

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

City Council Chambers
City Hall
901 Bagby
Houston, Texas

Thursday
April 11, 2002
12:55 p.m.

BOARD MEMBERS PRESENT:

MICHAEL JONES, Chair
SHADRICK BOGANY
ELIZABETH ANDERSON
NORBERTO SALINAS

STAFF:

EDWINA CARRINGTON, Executive Director

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P R O C E E D I N G S

MR. JONES: I will now call to order the board meeting of the Texas Department of Housing and Community Affairs for April 11, 2002. The first order of business would be to call the roll.

Ms. Anderson.

MS. ANDERSON: Here.

MR. JONES: Thank you.

Mr. Bogany.

MR. BOGANY: Here.

MR. JONES: Mr. Conine is absent. Mr. Gonzalez is absent.

Mayor Salinas?

MR. SALINAS: Here.

MR. JONES: And I am present, Mike Jones. So we do have a quorum. We have four members present and two absent, and I do certify that we have a quorum.

Our next order of business is public comment, and we have several people who have said that they would like to speak to the board today and participate in our board meeting. And we are very thankful for that.

For those people who would like to provide public comment, you have an option. You can either do it now if you choose to, or you can do it at the time of the

agenda item you wish to speak to. And that is your option.

The first witness affirmation I have is from a Mr. David Turkel. Did I pronounce your name right?

MR. TURKEL: Turkel.

MR. JONES: Oh. Sorry. That was my number-two choice.

MR. TURKEL: Hello, Mr. Chairman and board members.

MR. JONES: If you would, state your name for the record, sir.

MR. TURKEL: My name is David Turkel.

MR. JONES: Thank you, sir.

MR. TURKEL: Or Turkel. And I am the director of the Harris County Office of Economic Development. There are a few folks that are here to speak today on an issue which I would like to make you all aware of.

It's an issue that is causing a problem here in Harris County. And it revolves around the Section 11.1 or 2 of the Texas Property Tax Code. And essentially it is -- it occurs when you approve bonds that are used to acquire properties that will be owned or operated by community housing development organizations.

And this then results in the properties

receiving a 100 percent ad valorem tax exemption. In the short four years that this program has been with us, we have found that there is over \$200 million that has effectively been removed from the Harris County Tax rolls without any input from the taxing units that are losing the revenues.

We would contend that it is bad public policy to promote a program, in this case, a housing program, at the expense of other programs that provide the very services that the occupants of that housing deserve, programs that rely on tax revenues for their funding, like hospitals, flood control, law enforcement, all of the services that the various taxing units provide that are impacted when the tax revenues disappear.

And what we would like is that your board would adopt a policy of requiring as a prerequisite, to approval of bonds that will be used for acquisition of properties that would be eligible for such an exemption, but you had required as a prerequisite, that the applicant either, A, enter into a -- an agreement for the payment and for payments in lieu of taxes -- we call those PILOT, P-I-L-O-T, with the tax -- the taxing units that are affected, or alternative, that you would go to each of those taxing units and secure a letter of nonopposition.

One method or the other is already in use with Harris County Housing Finance. We understand that Houston Housing Finance will likely be adopting a PILOT program, either they did today or they will at an upcoming city council meeting. Southeast Texas Housing Finance requires individual taxing unit approval.

We understand that TSAHC is now requiring PILOT agreements. And we would hope that you will do likewise.

MR. JONES: Thank you. The next witness affirmation form I have is from Mr. John Palmer. Mr. Palmer.

MR. PALMER: Yes. My name is John Palmer. I am an employed by the City of Houston and work for City Council Member At-Large Position 3, Shelley Sekula-Rodriguez. And I have a letter to read on her behalf into the record regarding the subject that was just presented to you. She offers her apology not being here today. She has an active medical practice, and is seeing patients in her hematology clinic today.

"It is my request that the TDHCA adopt a formal policy that requires developers/owners of properties in Harris County in the City of Houston, who would qualify for Section 11.182 ad valorem tax exemption, sometimes referred to as a CHDO, (Community Housing Development

Organization) exemptions, to provide one of the following as a prerequisite to bond issuance approval.

"Number one, a PILOT, (Payment in Lieu of Taxes) agreement with Harris County, the City of Houston, and local school districts, which include all affected taxing units as third-party beneficiaries are, a letter of nonopposition for each affected taxing unit. This will allow each jurisdiction to negotiate the terms for its own PILOT agreement.

"By having the ability to negotiate a PILOT agreement in these situations, we, Harris County and the City of Houston and affected school districts, will recover a portion of the lost taxing revenue.

"Respectfully submitted, Shelley Sekula-Rodriguez, Council Member At-Large, Position 3, City Of Houston." Thank you. And this copy is for your --

MR. JONES: Thank you. And please tell the council member that we certainly appreciate her input. Thank her for us.

MR. PALMER: Thank you, sir. Thank you, sir.

MR. JONES: The next one I have is for Mr. George Hammerlein.

MR. HAMMERLEIN: Good afternoon. My name is George Hammerlein, with Paul Bentencourt's office, the

Harris County tax assessor/collector. We would like to reemphasize some of the points made earlier, that in lieu of -- in regard to the PILOT program of the letter of nonopposition. In the office, we receive hundreds of calls a day from senior citizens who are being -- here they're being taxed out of their homes.

As more and more financial instruments come on board that enable larger organizations to shift taxes just to the homeowner, they are feeling more and more of the brunt. We would encourage you to adopt for future activities, at least in Harris County, that you would get the PILOT program Mr. Turkel has presented to you, or the letter of nonopposition from all the taxing entities. Because someone has to pay for the services, and it is more and more, you know, like I say, institutions are coming out with programs to get out of the tax base, the individual homeowner is kind of the only one left with no one to speak for them. And we would just encourage you to adopt those two programs. Thanks.

MR. JONES: Thank you, sir.

Next Mr. Ray Ocanas.

MR. OCANAS: I checked off that I would testify during the --

MR. JONES: Excuse me. I didn't hear you

right.

MR. OCANAS: I checked off I'll testified during the actual parts.

MR. JONES: That would be fine. Can you tell me which ones?

MR. OCANAS: That's 2(c) and 7.

MR. JONES: 2(c) and 7. Thank you, sir.

MR. OCANAS: You're welcome.

MR. JONES: Mr. Don Currie.

MR. CURRIE: I'm here for 2(c) as well.

MR. JONES: Okay. Thank you, sir.

Mr. Robert Kelly.

MR. KELLY: I'd like to speak when my item is presented, please.

MR. JONES: Okay. And which item is that?

MR. KELLY: I believe Item 4.

MR. JONES: Thank you, sir. Yes, sir. Mr. John Henneberger. I enjoyed your prior testimony.

MR. HENNEBERGER: I'm going to repeat that.

MR. JONES: Great.

MR. HENNEBERGER: Or recycle it a little bit. My name is John Henneberger. I am the co-director of the nonprofit organization here in Texas, the Texas Low Income Housing Information Service. And my work involves

representing the interests of low income and low-income working people in Texas and their housing needs. And I want to share with the committee just very briefly some materials which I developed for the Urban Affairs Committee, which met just before this committee, regarding the issue of subprime lending.

As you are aware, Article 2 of the department's sunset legislation directs the department to prepare a market analysis of the unmet economic and geographic credit need -- home mortgage credit needs in the state. And that process is underway. And I'm -- I have met with the staff, and I believe the staff is making good progress, although they are on an extremely tight time line in order to produce that study.

The study which I give you today illustrates, using the City of Houston as an example, the critical need for the department to have in place a marketing plan which addresses the unmet credit needs of working Texans, in particular the issue around subprime lending, which has exploded exponentially in the state.

I know there has been some discussion on behalf of the board with staff at past board meetings regarding the desirability of the department doing the subprime issue. And I share with the board the concerns that the

board has voiced in the past, that it is important that the Texas Department of Housing and Community Affairs not devolve into a predatory or an exploitive lender. That would be a very serious mistake made.

There are, however, those in the private market, and they are a distinct minority of the private market, but there are those in the private market who are engaged in those practices. And the effect on Texans is very severe.

The increase in this share of market, that is to say, the subprime market in Houston MSA alone in one year increased from 23 percent of the market to 35 percent of the home loan market. There is a -- so it's a exponentially increasing problem, in that high-priced credit has become virtually the only credit available to many of the people in this city and in our other cities in the state.

The department needs to very carefully and strategically evaluate its lending assets, and figure out how to target those assets so as to offset the bad practices of those who have abused the market in the past, and put people who should be getting decent home mortgage credit rates into a situation where they are paying exploitively high credit rates.

I think that the program is in the -- heading in the right direction. I believe that Byron Johnson has moved carefully in exploring an A-minus issue, which is -- which would be technically a subprime issue, but I think that is a very slow and deliberate and careful step in that direction.

That, accompanied with the market study the TDHCA is undertaking now are the -- are, I think, the solution to this -- to beginning to get in front of this very serious problem in the state.

I won't repeat the findings of the study. I would urge you, if you get a chance, to take a look at them. It is a growing problem, and I'm hearing a lot more about it. And I know that members of the legislature and citizens all over the state are going to look to our housing agency to be a part of the solution to leading us out of this problem. Thank you very much.

MR. JONES: Thank you, sir.

Ms. Dora Brown.

MS. BROWN: Yes. Good afternoon, ladies and gentlemen. My name is Dora Brown. I'm a member of the steering committee of SCAN. That's the Southeast Corner Alliance of Neighborhoods, an umbrella group of neighborhood associations in zip code 78744 in Austin.

This area includes approximately 40,000 residents, and it is where the proposed Kingfisher Creek or Parker Springs Condominiums would be located. For your reference, the TDHCA number is 0062.

We know the matter is not on the agenda today, which you all cannot take any action. But we want to talk with you about Kingfisher Creek, to explain a developing situation, to explain our opposition to the project, and to show why this project should be terminated at -- pardon me, the first opportunity.

We believe that Kingfisher Creek has been a deeply troubling issue for the TDHCA staff. Given all of the initial errors, misinformation, and omissions about this project in the early stages, Kingfisher was well through the approval process before the true nature of the problems were noticed.

By that time, Kingfisher Creek already had its tax commitments, and they were well on the way toward approval. Knowing what we know now, we think that the staff likely would not have approved this project. But since it was approved -- and they are now in the unenviable situation of having to justify and defend it.

Now, we're human beings, and we know that humans often find it very difficult to recognize that a

mistake has been made, and to change course. After all, 'fessing up is not always a good career move, especially when it's easier simply to go along and not make waves.

We know it may be difficult for this board to override the staff recommendations, because you're somewhat caught in the middle between opposing interests.

A perfect example with this situation is one we've experienced in Austin with the SMART Housing Program.

As you may know, this is a relatively new and somewhat troubled low-income-housing program. The SMART Housing staff now realizes that Kingfisher Creek is a horrible project. They now have an entire packet, known informally as the Kingfisher Creek rules, to keep this kind of situation from happening again in the future.

For example, under these new Kingfisher Creek rules, SMART Housing now requires neighborhood approval before even accepting the SMART Housing application where a zoning change was required, as was the case with Kingfisher Creek.

So they know it's a bad project. They've taken steps to avoid it in the future, but has the SMART Housing staff changed its position on the Kingfisher issue itself?

No. They continue to defend it anytime, anywhere, especially before the Austin Zoning Commission and the

City Council.

Whenever that issue comes up, a vast array of city staffers show up to defend Kingfisher. However, and I think this is an important factor, both the Zoning Commission and the City Council have voted against the Kingfisher project in opposition to the staff recommendations. And we hope that this board will do likewise.

I want to stress that we're not angry with the staff. And we understand that they, like you, are in something of a bind. However, we do urge the board to take a fresh, independent review of the Kingfisher Creek matter. If you do, we think that you will agree with the neighborhoods that this is the wrong project for this property. And we hope that you will terminate it and direct those funds toward a good project.

We do support good quality low-income housing in our neighborhoods. But Kingfisher Creek is not a good-quality project. So why, exactly, do we oppose it? Well, first, environmental factors have been ignored or misrepresented to you, to the city, and to the LIHTC board.

Two, the project is overly dense. They intend to put 35 units on about two buildable acres. Three, they

want three-story buildings on kind of a high area in that neighborhood, which is otherwise rural residential. And so it will be out of place if it is built like that.

The fourth reason, there is only one entrance and exit into and out of that property. And it opens onto a narrow, winding, heavily traveled collector street, and that street has no shoulders, and steep bar ditches on either side.

And the traffic also moves very fast. Even walking along that street is dangerous. I know. I tried it. And I'm still shaking.

Number six, there is no bus stop nearby, and no place to put one. And we will assume that many of these residents will need to use public transportation.

Number seven, there are no neighborhood amenities that residents might want, no schools, no parks, no playgrounds, no medical or dental facilities, no supermarket, no pharmacy, no restaurants, no banks, no dry-cleaners, or any other neighborhood services that residents would want.

Number eight, there are few, if any, amenities on this proposed site plan. The original plan called for a 2,000-square-foot clubhouse and community center. That's now become a tiny office.

The only other proposed amenity was a sports court. We haven't found it on the new site plan, but it is possible that there is some small, concrete square somewhere that's designated as a sports court.

So those are eight main reasons for finding this an unpalatable prospect. We have tried now for over a year to negotiate with Kingfisher Creek to try to work out a compromise. But their only offer, and I'm sure this is pretty much an exact quote, was to say that they might let us suggest some exterior colors that we like.

Well, exterior colors did not appear on my list of problems. That's certainly not our issue. We do remain willing to work out an agreement with Kingfisher, if they will take a fresh look at this project, or at this property.

They will have to give up the project as it is proposed, rather than simply trying to fix it up with a few band-aids on a gaping wound. If they withdraw their application to the TDHCA and SMART Housing and work with us on a much less dense proposal that protects the environment, which is very much at risk here, and to provide a good-quality housing and amenities for the residents, there may be room for compromise.

We know that good-quality low-income housing

developments exist in our area. We watched one from early construction through lease-up. And we know it is well built, that it has amenities, and that it protects the environment where needed, and it protects the residents.

We know that other projects of this quality are in the works, and we have supported those, and we will continue to support the projects. The Kingfisher Creek is not a good project.

I would now like to yield, if it's all right with you, Mr. Chairman, to Lee Sloan, who will give you some of the details on Kingfisher's total failure to comply with the extension that the board granted at the November 2001 meeting.

MR. JONES: I will tell you, I have imposed upon our fellow board members to the effect that they are probably ready to hang me. We already have a very full agenda. And we are now talking about something that's not on the agenda.

I will do this. I know you have come to Houston. And I appreciate that. If Mr. Sloan could be very brief, I will certainly appreciate it --

MR. SLOAN: You bet.

MR. JONES: -- because I will be --

MR. SALINAS: Mr. Chairman, isn't this project

already on its building stages in Austin?

MS. BROWN: No. That's what Mr. Sloan is going to discuss.

MR. SLOAN: I will --

MR. SALINAS: Well, my only problem here is that we're not a zoning board. And we cannot tell --

MS. BROWN: No. I understand that.

MR. SALINAS: -- City of Austin what -- where to build and how to zone their properties. We are only going to approve, or if we haven't already approved, the tax credits.

MS. BROWN: Yes. There is --

MR. SALINAS: I mean, there is nothing we could do with the planning and zoning in Austin, or any one of your portable home problems. It's very hard for you to ask us for something we can't do anything about.

MS. BROWN: No, sir. We're not asking for you to get involved in a zoning dispute.

MR. SALINAS: What I --

MS. BROWN: Let Mr. Sloan explain if he could. What -- I think that he'll clarify what we're about here. Mine was background information about --

MR. SALINAS: I understand that they already got funding from the City of Austin.

MS. BROWN: No.

MR. SLOAN: No.

MR. SALINAS: Then there is no problem. Then they can stop them at the City Council.

MR. SLOAN: Good afternoon.

MR. JONES: Mr. Sloan, I will say this as chairman. We're on really shaky ground here, talking about something that's not on the agenda. It has not been posted, so --

MR. SLOAN: There is --

MR. JONES: But if you'd be -- so if you could be very brief, because we at the board really can't even discuss this today, since it's not on the agenda.

MR. SLOAN: I am well aware that you cannot discuss this. So --

MR. JONES: Okay. So I -- well, we'll give you a few minutes. But just please be very brief.

MR. SLOAN: Sir, did you want to set a time limit, I'll be happy to try to -- then, you know, I'll shut up and sit down.

MR. JONES: Okay. Thank you.

MR. SLOAN: My name is Lee Sloan. I'm president of the Kensington Park Neighborhood Association of Austin, Texas, also known to the steering committee as

SCAN. Last week, I provided Mr. Burrell, and also I provided Chairman Jones and this board the detailed information on problems relating to Kingfisher Creek, project TDHCA number 0062.

Today, I wanted just to briefly to draw your attention to the pending April 15, that's next Monday, deadline for commencement of substantial construction on this project.

Kingfisher has already been granted one extension on this project, but to date, they have absolutely no subdivision planned. They have no site plan approved by the City of Austin. And they have no building permit for this project.

Kingfisher has totally failed to meet any of the criteria laid down by the board at the meeting last November. The project is massively and ineptly behind schedule. Barring a true miracle, there is absolutely no way they can meet their April 15 deadline. Therefore, come April 15, this project needs to be cancelled.

And by the way, in a last-minute effort to show compliance, Kingfisher and staff may bring to your attention the fact that a building permit has issued for this property.

However, you need to be aware that this permit

is for a single-family residence. It has absolutely nothing to do with this project, except maybe to fool somehow. At least, that is my opinion. I have included copies in my handout of these permits. In the packages handed out to you, you can see their single family in a little shed.

And I hand it out to you so that if this comes to the podium and someone tries to tell you Kingfisher Creek -- Kingfisher has a building permit for this project, you can see it for what it is.

I also understand the staff has recently been debating the meaning of the term "commencement of substantial construction." Everybody knows what that means. We all know what that means. Even the developer knows what it means.

In his application letter to Mr. Nwaneri of 15 and 16 October, he said it means that the site plan -- the site work survey is completed. It means that the pouring of the slabs is completed. It means that you are going vertical.

Well, there is a picture at the back of your packet that indicates the actual state of the substantial construction on the Kingfisher site. You'll note that the only activity to date is the dumping of this old couch on

which winos can lounge on now.

In closing, I would like to put forth two further troubling observations. First, on this site, there is not one but two City-of-Austin-designated 100-year-floodplain creeks on the property. This is in clear violation of the commitment agreement.

The commitment agreement said that the tract needs to be certified free of 100-year floodplains, as determined by the City of Austin. That simply is not the case. The site plans I have in here, if you want to see them, clearly indicate a 100-year floodplain.

The second point is, is garbage. The developers have virtually stripped the development of all the amenities promised to residents and promised TDHCA. Mr. Chairman and members of the board, we urge you on April 15 to see to it that this ill-sited -- this ill-advised and this totally unwanted project is terminated. Thank you for your indulgence.

MR. JONES: Thank you. Let me say this, and I'm not discussing your comments at all. But --

MR. SLOAN: You're right.

MR. JONES: But I would like to direct your attention to our staff, David Burrell. And I think your concerns should be discussed with him. Thank you, sir.

MR. SLOAN: I provided that letter to Mr. Burrell last week. And I understand staff was looking at it. But I do understand, for example, this building permit thing has come up. That needs to be brought to your attention. This is a ruse, as far as I'm concerned.

MR. JONES: Thank you, sir.

Mr. Barry Palmer.

MR. PALMER: I'd like to wait until the item comes up on the agenda.

MR. JONES: And that would be 4(b)?

MR. PALMER: 4(b) and seven.

MR. JONES: Thank you, sir.

Mr. Michael Bobinchuck.

MR. BOBINCHUCK: I'd like to wait for that, for 4(b).

MR. JONES: Thank you.

And Ms. Rosie Jones.

MS. JONES: I would like to defer my comments to the item.

MR. JONES: Thank you, ma'am. And those are all the witness affirmation forms that I have. Is there anyone else that would like to make public comment?

(No response.)

MR. JONES: With that, then, I will close the

period for public comment and call upon those who have already turned in witness affirmation forms that wanted to speak at the agenda item at that time. If for any reason I forget you, be sure to let me know. It will not be intentional.

With that, we will turn to Item Number 1 on our agenda, which is the Presentation, Discussion of the Possible Approval of the Minutes of the Board Meeting of February 21, 2002.

MR. BOGANY: So move.

MR. JONES: I have a motion that they be approved.

VOICE: Second.

MR. JONES: The motion has been made and seconded. Any discussion?

(No response.)

MR. JONES: Hearing no discussion, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

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

(No response.)

MR. JONES: The motion carries.

At this time I will turn to Item 2 on our agenda, which is the Presentation, Discussion, and Possible Approval of Financial Items.

And, Ms. Carrington, would you run through those for us, if you will.

MS. CARRINGTON: Bill Dally --

MR. JONES: Okay. Bill Dally.

MS. CARRINGTON: -- will be providing that report.

MR. JONES: Great. Thank you, Bill. You're the man.

MR. DALLY: Good afternoon, Mr. Chairman, board members, and Ms. Carrington. I'm bringing to you for your acceptance our second quarter investment report. This is for the period ending February 28, 2002. It contains all of the elements required of the Public Funds Investment Act. And I will skip over to some of the highlights.

Overall, the portfolio increased by \$38 million this quarter, leaving us with a total of \$1.29 billion in the portfolio as a whole. Its makeup is 60 percent mortgage-backed securities, 30 percent guaranteed investment contracts, and investment agreements, 8 percent repurchase agreements and 2 percent others.

We have in purchases of the mortgage-backed

securities this particular quarter, we had \$12.6 million as a whole. We also had an instance where we sold some of our mortgage-backed securities. They had reached the ten-year limit where we could pay those bonds off. And we were able to recognize the gain.

And that is going to be used for the benefit of the Bootstrap Program. It's a little over half a million dollars. We also had an increase in Multifamily portfolio of \$44.6 million. Overall, the market value of this portfolio increased by \$847,000.

This is due in large measure because interest rates between the beginning of the quarter and ending of the quarter went from 7.8 percent for a typical mortgage to 6.8. And that's the end of my report. Are there any questions?

MR. JONES: I see no questions.

MR. DALLY: I thought -- let me say, Kent Conine, at the end of the last board meeting, had asked me to comment on a editorial that was in The Wall Street Journal on Fannie Mae. I have addressed that, but I have done that by means of a letter which I'll forward on to the board members, if that's acceptable.

MR. JONES: Thank you, sir.

Ms. Anderson?

MS. ANDERSON: Mr. Chairman, I move for acceptance of this investment report for the second quarter.

MR. JONES: We have a motion.

MR. BOGANY: Second.

MR. JONES: We have a motion for acceptance and a second. Any further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries.

MR. DALLY: Thank you.

MR. JONES: Okay. Item 2(b).

MS. CARRINGTON: Item 2(b) will be presented by Robert Onion.

MR. JONES: Thank you.

MR. ONION: Good afternoon, Mr. Chair and board members, Ms. Carrington. The proposal before you today is the Park Meadows Apartments in Boerne, Texas.

It is a senior's project. It consists of 100 units, 48 one bedroom/one bath, 52 two bedroom/two bath.

The borrowing entity is made up of the principals of J. Stein Ford, manager, and G.G. McDonald, manager.

Their compliance history is outstanding. Of the eight projects that we have listed, five have received a score of zero, which means there are no compliance issues. The other three have not been audited.

We did hold a public hearing on January 23, 2002. There was no opposition to this project. And I believe the developer applicant missed the opportunity to do some preleasing. Based upon this, the bond amount is 4 million-six. I recommend that you favorably consider the rate and terms as stated in Resolution 02-20.

The developer applicant is also in the audience, should you have any questions of them or of me.

MR. SALINAS: Move for approval.

MR. JONES: We have a motion by the mayor for approval.

MS. ANDERSON: Second.

MR. JONES: We have a second to the motion.

Any discussion?

(No response.)

MR. JONES: Hearing no discussion, I assume we're ready to vote. All in favor of the motion for approval, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries.

MS. CARRINGTON: Thank you.

MR. JONES: Thank you, Mr. Onion.

I would like to do this. As we come to Item 2(c), since we had certain letters on this that I know the board is familiar with, could I ask Mr. Currie -- we're to your agenda item, and I would like to invite you to present your testimony, if you wouldn't mind.

MR. CURRIE: Thanks very much for the opportunity of presenting some of my concerns.

MR. JONES: Thank you for your letter.

MR. CURRIE: Sure. Sorry I ever wrote it.

Let me just introduce myself. I'm Don Currie. I'm the Executive Director for the Community Development Corporation in Brownsville.

I'm here today not really as a nonprofit who participates on a lot of TDHCA programs; I'm here today as one of the only nonprofit lenders that's an actual participant in originating loans under your mortgage revenue bond program.

According to the charts that are on the handout

that I just gave, for Bond Program 56, my organization is the largest originator, by number of loans originated, under your mortgage revenue bond program.

We are the fourth-largest mortgage revenue bond originator, in terms of dollar volume of loans that we originate under your program. And we are the fifth-lowest mortgage revenue bond lender, by dollar originated on a per-loan basis.

What that translates into is we do the most loans with the least amount of money per loan, and still are the fourth on the chart in terms of dollar volume of loans originated. The average family income of families we serve using your mortgage revenue bond program is \$21,647.

That's a family that's making a little over \$10 an hour, who is able to use a A-paper product to get into a brand-new home. Our income level is obviously significantly below the 30,820. It's actually the 60 percent applicable median family income that you kind of use as a standard for low-income clientele under the program.

Last year, using the historical chart that's provided in your board book, of the 176 mortgage revenue bond loans that were done last year, to families that are

below the 60 percent of the applicable income, my organization originated 40 percent of that total.

So I come today to you as a partner. I'm a big lender under this particular program. I think that we have shown that a combination of a mortgage revenue bond issued below market rate, or a mortgage revenue bond even issued with a premium rate, when coupled with the appropriate amount of down payment assistance, can in fact be used to reach families below 50 percent of the applicable median family income.

And I think you as a board should take pride in that fact, that you as a board should support that fact. And that you as a board recognize how you might use that 100 million of bonding authority that you have every year, to attach appropriate assistance to it, so that families who qualify for A-paper loans can get an A-paper loan, and not be forced into the high interest rate subprime market.

I provided to you today kind of a chart, based on a suggestion that was made by a staff, a suggestion I honestly don't agree with, as to how you would use the \$2.5 million in the junior lien bond that you originated for families below 60 percent.

And let me first say that whoever thought up the idea of originating the bond, I'd like to commend them

for their ingenuity and for their inventiveness in being able to provide that kind of -- amount of down payment assistance to be made available with the mortgage revenue bond program.

I think that's an example of creativity that needs to continue to be modeled. And I'm proud that the department took the initiative in doing it.

The chart on the top of my page basically details that in Bond Program 56, we have approximately \$45 million available to lend. Your average historical loan amount is about \$75,000. To loan out all that money, you need to do 600 origination under the program that's currently out there.

Your junior lien bond has \$2.5 million of funding available. If you offered a flat down payment fees of \$5,000 on each deal, you'd have to do 500 deals to families at 60 percent or below to use up your \$2.5 million.

Based on the historical data that was in the board book, last year you did 348 loans to people between 61 and 80 who wondered what the board passed would not be eligible for the 2.5 million. And you did 176 loans to families at 80 -- at 60 percent AMFI or below who would be eligible to use the 2.5 million according to what you

passed.

That's 34 percent of the total volume of origination that, historically, last year went to families at 60 percent or below the AMFI.

The next chart is just kind of an analysis of what would happen if you took the 500 origination at \$5,000 a pop, and you used the \$75,000 loan amount, you would originate \$37,500,000 in loans.

In order to originate loans -- bond proceeds to families below 60 percent, again, to use up your 2.5 million, you would have to do 83 percent of your origination to that target group. In fact, historically, you only did 34 percent of your origination to that particular group.

So based on the 170 number, if you took that out, and again, you gave \$5,000 to each family, as was being recommended, out of the 2.5 million under Bond 56, you would only use up \$850,000.

If you took the median between the ten, which is available right now in some counties, the 75 that's available in some counties, and the five that's available in some counties, and say, you gave out \$7,500 on that 170 loans, you would only use up 1.275 million of the 2.5 million that you made available under the junior lien

bond. And you would still have remaining 1,225,000 to use for future issuers.

The second page of my analysis is showing you my pipeline that I currently have in process. I have currently in the pipeline loans from mortgage revenue bond program 56. Fifty-four loans in your pipeline.

These are people that I've already made a mortgage commitment to, who a contractor is currently building a brand-new affordable house for, and if this proposal today was put into effect, I would have to go back to and say you no longer qualify for that particular house.

If you look at my pipeline as it's structured here, my average home sales price is about \$61,000. And I think when you look at the universal sales prices in Texas, you'll have to say 61,000 bucks is pretty low.

Our average loan home amount is \$56,600 more or less. Our average closing cost on an FHA-insured loan, which is the loan in the A-paper market that has the most liberal underwriting, and the most liberal housing and expense ratios, has closing costs of about \$4,500.

Each family we require to put up 3 percent of the down payment out of their own pocket, even though we could do zero-percent no-down-payment-type loans. So each

family puts up about \$1,900 out of their own pocket for the purpose of that home.

Based on that loan amount, and based on that sales price, the closing cost piece of assistance that we need for each one of those families is \$2,672. That's the difference between the 45-, the 18- that they put in, that's what's left to close the loan.

In addition, each family needs four -- on average, \$4,337 to be able to get that loan amount into a position where they can income-qualify on their front-end ratio. That assistance in our market for those loans that we have in the pipeline totals right around \$7,000 per transaction.

And the average family income of those people in our pipeline is \$23,800 among -- for the average family. My concern today obviously is, number one, us being the biggest lender in the program, us doing the most mortgage loans for families at or below 60 percent of median, I was very surprised to find this item on the agenda.

We were not contacted as to give any input to the item. We were not contacted as to how this item might affect the flow of clients that we have, who we've committed to originate loans to. We were not invited to

provide any input on how the program would be structured.

I know with Edwina at the helm that that's going to change. And I'm here today to say you know, I really hope that that does change. I think we're here today as a partner with you to get home loans into the hands of those families that really need those loans.

We're here today to get A-paper loans with reasonable interest rates into the hands of families that are willing to put up some of their money to be able to own their own home. Unilateral decisionmaking, and trying to figure it out without getting the input of your partners, I don't think is a very good way to set a policy.

And my concern with the whole of today was to speak to the board in terms of making sure you had the information that you needed, so that you can make a good sound policy decision, not just for my pipeline, but that you can make a good, sound policy decision for those people in Texas who this board is basically chartered to help.

I think there are some changes you can make in the program. And I think those changes could be effective. And I'll just summarize those in two, because I know you've already got what I wrote, and I know

Edwina's already talked to you, because she told me she did.

And I really don't want to bore you with a lot of -- you know, a lot of material, except to say one -- we want to continue with you with your program and not take it to another lender. We want to continue to help the families that we serve. And we served 300 of them last year, and put each one of them into a brand-new house, in rural areas, in suburban areas, and in urban areas.

And we want to continue to do that using your program. And we think you have the tool to help us to do that, and not only to help us, to help other lenders like us, for people that want to become lenders like us, to be able to do that all over the state of Texas.

So our suggestions are, if the concern is having a limited resource, which I recognize that you have, that you don't hesitate to issue premium bonds to generate down payment assistance.

For half a percentage point more for a low-income family to be able to get 4 percent of assistance, really allows that family to be able, again, to get an A-paper loan, at -- maybe it is a half a point above what everybody else who's got that bond loan is paying.

But that half a point is sure better than

paying seven more points than they would get in the subprime market. And for you not to attach the down payment assistance on the closing cost side, using a vehicle that local HFAs have been using for years to generate down payment assistance, I think would be a mistake.

So don't let anybody tell you that a low-income family will not pay a half a point more and be able to get the 4 percent, in order to save money over the life of their home, in order to get into that house.

Number two -- and I think Edwina's already discussed the point with you. You know, maybe it's better to uncouple the program from the county's Section 8 income limits, and attach the restrictions on using the funds, leveling the funds of the five, the 750 and the ten, not to a county income standard, but level that with the family income standard, so that families that really need \$7,000 of assistance to cover their closing costs, and to cover whatever principal buy-down they need to have to income-qualify for that A-paper loan, that they're willing to be able to get.

A flat 5,000 number doesn't get us there. What that does in my portfolio pipeline, just for an example, is taking that 2,000 off the top on my pipeline, equals

about 50 loans, equals about \$100,000. You would turn around and take that \$100,000, and you would make 20 more loans to a family of 60 percent of AMFI.

I would have to turn down 50 families at 50 percent of AMFI going down, because they can't get into that house. Politically speaking, if I was on the board, which I thank God I'm not, I would rather be going into the legislature saying we're able to loan those mortgage revenue bond loans to families at even deeper levels of median income.

We're able to do that because we've structured a program that works, and I would like to see the board consider if the program needs to be changed, to couple the program with the individual family income, and not necessarily with the county income.

And my last point is the memo also suggested some tie-in between down payment assistance and lending in rural areas. I really don't see any connection between the two. I think the issue of making loans in rural markets is a very complex issue, and is not going to be settled by just adding available down payment assistance, thought that's one very important piece.

What I would like to see the department do is bring together some lenders that are lending in to rural

markets. Maybe do a focus group. I think Ruth had suggested this in the past. What are the constraints to loaning into the rural markets?

And trying to look at the other programs that the department might have that might assist those lenders in making more loans into the rural areas.

Right now, you pay me \$100 bonus on every loan I do to a family at the 6.60 interest rate. Why couldn't you do the same thing to lenders that are willing to put loans into the rural areas? Or to lenders that are willing to loan more money to families at lower levels of the income scale?

I think you have the tools. I think the mortgage revenue bond program is a very difficult program to understand. And as I told Pam yesterday when I talked to her on the phone, I'm sure there is no way I can explain it to you in three minutes, because I don't even understand it, and we've been doing it for the past six years.

I think it's a tool in the toolbox that the department has available to them on a yearly basis. You have a lot of other tools in your toolbox as well. How you partner those tools with your biggest tool, which is your \$100 million home loan allocation every year I think

is the key -- one of the keys, in addition to the sub-8 prime product that you're looking to originate, I think those two things could spur a tremendous amount of affordable housing in the state of Texas.

And I would encourage you to do some thinking and some study and some talking before any proposal is brought back to the board in terms of how to structure a program that might work better for the state. So again, sorry for taking so much time. But I really thank you for the opportunity to come here today.

MR. JONES: Thank you for you input, sir. And thank you for being our partner.

Mr. Ocanas, did you want to speak to this point, too?

MR. OCANAS: I think you've got [inaudible]. I'll wait for number 7. I also have written comments to you.

MR. JONES: Okay. Thank you, sir.

Ms. Carrington, who will be presenting this item?

MS. CARRINGTON: Excuse me, Mr. Jones.

MR. JONES: No problem. Sorry to interrupt.

MS. CARRINGTON: I'm sorry. I apologize.

MR. JONES: It's okay.

MR. SALINAS: I was just confused for a moment, on the 5,000/7,500 --

MS. CARRINGTON: And 10,000.

MR. SALINAS: -- and 10,000 as assistance to a house, \$60,000?

MS. CARRINGTON: For down payment assistance for borrowers.

MR. SALINAS: At 6 percent?

MS. CARRINGTON: Yes.

MR. SALINAS: What is the living area of this housing? Did he say? You have an average home sale of \$60,000. We come up with 10,000. So what's the living area of this house that you buy? -- because we had a perfect experience in El Paso, this past month, where you have a STEP Program, which you have a home that people invest their sweat into building that home, and you have 100 percent of those people paying their notes at \$38,500 per house with a lot, making a payment of \$341 per month, including taxes and insurance.

So on this one, the incentive that I see here is that 3 percent provided by the people that are borrowing the money. But what I'm hearing here, and I'm confused is, they wanted also to forgive the 3 percent. Is that what they're asked us to do, when, in essence,

\$1,800 is the 3 percent, somebody is -- the guidelines for the county is how much?

MR. CURRIE: The program right now?

MR. SALINAS: Uh-huh.

MR. CURRIE: The way the program works right now is it's based on the Section 8 county income limits.

MR. SALINAS: Which is how much?

MR. CURRIE: So for example, Cameron County, we probably say has one of the lower incomes. Our county is eligible for 10,000 --

MR. SALINAS: For a loan?

MR. CURRIE: -- for a loan.

MR. SALINAS: Is that included in the closing costs?

MR. CURRIE: That includes whatever we need to use it for, closing costs, or principal buy-down for a down payment. So it's a package.

MR. SALINAS: Isn't that what you would want to have for the \$10,000 package?

MR. CURRIE: Ideally --

MR. SALINAS: I mean, are you trying to change the county's guidelines?

MR. CURRIE: No, no. I mean, ideally, we want to leave the program like it is. It works fine for me.

MR. SALINAS: Well --

MR. CURRIE: You know, I provide a lot of loans with that. My only suggestion was that for other parts of Texas that the Section 8 family income limits in the county limit their ability of any family in that county to access down payment assistance.

So for example, if they live in a county where the income limit is higher, and their county is only able to access \$5,000 of assistance per loan, there are still families in that county with family incomes at or below the 60 percent level.

And what I'm basically saying is, if you want to assist those families, what you might want to consider is uncoupling that limit from the county, and putting that limit with the individual family income.

So for example, in my chart that I provided as a suggestion, you know, people between 71 and 80 percent, no matter where they lived in the state of Texas, they would be eligible for \$5,000.

People between 61 percent and 70, no matter where they live in the state, they would be eligible for 75, and people below 60 --

MR. SALINAS: But you will not --

MR. CURRIE: -- may even be able --

MR. SALINAS: -- take away the 3 percent that the property owner would have to come up with?

MR. CURRIE: No. That was strictly the pipeline that we run.

MR. SALINAS: Okay.

MR. CURRIE: Okay. We -- I want to show the board that we, as a lender, we require the borrower to put up 3 percent of their own money. Some lenders don't require that.

Some lenders -- you know, you can get a loan with no down payment. And you can basically get a loan with very low -- you know, 500 bucks, you can basically get a loan. I don't believe in that.

MR. SALINAS: I think the 3 percent is --

MR. CURRIE: I think 3 percent is reasonable. I -- from our pipeline, the way we look at it, \$7,500 would be able to get the majority of our pipeline --

MR. CURRIE: -- taken care of.

MR. SALINAS: I think Hidalgo County has a 5,000 limit.

MR. CURRIE: They have ten.

MR. SALINAS: Ten?

MR. CURRIE: They also have ten. The fact of the matter is that most counties that have ten, the actual

lenders that loan money in those counties don't draw ten.

MR. SALINAS: They draw five?

MR. CURRIE: No, we -- they draw whatever they need. Like we're able to draw from your ten, but if you look at what we actually did draw, we only draw about \$7,500 out of each one, because we recognize your resource is scarce, you know, and we're not there to take your money.

MR. SALINAS: Well, what is it that you want to change, here?

MR. CURRIE: I don't want to change anything. I'm here today --

MR. SALINAS: You want to keep it the way it is.

MS. CARRINGTON: Mr. Chairman.

MR. CURRIE: I would like to keep it the way it is, and you know, if you want to make a change, the suggestion by me for the change were the two, not to go to the flat 5,000. That's what I was here today to speak about, Mayor, was -- I'm not in favor of the flat 5,000.

MR. JONES: Okay. And I think to -- I wanted the staff to have an opportunity to respond to his comments and his concerns. And so now, I think it would be appropriate to let Ms. Carrington tell us where it

stands after we've had one of our partner give us those concerns.

MS. CARRINGTON: Thank you, Mr. Currie. The staff would like to acknowledge the input that Don has provided for us. He is a very valuable partner to us in our program, and we appreciate that.

When we originated this, board members, a couple of weeks ago, our desire, as Don has already said, was to uncouple the amount of assistance available, based on the incomes or the income of the county.

We felt like that was not achieving what we had originally wanted to achieve with the program. And our program right now has 5,000 that's available, 7,500 that's available, and 10,000 that's available.

And what we have is a limited amount of funds for the program, about two-and-a-half million. And our idea was at the time to limit those amount of funds to 5,000 per loan.

After discussions with Don, Pam and I have taken a look at this and agree that we need to make some modifications to our recommendation, and that what we would do would be tie the down payment assistance to the income of the borrower, and that it would be at the levels of 5,000 and 7,500.

MR. JONES: In light of that, Ms. Carrington, would it then be appropriate if we followed the staff's recommendation, as you just stated it, for us to take no action at this time, and to wait for you all to come back with a modified proposal?

MR. SALINAS: Are you going to change it, or --
I mean --

MS. CARRINGTON: This would be a change to our existing program.

MR. JONES: And is that something we would want to post, to have our partners give us comment on, too?

MS. CARRINGTON: I would like to do that.

MR. JONES: Okay. So that's -- and I'm not saying what the board's going to want to do. I'm just stating that that's what I understand the staff's recommendation to us right now would be that we not take any action on this.

That we let them take this comment, that we let them work with our partners, get that input. And then we can come up and post again and publish another policy and move forward.

MS. ANDERSON: Mr. Chairman, I move that we table this item to a subsequent board meeting, when the staff will bring over by a set of recommendations.

MR. BOGANY: Second.

MR. JONES: We have a motion to table and it's been seconded. Any further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion to table, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed nay.

(No response.)

MR. JONES: The motion carries. Item 2(d).

MS. CARRINGTON: Byron Johnson will be presenting this item.

MR. JOHNSON: Good afternoon. Byron Johnson, Director of Bond Finance. The department staff and one of its investment bankers were kind of brainstorming about some preservation ideas. And they submitted a proposal that bond finance reviewed, and thought may have some merit, and is worth further research and development.

So what we're coming to the board to request is permission to move forward with the two firms named here, and to do some detailed analysis, document research, cash flow analysis, and then come back to the board at a later time and provide more details.

The transaction that we're looking at is very similar to a transaction that was done by the Chicago Housing Authority, whereby they securitized the future stream of capital fund payments, and used those -- are planning on using those funds to preserve and modernize their units presently, rather than waiting over, you know, ten or 20 years in time.

So this is the type of transaction we're considering. And we are -- been talking a lot today about partnering. This transaction would entail us partnering with public housing authorities throughout the state. We don't know at this time what the demand -- or what demand exists, whether or not they want to participate. But your approval will give us permission to start those studies and contact those PHAs, and see what they're interested in.

MR. JONES: Thank you.

MS. ANDERSON: Mr. Chairman -- I'm sorry. I move that we accept Mr. Johnson's recommendation received with this study.

MR. BOGANY: Second.

MR. JONES: We have a motion made and seconded that we approve the recommendation. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries. Thank you, Mr. Johnson. 2(e).

MS. CARRINGTON: Byron has the rest of the items in 2.

MR. JONES: All right.

MR. JOHNSON: I'm here again to discuss approval of recommendations relating to issuing our single-family bonds for the remainder of this year, and actually into next year.

Bond finance has been -- well, I've been here for about two-and-a-half years, and have examined the process reviews, and what we're recommending here is that we take more of a long-term approach to planning out the use of our volume cap, and also planning who we appoint as investment bankers to execute the transaction.

We're trying to promote, I guess, a spirit of cooperation among the investment bankers, and also provide for a continuity, where we will be able to stretch ideas and capital across, you know, more deals than just one.

Make it more of a long-term project, rather than a transaction-by-transaction affair.

So what we're doing here, if you look at the table, the next transaction we're planning on pricing and closing in May or June of this year, that would be \$100 million. And the recommended senior manager at Salomon Smith Barney -- this is a continuation of a transaction that we executed last year.

The net transaction would be priced and closed in November and December 2002. Once again, that would be \$100 million transaction. And we're recommending Bear Stearns for that deal.

Going into 2003, rather than issuing -- and I'll give you a little bit more history here. The department's history has been to issue one transaction throughout the year, and then try to originate those funds throughout the year.

The problem with doing that is that interest rates do not remain steady. We issue the bonds at a certain rate, yet the market rates will fluctuate. Now, the current environment, rates are forecast to remain steady or increase.

We don't know. You know, that's the consensus. But we still feel that we should break the transactions

down into smaller components and try to minimize our interest rate risk.

So going into 2003, where we would have \$150 million approximately in volume cap, we're recommending that we start initiating the process of issuing bonds on a smaller and more frequent scale. So we would recommend about \$50 million each. And the amounts are approximate, and subject to change.

We'll know at the time we issue the bonds. But the whole focus here is to try to minimize interest rate risk, and keep our program rates fresh with the current market.

And let me point out that April 2003, August 2003, I've listed -- or we've listed UBS PaineWebber, or US Bancorp [inaudible]. It would be kind of a jump ball situation, and we'll see who comes to the table at that time with the best proposal, depending upon what we want to do at that time.

MR. JONES: What's the pleasure of the board?

MR. SALINAS: Move for the approval.

MR. JONES: We have a motion for approval by the mayor.

MR. BOGANY: Second.

MR. JONES: Do we have some discussion, Ms.

Anderson?

MS. ANDERSON: I have a question.

MR. JONES: Certainly.

MS. ANDERSON: Mr. Johnson, you know, the 2002 issues total 200 million, and then you said in 2003, when we think we're going to have 150 million in cap, it makes it appear that the cap's declining.

MR. JOHNSON: No. I understand.

MS. ANDERSON: What am I missing?

MR. JOHNSON: Yes. We rolled over from last year \$54,300,000. And we're combining that with some of the current year's volume cap. So that's why we have two \$100 million deals this year. I'm sorry that it's that way.

MR. JONES: Any questions or discussion?
Hearing none, I assume we're ready to vote. We have a motion for approval. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries.

MR. JOHNSON: Thank you.

MR. JONES: Mr. Johnson.

MR. JOHNSON: Hi. In connection with the previous item, we need to go ahead and request from the bond review board our volume cap for the first 2002 transaction. See, the total amount of volume cap for 2002 is 156 million. We're looking to request an amount much less than that at this time.

In your write-up, you have \$32,750,000. I'd like to revise that on page 2 of the resolution to state actually \$38,750,000.

MS. ANDERSON: Mr. Chairman?

MR. JONES: Yes.

MS. ANDERSON: I move adoption of this recommendation with the amendment to 38,750,000, with clarification.

MR. JONES: We have a motion for adoption. Do we hear a second?

MR. BOGANY: Second.

MR. JONES: Okay. 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.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries. Okay.

MR. JOHNSON: The final item for me is the extension of the origination period for Program 54. We extended this program previously, and I guess subsequent to that extension expiration, determined that there was about \$400,000 remaining in the acquisition fund. So we took a chance there was really no risk to the department.

And we took a chance to try to originate the remainder of those funds, and the lender that single-family lending selected actually originated the funds. But we only had maybe a 30-day window to work in. And two of the funds dropped -- I mean, two of the mortgage loans dropped out.

So they only originated one loan for about 50- or \$60,000.

So unfortunately, we are in a position where we have to use about \$350,000 to call a like amount of bonds.

But for your information, the amount of the bond call will be less than 1 percent of the original lendable proceeds. So the amount's just something like .003 percent. So in the eyes of the market, it's not a material event.

But this is more of a protocol, and we just need you to approve the action. We received the affirmation letters from the waiting agencies, and this is

just dotting Is and crossing Ts.

MR. JONES: Thank you, sir.

MS. ANDERSON: Mr. Chairman, I move approval of this recommendation.

MR. JONES: We have a motion to approve.

MR. BOGANY: Second.

MR. JONES: The motion has been made and seconded. Any further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

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

(No response.)

MR. JONES: The motion carries. Thank you, sir.

MR. JONES: Thank you.

MR. JONES: I appreciate it. Mr. Bogany, I'll turn Item 3 over to you, sir.

MR. BOGANY: Okay. Item 3 on the Agenda, Approval of Section 8 Program Public Housing Authority Plan for the 2002 and Other Related Matters was pulled.

We're going to turn it over to Ms. Carrington

to let us know who is going to handle 3(b), Approval of Proposed Housing Sponsor Report Groups.

MS. CARRINGTON: Item 3(b) will be handled by Suzanne Phillips. No, it looks like Sarah Newsom to me. Okay. Sarah Newsom.

MS. NEWSOM: Thank you. Chairman of the Board, I'm Sarah Newsom. And I am the manager in the compliance division for the Housing Program. In Senate Bill 322, they -- no, wait. This is Housing sponsor.

MR. JONES: 3(b).

MS. CARRINGTON: 3(b), the Proposed Housing Sponsor Report.

MS. NEWSOM: And I picked up the wrong one. Please excuse me. 322 expanded our legislation a bit regarding the collection of some demographic information about our housing programs, or our properties that are financed under our housing programs.

Under 2306.0721, the bill expanded or tweaked some of the items that we collect for projects that we finance or give credits to.

For example, we are going to collect rents for one bedroom, two bedrooms, three bedrooms. How many low-income families live in the programs. Lots of the demographics it does. The legislation also allowed us to

assess a penalty for those that fail to report to us.

And the legislation wanted us to write some rules. And so we're presenting these rules for your approval, which then will enable us to go out for public comment, and then come back to you with the final presentation to the boards. And I'd be happy to answer any questions that you may have.

MR. BOGANY: Can I get a motion on the floor to approve the rule?

VOICE: So moved.

MR. BOGANY: Do I hear a second?

MS. ANDERSON: Second.

MR. BOGANY: All those in favor say aye.

(Chorus of ayes.)

MR. BOGANY: All those against, say nay.

(No response.)

MS. NEWSOM: Thank you.

MR. BOGANY: All right. We're going to go to the Approval for Proposed Rule of 10 TAC1.13, Applicant Compliance, with State and Federal Laws Prohibiting Discrimination.

MS. CARRINGTON: This will be Ann Paddock.

MS. PADDOCK: Good afternoon. My name is Ann Paddock. I'm recovering from laryngitis. Okay. These

are proposed rules to the [inaudible] Senate Bill 322. And we're asking for approval to put them through the Texas Register process.

And these proposed rules were based on [inaudible] our housing applicant to submit to us a certification with implied several federal [inaudible] laws. And when it is determined that they haven't complied with these laws, then we're required to notify the Texas Division of Human Rights to impose sanctions which can include a reprimand listed on our website.

Termination of assistance or a bar on future eligibility for assistance were listed here, in an amount to exceed [inaudible]. Any questions?

MR. BOGANY: Any questions?

MS. ANDERSON: I have a question. I have a question for Anne, please. We don't have a motion on the floor yet, do we?

MR. SALINAS: No. I move.

MR. JONES: I'll second.

MS. ANDERSON: Okay.

MR. JONES: We do now.

MS. ANDERSON: Yes. Anne, if I may. I mean, these are -- these look to be laws that we -- that are -- the agencies that we assist, you know, have to comply with

these things today. So where we just not had -- is this a formalization? I mean, have we just not had a rule in place before?

MS. PADDOCK: The legislative requirement is to adopt a rule, impose the sanctions, and to work with the Division of Human Rights. In specific, I'm saying to adopt this rule.

MR. BOGANY: Thank you. Go ahead. Any more questions? All those in favor?

MS. ANDERSON: Aye.

MR. BOGANY: All those against.

(No response.)

MR. BOGANY: All right. We've got to move to 3(d), Approval of 2002 Proposed Bond Eligible Tenant Limits.

MS. CARRINGTON: And this will be Sarah Newsom again. Before Sarah gets started, if I might make a comment. I guess, Ms. Anderson, sort of based on your question, we've gone through Senate Bill 322 and looked at how many rules the department is supposed to be making as a result of Senate Bill 322. And I believe our count is about 16 or so.

So we have been successful in making some of those rules. We have not completed all of them. So as we

speed toward the end of August when the Sunset Advisory Commission will be coming back, and obviously, we've had time to develop the rules, then this will become fairly common practice with -- at the board meetings, where you all will -- where we will be asking you to approve these proposed rules.

MS. ANDERSON: And it's really just a function of it having been an explicit mandate in 322, because we were -- our partners were already required to comply with those kinds of laws already. Right?

MS. CARRINGTON: Yes.

MS. ANDERSON: Okay.

MS. NEWSOM: Sarah Newsom, Compliance Manager.

One of the programs that we monitor are the tax-exempt bonds. And those are bonds that we issue. The department issues the bonds, and they finance multifamily rental properties across the state of Texas. And these properties are required, in order to keep their tax-exempt status, to reserve a proportion of the units and lease those to low income.

Low income could be either 50 percent of the area median or 60 percent of area median. Or if it's a pre-'84 loan or a pre-'86, it could be 80 percent of area median income.

The rest of the units, or the market rate, per se, units -- if they are financed by our agency, the bonds that are issued by our agency, are capped by an eligibility limit.

So they are not real true market rate complexes. There is a low-income portion, and then there is a cap on those market units, or those non-low-income units. And every year, we come before the board because the board is responsible for approving that upper limit, that eligibility income limit for the households that are not low-income that live in these properties.

Not all of our properties are restricted to this limit that you're going to approve, because in 1997, the bond documents were configured a little bit differently, and the eligibility limit was tied to a percentage of the HUD limits, and HUD revises those annually.

So it automatically floats up. So what I'm asking for you to approve today is the eligibility limit for those properties that were financed with the bonds that were issued prior to 1997.

And what we're asking today is that these limits that are in your manuals be approved. The eligibility limits are also broken down in one-person

households, or a household comprised of two or more. So the move-in limit for an eligible household, if the household is a one-person household, is 73,150, and the two-person household would be 93,100.

The limits are calculated in the same consistent calculation that we have used for the last several years.

MR. BOGANY: Any questions? Do we have a motion from the floor?

MR. SALINAS: So moved.

MR. BOGANY: Second?

MR. JONES: Second.

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

(Chorus of ayes.)

MR. JONES: All those against, say nay.

(No response.)

MS. NEWSOM: Thank you.

MR. BOGANY: Thank you. We're going to go to 3(e). And this has to do with the approval of the HOME Program previously disqualified applications who are now eligible for the awards and additional CHDO award recommendations.

We've got several cities on here. Do you want me to go -- I'm going to go through the cities. City of

Bartlett, Bartlett location, City of Merkel, Merkel, City of China, China. EAC of Gulf, Bay City Coast. City of La Coste, LaCoste. Community Encinal Services and Statewide Beaumont Consolidated. Who --

MS. CARRINGTON: Thank you, Mr. Bogany. Pam Morris will be reviewing this item with you, making the recommendations.

MS. MORRIS: Good afternoon. Pam Morris. As you recall, back in October, we had presented you with the 2001 HOME awards. And we had had some criticism on some of the disqualification process we went through.

So we presented that to you all, and gave you an opportunity to relook at the disqualifications, particularly to the audit certification forms. We went back and allowed them the 14 days to turn them in, made sure that everything had been accounted for. Took those applications and scored them through the process, and then went to -- back to see how they would have fallen out in the original recommendation.

The ones that we presented in the first section are coming from deobligated funds, as we have dictated for many set of appeals that we have that we report from that.

So in essence, we funded more awards in 2001, fortunately because the ones that would have gotten knocked out

actually got an award the first time around.

Then it also -- in December, we had brought to you some rental projects, I believe three CHDO rental projects. But there were some that weren't completely ready to have a full recommendation or decision made.

So we worked with those applicants and got the necessary documentation, and those underwriting reports were finished, and we're now recommending two more additional housing developments out of the CHDO set-aside, where it will actually come out of that set-aside and not deobligated funds.

MR. BOGANY: Ms. Morris, we've got public comment from Ms. Rosie Jones.

MS. MORRIS: Uh-huh.

MR. BOGANY: And let's see. Is Ms. Jones out there? Rosie Jones? Okay. Ms. Jones is not there.

MS. MORRIS: I believe she is getting an award for the rental CHDO statewide consolidated CDC.

MR. BOGANY: Okay.

(Pause.)

MR. SALINAS: This is the City of China, China was the one that was disapproved last year?

MS. MORRIS: Yes. They were the ones that had formed a complaint about being disqualified. And they did

receive their audit certification for the year.

MR. SALINAS: So you are recommending the approval of all this --

MS. MORRIS: Okay.

MR. SALINAS: That we [inaudible] Right?

MS. CARRINGTON: There was a misunderstanding in the way some of the communities had interpreted our rules.

MR. SALINAS: Uh-huh.

MS. CARRINGTON: And as you all remember, several of them came to the board meeting several times and pointed out that ambiguity in the rules. And so we have gone back. And we asked them to submit the information to us, but we gave them additional time to do that.

MR. SALINAS: Okay. Well, if that's in mind, I'll go ahead and move to approve the recommendation.

MR. BOGANY: Okay. Got approval from the mayor. Do we have a second?

MS. CARRINGTON: Second.

MR. BOGANY: Okay. All those in favor, say aye.

(Chorus of ayes.)

MR. BOGANY: All those against, with nay.

(No response.)

MR. BOGANY: Thank you.

MR. JONES: All right. Then that brings us to Item 4, which is the low-income housing tax credit items. Ms. Carrington?

MS. CARRINGTON: Items 4(a) and 4(b) require David Burrell, Tom Gouris and Robert Onion.

MR. JONES: I think Ms. Jones just came into the room.

We just passed your item, but if you'd like to speak, that item was approved in toto, so you may be happy with us.

MS. JONES: I apologize for missing.

MR. JONES: No, no problem.

MS. JONES: Good afternoon.

MR. JONES: Good afternoon.

MS. JONES: I'm Rosie Jones, Executive Director of Statewide Consolidated Community Development Corporation in Beaumont, Texas. I just want to say that we are please, and we value our relationship as a nonprofit, with your agency, TDHCA.

We really, truly appreciate the expertise and the knowledge of the staff, and we certainly appreciate the vision and the mission of this board of directors.

Today we have before you a recommendation for approval of our Scatter Site [phonetic] Rental Project. This project would house 18 Section 8 families who are walking around our cities with vouchers but no decent, safe, and sanitary affordable places to live.

We're asking for a favorable decision on our behalf.

MR. JONES: And we've given it.

MS. JONES: Well, thank you. And I just want to encourage you to continue the hard work and the compassion that this board has for the low and moderate-income families of this region, because truly, you are enhancing the lives of many families through affordable housing. Thank you.

MR. JONES: Thank you for all your work. We appreciate being a partner with you.

MS. JONES: Thank you.

MR. JONES: Thank you for being here.

MS. JONES: And again, I apologize for leaving the room.

MR. JONES: Oh, don't worry about that at all. All right. Item 4.

MR. BURRELL: Good afternoon, Mr. Chairman, and members of the board.

MR. JONES: Our court reporter can't hear you. Our court reporter can't hear you. There you go.

MR. BURRELL: We'll try it now. Good afternoon, Mr. Chairman, members of the board, and Ms. Carrington. The first item that we have this afternoon is Park Meadows Apartments.

On this one, we're requesting the approval of credits. This will be the new construction of elderly units. The issuer will be TDHCA. The applicant has requested \$250,039. The eligible basis is 226,166, and the equity cap amount is 345,807. This development has a total cost of 7,466,457. There was one support letter and no opposition.

This project can be located at Clarkland and West San Antonio Street in Boerne. And the permanent financing will be provided by Sun America Affordable Housing, where there will be a private placement of those bonds issued by TDHCA. There will be the syndication proceeds, which we estimate to be a net of 80 cents. And then the deferred developer's fee.

On this one, Mr. Onion gave a presentation earlier for you to approve the Park Meadows Bond issuance.

MR. JONES: Thank you. Mr. Kelly, do you want to speak to this? I have you down for four. Excuse me?

MR. KELLY: 4(b).

MR. JONES: 4(b). Thank you. Okay. We have a status recommendation?

MS. ANDERSON: Mr. Chairman?

MR. JONES: Yes, Ms. Anderson.

MS. ANDERSON: I move that we accept staff recommendation to approve this project.

MR. BOGANY: Second.

MR. JONES: We have a motion made and seconded. Further discussion or questions?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

MR. JONES: All opposed, nay?

(No response.)

MR. JONES: Motion carries. 4(b). In our 4(b), I have several people that would like to speak. That's -- first all, let the staff go ahead and make the recommendation.

MR. BURRELL: On the first one, the Grand Reserves Seniors Community, this would be a new construction of an elderly project. The bond issuer will be the Collin County Housing Finance Corp. The total development cost will be \$12,690,881. It will be a total

of 180 units, of which all will be LIHTC units.

The applicant has requested 495,422 in credits. The eligible basis amount is 516,835. And the equity gap amount is \$633,034. This project is to be located east of Highway 5, and south of Enterprise Drive in McKinney. The permanent financing on this one will be through Sun America.

The tax credits will be syndicated through Sun America Affordable Housing. And there will also be deferred development fees. They will have some cash flow from the rental income, and interest income that will be earned during construction.

On this one, we are recommending credits in the amount of 516,835, but we're asking that this be subject to the condition that the Grand Texans development which we approved last year be restructured to be reduced to 100 units, or that the developer withdraw those credits completely.

If they -- if the developer does not restructure to reduce the units, or to withdraw the credits, then we would be going over our concentration policy.

MR. JONES: Is that included in your recommendation?

MR. BURRELL: Yes, it's a condition.

MR. BOGANY: I move that we accept staff's recommendation.

VOICE: Second.

MR. JONES: Yes. Motion made and seconded. I -- unfortunately, I just have the witness affirmation forms showing me which one they want to speak on. Are -- you're going to recommend all -- one, two, three, four, five, six, seven --

MS. CARRINGTON: Uh-uh. No.

MR. BURRELL: No.

MR. JONES: You're not?

MS. CARRINGTON: No, there's one we are not.

MR. JONES: Okay. There's one you're not recommending?

MR. BURRELL: Yes.

MR. JONES: Okay. Do we need to take them each individually? Unfortunately, though, I don't know -- why don't I call on all the people that would like to speak on 4(b) now. And the first one is Mr. Kelly.

MR. KELLY: Thank you, sir. Good afternoon, Mr. Chairman, members of the board and staff. I'm Robert Kelly, and I am here to speak. I'm with Hutton Building Corporation, and I am here to speak on behalf of the

applicant and developer, which is Blinn [phonetic] Developers, of which is a related entity of ours on Sierra Vista Apartments in El Paso, Texas.

This is an existing 106-unit project, with 100 percent HAP subsidy, or HAP subsidy on 100 percent of the units as it currently exists. I had a chance to look at the staff's underwriting of the project, and I want to clarify a couple of things and add some additional information if I could, before you make your decision.

I'll -- I guess for just to have a method to my madness, I'll address those items in the order that they appear in the underwriting. Item number one, the operating expenses seemed a little low to the staff.

The staff would -- they underwrote the project at about \$3,500 per unit per year in operating expenses. We have managed and operated that property for the last 20 years. And our history has shown us what those operating expenses truly are. And we would like to use that expense level to underwrite the project. And those expenses are just over 200 -- \$3,200 a unit a year.

Excuse me. The second item is that the staff did not find where we were taking replacement reserves into account in our underwriting. They recommended that we use \$300 per unit per year for replacement reserves.

And we did not include them as an operating expense, but we did include them in our underwriting. And we have reduced the effective NOI by \$250 per year to underwrite and determine our NOI per loan amount.

There is, I think, a little misunderstanding and confusion on the part of our appraisal of the project.

There are -- and I think part of that stems from the rent levels that we -- that the appraisal -- that the appraiser used. There are a couple of things going on.

One is that we have an existing HAP contract, as I said, on the property. And that HAP contract has been in existence for 20 years, from 1983, and is -- it is set to expire next year, when we will have to remove that HAP contract. So we have current rent levels that are above market rents.

Since that contract will be expiring, and we wanted to refinance the project with these private activity bonds, we wanted to get the structure of the financing correct, and the level of debt and debt service correct so we could support it in future years.

We are almost assured we will be marked down to market, so we hire a consultant who does markdown to market studies and rent-comparability studies for HUD to do such a study for our project, and he determined what

the future, or the next HAP contract rent levels will be.

And those are the rent levels that we use to underwrite the property.

So we took the time and went to the expense to find out what -- you know, get someone -- an outside independent third-party consultant's best estimate of what those rent levels will be. And that's how we underwrote the property.

I do understand that those rent levels -- even the rent levels that you said we would be renewed at are above the 50 percent tax credit rents. But we have that subsidy in place, and we will continue to keep that subsidy in place.

Since the staff did not -- chose not to use the appraiser's valuation of the property, they instead for a value -- to value -- for the -- in valuation of the property, they used the outstanding the loan amount for the value of the property, which is significantly less than the appraised value. And that has really hurt the project.

There are a couple of items that play into that that I would like to say -- offer to the staff, that -- on behalf of the project. Number one is that the market study shows what the new market rents would be, what the

market rents would be if they did not have subsidy. And that's the level we have underwritten to.

And the second item that I would like -- the second comment that I would like to make to that subject is that the project cash flows to support the amount of outstanding debt now, and the rent levels that we've underwritten to will let it continue to cash flow. So I suggest that in fact, the value must be higher than the outstanding debt.

The next item is the exclusion of some of our developer fee, since it was an acquisition rehabilitation project. The staff excluded about 40 percent of our developer fee from outstanding basis.

I think we have at least as much work to do, since basically we own the property now, and we are recapitalizing it under this scenario. We have due diligence to do as the buyer and the seller, you know, submitting information to you, applications to you, to our underwriters, to our lenders, to our appraisers. We have -- we definitely have as much work to do as a developer.

Also, we had to get HUD's approval to transfer the HAP contract, HUD's approval to transfer the asset itself, and HUD's approval to prepay the existing note as

part of our due diligence and work as a developer.

The staff seem to think our income from operations during rehabilitation is somewhat speculative, and I don't think it is speculative at all, because under the rules of the HAP contract, we will continue to get subsidy on every unit during the rehabilitation.

And even if we move those tenants off site, we will be providing them with housing. And HUD allows us to continue to get our subsidy on those units during rehabilitation. so I don't think the -- that income is really speculative at all.

We've also included a \$153,600 for tenant relocation expenses in our analysis. And our debt coverage ratio -- that was called somewhat excessive. It's really a 110 coverage, using our analysis and the analysis of our lender.

The lender is comfortable with what we're doing. We're asking for over \$4 million in debt being underwritten at a 110 coverage, and they've looked at the project and think we have a viable project.

So for those reasons, I think the project was misinterpreted, misunderstood in a few ways. We would certainly like to continue to work with staff in explaining our position, or maybe seeing how we could

structure the project otherwise.

The timing of this project is such that our allocation of the bonds would expire before the next board meeting. So we're going to have to ask you to take action today.

The staff made two recommendations, one recommendation and one alternative recommendation to you.

And the alternative recommendation was to issue credit amount -- a credit amount not to exceed \$244,147 a year.

And based on this -- you know, this being a preservation project serving a very needy group of families in El Paso, Texas, in a very needy area, we respectfully request that you take their alternate recommendation and approve a higher credit amount so we don't take over a million dollars in equity out of this project and effectively kill it. Thank you.

MR. JONES: Thank you, Mr. Kelly.

Let me do this. We have a motion on the table right now to pass the -- to approve the status recommendation with regard to TDHCA number 01463. I don't think there are any speakers with regard to that particular item. Are there any further questions of staff or discussion of that particular item?

MS. ANDERSON: I have a question -- a

clarification for Tom.

MR. JONES: Sure.

MS. ANDERSON: This is not the project that we approved a little while ago this morning. But it has some of the same language in it about a reduction in the number of units from 180 to 100. That -- I'm talking about the McKinney project now that's on the floor.

So could you just explain to me one more time what it is you're recommending that we do for this project. And I think it was subject to the developer rescinding the credits that he --

MR. BURRELL: Either reducing the number of units, which would reduce the credits.

MS. ANDERSON: The credits.

MR. BURRELL: Or completely withdraw his credits. Let me -- on the Grand Texan.

MS. ANDERSON: Right. Okay.

MR. GOURIS: I'm Tom Gouris, the director of underwriting for the department. And this was a proposal that the applicant made to us --

MS. ANDERSON: Okay.

MR. GOURIS: -- to do that.

MS. ANDERSON: Great.

MR. GOURIS: So he's in agreement with that.

MS. ANDERSON: Great. Thank you.

MR. JONES: So we have a motion on the floor with regard to TDHCA Number 01463. It's been seconded. Further discussion, questions, or comments? I assume then we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries. With that, I would like to turn our attention then to TDHCA Number 01481, Sierra Vista, which has just been spoken to by Mr. Kelly, and ask staff to make their recommendation.

MR. BURRELL: On this one, it is an acquisition rehab. It's a family development. The total cost that we show is 5,497,712. On this one, the applicant had requested \$300,601 in credits. The eligible basis is 196,734. And the equity cap amount is 130,373.

On this one, we're recommending that the credits be allocated in the amount of 130,373. And the primary reason for the lower amount that we're recommending, it's because the -- there was an adjustment made to the acquisition cost of the land. And I'll get our underwriter, Tom Gouris, to give some of the detail on

that.

MR. GOURIS: And I might address some of the issues that Mr. Kelly brought up. The -- this is an identity of interest transaction. It's an existing project that has a related party in the buying and selling position.

And typically, when these transactions occur -- well, not typically, but the requirements are that they provide three pieces of information, an appraisal, assessed value, and acquisition and holding costs to justify the sales price.

That third issue is the one that justifies the sales or transaction price. In this case, it presented to us an appraisal, I believe, valued at \$4.3 million, which is slightly less than their transfer amount.

The appraisal indicated a little bit of conflicting information. But one of the pieces of information that we relied upon was the fact that they indicated the sales comparable approach, the comparables were adjusted upwards by 25 percent from the market because of the HAP contract that was associated with this project.

And because of that adjustment upwards, we feel like the appraisal really does give a as-is with HAP

contract value instead of a value with the -- without the subsidy on it.

And in essence, if we were to use the full HAP -- the value with the HAP contract associated with it, we would be providing a tax credit subsidy on top of a HAP subsidy, or because there is a HAP subsidy. So we'd be writing a subsidy on top of a subsidy.

In addition, Mr. Kelly made some good points with regard to the new loan being more than the transfer price. And that's because the HAP contract is going to take a big chunk of that loan and be responsible for repaying that portion.

He also indicated that the developer fee should have been -- should be allowed for an acquisition transaction. It's our practice not to do that, because it's very difficult for us to substantiate significant developer work when they've already -- when they already own the property and know all the -- you know, they know the property. They've done the due diligence.

Now, there is some work they have to do to make application to us, and to make some of the bond transaction occur. But that's significantly reduced, and pretty -- and in our view, pretty minimal compared to the typical developer work that needs to occur, and pretty

difficult to justify when it comes down to it later on to the IRS, to say that there was work accomplished for that. So we removed that piece from the eligible basis.

But the big issue is the appraisal. There are a couple of other small issues that he brought up that I'd like to address. One was the expenses. On the -- our operating expenses were higher, from our perspective. And this was the first that I've heard that the \$300 was -- I'm sorry. Let me back up.

He mentioned \$300 of reserves that we didn't see in his budget. And it sounded to me like he was saying that that was embedded in the rest of his costs. We didn't see that in there in his expenses. But -- so we included them at -- as is our custom, in our guideline to include \$300 for rehab projects.

When you take that \$300 and subtract it from our expense number, we're right at his expense number. So I'm pretty confident that our expense number takes into account his expenses. Plus, we did look at his historicals to see where we're consistent and where we're not. They're minor line fluctuations. But I think overall, we're in the right ballpark.

Moreover, if we used a lower expense number as he's indicating, that would actually make us recommend a

higher debt amount, which would further reduce the gap, which would make us recommend a lower credit amount. So this actually benefits -- you know, if anything, this is to his benefit.

Let me see. There was one other item. Oh, the loan amount, why we used the loan amount. The other reason why we used the loan amount instead of holding costs and acquisition costs is all we received as far as acquisition costs was \$2.6 million -- \$2.7 million in original development costs.

But we acknowledged that they have a larger loan than that, and felt like that was enough substantiation to document that they must have had holding costs to support that \$3 million, and felt that that existing loan balance was in fact the appropriate transfer price. That's how we came to that conclusion.

MR. JONES: Mr. Kelly mentioned an alternative recommendation you have. Is that true?

MR. GOURIS: Yes, he did. And we did make an alternative recommendation, because this is -- you know, this is a very, you know, debatable issue. And I wanted to make sure that the board had the opportunity to have advice on the -- on what it would be if we used the full appraised value as is.

MR. JONES: Yes, but my question to you is is that a recommendation from staff?

MR. GOURIS: No. That's not --

MR. JONES: You're not recommending we do that?

MR. GOURIS: No.

MR. JONES: Okay.

MS. ANDERSON: But it is a printed alternative on this underwriting report.

MR. GOURIS: It's an alternative that would require you to accept the appraised value over the --

MS. ANDERSON: Right.

MR. GOURIS: -- methodology that staff is recommending.

MR. BOGANY: So are you recommending that we turn it down?

MR. GOURIS: No.

MR. BOGANY: But he just said, if it goes through the way it is, it kills the deal.

MR. GOURIS: It provides less in credit than he would have liked.

MR. BOGANY: All right. What about the alternative?

MR. GOURIS: The alternative would provide more credit than he would -- than we would -- more credit. Not

what he had asked for, but more credit than he -- than the recommended credit.

MR. BOGANY: Would you recommend the alternative?

MR. GOURIS: I would not. I don't believe it's consistent with our practice.

MR. BOGANY: Okay.

MR. JONES: So -- and I want to make sure I'm clear here. The alternative recommendation is not recommended?

MR. GOURIS: Correct. It is there for --

MR. JONES: Okay. I've got you.

MR. GOURIS: -- informational purposes, so that you would have the advice to be able to --

MR. JONES: It's -- in other words, if we don't want to take your advice, you're telling us we could do this. Right?

MR. GOURIS: Right.

MR. JONES: Okay. I've got you.

MS. ANDERSON: Let --

MR. SALINAS: But why wouldn't -- have a problem with the attorney?

MR. GOURIS: I'm sorry?

MR. SALINAS: What he's saying [inaudible]

would probably not have any problem with the attorney. It's a similar situation that we have in Austin with -- that Mr. -- what's his name -- Gouris --

MR. GOURIS: It is. And that's why I provided the alternative.

MR. SALINAS: What did we do on that one? What happened on that one?

MR. GOURIS: On -- there are a lot of mixed messages out of that one. But as far as the valuation is concerned, my feeling was that the board upheld our valuation technique and our practice.

MR. SALINAS: But what did you do on Mr. [inaudible]?

MR. GOURIS: We ended up providing more credits for different reasons.

MR. SALINAS: What can we do for him? Didn't he argue hard enough, or what?

MR. GOURIS: No, it's a different issue.

MR. SALINAS: Should have sent the other guy.

MR. GOURIS: It was -- I mean, it was similar, but it was a --

MR. SALINAS: Similar. I know.

MR. GOURIS: Not exactly the same facts, circumstances, and the portion that the --

MR. SALINAS: If the lenders don't have any problem with it, why should we --

MR. GOURIS: Primarily because we're -- we'd be providing a source of equity for them to take out of the project, and not actually potentially preserving the project. This would provide us sufficient funds for them to do the preservation, we believe.

MS. ANDERSON: May I -- I'd like to ask a question about -- there are three -- you say there are three pieces of data that you ask the applicant to provide around that -- to justify the land valuation.

MR. GOURIS: Correct.

MS. ANDERSON: One is an appraisal.

MR. GOURIS: Right. Assessed value.

MS. ANDERSON: Okay. And then the third thing is --

MR. GOURIS: Is the original acquisition costs, plus holding costs --

MS. ANDERSON: Holding costs --

MR. GOURIS: -- to substantiate the transfer price.

MS. ANDERSON: And it's the third piece of data that you say you didn't receive from this applicant?

MR. GOURIS: We received the original

development costs. It was about 2.6 -- \$2.7 million. And we have documentation of their loan, which was \$3 million. We felt like the 2.6 or 2.7 was the original acquisition price.

They didn't provide any holding cost, so we said, Well, they've clearly evidenced that they have a \$3 million loan. They must have had \$3 million worth of costs. So we allowed \$3 million worth of costs as their proxy for the holding and acquisition costs.

MS. ANDERSON: Okay.

MR. GOURIS: And so --

MS. ANDERSON: Had you -- in between the time you issued this report on the second, and the time, you know, prior to that when you got this and you realized you didn't have that piece of data, and knowing that this is a sensitive issue, did you ask the applicant to provide the third -- to assure -- to tell you that, yes, that's all the information I'm going to give you the third element?

MR. GOURIS: Actually, to be fair to my staff and our staff, we received the appraisal on the Friday before the deadline for us to finish our work, which is like, Monday. So we really didn't have much time to then go back and say, hey, there is an appraisal difference here.

MS. ANDERSON: Right.

MR. GOURIS: And we really didn't have the opportunity to do that.

MR. BOGANY: Did you hear anything in public comment, or new information that would make a difference on what -- on your recommendation?

MR. GOURIS: No, sir.

MS. ANDERSON: I have another question.

MR. GOURIS: Yes, ma'am.

MS. ANDERSON: If the applicant noted or made the statement that the bonds or the commitment, I guess, or whatever, is going to expire before the next board meeting, is that something you're used to seeing, Tom? Are these commitments made for short periods of time?

I mean, I'm wondering about -- you know, we have a number of options that the board could choose to do. And one would be, you know, giving the applicant and you more time to, you know, to examine these issues carefully and come back to us.

So I'm -- I don't understand why if the bonds are -- and I'm kind of new at this. But if the bonds are, you know, the deal is only good for a very short window of time, why, you know, you wouldn't get the appraisal till the last minute, and -- I mean, is it just a matter of the

applicant didn't submit the paperwork as quickly as they might have, or --

MR. GOURIS: Yes. I -- generally speaking, these projects, or these 4 percent credits are all part of the -- coming through the credit that's available through the Texas Bond Review Board Private Activity lottery --

MS. ANDERSON: Right.

MR. GOURIS: -- and all that business. And they have a 120-day window. And I'm -- you know, being that they've owned the property for a while, I knew that they had this application. I can't answer why the appraisal took so long.

But generally speaking, it's -- you know, this is a pretty short time fuse, especially for new construction. And so generally speaking, for new construction transactions, we don't get information until -- toward the --

MS. ANDERSON: The very --

MR. GOURIS: -- that deadline. This would be an exception to that. But you know, the -- I'm sure they -- it's still a short window for them to get everything done.

MS. ANDERSON: And this deadline that they speak of is a hard stop?

MR. GOURIS: As far as I know, yes. I'm -- I looked to confirm that they had to go to this board meeting. They have another transaction similar to this that they're going to be making.

They're -- they've given to us that will be at the next board meeting. And hopefully we'll be able to try to resolve some of these issues, or at least get with them and resolve them, because we have a little more time to do that.

The only other piece of information on this answer is that they do own the property. So there is not a purchase contract that's going to evaporate, in theory.

But --

MS. ANDERSON: But they'll lose the bond lottery.

MR. GOURIS: The bond lottery will be lost. But this is El Paso. And there are only -- I think there are only four applicants in El Paso this year. There may be more next year, and they may not be able to get a new allocation, but it's a small pool that they're looking at, if that's any salvation for the --

MS. ANDERSON: Mr. Chairman, this one's of concern for me because there is a very large difference between what staff is recommending and what the applicant,

you know, based on the value of the property, is claiming.

I mean, it's -- you know, from 3 million to 4.4 million, or -- I mean, that's a big delta that drives a big difference in the credits.

And so you know, I'm concerned about having a viable deal here, and I'm just sort of struggling with any other ways we might be able to -- it sounds to me like the alternative proposal or something, that the applicant certainly favors over the -- over what you've recommended. I'm just sort of looking for another idea here.

MR. JONES: You know, I don't know -- I do want to congratulate the staff on making the alternative proposal, because I think they've cued it up well for us. So thank you for that.

MR. BOGANY: I move that we accept staff's --

MR. JONES: Recommendation.

MR. BOGANY: -- recommendation.

MR. JONES: Okay. Not the alternative points to the recommendation. We have a motion on the floor that we accept staff's recommendation. Is there a second to that?

MR. SALINAS: Second.

MR. JONES: And there is a second to that. Further discussion? And if we're moving too fast, Ms.

Anderson, you tell me that. Do we need to talk about it any more?

MS. ANDERSON: May I ask -- well, we're in debate. But I would like to have the personal privilege to ask --

MR. JONES: Sure. You certainly can.

Mr. Kelly, could you come up again, please?

MS. ANDERSON: Mr. Kelly, you heard me engage in a discussion with Mr. Gouris about the three pieces of data, and the third piece of data being your -- you know, the holding costs and so forth, that apparently weren't -- they didn't -- weren't provided to them.

Is there material that your firm has that would substantiate significant additional holding costs that would -- or the -- that would, you know, create justification for the value -- the \$4.4 million value that -- in your application?

MR. KELLY: Well, I'm sure we could provide that information. I was under the impression that we had, you know, substantiated -- or we had given all the information that we were required to give. Otherwise, additional information would have been forthcoming.

So I think the answer to your question is, Yes, we would -- you know, we would do everything we could to

provide additional information, to make this -- you know, to make this project work.

You know, but to use --

MS. ANDERSON: Well, I mean, do you have substantiation of the acquisition costs plus ongoing holding costs, you know, equating to 4.4 million?

MR. KELLY: I don't have it with me.

MS. ANDERSON: Right. But I mean --

MR. KELLY: Yes, we could provide that information.

MR. BURRELL: An alternative -- if he could provide it --

MR. SALINAS: If we put it on a holdup -- if we tabled it, then you will not have lost this fund.

MR. KELLY: That is correct.

MR. BURRELL: An alternative --

MR. SALINAS: So you've got us in a bind here.

MR. JONES: Okay. Mr. Burrell, do you have an alternative suggestion?

MR. BURRELL: If he could provide the documentation to substantiate the 4.3 or 4.4 million, you all could approve the credits subject to that documentation.

MR. JONES: That --

MR. SALINAS: Then I will remove my second.

MR. JONES: That might be -- and let me just -- this is by way of discussion of the current motion. The compromise that I see forming might be that the board could pass the alternative recommendation subject to underwriting being satisfied with regard to the documentation being submitted.

And I think the advantage to this is the project dies probably if we pass what we're currently contemplating passing. So we have the -- the motion's been -- the second has been withdrawn. Mr. Bogany --

MR. BOGANY: I withdraw my motion.

MR. JONES: The motion has been withdrawn. Would any other board member like to make a motion?

MS. ANDERSON: Mr. Chairman, I would like to make a motion.

MR. JONES: Yes.

MS. ANDERSON: I move that the board approve the alternative, which is a allocation not to exceed 244,147 annually, and that, including staff's condition about the subsidized appraised value of 4.3- and subject to underwriting receiving satisfactory documentation. What else do I need to say here?

MR. GOURIS: There is a floodplain -- there are

a couple of other conditions in the original, I would assume you want to make.

MS. ANDERSON: Oh, plus the -- yes, the three additional -- the three conditions that are stated in the credit underwriting analysis.

MR. JONES: Okay. We have a motion on the floor.

MR. SALINAS: Second.

MR. JONES: And it's been seconded. Further discussion of that motion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

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

(No response.)

MR. JONES: The motion carries.

MR. KELLY: Thank you.

MR. JONES: Thank you, sir. At this time, I will turn the board's attention to the Copperwood Ranch item. We have one speaker who would like to speak on that. We already have the staff's written recommendation. So I will call the speaker, who is a Mr. Palmer, I

believe.

MR. PALMER: Hello. My name is Barry Palmer. And I wanted to speak briefly about the Copperwood Ranch development, which is a new construction bond transaction in Harris County.

Since we received staff's underwriting report, we have had an ongoing dialogue with the underwriting staff concerning some differences between our expenses and staff's expenses. There is a condition in the recommended approval from underwriting that limits the debt service requirements on the project to \$960,001 per year.

We have provided additional documentation to the underwriting department since the board's packet went out to document further the expenses that we anticipate on the project, and we are requesting that that condition be changed to debt service not exceeding \$977,985 per year.

And I believe that staff is in concurrence with us on this figure at that time.

MR. JONES: Is that correct?

MR. BURRELL: Yes, that is correct.

MR. JONES: Okay.

MR. SALINAS: I move for the recommendation.

MR. JONES: Okay. We have a motion by the mayor to approve the recommendation of staff as it was

just stated. Is there a second?

MR. BOGANY: Second.

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

(Chorus of ayes.)

MR. JONES: All opposed, nay?

(No response.)

MR. JONES: The motion carries. I would now like to call our attention to the Gateway Georgetown item. And now, this item, as I understand it, is not approved for recommendation by the staff. Is that correct?

MR. BURRELL: Correct.

MR. JONES: Okay. And we have one person who would like to speak on that, Mr. Bobinchuck.

Mr. Bobinchuck?

MR. BOBINCHUCK: Good afternoon. My name is Michael Bobinchuck. I am the developer on Gateway Georgetown. It is my understanding that staff is not recommending the approval of this project because of a concentration issue, the capture rate, and market conditions.

I would like to address those -- and the

basis -- or actually, I should say the baseline or reference property for their recommendations is a property called Georgetown Place, which was approved for 9 percent credits, I think, last year, or maybe the year before, but it's in lease-up right now.

I called yesterday and talked with their manager and they are currently at 39 percent occupied, which is about 69 units. They came on line in the middle of October. In the package I gave you, it shows their initial certificate of occupancy, which is the middle of October.

At that lease-up rate, it started about eleven-and-a-half to 12 units per month, which is very consistent with what our markets -- actually, it's above what our market study said for that project, due to this location.

One reason, I feel, that -- well, one reason I think that the -- that they're recommending nonapproval for that is they had a lease-up rate of seven units per month. And I wasn't sure how they got that, except that once they mentioned July when they came on line, which, add the number of months to the number of units they have leased up, and you're going to get quite a lower -- it's actually October -- the middle of October.

At 12 units per month, in this past lease-up

period, which is traditionally a slower lease-up period for almost anywhere where apartments are located, not too bad, especially after the fallout of September 11.

That property is not on any major thoroughfare, and is actually pretty hard to find. Gateway Georgetown is also in a significantly different area of that submarket. They're in the southeast; we're in the northwest quadrant.

As far as the entire market itself, all properties have seen increased traffic and leases over the past month/month and a half, which steadily is improving.

If you drive up through the area, you see lots of new retail construction going on, and improving market conditions.

The public housing authority there has a 50-person waiting list now. It's for very low income, which some may or may not qualify for Gateway Georgetown, but I'm sure a portion of them would.

Also, their Section 8 is a one-year waiting list in the area. So combined with those two, it shows a need for low-income housing or affordable housing in the area.

I'd like to address the concentration issue now also. Reading through the rules in the QAP, it recommends

that staff does not approve -- oh, I'm sorry, the board does not approve projects that are in an excessively concentrated area of affordable housing. I'm not sure what that definition is.

I don't know how you define excessive concentration. But if Gateway Georgetown is approved, added to the affordable housing there, only 11 percent of the entire apartment market there will be affordable. That doesn't seem excessive, but I'm not sure what the definition is.

The last thing I'd like to speak on is the capture rate. And staff's report -- they mention 36 percent. I'm not sure where they got 36 percent capture rate. In the market study, for an improve MAI, it shows 25.2.

And in a letter that is in the package I sent you, he also states that the "calculated number of prospective income-qualified tenants is probably understated in our report, because the Census 2000 income data for Georgetown and Williamson County is not yet available." So it's actually understated at 25.2 percent.

I think those address the major comments that they had for not approving the property. And I'm available to answer any questions.

MR. JONES: I see none. Thank you, sir.

MR. BOBINCHUCK: Thank you.

MR. JONES: I appreciate it. All right. Then I bring to the attention of the board the Gateway Georgetown issue. We have staff's recommendation.

MS. CARRINGTON: Tom, why don't you just go ahead and address the issues that you saw in doing the underwriting --

MR. GOURIS: Okay.

MS. CARRINGTON: -- report on this particular transaction.

MR. GOURIS: The key issue was the concentration capture rate issue. And when we looked at the market study that was provided, we looked -- we saw demand calculation that used multiple years of turnover, and multiple years of future potential growth.

We don't typically use that or accept that as a current demand. So we utilized one year's worth of turnover plus the growth, and determined a smaller demand than what they had anticipated. With that demand, this project alone exceeds the 25 percent capture rate at 32 percent, I think, I'm sure.

But when the Georgetown Place is added to it, the project that's in lease-up now, that capture rate

would go to 73 percent. In addition, there may be some misunderstanding about when Georgetown Place went on-line.

I believe it was completed in October.

But I believe they started leasing in July. That's what we were told anyways, when we called and verified. And at the time we called to verify that, we were seeing 6.7 percent, or about seven units per month were being leased. So that's where our figures came from.

It may have -- things may have picked up a little bit in the last month, but that's still a pretty slow lease rate for that project. I can't say anything about the difference in the projects. It's probably likely that the proposed project here is in a better location, and maybe will lease up better.

But our concentration policy indicates that we're trying to protect or preserve things that we just approved, or just put in there, and give them a chance to stabilize. And so that's the reason for our recommendation.

MR. JONES: All right. Again I bring to the board's attention. What do we want to bring on the Gateway Georgetown issue?

MR. SALINAS: I move we take the recommendation of our staff.

MR. BOGANY: Second.

MS. CARRINGTON: Second.

MR. JONES: Okay. To move we approve staff recommendations has been made. It's been seconded. Any further discussion, questions or comments?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries. With the board's permission, we have some timing issues, I know, with some board members. So I would suggest this.

We have -- now have remaining on Item 4(b) the Arbor Bend Villas item, the Wintergreen Senior Apartments item, the Overton Park item, the Woodland Ridge item, and the Clearwood Villas item. And we also have the written recommendations of staff with regard to each of those items.

We have nobody that wishes to speak on those items. So if the board will allow me, I would suggest that we take them collectively.

MR. SALINAS: I move that we go ahead and take

the recommendation of -- on all these items from staff.

MR. JONES: Okay. We have a motion that we take all -- the recommendation of staff on all these items. Is there a second to that motion?

MR. BOGANY: Second.

MR. JONES: Okay. And now I do want to give board members, if they have any questions on any of these items, the opportunity to ask staff about those items. Are there any questions? Any comments? Any discussions?

(No response.)

MR. JONES: I appreciate everybody's indulgence that we're taking it that way. I assume we're ready to vote on the motion. All in favor of the motion, please say aye.

(Chorus of ayes.)

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

(No response.)

MR. JONES: Thank you. We will then move to Item 5. Ms. Carrington?

MS. CARRINGTON: I believe David Burrell can dispense with this fairly quickly.

MR. JONES: Thank you.

MR. BURRELL: On Item Number 5, we're

requesting the board to approve a request for extension associated with the 2001 prior commitment of Champion Forest Apartments. This is a project that was for commitment in 2001 that will receive a 2002 allocation. It's located in Harris County. It has an allocation of 610,346.

The deadline date requested is April 29. And the reason that they're making this request is because they had delayed in closing on their land.

MR. JONES: All right.

MS. CARRINGTON: And staff is recommending approval.

MR. BURRELL: Staff is recommending approval.

MS. CARRINGTON: Correct.

VOICE: So moved.

VOICE: Second.

MR. JONES: Okay. We have a motion that has been made and seconded that we approve staff's recommendation with regard to the extension. Any further discussion, questions, or comments?

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

(Chorus of ayes.)

MR. JONES: All opposed to the motion, please

say nay.

(No response.)

MR. JONES: The motion carries.

With the board's permission, I would like to turn now to Item 7 on our agenda. And we do have someone who'd like to speak to that, Mr. Ray Ocanas. Mr. Ocanas.

MS. CARRINGTON: I think he just walked out.

MR. JONES: Did he just walk out? John, could you help us?

MS. CARRINGTON: I think he's headed in that direction.

MR. JONES: I bet he is. Why don't we hear staff's recommendation with regard to Item 7. And then Mr. Ocanas will probably be back with us then.

MR. JONES: Yes.

MR. PALMER: Are you on Item 7?

MR. JONES: I am.

MS. CARRINGTON: Yes, sir.

MR. PALMER: My name is Barry Palmer. And I wanted to address briefly the issue raised with Item 7 about the department possibly adopting a new policy concerning CHDO certification.

I know that there has been a great deal of controversy over the CHDO statute and the effect on local

tax revenues. And it was addressed by some of the speakers earlier today, with their recommendations that you adopt a PILOT program.

I don't really have a comment on that one way or the other, other than I think that it's appropriate for the department to deal with the issue in some other way than by not certifying CHDOs anymore, or making it more difficult for CHDOs to be certified, such as either through a PILOT or some other way.

The department's process, as is currently done, I think, is a good process. They require all the information, and it should be needed to make a determination on certifying a CHDO or not. And so to change that would just be, in my view, creating a barrier to nonprofits having access to the resources that have been made and available to them through either state or federal law.

There has been some discussion of the number of CHDOs that TDHCA is -- has certified, indicating that that number may be too high. But I think that that is misleading because when a CHDO does a transaction, an individual transaction like one of the bond deals that was just approved here today, they're a service to the general partner in that deal.

Their lender will require them to form a special purpose entity to do that particular deal, so we'll -- there will be a limited liability company that will be formed that will be owned solely by that CHDO, in effect, a subsidiary of the CHDO.

But under the current rules that the department has on certification, the -- that parent CHDO certification, if they are already certified as a CHDO, does not automatically pass through to this LLC. And so their -- the CHDO is required to submit a new CHDO certification application for this limited purpose entity.

And so the numbers you may hear of how many CHDOs that you are certifying are somewhat misleading, because if you have a nonprofit that's done five deals in Texas, they've had to come back to your department five times to be certified for each one of those deals.

So it's not as many as I've heard the number as bandied around, as to -- or it's a misleading number as to how many CHDOs have been certified. And I would encourage the department to not act hastily on this issue.

Some of the CHDOs that we represent have been working for months or close to a year, putting a deal together. It takes that long to do one of these new construction -- particularly the tax credit deals.

And so to change the rules on short notice would be very disadvantageous to a number of nonprofits who have gone forward, based on the legislation that is in place, and based on the TDHCA's existing policies of certifying CHDOs.

And so if the board were -- is to take any action, I would encourage that there be a hearing process and a whole examination of the issue before any action was taken. Thank you.

MR. BOGANY: Sure. I have a question for you. Based on the information that we've heard, what's your suggestion that we do about the taxable income that's being taken off the books?

MR. PALMER: Well, what most of the issuers have done when confronted with the problem, is come up with some kind of a PILOT program that does not charge full taxes to the project, particularly in the case of new construction. I think -- and I think most of the issuers who have looked at the issue of -- have made a distinction between new construction and existing inventory.

The harder case for the taxing jurisdictions is when you have existing apartment complexes that are paying taxes. A nonprofit comes in, acquires it, takes it off the tax roll. There may not even be any substantial

renovation.

That is a much different situation than when you have a nonprofit coming in, taking a piece of raw land that's paying very little taxes probably, and building a new construction project. I would differentiate between the two, and maybe have a PILOT program that charges something equivalent to what taxes have been paid on existing inventory.

But on new construction, I would not impose a heavy burden on it, because in most cases, it's the difference between the deal being done or not being done.

It's not a case of taxing jurisdictions losing revenue because they're not receiving the revenue.

MR. BOGANY: Thank you.

MR. JONES: Mr. Ocanas?

MR. OCANAS: Good afternoon. I apologize for not being in the room.

MR. JONES: Don't worry about it.

MR. OCANAS: Good afternoon, Chairman Jones, Ms. Carrington, members of the board. My name is Reymundo Ocanas. I'm executive director of the Texas Association of Community Development Corporations, TACDC. I represent the over 300 CDCs, CDFIs, and CHDOs throughout the state that work in affordable housing and economic development.

And I'm going to give Delores the material to give out to you.

The material that you've got is both a copy of my testimony on 2(c) and then on this Item Number 7, as well as a couple of reports that my association has prepared, some of which you may have seen in the past.

One is a short documentation of the history and the future. Our perspective on the future of the tax exemption -- the CHDO tax exemption, as well as an executive summary for a study that we did on the utilization of the exemption.

First, let me say that my appearance before you today is to ask you to initiate the public process to change the current certification process and policies at the agency with regard to Community Housing Development Organizations. So we definitely support that portion of the staff memo that is presented to you.

We wouldn't want you to take any action today, if possible, on which specific change -- policy change you would make to the certification process. We're very supportive of the department staff proposing to initiate the public process, which would be to take --

MR. JONES: And I don't think we could take any action or any change.

MR. OCANAS: Okay. I won't take much more of your time, besides to say that we -- there is plenty of different perspectives on this issue. And I want to say that as a -- if you were here this morning during the Urban Affairs Committee hearing, my association -- we were the authors and proponents of House Bill 137 that initiated the changing of authority to -- that added CHDOs as one of the types of organizations that were eligible for the ad valorem property tax exemption.

We wrote it, we passed it in 1997 with the help of our champions in the state legislature, and it became law. This was written by a nonprofit here in Houston, a CHDO here in Houston, and a CHDO in Austin. Members of the association, [inaudible] of my association, with pretty specific intent.

The state, as you knew -- know, back in 1996 and before, was spending through the trust fund, \$1.3 million a year in direct housing subsidy dollars that were from the general revenue fund. Very little money that the state was adding into the affordable housing mix. So this was an option that was being proposed by the nonprofits.

There was pretty much a handful of nonprofits that, throughout the state, and a hundred-or-so category in numbers, that were organized as CHDOs, and operated

really admission-driven community service organizations, the ones in your backyard that you know.

So this was an option that they proposed. In 1997, House Bill 137 was passed. In 1998, it came into effect. And so organizations began utilizing this exemption as a way to help both finance the housing, but more importantly, to help pay for services, because there was almost no money for community services.

The page that my report is turned to, page 16 of that big booklet, basically just shows you the kinds of services the nonprofit that we represent are offering in your communities. And it ranges from emergency food assistance -- some of them operate food pantries, obligated job training, to individual development accounts, matched-savings accounts to help families buy homes. I mean, that's what this was about, just to give you some background.

The department chose in 1992, according to the memo presented to you, to begin certifying CHDOs, to actually have an application process that then says, you know, gets you a letter back saying you are now certified by the State of Texas as a CHDO.

Not all cities do that. And some cities actually have a very rigorous process, if they are going

to say that you are approved as a CHDO in their specific jurisdiction, they have a pretty rigorous process.

And some of our members take years to get approved as a CHDO, to prove that they have experience, to prove that they have the capacity to demonstrate a community service. And I think the issue here has been that the department has actually made it a pretty good streamlined process, totally legal in terms of the actual implementation of taking an application, going through the checklist, and issuing a certification.

I think the issue has been that there have been accounts, for example, where a CHDO applicant has been declined CHDO status by their local city, and it's come to the state and actually been certified. And I think that's the -- that was our law in House Bill 137, was the last part of the local okay in the tax exemption.

So there is some great recommendations that we are working to present at the June hearing of the Urban Affairs Committee for the exemption legislation for this process on how the agency deals with the applicants in non-PJ areas, or even applicants that the agency could help, or entities without us having to go through an application process.

That we want to bring suggestions to you, and

if the public process began, we'd be happy to work on those. But I do want to say that, you know, the legislation actually says that you just have to demonstrate to whoever is asking that you were organized as a CHDO. It doesn't say anywhere that you have to come to TDHCA to get your certification.

TDHCA has taken on that role, and you know, now that you're in this role, then we'll help you make it better. But our legislation really just says you just have to demonstrate that you were organized as a CHDO -- prove that you were organized as a CHDO. There is no certification required to be eligible for the tax exemption.

And we're working with the Association of Appraisal Districts Educator Exemption Examiners about the public benefit and how to make sure that -- you know, if they want to be strict about implementing the law, then we're going to help them.

You know, these groups have good quality housing and good services attached to the housing that the tax exemption could benefit. And there are some groups out there that shouldn't be getting the exemption. I'm not going to deny that at all.

So we're going to come back with

recommendations for policy changes once the public process is initiated. I'll be happy to entertain your questions or --

MR. JONES: I'll see. Thank you.

MR. OCANAS: Thank you, Mr. Jones.

MS. ANDERSON: I would --

MR. JONES: I would like to direct -- if I could ask a question. I'd like to kind of direct it to Ms. Carrington, because to this -- as I look at this, you know, this is an agenda item that was driven by those outside the department. And I've also listened to the comments that were made about it in the prior meeting, from the Urban Affairs Committee.

It seems to me like with the request, you know -- we really can do one of two things. I know there are four different proposals which --

MS. CARRINGTON: And even more.

MR. JONES: Yes.

MS. CARRINGTON: And even more.

MR. JONES: Even more. But the staff, you know, gave us four. It seems to me like one thing we can do is to tell everybody we don't want to even look at it and goodbye. And that would be four. And the others all invoke -- involve public comment process.

So I think that if -- wouldn't you agree with me that we don't have to do anything specific. All we have to do is say yes, this is something we need to look at and proceed -- and let staff proceed with our input through trying to develop a policy in this area. Am I right or wrong?

MS. CARRINGTON: Yes, you are right. You certainly are, Mr. Jones. If I may put in about two cents --

MR. JONES: Oh, certainly. Please do.

MS. CARRINGTON: Ray said a lot of things that I was going to be interested in saying. But one of the things I haven't kind of heard the connection, and it is in your all's material. And that is TDHCA got into the business of certifying Community Housing Development Organizations as a result of our direct administration of the HOME Program.

So federally funded HUD program, as a part of the HOME program, there is a set-aside for nonprofits. And for nonprofits to access that set-aside, they must be designated as a Community Housing Development Organization.

And for us this year, that set-aside amounts to about \$6 million or so. So from that perspective -- I

mean, that's how we got into the business of certifying CHDOs. The legislation that Ray mentioned that passed with the 77th session of the Legislature -- not the one two sessions ago, but the one that just passed -- perhaps if I can use the word "unfortunately," tied -- can I use that word, Ray? Maybe -- tied in --

MR. JONES: Be real careful about it.

MS. CARRINGTON: -- that you have to be certified as a CHDO to be able to go get this tax exemption if you're serving as -- you're a nonprofit, and you're a general partner in a tax credit transaction or a bond transaction.

So you know, from TDHCA's purposes, we were doing it for purposes of the HOME Program.

MS. ANDERSON: Right.

MS. CARRINGTON: But what has happened, of course, as Ray alluded to, is that if there is a local jurisdiction that -- you have a developer who wants to access this provision of the legislation from last session, and they want to go to the appraisal district, then they say, you know, the legislation passed, and we're eligible for this.

What's happened in some instances, if the local jurisdiction has turned them down or put some requirements

on them that they didn't want to comply with, then they have come to TDHCA. And we're not looking at it for their eligibility for tax exemption or not.

I mean, we're looking at it to see if they meet the definition, under the federal law, of what constitutes a Community Housing Development Organization. So that's sort of how we got -- not sort of how, but I mean, that's how we got enrolled, really, and really pulled into this discussion.

I mean, you know, staff's position has been, you know, we're doing what we believe, you know, our mandate is, but it is having some substantial consequences in the local communities. And we want to be -- we are very sensitive to that. We recognize that.

And what staff is recommending is what you have heard. And that is, that we would, post haste, have one or more public hearings, so that we do intake the -- we do indeed take the comment from the public.

And you know, it's our belief that we're going to hear a variety of differing opinions on this, and what the department should do. It may be too aggressive, although Urban Affairs has asked if we would look at doing this.

Urban Affairs has a meeting on June 12. And

one of the discussion items on that meeting at Urban Affairs is going to be the tax-exemption issue. So if we can move that quickly -- we know we can move that quickly on putting public hearings together.

But what we would like to do -- what staff would like to do is, based on the comment from those public hearings, come to our board meeting in May, which is scheduled for May 9, with most likely, some proposed changes to our existing certification process.

MR. JONES: Ms. Anderson?

MS. ANDERSON: Mr. Chairman, I think she's -- that Ms. Carrington's outlining a very reasonable approach. And one of the most disturbing things I heard in the Urban Affairs Committee meeting this morning was that, you know, despite the good work that some of the CHDOs are doing, that, you know, that the difficulty is that these projects are coming off the tax rolls and the local authorities never had word one to say about it.

And so there is an implication there that local control of local communities has been put at risk. And that my view is perhaps clearly inadvertently, but nevertheless, effectively, we may be contributing to that -- to the same pattern, because as Ms. Carrington said, when you -- a local authority might turn down a

CHDO, then it comes to TDHCA.

And because our orientation is not around taxes, but is around narrow HOME Program eligibility rules, we become the path of least resistance, and therefore, we're contributing to that. So --

MR. SALINAS: But who certifies the CHDO? I mean, isn't that by the Legislature, and that all the CHDOs have to do is go to the appraisal district and [inaudible] the law. And cities have -- and counties don't have anything to do with it. Nor does this board.

This board has no jurisdiction over any of the -- what we're talking about here. It's completely the appraisal district supported by some of the cities and counties.

They only just follow the law. I would think that, at least [inaudible] interpretation saying we don't have the law to do anything. I mean, we can certify 100 CHDOs, but it doesn't make any difference to the appraisal district if they don't -- do not follow the legislature or law that they passed in 1997, then they won't qualify for any exemptions. And all those appraisal districts -- they're not that easy to work with.

MS. ANDERSON: I thought there -- I think, if I understand, that there is a way for local authorities to

certify CHDOs.

MR. SALINAS: And they're hard to deal with. And they're not going to decertify you or certify you just because you're CHDO.

MS. ANDERSON: And that's why people come to us.

MR. SALINAS: I mean, they're going to go out there and try to keep you on the rolls. But that is something -- that is a different animal over there, that is appointed. They have five or six board members. They're going to try to keep everybody on the rolls.

I don't have any problem with our CHDO admission. I mean, we've had one. And I haven't heard any problems. Our managers went up. But I would think that Harris County has the problem here, because maybe they have too many of them, too many nonprofits.

But that would be up to the appraisal district in Harris County to approve or not to approve them. I don't see why -- it's like on the zoning, with -- these nonprofits doing a tax credit. They have to go through the zoning and through city council. We have nothing to do with that. And this is the same thing here.

They would have to address it in the Legislature, or their other people that can change the

law. We have -- we only have to follow the law. If they don't want any more CHDOs, they just are going to have to go to the state, to -- I mean, to the state Legislature and change the rules.

And the only thing we have is the \$6 million that we have to give away, right? Is it \$6 million for the CHDO?

MS. CARRINGTON: Four.

MS. ANDERSON: Yes.

MR. SALINAS: Four? It's not like we're going to be -- the end of the world.

MS. ANDERSON: Right.

MR. SALINAS: I mean, it's very little money. And I don't think why we have to discuss the issue at all, when you have some state representatives and senators -- very powerful people that can change the law. And they're going to put it on the [inaudible] that change.

So I saw this morning where they were addressing the Commerce Department. But I would say that we could discuss this all we want to, and the law is still going to be there. And some of those CHDOs are going to go to the appraisal district and tell them that, You've got to give me attention.

The other deal is the city council -- so they

don't want CHDOs, they're just going to have to approve them more slowly. It's very easy.

MS. ANDERSON: Ms. Carrington, do I understand it right that if they went locally and got turned down by a local body, that then they come to us, get certified, and then when they do a deal, then that local taxing authority doesn't have a vote anymore? I mean, the property just comes off the rolls?

MS. CARRINGTON: There are still some taxing authorities that are saying even though this may be in the state law, we're -- I don't want to say that they're violating state law, but some of them are taking some different interpretations about whether they will do it 100 percent, or whether --

Some of them have come up with these PILOTs, as Barry mentioned, which are the payments in lieu of taxes, which makes it more palatable.

MS. ANDERSON: Right.

MS. CARRINGTON: That former job, I saw one, at least, appraisal district who said, you know, we don't care. We're not going to do it. I have seen others, that when the developer walks in, when they see that designation, they just accept it.

So it really, I think, is very unequal with

what's happening with the taxing jurisdictions around the state.

MR. SALINAS: And then you have some CHDOs providing tax -- affordable home housing, and putting people and paying taxes -- CHDOs in South Texas have affordable homes, selling homes at 39.5-; not at 60,000, 39.5-; making them very affordable, at the ones in El Paso.

And those people are getting -- and the reason we do this is because we want to make them taxpayers. And CHDOs are doing that. And I don't know what they do here in Houston. But where I come from, they put people in homes and make them responsible taxpayers.

Now, that program works. I don't know about the other one, that you buy a house for \$60,000 and give them \$10,000 on exemptions. But they could become taxpayers. But for maybe four or five months.

I mean, I know that CHDOs do that. Some do, and like he says, maybe some will do and [inaudible]. But I don't think we have any responsibility as far as I decided, well, we're going to certify these people. I think we're here just to manage the money for housing, and we have no overrules over the appraisal district.

MR. JONES: I do think, though, as Mr. Ocanas

said, I mean, effectively, we are certifying CHDOs at this point. But I mean --

MR. SALINAS: So they can accept some of our funds.

MR. JONES: Right.

MR. SALINAS: But really who does that is the Secretary of State. The Secretary of State has [inaudible] to do with it.

MR. JONES: We've been doing that under our HUD authority. And I guess the point that I come to in this is that, that I'm kind of you know, echoing, I think what Mr. Ocanas says. We've had the Legislature raise this point. We had the Governor's office raise this point. Even Mr. Ocanas was saying that this is something we need to look at.

We need to look at our policies that we're using, because we're certifying CHDOs right now. And do we want to go to the public since this issue has arose, and take comment from them and see if we need to fine-tune what we're doing, because obviously, we're getting input from various, you know, offices -- the Governor's office, the Legislature, as well as Mr. Ocanas has joined in that one on behalf of the CHDOs and said, Yes, you all probably really need to look at what you're doing and make sure

it's right.

So I guess that's where I'm at, is I wonder if when we hear that many of our, you know, shall we say -- we've heard a lot of talk today about partners.

We hear that many of our important partners telling us we need to look at this. I'm inclined to think they make a strong argument that, yes, that's something we may need to look at, because we are doing it.

MR. SALINAS: I think we have -- yes, I've been here one year. And --

MR. JONES: Sure. I understand.

MR. SALINAS: -- this is the first time we hear about this.

MR. JONES: Right.

MR. SALINAS: And I would think somebody else would have to be doing this besides us. I think our function would be to find someone among us who is -- any nonprofit -- it doesn't have to be CHDOs. It could be a nonprofit that would have to deal with us.

But if we're doing that, then we need to look at it very carefully.

MR. JONES: I guess -- I appreciate it. I think we could tee it up, you know, one of two ways. You know, one thing we could do is go with number four, and

say we're going to tell everybody we're not going to do anything.

I think the second thing we could do, if the board wanted to, is just make a motion that the staff move forward with exactly what Ms. Carrington suggested, that particular process where we take public comment, and see if we need to revise the policy.

It would not be a commitment to revise the policy, but it would be to look at it. So I think that's where we are.

MS. ANDERSON: Mr. Chairman, I move what you just said.

MR. BOGANY: I second.

MR. JONES: Okay. We have a motion and a second to follow Ms. Carrington's recommendation. Any further discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The ayes have it. The motion carries. We do have a board member and -- that we need to adjourn at three o'clock. Ms. Carrington has told me that she can withdraw Item 6 from the agenda.

MS. CARRINGTON: I can, but I can do it in two minutes if the mayor's got two minutes.

MR. JONES: Oh, but she can do it in two minutes.

MR. SALINAS: Yes.

MR. JONES: Okay. Here you go, Ms. Carrington. You're on.

MS. CARRINGTON: Okay. Item Number 6. We are requesting that the board waive a provision of the Qualified Allocation Plan for rural development transactions, RD transactions. There is a particular exhibit -- it's Exhibit 108, that requires that -- that provides a deadline for the submission of appraisals in a tax credit development.

And because of the way the rural development process works, those developers cannot get their appraisals from rural development in time to meet our March 1 deadline.

So the developers would have to meet all of the other deadlines in the Qualified Allocation Plan, but we would recommend that we give them until I believe it's May 10 to actually submit the appraisal.

So it's a timing consideration. The RD set-aside is basically not competitive. All of the

applications that go into that RD set-aside receive funding. Staff is definitely recommending that we do waive this part of the QAP specifically for these rural development deals related to when they can submit their appraisal to us.

MR. BOGANY: So moved.

MS. ANDERSON: Second.

MR. JONES: Okay. The motion that the recommendation be approved has been seconded. Any further discussions?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries. Yes?

MR. SALINAS: I'm going to have to be excused. [inaudible] try to get [inaudible]. We'll probably have that public hearing in McAllen this Friday.

MR. JONES: That will be great. I understand. In fact, I think we're ready to adjourn, are we not?

MS. ANDERSON: I move we adjourn.

MR. JONES: We have a motion that we adjourn.

All in favor say aye.

(Chorus of ayes.)

MR. JONES: We're adjourned. Thank you.

MR. SALINAS: Thank you.

MR. JONES: I would like to say this, as -- after our hearing is over, just to make a comment that we're so glad to have our executive director on board. And I want to thank our committee members that were a part of selecting her, Mr. Bogany and Mayor Salinas.

Now Ms. Carrington's on board, and I'm glad to have her. And I thank you for her.

MR. SALINAS: Thank you.

(Whereupon, at 3:40 p.m., the hearing was concluded.)

C E R T I F I C A T E

MEETING OF: Texas Dept. of Housing and Community
Affairs Board

LOCATION: Houston, Texas

DATE: April 11, 2002

I do hereby certify that the foregoing pages, numbers 1 through 138, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Sue J. Brindley before the Texas Department of Housing and Community Affairs.

(Transcriber) 04/21/02
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