

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

BOARD MEETING

12:30 p.m.
Thursday,
May 15, 2003

Room 437
Waller Creek Office Building
507 Sabine Street
Austin, Texas 78701

PRESENT:

TDHCA BOARD:

Michael Jones, Chairman
C. Kent Conine, Vice Chairman
Vidal Gonzalez
Elizabeth Anderson
Norberto Salinas
Shadrick Bogany (not present)

TDHCA STAFF:

Edwina Carrington, Executive Director
Tom Gouris
Chris Wittmayer
Byron Johnson

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P R O C E E D I N G S

1
2 CHAIRMAN JONES: I would now call to order the
3 Meeting of the Board of the Texas Department of Housing
4 and Community Affairs for May 15, 2003. The first order
5 of business will be to determine a quorum. Mr. Conine?

6 MR. CONINE: Here.

7 CHAIRMAN JONES: Ms. Anderson?

8 MS. ANDERSON: Here.

9 CHAIRMAN JONES: Mr. Bogany is absent.

10 CHAIRMAN JONES: Mr. Gonzalez.

11 MR. GONZALEZ: Here.

12 CHAIRMAN JONES: Mayor Salinas? Mayor Salinas
13 is here.

14 MR. SALINAS: Here.

15 CHAIRMAN JONES: We do have a quorum. We have
16 five members present and one absent. And I do certify
17 that we have a quorum.

18 The next order of business will be to open the
19 board meeting up for public comment. I have three so far.

20 Do I have some others? Delores, are we --

21 MS. GRONECK: We've got some folks signing in
22 right now.

23 CHAIRMAN JONES: Great.

24 (Pause.)

1 CHAIRMAN JONES: I will start going through the
2 witness affirmation forms that we have. Mr. Mark Jones?
3 Would you like to testify now, or on the agenda item? And
4 which agenda item is that, sir?

5 MR. JONES: Arbor Bend.

6 CHAIRMAN JONES: Thank you, sir. Ms. Rusnak?
7 Yes? And would you like to speak now, or on the agenda
8 item?

9 MS. RUSNAK: On the agenda item.

10 CHAIRMAN JONES: And is that Arbor Bend? Mr.
11 Velazquez?

12 MR. VELAZQUEZ: Velazquez.

13 CHAIRMAN JONES: Yes. Excuse me.

14 MR. VELAZQUEZ: And on the agenda, on the
15 [inaudible].

16 CHAIRMAN JONES: Ms. Potashnik?

17 MS. POTASHNIK? On the agenda item, please.

18 CHAIRMAN JONES: Arbor Bend? Mr. Campbell?

19 MR. CAMPBELL: Thank you. Is that on? It
20 doesn't sound like it. You can tell I'm on the technical
21 side of it. My name is Terry Campbell of Campbell, Hogan
22 and Associates. And we have a tax credit application
23 pending to be heard in July called the Villas on Sixth.
24 And I appear before you today to make a couple of comments

1 regarding that application.

2 We are aware that this year there was not a tax
3 credit allocation for the -- for Region 7 for the Austin
4 area. However, we did submit an application for the
5 Villas knowing that.

6 And I guess my comment would be that I think we
7 have an opportunity with the Villas to do what we like to
8 call good real estate. I think in the market today, a
9 number of the markets are certainly soft throughout the
10 country, and throughout some of the markets that we're
11 involved in, and here in the Austin market.

12 And so with this downtown proposal, I think we
13 have an opportunity to do good real estate and I think
14 you'll find that there are a number of folks here from
15 that particular community who will also offer support for
16 the Villas on Sixth. Thank you.

17 CHAIRMAN JONES: Thank you, sir. Cynthia Bast.

18 MS. BAST: I'll speak on the agenda items.

19 Thank you.

20 CHAIRMAN JONES: Thank you. And -- okay. I
21 see. Thank you, ma'am. Mr. Potashnik.

22 MR. POTASHNIK: Agenda item.

23 CHAIRMAN JONES: Ms. Evans?

24 MS. EVANS: Do I need to speak into this?

1 CHAIRMAN JONES: If you don't mind. Thank you,
2 ma'am.

3 MS. EVANS: Good morning. My name is Cindy
4 Evans. I'm from McKinney. Yesterday I participated at a
5 roundtable discussion put together by Ms. Carrington to
6 begin the process of developing the department's policies
7 on public input. And I would like to thank Ms. Carrington
8 for including me in that discussion, and for the board for
9 addressing the issue of public input on the allocation
10 process.

11 If the department is to have a meaningful
12 discussion and policy regarding the public input process,
13 members of the public should be participants in developing
14 these policies. There are a few steps that I think the
15 department can take to improve their relationship with the
16 public, and their policies on public input.

17 The first of these will appoint a member of the
18 public to head up the 2004 QAP working group committee
19 dealing with public input. Secondly, trust, I believe, is
20 everything. Every day this agency battles decades of
21 stereotypes to educate communities on how affordable
22 housing is a positive addition to their neighborhood.

23 If the public feels that it can trust the
24 agency to be open and honest in the allocation process,

1 you have built up credibility in order to make the case
2 for affordable housing.

3 Trust includes knowing that the department will
4 treat the public with respect, and will hold the public
5 and developers equally accountable to the rules,
6 guidelines, and deadlines of the department with no
7 special favors.

8 I believe that dramatic improvements have been
9 made on this point under Ms. Carrington's leadership, and
10 I commend her and her staff for that.

11 Third, the department staff governing principle
12 is that they are there to put housing on the ground. But
13 are you there to put housing on the ground at all costs?
14 You're always going to have highly-contested applications.

15 Some have valid objectives, and some are due to
16 misperceptions of long-standing stereotypes.

17 There are bad deals and good deals out there in
18 every cycle. And just because an application is contested
19 does not necessarily mean that it is a good deal. These
20 highly-public battles leave much more of an impression on
21 the public than any kind of educational campaign you can
22 afford to launch, and they send voters running to the
23 Legislators.

24 The NIMBY base fights are going to be

1 unavoidable. But in communities with long-standing
2 histories of providing affordable housing that object to a
3 specific allocation for well reasoned objections, you risk
4 alienating an ally if well reasoned objections are not
5 considered.

6 I believe there are a number of us out there
7 who genuinely do support the goals of affordable housing
8 and this department, even though we may have opposed a
9 specific allocation. I would encourage you to bring us
10 into the fold and use us to help put into place meaningful
11 public input policy.

12 The public won't always get what they want, but
13 with the right policies in place, at least they can go
14 away feeling like their valid arguments were considered
15 and that the process was open and fair. Thank you.

16 MR. CONINE: Could I ask a question?

17 CHAIRMAN JONES: Sure.

18 MR. CONINE: You mention the statement "well
19 reasoned objections."

20 MS. EVANS: Yes.

21 MR. CONINE: And it occurs to us sitting up
22 here sometimes that emotion gets caught in the heat of
23 battle at the last minute, and there really is no
24 filtering process from some of the public comment to

1 determine the accuracy of those statements.

2 Can you shed some light on how we might do that
3 in the future?

4 MS. EVANS: One of the things that was discussed
5 in the round table yesterday was when you have leaders in
6 the community who are perhaps the leaders of the
7 opposition, if you can bring them in with the developers,
8 and perhaps even use department staff as a liaison, so
9 that everybody can sit at the table and talk about the
10 issues, and talk about the concerns openly, and express
11 things to the board.

12 I think that would go a long way, because the
13 people who are in the community are the ones who are going
14 to go back with 2,000 people on their email list and
15 communicate back to that community. And as hard as you
16 try, sometimes you can't get everybody in the community to
17 listen.

18 But I think that if we feel like we're brought
19 into the fold and that we are able to communicate with
20 staff and get clarification from staff and the board, then
21 when we go back to the community, we can help.

22 I know one of the issues that you had spoken to
23 was in my community, there were some people who were
24 saying that these properties do not pay any taxes. And

1 that is something that we're going to be continuing to
2 address, to educate our public that they do indeed pay
3 taxes.

4 And how you combat those kind of things? I
5 don't know. Email is certainly a huge part of the
6 problem.

7 MR. CONINE: I think the accuracy of public
8 comment needs to be thought about, or the process, or at
9 least having enough time after the public comment to be
10 able to discern whether or not it's an accurate
11 statement or not.

12 The other thing I just lay in front of you as
13 something to think about -- again, I appreciate your
14 participating in the process, is the disconnect between
15 city councils, school boards, and economic development
16 entities within communities, and how it would be best for
17 a local community to make sure the three of them are in
18 concert relative to the goals and objectives for a
19 community, before the issues of housing or commercial
20 expansion, or whatever, takes place.

21 Right now, there is no accountability, if you
22 will, other than to the public, on the issue between the
23 city councils and the school board. And I think that's a
24 huge problem with school systems cramped for financing but

1 still having to maintain adequate financing capacity or
2 facilities for the kids.

3 MS. EVANS: Right.

4 MR. CONINE: Yet you've got this economic
5 development guy over here just throwing money out the door
6 to try to attract people, which attracts kids. So help us
7 with that process, and -- not only in your local
8 community, but all across Texas and how to resolve that
9 problem.

10 MS. EVANS: I do think one way to do that is
11 that the earlier you get the public involved with the
12 board and with the staff and with the developer, then the
13 initial message going to the community can be an accurate
14 one. And I think that may be the best way. And I think
15 that was good for us to be able to get on board. Thank
16 you.

17 CHAIRMAN JONES: Thank you. And as Chairman --
18 we've had a number of more people turn in witness
19 affirmation forms. And we have quite a few. This is also
20 our third meeting today. And I know we're under some
21 tight constraints. And so I'm going to -- unless some
22 board member objects, institute a two-minute time limit
23 with regard to public comment for each speaker. If anyone
24 has an objection?

1 (No response.)

2 CHAIRMAN JONES: Hearing none, that's what
3 we'll do. Ms. Rosa Rosales?

4 MS. ROSALES: Are we on the agenda item
5 already?

6 CHAIRMAN JONES: You can -- no, we are not.
7 You can --

8 MS. ROSALES: I'll speak on the agenda item.

9 CHAIRMAN JONES: That's fine. Angela Garcia?

10 MS. GARCIA: Same thing. I'm going to speak on
11 the agenda item.

12 CHAIRMAN JONES: Roman Peña?

13 MR. PENA: Same thing.

14 CHAIRMAN JONES: Thank you, sir. Mr. Dario
15 Chapa?

16 MR. CHAPA: Also on the agenda item.

17 CHAIRMAN JONES: Thank you, sir. Excuse me, I
18 can't read this name. It's Veronica. And then the name
19 starts with a B. And I apologize.

20 MS. BNSEÑO: Bnseño. Hi. Good afternoon.

21 CHAIRMAN JONES: Good afternoon.

22 MS. BNSEÑO: My name is Veronica Bnseño. I'm
23 here representing Austin City Councilmember Raul Alvarez.
24 He had wanted to come down here and testify today on the

1 Campbell Hogue and City of Austin Project, Villas on Sixth
2 Street, but he had a council meeting, and asked me to come
3 and read a letter into the record on his behalf.

4 The letter he wrote was to Ms. Carrington.

5 "Dear Ms. Carrington, I want to express my strong support
6 for the application of the Austin Housing and Campbell
7 Hogue and Associates, Incorporated, to obtain Low Housing
8 Tax Credits through the TDHCA Housing and Tax Credit
9 Program for the Villas on Sixth Apartments located at the
10 1900 block of East Sixth Street here in Austin.

11 "The proposed 160-unit apartment community is
12 located within the heart of one of Austin's most historic
13 communities, and its development will not only provide
14 much-need affordable housing for all of Austin, but also
15 will contribute to the economic redevelopment and
16 revitalization of East Austin.

17 "In addition, the development is being
18 supported by the neighborhood associations in proximity to
19 it, and is consistent with the neighborhood plan in place
20 for this area.

21 "For these reasons, I am pleased to support the
22 joint application by AHFC and Campbell Hogue to develop
23 the Villas on Sixth Apartments, and hope that you will
24 give it serious consideration for financial assistance

1 from your agency. Sincerely, Raul Alvarez, Councilmember,
2 City of Austin." Thank you.

3 CHAIRMAN JONES: Thank you. I appreciate it.
4 Mr. Paul Saldana. Yes, sir.

5 MR. SALDANA: A couple of handouts. Good
6 afternoon, members of the board and staff. My name is
7 Paul Saldana. I am vice president of Martin Salinas
8 Public Affairs, and a member of the Campbell, Hogue and
9 Associates team.

10 I am here to speak in support of Application
11 03-160, the Villas on Sixth Street, as proposed by
12 Campbell Hogue and Associates, and the City of Austin
13 Housing Finance Corporation for Low Income Housing Tax
14 Credits.

15 Before I specifically address our project, I
16 want to briefly describe the neighborhood planning process
17 in Austin, Texas, and how citizens and neighborhoods
18 become empowered to design where they live and work.

19 The neighborhood planning process addresses
20 land use, zoning, transportation, services and
21 infrastructure, and urban design issues. The goal of the
22 neighborhood planning process is for diverse interests to
23 come together and develop a shared vision for the
24 community.

1 A neighborhood plan represents the views of all
2 the stakeholders that make up the community, identifies
3 neighborhood strengths and assets, identifies neighborhood
4 needs and concerns, establishes goals for improving the
5 neighborhood, and recommends specific action items to
6 reach those goals.

7 In Austin, neighborhood planning is an
8 opportunity for citizens to take a proactive role in the
9 planning process and decide how their neighborhoods will
10 move forward into the future. The process asks for
11 members of the community to address the local issues and
12 concerns that affect them, their families and their
13 neighbors. All stakeholders in the neighborhood are
14 invited to participate.

15 The Villas on Sixth Street has been designed to
16 be fully responsive to the requirements of the
17 neighborhood and the neighborhood plan, while at the same
18 time addressing the demand for affordable housing in the
19 Austin market.

20 The Villas would be the first urban infill
21 development in Austin, and the only affordable housing
22 development to be located in close proximity to downtown
23 Austin, providing a place for families to live and grow
24 among friends.

1 The Villas on Sixth will truly complement and
2 join other ongoing efforts to revitalize and trigger
3 economic development opportunities in East Austin, joining
4 other critical projects such as the Austin Revitalization
5 Authorities, East 11th and 12th Street Redevelopment, The
6 City of Austin's redevelopment of the old Robert Mueller
7 Airport site, Capital Metropolitan Transportation
8 Authorities, redevelopment efforts of at least for 4th and
9 5th Street corridor, and the University of Texas
10 Charter School.

11 The Villas will offer a progressive on-site
12 learning center where children will be welcomed after
13 school to read, play and study. Partnered with the local
14 YMCA of Austin, the Villas will schedule afternoon
15 programs set in an enhanced educational, fun and safe
16 environment. An on-site learning center is
17 an important --

18 CHAIRMAN JONES: Excuse me. Sir, your time is
19 up. Could you wind up?

20 MR. SALDANA: Sure.

21 CHAIRMAN JONES: Thank you.

22 MR. SALDANA: Let me just make a final point on
23 the learning center. That's an important benefit for the
24 residents of Austin, because just a few years ago, a

1 report was issued by the Just for Kids organization that
2 ranked AISD as the least-effective urban school district
3 in the State of Texas when it comes to educating minority
4 and lower socioeconomic students.

5 I make this observation because I worked in
6 City Hall, and elected officials for over 14 years in
7 Austin, most recently at the Chief of Staff of Mayor
8 Garcia. Too many times we hear of projects -- this is the
9 last point, sir.

10 Too many points -- too many times we hear of
11 projects being developed in neighborhoods that do nothing
12 to meet the needs of the community. And the Villas does
13 this. Thank you for your time. Sorry about that.

14 CHAIRMAN JONES: Thank you, sir. No problem.
15 Michelle Meade, I believe. Did I get that name right?
16 Oh, I made a mess of it. We tried. I apologize.

17 MS. MEADE: No problem. It's Mickelle. Very,
18 very close.

19 CHAIRMAN JONES: Thank you.

20 MS. MEADE: Board members, Good afternoon. My
21 name is Mickelle Meade. I'm a development consultant here
22 in Austin, and have been working for about ten years,
23 since I got out of school, and try to put on the ground
24 projects that will revitalize our community.

1 I think in -- I'm here to speak about the
2 Villas on Sixth Street, the project proposed by Campbell
3 Hogue. And I think that this is a captured opportunity
4 that we have to bring 160 new homes to an area of Austin
5 that has seen very little new development in many years,
6 and not any residential new development that I can
7 remember.

8 This is an opportunity for there to be a
9 partnership between Campbell Hogue, one of the best
10 developers we have in Austin, and the City of Austin's
11 Austin Housing Finance Corporation. And not only does the
12 partnership include those two entities, but this
13 partnership includes the community, which I see as
14 probably one of the most positive things about this
15 development.

16 We have a project that the community wants to
17 see brought to this area, and I think that's a real
18 positive.

19 Lastly, I will just say that if we can't
20 find -- if the board can't find the funding for this
21 project this year, I think that we may miss this
22 opportunity and the ability for us to be able to put this
23 project on the ground may be lost. And so I'm just -- I'm
24 here to just request that the board support this project.

1 Thank you very much.

2 CHAIRMAN JONES: Thank you. And with that, I
3 think I have called everybody that we have a witness
4 affirmation form from. Is that correct? And we will
5 close the time for public comment with the exception of
6 those individuals who want to speak to an agenda item.

7 At this point in time, we have on our agenda an
8 Executive Session. Unless there is an objection from a
9 board member, we had two executive sessions listed on our
10 agenda. In the interest of time, my suggestion is we just
11 do one executive session and include all topics that have
12 been posted.

13 With that, on this day, May 15, 2003, at a
14 regular board meeting of the Texas Department of Housing
15 and Community Affairs held in Austin, Texas, the Board of
16 Directors adjourn into a closed Executive Session as
17 evidenced by the following.

18 The Board of Directors will begin its Executive
19 Session today, May 15, at 12:49. Come again?

20 MS. CARRINGTON: Forty-nine.

21 CHAIRMAN JONES: Forty-nine -- 12:49 p.m. The
22 subject matter at this Executive Session deliberation is
23 as follows. Consultation with Attorney Pursuant to
24 551.071, Texas Government Code regarding matter

1 concerning a former Department Employee and Sections
2 2306.6703, 2306.6733 and 572.054, Texas Government
3 Code, Litigation and Anticipated Litigation,
4 (Potential or Threatened, under Section 551.071
5 and 551.103, the Texas Government Code, Litigation
6 Exception) Regarding Cause No. GN-202219, In Century
7 Pacific Equity Corporation versus the Texas Department of
8 Housing and Community Affairs, et al, in the 53rd Judicial
9 District Court of Travis County, Texas;

10 Consultation with Attorney Pursuant to Sec.
11 551.071, Texas Government Code regarding Multifamily
12 Housing Mortgage Revenue Bonds (Williams Run
13 Apartments); Personnel Matters Under 551.074,
14 the Texas Government Code; and if permitted,
15 discussion of
16 any item listed on the board meeting agenda of even date.

17 And with that, we will go into Executive
18 Session.

19 MR. CONINE: We'll go out.

20 MS. CARRINGTON: And we will move. You all can
21 stay here. We'll go. There are fewer of us than you all.

22 CHAIRMAN JONES: All right.

23 (Whereupon, at 12:49 p.m., the hearing was
24 adjourned, to reconvene this same day, Thursday, May 15,

1 2003 at 1:50 p.m.)

2 CHAIRMAN JONES: We'll call back to order the
3 board meeting of the Texas Department of Housing and
4 Community Affairs Board of Directors on May 15, 2003. I
5 hereby certify that --

6 Excuse me, the Board of Directors has completed
7 its Executive Session of the Texas Department of Housing
8 and Community Affairs on May 15, 2003 at 1:50 p.m. The
9 subject matter of the Executive Session was as follows.
10 Consultation with Attorney Pursuant to Section 551.071,
11 Texas Government Code regarding matter concerning a former
12 Departmental Employee in Sections 2306.6703, 2306.6733 and
13 572.054, Texas Government Code; Litigation and Anticipated
14 Litigation, (Potential or Threatened, under Section
15 551.071 and 551.103, the Texas Government Code, Litigation
16 Exception) Regarding Cause No. GN-202219, Century Pacific
17 Equity Corporation versus the Texas Department of Housing
18 and Community Affairs, et al, action taken, none.

19 And by the way, with regard to the first matter
20 that I read, action taken on that was none.

21
22 Consultation with Attorney Pursuant to Section
23 551.071, Texas Government Code regarding 501(c)(3)
24 Multifamily Housing Mortgage Revenue Bonds (Williams Run

1 Apartments Series 2000A) action taken, none.

2 Personnel Matters Under Section 551.074 of the
3 Texas Government Code, action taken, none. And
4 if permitted by law, discussion of any item listed on the
5 board meeting agenda of even date, action taken, none.

6 I hereby certify this agenda of an Executive
7 Session of the Texas Department of Housing and Community
8 Affairs was properly authorized, pursuant to Section
9 551.103 of the Texas Government Code posted to the
10 Secretary of State's Office seven days prior to the
11 meeting, pursuant to Section 551.044 of the Texas
12 Government Code, and that all members of the Board of
13 Directors actually were present with the exception of Mr.
14 Shadrick Bogany, and that this is a true and correct
15 record of the proceedings, pursuant to the Texas Open
16 Meetings Act, Chapter 551, Texas Government Code, as
17 amended.

18 And with that, we do go back into open session.
19 With the board members' permission, I would like us to
20 take a couple of items out of order with regard to our
21 agenda, and we will now turn our attention to Item 6,
22 which is the Presentation and Discussion and Possible
23 Approval of Resolution Approving the Closing Agreement
24 with the Internal Revenue Service With Respect to

1 Multifamily Housing Revenue Bonds, (Williams Run
2 Apartments), Series 2000A.

3 Is there a motion from the board members? Is
4 Mr. Conine back? Okay. Let's hold for Mr. Conine for a
5 second.

6 (Pause.)

7 CHAIRMAN JONES: Off the record.

8 (Whereupon, a short recess was taken.)

9 CHAIRMAN JONES: We're back on the record. And
10 I'll again turn our attention to Item 6 on the agenda,
11 which is the Presentation and Discussion and Possible
12 Approval of Resolution Approving the Closing Agreement
13 with the Internal Revenue Service With Respect to
14 Multifamily Housing Revenue Bonds, (Williams Run
15 Apartments), Series 2000A.

16 Is -- excuse me?

17 MR. CONINE: Mr. Chairman, I move for approval
18 of this resolution.

19 MR. GONZALEZ: Second.

20 MR. CONINE: Is there a number here that we
21 need to refer to so that we can get that into the record?

22 CHAIRMAN JONES: Certainly. Yes, sir.

23 MR. CONINE: Move for approval of Resolution
24 03-42.

1 CHAIRMAN JONES: We have a motion by Mr.
2 Conine, and it has been seconded by Mr. Gonzalez. Further
3 discussion on the motion?

4 (No response.)

5 CHAIRMAN JONES: Hearing none, I assume we're
6 ready to vote. All those in favor of the motion, please
7 say aye.

8 (A chorus of ayes.)

9 CHAIRMAN JONES: All those opposed to the
10 motion, please say nay.

11 (No response.)

12 CHAIRMAN JONES: The motion carries. I will
13 now turn our attention again, with the approval of the
14 board, to Item 2(b) on our agenda, the first item number
15 being 2(b)(1), which is the Primrose Houston School
16 Apartments.

17 I think I have been able to go through all of
18 the witness affirmation forms, and I do not believe I have
19 anyone who wants to speak to this agenda item. Am I
20 correct in that? Is there anyone that wants to speak to
21 this agenda item?

22 (No response.)

23 CHAIRMAN JONES: There is nobody that wants to
24 speak to this agenda item. So I will turn our attention

1 to Item 2(b)(1). In this regard, Mr. Conine, you're co-
2 chair. I need to sign some documents right now. Would
3 you take over for this item for a moment or two while I
4 sign those documents?

5 MR. CONINE: Sure.

6 CHAIRMAN JONES: I'll be right with you.

7 MR. CONINE: Do you want to make the staff
8 presentation?

9 MS. CARRINGTON: Yes, sir. Thank you, Mr. Vice
10 Chair. The item before the board this afternoon is to
11 consider the issuance of Multifamily Mortgage Revenue
12 Bonds in the Amount of \$16 million. And this development
13 is Primrose Houston School is the name of the development.
14 It's located in Lancaster, Texas. And the developer is
15 Southwest Housing. It is 280 units.

16 The bond structure would be 15 million in tax-
17 exempt bonds, and approximately 1.9 million in taxable
18 bonds. If the board will notice behind Tab 2(b)(1), you
19 have nine items -- nine tabs that have information on this
20 particular development.

21 These bonds will be privately-placed bonds, and
22 they will mature in a period over 32-and-a-half years. If
23 you will go to Tab 3 on the outline of this development,
24 the tax credit allocation amount that the department is

1 recommending is \$742,903.

2 Behind Tab 3, in the Tax Credit and Tax Exempt
3 Bond Summary Profile, you will notice down at the bottom,
4 we are noting the public comment that we received on this
5 transaction, and the public hearing in support.

6 We had two who spoke in support. In opposition
7 we had eleven. We had two that were undecided. From
8 Legislators or local officials, Senator Royce West had a
9 letter of support. Representative Helen Giddings had a
10 letter of no comment. Mayor Joe Tillotson, no comment.

11 The city planner for the City of Lancaster says
12 this is consistent with the local comprehensive plan.

13 Further moving through your tabs, Tab Number 5
14 is the department's credit underwriting analysis on this
15 transaction. And you may remember from information that
16 the department has presented to you in the past, we have
17 changed up the form on this somewhat.

18 Behind Tab 5 you will notice that we have
19 brought the recommendations on the developments to the
20 front page, as opposed to the end of page 8, where you
21 kind of had to dig for them. Again, what the department
22 is recommending as a credit allocation of \$742,903. This
23 development does meet the requirements as far as market
24 study, concentration, and the other department

1 requirements.

2 Behind Tab 5 this is a new map that we are
3 including for you all. So it's actually the last page in
4 Tab 5. We're including a map for you that shows where the
5 proposed development is located within the market area,
6 and it also identified other developments -- other
7 affordable developments within that market area also.

8 Behind Tab 9 is the full transcript of the
9 public hearing. And we've included for your information a
10 summary on the first page of that of the public hearing,
11 the number of people who attended, opposed, supported,
12 undecided, the number that spoke.

13 We've also looked at the substance for the
14 opposition. We had six on summary of opposition. Six
15 items were identified at the public hearing. The
16 development may negatively impact property values. We
17 want the developer to build single-family homes. Do not
18 want apartments, do not want development to have tax
19 credits.

20 Development does not meet city standards, and
21 will add to the traffic congestion. Below that, staff has
22 responded to each of those six comments that were made at
23 the public hearing.

24 With that, Mr. Chair, are you back? Mr. Jones,

1 are you back?

2 CHAIRMAN JONES: I'm back.

3 MS. CARRINGTON: Okay. The staff is
4 recommending both the issuance of the tax exempt bonds and
5 the allocation of the tax credits for Primrose Houston
6 School located in Lancaster.

7 CHAIRMAN JONES: Could I ask a question about
8 the regulation?

9 MS. CARRINGTON: Yes, sir.

10 CHAIRMAN JONES: I noticed that under the
11 Multifamily Underwriting analysis, that when it talks
12 about special adverse site characteristics, it discusses
13 the fact that zoning was not appropriate.

14 MR. SALINAS: The zoning has been --

15 MS. CARRINGTON: If you will look -- yes,
16 sir --

17 MR. SALINAS: They had -- did away with -- on
18 the zoning.

19 MS. CARRINGTON: On Conditions on the bottom of
20 the page, one of the first -- the first condition is,
21 "Receipt, review and acceptance of documentation that the
22 appropriate zoning was received for the proposed
23 development."

24 So at the time staff prepared the materials in

1 the board book, when we had not been notified that zoning
2 had been approved. I am sure that the developer, or Tom
3 Gouris, who is our real estate analysis director, will be
4 able to address that for you. But it absolutely is a
5 condition upon the final allocation of the credits.

6 CHAIRMAN JONES: Okay. Has it occurred -- Tom?
7 Yes, has it occurred?

8 MR. GOURIS: That's my understanding.

9 CHAIRMAN JONES: Okay. Have we been furnished
10 evidence of that?

11 MR. ONION: Yes. We have received the proper
12 zoning from the City Council.

13 CHAIRMAN JONES: Okay.

14 MR. SALINAS: I move for the approval of the --

15 CHAIRMAN JONES: We have a motion that it be
16 approved. Is there a second?

17 MR. GONZALEZ: Second.

18 CHAIRMAN JONES: Motion made and seconded.
19 Further discussion? Hearing none, I assume we're ready to
20 vote. All in favor of the motion, say aye.

21 (A chorus of ayes.)

22 CHAIRMAN JONES: All opposed, nay?

23 (No response.)

24 CHAIRMAN JONES: The motion carries. We will

1 next turn our attention to Item 2(b)(2). There are a
2 number of people who would like to discuss that item. And
3 again, we are imposing a two-minute limitation. Mr.
4 Potashnik -- Brian Potashnik.

5 MR. POTASHNIK: I'll go last.

6 CHAIRMAN JONES: I tell you, there are probably
7 a lot of people that would like to go last. And this is
8 just a random order here. I don't want to get in trouble
9 by --

10 MR. POTASHNIK: All right. Thank you.

11 CHAIRMAN JONES: -- by giving anybody an
12 advantage.

13 MR. POTASHNIK: I appreciate it. I'll take
14 what I can get.

15 CHAIRMAN JONES: All right.

16 MR. POTASHNIK: My name is Brian Potashnik.
17 I'm the President of Southwest Housing, and the developer
18 of the Arbor Bend Apartments. This transaction, I'm sure,
19 is very familiar to the board. You approved it last year.
20 We're asking you to approve it again this year.

21 This is the property that has been zoned for
22 Multifamily that has been issued a building permit for us
23 to build Multifamily. It is being built not only under
24 the City of Fort Worth's ordinance, but the quality and

1 standards will exceed that ordinance.

2 The issues which you will hear before you today
3 are NIMBY issues, issues that relate to schools, to
4 traffic and to basically the people that are going to be
5 living in these apartments.

6 The city councilman from Fort Worth, who I
7 don't see here today, has a quote that has been now raised
8 nationally, that says, "Having low-income people in a
9 middle-class neighborhood is very unsettling to a lot of
10 people. I'm a firm believer you get what you earn, and I
11 don't believe that low-income people should be mixed in
12 with middle and high-income people just to satisfy the
13 social engineers."

14 Well, I personally am insulted by comments like
15 that. This is an elected official. This is a development
16 that has met all its approvals. It has the support of the
17 City of Fort Worth. We have a number of people today from
18 the community in Fort Worth that support this development.

19 We have met on a number of occasions with the
20 neighborhood in an attempt to work with them. They have
21 been told by their local representative that it's not
22 necessary to meet with us.

23 You have a gentleman here who will be speaking
24 to you on behalf of this neighborhood group, who went to

1 Austin to oppose us on a development that we were building
2 in this city, in front of the mayor and city council in
3 Austin.

4 The mayor and city council in Austin said,
5 Excuse me. Aren't you from Fort Worth? Well, that
6 transaction passed unanimously by the City of Austin,
7 despite having somebody from the neighborhood of Fort
8 Worth who is here today to oppose this, trying to stop us.

9 CHAIRMAN JONES: I'm sorry, time's up.

10 MR. POTASHNIK: Thank you.

11 CHAIRMAN JONES: Thank you, sir. The next one
12 is Ms. Cynthia Bast.

13 MS. BAST: I only need to speak if it's needed
14 to provide information on this, if asked to.

15 CHAIRMAN JONES: Okay. Thank you, ma'am. Mary
16 Rusnak?

17 MS. RUSNAK: Hello. I appreciate the time to
18 speak on this opportunity for the City of Fort Worth and
19 Tarrant County. My name is Mary Rusnak, and I'm executive
20 director of Neighborhood Housing Services of Fort Worth
21 and Tarrant County.

22 We are a non-profit organization which has been
23 in operation for more than 26 years. And as such, we are
24 very obligated to our community to find the appropriate

1 resources for affordable housing. Also, we are a member
2 of the Neighborhood Network, the Neighborworks Network of
3 Neighborhood Reinvestment Corporation. And we have to be
4 very, very selective in our partnerships.

5 When Southwest Housing came to us to become a
6 partner in this opportunity for affordable housing, we
7 embraced the opportunity because of the quality of their
8 product, and because of the resources that they bring to
9 their affordable housing.

10 They will have day care. They will have a
11 computer center. They will have mentors to help with
12 homework. They will be an asset to the school system.
13 And we believe very strongly that they will bring very
14 much to bear when it comes to serving the public of Fort
15 Worth and Tarrant County, in that they will be able to
16 house the teachers, the rookie cops, the secretaries, the
17 aeronautical engineer, the startup.

18 The affordable housing is needed in Fort Worth,
19 and this is a quality product which will have a long life.
20 We have seen their product in Dallas, and we believe that
21 they will be able to sustain a very attractive and
22 affordable entity for our city and our county. I thank
23 you for your time.

24 CHAIRMAN JONES: Thank you, ma'am. Joe

1 Velazquez.

2 MR. VELAZQUEZ: We have the opportunity today
3 to provide 152 families the privilege to call a place, a
4 dignified place, their home. My name is Joe Velazquez. I
5 am on the board of directors of the Neighborhood Housing
6 Services in Tarrant County.

7 I am also vice president and regional community
8 development officer for Southwest Bank. I have a letter
9 with me from Former Secretary Henry Cisneros, addressed to
10 Director Edwina Carrington, if I may, please.

11 The letter reads, "Dear Ms. Carrington, the
12 purpose of this letter is to express my support for Arbor
13 Bend Villas, a proposed community for 152 families,
14 recommended by the City of Fort Worth.

15 "Arbor Bend Villas has many dimensions which
16 distinguishes it as precisely the kind of project which
17 will meet the test of quality of design, appropriateness
18 of location, accommodation for families of mixed income,
19 and capable sponsorship.

20 "I have been personally -- I have personally
21 observed that Fort Worth's governmental and civic leaders
22 have been deliberate and exclusive in the approach to
23 enhancing the city's housing stock in various
24 neighborhoods, and for families across range of incomes.

1 "Arbor Bend Villas is the result of a very
2 thoughtful decision-making and consultation process.
3 Arbor Bend Villas will be located in an area of Fort Worth
4 which maximizes employment opportunities for its
5 residents. National evidence underscores the importance
6 of the link between jobs and housing.

7 "The fact that Arbor Bend Villas will be home
8 to families of various income levels makes its location,
9 Fort Worth growth areas, even more significant. It
10 assures the real economic opportunities for families along
11 with enhanced children's performances skills, development
12 for adults and ease of travel to work.

13 "When all of these dynamics converge,
14 experience shows that strengthened family stability is an
15 additional social benefit."

16 CHAIRMAN JONES: Excuse me, sir. Your time is
17 up. Thank you.

18 MR. VELAZQUEZ: A closing statement?

19 CHAIRMAN JONES: Sure.

20 MR. VELAZQUEZ: We have a social responsibility
21 here today to analyze this project, not with individual
22 interests, but for the general interest of the community
23 as a whole. Thank you.

24 CHAIRMAN JONES: Thank you, sir. Cheryl

1 Potashnik.

2 MS. POTASHNIK: Good afternoon. Thank you all
3 for the opportunity to address you today. I don't want to
4 take up too much time, but I have spent a lot of time
5 working on this particular issue. I have a significant
6 personal investment in it, just from a philosophical
7 standpoint.

8 I'm not a confrontational person, but
9 unfortunately, as much as we have tried to reach out to
10 the neighborhood in this situation and work with them, we
11 have some fundamental differences of opinion which we have
12 not been able to overcome.

13 One of those is our disagreement with the
14 councilman that low-income people should not be mixed with
15 middle and high-income people. I strongly disagree with
16 that sentiment. I disagree with the superintendent of the
17 schools, the former superintendent, who stated that our
18 school district does not accommodate our children, and
19 that Crowley School District could only accommodate
20 natural growth in the school system.

21 I have a strong problem with that. I think
22 it's the responsibility of the school district to educate
23 the children that are brought to them, regardless of the
24 income or the whatever, where they live. And I understand

1 the neighborhood objection that there is too many
2 apartments in this submarket of Fort Worth.

3 However, that's inconsistent with the city's
4 consolidated plan, which designates this area as a mixed-
5 use growth area. It's inconsistent with the consolidated
6 plan, which talks about the need for thousands of
7 additional affordable rental units.

8 And so for those reasons, we have not been able
9 to reach a consensus with the neighborhood, but I hope
10 that you will positively consider this application. I
11 think it's important to the community. The majority of
12 applications or developments that Southwest Housing has
13 been involved in for the last nine years have been in
14 qualified census tracts, in areas that are already low-
15 income neighborhoods.

16 But I think it's important that we start
17 dispersing the housing. And I think it's an important
18 message for the department to send, that we're not going
19 to segregate housing in low-income neighborhoods. Thank
20 you.

21 CHAIRMAN JONES: Thank you. Rosa Rosales.

22 MS. ROSALES: Honorable Commissioners, my name
23 is Rosa Rosales. I am the national vice president for the
24 League of United Latin American Citizens for the Southwest

1 Area, which includes the State of Texas.

2 LULAC happens to be the oldest and largest
3 Latino organization in the nation, with over 100,000
4 members nationwide, and with over half of the membership
5 in the State of Texas.

6 Let me just say that we're here to give full
7 support to the Arbor Bend Villas. You know, LULAC has
8 always been a champion for affordable housing, and it is
9 much needed. And to every family, regardless of race,
10 color, or creed, to have an opportunity to high-quality
11 housing.

12 The Arbor Bend Villas are not just any
13 affordable housing. These are like the premier of
14 affordable housing. This is a chance for all, not only
15 Hispanics, but for all working families to have an
16 opportunity to live in high-quality housing.

17 In fact, you know, we should be striving for
18 more affordable housing. Statistics show that we -- there
19 is a great need for affordable housing. This could give
20 an opportunity for hard-working families to live in some
21 high-quality housing.

22 Also, this is not a public-housing project.
23 You know, this is, you know, market rate rents. You know,
24 people and the builder need to have a job. You know,

1 you're talking about 600 or something to 800 and something
2 that would be the rent rate.

3 You know, this is important to us also, that
4 there is a lot of misperceptions, you might say, out there
5 in the community, that affordable housing will bring in,
6 you know -- will deteriorate the community, will bring in
7 a high crime rate.

8 This is all, and more of the other things that
9 you will hear probably today which have not been given any
10 documentation for such proof.

11 You know, the wheel of justice is in your hands
12 today. We can either accept something for the growth of
13 American families to be given this opportunity to get into
14 high-quality apartments, the premier of public housing --

15 CHAIRMAN JONES: Excuse me, ma'am. Your time
16 is up.

17 MS. ROSALES: Just one more thing, and I'll
18 finish up with a sentence.

19 CHAIRMAN JONES: Sure.

20 MS. ROSALES: I have seen this projects. This
21 is a -- the beginning of home ownership. So it is not
22 just an apartment that you live in. It's a step forward
23 to be able to become, and realize the American dream of
24 home ownership. Thank you.

1 MS. ANDERSON: Mr. Chairman, I have one
2 question.

3 CHAIRMAN JONES: Certainly.

4 MS. ANDERSON: If I may ask you, ma'am, where
5 do you live?

6 MS. ROSALES: Where do I live?

7 MS. ANDERSON: Yes.

8 MS. ROSALES: I live in San Antonio, Texas.

9 MS. ANDERSON: Okay.

10 MS. ROSALES: But I also represent five states
11 within the State of Texas.

12 CHAIRMAN JONES: Thank you, ma'am. Angela
13 Garcia.

14 MS. GARCIA: Good evening --

15 CHAIRMAN JONES: Good evening.

16 MS. GARCIA: -- honorable board. It gives me a
17 great pleasure to address you on this issue. My name is
18 Angela Garcia, and I'm the deputy director for the elderly
19 in the State of Texas. And I am here to support the
20 housing in Arbor Bend Villas.

21 You know, we -- I am going to talk about the
22 education. School districts have the right -- I mean,
23 have the legal and moral responsibility to educate our
24 children. And because those comments that were made, our

1 children also need the very best.

2 And if you see all over who works in that
3 school district, who all -- who cooks our food for our
4 children, who cleans the schools; this is not the working
5 class. And mostly, because we travel all over in the
6 State of Texas, from West Texas to East Texas to South
7 Texas, your working class are minorities. And your
8 working class have a right to have decent housing.

9 That's a dream of all minorities, of Hispanics,
10 to have a chance to be -- have that opportunity to be able
11 to take it. That's one of our missions in LULAC. In
12 fact, Mr. Salinas, LULAC was founded in the Valley, wasn't
13 it?

14 MR. SALINAS: Uh-huh.

15 MS. GARCIA: And so these are the things that
16 we need to be appalled when someone comes against that we
17 cannot have more children in school districts. Where are
18 we going to put them? What are we going to do for them?
19 Because don't forget; those are the children that are
20 going to be in these boards. These are the children that
21 are going to be the representatives of these communities.

22 CHAIRMAN JONES: Excuse me, ma'am. Your time
23 is up.

24 MS. GARCIA: And it's time. Thank you very

1 much. And please vote for Arbor Villas.

2 CHAIRMAN JONES: Thank you, ma'am. Mr. Peña.
3 Mr. Peña, it didn't say here where you're from.

4 MR. PENA: I'm from San Antonio.

5 CHAIRMAN JONES: Thank you, sir.

6 MR. PENA: Honorable board, and Good afternoon,
7 Mayor Salinas. We are here to support the project of oh,
8 I think they call it Arbor Villas, or something like that.
9 And I think what's come before you here is that --
10 something that you've been through it many times.

11 You've heard everything. But when you -- when
12 a project is developed and meets all the criteria, all its
13 requirements, that's what I think you ought to look at in
14 the final picture. And I think that this development has
15 met every one of them. I think that it's a good
16 development.

17 The opposition has alleged many statements that
18 they will create traffic congestion, overcrowd schools,
19 increase in cost to the to the ISD, criminal activity, and
20 et cetera. But I think the staff has responded in a
21 positive and very responsible way so that you all could
22 make good analysis about the project.

23 And I think that they all answered that those
24 allegations are all false, except for one. I think the

1 staff agrees that the development will increase traffic,
2 which you've addressed. So I think that when you look at
3 this whole thing, it's all a matter of humanity, dealing
4 with progress, dealing with the change that has occurred.

5 I think that this development in itself is
6 something similar that happened in San Antonio. And we
7 want to -- I want to thank you very much for you all
8 approving a similar development in San Antonio, which we
9 had similar comments made that are probably going to be
10 made here today of what we read of the record.

11 They alleged the same thing, the same
12 allegations. Well, I want to let you know that as a
13 result of this development that happened in San Antonio --
14 I think it's Heatherwell, or something like that, it
15 brought a lot of interest to the south side of San
16 Antonio, which the mayor gave the south side initiative
17 Toyota. And they're right in the back yard.

18 So I hope that this development that will occur
19 in Fort Worth, may attract similar economic development.
20 Thank you very much.

21 CHAIRMAN JONES: Thank you, sir. I appreciate
22 it. Mr. Dario Chapa.

23 MR. CHAPA: In view of the fact that
24 everything's been said already by previous speakers, I

1 am -- as national director of LULAC housing, I pass.

2 CHAIRMAN JONES: Thank you, sir. A wise man.

3 (General laughter.)

4 CHAIRMAN JONES: I also have a note on this
5 witness affirmation form that Mr. Jones no longer wishes
6 to speak. Is that correct?

7 MR. WEILAND: I would like to.

8 CHAIRMAN JONES: They're growing all the time.
9 Maybe we'll let you in the Legislature. Mr. Joseph
10 Weiland.

11 MR. WEILAND: I am Colonel Joseph K. Weiland,
12 United States Marine Corps, Retired. And unlike some of
13 the witnesses before you today, I do live in Fort Worth.
14 I just want to update you with a few facts that were
15 presented at the public hearing in Fort Worth earlier this
16 year.

17 The figures that Chuck Silcox gave you were
18 based on a mile-and-a-half radius. That's because of the
19 geographic location and the density within that area. We
20 have over 7,000 -- approximately 7,300 units within a
21 mile-and-a-half radius. That is too dense.

22 Since then in reading your studies, I have
23 determined that the marketing study was based on a five-
24 mile radius. If you go out to a three-mile radius, there

1 are 11,379 units within a three-mile radius.

2 Within the five-mile radius, there is 14,927
3 apartments available to rent. The testimony that was
4 brought out for public hearing indicated that they would
5 rent at less than the figure shown in your study for Mr.
6 Potashnik's project. So his financial data is all shot to
7 heck.

8 To be fair about this, a new marketing study
9 should be conducted. And it should take the lowest rent
10 actually commissioned by the five adjacent properties in
11 the last 12 months to see what the market will bear.

12 Another thing, and moving on, I would like to
13 present to the board with some pictures of a apartment
14 unit that is four miles from the site. This is the
15 Huntington Place Apartments. It has been boarded up. It
16 has been broken into.

17 Going on with the number of vacancies that
18 exist in the five -- within the mile-and-a-half radius,
19 over 1,000, there is a big question as to the need in this
20 location for any type of housing, let alone -- I mean,
21 we're not against affordable housing.

22 That's got nothing to do with the project. Nor
23 our opposition. Not as -- we're not waving flags like
24 some other people that have spoken.

1 CHAIRMAN JONES: Okay. Excuse me, sir. Your
2 time is up.

3 MR. WEILAND: Okay. I want to thank you for
4 your permission to do that. I have a list here I'll give
5 you, too, of the apartments that were within the three-
6 mile radius. So if anybody wants to check on them and
7 prove whether they exist or not, I would be very happy to
8 have them do that.

9 CHAIRMAN JONES: Thank you, Colonel. Elizabeth
10 Albright.

11 MS. ALBRIGHT: Good afternoon. My name is Liz
12 Albright. And I reside in the Oakmont Meadows Division,
13 that is property adjacent to the property in question.

14 I'm concerned about what I've heard here today,
15 that our neighborhood is not a mix. We have a multi-
16 national neighborhood. My next-door neighbor is Hispanic.

17 The neighbor up the street is Hispanic. Our friends down
18 the street are African-American. A few doors down is a
19 Chinese-American family, and an Iranian family up the
20 street.

21 We have families ranging from single mothers to
22 retirees, with varied income levels. I don't want you to
23 be misled. The real point here is that Mr. Potashnik's
24 goal is to bring over a quarter of a billion dollars in

1 bond money which is administered by the Federal and state
2 government.

3 And isn't a quarter of a billion dollars for
4 one person a bit much? What about businesses that are
5 owned by women or by Hispanics, or African-Americans, or
6 Asians, or veterans, or disabled veterans? Do they have
7 the same access to funds that Mr. Potashnik does?

8 And there is a press release entitled,
9 "Developer Threads the NIMBY Needle to Gain Community
10 Acceptance." That is Mr. Potashnik's press release.

11 It states, "Convinced that he can sell the idea
12 of affordable housing to Dallas area citizens and
13 politicians, developer Brian Potashnik, President of
14 Southwest Housing Development, is in the midst of a \$281
15 million crusade to build hundreds of new, low-cost units
16 on 15 sites."

17 And in view of time, we'll have to skip a
18 smidge. The press release goes on to say not that Mr.
19 Potashnik has won over every neighborhood. "Earlier this
20 year city and school officials in suburban McKinney
21 objected to a proposed family development ultimately
22 convincing state housing officials that the city already
23 had enough affordable apartments and that other areas
24 needed them more.

1 "Without the support from state housing
2 officials, Southwest did not have the funding to build,
3 and the project was dropped. Mr. Potashnik has also had
4 to mollify opponents in Oak Cliff, who did not want
5 apartments for families because of the claims of increased
6 density, school overcrowding and reduced property values.

7 "He converted the project to a luxury senior
8 community center, and donated 110 acres as a nature
9 preserve. Affordable units were lost in the process, but
10 Mr. Potashnik is not discouraged. He says he knows that
11 his formula will succeed in other neighborhoods, and that
12 those units can be replaced.

13 "Mr. Potashnik says he has a good base, and" --

14 CHAIRMAN JONES: Excuse me, ma'am.

15 MS. ALBRIGHT: May I make a real quick closing
16 comment, please?

17 CHAIRMAN JONES: Yes.

18 MS. ALBRIGHT: We're concerned that this
19 gentleman owes his very existence to the taxpayers and the
20 bond providers of the state, and that they're truly a
21 profit-making entity. And that's the point here, that
22 the crusade is to make money. Thank you.

23 CHAIRMAN JONES: Thank you, ma'am. Dee
24 Weiland. Hi. Do you happen to know a Colonel?

1 MS. WEILAND: I happen to live with that
2 Colonel, off and on, when he wasn't overseas for almost 50
3 years. I've moved 41 times. I've lived in the 600 square
4 foot provided by -- or 600 square foot provided by the
5 Government, so does that answer your question?

6 CHAIRMAN JONES: I think it does.

7 MS. WEILAND: Yes.

8 CHAIRMAN JONES: I really do, and I want to
9 congratulate him. He's like me. He married up.

10 MS. WEILAND: Thank you. We have a son who is
11 overseas the fourth time since January 2, 2002. And we're
12 also fighting for his home. The thing that I'm here for
13 is that I am a senior citizen. I think everyone can see.

14 I'm frightened to death of more housing in that
15 little area, and that no one has explained to you that it
16 is a two-lane road with a half a hip on either side.

17 There is nowhere and no place, because of the
18 fence and the houses, to get any emergency vehicles back
19 and forth to any home, let alone the school house.

20 I do want to show you these three pictures that
21 Mr. Potashnik claims that it's for the children, and that
22 he cares for the children. These pictures prove that the
23 children from this affordable housing unit that's just to
24 the north of the place at 6150 that he's going to build,

1 have to walk in the gutter when this man refuses, by the
2 law of the City of Fort Worth, when the grass is 12 inches
3 high, to cut.

4 If you could see those pictures, you'll know
5 that. And remember, when you were a little boy, that the
6 crotch of your pants didn't come all the way up to where
7 the crotch when you're a man, and that they can't walk in
8 that grass that's not cut. And it's never cut, unless
9 somebody comes from the city and forces him to cut it.

10 These children are walking in the gutter. Two
11 years ago, I had to, because of this -- a year and half
12 ago, because of this same thing, I was hit from behind,
13 trying to get a little boy from a subsidized apartment
14 complex across the street so he could go to the elementary
15 school.

16 The other thing is that I do know affordable
17 housing. I lived two blocks from it in another state.
18 And the person that did this was the guru who just spoke
19 in Washington, D.C., of all gurus, for affordable housing
20 with two years' training.

21 These people moved into affordable housing that
22 had a piece of sand for their children to play in; that
23 had a door that was called their own. They didn't have to
24 share it. It is a proven fact. I want to show you just

1 one more picture.

2 CHAIRMAN JONES: Okay. One more picture. Your
3 time is up.

4 MS. WEILAND: This picture is -- there -- when
5 you have two no-rents for two months. That's not \$99 move
6 in. That's -- it states the \$99 that is to -- it states,
7 number one, the credit report that it states, the police
8 report and the crime report on anyone.

9 They are so -- these are all over our
10 neighborhood. People that don't live in Fort Worth need
11 to come and see these pictures live.

12 CHAIRMAN JONES: Thank you so much.

13 MS. WEILAND: And by the way, I can say this
14 because I'm a grandmother. If you've ever seen a little
15 child cross the street that's seven, that was killed by
16 somebody going too fast, these children have to go to
17 school. You'll lose your job if you don't go to work.
18 But these children, by law, have to go to school. It's a
19 law in the great State of Texas. And they have to walk
20 within a two-mile radius. Where are they going to walk?

21 CHAIRMAN JONES: Thank you, ma'am. Mr. Eric
22 Fox.

23 MR. FOX: Chairman Jones, members of the
24 committee, my name is Eric Fox. I live at 6721 Branch

1 Creek Drive in Fort Worth, Texas. I live in the Gila Bend
2 area, which is located next to the property on 6150
3 Oakmont Trail.

4 We'd be joined here by other members of the
5 homeowners' association and other elected officials;
6 however, Southwest Housing has either sued or subpoenaed
7 us so many times that many neighbors in my neighborhood
8 are now fearful to serve in a homeowners association, and
9 fearful to speak out.

10 We've had an individual who has been sued on
11 his own. We've had the county commissioner sued, and
12 we've had the neighborhood association subpoenaed.

13 If we could, we'd like to start with a report
14 for just a second, if we could. Senator Brimer is listed
15 as no comment received. We're kind of curious about that.

16 Senator Brimer read -- staffer read a letter that said,
17 "I cannot support any project here tonight that is so
18 strongly opposed."

19 So we think that maybe you ought to take a look
20 at that and see if that doesn't put him in a negative
21 column. Not one elected official in Fort Worth or Tarrant
22 County has voiced support for this project.

23 Ironically, not the person that offered the
24 amendment at the county level to not move forward with

1 this project as an African-American, lives in our
2 neighborhood. She was the one that was sponsor of it.
3 She was the one that was vocal about it. And she was the
4 one that moved forward.

5 We disagree with the market study. I think
6 that was said by the previous speaker. I just want to
7 emphasize this again, 11,379 apartment units in 46
8 apartment complexes within a mile and a half, 14,000 in
9 five miles.

10 Star Telegram did a story the other day, in
11 October, called Rental Glut. It showed the North Texas
12 occupancy rate was 91.2. The study that has been provided
13 to you today shows there is 94.9 percent occupancy rate.
14 We've contacted the Fort Worth Apartment Association, and
15 if you come down to our section of Southwest Fort Worth,
16 the occupancy rate is 83.3.

17 So we would disagree with the 94.9. We don't
18 think that that is accurate. If I could just dive into
19 the 43 apartment complexes that we have in that area. We
20 have Candle Chase Apartments, which are a tax credit
21 housing.

22 We have Overton Park, which is just coming on
23 line. It's an affordable housing project by the Fort
24 Worth Housing Authority for the relocation of the Ripley

1 Arnold residents. For those of you not from Fort Worth,
2 Ripley Arnold is where they're now going to build the
3 RadioShack corporate headquarters.

4 They had to move those residents. They moved
5 them out to us. That's going to feed into Oakmont
6 Elementary. We embraced it. We supported it. The
7 community had to keep RadioShack, and we did.

8 Remington Hills, which is located --

9 CHAIRMAN JONES: Excuse me, sir. Your time is
10 up.

11 MR. FOX: Yes, you bet. Remington Hill, which
12 is located adjacent to Oakton Park, is a tax-exempt bond
13 project. We also have Gila Bend Senior Citizens Center
14 that is being built two blocks from this facility as well.

15 The density, according to the United States
16 Census -- last point, is, for that square mile, the United
17 States Census says that there are 51,000 people. It's the
18 highest in Tarrant County, and among the tops in the
19 state.

20 So Mr. Chairman, and members of the committee,
21 it's a density issue. We're on top of one another. We
22 want to thank you for your time. We want to thank you for
23 answering the call of the Governor to serve the great
24 State of Texas, and we urge a no vote on this project.

1 Thank you.

2 CHAIRMAN JONES: Mr. Fox, could I ask you a
3 question before you leave?

4 MR. FOX: Yes, sir.

5 CHAIRMAN JONES: Could you tell me about the
6 litigation? What litigation are you referring to?

7 MR. FOX: We have a -- when we were in the
8 county -- when we were at the county level, and it has the
9 Tarrant County Housing, you know, you wear a different hat
10 in the county commissioners.

11 When it was denied, Southwest Housing
12 Development went over across and filed a suit against the
13 county commissioners. Dan Settle [phonetic] is that
14 attorney. I'm not familiar with that, because I'm just a
15 person that just lives in the neighborhood. But Dan
16 Settle, who is their attorney for Kelley Hart and Holdman
17 in Fort Worth, is the county's representative. He could
18 speak to that.

19 When an individual that is also named in that
20 suit as well, which has basically gagged him -- ironically
21 enough, he happens to be a contractor, so someone that
22 could actually talk about what the project looks like, how
23 it's going to look. He's basically been gag-ordered out
24 of that.

1 Then we can't have anybody serve, because
2 everybody in our neighborhood association -- they do what
3 everybody else in the neighborhood association wants to
4 do. If you're president of the neighborhood association,
5 you want to run the pool, the Fourth of July parade. You
6 don't want to be subpoenaed, you don't want to be sued.

7 So we don't have a president, a vice president.

8 We don't even have a slate. We haven't had one because
9 everybody started ticking off, because the people that we
10 had elected, they were elected to serve and make sure that
11 our streets were nice, and sidewalks and the pool and the
12 amenities and things of that nature.

13 And so people are really fearful and
14 intimidated, until this is finally settled from wanting to
15 serve at all.

16 CHAIRMAN JONES: You have been subpoenaed. Did
17 you also say that?

18 MR. FOX: We were subpoenaed, yes, sir, by
19 Southwest Housing. They subpoenaed for all hearings --
20 let's say, it was all meetings both public and private.
21 And they wanted a list of every time we had ever met. And
22 we had to try to comply with that. And of course, none of
23 us are attorneys.

24 So we're to the point now where our housing

1 association is, you know, we're going to have to have an
2 attorney, we guess, to continue to survive.

3 CHAIRMAN JONES: Thank you, sir.

4 MR. FOX: Thank you. I appreciate it.

5 MR. CONINE: Mr. Fox, what do you do for a
6 living?

7 MR. FOX: What do I do for a living?

8 MR. CONINE: Yes.

9 MR. FOX: Work at a large defense contractor
10 for -- in Fort Worth.

11 MR. CONINE: Okay. Thank you.

12 MR. FOX: Thank you.

13 CHAIRMAN JONES: Yes, ma'am?

14 MS. POTASHNIK: I just want to say that --

15 CHAIRMAN JONES: If you can come up to the
16 podium.

17 MS. POTASHNIK: You had asked about the
18 litigation, and if you would like a full description, I
19 think that we're more qualified to discuss it; that Mr.
20 Fox is not a party to the lawsuit.

21 CHAIRMAN JONES: All right. You'd like to
22 describe the litigation. Yes, feel free to.

23 MS. POTASHNIK: Are you interested?

24 CHAIRMAN JONES: Yes. Certainly. Yes.

1 MS. POTASHNIK: Okay. Last year the bonds were
2 induced by the local Housing Finance Corporation. And we
3 went down the process, moved forward, had our TEFRA
4 hearing. And the TEFRA hearing was held right before the
5 vote. I think it was the day before the vote.

6 And when it came time for the Housing Finance
7 Corporation to vote, they failed to make a motion. We
8 received a subsequent correspondence from the HFC
9 requesting additional studies, because they felt like they
10 didn't have enough information based on the issues that
11 were raised at the public hearing to make a good decision
12 about whether or not to issue the bonds, even though they
13 had induced them, and we had gone through the whole due
14 diligence process.

15 The bonds were underwritten, and you all had
16 approved the tax credits. So we submitted that we were
17 able to get those studies done before the bond cap
18 expired. And it was represented to me by the chairwoman
19 of the HFC that if we were able to get those studies done,
20 that they would reconvene and reconsider the issue.

21 And so we endeavored -- spent a lot of money to
22 get those reports done. And through a lot of legal
23 maneuvering, we were able to get them to convene again,
24 because they really did not want to do that. And again,

1 they failed to make a motion on the bonds.

2 And we went to court to try to get a TRO to
3 force them to vote. And the judge denied the TRO because
4 of a variety of reasons, and the bond cap expired. We
5 amended our complaint, and we're seeking injunctive relief
6 to --

7 We're alleging violations of the Fair Housing
8 Act, and seeking adjunctive relief to the county to have
9 to rectify the situation through somehow coming up with a
10 way to provide affordable housing. The parties to the
11 lawsuit are the Tarrant County Housing Finance
12 Corporation, and Tarrant County only.

13 The HFC filed a motion to dismiss the case,
14 which the judge denied their motion to dismiss.

15 CHAIRMAN JONES: I tell you what. You're
16 probably giving me more than I needed to know.

17 MS. POTASHNIK: Well, the bottom line is that
18 the parties to the lawsuit are the county -- Tarrant
19 County and the Tarrant County Housing Finance Corporation,
20 and no individuals, no homeowners' associations.

21 I think the homeowners' association was
22 subpoenaed to provide certain documents, and that's as far
23 as that goes.

24 MR. SALINAS: Well, I -- can I say something,

1 Mr. Chairman?

2 CHAIRMAN JONES: Sure.

3 MR. SALINAS: I think we're here to award tax
4 credits. I've said it before. We've always had problems
5 in Houston, and you know, we do not vote on zonings.

6 We had that problem in McKinney, Texas,
7 remember? That the Planning and Zoning approved it. The
8 City Council approved it. Then they came over here and
9 told us not to approve it.

10 I think it's really getting out of hand on what
11 we can do and cannot do. I think our job here is to
12 approve the tax credits, and that's it. How they file
13 under legal actions in Fort Worth -- if they want to
14 continue suing each other, that's fine with me.

15 I just don't think it's our job to approve or
16 disapprove where apartments are going to be at, or
17 housing. I think that staff has a recommendation. Zoning
18 was done in Fort Worth. I think it's somebody's --
19 somebody is in the Planning and Zoning in the City of Fort
20 Worth and the city council and everybody else, because
21 they have failed to do their job, period.

22 You know, and the Hidalgo County Commission --
23 I mean, the Hidalgo County -- Fort Worth County
24 Commissioners Court for Tarrant County has failed to vote.

1 And then it comes over here. And then you all want us to
2 take care of everything.

3 You know, we're here only to approve tax
4 credits. And it's going to be up to our staff whether
5 they are going to recommend to approval. Then if the
6 opposition did not like our tax credit, I mean, don't
7 agree with us, they can file all the lawsuits they want to
8 in Tarrant County.

9 But I think it's very unfair for everybody to
10 come to us, and to go ahead and for us to declare zonings
11 and no-zonings. The City of Houston, you know -- we could
12 understand the City of Houston, because they have no
13 zoning. And we've talked about it several times.

14 And we had a lot of people opposing the
15 project. But see, they have no zoning. You all do have
16 zoning in Fort Worth. You all have elected officials.
17 You all have planning and zoning. We can't do their job
18 for them.

19 I -- that's what I think. I just don't think
20 that it's fair for us to be put in this situation. Our
21 job here today is to say, Well, do we approve the tax
22 credits? And I would think that staff would give us the
23 recommendation, whether they need to be given the tax
24 credits now -- you have a local courthouse. Now, all you

1 have the state government. You have the attorney general
2 if anything is being done wrong.

3 But for us to make the decision on zoning is --
4 it's -- and I don't know what we're going to do to be able
5 to communicate that to the developers and to the cities,
6 that they come and they ask us to do -- to deny something
7 that has already been approved by city councils.

8 CHAIRMAN JONES: We have one more person for
9 public comment, Mr. Sidney Poynter. And I'm sorry. I
10 mispronounced your name.

11 MR. POYNTER: It's Poynter, P-O-Y-N-T-E-R.

12 CHAIRMAN JONES: Thank you.

13 MR. POYNTER: Like a bird dog, but with a Y
14 instead of an I.

15 CHAIRMAN JONES: I see.

16 MR. POYNTER: Before I start, may I ask you
17 three questions just for clarification? Does this board
18 have the authority to overrule the staff recommendation?
19 Do you have the authority?

20 MR. SALINAS: But sometimes they tell us that
21 we don't. You know, the other day they told us we didn't
22 do it, and I did, myself.

23 CHAIRMAN JONES: If I needed -- seriously?

24 MR. POYNTER: Yes, sir. Seriously.

1 CHAIRMAN JONES: -- if I answered that question
2 for you, we're going to be here a long time today. This
3 is a board of limited authority. It depends on the
4 circumstances, and it depends on the evidence before us.
5 And it really would take me a long time to answer that
6 question.

7 MR. POYNTER: Okay. When you say that staff
8 recommendation is -- who is staff?

9 CHAIRMAN JONES: It's Ms. Carrington and the
10 individuals she works with.

11 MR. POYNTER: And who is that?

12 CHAIRMAN JONES: There are a number of them.
13 Again, I don't think we're going to have time to go
14 through who all her staff is.

15 MR. POYNTER: Okay. What action does this
16 board take -- takes when they are aware of staff or former
17 staff working both sides of an application? What action
18 do you take?

19 CHAIRMAN JONES: And if you have information
20 about that, you should provide it at this point.

21 MR. SALINAS: Provide it to the board; speak.

22 MR. POYNTER: You are quite aware of the
23 information. You just came from an executive meeting
24 discussing it.

1 CHAIRMAN JONES: I'm not -- and again, I'm
2 not --

3 MR. POYNTER: You are correct when you say the
4 Attorney General should -- is the one that can take
5 action.

6 MR. SALINAS: Anybody can go ahead and talk to
7 the --

8 CHAIRMAN JONES: If you would, you're going to
9 have two minutes to make a public comment. Please do
10 that.

11 MR. POYNTER: Okay. How many of your previous
12 speakers voting, or expressing for this, was actually from
13 the community? None.

14 MS. RUSNAK: No, that's not correct.

15 CHAIRMAN JONES: Please. If everybody would --
16 you have two minutes to talk.

17 MR. POYNTER: Okay.

18 CHAIRMAN JONES: The clock's running. Finish
19 with what you have to say, and nobody else please speak.

20 MR. POYNTER: The young lady that just spoke
21 up, Mary -- Mary is quoted in your report that says,
22 "North -- NHS attempt to arrange a meeting with the
23 Crowley ISD superintendent, former superintendent, has
24 retired. NHS is still waiting on a response."

1 This is the kind of type of information you got
2 from staff. She contacted the school district with an
3 email. The email was received on April 30. I won't read
4 all of it. I'll just read the last part of it.

5 She said she knew that he was busy, and it
6 would take time. She says, "I will call to schedule an
7 appointment. Thank you." That was the bottom part of her
8 email. She called last Thursday. She was given an
9 appointment Monday with the superintendent, at which time
10 she came in and was very vague, did not --

11 He had to pull information from her to find out
12 who she was, who she represented, and what it was that she
13 was trying to get across. You talk about crime. I happen
14 to live in the Arbor apartments. This is what I found on
15 my apartment door, telling me to be careful when I go
16 outside because of crime that's taking place in the
17 apartment right adjacent to this.

18 I think that the best thing and the most
19 important thing is the board is -- you stated in your
20 board meeting on March 13, the board is taking a ground-
21 breaking role in ensuring that affordable housing is
22 available fairly across the community, as opposed to being
23 located in one part of town, and creating an environment
24 that cannot be a healthy community.

1 If you truly believe that, you will deny this
2 application, because this school district is saturated
3 with affordable housing apartments. Look at your map.
4 See it. You've got one coming up right after this.

5 CHAIRMAN JONES: Sir, your time is up.

6 MR. POYNTER: Thank you. I would like to finish
7 with this summary statement.

8 CHAIRMAN JONES: Thank you, sir.

9 MR. POYNTER: You have coming up after this a
10 unit of 280 units. That gentleman has gotten support from
11 the community. He has treated the community fair. He
12 came in. He presented his information to the school
13 district fairly. He's done everything that you should be
14 proud of, and would want someone of this nature to do.

15 So we're not in opposition to affordable
16 housing. But we are in opposition to underhandedness,
17 unfair practice, and I could go on and on.

18 MR. SALINAS: Okay. Have you really gotten
19 down to your city council people, your elected officials,
20 your mayor?

21 MR. POYNTER: Our mayor just got defeated.

22 MR. SALINAS: Okay. Maybe that's --

23 MR. POYNTER: Or he resigned. I'm sorry. He
24 resigned.

1 MR. SALINAS: Well, those are the people that
2 need to be hammered at.

3 MR. POYNTER: He didn't get defeated. He knew
4 what was happening.

5 MR. SALINAS: Those are the people that need to
6 be talked to. Those are the people that need to be --

7 MR. POYNTER: Well --

8 MR. SALINAS: -- maybe replaced. But you know,
9 for us --

10 MR. POYNTER: The staff member worked for you,
11 that also has worked for Mr. Brian Potashnik.

12 MR. SALINAS: Okay. This is something that
13 needs to be put on the record, that there is a staff
14 member that used to work for us now working for Mr.
15 Potashnik? Or --

16 MR. POYNTER: Or was working for --

17 CHAIRMAN JONES: Excuse me.

18 MR. POYNTER: I think in the last couple of
19 days, he may have been removed.

20 CHAIRMAN JONES: Excuse me. Thank you, sir.
21 With that, unless there is some questions -- thank you,
22 ma'am. Unless there is some questions from board members,
23 it is time to close public comment only. That's all I'm
24 going to be doing is closing public comment at this time.

1 At this point in time, I would like to take
2 staff's recommendation on this agenda item as well as
3 address maybe the issue that has just been brought up.

4 MR. SALINAS: Yes.

5 CHAIRMAN JONES: Thank you.

6 MS. CARRINGTON: Thank you, Mr. Chairman. Tab
7 2(b)(2), Arbor Bend Villas Apartments, to be located in
8 Fort Worth, 152 Units, Southwest Housing Development
9 Corporation will be the developer on this transaction.

10 It involves the issuance of \$8,175,000 in tax
11 exempt bonds, with the department as the issuer. The
12 structure of the bonds -- the bonds would be purchased by
13 Charter Mac, with interest rates of 5.50 during
14 construction, 6.70 during the remainder of the period, 40-
15 year maturity.

16 I'd like to turn your attention to Tab 3. Tab
17 3 is the recommendation on the credit allocation,
18 \$427,000 -- \$427,025 for a recommended credit amount.
19 Down at the bottom of the page, behind Tab 3, first page,
20 the bond development profile and summary. Summary of the
21 public comment that was received at the public hearing,
22 which was held on March 6 -- 16 in support, 225 in
23 opposition, 12 undecided.

24 A petition -- and you have this in your

1 information -- a petition of 613 -- a petition signed by
2 613 individuals in opposition, also 14 emails or letters
3 in opposition, and Mr. Fox is absolutely correct in his
4 comment about Senator Brimer. And I apologize for that.
5 We discovered that after it went on our website. And I
6 was going to clarify that.

7 Senator Brimer absolutely had a letter read
8 into the record at the public hearing, and noted that
9 there were a substantial number of his constituents that
10 were in opposition, and he would need to be in opposition
11 also.

12 Opposition from Representative Anna Mowery in
13 that -- covering that area, City Councilmember Chuck
14 Silcox. No comment from the Mayor, and a comment from the
15 Assistant City Manager, City of Fort Worth, in saying that
16 it was consistent with the local plan.

17 To begin to address some of the issues that
18 were raised -- and I'm going to ask Tom Gouris to come on
19 up to the microphone. But if you would go to Tab 5.

20 Tab 5 is the underwriting analysis report on
21 this transaction.

22 CHAIRMAN JONES: Is it the current one? I
23 mean, the statements made in our book are the current
24 statements?

1 MS. CARRINGTON: Going to page 5 on the
2 submarket vacancy rates, and Mr. Poynter, I believe, was
3 the one who brought this -- commented on this.

4 You will notice on page 5, behind Tab 5,
5 Submarket Vacancy Rates -- the current rate at the date
6 that this market analysis was done was 94.9 percent. And
7 Tom, you might tell us when the market study was dated,
8 because there is a further statement that says this part
9 of the submarket has continued to decrease -- is expected
10 to decrease through the third quarter of 2003.

11 Tom, what was the date of the market study?

12 MR. GOURIS: The market study is actually dated
13 January 6, 2003. However, the study that they were
14 referring to within the study was a study done by MCF
15 research. And I believe that was sometime in the fall or
16 winter of 2002.

17 MS. CARRINGTON: Fall of 2002, early 2003?

18 MR. GOURIS: The MPF research was done in late
19 2002.

20 MS. CARRINGTON: Okay.

21 MR. GOURIS: This -- our -- the entire study of
22 the Burger [phonetic] study that we had was done in
23 January 2003.

24 MS. CARRINGTON: I would like to call the

1 board's attention to page 8 of the Multifamily
2 Underwriting Analysis. At the bottom of page 8, Summary
3 of Salient Risks and Issues. There are four points that
4 the department has identified.

5 And that is, the estimated operating expenses
6 and pro forma more than 5 percent of the underwriter's
7 verifiable ranges. Point 2, significant inconsistencies
8 in the application could affect the financial feasibility
9 of the project. The recommended amount of deferred
10 developer fee cannot be repaid within ten years.

11 And significant financing structure changes
12 being proposed have not been reviewed or accepted by the
13 applicant lenders and syndicators and acceptable
14 alternative structures may exist.

15 Now, remember this went up on our website a
16 week ago yesterday. And so there may be some additional
17 information that has been presented to us. At the time
18 we did this underwriting analysis, these were the issues
19 that we did identify with the transaction.

20 MR. CONINE: Is there additional information
21 that has been presented here on that during the week that
22 would change any of these salient risks and issues?

23 MR. GOURIS: I haven't evaluated any additional
24 information. I --

1 MR. CONINE: Have you gotten any information?

2 MR. GOURIS: Underwriting has it. I'm not sure
3 if that Program Staff has that. I don't believe so.

4 MR. CONINE: Ms. Carrington, do you know if
5 anybody else has it?

6 MS. CARRINGTON: No, sir. I do not know.

7 CHAIRMAN JONES: So we can rely upon this at
8 this point?

9 MS. CARRINGTON: Underwriting --

10 CHAIRMAN JONES: This date, May 6?

11 MS. CARRINGTON: Underwriting has not received
12 any additional information.

13 CHAIRMAN JONES: Okay.

14 MS. CARRINGTON: So yes, sir. You may rely on
15 this.

16 CHAIRMAN JONES: Okay. Thank you.

17 MR. GOURIS: Should I point out an error that I
18 found in our report?

19 MS. CARRINGTON: Yes, sir. If you found an
20 error in our report, then yes, you point it out.

21 MR. GOURIS: Earlier today -- I'm sorry, on
22 page 6 of the underwriting report, the top section there,
23 the second-to-last sentence says, "However, the
24 underwriter's estimate of these shares is .96, and

1 reflects that the debt service should be capped at
2 568362."

3 That line is a typographical error. We had
4 done some updates, and that line didn't get updated. That
5 should say, "Debt coverage ratio of 1.06, and a primary
6 debt service of 564976."

7 MR. CONINE: Then how do you -- can I follow up
8 to the question?

9 CHAIRMAN JONES: You sure --

10 MR. CONINE: How do you reconcile your 564
11 number, when if you flip the page, at least in my book,
12 and you go over to the two-column sheet that you've got
13 here.

14 MR. GOURIS: Yes.

15 MR. CONINE: And it's showing under the TDHCA
16 column, next to the applicant column, a first-lien
17 mortgage of 588357?

18 MR. GOURIS: Correct. The 588 is based on the
19 8 million 175 --

20 MR. CONINE: Yes.

21 MR. GOURIS: -- anticipated debt amount. When
22 we underwrite, we go to -- both of you go to the very next
23 page. You'll see on the right-hand side, "Payment
24 computation" and then "Recommended financing structure."

1 That 564976 is the anticipated ultimate debt
2 service amount, based on our reduction in where we
3 anticipate the debt to be, the \$225,000 reduction that
4 we -- we anticipate no longer requiring it as part of our
5 conclusions, basing our conclusions on that as a
6 likelihood.

7 MR. CONINE: Okay. Flip back over to the
8 previous page. And I have a few other questions of Mr.
9 Gouris.

10 My concern is the financial feasibility of this
11 project. I think it is clear to me that we've got too
12 many units on the market giving too many concessions. A
13 month free rent, two month's free rent.

14 It's also clear to me that this project
15 technically meets all the parameters of, you know, the
16 local building codes and permits and all the like, and he
17 can wake up in the morning and just build a conventional
18 project there if he wanted to, it sounds like to me.

19 But TDHCA, in my opinion, has some risks. A
20 lot of people say we don't have any risk in this
21 transaction, because people buy the bonds and you know,
22 tax credits. We've got risks. We have risk of
23 credibility here in some of the numbers that we put forth.

24 Starting with the TDHCA column, I notice you

1 use the 7-1/2 percent vacancy. And I notice right below
2 that there is absolutely no concessions listed.

3 And if you work through the expense numbers,
4 you come down to an NOI in this column of 622,48 -- 412.
5 And then after a deduction of a couple other fees, you get
6 down to a cash flow of 22,000 annually.

7 There is no way in the world, in today's world,
8 that that is a real view of what this project would do,
9 assuming it was open today and fully operational.
10 Absolutely no way. And I speak to the professional
11 knowledge that I have, relative to that particular issue.

12 And my concern is not necessarily for the
13 credits. My concern is for the bonds. This is the bond
14 portion of the hearing. I guess I would propose, or ask
15 you to consider, Mr. Gouris, because of the weakness in
16 the market over there, and I think we could get that
17 updated from the market study analysts, if he may be even
18 here today. I don't know whether he's here today or not,
19 but --

20 On my rough estimate, we should be looking at a
21 1.15 debt service coverage ratio in areas that are soft
22 and weak relative to the overall market. And at the
23 absolute minimum, we should be looking at a half-month
24 concession.

1 If I run those numbers -- if I take your
2 622,418 number in that column, and I put a 1.15 debt
3 service coverage ratio on that, I got to 541,233. I take
4 half a months' rent is another \$52,992, and I come down to
5 a debt service coverage available -- or net operating
6 income available for debt service with a 1.15 coverage of
7 488,241.

8 Would you have any issues with my little
9 hypothetical analysis that I need to be aware of?

10 MR. GOURIS: Yes.

11 MR. CONINE: Okay.

12 MR. GOURIS: Sorry to say. But --

13 MR. CONINE: Well, that's all right.

14 MR. GOURIS: The concession issue and the
15 vacancy issue, and debt coverage issue. But let's talk
16 about concession issue first.

17 MR. CONINE: Okay.

18 MR. GOURIS: Even if they're going to be rent-
19 restricted at 50 percent of the area median income --

20 MR. CONINE: Right.

21 MR. GOURIS: -- which imbedded in that suggests
22 the concession that's been made, below the market rent.
23 And if you look at the -- what the market study indicated,
24 the rents in the area --

1 MR. CONINE: Well, I disagree with that
2 wholeheartedly.

3 MR. GOURIS: Well --

4 MR. CONINE: The competition next door will not
5 be imbedded in that. What will happen is they'll get two
6 months free next door.

7 MR. GOURIS: That may drive the market down,
8 but what we know is --

9 MR. CONINE: It will drive, not may, will.

10 MR. GOURIS: As it would in every market that
11 we operate in.

12 MR. CONINE: Right.

13 MR. GOURIS: But the information that we have,
14 based on the market analysis and their evaluation of the
15 market rents and their adjustments for the amenities and
16 all, indicate that the market rent for a similar unit -- a
17 two-bedroom unit, would be 690, whereas the rent --

18 MR. CONINE: Is that with a two-month
19 concession, or just face rent? You know, because I -- in
20 my business, I quote street rates all the time at numbers
21 that no way do I collect.

22 MR. GOURIS: The market -- the instructions we
23 have for the market analysts are to -- if those are
24 pervasive concessions --

1 MR. CONINE: Yes.

2 MR. GOURIS: -- then they should be included in
3 the rent that they --

4 MR. CONINE: Do you believe that it was
5 included in the market study we were presented?

6 MR. GOURIS: I'd have to go back and look, to
7 be honest with you. I --

8 MR. CONINE: Can I get that information? Is
9 the market study analyst here, by chance? He's not here.

10 MR. GOURIS: These folks here are pretty
11 reasonably -- not reasonably -- they do a very nice job
12 for us generally, and they usually take that sort of
13 information into account. If I could finish the thought
14 on it --

15 MR. CONINE: Go ahead.

16 MR. GOURIS: -- there is a \$62 differential on
17 the two bedrooms. There is a \$139 differential or savings
18 to the market in a three-bedrooms, and a \$255 savings in
19 the four bedrooms.

20 On top of that, the information again provided
21 in the market study, you know, clearly gives us a better
22 feeling about the occupancy rate in the area than some of
23 the statements that have been made here today, and your
24 own personal experience in that market.

1 MR. CONINE: Do we have tax credit units in
2 this particular market?

3 MR. GOURIS: Yes, I'm sure we do.

4 MR. CONINE: Have we checked to see if they're
5 giving one-month concessions off of their max rents that
6 they're giving?

7 MR. GOURIS: I did not do that.

8 MR. CONINE: Could I get that information any
9 time quickly?

10 MR. GOURIS: We can --

11 MR. CONINE: Or is it going to take a few days?

12 MR. GOURIS: We'd have to call them and ask
13 them what they're operating at. And we'd have to look for
14 other 50 percent -- to be fair, I think we'd have to look
15 for other transactions that have 50 percent units and ask
16 if --

17 MR. CONINE: Do we have those in that
18 marketplace?

19 MR. GOURIS: I'm sure we do.

20 MR. CONINE: Well, again, my concern is
21 strict -- I have a lot of concerns about this deal. But
22 my foremost concern is the financial feasibility of this
23 particular project and our reputation related to the
24 bonds.

1 And if -- and if I were to go through my
2 hypothetical analysis, I know that that would create a
3 gap, if you will, between the total amount of bonds being
4 able to be issued on this project, and the tax credit
5 syndication coverage, so to speak, and would kind of place
6 a tough hurdle for the sponsor/developer here to overcome.

7 But if he was able to overcome that by whatever
8 means he could convince you he could overcome it, then my
9 concern about the financial feasibility of bonds would
10 simply -- would be eased considerably, because we've now
11 pegged a debt service number in this underwriting pro
12 forma that, you know, I could -- I know I could sleep at
13 night in a market that's super soft.

14 MR. GOURIS: And I don't -- I'm trying to
15 express to you what our rules require us -- how our rules
16 require us to look at -- and there is not a caveat in our
17 rule to go from a 110 to a 115 if the market is soft. Nor
18 is there any documentation on what soft means.

19 And if there was, and it was based on what the
20 market analyst told us, and we need to look at what the --
21 you know, take seriously what the market analyst told
22 us -- in this case, the market analyst would tell us that
23 this market doesn't appear to be soft.

24 I understand where you're coming from, and what

1 your experience is in the area. And I don't have that to
2 go by. I have what the market analyst told us and
3 expressed to us as being --

4 MR. CONINE: Well, would it not be true that
5 what I'm proposing here -- if I were to propose not a
6 maximum bond amount, but a maximum debt service amount
7 attributable to debts -- principal interest reduction on
8 the bonds, and as anyone got up and read the Wall Street
9 Journal today knows, Treasuries have taken a huge fall,
10 and rates are coming back down.

11 And it could be that these bonds get sold at a
12 cheaper rate. Therefore, he can make up some of the gap
13 by increased leverage, because of the lower rates in
14 the -- over the next couple of months.

15 MR. GOURIS: I think that avenue -- I mean,
16 there's maybe some more room in there, but they've -- I
17 think they've tapped that out pretty well. I mean,
18 they've got a pretty low bond rate.

19 In fact, that was one of the reasons for our
20 relooking and a revision -- our revisions that we made,
21 because they went down slightly to the bond rate.

22 MR. CONINE: Our tremendous bond counsel has
23 now stepped forward, and I think we better recognize her,
24 Mr. Chairman.

1 MS. RIPPY: Elizabeth Rippy with Vinson &
2 Elkins, your bond counsel.

3 As a state agency -- okay --

4 MR. CONINE: That's a tough way to pass a
5 message --

6 MS. RIPPY: As a state agency, you don't have
7 the authority to delegate setting interest rates on bonds
8 that are unrated. This is a private placement directly
9 with Charter Mac.

10 MR. CONINE: I'm not setting interest rates,
11 Ms. Rippy.

12 MS. RIPPY: The rate can't change after today.

13 MR. CONINE: I'm not -- I understand that.

14 MS. RIPPY: I just want you to understand when
15 you're considering your --

16 MR. CONINE: What I think I do have the
17 authority to do is set the parameters which this project
18 had operated within. And if the bonds happen to meet
19 that, fine. And if they don't, guess what? The project
20 wouldn't be built.

21 MS. RIPPY: You are correct.

22 MR. CONINE: Thank you. Well, I don't have
23 that authority. The board has the authority.

24 CHAIRMAN JONES: Aren't you glad you came?

1 MR. GOURIS: If I might make one more comment
2 about your thoughts.

3 MR. CONINE: Sure.

4 MR. GOURIS: This project is a little bit
5 different than the average project in this market, in that
6 about 50 percent or a little over 50 percent of it is
7 three and four-bedroom units, whereas in the market -- in
8 this marketplace, the 14 -- of the 14,989 units, only 5.9
9 percent of them are three-bedroom units.

10 And they -- what was identified in the market
11 study -- they didn't identify any four-bedroom units in
12 the market. So these units may have a slightly different
13 market target than the 14,000 units that are there.

14 MR. CONINE: Okay. I'm going to rerun my
15 numbers at 1.1. Do I have a concern, Ms. Carrington,
16 about my 1.15 scenario, relative to the rules of the game?

17 MS. CARRINGTON: You would for this year, but I
18 have made a note, and I think certainly as something as
19 the work groups are going throughout the summer, redoing
20 the underwriting, environmental market study and appraisal
21 guidelines for next year, I think as their markets
22 continue to be soft, that it would be very prudent of us
23 to look at having a DCR requirement that would take into
24 account different situations.

1 Not this year, but we will absolutely look at
2 including it for next year. May I, Mr. Conine, while
3 you're running your numbers over there, go ahead and point
4 the board to the transcript behind Tab 9, and along with
5 the summary that you do see, the public comment summary --
6 after the transcript, there were several more letters in
7 opposition that were presented to us.

8 We have summarized the opposition down at the
9 bottom of this first page. Area already saturated.
10 Traffic congestion, overcrowded schools, cost burden for
11 the Crowley Independent -- of the independent school
12 district, increased criminal activity, decreased property
13 values.

14 And on the next page, staff has summarized our
15 response to the opposition on each of those issues.
16 Behind the transcript, we do want to point you to the
17 letter from the City of Forth Worth, from Chuck Silcox.
18 That's behind your first yellow section -- a list of
19 apartments. There is also additional
20 opposition that was received. It's behind the second
21 yellow sheet.

22 And then at the end of this, the developer has
23 provided us a summary of their community outreach efforts.

24 And that is what I wanted to call to the board's

1 attention.

2 MR. CONINE: Come on back up, please. I reran
3 it at 1.10, to get you to 565,834.55. Again, that's off
4 of a 622,418 starting point. And then I took my half
5 month of concession, which I believe is out there, at
6 52,092. That gets me down to an NOI available for debt
7 service of 512,842.55.

8 Just trust me, just for a minute.

9 MR. POTASHNIK: No, I totally believe that.

10 MR. CONINE: Okay.

11 MR. POTASHNIK: I know that that's --

12 MR. CONINE: Could I ask the applicant if he
13 would be willing to take that as a maximum debt service
14 coverage number, not pegging the amount of the bonds or
15 the interest rates, Ms. Rippy, but if he would take that,
16 building the same number of units, same quality, don't
17 take anything out of it, and figure out how to cover the
18 gap some way that would satisfy the department? Is that
19 something that the applicant would consider?

20 MR. POTASHNIK: It is something that I would
21 consider. I would have to make sure that the bond buyer
22 or the equity investor would consent to it, and in the
23 event that they did, I would be more than happy to go
24 along with that recommendation. Yes, sir.

1 MR. CONINE: In the interest of time, I think
2 I'm out of questions.

3 CHAIRMAN JONES: Other questions?

4 MS. ANDERSON: Did we finish the staff
5 presentation?

6 CHAIRMAN JONES: Yes.

7 MS. ANDERSON: I thought you asked --

8 CHAIRMAN JONES: Yes.

9 MS. ANDERSON: -- the part of the presentation
10 that we discussed the comment made about
11 the former employee.

12 CHAIRMAN JONES: Yes. And let me say this.
13 There has been a comment made about what we talked about
14 at our executive session. And what we talked about at our
15 executive session has been already disclosed in the
16 appropriate notice that has been posted. That is the only
17 information we will communicate about what went on in that
18 executive session.

19 Having said that, Ms. Carrington, an issue did
20 arise concerning a former employee. Would you like to
21 address that issue?

22 MS. CARRINGTON: Yes. The department had an
23 employee who was the co-manager of the Low Income Housing
24 Tax Credit Program. And this employee did leave the

1 department on February 28 of this year.

2 And the tax credit applications for this
3 particular transaction and also the previous transaction,
4 which are both tax-exempt bond-financed, and then 4
5 percent tax credits -- these applications did come into
6 the department prior to the employee leaving the
7 department.

8 And the processing of the tax credit
9 application would have been in the -- under the
10 supervision of the employee at the department at that
11 time. And any further elaboration, Mr. Jones, I would
12 prefer to turn over to our general counsel.

13 CHAIRMAN JONES: Do you want to hear anything
14 further, board members? Yes, sir?

15 MR. SALINAS: From our counsel.

16 CHAIRMAN JONES: Oh, you want to hear from our
17 counsel? Yes.

18 MR. SALINAS: I mean, this is a very serious
19 accusation.

20 CHAIRMAN JONES: Yes. Certainly. Mr.
21 Wittmayer.

22 MR. SALINAS: I'd like to find out if it has
23 anything to do with the applicant, or is the application
24 in jeopardy? Or is it illegal for him to go work

1 somewhere else after he leaves our employment? What is it
2 that we need to do here, you know?

3 MR. WITTMAYER: Chris Wittmayer, the
4 department's general counsel. Under the revolving door
5 statute in the Texas Government Code, it is a potential
6 violation if a former employee leaves the department and
7 then subsequently works on matters which he was personally
8 involved in, or which were under his supervision during
9 the time he worked for the department.

10 We are looking at the facts of this case, and I
11 will assure the board that it will be forwarded as is
12 appropriate to the appropriate authorities to review this
13 matter further, after a further investigation.

14 But I have no information available to me at
15 this time which would indicate that this application is in
16 any way adversely affected, or that the work of this
17 former employee in any way adversely affected or
18 improperly affected the department's evaluation of either
19 of these applications.

20 MR. SALINAS: Okay. Does it affect it? Or it
21 does not affect?

22 MR. WITTMAYER: I have no evidence that these
23 applications have been adversely affected by these
24 circumstances which we are reviewing, and which we will

1 forward to the appropriate authorities with our further
2 review.

3 CHAIRMAN JONES: Thank you, sir. If I
4 understand it, then, Chris, your comments are you've
5 investigated it. You continue to investigate. And you
6 will keep us posted?

7 MR. WITTMAYER: Right.

8 CHAIRMAN JONES: Thank you. You're certainly
9 not saying all of the evidence is in at this time. Right,
10 sir? That an investigation continues. Correct?

11 MR. WITTMAYER: That is correct.

12 CHAIRMAN JONES: Thank you, sir. Tom, come
13 back. Come back. I join Mr. Conine's concerns about the
14 market analysis.

15 I will say this. I don't think Governor Perry,
16 when he appointed me, wanted me to check my brain out when
17 I went to these board meetings, and just look at a market
18 analysis and say that's like the Bible. You know, I don't
19 think he wanted me to do that.

20 It seems like we've heard some evidence today.
21 Seen some evidence today that certainly raises serious
22 concerns about the market evidence -- analysis. I'll just
23 say this, being familiar with the area myself, I do have
24 concerns about it. You know, an analysis is an analysis,

1 but it's not fact.

2 So I have very serious concerns in that area
3 with regard to this. But secondly, in studying the
4 financial aspects of this deal, I have other very, very
5 serious concerns. And I want to make sure that some of
6 the things that are in this report before me are still
7 statements you stand by.

8 The first one is in the salient risks, you say
9 that this applicant's estimated operating expenses and pro
10 forma are more than 5 percent outside the underwriter's
11 verifiable ranges. Right?

12 MR. GOURIS: Right.

13 CHAIRMAN JONES: That's good today. You said
14 that there are significant inconsistencies in the
15 application which could affect the financial feasibility
16 of the project. Correct?

17 MR. GOURIS: Correct.

18 CHAIRMAN JONES: Okay.

19 MR. GOURIS: Can I explain that one?

20 CHAIRMAN JONES: Certainly.

21 MR. GOURIS: The original application -- I
22 mean, it's common in a bond transaction for the
23 applications to change over time. The original
24 application and what we had to work with at the end were

1 inconsistent, and not all the information that was -- we
2 had at the end was corrected or updated in the
3 application. And that's what that refers to.

4 It's significant because we've got an
5 application that says one thing; we've got updated
6 information that's not in our format, in our forms that's
7 consistent.

8 CHAIRMAN JONES: And I sit here today, I -- you
9 know, I have concerns about the financial feasibility of
10 this. And you're saying that those additionally could
11 affect the feasibility of it, the differences you just
12 talked about?

13 MR. GOURIS: Correct.

14 CHAIRMAN JONES: And then finally, you say,
15 "The significant financing structure changes being
16 proposed have not been reviewed/accepted by the applicant,
17 lenders and syndicators, and acceptable alternative
18 structures may exist." And that's currently the status?

19 MR. GOURIS: Yes. And can I explain that one
20 as well?

21 CHAIRMAN JONES: Certainly.

22 MR. GOURIS: That's the reduction from the 8
23 million 175 to 7 million 850 that we think is going to
24 take place. The alternative could be that they are able

1 to get a lower rate, or a different term, or something
2 like that. And the lenders and syndicators in this case
3 didn't -- just like with Mr. Conine's suggestion, haven't
4 had a chance to review that information to say that that's
5 acceptable to them. That's what that comment refers to.

6 CHAIRMAN JONES: Okay. Thank you, sir.

7 MR. CONINE: What would be your outstanding
8 opinion under the underwriting if we were to limit the
9 debt service available to -- or any net income available
10 for debt service to 512,842?

11 MR. GOURIS: Yes, that's about what I got to
12 from your numbers.

13 MR. CONINE: What does that translate to in
14 gross bonds? It goes down from 7.8 to something.

15 MR. GOURIS: Yes, about 7.1.

16 MR. CONINE: Okay.

17 MR. GOURIS: But that difference could be
18 absorbed by a different -- the remainder of the
19 developer's fee and contractor fee.

20 MR. CONINE: Right.

21 MR. GOURIS: The effect would be to reduce the
22 cash flow or net operating needed to service debt.

23 MR. CONINE: Would it improve the financial
24 feasibility of the project?

1 MR. GOURIS: Depends on whose perspective
2 you're looking at it.

3 MR. CONINE: Well, let's assume that the source
4 and user would be okay. So you've got the same project
5 built. Now you're just looking at income and expenses.

6 MR. GOURIS: It would certainly reduce the debt
7 burden and make it a much more viable from the lender's
8 perspective.

9 MR. CONINE: Right.

10 MR. GOURIS: But the --

11 MR. CONINE: The question is, how do you cover
12 the gap?

13 MR. GOURIS: Well, the gap would be covered by
14 the deferred developer fee, and additional deferred
15 contractor fee. And that would be within -- because
16 that -- when we -- if we were to reevaluate that, we'd
17 reevaluate it as if it were being paid at zero percent,
18 even though there may be an interest on that.

19 It would be more feasible in our techniques of
20 evaluation.

21 CHAIRMAN JONES: All right. Any further
22 questions?

23 MR. CONINE: When is the 120-day expiration on
24 these bonds?

1 MS. CARRINGTON: May 30.

2 CHAIRMAN JONES: Any further questions for Mr.
3 Gouris? Thank you, Tom. I appreciate it. What's the
4 board's pleasure? I hear no motion on this act --

5 MR. CONINE: I'm going to move to table this
6 project to a time certain -- got to be at least seven days
7 from now. Right?

8 MR. SALINAS: I think it would be --

9 MS. CARRINGTON: Eight days, because it would
10 have to be posted by this afternoon.

11 MR. CONINE: What is the -- what's the Monday
12 before the 30th? Anybody have a calendar with them?

13 MR. SALINAS: To have another board meeting?

14 MR. CONINE: No, but I'm thinking about having
15 one.

16 MS. CARRINGTON: I think it actually may be
17 Memorial Day.

18 MR. SALINAS: It would be very --

19 CHAIRMAN JONES: It seems like we meet every
20 other day.

21 MR. SALINAS: Yes, it'd be --

22 MR. CONINE: How about -- forget Monday. Let's
23 try Tuesday.

24 MR. SALINAS: It would be very hard for me to

1 get to here on the -- on or before this.

2 MR. CONINE: Could we do a -- is it possible on
3 this particular item, Mr. Chairman, to do a teleconference
4 board meeting?

5 CHAIRMAN JONES: I don't know. Chris?

6 MR. SALINAS: I think if you -- if you're going
7 to --

8 MR. WITTMAYER: I'd like to do additional
9 research before I can give you that answer.

10 MR. CONINE: Oh, man.

11 MS. CARRINGTON: Mr. Conine, may I say that
12 Brooke has just told me it would have to go to the Bond
13 Review Board by May 22, which is next Thursday, I believe.

14 MR. CONINE: Okay. Forget the motion to table
15 it. I make the motion that we approve the Arbor Bend --
16 is it Arbor Bend, whichever one it is.

17 MS. CARRINGTON: Yes, sir. Yes, sir. It's
18 Arbor Bend.

19 MR. CONINE: With the bond proceeds, or the
20 bonded amount to be restricted to a debt service coverage
21 number underwriting-wise of \$512,842. And same number of
22 units get built, same quality of project gets built. The
23 bonds are at a fixed-interest rate.

24 And I want to make it subject to an additional

1 request of the market analysis to go back and relook at
2 the concession of that particular submarket directly, and
3 make it -- and make the proposed debt service coverage
4 number included in this motion to be adequate to and
5 sufficient to staff for their reviews, because we won't
6 get back together again. That's my motion.

7 MR. SALINAS: Did everybody get that? I'll
8 second that motion to -- just to go ahead and discuss it.

9 If it's okay with the staff on the motion, if it's going
10 to be okay with the applicant. I don't know. It's --

11 MR. POTASHNIK: Well, I just don't want to run
12 into the Bond Review Board timing issue. So as long as we
13 can preserve our bond cap to close the transaction, I'm
14 certainly amenable to whatever time the board needs to
15 work the issues out.

16 CHAIRMAN JONES: Well, I'll take a stab at
17 speaking against the motion. I just -- I hate to see us
18 renew deals in the middle of the -- you know, I think once
19 we set this precedent -- we've done it before, and
20 sometimes we've lived to regret it.

21 Secondly, I'll just say this. I will echo that
22 I have concerns about the financial feasibility. And I
23 also have concerns about the market analysis based on the
24 evidence that is being presented. Further discussion of

1 the motion?

2 MR. SALINAS: I just called for the question.
3 Do you have a motion to second?

4 CHAIRMAN JONES: Yes. The motion and second.
5 The question's been called. Are we ready to vote? I
6 assume we are. All in favor of the motion, say aye.

7 MR. CONINE: Aye.

8 MR. SALINAS: Aye.

9 CHAIRMAN JONES: All opposed, say nay.

10 MS. ANDERSON: Nay.

11 MR. GONZALEZ: Nay.

12 CHAIRMAN JONES: The chair votes nay. The
13 motion is defeated. With that we will turn to Item 1 on
14 the agenda, which is the Presentation, Discussion, and
15 Possible Approval of the Minutes of the Board Meeting of
16 April 10, 2003. Do I have a motion that it be approved?

17 MR. SALINAS: What we're --

18 MS. CARRINGTON: He needs a motion to approve
19 the minutes.

20 MS. ANDERSON: Oh, so moved.

21 CHAIRMAN JONES: We have a motion that the
22 minutes be approved. Is there a second?

23 MR. SALINAS: Second.

24 CHAIRMAN JONES: The motion's been made and

1 seconded. Is there any further discussion? Hearing none,
2 I assume we're ready to vote. All in favor of the motion,
3 please say aye.

4 (A chorus of ayes.)

5 CHAIRMAN JONES: All opposed, say nay. The
6 motion carries.

7 MR. GONZALEZ: Abstain.

8 CHAIRMAN JONES: And one abstention. Excuse
9 me.

10 MR. GONZALEZ: Uh-huh.

11 CHAIRMAN JONES: We will then turn our
12 attention to Item 2(a) of the agenda. Ms. Carrington,
13 would you present that?

14 MS. CARRINGTON: Yes, sir, 2(a)(1), Directors
15 and Officers Insurance, Bill Dally, come up as quickly as
16 you can to tell them what they have.

17 MR. DALLY: Good afternoon, board members. I
18 just want to let you know, this is an information item.
19 We have a \$10 million policy in place. That binder went
20 in place April 11, right after the last board meeting.

21 And I had some representatives here earlier
22 from the State Office of Risk Management, and the AG. But
23 if you have any further questions on that policy that I
24 can't answer, I will forward that on to them and get it

1 back to you.

2 MS. CARRINGTON: My only question is is this
3 substantially the same as the coverage we've had under
4 prior policies?

5 MR. DALLY: Yes. And this gone under review by
6 the State Office of Risk Management. And actually it's
7 better titled Public Official and Employment Practices
8 Policy. But yes, it is.

9 CHAIRMAN JONES: Thank you, sir. Okay. We've
10 handled Item 2(b), I believe. So we will move to Item
11 2(c). Ms. Carrington?

12 MS. CARRINGTON: Thank you, Mr. Chair. Item
13 2(c), or Items 2(c)(1), (2), and (3) -- Items 1 and two
14 relate to our Single-Family Mortgage Revenue Bond Program.
15 Item C [sic] will relate to a Mortgage Credit Certificate
16 Program that we are considering.

17 So C(1), you all will remember at the April
18 board meeting you had a presentation and discussion on the
19 structure of variable rate auction bonds, which is a
20 technique that we are considering using for the issuance
21 of Single-Family Mortgage Revenue Bonds that we will be
22 completing in June of this year.

23 The board gave us preliminary approval to move
24 forward. What we are going to be doing is taking

1 \$74,655,000 in a convertible option bond, a COB, that was
2 issued at the end of last year, and we will be using 40
3 million of that to issue convertible rate auction bonds,
4 and then the other 32 million will be used to issue fixed-
5 rate bonds.

6 These bonds, of course, will be used to find
7 mortgage money -- to create a lendable proceeds mortgage
8 money for first-time homebuyers in the state.

9 If you go to the second page behind your board
10 action summary, the interest rates will be approximately
11 5.9 percent and 5.3 percent. And the difference is the
12 5.9 percent is the interest rate for those borrowers who
13 do not have any downpayment assistance. And the five-
14 point -- I'm sorry, who do have downpayment assistance.
15 And the 5.3 percent will be for those borrowers who do not
16 have downpayment assistance.

17 There is a resolution for your approval for
18 this transaction, and earlier today Byron Johnson, who is
19 our director of bond finance, did give me some information
20 that there were a couple of changes on the resolution.
21 And so Byron, I think that you should probably read those
22 into the record, since they will be different than what
23 the board is -- what the board has in front of them.

24 MR. JOHNSON: Good afternoon, Byron Johnson,

1 Director of Bond Finance. Three changes in the resolution
2 you should note. The resolution authorizes issuance of
3 both fixed-rate and option-rate bonds. If the pricing or
4 terms of the auction-rate product was swapped and not
5 favorable, TDHCA may only issue fixed-rate bonds.

6 The swap counterparty has been changed. Those
7 counterparties will be Bear Stearns Trading Risk
8 Management instead of Bear Stearns Financial Products. As
9 a result, the counterparty is able to provide a swap for
10 prior terminations at any time and any amount from
11 prepayments, and a swap will terminate upon the bankruptcy
12 of the parent company of the counterparty. That's another
13 change.

14 The third change is that the swap reserve
15 described in the resolution will be funded in the amount
16 of about \$2 million. It will be available for future swap
17 counterparties, as well as the current swap
18 counterparties.

19 I'm sorry?

20 MS. CARRINGTON: Thank you, Byron. May I point
21 the board's attention to Exhibit A, which is at the back
22 of this section. And this is your list of underwriters.
23 And on this transaction, Bear Stearns and Company is
24 senior, two co-seniors, U.S. Bancorp Pier Jaffrey,

1 Citigroup Global Markets, who I believe Byron told me a
2 couple of days ago is the old Salomon Smith Barney? Yes.

3 And then co-managers, George K. Baum, Siebert
4 Brandford, and U.B.S. PaineWebber, Inc.

5 MS. ANDERSON: Can I ask a question?

6 CHAIRMAN JONES: Maybe?

7 MS. ANDERSON: I'm not even sure I can frame
8 the question. You said if the market conditions don't go,
9 then we might just issue the fixed-rate bonds.

10 Would we just issue the \$40 million worth? Or
11 would we then go back and issue all 80, or all whatever it
12 is, 70 --

13 MR. JOHNSON: The resolution --

14 MS. CARRINGTON: It would be 32 in fixed rate,
15 and 40 in convertible option. So --

16 MR. JOHNSON: Right. The resolution gives us
17 the authority, if we decide not to do the swap on the
18 variable rate bonds, to issue up to 75 million in fixed-
19 rate bonds.

20 MS. ANDERSON: Fixed. Okay.

21 CHAIRMAN JONES: Other questions? Do we have a
22 motion?

23 MS. ANDERSON: We accept staff's
24 recommendation, and move that Optional Resolution 03-39.

1 MR. SALINAS: Second.

2 CHAIRMAN JONES: Motion's been made and
3 seconded. Further discussion? Hearing none, I assume
4 we're ready to vote. All in favor of the motion, please
5 say aye.

6 (A chorus of ayes.)

7 CHAIRMAN JONES: All opposed, nay. The motion
8 carries.

9
10 MS. CARRINGTON: Second Item, 2, is the
11 reduction --

12 CHAIRMAN JONES: You're going to have to teach
13 Tom how to do this.

14 MS. CARRINGTON: I don't know. Let him swap
15 positions for a while.

16 MS. ANDERSON: Byron's day may come. Byron's
17 day may come one day.

18 MS. CARRINGTON: My guess is --

19 MR. GOURIS: But I don't --

20 CHAIRMAN JONES: Neither do I.

21 MS. CARRINGTON: What staff is requesting on
22 Item Number 2 is approval from the board to reduce the
23 interest rate for Bond Program 56. It was 2000B, 2000C,
24 2000D, 2000E. And we have actually -- we have

1 originated -- it was actually a total of 124,957,000 --
2 124,900 -- Byron, help. When it gets to million --
3 124,915,000.

4 MR. JOHNSON: Yes.

5 MS. CARRINGTON: That's how much was actually
6 in the program when we -- at the beginning of the program.
7 We have originated all but \$22,240,476. And what we are
8 looking to do is use some cash from service release
9 premiums and three previous programs.

10 And we are going to reduce the interest rate on
11 this program. And when I asked Byron how much we're going
12 to reduce the interest rate, it really depends on how much
13 we want to put in to get a more favorable interest rate
14 for the program.

15 The interest rate right now is 6.60. This
16 program also didn't have any downpayment assistance
17 attached to it. And so what we're looking to do is really
18 two things. And that would be lower the interest rate,
19 but also create some downpayment assistance funds through
20 the HOME Program.

21 And staff is recommending we restructure.

22 MR. SALINAS: So moved.

23 CHAIRMAN JONES: We have a motion. Is there a
24 second?

1 MR. GONZALEZ: Second.

2 CHAIRMAN JONES: The motion's been made and
3 seconded. Further discussion? Hearing none, I assume
4 we're ready to vote. All in favor of the motion, please
5 say aye.

6 (A chorus of ayes.)

7 CHAIRMAN JONES: All opposed, nay? The motion
8 carries. We'll turn to three.

9 MS. CARRINGTON: Thank you, Mr. Chair. There
10 is a mechanism called Mortgage Credit Certificates for
11 first-time homebuyers, wherein an issuer can take their
12 allocation of private activity bonds and turn it into a
13 mortgage credit certificate.

14 In the '80s, the department issued multiple
15 mortgage credit certificates for borrowers. The benefit
16 to the borrower is that they take a credit on the mortgage
17 interest that they pay.

18 It has been quite a while since we have issued
19 any mortgage credit certificates. What we are asking for
20 from the board today is to give us approval of the concept
21 to go ahead and move forward with exploring the
22 possibility of issuing mortgage credit certificates. And
23 that would be with a portion of our 2003 private activity
24 bond allocation.

1 And we would also be striving to reach some of
2 those borrowers with credit scores that would be in the A-
3 minus/B range. Those borrowers that would be in
4 geographically and economically underserved markets of the
5 state.

6 MR. SALINAS: So move.

7 CHAIRMAN JONES: Motion.

8 MR. GONZALEZ: Second.

9 CHAIRMAN JONES: The motion's been made and
10 seconded. Further discussion? Hearing none, I assume --

11 MS. ANDERSON: Can I ask a question?

12 CHAIRMAN JONES: Yes, ma'am. Yes, you sure
13 may.

14 MS. ANDERSON: Is this like in lieu of doing
15 downpayment -- I don't think I've got this thing yet.

16 MS. CARRINGTON: The mortgage credit
17 certificates would be in lieu of issuing Single-family
18 mortgage revenue bonds and creating lendable proceeds.

19 MS. ANDERSON: Okay.

20 MS. CARRINGTON: We would take, as an example,
21 100 million of our Single-family mortgage revenue bond
22 authority and convert that into 25 million worth of
23 mortgage credit certificates. So the borrower would get a
24 loan from a lending institution that would not be a loan

1 most likely financed with -- could be?

2 MR. JOHNSON: No.

3 MS. CARRINGTON: Would not be financed with
4 mortgage revenue bonds. It would just be an FHA/VA
5 loan --

6 MS. ANDERSON: Right.

7 MS. CARRINGTON: -- that any lender could make.

8 MS. ANDERSON: Uh-huh.

9 MS. CARRINGTON: And then the borrower would
10 meet all of our eligibility requirements, and would
11 receive this mortgage credit certificate, which on an
12 annual basis with their income tax return, with the IRS,
13 they get a credit --

14 MR. JOHNSON: Dollar-for-dollar credit.

15 MS. CARRINGTON: -- dollar-for-dollar, kind of
16 like the Low Income Housing Tax Credit Program when the
17 investors buy in. So it's a dollar-for-dollar credit on
18 their interest liability. Or their interest payment.

19 MS. ANDERSON: So I've got an \$80,000 mortgage,
20 and my annual interest on that is, I don't know,
21 whatever -- what is it? You know, \$5,000. Then I put
22 this credit certificate with this \$5,000 interest payment,
23 and I get to take a \$2,500 credit on my taxes, plus I get
24 to write off the \$5,000 in interest?

1 MR. JOHNSON: No, ma'am. The excess interest
2 is all -- well, the itemized deduction is limited to the
3 excess interest. The amount of the credit is -- we set
4 the rate at how much interest is credited. And then any
5 interest above that, the borrower can still deduct.

6 But once you take that mortgage credit -- you
7 know, the mortgage credit against the interest, that
8 itemized deduction is lost.

9 But rather than getting 28 cents or 15 cents on
10 the dollar, the borrower is getting one dollar.

11 MS. ANDERSON: Right. It's -- yes. I'm --
12 okay.

13 MS. CARRINGTON: One of the reasons that we
14 have revived this concept -- there are many issuers out
15 there who have continued to use mortgage credit
16 certificates in conjunction -- well, as a component of
17 reaching first-time homebuyers along with single-family
18 mortgage revenue bond program.

19 I think at the last two board meetings, we've
20 had restructuring of previous bond issues, because
21 interest rates have moved away from us. And so obviously,
22 this is a way to utilize our single-family bond authority
23 to reach first-time home buyers, distressed areas, and do
24 some A-minus/B paper, and --

1 MS. ANDERSON: Not have negative arbitrage.

2 MS. CARRINGTON: -- not have negative arbitrage
3 and be caught in a falling-interest-rate environment.

4 MR. JOHNSON: And earn some fees.

5 MS. CARRINGTON: And earn some fees, as Byron
6 says. Yes. He wants to go on the record always as
7 earning those fees for the agency. And we thank you,
8 Byron.

9 CHAIRMAN JONES: Further questions, discussion?
10 Hearing none, I assume we're ready to vote. All in favor
11 of the motion, please say aye.

12 (A chorus of ayes.)

13 CHAIRMAN JONES: All opposed, nay. The motion
14 carries. We'll turn to Item 3 on the agenda.

15 MR. JOHNSON: Thank you.

16 MS. CARRINGTON: Thank you, Byron. Item 3 on
17 the agenda, board members, is the Discussion and Possible
18 Approval of the 4 Percent Low Income Housing Tax Credits
19 related to three transactions that have issuers other than
20 the Texas Department of Housing and Community Affairs as
21 the issuer.

22 The first transaction is Sycamore Center Villas
23 in Fort Worth, Tarrant County. HFC is the issuer on this
24 transaction. Staff is recommending a credit allocation of

1 \$753,222.

2 The second for your consideration is Kimberly
3 Pointe Apartments in Houston, \$531,570. Harris County HFC
4 is the issuer on this transaction. And then the third one
5 is Shadow Ridge in Houston, \$565,705. Harris County HFC
6 is the issuer.

7 I would like to note that on the Kimberly
8 Pointe Apartments, this is an area of Houston that the
9 department does feel is becoming very soft. The market is
10 becoming very soft. And we have approved at least one
11 transaction in this area in the last several months.

12 And while this one does meet all of our
13 requirements, we have basically put the development
14 community on notice that we may be at a saturation point
15 in this particular area of Houston for the time being.

16 You will see on each of these summaries, since
17 we're not the issuer, we don't have a transcript on the
18 TEFRA hearing. So on the bottom of the first page, in
19 each of the credit and bond summaries, on the public
20 comment section on the left, we've said, From Citizens.

21 And what this means, as a for instance, I turn
22 to Kimberly Pointe Apartments, zero in support, zero in
23 opposition. What that means is the department didn't
24 receive any letters related to the tax credit allocation

1 that would have either been in support or in opposition to
2 the transaction. And that's' the same format on all three
3 of those.

4 MS. ANDERSON: And so do we have any way where
5 we get a sense of if we don't directly get the letter, but
6 the HFC gets the letter, do we know about any of that,
7 ever?

8 MS. CARRINGTON: Brooke, would you like to come
9 up and answer that question, please?

10 MS. BOSTON: It's my understanding from our
11 staff that we get copies of letters that go to the HFC as
12 well, and that in this case, none of them happen to have
13 done any.

14 MS. ANDERSON: Great. Thanks.

15 MR. SALINAS: I move for the approval.

16 MS. ANDERSON: Second.

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

21 (A chorus of ayes.)

22 CHAIRMAN JONES: All opposed, nay. The motion
23 carries. Ms. Carrington?

24 MS. CARRINGTON: Yes, sir. Item 3(b), the

1 Issuance of Additional Low Income Housing Tax Credits for
2 three developments. Let me remind the board that these
3 are all bond and 4 percent credits, requests for
4 additional credits.

5 There is no situation that the department has
6 where a 9 percent credit allocation can come back. These
7 are all private activity bond and 4 percent credits.

8 You will remember the discussions we had back
9 last fall. Mr. Conine in particular was very clear that
10 if we had a developer come back at cost certification time
11 and request additional credits, that that additional
12 credit request needed to be based on true cost excesses,
13 additional costs of labor, additional costs of materials,
14 and not because the development or the construction was
15 poorly managed and cost overruns got away from them.

16 Staff has evaluated not only the cost
17 certification, but the reasons for the additional requests
18 on all three of these. You'll notice that the first two
19 were actually allocations of credits and bonds in 1999.

20 The third one was a credit allocation in 2000.

21 So you can see that actually these are four-year-old
22 allocations that are just now coming in for cost
23 certification.

24 San Jose is coming in for 32,169. Woodglen for

1 \$9,920, and Texas Pueblo for \$33,519. And staff has
2 reviewed their requests, found them justified within the
3 parameters that the board identified for us last fall, and
4 is recommending the additional allocation of credits at
5 cost certification time.

6 MR. SALINAS: So moved.

7 MS. ANDERSON: Second.

8 CHAIRMAN JONES: We have a motion made and
9 seconded. Further discussion?

10 (No response.)

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

13 (A chorus of ayes.)

14 CHAIRMAN JONES: All opposed, nay? The motion
15 carries. Item 4.

16 MS. CARRINGTON: Thank you, Mr. Chair. The
17 board has adopted priorities for the use of deobligated
18 HOME funds. And the request that you have in front of you
19 today is from the City of Albany that suffered -- I think
20 it was floods back earlier this year. Thank you, Eric.
21 And they have been declared a disaster area by the
22 Governor.

23 It was actually rain and hail, Schackleford
24 County, the City of Albany. They have requested \$500,000

1 for disaster relief, and staff is recommending the award
2 of \$500,000 to the City of Albany, Shackelford County, for
3 disaster relief out of the HOME funds.

4 MR. SALINAS: So moved.

5 MS. ANDERSON: Second.

6 CHAIRMAN JONES: Motion's been made and
7 seconded. Is there any further discussion? Hearing none,
8 I assume we're ready to vote. All in favor of the motion,
9 please say aye.

10 (A chorus of Ayes.)

11 CHAIRMAN JONES: All opposed, nay? Motion
12 carries. Item 5?

13 MR. GONZALEZ: Item 5, we had our Audit
14 Committee meeting this morning. David Gaines could not be
15 with us because he had a meeting. He's the president of
16 an association and this is Internal Audit Week, which we
17 recognized him, and the Governor recognized him.

18 The minutes of the March 13 meeting were
19 approved. And then we went over the discussion of the
20 status of the prior audit issues and the status of the
21 central database project.

22 And I don't know if Beth has anything to add to
23 that.

24 MS. ANDERSON: Very informative meeting, lots

1 of continued good progress, and we had a good outlook.

2 CHAIRMAN JONES: Thank you, so much.

3 MR. SALINAS: Move for the approval of the
4 report.

5 CHAIRMAN JONES: We have a motion that the
6 report be approved. Is there a second?

7 MR. GONZALEZ: Second.

8 CHAIRMAN JONES: Motion's been made and
9 seconded. Further discussion? Hearing none, I assume
10 we're ready to vote. All in favor of the motion, please
11 say aye.

12 (A chorus of Ayes.)

13 CHAIRMAN JONES: All opposed, nay? Motion
14 carries. Status of the Central Database Project?

15 MR. GONZALEZ: We took care of all --

16 MS. CARRINGTON: Oh, that was all --

17 CHAIRMAN JONES: That was all?

18 MS. CARRINGTON: That was taken care of --

19 CHAIRMAN JONES: I like it.

20 MR. GONZALEZ: We voted on it.

21 CHAIRMAN JONES: Executive Director's Report?

22 MS. CARRINGTON: I always get the short end of
23 the stick, don't I, guys?

24 CHAIRMAN JONES: Isn't it terrible.

1 MS. CARRINGTON: But I can be so brief.

2 CHAIRMAN JONES: Well --

3 MS. CARRINGTON: Behind Tab 1 --

4 CHAIRMAN JONES: I believe it is close to my
5 bedtime.

6 MS. CARRINGTON: I know. Behind Tab 1 is your
7 Legislative Activity Memorandum, Number 20. There have
8 been 19 previous before this where the department is
9 tracking and summarize legislation that directly relates
10 to our activities.

11 I'm sure that Michael Lyttle will be happy to
12 answer any questions that you might have on that. Any
13 questions that the board may have on the Legislative Memo
14 Number 20?

15 (No response.)

16 MR. CARRINGTON: Okay. Moving on to Item
17 Number 2, the Status of TDHCA Sunset Legislation. Eric
18 Opiela, who is the clerk from Urban Affairs is with us
19 this afternoon. And it is my understanding that Senate
20 Bill 264, which is our sunset bill, was voted out of the
21 committee this morning as a committee substitute.

22 And since we have been in meetings all day,
23 Eric, I understand that you have volunteered to provide
24 information to the board if they have particular

1 questions, or if you would like to do a brief overview of
2 that. I think it's the board's pleasure as to how they
3 would like to hear this information.

4 CHAIRMAN JONES: We'd love to hear what Eric
5 has to say. Eric, thank you for being here.

6 MR. OPIELA: Thank you very much. My name is
7 Eric Opiela, and I'm the committee director for the Urban
8 Affairs Committee in the Texas House.

9 We passed out this morning in a formal meeting
10 at nine o'clock this morning before the beginning of the
11 session Committee Substitute Senate Bill 264 as amended.

12 We have a four-page committee amendment that we
13 attached to the bill that is currently in drafting with
14 counsel. And we should be able to get to Michael or
15 Edwina or staff here a final copy of it, if not today,
16 sometime tomorrow.

17 The Senate Bill 264 relates to continuation and
18 functions of the Texas Department of Housing and Community
19 Affairs. There are a number of changes. And I'll just
20 quickly go through the 43-page bill that we have here, and
21 just give you some highlights.

22 In Section 1 of the bill, there is an addition
23 of Public Housing Authorities -- I'm sorry, let me take
24 that back. Section 2 of the bill -- there are no changes

1 in Section 1 of the bill after the committee amendment.

2 Section 2 of the bill adds a Public Housing
3 Authority as an authorized public housing sponsor.

4 Section 3 of the bill -- do you want me to go section by
5 section, or do you -- would you just want me to --

6 CHAIRMAN JONES: Right.

7 MR. OPIELA: -- just give you a quick summary
8 of the big sections. The agency is continued for a term
9 of four years. And there are additional changes, such as
10 that the board should adopt rules governing the topics at
11 meetings, and that legislation sets out the specific
12 topics to be discussed in relation to a proposed housing
13 development. There are ten topics there.

14 If you have any specific questions, please stop
15 me. We implement a recommendation of the Sunset
16 Commission in regards to implementing a negotiated rule
17 making and alternative dispute resolution policy for the
18 department.

19 Let's see. We provide that the department has
20 to provide notice of receipt of an application or a
21 proposed application not later than the 14th day after the
22 application is received by the department, to specific
23 persons, both local and state officials, school boards,
24 community organizations, and such.

1 We have a new provision relating to ex parte
2 communications between the board and employees of the
3 department with developers who are applying before the
4 board.

5 We set forth a set of specific situations and
6 specific records that must be kept of any type of ex parte
7 communication between employees and applicants before the
8 Commission.

9 MS. ANDERSON: Where -- what section is that
10 in, Eric?

11 MR. OPIELA: That is in section -- one second.
12 That is in the substitutes. It is in Section 11 of the
13 bill, page 11 of draft 16344, if you have a copy of that.

14 MS. CARRINGTON: Section 1113 -- 2306.1113?

15 MR. OPIELA: Yes. It amends Section 2306.1113
16 of the Government Code.

17 MS. ANDERSON: I mean, I'm very interested
18 in -- given the history of this agency, the ex parte rule.

19 Although it may create some inconvenience for all of us
20 from one time to another, it also creates some pretty
21 prudent situation where you don't have developers leaning
22 on people who have something to say about their
23 application. So I'm very interested in what you all have
24 done in this rule.

1 MR. OPIELA: Let me go into it a little bit
2 more detail. We hope that this change in the statute will
3 allow for greater public confidence in the department and
4 its board and its employees.

5 It will allow for ex parte communications
6 between an employee of the board and an applicant, subject
7 to specific conditions. And it defines who an applicant
8 or a related party is. It expands it not just beyond --
9 not just to the applicant, but also to persons active in
10 the construction of the project, a general partner, a
11 contractor, a principal or affiliate of such, or a
12 lobbyist that is affiliated with the applicant.

13 So it's much broader than just the applicant
14 alone. It expands the scope of who cannot be communicated
15 with.

16 It also adds a provision that communication can
17 be in both oral or written form. But it must be
18 restricted to technical or administrative matters. It
19 must be received on the premises of the department during
20 business hours. It can't be down on Sixth Street
21 somewhere, or in some restaurant.

22 It must be -- a record of it must be
23 maintained, which includes the date, time and means of the
24 communication, the names, persons, and positions involved

1 in the communication, the subject matter of the
2 communication, and a summary of action taken as a result
3 of the communication.

4 That's a kind of a quick summary of what it
5 will allow. It provides for much greater record-keeping
6 requirements, and also more restrictions on different
7 types of communication that could happen between employees
8 of the department and applicants, or those affiliated with
9 those applicants.

10 Does that answer your question?

11 MS. ANDERSON: Well, I know the current -- I
12 mean, I'm sort of wondering why the current system doesn't
13 allow any, which means we're evaluating applications based
14 on the face value of the application, you know, unless our
15 staff have questions and need to -- need clarification
16 about an application.

17 So I'm just wondering why now we're going back
18 to a situation that frankly got us in trouble before,
19 where developers are allowed to talk to agencies of this
20 department who are working -- you know, who -- while there
21 is an application for funding pending. I'm just wondering
22 why are we opening the door a bit?

23 MR. OPIELA: I don't know if I should speak to
24 that as much as the individual members of the committee.

1 In particular, this language was added in the committee
2 substitute that was provided by the House Sponsor of the
3 Bill, Representative Callegari of Katy.

4 I would suggest you call his staff and talk to
5 them specifically about the rationale behind the addition.

6 I do not want to speak on behalf of the members of the
7 committee.

8 MS. ANDERSON: I -- that's very respectful.
9 That's --

10 MR. OPIELA: But I do want to want to explain.

11 MS. CARRINGTON: That's very prudent, Eric.

12 MR. OPIELA: Let me continue on. No, that's
13 okay.

14 MS. CARRINGTON: He's on the record, Mr. Jones.
15 Remember?

16 MR. OPIELA: Let me continue on with Section
17 13. I'll just quickly -- we create a -- what's been
18 referred to by some as a housing trust fund account for
19 repairs or a reserve account for repairs.

20 This language -- much of it has been lifted
21 from Senate Bill 999 by Royce West. That bill is also
22 currently in our committee. We have made some changes.
23 If you want me to detail those, I can.

24 But I just want to mention that we create a

1 reserve account that developers have to pay into to ensure
2 that repairs happen on their property and they don't
3 become slum developments.

4 Let's see. We also clean up some language that
5 was deleted -- a division was deleted from the department
6 with the ORCA bill last session. We add new language
7 regarding the issuance of private activity bonds. This
8 was language that was in large part lifted from a House
9 bill.

10 You realize we have a situation in the House
11 right now where we have bills that are dying because a
12 number of our legislators are in Oklahoma. We have
13 language that was lifted from another House bill relating
14 to private activity bonds. It was sponsored by Mr.
15 Callegari. It -- that was already heard. You had --
16 represents that your department that probably summarized
17 that for you previously.

18 We also have language that improves the amount
19 of local input in an application, providing that the
20 developer in their preapplication and in their
21 application, has to show evidence that they have
22 communicated with neighborhood organizations, the
23 superintendent and the presiding officer of the schools in
24 the district, the presiding officer in the governing body

1 of the municipality in which it's located, the county, the
2 state senator and state representatives -- all of this is
3 new -- in order to try and solve the problems before they
4 get to the board, so you don't have as many people come up
5 here in opposition.

6 MS. CARRINGTON: This was nobody here today.

7 MR. OPIELA: I understand that. We also add a
8 section that defines what should be in a market analysis
9 that's submitted with an application. We provide for --
10 there's some controversy among senators and the
11 representatives about the letter writing that is asked for
12 by a lot of the applicants.

13 And we set forth -- we do keep the provision
14 that letters can be submitted. We take away the provision
15 of letters by local officials. That was a change that was
16 made yesterday, because some of the representatives were
17 concerned that local letters, due to the fact that you
18 have so many potential local officials that can write,
19 will drown out the letter of a state representative or a
20 state senator who is representing the district in the
21 project.

22 We set forth that positive points should be
23 awarded in the ranking system --

24 MS. CARRINGTON: Trump them.

1 MR. OPIELA: -- for positive letters. Negative
2 points taken away from the application for negative
3 letters, and no points given for neutral letters, and that
4 equal weight should be given to each written statement
5 received. We restrict --

6 MS. ANDERSON: You mean, so like if the
7 minister of the neighborhood church writes a letter, that
8 letter gets as much weight -- a positive letter, and the
9 state senator writes a letter of opposition, and we have a
10 point plus for the minister, and a point minus for the
11 senator?

12 MR. SALINAS: It's the other way.

13 MR. OPIELA: No, actually, we -- this section
14 of point scoring only applies to letters received under
15 Subsection B(1)(f), which is the written statements from
16 state elected officials.

17 MS. ANDERSON: Okay.

18 MR. OPIELA: We restrict the developments -- we
19 try to prevent clumping of developments. That was a big
20 concern of the ghettoization. I know that's a concern of
21 the board, as well, to restrict developments that are less
22 than one linear mile apart.

23 It doesn't apply to the colonia areas and rural
24 areas, which this provision doesn't apply to cities or

1 counties in which population is less than one million. It
2 will apply only to urban areas.

3 We also require the department to make
4 available on their website all of the materials and adding
5 additional materials, and present more information to
6 local officials in regards to applications received by the
7 department.

8 And I'm on page 43. There are still a couple
9 more pages. Actually, I misspoke. It was 45 pages. It
10 has grown substantially over the last week. I do want
11 to --

12 There was also provisions -- changes made to
13 the provisions regarding the scoring that I skipped over
14 inadvertently, requiring that the financial data submitted
15 regarding the financial feasibility of the development be
16 based on supportive financial data required in the
17 application that will include a project underwriting pro
18 forma from the permitter or construction lender.

19 Hopefully, that will make sure that people who
20 have their money on the line are going to be the people
21 who are providing data regarding the feasibility of the
22 project.

23 We also require the department to use criteria
24 imposing penalties on applicants who have previously been

1 bad actors, specifically the language would impose a
2 penalty on a developer or principal of the applicant that
3 has been removed by a lender equity provider or limited
4 partners for failure to perform its obligations under loan
5 documents or a limited partnership agreement.

6 Other than just general cleanup language, I
7 think those are the main highlights of the legislation,
8 and if you have any other questions, I'd be happy to
9 answer them.

10 CHAIRMAN JONES: Thank you, sir. I appreciate
11 it.

12 MS. CARRINGTON: Thank you, Eric.

13 CHAIRMAN JONES: Thank you, Ms. Carrington.

14 MS. CARRINGTON: You're welcome, Mr. Chair.

15 CHAIRMAN JONES: We've done our executive
16 session.

17 MS. CARRINGTON: Yes, sir.

18 CHAIRMAN JONES: And we've done Item 6. So I
19 think we're ready to adjourn.

20 MS. ANDERSON: So moved.

21 MR. SALINAS: Second.

22 CHAIRMAN JONES: All in favor, say aye.

23 (A chorus of ayes.)

24 CHAIRMAN JONES: We're adjourned.

1 (Whereupon, at 4:00 p.m., the meeting was
2 concluded.)

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C E R T I F I C A T E

IN RE: TDHCA Board Meeting

LOCATION: Austin, Texas

DATE: May 15, 2003

I do hereby certify that the foregoing pages, numbers 1 through 133, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

(Transcriber) 05/22/2003
(Date)

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