuff, don't we get three- and four-bedroom? Do we have minimums in there for that?

    MS. BOSTON: Yes, 1,000 is a three-bedroom and 1,100 is for a four-bedroom.

    MR. CONINE: Okay, we'll just stick with that.

    MS. BOSTON: And there didn't seem to be much comment suggesting that those change.

    MR. CONINE: I'd like to see us make the change and differentiate the elderly.

    Sorry, folks, I'm working through this as fast as I can. Ms. McIver's testimony a minute ago about the 202 and 811 getting additional points. What are your feelings on that issue?

    MS. BOSTON: The memorandum to you had included giving points for that and I think she was just trying to kind of rebut some of the comments earlier this morning that were pointing out some of the reasons why we might not want to do it.

    MR. CONINE: So we've already done it?

    MS. BOSTON: Yes, right now it's in there.
MR. CONINE: And the market study capture rate issue she brought up?

MS. BOSTON: That was a good catch, and I may actually want to defer to Tom Gerst on this because that's kind of his forte to be able to discuss it and make sure that we don't have an error in there.

MR. GERST: Tom Gerst, director of Underwriting. Actually, it's not an error, it's the same language we use in the concentration policy, and what it says is that we will reserve the right not to allocate credits in an area which exceeds 100 percent or 75 percent, so you have to read the whole paragraph to get the meaning of what was written there. If you take it out of context, it looks like it's in error but it's not.

MR. CONINE: It's okay?

MR. GERST: It's okay the way it is.

MR. CONINE: Mr. Smith's comment on the very low income issue, and Senate Bill 322 related to tied to the local funds. Can you help me there?

MS. BOSTON: Definitely he had an excellent point. In our original draft, we had made sure that we'd captured that, and then when we were going back and trying to accommodate all the public comment, basically I just didn't realize that we had missed that the second time around. I do feel like by using the language that was
proposed by Mr. Voelker, that seems to have group
consensus, we are saying that you have to have subsidy, so
that should resolve it.

MR. CONINE: Okay. We had some testimony about
going from 100 to 150 on the contractor's experience in
urban areas and then 36 to 75 on rural areas. Can you
help me with that?

MS. BOSTON: We had originally proposed having
two exhibits: one continued to be threshold minimal
experience and then we also added points for experience
going above and beyond. We got a lot of comments just
indicating they thought it was confusing and why would we
have different standards in threshold and selection. In
one we were talking about the general contractor but in
selection we were only talking about the GP.

To kind of make it easier, we deferred back to
only doing threshold, but when we did, because so many
people seemed to always make it, we thought we could raise
the bar a little bit just to keep the quality high, but
going back is also fine.

MR. CONINE: I thought his comments regarding
the rural, percentagewise, a larger jump, were amenable.
I don't have necessarily a problem with the 100 to 150,
but if it's no big deal going back to the original, I
think we'll just keep it like it was and maybe put it on a
watch list for next year and we can take a look at it.

I think that takes care of the items I wrote down, Mr. Chairman.

MR. JONES: Keep thinking and we'll go to Ms. Anderson.

MS. ANDERSON: Brooke, there was a person that talked this morning about the not-for-profit that the board members were required to give their home addresses. Can you comment on that issue for me, please?

MS. BOSTON: Yes. Unfortunately, that's a very explicit requirement in Senate Bill 322, so as long as it's in there, we have to ask for it. That's that.

MS. ANDERSON: Okay. So it's in the statutory language.

MS. BOSTON: Yes, ma'am.

MS. ANDERSON: Then the comment that the gentleman made right after that about being a State of Texas resident within 90 miles, I guess, of the property for a rural deal, is that in there for the same reason?

MS. BOSTON: It's in the bill.

MS. ANDERSON: Okay, I must have missed that part of the conversation. And then the issue about the points that would be awarded in a joint venture between a for-profit and not-for-profit and those points are not available to just a not-for-profit acting on its own, can
you help me understand that issue?

    MS. BOSTON: Sure. The idea behind those points when we generated them for the first time was that we wanted to help in terms of capacity building for smaller nonprofits who weren't able to do one of these on their own, and while I understand that like a full-fledged nonprofit who has a lot of experience would like to be eligible for those points, it kind of defeats the idea behind it. If we want to structure them in a way for a different reason, that's a different issue.

    MS. ANDERSON: So you're trying to give the small nonprofits sort of leg up by letting them team with a for-profit.

    In the criteria to award the points, is there a size threshold? How do you define a small nonprofit in that term?

    MS. BOSTON: We don't, so you could have --

    MS. ANDERSON: A big nonprofit.

    MS. BOSTON: Right, could do it.

    MR. BOGANY: I have a question about that and I didn't say anything about it in my end, but I think this is a good reason to have a profit and nonprofit partnership, whether large or small, and the reason I feel that way is because of the experience, also the expertise. And I can tell you we have 108 CDCs in the city of
Houston and only five of them are probably being productive, and if you've got that partnership with somebody who does it all day, that's their living, they're going to give them advice and things of that nature to help make these projects successful.

It seems to have been my experience with nonprofits, when they're spending government money, they take all sorts of risks and all sorts of chances that if they were in the real world, they may not take. And it scares me, knowing my experience with nonprofits, I don't care how big they are, when they try to skirt using expertise, and a lot of them don't have people with expertise on their board or on their staff, and I like that being a catchall in that situation or having that private enterprise there to give them some guidance.

MR. CONINE: I agree with Mr. Bogany.

MS. ANDERSON: I think that's it. Thanks.

MR. JONES: My question, I think Mr. Conine already took care of this, but with regard to Mr. Sugrue's proposed amendment with the proposed amendment by Mr. Henneberger, we already included that in Mr. Conine's comments. Correct?

MS. BOSTON: If you'd like, maybe I should read it in to make sure that everyone is in agreement that we're talking about the same thing because I've seen
probably five of these floating around this morning.

MR. JONES: Okay.

MS. BOSTON: And we're talking about the low income targeting. Correct?

MR. JONES: Right.

MS. BOSTON: The way I'm understanding it is we would keep all the original language at the top which -- do you want me to read all that in or just add in the new additions?

MR. JONES: Whichever way you think is best.

MS. BOSTON: Okay. The way the whole exhibit would read is, "Low Income Targeting Points. Applications are eligible to receive points under Clause 1, 2 and 3 of this paragraph. For purposes of calculating percentages of units, all figures should be rounded down to the nearest whole number. To qualify for these points, the rents for the rent-restricted units must not be higher than the allowable tax credit rents at the rent-restricted AMFI level.

"For Section 8 residents or other rental-assistance tenants, the tenant-paid rent plus the utility allowances compared to the rent limit to determine compliance. The development owner, upon making selections for this exhibit, will set aside units at the rent-restricted levels of AMFI and will maintain the percentage
of such units continuously over the compliance and extended use period as specified in the LURA.

"For the purposes of the subparagraph, maintaining the promised percentage of units at the selected levels of AMFI, if at recertification the tenant's household income exceeded the specified limit, then the unit remains as a unit restricted at the specified level of AMFI until the next available unit of comparable or smaller size is designated to replace this unit. Once the unit exceeding the specified AMFI level is replaced, then the rent for the previously qualified unit at the specified level of AMFI may be increased over the LIHTC requirements.

"Rent increases, if any, should comply with lease provisions and local tenant-landlord laws.

"To qualify for points for units set aside for tenants at or below 50 percent, 40 percent, and 30 percent of AMFI, an applicant must provide evidence of a commitment of funds which specifies the amount of funds committed, terms of the commitment, and the number of units targeted at the AMFI level.

"Notwithstanding anything to the contrary contained here, development owners may not elect to set aside 30 percent, 40 percent, and 50 percent units for points hereunder to the extent that the deferred
developer's fee, as determined by staff at underwriting, exceeds 50 percent of the entire developer fee.

"If local HOME funds are to be used for units set aside for tenants at 50 percent, 40 percent, and 30 percent AMFI, the applicant should have proof of submittal for these local funds to receive the points. However, if a firm commitment for local HOME funds is not received by the department prior to ten days preceding the LIHTC reservation announcements, the points shall be deducted."

Which was your comment about the make subject to.

MR. JONES: I love that notwithstanding anything to the contrary contained herein; I love that clause.

MR. CONINE: They teach you that in law school.

MR. JONES: It makes me feel so comfortable some lawyer wrote that.

(General laughter.)

MR. CONINE: Can I ask an additional question, because Mr. Smith -- and Tom, you may be able to help me with this -- Mr. Smith brought up the example of getting $200,000 grant from a local municipality but only providing one unit and the disparity associated with that. Should we tie something in there that would help get more of those units tied in on a per-cost basis or some sort of
income and expense evaluation.

MR. GERST: If our goal is to get deeper skewing rents -- and we can provide any incentive to do that -- I'm not sure how it would matter if they're going to get $200,000 that goes for one 30-percent unit plus subsidizing the rest of the project affordability wise. We'll make sure in underwriting that there's not more subsidy in total needed than necessary, and so I'm not sure that there's an easy way to tie that subsidy.

We've done that with the Housing Trust Fund, though, in the past, so what we said there is, I think, up to $70,000 in Housing Trust Fund subsidy for a 30-percent unit and then I think we had a different number for the 50-percent unit. I don't recall what that number is off the top of my head.

MR. CONINE: Well, maybe instead of any sort of prohibition to prevent the $200- for one unit example, maybe we can provide an incentive or points to get more of those on a per-unit basis and pick $50-, $70,000, whatever number you want to pick. Does that make sense?

MR. GERST: I think that there will be enough incentive in the deep skewing that we have to already incentivize it. In order to meet that, they're going to need to get funds

MR. CONINE: Okay.
MS. BOSTON: If I may, on that last sentence, I think if where I had said prior to ten days preceding the reservation announcement, if we were to make that 30 days, that would probably be more satisfactory.

MR. CONINE: Okay.

MS. BOSTON: And then likewise, somebody brought up the double counting issue where you don't want to let the same unit that's hitting 50 be counted as also serving 30. We could easily add a sentence that says, No unit may be counted twice in determining point eligibility.

MR. CONINE: Perfect.

MR. JONES: That's a good idea.

MR. BOGANY: Mr. Jones, I move that we approve the QAP for 2002 with the addendums and let staff work out all the numbers and all the sentencing.

MR. JONES: There was a motion on the table before that. Do you withdraw your motion, Mr. Conine?

MR. CONINE: Yes. He's adding the amendments to it so, yes, I'll withdraw my motion.

MR. JONES: So Mr. Conine's motion is withdrawn; we have a new motion on the table by Mr. Bogany. Mr. Conine, would you second it?

MR. CONINE: I'll second it.

MR. JONES: Further discussion? Do you
understand what we're doing?

MS. BOSTON: Do you want me to go back and touch on all the things that I've heard?

MR. JONES: We can do that. What does the board think?

MR. CONINE: There's a lot of people who have spent a lot of time here today and a lot of input and I'd just like to ask those who are in the audience if we missed anything, because it's easy for us to miss something that may have been important.

MR. JONES: Sure, yes.

MR. CONINE: Just one sentence, tell me what it is.

SPEAKER: It was Mr. Sugrue's recommendation on the evaluation Section 42.7(c) to add "to ensure the allocation of credits are economically feasible, consistent with Section 42 of the Internal Revenue Code of 1986 and based upon sound underwriting."

MR. JONES: Would you comment on that, Tom.

MR. GERST: I think that was covered in what Brooke read. It said, "as determined by staff underwriting." It didn't specify Section 42 but that's what we use.

MR. CONINE: Is there anything?

MR. HALLA: Barry Halla with Life Rebuilders.
I understand your comment regarding the for-profit and nonprofit joint ventures but don't understand penalizing a nonprofit that has gone through the capacity building and is able to stand on its own as a development entity and has that expertise and can prove the expertise and has the capability of doing a development without a for-profit, why they then would possibly lose out on the allocation because they could not score the three points. I understand what you're after but it penalizes those that have already gone through the growing pains, if you will.

MR. CONINE: And I think we understand what you're after and I think Brooke addressed that issue in our discussion.

Anything else?

MR. SMITH: I want to make one point before you vote on this, just want to make this clear.

MR. CONINE: Make it quick.

MR. SMITH: This language that they're talking about for the skewing of the points, is it my understanding that the 50, 40 and 30, in order to get those points you've got to get funding from within the jurisdiction?

MS. BOSTON: That's the way it reads now, yes.

MR. SMITH: Now let me tell you what that does. That tells a developer even though he can make a project
work to include 50 percent median income like we've done in the past QAPs without subsidy from a city, that he's got to go and get subsidy from the city in order to provide 50, 40, and 30 percent of median incomes. That is not what I think the board wants to see. If a project can support 50 and 40 percent median incomes without getting subsidy from the city, then they should still get the points without that subsidy.

MR. CONINE: Tom, any comments on that issue?

Brooke?

MS. BOSTON: Yes. Actually, unfortunately, Rowan, by what you pointed out to us earlier, it does say very low income, and very low income is 50 percent.

MR. SMITH: I thought very low income, to my understanding, 30 percent.

MS. BOSTON: Thirty percent is extremely low. Kind of what you pointed out, it's kind of more of a catch.

MR. SMITH: You could have a situation here where a lot of projects are going to be coming in next year where developers are not going to have any at 50, 40, and 30.

MR. CONINE: Do you have a problem with that being an option as opposed to a mandate if they can make it work without it?
MS. BOSTON: No, not at all.

MR. NWANERI: I don't oppose his idea, the only thing is if it's going to work without a 30 percent or 40 percent or 50 percent, why go get extra just to get the point, and by the time you go get the extra subsidy, then you're limiting the amount of credit that would be available to the project anyway because we're going to be funding just the gap that is between the financing and what else is needed to complete the development. So I don't think that would be in the interest of the developer to go get additional subsidy just to get the point because on the other hand you cut yourself short on the amount of credit that you have available.

MR. SMITH: Well, you're going to have a situation next year where you're going to have a lot of projects coming in at 60 percent of median income and there will not be any housing built for 50 percent median income tenants which you've been doing all along. You need to look at this.

MS. BOSTON: Do you think, Rowan, that if you had it where the assistance was only required for the 30 percent?

MR. SMITH: That's what I think, or you can have it both ways. In other words, you can get points for either/or but you get a little extra point if you have
extra money or extra points if you have financing.

Mr. Jones: Mr. Henneberger, what do you think of that suggestion?

Mr. Henneberger: I agree with Rowan. I think the law says you need additional subsidy if you go to 30; 40, 50, if you can do it, do it, good, but the 30 ought to require the additional subsidy.

Mr. Conine: Let's give some credit for 30 then.

Mr. Smith: So in other words, you're saying that the 30 percent would have to have the subsidy.

Mr. Conine: Yes.

Mr. Smith: But the other 50 and 40 would not.

Mr. Conine: It wouldn't be mandatory.

Mr. Smith: That will work.

Mr. Jones: We had a motion on the floor and a second. Mr. Conine has been asking some questions.

Mr. Conine: I'm done. Let's vote.

Mr. Jones: We're ready to vote. Ms. Anderson, are you ready to vote?

Ms. Anderson: Yes, sir.

Mr. Jones: I know Mr. Bogany is ready to vote.

All in favor of the motion, please say aye.

(A chorus of ayes.)

Mr. Jones: All opposed, please say nay.
MR. JONES:  There was no nay vote, all the votes were aye, the motion carries.

MR. BOGANY:  For the sake of being able to get anything over to the governor's office on time, I was going to see if maybe Brooke could read back the language that we have on each one of the items that you have discussed.

MS. BOSTON:  It's short.

MR. BOGANY:  It won't take very long.

MR. JONES:  That is up to the board.  The chairman will not make that decision.

MR. CONINE:  Let me suggest that staff takes so much leeway in certain situations anyway, we trust you on this.

(General laughter.)

MR. JONES:  We now will move to item 3 on the agenda and I just want to congratulate you.  You did a great job.

(Applause.)

MR. JONES:  I'd like to say this, I've listened very carefully and the one thing I haven't heard today is somebody saying our staff wasn't trying real hard to make Senate Bill 322 work.  I haven't heard anybody take you on on that point and I think that's really an accomplishment,
and I congratulate you for it.

We're on item 3.

MR. CONINE: Move for approval.

MR. JONES: Item 3 we have a motion and the chair will entertain the motion this way: That items 3(a) and 3(b) be approved. Is there any objection to the chair taking the motion in that fashion? Hearing no objection, that's the way I take the motion. Is there a second to the motion?

MR. BOGANY: Second.

MR. JONES: There's a second to the motion.

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

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries.

I will then turn to item 4 which is Mr. Bogany, the report from the Programs Committee.

MR. BOGANY: The Programs Committee recommends approval on items (a) and (b).

MR. JONES: I will take that in the form of a motion. Is there a second?

MS. ANDERSON: Second.
MR. JONES: The motion has been made and seconded. Is there any discussion? Hearing no discussion, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, please say nay.

(No response.)

MR. JONES: The motion carries.

At this time it's time for the executive director's report. Would you mind doing that in writing to the board members, in view of the time constraints and travel plans?

MS. CEDILLO: That would be fine.

MR. JONES: Thank you so much.

MS. CEDILLO: In fact, the staff has a written presentation on the Bond Program.

MR. JONES: At this time the chair would entertain a motion to adjourn.

MS. ANDERSON: So moved.

MR. JONES: The motion has been made we adjourn.

MR. BOGANY: Second.

MR. JONES: It's been seconded. All in favor of the motion, please say aye.

(A chorus of ayes.)
MR. JONES: We're adjourned.

(Whereupon, at 4:22 p.m., the meeting was concluded.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: November 14, 2001

I do hereby certify that the foregoing pages, numbers 1 through 175, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Sunny Peer before the Texas Department of Housing and Community Affairs.

11/26/01
(Transcriber) (Date)

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