TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

8:00 a.m.
Friday,
November 14, 2003

State Capitol Extension Auditorium
1400 N. Congress
Austin, Texas

COMMITTEE MEMBERS:
C. KENT CONINE, Vice Chairman
SHADRICK BOGANY
NORBERTO SALINAS
VIDAL GONZALEZ
PATRICK R. GORDON

STAFF PRESENT:
EDWINA CARRINGTON, Executive Director
CHRIS WITTMAYER, General Counsel
BROOKE BOSTON, Director of Multifamily Finance Production
TOM GOURIS, Director of Real Estate Analysis
ERIC PIKE, Director of Single Family Production

ALSO PRESENT:
CINDY EVANS, Member, Public Input Work Group
JUDITH McLAUGHLIN, Member, Public Input Work Group
BOBBY BOWLING, President, Texas Association of Builders
CYNTHIA BAST
MIKE LANGFORD, President, Texas Affiliation of Affordable Housing Providers and Member, Public Input Work Group

BARRY PALMER
BARRY KAHN

ON THE RECORD REPORTING
(512) 450-0342
BEAU ROTHSCILD, Committee Clerk, House Committee on Urban Affairs
GRANGER MacDONALD
BILL FISHER
JOHN GARVIN, Representative, Texas Affiliation of Affordable Housing Providers
DIANA McIVER, Vice President, Texas Affiliation of Affordable Housing Providers
JEREMY MAZUR, Legislative Director to State Representative Bill Callegari
VAN DYKE JOHNSON, Executive Director, East Austin Development Corporation
MARVIN C. GRIFFIN, President, East Austin Economic Development Corporation
REV. EARL HARRIS, Bethel Baptist Church, Crockett, Texas
MARVIN McPHERSON, Chairman, Bethel Economic Development Project
ROBERT GREER, President, Michaels Development Corporation
KEN MITCHELL
AGENDA

ITEM PAGE:

CALL TO ORDER, ROLL CALL 5
CERTIFICATION OF QUORUM 5
PUBLIC COMMENT 6

ACTION ITEMS

Item 1 - Presentation, Discussion and Possible Approval of Minutes of Board Meeting of October 9, 2003 11

Item 2 - Presentation, Discussion and Possible Approval of:

(a) 2004 Regional Allocation Formula 12
(b) 2004 Affordable Housing Needs Score 14

Item 3 - Presentation, Discussion and Possible Approval of Department Rules:

(a) Final Housing Tax Credit Qualified Allocation Plan for 2004 17
(b) Final Housing Trust Fund Rule 132
(c) Final Real Estate Analysis Rules 135
(d) Final HOME Program Rules 140
(e) Final Integrated Housing Rule 146
(f) Final Portfolio Management and Compliance Rules 147
(g) Final Multifamily Bond Rules 148

Item 4 - Presentation, Discussion, and Possible Approval of Interagency Contract with the Texas Department of Housing and Community Affairs and the Office of Rural Community Affairs on the Housing Tax Credit Set Aside

Item 5 - Presentation, Discussion, and Possible Approval of "Draft" 2004 Application 154
Submission Procedures Manual for Housing Tax Credits and Housing Trust Fund

Item 6 - Presentation, Discussion, and Possible Approval of Programmatic Items:
(a) Section 8 Program 156
(b) HOME Program 160
(c) Housing Trust Fund 177

Item 7 - Presentation, Discussion, and Possible Approval of Financial Items:
(a) Mortgage Credit Certificates 179
(b) Capital Fund Program Revenue Bonds 184
(c) Resolution No. 03-081 Authorizing an Additional Series of TDHCA's Single Family Mortgage Revenue Refunding Tax-Exempt Commercial Paper Notes Program 185

Item 8 - Presentation, Discussion and Possible Approval of Housing Tax Credit Items:
(a) Request for Extensions 186
(b) Issuance of Determination Notices with Other Issuers 196
(c) Amendments 199

REPORT ITEMS
Executive Directors Report
EXECUTIVE SESSION
OPEN SESSION
Action in Open Session on Items Discussed in Executive Session

ADJOURN 207
MR. CONINE: I now call the November board meeting of the Texas Department of Housing and Community Affairs. The first thing I want to do is call roll this morning. Beth Anderson is absent. Kent Conine is here. Shad Bogany?

MR. BOGANAY: Here.

MR. CONINE: Vidal Gonzalez?

MR. GONZALEZ: Here.

MR. CONINE: Patrick Gordon, I understand, is here, over there. Welcome, Pat. And Norberto Salinas?

MR. SALINAS: Here.

MR. CONINE: We have four members present. We've got a quorum.

We've got a huge agenda today, and what I'd like to do is to make sure, again, that everybody has ample time to say what they want to say in regards to various items on the agenda, but we also have some time constraints today. I, for one, need to leave right after lunch time and go catch a plane. That's going to bust up our quorum based on who we have present today.

So we need to try to move the agenda along as best as possible. I know that's going to be difficult
with some of the items that are on there. I want to let
the board know that we'll probably break about 10:00 for a
little ten minute break so we can plan for that, and then
come right back and try to run through about 12:30 or
12:45, and see how quick we can get done. I want to make
sure everybody understands that.

Today, I want to thank Senator Todd Staples for
the use of the room. We appreciate him doing that. Also,
we have, as a special guest, Beau Rothschild, the House
Committee on Urban Affairs. Where's Beau?

VOICE: He's right over there.

MR. CONINE: Right there. Welcome. Thank you
for coming today. We appreciate you being here.

We have several public comments that I've
received. If you want to speak and haven't signed a
witness affirmation form, please do so. I've got several
here and I'll just kind of go through them right quick.
You have a choice of either speaking now or at the
particular agenda item.

Again, for the sake of time, we're going to
limit comments to three minutes if we could today. All
public comments limited to three minutes and we'll see how
that works.

The first name I have is Cindy Evans. Ms.
Evans?

MS. EVANS: I'll speak at the agenda item.

MR. CONINE: Speak at the agenda item. Thank you. Judith McLaughlin.

MS. McLAUGHLIN: Same.

MR. CONINE: Same. Bobby Bowling?

MR. BOWLING: Same, Mr. Chairman.

MR. CONINE: Okay. Cynthia Bast?

MS. BAST: Same.

MR. CONINE: Okay. Michael Langford?

MR. LANGFORD: Same.

MR. CONINE: Okay. Barry Palmer?

MR. PALMER: I'll speak at the agenda item.

MR. CONINE: Okay. Barry Kahn?

MR. KAHN: Agenda item.

MR. CONINE: John Garvin?

MR. GARVIN: Agenda item.

MR. CONINE: Nobody cares. Beau Rothschild?

(A chorus of laughter.)

MR. CONINE: I'm sorry, Beau. I didn't mean you.

MR. ROTHSCHILD: That's all right.

MR. CONINE: You're welcome to speak now to the board if you'd like.
MR. ROTHSCCHILD: All right. My name is Beau Rothschild. I'm the Committee Clerk on Urban Affairs. I'm speaking on behalf of Chairman Robert E. Talton.

"Dear board members, on October 7, 2003, I forwarded to Executive Director Edwina Carrington, a letter expressing my concerns as to the 2004 qualified allocation plan your staff submitted for public response. In that letter, I suggested that the proposed QAP violated both the terms as well as the intent of Senate Bill 264, the Sunset Legislation for the Texas Department of the Housing and Community Affairs during its last regular session.

"While I received a response from Ms. Carrington, the specific concerns I raised in my letter have never been addressed. I have reviewed the draft of the QAP placed on your website Friday of last week. I'm disappointed with the final draft and the appearance that the public input and my concerns have been ignored. "I raise my concern again, that I do not believe the QAP follows the mandates in the Senate Bill 264.

"Thank you for your attention to this matter. "Sincerely, Robert E. Talton, State Representative."
MR. CONINE: Thank you.

MS. CARRINGTON: Beau, could we have a copy of the letter, please?

MR. ROTHSCILD: Yes, ma'am.

MS. CARRINGTON: Thank you.

MR. CONINE: Okay. He's done. Granger MacDonald?

MR. MacDONALD: I'll speak at the agenda item.

MR. CONINE: Bill Fisher?

MR. FISHER: I'll speak now.

MR. CONINE: Or forever hold your peace.

MR. FISHER: All right.

MR. CONINE: This is what we're going to do today.

MR. FISHER: Yes, sir. My name is Bill Fisher. I'm with [indiscernible] and Realty. My comment is probably just on one revision here, at the last minute, on the one-mile rule, which I think many of us consider punitive, but it was a legislative mandate from Senate Bill 264.

The staff's change here, I think, is clearly incorrect. It's inconsistent with the clear reading of 264, which says, "one-mile rule, three years, from the opening of the application round." The latest revision
here for the tax-exempt bonds is from the filing of the volume 1, and which will be, I think, cumbersome to follow anyway.

We just ask that it go right back to the wording of the 264, which is "the opening of the application round," there were some questions -- this was in response to request for clarification -- the only clarification we're asking for is just tell us what the opening date was of the tax-exempt bond round, whether it was the lottery date or January 1 of that year.

MR. CONINE: Okay.

MR. FISHER: All right.

MR. CONINE: Any questions of Mr. Fisher?

(No response.)

MR. CONINE: Thank you, sir. Diana McIver?

MS. McIVER: I'll wait until the agenda item.

MR. CONINE: Okay. All right. Since I'm a rookie at this job, if I missed somebody as we go through the agenda items, please feel free to speak up. That way, I can make sure and do this correctly.

One thing I also would like to do that I failed to do here, shortly, Joe, was to introduce the newest board member to the Texas Department of Housing and Community Affairs. Pat Gordon is from El Paso, an
attorney out there with Gordon and Mott. He's a member of the state bar of Texas, the American Bar Association, and the American Institute of CPAs. He also serves on several boards, a science museum and is a merit badge counselor for the Boy Scouts of America. He's a published author and speaker for numerous professional organizations and universities.

Mr. Gordon received his Bachelor's degree in finance from Texas A&M University. And then, he really got smart and went on and got his Master's and Law degree, with high honors, from Texas Tech University, where he was associate editor for the Texas Tech Law Review.

Pat Gordon, we're welcome to have you. We're glad you're here. He's kind of sitting on the sidelines today. Again, based on the training statute in the last legislative round, the felt comfortable on abstaining, but he is here today, and let's give him a nice round of applause.

(Applause.)

MR. CONINE: Okay. With that, we'll go to the action items. Number 1 is the presentation, discussion, and possible approval of the minutes of the board of the meeting of October 9. Do I hear a motion?

MR. GONZALEZ: Second.
MR. BOGANY: Moved.

MR. CONINE: Is there a second?

MR. GONZALEZ: Second.

MR. CONINE: Any further discussion on the minutes?

(No response.)

MR. CONINE: All of those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Item 2, the 2004 formula, Ms. Carrington?

MS. CARRINGTON: Thank you, Mr. Chairman. What the board is asked to consider this morning is the final approval of the 2004 regional allocation formula. The board first looked at this on August 14 and you approved the methodology for public comment at that time. From August 29 to October 24, we took public comment on this formula.

You all will remember that the legislature, in 1999, by Senate Bill 1112, directed the agency to use the formula to allocate its HOME funds, its housing tax credits, and Housing Trust Fund on a regional basis. We have made some substantial changes to this formula as a result of public comment. We basically had two things
that were going on during the public comment period.

   It was pointed out to us that there was an
anomaly in the way the urban, ex-urban, and rural
populations had fallen out. Basically, what we discovered
was that if it didn't meet the definition of urban, then
all of the dollars fell into the rural category. That was
pointed out to us and, obviously, there are many areas
right outside of areas like Houston, Dallas, San Antonio,
that are not considered rural because they're right next
to the metro area, and really do meet the ex-urban
definition. Also, we were able to access some
HUD-specific data that allowed us to look data that was
related specifically to a place, which is a census
definition, as opposed to using the larger county.

   So what we have for you today are five
attachments. Attachment A shows you the changes that were
made to the methodology. If you want to see what the
dollars are for each of the 13 state service regions,
that's in Attachment C. And then, Attachment E shows you
the methodology.

   What the staff is asking for is approval of
this formula today and then it will be included in our
State Low Income Housing Plan.

   MR. BOGANY: So moved.
MR. SALINAS: Second.

MR. CONINE: Motion to approve the 2004 regional allocation formula. Is there any discussion, any comments, from any board members?

(No response.)

MR. CONINE: Seeing none, I'll call the question. All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Ms. Carrington, I think the 2004 affordable housing needs score is next.

MS. CARRINGTON: Yes, sir. This basically goes along with the regional allocation formula. This affordable housing needs score is not mandated in legislation, but what it does is provide the Department a comparison of each county and place, and helps us to identify those areas around the state that have the greatest need.

On August 4 also, the board approved the methodology for the affordable housing needs score. Again, we had the same kind of public comment period, which was August 29 to October 24.
You'll all remember that you looked at this again, October 9, and that there were modifications that were made to the scores. We have made those modifications and you have, again, three attachments in front of you. Attachment A is the summary of changes that were made to the methodology as a result of public comment. Attachment B is a summary of the comments and department responses. Attachment C is the actual affordable housing needs scores, as proposed for final board approval.

So when you to that affordable housing needs score, what you see is each place in Texas that has a score, anywhere from 20 down to 0. Those scores are used for those three programs that I mentioned to you, and the higher the score, then the greater the need. It does allow us to drive our dollars to those areas that have the greatest need.

Staff is asking for approval of the affordable housing needs score, which will also be included in the State Low Income Housing Plan, which you all will approve in December.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MR. CONINE: A motion and a second, any discussion?
MR. CONINE: Ms. Carrington, would you speak to the public hearing side of this, and just give us a feel for how that went, public comment, whether or not -- you know, I know you had 13 of them, or whatever it was. Just kind of give us a briefing on that, would you?

MS. CARRINGTON: We did have 13 public hearings around the state and we took 12 or 13 items to those 13 public hearings. You all are being asked to approve seven sets of rules today. All of those rules went, along with the affordable housing needs scores, and we also took one of the TSAHC rules. We had about 250 people total who attended those 13 public hearings around the state. There were some of our rules that didn't receive much public comment at all. There were others that did indeed receive public comment.

If there's any specific, Mr. Conine, either about the regional allocation formula, the affordable housing needs score, that came out of public comment, I might ask Sarah Anderson to come and address that.

MR. CONINE: Nothing from me.

MS. CARRINGTON: Okay.

MR. CONINE: I just kind of wanted the board to get a feel for actually the background on the public
MS. CARRINGTON: Yes, indeed, and thank you for reminding me of that.

MR. CONINE: Okay. There's a motion on the floor to approve the 2004 affordable housing needs score.

MR. BOGAN: Yes, sir.

MR. CONINE: Yes, it's been moved and second. Any other discussion?

(No response.)

MR. CONINE: Hearing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: So moved. Okay. Moving on to the fun item of the day, the final housing tax credit qualified action plan for 2004. We do have several speakers, again, primarily focussed at the QAP. I want to make sure I have them all lined up here. Okay. Ms. Cindy Evans?

MS. EVANS: My name is Cindy Evans, from McKinney, Texas, and I want to say that I am here today only as a private citizen. I'm not representing the City of McKinney or the McKinney HFC, only my own personal
views today on the QAP.

The first thing I wanted to address, as a member of the public input working group, is signage. I think this is the first year that you have done public notification. Therefore, I think signage requirement is even more important. The way the QAP is right now, developers are given an out on signage, where they can simply send a letter to the people that are near the property, and I think that signage is the best, most effective way to make sure that all of the people in the community are aware of the incoming development.

The second thing is I would disagree very strongly with the language that is included in here about people who send in letters, being turned over to the District Attorney if their comments are found to be misleading. If a market analyst turns in a market study that is not accurate, all he has to do is turn in an accurate market study and he's welcomed back. The only place in the entire QAP where people are threatened with legal action is under the public input. I don't think that's a productive way to invite the public into this process.

There has also been added, under Section 50.11, that notification will be given to advocacy organizations,
social service organizations, civil rights organizations, tenant organizations, and others who may have an interest in securing the development of affordable housing. We went through significant discussion about exactly what Senate Bill 264, who was supposed to be notified, and what neighborhood organizations were supposed to be notified.

Basically, what was arrived at in the QAP is if you are in a neighborhood group that's across the street, you don't have to be notified. If you're in a neighborhood group that's three blocks away, you don't have to be notified, but if you're a civil rights group that's on the other side of town, or if you're a tenants advocacy group that's on the other side of town, in a different community, you still have to be notified.

I think if we're going to broaden the scope, and we're going to start including the civil rights organizations, and the social service agencies, then we need to also broaden the scope and include the Rotary clubs, the Kiwanis clubs, the Chamber. I just think this is really -- I think you're not playing both sides equal if you're going to citywide include these groups, but not include other neighborhood organizations who may be involved in development issues.

The other thing that I wanted to talk about was
the scoring of the letters. I have no problem with the scoring of the letters based on content. I believe that that is something that the final discretion on these approvals is with the board. If the board can look at these and say, Okay, they got all of their scores because of the letters, but we don't like the content of the letters, this board has full discretion to approve or deny any application, but to take it to the staff level, where this is done in private, with different letters being score, I think you're opening yourself up to a huge problem. I don't think that was the intent of Senate Bill 264.

Then, what you get into are the advocacy groups going to have to, if they send in a letter, are they going to have to prove demand? Are the homeowners groups going to have to prove demand? If you have an isolated situation where you have, for example, a crime problem and the tax credit property is in one specific area, is that going to have to proven or is that going to be discounted out of hand? There's not any criteria spelled out in the QAP as to how staff is going to score these letters.

I just think you're inviting the public, you're sending letters our to the public, and you're inviting them into the process, and then you're telling them, your
letter's only worth this many points, your letter's only worth this many points, and if there's anything in your letter that we can't prove, or that we find misleading, we're going to send you to the District Attorney. I just find this threatening language and I hope that you guys will make a little bit of change in it so that the public actually feels welcome.

The one last thing is I very much appreciate being included in this public input work group and I hope that next year, on the 2005 QAP, that there will be more members of the public, and that we will be included from the very beginning of the process, because I think some of these things could have been worked out if we were involved all the way through the process, instead of coming in kind of in the middle. Thank you very much.

MR. CONINE: Any questions for Ms. Evans?

MR. SALINAS: Is she talking about McKinney and the problem we had last year, or because of the tax credit project in McKinney?

MS. EVANS: No, sir. On the overall QAP, one of the things that is in the QAP is that homeowners send in a letter of opposition that is found to be misrepresenting the facts, or basically if they send you a letter about something that's not true, then it
specifically states in the QAP, they will be sent to the
District Attorney for prosecution. Well, that may or may
not be a good idea, it's the only place in the QAP. You
don't say that for developers misrepresenting themselves
on their applications. You don't say that about market
analysts misrepresenting things on market studies. I just
think that the language, as it's written in the QAP, is
hostile.

I would say, though, that I do very much agree
that letters that clearly violate the Fair Housing Act,
that are clearly discriminatory, that's a legal issue. I
absolutely think those letters should be disqualified. I
think that's different than deciding on other types of
content.

MR. CONINE: Thank you. Yes, Shad?

MR. BOGANY: I have just one quick question.
What would you suggest that we do when somebody from the
public writes a letter that's misleading? I'd like to
know what you think we should do when we get those types
of letters that are not about facts, it's about fiction.
What would you do when you got those types of letters?
What would you suggest we do?

MS. EVANS: I would say it would be exactly the
same if you get a letter in support or you get a letter in
opposition, as to whether or not -- I think you're probably going to get letters in support that say, I think this is great, even though there actually may not be a market in that particular site. That should get the full points.

You may get a letter that says, you know, I'm opposed to this, because of "I just don't want it." I don't know. "I just don't want it in my neighborhood."
The point of the public being involved in the process is for the developer, the agency, and the homeowners to come together and, hopefully, work out those issues in advance.

There are many, many developers in this room who are doing that, who have homeowners that come forward and say, I love this development. So I think if you get down to the point where they're writing their letters, and they're still in opposition, then there are still some unresolved issues. Unless the Department can prove that what they're saying isn't true, then I'm not sure how you can discount those either.

MR. SALINAS: You're saying that when you're opposed to a project in your city, or any city, wouldn't the city have a control with the planning and zoning public hearing? I understand that the city would send notices to the neighbors, not to exceed three blocks, or
four blocks, notifying of the project that is coming to
your neighborhood.

You would have to go to your local city
council, mayor, and to your planning and zoning
commission, and I would think this is where it belongs,
where you all would take care of your own problem, whether
you want it in your neighborhood or not. I think we do
that, according to what the leaders in what your community
are going to be doing.

Of course, if they do not approve the zoning,
then the project is not good here, but you're saying that
after your city leaders, and planning and zoning, and
public hearings is over, and they approve it, and then
they send it over to us. And then, you're saying if we
get a letter, we should not send it to the District
Attorney.

I don't agree sending it to anybody. I think
it should be kept here, as a letter in our file, but not
to notify anybody about what we got. I think the board
members should have it. I don't agree that it should go
to the District Attorney's office.

I think we've been dealing with this problem
about where the projects go and I think the local county,
I mean, city and planning and zoning should decide that,
no? I mean, how would you react to that?

MS. EVANS: Well, Mr. Mayor, in a lot of cities, and ours was one of them, we do have a significant amount of multifamily land that is already zoned. Personally had I been on the council, I would not have gone out and zoned the city, you know, carte blanche, but that is a different situation from concentration issues.

MR. SALINAS: Well, you go ahead, and get into the community there, and elect somebody else, and go ahead and rezone it, or do a concentration plan, and rezone the area that you don't want it to have housing.

MS. EVANS: That is something that --

MR. SALINAS: We did that in our community.

MS. EVANS: -- in our community that we are working on, but I want to make sure that I'm being clear on the letters that I'm talking about. I'm not actually referring to letters that would come in specifically just to the board. The legislature, under Senate Bill 264, has mandated that letters be scored, and be including in the scoring process, and it's those letters that I'm referring to.

Certainly, the board has complete discretion as to how much weight you would give a letter when you get to the end of the process. I'm talking about differentiating
between how many points a letter would get, under Senate Bill 264, at the beginning of the process, as far as scoring a letter, as in, We like this letter so it gets 3 points. We don't like this letter. It only gets 1.

My concern is that what's going to happen is that some groups are going to say, I think this is a great project because I like affordable housing. Great, you get 3 points. Somebody else is going to say, you know, We're over-concentrated, or whatever other issues, but they don't have specific proof, because they're homeowners and they can't afford to pay for a market study, and they're only going to get 1 point. That's my biggest concern and that's not yet addressed in the QAP, as it is today.

MR. CONINE: Thank you, Ms. Evans.

MS. EVANS: Thank you.

MR. CONINE: Judith McLaughlin?

MS. McLAUGHLIN: Good morning.

MR. CONINE: Good morning.

MS. McLAUGHLIN: I have a prepared text. I'm not as good of an extemporaneous speaker as Cindy, but I'll to -- and we have, actually, we put our comments independently. So we have a couple of areas of overlap, that I'll go through.

I also am a member of the public input workshop
and honored to do so. Ironically, it was this day last year that I was before you to talk about our community's concerns for the tax credit development project that was in the unincorporated area between Katy and Houston, Texas. Since then, our area has seen four additional projects being planned for our area or proposed, and we also worked with Representative Callegari to help draft some portions of 264. So in addition to the public input workshop, I've been getting a very good education, as Sarah Anderson would have me do.

Anyway, my objective today is to make some specific comments on the QAP, but both Cindy and I had submitted comments to the staff, and they are accurately reflected in the board book. However, my goal today is to put these comments in a little bit of a larger context, and dealing specifically with the participation of the public and the concept of input in the tax credit allocation decision.

In my mind, the concept and the tools required to engage the public in the allocation decision is really in a state of development and refinement. It's very new. In 264, the legislature has really thrust the public into a process with really, to me, what we're supposed to do with the public, what they're supposed to do, what role
they need to play, and it really doesn't provide any
really clear guidelines to address these issues, and there
are some issues that I think are subject to some
interpretation, as Cindy's also started to bring forward.

I think the QAP has to be considered in light
of this ambiguity. If the role of the community is to be
fully understood, as we try to develop this concept, then
what I would argue today, right now, is let's make some
decisions that we don't have unintended ramifications or
set irreversible precedents.

Cindy mentioned the issue of signage. Again,
the whole concept, in the public workshop, we talked
immensely about how we were going to notify neighborhood
organizations and we never came to a consensus on that. I
do feel that there's better ways of doing it. I think
that we can come to some of those ideas, and bring those
forward, and test some of those ideas in the months to
come. For now, I don't want us to step back from the 2003
QAP in terms of the signage requirements. I don't think
there should be an alternative that is proposed in the
2004 QAP.

As Kim Nelson, who is, I think, the head of
homeowners associations for Texas umbrella group, is that
you may not be able to find neighborhood organizations,
but with a sign, they will certainly find you. We do intend to work on this issue. I've got a couple of ideas that we've discussed and I think we can bring some additional ideas forward. For now, though, it's not time to change the signage requirements.

This is really an issue that we think is really important because Mr. Callegari's language had to do with the early public notification process. This is really from my experience, and I know I can speak from a lot of experience on this, that this is really critical to mitigating neighborhood opposition, is the early involvement of the neighborhoods. When the community is engaged at the last stages of a project, there's just no time to understand the issues, and the only thing you can do is to mount an opposition. That's often based on misinformation and unfounded fears.

The scoring of letters, Cindy went over, and I just want to point out that the staff, in the board book, says that they felt compelled to score the letters because of the language in 264. The words "quantifiable community participation," again, was another stumbling block that we just had a real tough time with. So Cindy and I went to meet with Representative Mercer's staff on it, tried to get an understanding from his perspective, and in my view,
at that meeting, we really talked about the community bringing the metrics to the equation, the metrics impact to the conversation of costs versus benefits. That's what I felt more quantifiable was. It really didn't mandate that we score any letters.

So, again, if we want to avoid unintended impacts on the community, and how this will be perceived, I think it's going to be a bad idea and score letters at this time, but let's go ahead and, again, develop this concept.

Again, another reason being is why we know it is subjective to administer this kind of concept, the real message is what it conveys to the community on the fairness of the process. The events of the last 12 months have clearly eroded the public's confidence in TDHCA and their confidence will not be restored by a subjective assignment by TDHCA, to the communities' perceived, yet to them, very real concerns. Again, we're at a state of requirement and development. I think we just need to go slowly on some of these things.

I know that you all remember the acrimony that was the Katy project last year. From personal experience, I can tell you that the approval process that I was engaged in, and that the role that the TDHCA played in
support of that project, was a major source of the community's opposition, but in my mind, and as I learn more about affordable housing issues, I think the Department failed its constituents, because it did not address the community's founded or unfounded concerns, nor did it attempt to place this development in the context of the overall public good.

Unfortunately, the QAP that you're asked to approve today doesn't address these underlying issues. In fact, we're making no progress towards solving the things that I came to you last year about. The community is now a part of the approval process, but it's clear that it's a forced and loveless marriage. Neighborhood organizations are to be notified, but it's really not clear why. The alternative that is proposed really would allow you not to have to notify the community at all.

The community's opposition has weight now, but it has to meet the test of legitimacy that only TDHCA can assess. As Cindy mentioned then, if you make a misstatement, as I did before the bond review board two days before I met with you, in misinterpreting some of the market study, then I could have been held and could have been liable for what was said, which was the difference between being Class B and Class A.
Anyway, we won't solve the problems of neighborhood opposition to affordable housing unless there is a healthy exchange of ideas between the Department and the public about the need for affordable housing, and how the locational decision is made, and until the Department can educate the public about the greater good that is served. I've said this in our public workshops until they tired of it, but this is not the role of the development community. It is the role of TDHCA. The Department should lead the process of early notification of organizations, the education of neighborhoods on the issue of affordable housing, and most important, it should ensure a balanced exchange between the developer and the community during the application process.

In my mind, the QAP is the tool that affects the behaviors and roles that all the stakeholders in this process play, but it's going to take some time to really be able to define those roles and get to those behaviors. For right now, we just ask you that you go slowly in approving anything that the public, that we do have some problems with, because we'll work through these issues. We'll get where we need to go, but let's not set some precedents that will affect our ability to get there.

MR. CONINE: Thank you, Ms. McLaughlin. Any
questions from the board?

MR. SALINAS: What you're actually saying is for us not to approve this?

MS. McLAUGHLIN: No, I just -- excuse me, don't approve the scoring of letters. Let's go ahead and take letters, but not score them. Let's put the 2003 signage language back in and not allow the alternative for notification in --

MR. SALINAS: What does the bill say now, the new bill?

MS. McLAUGHLIN: On, I'm sorry?

MR. SALINAS: On letters, Ms. Carrington?

MS. McLAUGHLIN: Well, that's subject to interpretation. This concept was called "quantifiable community participation." Their reading of the language indicated that that meant that there had to be a score assigned to letters. That was the quantifiable part. In my mind, and based upon my conversations with Mr. Mercer's staff, then I don't feel that's really the appropriate interpretation of the letters. I think that the legislation does say that the participation is based upon letters. It does not necessarily mean it's based upon letters that are scored, based upon merit.

MR. SALINAS: I agree with you. Ms.
Carrington, how do you interpret that?

MS. CARRINGTON: I'd like to Chris Wittmayer, our general counsel, to address that, Mayor.

MR. SALINAS: I agree with you. I don't think letters should be scored.

MR. WITTMAYER: Senate Bill 264 requires us to score, as one item, the quantifiable community participation, based on letters which we receive from neighborhood organizations whose boundaries include the site of proposed development. We understood that language "quantifiable community participation" to require the Department to look at the content of the letter.

For instance, we might get a letter which doesn't really give any reason for, let's say, the opposition that they might have to the development. Or we might get a letter that has a very good reason, which is very weighty, which we should score at a higher level. We might get a letter that has a sound negative reason, but not a great weight. We felt it appropriate, based on the language of the statute, and giving it a fair and reasonable reading and implementation, was to weigh what it was the letters had to say, whether or not they were no reason, a weighty reason, or a reason of some weight but lesser weight.
MR. CONINE: Mr. Bogany?

MR. BOGANY: I have a question. Chris, what would constitute a letter being sent to the District Attorney? Could you give me an example of what might?

You know, I've listened to the public comment and what seems to concern me is that I'm accountable. The developers are accountable. Everybody in the process is accountable. The public wants to be a part of this game and they don't want to be accountable. That's what I get by listening to the comments that I've heard. If you want to play, you've got to have some rules for yourself also.

I'd just like to know what constitutes a letter being send to the District Attorney.

MR. WITTMAYER: Okay.

MR. BOGANY: Just give me an example of what a letter would say that would make you want to send it to the DA.

MR. WITTMAYER: If I could, first, let me read the sentence in the proposed QAP that deals with this issue.

MR. BOGANY: Okay.

MR. WITTMAYER: I think it's a very balanced provision. What it says is, "To protect the integrity of the Department's processes and decisions, evidence of
false statements, or misrepresentations, from applicant representatives, neighborhood representatives, or other persons will be considered for appropriate action, including possible referral to local district and county attorneys."

All we're saying is that all the parties that have input to the Department, we need to maintain the integrity of our processes, and if we find evidence of false statements, or misrepresentations, we will consider the evidence for appropriate action, which could conceivably include referral to the local county or district attorney.

I frankly think that it's highly unlikely that we would ever find evidence that would cause that to occur, but I think it's fair that we put in our public documentation that that is an action, in an appropriate set of circumstances, that we would at least consider. Ultimately, it would be up to the local prosecutor to decide if this was something that he felt had ramifications that he or she felt it appropriate to pursue.

MS. CARRINGTON: And Chris, may I comment that it's all parties?

MR. WITTMAYER: All parties.
MS. CARRINGTON: It's all parties. So we haven't singled out one party over another party.

MS. McLAUGHLIN: May I make a point though?

MR. CONINE: Sure.

MS. McLAUGHLIN: One of the items of the QAP that we really thought was a great idea, and it's one of the ones that we talked about in the work group, was a neighborhood organization meeting. You know, the idea here is that the communication and the education of the public isn't at a level that they can really begin to understand the trade-off between the public good that is being conserved by affordable housing and their own local impact.

We need to start and have that dialogue between the TDHCA, who is the arbiter of public policy, and the community. You take for granted, what is the need for affordable housing. It is just not apparent to us when we're out there. So we come to the work group and we say, Here are some of the things that we would suggest for you to deal with these issues of neighborhood opposition, and we want to work through those processes. In fact, Brooke had asked me just to identify what would a neighborhood meeting look like and what would we talk about.

I just want to make sure that rather than
embracing something that appears to be punitive, we're
again still at an arm's length between the developer and
TDHCA and the community, but we start working and thinking
in terms of a more interactive process.

I believe, from my own experience, that these
issues can be made apparent. I've learned a lot about
what we have to do to talk to my friends, to tell them
really what the issues are and how they need to think
about this. It is a trade-off between whether we help the
people that require affordable housing, and put that in
the context of whether that impact is too severe for the
community, but that dialogue's not going to happen if we
just continue to keep ourselves at arm's length, and
score, and punitively assess letters. It just seems to me
that we're going the wrong way.

I'm just asking you, don't do anything right
now that appears to be punitive. Let's go ahead and set
some rules of the game.

I know that the developers are required to meet
certain timeliness for turning in pre-apps, for turning in
information, and if they don't do that, they're allowed to
go back and do that. We basically -- there are rules of
the game, but they have the discretion not to comply and
also not to be penalized for it. So let's go ahead and
offer that same discretion to the public until we can get some firm grounding on how we can solve the problem. That's why we came to the public workshop, to help you solve the problem, and bring you our insights from the neighborhood's perspective. I hope you value that.

MR. CONINE: All right.

MR. SALINAS: I would think that the District Attorney has better things to do than to look at these letters and it's getting really --

MS. McLAUGHLIN: That whole message --

MR. SALINAS: -- where the public has a right to send a letter, if somebody doesn't like that letter, they can go ahead and take it on, by themselves, and file some lawsuits against that person, that sort of thing. I don't agree with it, but I would take the recommendation of Ms. Carrington. I don't think that they would ever send a letter to the District Attorney's office from this agency.

MS. McLAUGHLIN: I know, but still it's conveying a message to the public regarding what type of input that they can have.

MR. SALINAS: Well, I just don't think that that would be the case.
MS. McLAUGHLIN: Yes, but again, we need to start at an early process to dialogue with the community and educate --

MR. SALINAS: The whole process starts with your community. If your community allows it, then you don't like what they have done, then there's a process of getting people elected and re-elected, or getting them out of office. It all starts from the grass roots, down at your community, and it seems to me that it's come down for us to make those decisions now and it's not fair. We have to take their recommendation and the community's recommendation on where they want their housing and how we're going to be able to deal with it.

MR. CONINE: Thank you

MR. SALINAS: I just think that that's the only way to do it.

MR. CONINE: Good.

MS. McLAUGHLIN: Okay.

MR. CONINE: Thank you, Ms. McLaughlin. Bobby Bowling, newly crowned president of the Texas Association of Builders, welcome.

MR. BOWLING: Thank you, Mr. Chair. Good morning, members of the board and Delores. Nobody ever says hi to Delores.

ON THE RECORD REPORTING
(512) 450-0342
MS. GRONECK: Hi.

MR. BOWLING: I wanted to -- first of all, I agree with about 99.9 percent of what the staff prepared for this year's QAP.

I especially wanted to thank the Department and staff for the level of specificity that they've given to the handling of setasides. I think I don't want to go through, ever again, what I had to go through this year, where my region had no money for general setaside. I think it was vague before, and I think it's specific now, and I think that's for the best, and I don't think what happened last year was intentional by staff or the Department. It was just one of those things that happened and I'm glad to see it corrected. In my opinion, it is.

The only issue that I really wanted to address -- and I forwarded some comments throughout the public hearing process, went to the public hearings, and I appreciate that my comments were given consideration -- I think that I was in agreement with most of the changes that came out last week, except for one still pending that I want to talk about a little bit today.

As most of you all know, as Mr. Conine mentioned, I'm the president of the Texas Association of Builders. My family and my business is really specialized
in single family home building, for about 50 years. How I got into this program was we had a large segment of people that were coming through our doors, trying to buy homes, that couldn't qualify for them. So, you know, I found out about this program, learned about it, got active in it, and started participating as a developer in tax credits.

The issue that I want to address specifically is the issue of four bedroom units. In El Paso, and on border regions generally, I just want to bring this data forward without any judgment or without any preconceived notion. Family sizes are just typically larger. It's just a fact. It's not something that we can do anything about. It's just the current set of circumstances that exist.

There are a lot of people in El Paso that come through, you know, a single mom with maybe four or five children. While I could get them into a house that would accommodate their needs, and have that family living comfortably, they can't afford the house that I could build them. So really, the catch-all, after I have to turn them down, for a two or a three person family, is the Low Income Housing Tax Credit project that's in El Paso, one of mine or one of my competitors, but for that person that has five children, their only option is to go to
Our Housing Authority in the City of El Paso has a large portion of their stock as five and six bedroom units. You may not know that, but I want to bring that forward, because the Housing Authority has identified that need for the larger families, and has tried to serve it, and tried to meet it with their units. I think Tax Credit Program could go back to having -- and I'm not asking for five or six bedroom units, but I think the four bedroom unit, a small portion of it, in the QAP, I think is something that's sorely needed along the border.

I would suggest specifically -- and then, also, the formula that you have, even with the proposed change, and I think the proposed change from this last week, with the breakdown, with the 40 percent and the 60 percent for three bedrooms and two bedrooms, is a big improvement over what was originally proposed a month ago, but I wanted to bring your attention with 40 and 60 rounding errors, I still may have to put one bedrooms into my units, because it says no more than 40 percent and no more than 60 percent can be three or two bedroom. Well, if I'm doing a 36 unit project, 40 and 60, or a 44 unit project, sometimes that 39.9 and that 58.3 makes me build a couple of one bedroom units.
Really, for my needs, again to address in El Paso, the one bedroom unit, I think, I have no desire to build because, to me, that is -- I think this is a family program. I'm not interested in really meeting the needs of a single able-bodied -- somebody who can get a job and who can, you know, tough it out, and make it as a single person. I think this is a family program. I'd like to continue to develop, as I have been developing, units with two, three, and four bedrooms.

So the specific change that I would propose and request that you all consider is in 50.3 definitions. It's in page 6 of the board book that you all put on the Internet. Item 47 for ineligible building types, I would suggest that in (e), where you say "any development proposing new construction" -- this is an ineligible building type -- "in any development proposing new construction, other than a development, new construction, or rehab, composed entirely of single family dwellings, having units with four or more bedrooms," I would propose that you change that from "with four or more bedrooms" to with more than four bedrooms.

That would allow the next change that I would request, which would be in (g), where the percentages are. I would add a (iv) at the bottom, where you have "any
development involving new construction can't have more than 60 percent one bedroom, 60 percent two bedrooms, 40 percent three bedrooms". I would request no more than 20 percent four bedrooms. I'm not asking to build a whole complex of four bedrooms, and I'm not saying that every family that comes through the door has those five and six kids, but I have currently living in some of my tax credit projects, some of those single moms with five or six kids.

So that's basically my comments on that. I'd appreciate any questions that you all had to entertain, but I really want to drive home that maybe this is a unique border need. I'm not sure, but I can tell you from my own hands-on experience, it is something that's sorely needed in El Paso.

MR. CONINE: Bobby, I think it's incumbent upon, at least it's my view, it's incumbent upon this board to serve all the populations. Surely, you didn't mean to say that you don't care about single people who make low incomes in your particular neighborhoods, because we feel like we have that responsibility to take care of them, and they can't afford a two, three, or four bedroom unit. They can only afford a one bedroom unit. I don't know of any place in Texas that doesn't have a plethora of single people in that particular condition.
I mean, that's why, again, because of my view of economic feasibility, these projects have to have economic feasibility to them. Most four bedroom rents, if you do a survey around the state, more four bedroom rents are the same as three bedroom rents, in practicality what they get. The syndicators are telling me that when they have troubled projects, those are the ones they get back that have all three and four bedroom units, that they have difficulties and have to step in and take over. The rest of the world doesn't hear about that, but that is going on out there.

I just can't imagine that you'd want to -- in a period of society where we have divorce rates out the wazoo, and single people running around being nurses and firemen and teachers, and whatever the case may be, that you'd want to construct a project that would not take care of those people.

MR. BOWLING: Well, and again, you are privy to information that I'm not aware of. I wasn't aware that there's a higher foreclosure rate, or takeover rate, for the larger units, but I can again make the issue specific to my locale and my region. The rents for El Paso are so low for the two bedroom units already. For example, a 50 percent below two bedroom unit is renting for less than
$300 in El Paso. So I don't think that's a burden for the
single person to overcome.

I'm not really here -- and I probably was
insensitive when I made that statement and I apologize.
I'd like to take that about, about not caring about the
needs of somebody. That was probably not a good way to
couch that, but I think that the needs of the single
person are being met with the two bedroom. Now, that's
specific to my region.

I understand there are different areas around
the state, where the rents are substantially higher, where
a two bedroom may be renting for $550, or something like
that, but from my perspective, in my region -- and this is
just, you know, I didn't bring a chart, or any data, or
any Fannie Mae backup to this, but the three and four
bedrooms are the more popular ones in El Paso.

The project that I have that's Sunset Palms on
the west side of El Paso, the only units that I have
vacant still, after finishing my project three or four
months ago, are the two bedroom units. The three bedroom
units went like that. I think, again, it's a reflection
of my incomes are so low that the three and four bedrooms
are affordable. I am charging the maximums on the three
and four bedrooms because my rents are so low to begin
with relative to the median family incomes in El Paso.

So I think you have some unique circumstances.

Texas is such a huge state and there's such a wide
variety of variance in incomes. I would think that maybe
staff could like at -- you know, and I would hate to have
to burden them with this, but I do think there are
specific instances in the state that are unique. I really
do think, not just for Region 13, but all the communities
along the border would really benefit from this option.

MR. CONINE: So maybe we should lower the two
bedrooms? Is that what you're saying? Since I hear
vacancies of two bedrooms are a problem all over the
state.

MR. BOWLING: Well, I'd be fine with that.

MR. CONINE: If that's the case in El Paso, 
maybe we should shrink some two bedroom?

MR. BOWLING: I'd be fine with making me remove 
them.

MR. CONINE: Any other questions of Mr. 
Bowling?

(No response.)

MR. CONINE: Thank you.

MR. BOWLING: Thank you.

MR. CONINE: Mike Langford?
MR. LANGFORD: Hi, Delores. Good morning, Mr. Chairman, members of the board. I'm here wearing several different hats, as a for-profit developer, as the current president of TAAHP, Texas Affiliation of Affordable Housing Providers, and also a member of the public input workshop with Cindy and Judith who you heard previously.

You have heard a lot about 264 and the one thing I can say about 264 is no one can agree on everything about 264. There's a lot of subjectivity, a lot of work that needs to be done on defining certain definitions. The one that I think we all agree on is the notification issue. The signage issue, as a developer, I'm not sure I agree with the requirement or the legality, but that's not what I'm here to talk about.

The notification issue is very, very confusing and it's hard, as it's written now, to identify the pertinent, quantifiable community organizations. As a developer, we do not want the burden of making a subjective decision as to which ones we should contact, which ones we should not contact. Within a certain region, depending on the locale, it can be several dozen or several thousand. I think you'll hear more about it later this morning.

Oh, by the way, we do have a letter that I
think each one of you all received from TAAHP, from our executive director John, that outlines this issue and several others.

Again, on the notification, we've done it in the past through the newspaper. Again, I don't really have a problem with the notification, but we do need to define. One of our suggestions is maybe there is a database that the state, or the staff, which may be a little bit tough in the beginning, or take some time, but I think in the end, it would save a lot of time for everyone.

MR. CONINE: Any questions?

MR. BOGANY: Yes. What would you suggest we do for notification?

MR. LANGFORD: Well, again, see, I don't think notification -- I agree with the concept, but we need to define who we need to notify.

MR. BOGANY: What would be your suggestion?

MR. LANGFORD: Well, I mean, if they are a neighborhood association that's within a certain perimeter, and I think right now it's within the zoning requirement --

MR. BOGANY: Would it be a zip code? Would it be a mile away? Would it be adjoining --
MR. LANGFORD: I agree with fact that the notification process is with the zoning process now, 300 feet, 500 feet, whatever the local requirement for the zoning issue is.

MR. BOGANY: What if you don't have any zoning?

MR. SALINAS: Well, that's Houston.

MR. BOGANY: But that also is the largest area of the state and the most population.

MR. LANGFORD: Sure.

MR. BOGANY: So what would we do there? What would be your suggestion there?

MR. LANGFORD: You know, I'm not sure there is a correct answer to that, Shad, but again, the Rotary Clubs, some of those folks may or may not have an interest, and they should or could be notified. As you'll see later, again, in some of these areas where you have the barbershop quartet -- and I'll let Granger discuss that in a moment -- those aren't relevant, but they do take time, and we do have to, under the way this currently reads, we do have to notify those folks.

MR. BOGANY: Thank you.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Thank you, Mr. Langford. Barry
MR. PALMER: Good morning.

MR. CONINE: Good morning.

VOICES: Good morning.

MR. PALMER: I'd like to speak on the QAP, a couple of specific sections, on behalf of a number of my Housing Authority clients. One of the sections is the definition of an at-risk property.

The housing authorities in the state operate a very old style of housing. Most of it was built between 1937 and 1950, very little in the way of major renovations. So a lot of those properties, it doesn't make sense to rehabilitate those properties. It's cheaper to tear down and build new.

The Department has recognized that in the definition this year, allowing, in the definition of at-risk preservation setasides to include property that the Housing Authority demolishes and builds back on the same site, using HOPE VI dollars, which I think is an excellent idea. However, there are only three housing authorities in the state that have HOPE VI funds, Dallas, Houston, and San Antonio.

Some of the smaller housing authorities in the state are trying to do the same thing, but they don't have...
HOPE VI funds. And so, what I would suggest is that the language be expanded to include housing authorities that are tearing down and rebuilding on the same site, using their capital grant funds from HUD.

The second comment that I would like to make is on the low income targeting points, where points are given for leveraging other federal funds. One of the things that's been included in there is using HOPE VI funds as leveraging for low income targeting, but there's also a provision that excludes being able to take those points if the funding is coming from a related party.

On a HOPE VI transaction, it's always going to be a related party involved because the Housing Authority will be putting public housing units in the project, with an assignment of operating subsidies. So the same way in the Section 8 voucher section, where there's been an exclusion from the related party aspect, if it's a public Housing Authority, I would suggest that that same exclusion be included with funding with HOPE VI funds.

Thank you.

MR. CONINE: Any questions of Mr. Palmer?

(No response.)

MR. CONINE: Thank you. Barry Kahn?

MR. KAHN: Mr. Chairman, board members, Ms.
Carrington, I would like to comment on the neighborhood notification requirements. The threshold requirement in the QAP requires one to notify the city clerk and obtain a listing of all neighborhood groups. There are over 1,000 organizations in the City of Houston on the website. More than likely, if we send a notice to the city clerk, they’re going to refer us to the website or send us the same list of neighborhood organizations.

And then, a developer is required to show proof that they have notified all the organizations, or give a written explanation as to why the organization is not part of the neighborhood. Either way, this is a huge time factor. In the case of notices, it’s a cost factor because the only way to prove to the Department that you sent the notice is to send it by registered mail, and that’s $10 per letter. So if you have 1,000 neighborhood organizations you have to contact, that’s a cost of $10,000.

So I would like to suggest a limitation on the amount of neighborhood groups to be contacted. My suggestion is the developer would have a choice. He could either notify all organizations within a mile or a half mile, some restricted area, from the site, or notify everybody within the same zip code. However, some people
may raise the issue that if it's on the border of a zip code, you know, it's unfair to the people in the adjoining zip code. So, say, within a quarter of a mile, or an eighth of a mile, or some distance of a border of a zip code, they would have to notify the organizations in the adjoining zip code.

The listing by zip code appears to be pretty easy because that appears to be the way the city keeps the list, is by zip codes. That's the case in Houston. It's the case in Dallas. And so, you know, that wouldn't be a big imposition to find, you know, the listing. For people in rural areas where, you know, a zip code may cover several different cities, they could pick the more restricted area of, say, a mile or a half mile or whatever, within the site.

Politically speaking, if you start getting a bunch of people that have to go to the post office and get registered letters, in a city like Houston, say there's 20 or 25 applications, you're going to have a lot of people upset and probably notifying their legislators. Also, you're going to keep a lot of smaller organizations from applying, because if they have to incur a $10,000 expense, or whatever the number is, to send out all these notices, that's going to discourage a lot of people.
I know there's been some concern as far as the definition of neighborhood. Well, I think it's going to be pretty hard to argue that a neighborhood expands beyond a certain region, when it says all neighborhoods need to be notified. So I think the heat would be kept off the Department in that regard.

If we're going to have to show proof of 1,000 notices, I had to see how big the QAPs are going to be and what the storage requirement is going to be on the Department.

Anyhow, one other proposal I'd like to suggest also is that there's legislation that, too, deals with counties of over 1 million, that the Department can't allocate two deals within a mile of one another. I'd like to suggest that that be for counties under 1 million also. The reason for the is you're going to have a lot of point chasers, the people looking more at the highest needs score, where is the highest this score. What you're likely to have is a number of very scoring applications all within a very close locale. And then, there's going to be all sorts of bickering and whatever in front of the Department. So I'd like to suggest that, you know, that the legislation be extended to counties under a million.

However, giving those smaller counties a little
bit of a break, where in larger counties elderly and
general are in the same category, it can't be one deal
either/or, it can be in the smaller counties that you
could have, within that same mile area, one elderly and
one general, but, you know, not more than one elderly and
one general within that one mile distance.

If anybody has any questions, I'd be happy to
answer them.

MR. CONINE: Any questions?

MR. SALINAS: What did the bill say, 264?

MR. CONINE: Ms. Carrington?

MS. CARRINGTON: Mr. general counsel or Brooke?

MR. WITTMAYER: I'm sorry. I didn't hear the
question.

MR. SALINAS: What does the bill say that we
have to do our notification by? I mean, he's right, you
know, if we have to notify 1,000 organizations, it would
be kind of --

MR. WITTMAYER: Yes, the legislation, Senate
Bill 264, says that we must notify neighborhood
organizations that are on record with the state or county,
of neighborhood organizations that are on record, whose
boundaries include the proposed development site. We've
researched to what extent this is available and we've not
found any location at the state where you can access records of that nature. We've also checked at various local sites and, again, we find it's difficult to find these kinds of records.

Even where there are records of neighborhood organizations, it's rare to find records where they can be accessed and indicate that the boundaries of this specific neighborhood organization include some specific geographical area. So what we've tried to do is just implement the provision the best we can, by asking the developers to contact the local clerks, request what information is available, and then make the notification to the neighborhood organizations who are on record and whose boundaries include the proposed development site.

If it's the board's direction, we might consider a refinement to that, to address this problem further, by looking at zip codes, and perhaps a half mile radius of the site, even if we don't have evidence that those neighborhood organization's boundaries include the proposed site.

MR. SALINAS: Do we have the discretion of saying half a mile from the development?

MR. WITTMAYER: We could do that as an effort to implement the legislation. I believe we could, yes.
MR. SALINAS: I would think that would be the -- a half mile or -- the same thing as the planning and zoning that's got 300 feet, I think, that everybody has to have a letter. This year, half a mile, about -- and I agree with you 10,000 is non-profit in Houston.

MR. WITTMAYER: Perhaps, with the notifying the neighborhood organizations within a half mile of the proposed development site, or those that have the same zip code as the development site.

MR. SALINAS: Yes.

MR. CONINE: Mr. Bogany?

MR. BOGANY: I'd be in favor of the same zip code, and if it borders another zip code, a half or mile or so, but I would also -- and I hate to bring them back up -- but I would like to hear what the public would think of that also. Would you guys be in favor of that?

MS. EVANS: I think the zip code would be a better idea than something like within 300 feet, bacchus there are some organizations who there might be a city-wide neighborhood group, or there might be a large master-planned community where if you only notify within 300 feet, you might not get them. So I think probably zip code would be a much broader area, I guess as long as the, you know, zip code doesn't change right across the street.
from that development. So you might fall into another zip
code or within 300 feet.

MR. SALINAS: Okay. The only place you're
going to have a problem here is in the City of Houston. I
don't think anybody else would have a problem because of
your planning and zoning sending out notifications of
what's happening. I think the City of Houston, if you go
through the zip code, you're going to have a great deal of
paperwork. Half a mile would be about justifying the
neighborhood, of what's happening close to their, half a
mile away from the organization.

MR. KAHN: Mr. Chairman?

MR. SALINAS: Zip code would be very costly to
the developers.

MR. CONINE: Mr. Kahn?

MR. KAHN: All right. The reason I suggested
the zip code is a matter of proof, as a choice, showing
what's in a mile or half a mile, because otherwise it
would be a tremendous amount of work to prove up the
distance. Since the listings, both in Dallas and in
Houston, are by zip code, there's at least some sort of
more reasonable way of approaching the problem.

MR. BOGANY: So you're okay -- I guess you are
because you're suggesting it -- that the zip code and that
the border zip code, maybe a mile or a half mile into that
to the border, or whatever --

MR. KAHN: A quarter mile, yes.

MR. BOGANY: -- it would be. Ms. Carrington?

MS. CARRINGTON: Yes.

MR. BOGANY: What is Brooke's thoughts on this?

MS. CARRINGTON: Yes, sir.

MS. BOSTON: Do you want me to go ahead?

MS. CARRINGTON: Yes, Brooke Boston, Director of Multifamily Finance Production.

MS. BOSTON: Thanks. One thing I just wanted to point out in clarification, and make sure I'm clear from Ms. Evans, is that there's two different distances that have come up in notifications. My impression from Ms. Evans is that she's referring to the distance that's in lieu of signage, which has to do with a certain number of feet if you don't want to do a sign. I thought you all were talking about the distance that would be off of the clerk lists, with the zip code.

MS. CARRINGTON: Right.

MR. BOGANY: Do we have a choice with this?

MS. BOSTON: Yes, I just want to be sure we're talking about the same thing and that they appropriately understood what you were thinking of.
MS. EVANS: Yes, I was talking about the notification of letters --

MS. BOSTON: Okay.

MS. EVANS: -- because I don't agree with the taking away the signage, the notification, putting notification instead of that signage.

MS. BOSTON: Right, because you mentioned 300 feet --

MS. EVANS: Right.

MS. BOSTON: -- which ties in more with the signage.

MS. EVANS: Right.

MS. BOSTON: Okay.

MS. EVANS: I was thinking about the letter, too.

MR. BOGANY: Okay.

MS. BOSTON: Okay. From an administrative perspective, I think it's very nice for the applicants to have a clear delineation of what they need to do with the clerk list and, definitely from a staffing perspective, it's a clear cut way to handle it.

MR. BOGANY: So this is an alternative to the sign?

MS. BOSTON: No.
MS. CARRINGTON: No.

MR. BOGANY: The sign still has to be there?

MS. BOSTON: Under a different section --

MS. CARRINGTON: Another section.

MS. BOSTON: -- you can do the sign or the notification.

MR. BOGANY: Either one?

MS. BOSTON: Right.

MR. BOGANY: Okay.

MS. BOSTON: And then, this is notification that's separate.

MR. BOGANY: Okay. Thank you.

MR. CONINE: Any other questions of Mr. Kahn?

(No response.)

MR. CONINE: Thank you, sir.

MR. KAHN: Thank you.

MR. CONINE: Granger MacDonald?

MR. MacDonald: Good morning.

MR. CONINE: Good morning.

MS. CARRINGTON: Good morning.

MR. MacDONALD: I'm taking this opportunity to speak to you about the same ongoing debate that Mr. Kahn started about distance. I would like to point out in the smaller communities, for example, my own town of
Kerrville, Texas, we have one zip code that covers three communities, Center Point, Ingram, and Kerrville. We've got to have a geographical distance boundary of a half mile, thousand feet, or something.

If you pull a list right now in Kerrville, Texas of neighborhood groups, you will get the Kerrville Dutch Oven Society, the Kerrville Barbershop Quartet group, the Kerrville Quilting Society. I think there's some 61 more that go on like this that have nothing to do with housing. Even notifying them in our same zip code is ridiculous. I mean, that's the only word for it.

I don't know how we could, as developers, which group that we need to notify or not notify, but I think it's much more reasonable if you say notify all of them within a half mile. And yes, we're going to be notifying the barbershop quarters and the quilting societies within a half mile, but at least we've narrowed it down to some extent. I would like to suggest that as an amendment to the board, if you would please consider it.

Initially, I'd like to also suggest that with the pre-applications that are due on January 8 or 9, that the self-scoring requirement be eliminated this year, or if you wrongly self-score, you don't have a penalty, because this new QAP is going to be very hard to
interpret, and scoring yourself this year is going to be very challenging at best, and I hate to see someone lose their early application points because they put the wrong self-score together, as difficult as this all is to interpret.

Thank you.

MR. CONINE: Mr. Wittmayer, could you refresh my memory on the notification requirement to, I guess, the neighborhood groups? How is it defined in the statute, one more time, so we don't get the quartets, and the quilting societies, and all that kind of stuff going on?

MR. WITTMAYER: Senate Bill 264 states that the applicant and the Department as well are to notify the neighborhood organizations that are on record with the state or county whose boundaries include the proposed development site. On its face, that seems simple enough.

The problem is that there's a dearth of records available at the state, and at the county, and at the city for that matter, which is the most likely place to find these kinds of records, that indicates what neighborhood organizations they have on record, and what their boundaries are.

That's the problem and we're trying to implement about the best way we can.

MR. CONINE: So --
MR. SALINAS: So we have about a half a mile away?

MR. WITTMAYER: Perhaps, I would suggest, and there seems to be some consensus around it, if we used an alternative notification that if the clerk's lists does not indicate what neighborhood organizations exist and what their boundaries are, then the developer would notify all addresses on this clerk list within a one half mile radius of the proposed development site, or alternatively, within that same zip code.

MR. BOGANY: Can we have a -- why couldn't we have a separate for rural and a separate for urban?

MR. CONINE: Yes.

MR. SALINAS: I don't think it's fair for the rural communities and people that have zonings in their own communities to have to deal with the problem we've had in certain communities that don't have zoning.

I think every community in Texas, especially in Kerrville, that has their own elected officials, and has their own planning and zoning, and have their own public -- they publicize in the newspaper, send out letters to the community where these developments are going to be at -- do not have any problems. I think they're being penalized by bringing this 264.
I think the idea in the rural communities, and in the Valley, and also in El Paso, along the border, should be half a mile. I don't think that it's fair that all these rules have to implement the problem in our communities that have obeyed and stuck by the rules for as long as they've been created as a city, especially Kerrville and the small communities that have to deal with, what, three other cities. I just don't think it's fair.

We've got to amend this QAP --

MR. CONINE: Yes, I would agree with you and we'll get to that here shortly.

MR. SALINAS: Okay.

MR. CONINE: Again, one of the things --

there's two questions here in my mind, distance and who.

MR. SALINAS: And who.

MR. CONINE: The who is the question on the table right now. You said the statute, 264, said neighborhood organizations.

MR. WITTMAYER: Correct.

MR. CONINE: It didn't say housing organizations?

MR. WITTMAYER: No.

MR. CONINE: It did not say anything more
definitive --

MS. CARRINGTON: No.

MR. CONINE: -- other than that?

MR. WITTMAYER: It just says neighborhood organizations.

MS. CARRINGTON: With no definition.

MR. CONINE: With no definition?

MS. CARRINGTON: Correct.

MR. WITTMAYER: No definition.

MS. CARRINGTON: Correct.

MR. CONINE: So the four of us get to decide what the definition is.

MR. SALINAS: You're talking about a lot of neighborhoods.

MR. CONINE: That's great. Okay. Thank you.

MR. MacDONALD: One alternative --

MR. CONINE: Yes?

MR. MacDONALD: One alternative, Mr. Chairman, in the future might be that the Department develop its own database that they say, if you're going to develop in this area, here are the groups that you have to notify.

MR. CONINE: Well, the whole thing to me is so difficult to take -- neighborhood organizations are not a legal, organized entity, other than being a
non-profit organization and that is such a nebulous term. There's no sanction to it. There's no electoral process to it, like there is a city, county, state, you know --

MR. MacDONALD: Well, and to take that a step further --

MR. CONINE: -- trying to blend the two is very difficult.

MR. MacDONALD: -- some of them don't even have by-laws or regulations. They're calling themselves a neighborhood group and there's no real structure to them.

MR. CONINE: Right. Thank you, sir.

John Garvin?

MR. GARVIN: Good morning. My name is John Garvin and I'm with the Texas Affiliation of Affordable Housing Providers. You've heard from some of my board members already so I won't be repetitive.

If you look on page 2 of today's response to some of the outstanding comments, we have it in writing, the rural option and urban option using the zip code and if you're in a quarter mile of an adjoining zip code, notifying that. I think that works great with what the neighborhood organizations were saying earlier. You're not missing that one right over the edge of the boundary, and we agree, and this doesn't prevent anyone from coming
and saying anything about your development. It's just who
you notify.

Again, I'd like to thank you for the
opportunity to comment. We really -- I mentioned this a
few months ago about maybe putting together this statewide
database and even the author of the bill said that he'll
file legislation to do it. If I'm not mistaken, I think
you can use the money you have, with the increased bond
application fee, as part of the campaign to get
neighborhoods involved in this process.

So we think there's an answer in sight. We
wish we had done it a little earlier so we wouldn't be
going through this right now.

It's funny. We have a lot of the same
agreements with the neighborhood organizations on the
subjectivity of the letters. I think we're coming after
it at a different angle. We're afraid you'll give too
much subjectivity to the organizations and they're afraid
you'll give too much to us. So we would like to see more
parameters on the EARAC committee scoring, just so that
especially if you do still require the self-score, that
people have somewhat of a clue on how those points will be
gathered.

We also think -- and you'll hear more of this
from other members -- we think that the state officials are required, you're required to give points to the state senators and state representatives, but you're not prohibited from giving points to mayors or county judges.

We really think that you shouldn't give points to one and not the other. We think that a mayor has a lot of input about that community. I'm not just trying to get on the Mayor's side. It's a great opportunity. I couldn't resist.

Also, I think Bobby did a good explanation of there's so much diversity in communities that we do think restrictions on unit mix is a little tough to handle. I think the staff's proposal to delete it entirely is the best recommendation, but the 60-40 is liveable.

That's all we really had to say. We'd be more than willing to work on that statewide database with you. Thank you very much.

MR. CONINE: Any questions of Mr. Garvin?

(No response.)

MR. GARVIN: Thank you.

MR. CONINE: Thank you. Diana McIver?

MS. McIVER: Thank you. I appreciate the opportunity to address the board this morning. My name is Diana McIver and I also have several hats in this process.
My firm serves as consultants to non-profits developing tax credit projects. We also serve as developer in rural communities and about to be ex-urban communities. Also, I'm vice president of TAAHP, and so, of course, have to agree with everything John Garvin just said to you. I was also a member of the 2004 working group on the QAP and that has given me an enormous appreciation of what the staff has to do to produce one of these documents.

So my comments today reflect some of the ones that you've heard from other folks, but a couple of clarifications as well. The first one is that I actually applaud the fact that the agency added a proration of credit cap for joint ventures in the rural areas that have capacity building, but just as a point of clarification, the language there says that that is the case if the size of the project were 76 units or less, rather than less than 76 unites, which is the definition that applies throughout the rest of the QAP. So I was just asking for a technical correction there.

The second one it limitation on the location of developments and that's in the funding within a mile of each other. I find it hard to believe that I know that's in the statute, but other parts of the statute have the exception for senior housing versus family housing, or for
rehab. So it just seems to me it would probably be worthwhile to check the legislative intent of that particular section to see if indeed they didn't mean that to have the same parameters as the rest of the rules and laws that relate to locating two developments within a mile of each other.

The third one is on threshold amenities. If you read the section on threshold amenities, there's now a list of about eight and a developer has to choose four of those, but then when you get back over to the points for amenities, there's a threshold requirement there as well. There's some duplication between them and I think it's going to be difficult.

I know that the reason that we have a threshold on the amenities is because staff wants developers to put a certain amount of amenities. I think that we could, by having, say, a minimum score of 50, I think we could solve both problems and consolidate the threshold amenities into the point-scoring amenities, and then create a minimum score. I think that gets past that problem.

One issue that just really drives me crazy -- and it gets back to working in the ex-urban issues -- and that's the newspaper notice. People have talked about notifications today, but nobody's really addressed the
newspaper clarification. The way it's written now, if you
had a project in Waxahachie, as an example, you would
advertise not just in the Waxahachie newspaper, which is a
five day a week newspaper, but you would also have to
advertise in the Dallas Morning News, the Fort Worth
Star-Telegram, because it's requiring you to advertise in
your local paper plus all of your metropolitan papers.

So my recommendation -- and it's slightly a bit
of a compromise from the one that's in your TAAHP letter,
and also what's in my letter -- but in thinking about it
this morning, if we could have it such that if you're in a
community that has a newspaper that's published at least
five days a week, then could you be exempt from also
publishing in the metropolitan paper as well?

I will say, I mean, if you take an example like
Texas City, Texas City has a regular newspaper. It's
published six days a week. Galveston does, too. And yet,
they're part of the same metropolitan area. It seems like
a project in Texas City doesn't need to notify Galveston.

You have the same thing when you're in, like, Plano and
Dallas Morning News.

So it seems like if there's a major -- well,
it's not a major, but for that community, it would be a
major paper, five days a week, give us the exception,
because it is very expensive to advertise in those newspapers, and I really don't think that is where you get your comment, now that we're doing signage and all of the other notification as well. So I feel strongly about that one.

Quantifiable community participation, we've had a lot of conversations this morning, I think we're on the right track, but I think what we're losing is the points that we got last year for other kinds of organizations. I think we've put so much focus on neighborhood organizations -- and I think those are important -- but when you go into rural communities, or even a lot of our ex-urban communities, they don't have what we're thinking of as neighborhood organization associations.

So let us get points for letters from the Boys and Girls Club, or the Chamber of Commerce, and things that may not be on the clerk's list. Let's go back to including that broad, reasonable definition of points for neighborhood support, even though they may not qualify within that definition. I think they're two separate things. I think notices and support should be treated separately.

Community support from elected officials, here's our proposal. Basically, again, we should not be
sitting there giving six points for a state official
elected letters, three each, and not give points for a
letter from a mayor, or a resolution from a city, or a
letter from a county judge, or a resolution from a county
commissioner's court.

So our proposal is this, you're giving six
points for the state elected, three each. They're minus.
A letter against, you get three minus points. Let's go
ahead and add three points for a mayor or a city council
resolution, and three points for a county judge or a
resolution. That way we take it to twelve points and the
reason we're saying only give nine points for that
category is you could have an instance where you have a
project in a county, where you don't have a mayor's
letter.

So your maximum eligibility would be for nine
points, but I really think -- Mayor Salinas, I think your
going to agree with us on this one -- mayors should have
three points. Right? I think you'd also say that a
county just should get three points.

MR. SALINAS: Right, because those are the
people that are involved with the community. Those are
the people that talk to them --

MS. McIVER: Right.
MR. SALINAS: -- and know what the project is in the local level. We're getting away from that --

MS. McIVER: Yes.

MR. SALINAS: -- and those people are going to be accountable to the people who they represent, and as long as we don't forget that --

MS. McIVER: Yes.

MR. SALINAS: -- because there are elections every two years or every four years --

MS. McIVER: Right. Exactly.

MR. SALINAS: -- and people do have the process of agreeing with them on election day. Those are the people that should decide where the project's going to be at.

MS. McIVER: Right. Interestingly enough, I found last year, in looking for state Senate letters, that basically they will say, Do you have a letter from the mayor? Bring that to me and then I'll give my support, but, very definitely, I think that's got to go into this category.

My last comment is I really do appreciate that the staff came with us on a lot of the cost per square foot issues, but when you are doing -- they're still being penalized when you're doing three-story, or high-rise,
elevator senior buildings because what happens is, those hallways, you don't get credit for. And so by not using gross rentable as the denominator, and just using net rentable as the denominator, it still treats senior multi-story projects unfairly.

So all I'm asking is, maybe as a compromise, if we could include hallways, enclosed, air-conditioned hallways, into that calculation. Then, I think it's a little more fair for the senior properties.

Those are my comments. I thank you very much.

MS. CARRINGTON: Thank you, Diana.

MR. CONINE: Any further questions?

(No response.)

MR. CONINE: Thank you.

MS. CARRINGTON: Mr. Chair?

MR. CONINE: Yes, ma'am?

MS. CARRINGTON: I would like Chris to address the support letters from elected officials.

MR. CONINE: Okay.

MR. WITTMAYER: You might debate the policy choices that might be made about scoring, but the Department staff has tried extremely hard to follow the requirements of Senate Bill 264, and even given that effort, we've received some criticism, but I just note for
the board that 264 explicitly states that we are to give
points based on the level of community support, evaluated
on the basis of written statements from state elected
officials. We've been told informally that the intent was
that this be limited to state elected officials and that
local officials not receive points for their input.

Also, to address one other point that Ms.
McIver --

MR. CONINE: Whoa. Wait a minute. I didn't
hear that. In the statement you read, even though you've
been told something by this mysterious voice out here, I
didn't hear that in the actual language that you read. My
interpretation, or my interpretation of that I heard was,
we must give it to state elected officials. It did not
exclude local officials.

MR. WITTMAYER: It simply states that we are to
give points for state elected officials.

MR. CONINE: They wanted to make sure that they
got included in the mix, is the way I hear it.

MR. WITTMAYER: I think the statutory
construction, the principle that would be applied to this
language, is that because it says state elected officials,
and does not mention points for the local officials, that
the intent of the provision was to give points only for

ON THE RECORD REPORTING
(512) 450-0342
state elected officials, and not for elected officials.

MR. SALINAS: Can you define state elected officials?

MR. WITTMAYER: The state Senator and state representative.

MR. SALINAS: How about the county commissioner? He's certified and, you know, the county commissioner and county judge are state elected officials. They do get confirmed --

MR. CONINE: Read it to us one more time.

MR. SALINAS: You know, I can agree with the mayor and city council, but on county commissioners are state, and county judges are state elected officials.

MR. WITTMAYER: The implementation of the statutory language, of course, is ultimately up to the board. I'm merely here to bring you the language of Senate Bill 264, which states that the Department will score the applications based on the level of community support for the application, evaluated on the basis of written statements from state elected officials.

MR. SALINAS: I would like to suggest that that includes the county commissioners for our state elected officials, and county judges. I don't know about mayors. I would have a conflict there, but if it's okay with Mr.
Conine, I will go ahead and include that.

MR. CONINE: Mr. Bogany?

MR. BOGANY: In reading that, Chris, are you saying that her suggestion was that we add mayor and city council, or city resolution in that. Do we have the ability to do that, based on the Senate bill, because what I heard was just basically include make sure you include state people? So could we add more points? Or does that change anything?

MR. WITTMAYER: I think we can make some arguments about what the intent of this language is. Is it to limit the point scoring only to state officials, thus excluding local officials? Or is there room to include local officials? Ultimately, the board is empowered to apply this language. We have been told that it was the intention of the language to exclude local officials.

MR. BOGANY: Okay. That's what I wanted to know, what would it contain.

MR. SALINAS: Can we include the county commissioners and county judge? Those are state elected officials and are certified by the governor's office.

MR. WITTMAYER: That's up to the board to decide, Mayor.
MR. CONINE: Thank you, Mr. Wittmayer.

MR. WITTMAYER: If I could quickly address one final point about the points for organizations other than neighborhood organizations. Again, I think the same principle would apply there. We are instructed to score, as the second highest scoring item, quantifiable community participation based on letters from neighborhood organizations and it doesn't talk about other types of organizations for scoring.

MR. BOGANY: I have a question.

MR. CONINE: We need to decide what those are?

MR. WITTMAYER: Neighborhood organizations is not defined.

MR. CONINE: Right. We're going to have to decide then.

MR. BOGANY: Mr. Wittmayer, in regards to the newspaper, will we be out of line, are we following Senate Bill 264, if we said, if it's an ex-urban area, we can go with a daily paper?

MR. WITTMAYER: I need to double check that.

MR. BOGANY: Okay.

MR. WITTMAYER: What I'll do is as soon as I sit down -- Brooke, do you recall the --

MS. CARRINGTON: I don't think it addresses it.
MR. WITTMAYER: Okay.

MS. CARRINGTON: I think that it's silent and that we made a decision two or three years ago to require advertisement in both a local newspaper, if it was a smaller community, and a metro newspaper. So that's one thing that I think is at the board's discretion.

MR. WITTMAYER: Okay.

MR. CONINE: Why don't we take a ten minute break at this point? That's the last public comment that I have on the QAP. Let's take a ten minute break and we'll be back shortly before 10:00 to continue deliberation.

(Whereupon, a short recess was taken.)

MR. CONINE: We'll call the board meeting back into session. I've got one more witness affirmation form that I need to take care of prior to closing off public comment and it's Jeremy Mazur. Jeremy, where did he go? There he is.

MR. MAZUR: Good morning, Mr. Chairman, members of the board. My name is Jeremy Mazur. I'm the Legislative Director to State Representative Bill Callegari, who sponsored SB 264 during the 78th regular session. I'd like to provide some clarifying comment with regard to my boss' position on the points for elected
officials.

During the session, he was very interested in having the points be attached to letters of support or opposition from elected officials, in particular, negative points for negative letters and positive points for positive letters. I certainly know that he wanted that to apply to state elected officials and I also believe that he wanted that to apply to local officials, including mayors and county commissioners. So I just wanted to stand here and provide this clarification to you right now.

MR. CONINE: I'm glad to hear that.

MR. MAZUR: Do you all have any questions about that?

MR. SALINAS: Can you put it in writing?

MR. CONINE: Yes, can you put it in writing?

MR. MAZUR: I mean, I can certainly talk to my boss. If you guys need a letter, I can certainly talk to him about that.

MR. CONINE: Well, we -- just my thoughts during the break were to try, if we could, maybe, as a board, construct something that would be in the QAP that would allow for those particular points, subject to an opinion letter maybe coming from the AG's office, on the
legislation and I'm sure a letter from the sponsor of the bill to either us and/or the AG's office, if the board decides to do that in the ultimate QAP language, would be very helpful.

MR. MAZUR: One thing, to sort of just add on a bit, I mean, just thinking back to the times in Katy, with the developers there, I mean, he certainly wanted his letter to have weight there, but I also know if you look at the case of, like, the Katy mayor or the county commissioners involved, he would want equal weight applied to those.

MR. CONINE: I'm sure the state representative supports local officials and their elected abilities, and also would not want to be accused of the state officials getting into land use policies, which are local previews.

And so, I appreciate you clarifying that.

MR. MAZUR: Okay.

MR. CONINE: We'll try to take that under advisement.

MS. CARRINGTON: Thank you, Jeremy.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Okay. I'm going to cut off public comment on item 3(a) and go to Ms. Carrington, the
allocation plan for the tax credits for 2004.

    MS. CARRINGTON: Thank you, Mr. Chairman. The board approved the draft of the QAP on August 14. That draft went out for public comment. The period of public comment on the QAP was August 29 to October 10. This was one of the documents that was discussed at our 13 consolidated public hearings around the state. As we've indicated, about 250 people did attend those public hearings and most of the comment that we did receive related to our draft of the Housing Tax Credit Plan.

    What the board is going to be asked to do today is to actually take two actions related to the Tax Credit Program. The first would be to repeal Title X, Part 1, Chapter 50 and then, the second action would be to adopt the new Title X, Part 1, Chapter 50.

    MR. CONINE: Can I get a motion on the appeal so we can get that behind us?

    MR. BOGANY: So moved.

    MR. GONZALEZ: Second.

    MR. CONINE: Any further discussion?

    (No response.)

    MR. CONINE: All those in favor, signify by saying aye.

    (A chorus of ayes.)
MR. CONINE: All opposed?

(No response.)

MR. CONINE: Thank you.

MS. CARRINGTON: Thank you. As the board looks at the second page behind the action item, you will see a memorandum from Brooke Boston, who is the Director of our Multifamily Finance Production Division. What the staff has done is summarize the comments that we received at our public hearings, also that were received by letter and by E-mail, and what we've done is organize those comments based in sequential order, with the items in the QAP, and we have summarized the comments, and then we have provided a department response.

Each of the section items of the QAP, you will notice that there are numbers after them. If you look at 50.2, Coordination with Rural Agencies, you'll see two numbers, that is, 10 and 48. If you go to pages 43 and 44 of our memorandum, what you will note on those two pages, are who are the commenters who made those comments. So if you're interested in who commented about a particular item to the department, then you can go to pages 43 and 44 to see where those comments came from.

We'd like to ask you to take this in actually two parts this morning. The first is some clarifications,
corrections, and inconsistencies that staff has discovered
in the QAP. I'd like to ask Brooke to go over those. And
then, the second part of it will be you all's discussion
on the qualified allocation plan for 2004.

MS. BOSTON: Hi.

MR. CONINE: Hello.

MS. BOSTON: Brooke Boston, Director of
Multifamily Finance Production. As Edwina mentioned,
there are three technical clarifications that we wanted to
mention.

One, the first is under the definition for an
eligible building type. This is more of an inconsistency
between the memo and the black line QAP that you received.
I'm guessing that this may be discussed anyway, but the
actual memo had said that staff recommended taking out the
limits on the unit caps, the 60 percent at one, 60 percent
at -- well, the original proposed -- and our actual
recommendation was to take it out entirely, but we
provided alternative language, but the black line QAP
actually shows it with the alternative language in here,
and that's actually not our recommendation.

So that was one clarification. The second is
that for a non-profit, we had made sure -- in the memo, we
mentioned that for qualified non-profit development, we
were moving the language back to only needing to be controlling and it did not need to be the sole general partner and we didn't make the change in it in the second location. I just want to make the change so that it's consistent throughout the document, so it's clear.

The third is under sponsor characteristics, we had proposed adding back in language for HUB points and, inadvertently, didn't put a number of points, only the language for the points. Our suggestion from last year's QAP would be three points. So if this isn't discussed, I would suggest that we put it in as three, unless you all want to recommend something else.

Those are my only things.

MR. CONINE: Are you finished with your presentation?

MS. CARRINGTON: Yes, sir, I am.

MR. CONINE: So we need to open it up now for discussion of the board.

MR. BOGANY: I have a couple comments.

MR. CONINE: So do I. Go ahead.

MR. BOGANY: Okay. Well, I'll let you go first.

MR. CONINE: No, I don't want to go first. You go first. I go first for the last several years. You go
first this time.

MR. BOGANY: I would like for us to adopt the rules in regards to the zip code and notification, the ones that want to be what Mr. Kahn brought up, and also being able to separate urban from rural, or ex-urban from rural, because in the rural areas, what the other speaker said that hey, it ought to be a mile, or a half a mile from the project, being able to have that in there.

MR. CONINE: You want to discuss that?

MR. BOGANY: Yes, I wanted to just put it out.

MR. CONINE: Let's put it out and discuss that so we can kind of get it behind us. Brooke, would you mind clarifying for the board what's currently in the proposed QAP, because you mentioned two different notification requirements?

MS. BOSTON: The section you are referring to is, let's see, in our threshold requirement regarding notification and it's on page 25 of 65, and it rolls onto page 26, relating notification. Right now, it's drafted as the applicants send a letter to the city and county clerk, and then, whatever is in that letter, like whatever list is attached, is who they'd have to notify.

And so, in the circumstance that Mr. Kahn raised, he's saying in Houston that list is 1,000
entities. That's where they generated the suggestion, perhaps, we should limit this, so both on their side it's not that onerous. You know, there does give some language in here already that says if they don't want to notify some of those, that they can document that it doesn't have the neighborhood in the boundaries, that they wouldn't have to notify, but they have to prove that's the case, which is also kind of an onerous task. So this would be an easier task for doing it, for them as well as for staff.

MR. BOGANY: Is going with the zip code and if you've got a bordering zip code, a half a mile or a mile away --

MR. CONINE: No, this is under the notification as a choice over the signage issue?

MS. BOSTON: No.

MR. CONINE: This is just general notification that here we come?

MS. BOSTON: Correct.

MR. BOGANY: [inaudible.]

MS. BOSTON: This is not the signage section. There's a section of threshold that is solely about notification as it relates to city and county clerks, and then whoever is in there letters.
MR. CONINE: So you've got newspaper notification, which we're not dealing with yet, and this other notification, and signage, and/or area notification?

MS. BOSTON: Correct.

MR. CONINE: You have three different notifications?

MS. BOSTON: Correct, yes, plus notifications to officials.

MR. BOGANY: Can I ask you a question? If I decide to notify within that zip code, on my own way, or whatever, does that mean I don't have to put a sign up?

MS. BOSTON: No, you still have to do --

MR. BOGANY: You still have to put your sign up?

MR. CONINE: You have to, yes.

MS. BOSTON: Yes.

MR. BOGANY: Okay.

MR. CONINE: Or --

MS. BOSTON: Well, under the signage section, there's an either or. You do the sign or you do a notification to residents --

MR. CONINE: To property owners.

MS. BOSTON: -- within a certain area.

MR. BOGANY: Okay.
MS. BOSTON: These notifications aren't to residents, they're to entities.

MR. CONINE: Neighborhood organizations.

MS. BOSTON: Right.

MR. CONINE: Okay. Now, I got you. All right.

MR. BOGANY: Along with that, the five day, with regards to the local, what's your thoughts on the local paper? Like in Texas City, for example, the five day a week -- I mean, we have one paper in Houston and I know the cost is very high to do that. I'm just thinking, I would think the locals would probably read both papers. It would look like the local paper, because it's having to deal with it -- what's the thoughts on that?

MS. BOSTON: I think that makes sense. You know, we've just been cautious over the past few years because we did have specific developments a few years back that hadn't made notifications in a particular paper, and that's the paper the community read, and so, it caused us problems, which is kind of why we went this way, but I think this other suggestion makes sense as well.

MR. CONINE: Ms. McIver's suggestion, is that the one you're referring to?

MS. CARRINGTON: Yes.

MS. BOSTON: Yes.
MS. CARRINGTON: Yes. If it's published, I think, Diana's case it was five days a week that it was published.

MR. CONINE: Okay. So let's get it narrowed down here. On the newspaper notification, board members, do we have any issues with Ms. McIver's suggestion that we give them another option in the metropolitan statistical areas? Are we okay with that? Shall we --

MR. BOGANY: I'm okay with that.

MR. CONINE: Should we place that in the form of a motion to amend --

MR. SALINAS: Yes.

MR. CONINE: -- on the newspaper side?

MR. SALINAS: I move.

MR. CONINE: Okay.

MR. BOGANY: Second.

MR. CONINE: And a second. Any other discussion?

(No response.)

MR. CONINE: All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Okay. Now, let's go to the neighborhood group notification. What's been suggested is
that we go to a half mile, was that the kind of consensus
that I heard?

MS. BOSTON: Actually, I think the proposal was
that if you're in an urban or ex-urban area, it would be
by zip code. If the zip code boundary is within a half a
mile of the development, you'd have to do the adjacent zip
code as well. And then, if you're in a rural area, it
would be a specific distance, a mile, a half a mile, the
board's discretion.

MR. SALINAS: A half a mile.

MR. CONINE: A half mile? Okay, everybody?

MR. SALINAS: I would say half a mile. I
really don't think that the rural communities in Texas
have any problems with any of this because we do have not
too many non-profits and the people that we have in our
neighborhoods, we know, but half a mile would be about the
right thing to do.

MR. CONINE: Okay. Any further discussion from
any board members?

(No response.)

MR. CONINE: Why don't we get a motion to make
that adjustment?

MR. SALINAS: So moved.

MR. BOGANY: Second.
MR. CONINE: Okay. All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now, we have -- on the signage and other notification, we really haven't had much comment on that, that I heard today, unless I missed something.

MR. SALINAS: I would think the sign, we just have a sign at the development site.

MR. CONINE: A big sign?

MR. SALINAS: A big one.

MS. CARRINGTON: Brooke, would you reference that section, please, of the draft QAP?

MR. BOGANY: Can I just ask a question?

MR. CONINE: Sure.

MR. BOGANY: Did the public have a problem with the sign?

MR. CONINE: It's in TAAHP's comments, I think, but I don't --

MS. McLAUGHLIN: We did want an alternative [inaudible] --

MS. CARRINGTON: What --
MR. CONINE: Okay.

MS. McLAUGHLIN: -- as to the best method to be possible to the [inaudible] --

MR. CONINE: Okay.

MS. McLAUGHLIN: -- issued right now.

MR. CONINE: The problem I have with that is many cities in Texas have city ordinances that say that if you don't own the land, you can't put a sign on it. So, again, to prevent the state from cramming down to the local level certain things, we wanted the flexibility to allow notification, like in the zoning process, in everywhere but Houston, but to allow for that flexibility, because when a property owner is getting something rezoned, it's him doing it.

That's why a city can put a sign on his property, but when another person is contracting to buy, you can't put -- at least in a couple towns that I'm aware of -- you cannot put a sign on that property because you don't own it yet. So that becomes an issue.

MR. SALINAS: Can we do that, exclude the rest of the state, and just include the Houston area?

MR. CONINE: What?

MR. SALINAS: Would that be -- I mean, that's the fair thing to do.
MR. CONINE: I think, Mr. Mayor, I think we just leave the thing in the QAP the way it is.

MR. SALINAS: Okay.

MR. CONINE: It gives the developer the flexibility of doing either or, depending on which situation is more pertinent to him.

MR. SALINAS: Okay.

MR. CONINE: I think we just leave it like it is.

MS. BOSTON: Okay. And so, that was --

MR. CONINE: That's the three notification issues. We're done with those. You had some other things, Mr. Bogany?

MR. BOGANY: Yes, I wanted to talk a little bit about the deal with the razing, or tearing down, Housing Authorities in rural areas. I know you can do it with the HOPE funds, you know, but what happens when you get an old housing project in a rural community and they've got to have so many funds. Is it an alternative to help them out where it's cheaper to raze it? Is there something we can do with that or are we violating something by --

MS. BOSTON: I think the specific proposal from Mr. Palmer was that we should, just to our at-risk definition, augment it a little and say that if you
included not just HOPE VI funds, but the actual capital
grant funds, that come from HUD to the PHA, that that
would resolve some of their concerns and allow that to
cover more of the rural PHAs.

MR. CONINE: Are we still covering the world
though? Are we still -- I mean, I think the intent, at
least this board member's intent would be for any
restricted income project within the state of Texas,
that's old and dilapidated, if they want to tear it down,
and put the same number of units on there, then that
would, at least in my mind, maintain that particular
preservation of housing stock for 150 units, or however
many it was. Are we using the capital grants from HUD
with Housing Authorities, are we still including everybody
else? Or is that just all the universe?

MS. BOSTON: Well, just to clarify, the at-risk
definition is a little bit more restrictive than what
you're saying, in that the at-risk definition requires
that you'd actually have to be losing the affordability on
the property. So even if it's had funding, it's
dilapidated, if it's still got ten more years of
affordability, it wouldn't be eligible under the
definition, just for clarification purposes.

MR. CONINE: Okay.
MS. CARRINGTON: That's not a change of the definition. That is our definition for at-risk.

MR. CONINE: Okay. Right.

MS. BOSTON: Right. So there is a universe of who's eligible already and this would just be adding one extra category of who would be eligible.

MR. CONINE: Okay.

MR. BOGANY: Could we do that?

MR. CONINE: I'm open.

MS. BOSTON: I think the at-risk definition is defined in 2306, I'm pretty sure, and I know we've augmented it in some respects. So I guess I would defer to our general counsel to make sure he's comfortable with that.

MR. CONINE: Oh, boy, Counsel, we need your help once again.

MR. WITTMAYER: Again, this is similar to the state and local letter points, as to whether or not we're going to follow the language of the statute and read it to exclude that which is not mentioned or to expand it somewhat in a way that we believe is reasonable. I think the point is legally arguable, whether or not you're permitted to make that expansion, and ultimately is up to the board's discretion.
MR. CONINE: So maybe my previous statement would apply here. We could go ahead and allow for that, within the QAP, subject to getting an opinion letter from the Attorney General's office.

MR. WITTMAKER: We could do that or we could just go ahead and just --

MR. CONINE: And just do it?

MR. WITTMAKER: -- just do it.

MR. CONINE: Okay.

MS. BOSTON: If I could clarify one other comment you made. You had mentioned razing to the ground and starting over. The only at-risk deals we're allowing that on are the HOPE VI or PHA related ones. On the others, if they're totally going to go down to the ground and then rebuild, we wouldn't consider that at-risk. It would just considered new construction.

MR. CONINE: We'll talk about that at another time.

MS. BOSTON: Okay.

MS. CARRINGTON: Do you want to be in the working group for '05?

MR. CONINE: No. I've got a feeling I'll be around anyway.

MR. BOGANY: Ms. Carrington?
MS. CARRINGTON: Yes, sir?

MR. BOGANY: The gentleman who talked about the
razing in the rural areas, does this do what you want
done?

MR. PALMER: Yes, to add to the HOPE VI
definition an additional use of capital grant funds would
allow funding in rural areas, for the secondary cities
[inaudible].

MR. CONINE: Okay.

MR. BOGANY: All right. Brooke, and we can do
that based on what Mr. Wittmayer has said?

MS. BOSTON: Yes.

MR. BOGANY: That's great.

MR. CONINE: Is there a motion?

MR. BOGANY: I'd like to move that we --

MR. CONINE: Adopt the change?

MR. BOGANY: -- adopt the change.

MR. CONINE: Thank you.

MR. GONZALEZ: Second.

MR. SALINAS: Second.

MR. CONINE: There's a second, both Vidal and
the Mayor. All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Any opposed?
(No response.)

MR. CONINE: So moved.

MR. BOGANY: I have one more and I'll be through. In regard to in the QAP it talked about that a developer, if he decides that -- it says something about partnering monies with non-profits, and that if a project decided that they didn't want to partner with a non-profit, and they wanted to put the money in to the deal themselves, and be able to make this deal work, it excludes them from putting -- they have to get some non-profit to work with them, and if they decided they wanted to put the money in, because when you do the financing it's short at some point -- do you know what I'm talking about in the QAP, the 1.1?

MS. BOSTON: Are you talking about the credit cap?

MR. BOGANY: Right.

MS. BOSTON: Okay. I think the -- and maybe I'm misunderstanding -- I mean, the proposal that we have in there right now that's new is that on the credit cap limit, if you're doing joint venture partnering in rural areas, you would actually prorate the credit cap for the people involved in that deal. It's basically a way to not penalize a developer who maybe wouldn't gone into a joint
venture.

MR. CONINE: I think he's asking a different question.

MS. BOSTON: Okay.

MR. BOGANY: No, I'm more talking about the debt service.

MR. CONINE: You go to the federal HOME loan banks, get AHAP money, stick it in the project, you get points, and it's a wonderful -- Gouris is happy and the deal works. If the same developer wanted to put those same dollars in, and didn't go to the federal HOME loan bank, but took it out of his own back pocket --

MS. BOSTON: No, it has to be from us.

MR. CONINE: -- you can't do that. So it's kind of an unequal playing field there, I think is what Mr. Bogany is saying.

MS. CARRINGTON: So is it the leveraging points, Mr. Bogany --

MR. BOGANY: Right.

MS. CARRINGTON: -- that you're addressing?

MR. BOGANY: Right.

MS. CARRINGTON: Okay.

MR. BOGANY: I'm sorry. That's not how I said it, but, yes, that's what I was talking about.
MS. BOSTON: Yes, okay. So the question being, it sounds like, that you are maybe suggesting that you would be able to have the applicant just subsidize the leveraging without actually having to have the funds from another entity?

MR. CONINE: Yes.

MR. BOGANY: That's what I -- right, exactly.

MS. BOSTON: The genesis of that section, as well as the loan targeting, was crafted from the 2004 QAP working group, and they put a lot of time into it. There had been a lot of healthy debate about how it had gone last year and that it was too flexible. I mean, I think it's a good idea. I think what they would do is just have more -- you know, they'd take it off their developer fee. I don't know that that was the idea.

MS. CARRINGTON: I think, perhaps, part of the idea is that by leveraging additional sources of funding in these developments that what you're looking to do is bring in as many different financing sources as possible, rather than relying solely on the tax credits to provide the equity for the developments.

One of the things that we certainly received a lot of comment on, in the last QAP, was that it could be a small amount of money that came from a third party,
another source. It could be $2,000 or $3,000 and that that basically was kind of a meaningless amount of money to be able to get leveraging points.

So I think that from the Department's standpoint, we look at combining a variety of financing sources on these developments as a positive thing. Perhaps, it allows the developer to target to lower incomes and so that's sort of been the thought as we've worked on this section of the QAP.

MS. BOSTON: And also, our state legislation, 2306, Section 6710, does require us to give points for leveraging for having funds from other sources, and it kind of specifies they need to be other sources.

MR. BOGANY: Okay.

MS. BOSTON: I think to make sure that we're not going beyond our bounds there, that we would want to be careful.

MR. BOGANY: Okay.

MR. CONINE: Anybody else?

(No response.)

MR. CONINE: I guess it's up to me. Several things, let's talk about Ms. McIver's letter, since I've got it right up here on top, the technical correction on the 76 units. Can we go ahead? Do you guys agree to
that?

MS. BOSTON: Yes.

MR. CONINE: The -- there's obviously some confusing on the one-mile issue. Can you help clarify that to where a dummy like me can understand it?

MS. BOSTON: It's confusing to everybody. There's actually two one-mile rules. There's a one-mile rule for three years. That's that you can't locate your proposed development within a mile of another development that's been funded in the past three years.

One of the comments had been about the term application round and how that related to the bond applications, and that there's comment that we shouldn't be using when the volume one is submitted. I'd like to point out that the term application round is a 9 percent definition that only ties to the competitive ceiling and there was no definition or parameter for how that even tied in with the 4 percent round, because that needs to apply to both local and state issuers, the first time we have involvement on the local issuer side is volume one. So that's where we were coming from with that clarification.

That one-mile rule has certain exceptions that can be made. The other one mile rule is within the same
year, we can't fund more than one development within a
mile of any other. That one has a little bit different
set of exceptions.

They both are taken almost verbatim from
legislation. There's not very much room for us to alter
anything.

MR. CONINE: So you don't think the Department
was going to have any trouble figuring out when the cutoff
is, and where the cutoff is, and all?

MS. BOSTON: Uh-huh.

MR. CONINE: You're pretty clear on all that?

MS. BOSTON: Yes.

MR. CONINE: It sounds like we still need to
communicate to the development community a little more
about the difference in the bond allocations and the 9
percents and so forth. I'm sure you'll do that.

MS. BOSTON: Duly noted.

MR. CONINE: Threshold amenities, her 50 point
minimum score, can you address that?

MS. BOSTON: Sure. It may have been my
misunderstanding, but having a threshold in scoring, my
perception of that was if you want the points, you would
have to meet the threshold, and then you would get points
about and beyond that, but if you didn't want the points,
then you wouldn't have to do any of it. We weren't okay with that. We think there should be a certain category of amenities that everybody has to do some of, as part of the threshold, that's not tied to points in any way.

If indeed the suggestion is that the language in the selection criteria actually is a true threshold and everybody has to do it, I probably want to kind of wordsmith how it's referred to somewhere, so that everyone who reads the QAP is very clear that it's threshold and not selection, but I mean, we would be open-minded to doing that. We can do that. I just want to emphasize, from our side, that it's going to be written in a way that it's definitely threshold and it's not just if you want the points.

MR. CONINE: Do you want to try to -- do you want the authority to do that language later? Or do you want to try to do it now and bring it back to us?

MS. BOSTON: We can try to do it now and bring it back.

MR. CONINE: Okay. Put that on your to-do list.

MS. CARRINGTON: May I ask a question?

MR. CONINE: You may.

MS. CARRINGTON: Would it be staff's
recommendation, Brooke, to make any changes to this section to the QAP, on threshold amenities?

MS. BOSTON: I'd like to look at it for a minute.

MS. CARRINGTON: Okay.

MR. CONINE: All right.

MS. CARRINGTON: Sounds like a lawyer.

MR. CONINE: The community support from state elected officials, again, kind of refresh our memory now. In the current, you've got pluses and minuses and a total maximum of each, I guess, within that bracket --

MS. BOSTON: Correct.

MR. CONINE: -- which are currently six points?

MS. BOSTON: Right.

MR. CONINE: The proposal is to add the mayor and county judge or county commissioners to that, but because of the rural situation, maybe only limit it to nine points instead of twelve. Is that what I understood her to say?

MS. BOSTON: (No response.)

MR. CONINE: Or create a differentiation of both, to have a twelve point deal for urban areas and a nine point deal for a rural deal? Is that what I heard her say?
MS. BOSTON: My understanding is that she was just suggesting that a total of nine and you could mix and match them from the different categories of letters, however they were able to get them.

MR. CONINE: Okay. All right. What would your feeling be about that, assuming we could get by the legality of this issue?

MS. BOSTON: You know, it's been a highly discussed issue. I mean, we did points for local officials for the past few years and we could do again.

MS. CARRINGTON: I think so.

MS. BOSTON: Was that sensitively said?

MS. CARRINGTON: If so instructed.

MR. CONINE: Do you want us to seek the advice and counsel of the Attorney General's office? Or do you think we should just bear out on our own here, based on Mr. Mazur's testimony?

MR. WITTMAYER: The most conservative approach is the default of the language, just the flat, straight language of the statute. The second most conservative approach would be to request an opinion of the AG. Also, a third option would be just for the board to make a decision about whether or not to limit it to state or also include local officials.
MR. CONINE: What's the board's pleasure?

MS. CARRINGTON: May I make one comment?

MR. CONINE: You may.

MS. CARRINGTON: During the legislative session, there certainly was discussion, in I believe it was the Urban Affairs Committee hearings, about the number of points that were eligible -- this was the prior QAP -- number of points that were eligible for state elected officials and the number of points that were eligible for local elected officials. It was very clear, at least with the state elected officials who sat on Urban Affairs, that they felt like they ought to have more points than the local elected officials. I don't know if that goes to --

MR. CONINE: I'd like to referee that dialogue.

MS. CARRINGTON: I can't tell you that that was legislative intent, but it certainly was a discussion that they had. So I think as we look to determining the appropriate number of points on these, that based on at least my conversations in those meetings, perhaps what you will see from staff is more points for state elected officials and fewer for local elected officials.

MR. CONINE: Well, that would be different from Ms. McIver's proposal, which does three, three, and three. You're suggesting, maybe, six and three.
MS. CARRINGTON: I think that that goes more accurately to the discussions that were had during the legislative session.

MR. SALINAS: I would like to recommend that we go and take the advice of Ms. McIver and that we get the --

MR. CONINE: Attorney General.

MR. SALINAS: -- Attorney General's opinion on it, and we go ahead. I don't think that the state representative from Katy, Texas meant that we did not get a letter of support from the local mayor, or the local county commissioners, or council. I think he agreed with us and I don't think he meant any other way, but I think it's very important that the communities, mayor and commissioners, get involved.

MR. CONINE: Well, actually the way Ms. McIver has this written, Brooke, it actually maxes out at six for the state and three for the others. So it would work in this particular -- it would work.

MS. BOSTON: Uh-huh.

MR. SALINAS: Ms. McIver's recommendation should be implemented and get the recommendation.

MR. CONINE: Okay. All right.

MS. BOSTON: Because we have to have this filed

ON THE RECORD REPORTING
(512) 450-0342
with the Texas Register on Monday, are you suggesting that we would put this in, and then while it's being reviewed by the governor's office, we would be requesting the opinion?

MR. SALINAS: Yes.

MR. CONINE: Yes. I guess I would add the language subject to

MR. SALINAS: Subject to.

MR. CONINE: -- the mayor and county judge three points would be subject to an Attorney General's opinion letter.

MS. BOSTON: Okay.

MR. CONINE: That covers all of our bases, I think. Can I get a motion on those items on Ms. McIver's?

MR. SALINAS: I move for the recommendation.

MR. CONINE: We'll do it as a block motion.

MR. SALINAS: I move for the recommendation.

MS. BOSTON: Only the ones you discussed, though, right, not everything?

MR. CONINE: Yes, so far, I'm not finished, but just so far on this letter, yes.

MR. GONZALEZ: Second.

MR. CONINE: There's a motion and a second by Mr. Gonzalez. Any further discussion?
(No response.)

MR. CONINE: All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Okay. The HUB points, let's talk about that for just a minute. We couldn't ever get to where we were comfortable with the language so we're just reverting back to '03, which I'm not sure, you know, I necessarily agree with.

I think, you know, in the interest of levelling the playing field and creating equal opportunity for all, I would suggest that maybe the HUB should be used as maybe a -- we all want to make sure that historically underutilized businesses have access, but we don't want to get into a case of rewarding someone just for, you know, either being a minority or a gender that may need some preference here. I think there's a lot of court cases floating around that allude to that fact.

I would like to see us take a stance that, say, we encourage historically underutilized businesses, and that we also use it as one of our tie-breakers, in the tie-breaker consideration, because I know that occurs a lot, but, to me, three points -- in a lot of these cases, these point scores come down to one or two points, and
three points is, relatively, a lot of points. I think using it as a tie-breaker and encouraging participation would be, in my mind, a better way to do it.

Do you have a comment?

MR. BOGANY: Yes, I have a comment.

MR. CONINE: All right.

MR. BOGANY: You know, I personally think they should be in there, Kent, and the reason for it is that you can encourage things all day long, but we're not living in, in my opinion, a level playing field. I think you've got to have it in here.

I looked at the projects we did last year. HUB business came in at about 14 million of the 38 that we had, 14.5. We had, of that group, you had four minority groups that were actually minorities that got funds. Now, you had a whole lot of women that got funds that were included in that group. So the question is whether or not women should be included in the HUB, but my thing is that it's probably not just the way it needs to be, but I think we ought to at least leave it in there until we can perfect it, or get it better than what it is.

I only saw one woman minority that got business from us in that end. I would think that the four that got an opportunity wouldn't have gotten an opportunity if this
had not been in place to get that deal done. You know, I've seen those letters. I've got somebody out there that sent me some information on court cases and things of that nature. All my feeling is that when things are equal, it gets past personalities, it gets past people having opportunities, and what we ought to be about is giving opportunities to these people to be able to get into these programs and use them.

Women are, you know, it was put in there for women to be a part of that group. I just think to just discount the four people who may not have gotten them at all without the points, I would have a problem in considering that 24 million went to the regular developers and only 14 went to this HUB group. Of that 14, only four people -- and if you look at the money that those four got, it was less than $5 million of people who got funds. That meant that the majority of the community got the funds that were there, but we opened the door for four people to get a shot.

I think we need to keep that door open, until we can -- it's not perfect, but I think we need to work on it and tweak it until we get it better. Just as this QAP is not perfect, but it's a start and it's us to tweak it and get it better until we get until everybody becomes
happy with it. I would like to keep it in there until we can get better language to tweak it down, but I'm just looking at the numbers and it's not that many people getting it.

MR. CONINE: Okay. Why is that?

MS. BOSTON: People request to the points and they have to have a HUB certificate from -- it's not the General Services Commission any more, they have a new name. I don't know.

MS. CARRINGTON: Building and Procurement.

MS. BOSTON: Thank you. So basically, people, if they have the right documentation, and they submit it, and they self-score, and we can confirm the documentation is correct, they get the point. So if they don't claim them, you know, we can't make them try and go for it if they don't want to.

MR. SALINAS: Right. It's just like taking the horse to water hole and then you cannot make him drink water.

MR. BOGANY: Well, and I've also heard, with some letters that have been sent to me, that some people are abusing they system, per se going to get a woman, or per se going to get a minority, to put in, just to be able to get those points to get those things done. I'm just
wondering, should we kill it with a sledge hammer because of that? Or, you know, tweak it and at least keep it in place until we get it where it's just about right, to get this thing done?

I mean, we're not talking about less than $5 million of all of the 38 that we spent went to actually a minority. And then, when you add the women in there, it's still 24 to 14.

MR. SALINAS: So what is the solution for it?

MS. CARRINGTON: May I, Mr. Chair?

MR. CONINE: Your turn.

MS. CARRINGTON: Mayor, to address your comment, there's really two opportunities for HUB participation in our tax credit program. The first on the points is for an applicant that has a historically underutilized business as part of that development team, as part of the ownership entity.

The other thing that is in our qualified allocation plan is that we ask developers to certify that they will attempt -- and again, it's best efforts, Mr. Bogany -- but they will attempt to utilize at least 30 percent of the fees of the contracting would go to minority contractors, appraisal firms, other professionals that they would be using in the development of their tax
credit transaction. So this is not really the only place.
This is for the ownership part of the development.

MR. BOGANY: All I'm looking for is an
opportunity. I think once more minorities get an
opportunity, then we can get away from it because then
they're a pool, but I hate to see a developer say, you
know, I just can't find a minority appraiser to do this
project, you know. So I'm going to go over here and
use -- you use people who are your friends, who you've
built relationships with, who you know is going to do the
job right, not someone that you don't know.

I think until we eliminate that we at least
ought to have the doors open for minorities to be able to
use these projects and get involved. I think it will
eventually go away, but we're not there yet. I'm sorry.
We just aren't here. I think we really need to give them
an opportunity. I'm not saying give somebody who's
unqualified.

I'm saying give an opportunity to those that
are qualified, and you have to go out and seek, but in
real world, I'm going to use my friend Clark Kent because
I know he builds a good house, and yes, I'd like to use
this Mayor Salinas, but, you know, I know Kent, and I know
he's going to do the job because I've built a relationship
with him. I think that personal, that human, element that we can't eliminate, is there, and unless you make an opportunity for these people to at least get in the door, it's not going to happen. It really isn't, because the whole life business is built on relationships, you know, and I think you have to give an opportunity to those people. We only had four. Come on, you know, it's just four people.

MR. SALINAS: Why is it only four? You know, we don't have any problem with minorities in the Valley. I mean, we don't have -- I mean, Mike's here and he can tell you, that's not an issue for us over there. I don't know if it's an issue in Houston or anywhere else, but --

MR. CONINE: Okay.

MR. SALINAS: -- it's not an issue for us.

MR. CONINE: We'll put it in the '05 working group and talk about it there.

MR. BOGANY: Until we tweak it and get it right.

MR. CONINE: All right. Good.

MR. BOGANY: Because it ain't right yet, but let's work with it.

MR. CONINE: Okay. Non-profits is on my list.

To qualify as a non-profit, I know we went through this
the first rendition, or having 51 percent of the developer fee. Now, that's out, but we also know that there's folks out there that form a non-profit just to get the points. So that was what we were going after originally. So tell me, now, how you qualify as a non-profit, from your perspective.

MS. BOSTON: There aren't any non-profit points, as a point of clarification. There's the setaside.

MR. CONINE: The setaside, excuse me.

MS. BOSTON: Right. It's 10 percent federal setaside and basically it's that they need to have a controlling interest, is the way we've proposed it. And so, the non-profit entity would need to have a controlling interest in the development. It wouldn't be that they would have to be the sole entity. They could do a joint venture as long as the for-profit had less than 51 percent.

MR. CONINE: If we were to say that the non-profit needed to be in existence for some period of time, like five years, to meet that setaside qualification, would that not prevent some of the problems that we perceive may be happening out there?

MS. BOSTON: I think because that would
generate a lot of public comment from non-profits, I would be hesitant to make that type of a change, for a rule that there would be no way to get public comments on that thought.

MR. CONINE: Okay.

MS. BOSTON: I mean, to me, that seems like a pretty big change, a great one for the 2005 working group.

MR. CONINE: Another one of those issues, okay.

The scoring of letters seemed to be an issue for some folks. Can you kind of brief the board on where we are there?

MS. BOSTON: I can try. I'm assuming that you're talking about the neighborhood organization letters.

MR. CONINE: Right.

MS. BOSTON: The way it's drafted right now is that the letters would come in. Once we've verified that it indeed have the development in the neighborhood organization boundaries, which is required under the legislation, that they would be evaluated by the executive board review advisory committee and that group would determine not only whether the letter needed points at all, but would also determine the number of points.

MR. CONINE: So is there a points structure
MS. BOSTON: There is not in the QAP.

MR. CONINE: So why are we making that different from the other points that we award, for the up-front definitive knowledge of a certain range to a max like we do in other issues.

MS. BOSTON: There is a range, up to a max. It's positive to negative twelve.

MS. CARRINGTON: Yes, positive twelve or negative twelve.

MR. CONINE: For letters?

MS. BOSTON: Yes --

MS. CARRINGTON: Yes.

MS. BOSTON: -- but where someone falls in the range, like you could -- the way we've discussed it right now is you could, in theory, have one development that maybe got three opposition letters, and that might be worth three points, and you could have another deal that got three opposition letters, and that's actually worth that they got eight points.

MR. CONINE: So when the EARAC scores it a certain way, and the developer disagrees, then he's going to file an appeal, and we're going to get to hear it.
MS. CARRINGTON: Correct.

MR. CONINE: Is that the way it's supposed to work?

MS. CARRINGTON: Correct. I think it's important to also note that the Department, of course, will take letters of support or opposition from anyone who wants to submit those to the Department, but for scoring purposes, as Chris has said earlier, the letters that the Department is mandated to score are those letters from neighborhood organizations whose boundaries encompass the area that the development is going to be located in.

MR. CONINE: Which matched the --

MS. CARRINGTON: Yes.

MR. CONINE: -- the legislative language?

MS. CARRINGTON: Yes.

MR. CONINE: Thank you.

MS. CARRINGTON: So we anticipate receiving letters, both positive and negative, that will not be scored, but then our legislation --

MR. CONINE: So the question is, though, whether the Kerrville Quilting Society is going to have a boundary, it's going to be located, and I guess your assumption would be if your project is in the City of Kerrville, and Kerrville has a quilting society located in
the city, somehow, some way, that would meet that requirement?

MR. WITTMAYER: If the quilting society comes within the definition of neighborhood organization. We have attempted somewhat of a definition there, to be that it has a primary purpose serving some welfare interest of the neighborhood. It seems to --

MR. CONINE: Well, that's pretty broad. I would say the quilting society covers that.

MR. WITTMAYER: Uh --

MR. CONINE: The liberal arts in me, what little I have.

MR. WITTMAYER: It's going to be difficult to define neighborhood organization.

MR. CONINE: Well, should we try to struggle with that today? Or do we just leave it open-ended?

MR. WITTMAYER: Uh --

MR. CONINE: What do you guys think?

MR. BOGANY: I'd like to know what staff thinks.

MR. CONINE: Okay.

MR. WITTMAYER: My view is that it's going to be something that we have to learn about as we get letters in and when we get letters of input in, we'll be able to
look consistently across all the letters that we get, and then make our best judgment about, well, what's a neighborhood organization? What's it's nexus to this neighborhood? What is its purpose? And then, we exercise our best judgment about what is within that definition and what is outside of that language.

MR. BOGANY: Is it Senate Bill 264 saying we have to score these letters?

MR. WITTMAYER: Yes.

MS. CARRINGTON: Yes.

MR. BOGANY: So we're just following Senate Bill 264.

MR. WITTMAYER: Correct.

MS. CARRINGTON: Yes, sir, we are.

MR. BOGANY: Okay. So if the neighborhood has a problem, they really should go to the author of Senate Bill 264?

MS. BOSTON: To clarify, where I think, on the half --

MR. BOGANY: Okay. What?

MS. BOSTON: -- I think the difference is how we're scoring them is up for our discretion, you all's discretion. And then --

MR. BOGANY: Okay.
MS. CARRINGTON: Yes.

MR. BOGANY: Well, their issue is whether or not the letter goes to a DA if somebody writes a letter --

MS. CARRINGTON: No.

MR. SALINAS: No.

MS. CARRINGTON: Go ahead.

MR. CONINE: No, that was a different statute that said --

MR. BOGANY: Okay.

MR. CONINE: -- if it contains something that was blatantly false --

MR. BOGANY: Okay.

MR. CONINE: -- then the punitive, and it could come from either the public or from the developer, okay?

MR. SALINAS: This is why it's very important that the city council have some supporting points, because, if not, the neighborhoods will be supporting all our projects.

MR. CONINE: I'm comfortable with the language in the QAP, because it does lay out the potential worst effect to both parties, just to make sure everybody's on notice --

MR. BOGANY: Okay.

MR. CONINE: -- and try to create, again, some
balance, between two groups that are not statutory, legal entities. A developer is not and a neighborhood group is really not. So we're trying to create a level playing field there, as least in my mind, from the language that's in the QAP. Let's try it one year and see how it works.

MR. BOGANY: Thank you.

MR. CONINE: Um --

VOICE: Hold on just a minute.

MR. CONINE: Okay.

VOICE: She had a comment.

MS. McLAUGHLIN: I just wanted to mention that to differentiate between the issue of the --

MS. CARRINGTON: The court reporter cannot get you on the record if you don't come up to the mike.

MR. CONINE: She can't hear you. Come on up here.

MS. McLAUGHLIN: There was an issue about whether or not misstatements would be subjected to some oversight in terms of whether they should be. That's one issue.

The other issue is did the QAP require the Department to score letters based upon merit? In the reading of that section that says quantifiable community participation does not specifically say that the letters
need to be scored. It says that community participation
needed to be effected through letters of opposition or
support, not necessarily the scoring.

That's a different issue than the one you were
addressing. Keep them apart. I understand where you're
coming from on the others, but make sure that you
understand that the legislation does not require scoring
of letters. It requires that community participation be
voiced through letters.

MR. CONINE: Yes.

MS. McLAUGHLIN: They don't necessarily have to
be scored.

MR. CONINE: Mr. Wittmayer?

MR. WITTMAYER: The legislative requirement is
that we give points based on quantifiable community
participation from neighborhood organizations. My
understanding of that language is that the input has to be
quantifiable. It seems to me a reasonable understanding
and a fair application of that language is that if you get
a letter in, you need to measure the content of the
letter.

You may get a letter that says, We don't want
this development here. We don't have any good reason, or
that no reason is articulated. That letter should be
evaluated based on the merits of its content.

We may get a letter in that has a very good reason in opposition. That should receive, perhaps, maximum minus twelve points because it has a quantifiable, measurable, substantive content.

We may get a letter in that points out a negative aspect to the development proposal, but it's not such a negative effect that it would warrant a minus twelve points. Perhaps, it would warrant a minus three points. It seems to me important to judge the reasons for the support in opposition of the letters, and not just arbitrarily to weigh every letter with the same amount of points.

MR. CONINE: What you're saying is we're going to give the project a score.

MR. WITTMAYER: Right.

MR. CONINE: It's going to be a collective effect of all letters that come in, not individually scoring each letter?

MR. WITTMAYER: Each letter will be evaluated individually.

MR. CONINE: But we will have a collective points for the project --

MR. WITTMAYER: Yes.
MR. CONINE: -- based on all those letters, not individual letters?

MR. WITTMAYER: Correct.

MR. CONINE: Right.

MR. WITTMAYER: These will be the letters from neighborhood organizations whose boundaries include the development site.

MR. CONINE: I'm comfortable with that position, I think. Are you guys comfortable?

VOICE: Yes, ma'am.

MR. CONINE: Okay. Let's go to ineligible building types, one of my favorite subjects.

MS. CARRINGTON: We knew that was going to come up.

MR. CONINE: Refresh my memory where we started with this issue, because it's not in my change/comments here. Was it 60-50-30?

MS. BOSTON: Your original proposal was that you couldn't have more than 60 of one bedroom, 50 of two bedroom, and 30 of three bedroom, and it had a lot of public comment.

MR. CONINE: Yes, it had a lot of public comment, you know. I still, as I stated earlier to Mr. Bowling, have a passion in my heart for the single folks...
out there. I also, based on my knowledge in the industry, and feasibility, if you will, for projects all across the country, believe that it's prudent to make sure that we don't have an all three bedroom project, or an all two bedroom project. In fact, two bedrooms are probably the worst. If you look at the vacancy rates across the state today, two bedrooms are probably the hardest to lease and maintain, keep them leased.

I think the mixture of ones, twos, and threes, providing an appropriate balance, based on market conditions that are local and not statewide, creates -- this particular proposal would create the flexibility to be able to do that. I guess I've kind of changed my thought on kind of the numbers, based on a lot of the dialogue.

And so, I would propose to change the following. The 60 percent on one bedrooms would stay at 60. The two bedrooms would be at 45 percent. Three bedrooms would be at 35 percent. That would mean if a guy has a huge family, you know, orientation, and Bobby needs to make sure he gets as many families as he can in there, he could do 80 percent of the project in twos and threes, but that would still leave 20 percent up for one bedrooms.

If you're in a downtown high rise, and you're
in the middle of Houston, and you want to make sure that
the young, single population, who are the working singles
that, again, whether their secretaries, or nurses, or
policemen, or firemen, or whatever the case may be, you
could have up to 60 percent one bedrooms, which I think
would be appropriate.

Those numbers in my mind, given the chance to
try it a year or so, let's just kind of see. I would
propose, let's see how it goes.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MR. CONINE: A motion and a second. Any

further discussion?

(No response.)

MR. CONINE: All those in favor, signify by

saying aye.

(A chorus of ayes.)

MR. CONINE: So moved. The next one I had was

Mr. MacDonald mentioned the self-score and the punitive
damage on the ambiguity of some of these new regulations.

Can you come up with some language? Or what are your

thoughts about that?

MS. BOSTON: I actually would disagree with the

concept. I feel like for the past two years the pre-app
has been very successful. Last year, we had roughly 280 pre-applicants and based on other applicants being able to look at the results, look at what they believed was a pretty accurate score, they made business decisions about not moving forward, and we only had 150 people move forward.

I think that makes a big statement about the number that changed and didn't move forward, based on a score. I think if you tell people there's no penalty for what score they put, I mean, they can all just totally inflate their scores, and everyone won't be able to make a business decision from pre-app to full app.

We already do have an exception in that language, that excludes anything have to do with the neighborhood organizations' support and opposition letters. And so, that range of 24 points is not part of their self-scoring. They wouldn't be penalized for that.

I don't see that many other things in the QAP would be unclear as to what points people think they can claim.

MR. CONINE: Okay. Any other comments on that issue?

(No response.)

MR. CONINE: I think that's it for me. There
was one issue that you were going to get some language for us on. What was that?

MS. BOSTON: It was the threshold amenities.

MS. CARRINGTON: The threshold.

MR. CONINE: Oh, the threshold.

MS. BOSTON: I'll go do my homework.

MR. CONINE: Why don't we move on the agenda item to the next agenda item until you have enough time to get that done, while we're still in session, and bring that back to us? And then, we'll vote on the whole thing.

MS. BOSTON: Okay.

MR. CONINE: Okay. Thank you.

Ms. Carrington, the Final Housing Trust Fund rules, please?

MS. CARRINGTON: Thank you, Mr. Chair. This is tab 3(b) of your board book. Again, the board initially reviewed the draft rules and approved them for comment for the Texas Register and for public comment on August 14. They were published in the Texas Register and our comment period was September 26 through October 10 on the Housing Trust Fund rules. We did not receive very many comments on the Trust Fund rules and, as is our pattern, we have provided you the comments and the Department's response.

We worked, as you all know, to make our rules
for the Housing Trust Fund, for the Tax Credit program, and for the HOME program, to make those rules as consistent as possible. So as we have definitions across our funding sources at the agency, then we are using basically the same definitions, to the extent that we can, and with the constraints of the funding area.

One of the things that we did include in the Trust Fund rules, as we included in the HOME rules also, is an opportunity to cure administrative deficiencies. We've had that ability in the Tax Credit program for several years and you all may remember last summer, you heard several appeals in the HOME Program because there was no ability to cure administrative deficiencies.

What the board is being asked to do this morning is to repeal the Housing Trust Fund rules, which are at Title X, Administrative Code, Chapter 51, and to adopt the proposed new Housing Trust Fund rules, Title X, Chapter 51.

MR. CONINE: Can I get a motion to repeal, please?

MR. SALINAS: So moved.

MR. BOGANY: Second.

MR. CONINE: Motion and second to repeal. Any further discussion?
MS. GRONECK: Who made the motion?

MR. CONINE: Motion made by the Mayor and seconded by Mr. Bogany. Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now, can we get a motion to adopt the new Housing Trust Fund rules?

MR. SALINAS: So moved.

MR. CONINE: Motion by the Mayor.

MR. GONZALEZ: Second.

MR. CONINE: Second by Vidal. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Final real estate analysis rules, Ms. Carrington?

MS. CARRINGTON: The next item is item 3(c) and this is the underwriting, market analysis, appraisal, environmental side assessment, and property condition assessment rules and guidelines. In this case, what we
are looking to do is make an amendment to these rules. You all will remember that last year we took our underwriting rules out of the QAP and made them a separate document, a separate set of rules. This followed the same approval process, August 14 to the board, August 29 to October 10, public comment period.

The substantive change that we have made, or the additions that we have made, in these rules, we did include language, per Senate Bill 264, for alternative dispute resolution.

We also changed some language of changing transitional housing to supportive housing. We've also expanded a definition on our underwriting. So that if you all remember back last summer, the Canal Street development in Houston, needed, basically, some changes in our underwriting to allow us to underwrite housing that was supportive housing and didn't have the kind of typical debt that you all are used to looking at.

And then, there is a whole new section. It's section 1.36, which is property condition assessment rules and guidelines. What this new section does is address the procedure that the Department will use if we are looking at development for rehabilitation. That is, we will require a poverty assessment report and that will give us
needed information as we do our underwriting.

We did receive some comment on this particular item, with the comment being that it was excessive and unnecessary. I did just sit on a National Council of State Housing Agency's best practices for tax credits and a property condition assessment requirement is one that has been in NCSHA's best practices for several years.

So what staff is recommending is the option of the amendment to Title X, Part 1, Chapter 1, Subchapter B.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MR. CONINE: Motion and a second by Mr. Gonzalez -- Mr. Bogany made the motion -- to approve the changes in the federal real estate analysis rules. Any discussion?

I have one question. I wasn't going to let you get by without a question. On page 5, the demand analysis, where comment was made to include household turnover as a reliable source of market demand, and you've decided not to do that, even though it says you need a lot more public comment. Why would that be the case, I guess?

MS. CARRINGTON: I'd like to ask Mr. Gouris, Tom Gouris, who's Director of Real Estate Analysis to address the comment and the Department response. Tom,
this is where we felt like to not include it as part of
the capture rate, that we felt like that that change was
too substantive, hadn't gone out for public comment.
Turnover is a big component of how the market analysts
do --

    MR. CONINE: Right, but the change was made
during the public comment period.

    MS. CARRINGTON: Tom?

    MR. GOURIS: But the comment was to exclude
turnover.

    MS. CARRINGTON: Yes, it was to exclude it.
What we do --

    MR. CONINE: Okay. It was still made in the
venue of a public forum, and brought to the staff, and I'm
curious why.

    MR. GOURIS: Well, because [indiscernible] was
included originally based on a working group last year,
that came together and said this is something that we can
use, and discussions with market analysts over the course
of the last couple of years. This was one comment by one
market analyst who believes that turnover shouldn't be
used. I think, is that what you're referring to?

    MS. CARRINGTON: Yes.

    MR. GOURIS: And so, to make that one change,
in opposition of what all the other comment and the other
work that had been done, seemed like we would need to
bring that up again to the whole group.

MR. CONINE: So is it your intent to do that?
MR. GOURIS: It is not. The intent is to do
that in the coming year, yes, sir.

MR. CONINE: Right, in this coming year. Okay.
MR. BOGANY: I have a question.
MR. CONINE: Do you have another question?

Okay, Mr. Bogany?

MR. BOGANY: Mr. Gouris, in regards to utility
costs, did we make any adjustments there, on the
allowances?

MR. GOURIS: With?

MR. BOGANY: In regards to utilities.

MR. GOURIS: Utility allowances --

MR. BOGANY: Right.

MR. GOURIS: -- or the expense item?

MR. BOGANY: The expense item. With utilities
continuously rising --

MR. GOURIS: Right.

MR. BOGANY: -- and making an analysis of a
project, did we make any adjustments there, like we heard
over the few months, like, hey, you were off on your
utilities and your allowances. Did we make any changes there?

MR. GOURIS: Well, not specifically, because we have a pretty dynamic -- I think it's a pretty dynamic -- way of adjusting for that already.

MR. BOGANY: Okay. So we were making adjustments --

MR. GOURIS: Yes, sir.

MR. BOGANY: -- as we go along?

MR. GOURIS: Yes, sir.

MR. BOGANY: Okay.

MR. CONINE: Any other discussion?

(No response.)

MR. CONINE: Seeing none, I call the question. All in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Ms. Carrington, the final HOME rules?

He snuck by again.

MS. CARRINGTON: Oh, he has some more items on the agenda later on.

Item 3(d), the final HOME program rules, the
board approved the draft of these rules on August 14.
Public comment period was the 29 to October 10, again, 13 consolidated public hearings around the state. Two actions are requested of the board today, adoption of repeal of Title X, Part 1, Chapter 53 and then, adoption of an amendment to the chapter.

As you turn the memo to the next page, you will notice that we have done this the same way we did the tax credits, in that there are numbers after the comments. On page 13 of 33, that gives you an opportunity to determine who made that comment.

We've also provided four sections for your, four Roman numerals, the substantive comments, non-substantive, the general HOME comments not related specifically, and then, staff administrative changes to the HOME rules.

We did add alternative dispute resolution language in our HOME rules. We do have -- and I know the board will be pleased about this language -- on curing administrative deficiencies in the HOME rules.

I believe that's it.

MR. CONINE: Can I get a motion to repeal, please?

MR. SALINAS: Do we go ahead? I would like to
make a comment on the open application cycle for the HOME rules --

    MR. CONINE:  Okay.
    MS. CARRINGTON:  Okay.
    MR. SALINAS:  -- especially on the colonia contracts for these Congressional programs. Do we repeal and then adopt the new? Would that be in order?
    MS. CARRINGTON:  You will want to include that language as we do the adoption, yes, sir.
    MR. SALINAS:  The adoption, okay.
    MS. CARRINGTON:  Yes, sir.
    MR. CONINE:  Let's get the motion to repeal the old one.
    MR. SALINAS:  Move approval.
    MR. BOGANY:  Second.
    MR. CONINE:  Motion by the Mayor, second by Shad, to repeal the old ones. Any discussion?
    (No response.)
    MR. CONINE:  Seeing none, all those in favor, signify by saying aye.
    (A chorus of ayes.)
    MR. CONINE:  All opposed?
    (No response.)
    MR. CONINE:  Motion carries. Now, for the
adoption of the amendment.

MS. CARRINGTON: As we do that, I'd like to ask Eric Pike to come on up, Director of Single Family Production. So that Eric, we can be sure we accurately reflect the board's --

MR. PIKE: Okay. Good morning.

MS. CARRINGTON: -- intentions.

MR. CONINE: Good morning.

MR. PIKE: We have one item I wanted to point out that was listed in error in the rules, that we need to have deleted. It is a state rule so it's not necessary that it be put into our program rules. It's in Section 53.51, which in on page 16 of 33. It's, once again, Section 53.51, 20, paragraph (c). It reads currently -- it talks about extremely low income families whose incomes do not exceed 30 percent of the median family income determined by HUD and published for the Department, with adjustments for family size. That is correct. We would like to keep that in there.

The passage that needs to be deleted is in accordance with Rider 3 and published by the Department. Those counties where the median family income is lower than the state average median family income, "applicants targeting households at or below 30 percent of the median
income of the area, may use the average state median
family income, based on number of persons in a household."
So I wanted to note that for the record.

MR. CONINE: You're striking that?

MS. CARRINGTON: Right.

MR. PIKE: Yes.

MR. CONINE: Waiting on the U.S. Congress to
respond appropriately, I guess.

MR. PIKE: Well, in conversations with our
legal department and other members of --

MR. CONINE: Yes.

MR. PIKE: -- executive staff of our agency,
this is a goal that we strive to meet from an agency
standpoint. It was felt that it was unnecessary that it
actually be in our HOME rules because it's a state rule.

MR. CONINE: Okay. There's any other technical
corrections?

MR. PIKE: That's all. Mayor Salinas is --

MR. CONINE: Mr. Mayor, you wanted?

MR. SALINAS: We wanted to see if we could
include the open application cycles, being that there were
no public comments on the public hearings on them. We'd
like to see if we can do that and have the -- regarding
setasides funding for the programs, a regional allocation
of formulas, the statute of the contract for deeds --

MR. CONINE: Right.

MR. SALINAS: -- especially in the El Paso area
and all those colonias.

MR. PIKE: My feeling is that that would enable
us to more efficiently award our funds. Instead of having
to have specific cycles, and go out and have to do
training numerous times a year, we could have an open
cycle for funds that aren't impacted by the regional
allocation formula. Those would be -- a NOFA would go
out. Those funds would be available first come, first
served, statewide.

MR. SALINAS: If it's okay, I'd like to move
that we go ahead and do that.

MR. CONINE: Let me make sure the staff
understands exactly what Mr. Salinas is requesting.

MS. CARRINGTON: Yes.

MR. CONINE: Everybody on board with that?

MS. CARRINGTON: Yes, sir, we do.

MR. CONINE: You think you can incorporate the
language sufficiently?

MR. PIKE: Yes.

MS. CARRINGTON: Yes.

MR. PIKE: Absolutely, anything that is not
impacted by the regional allocation formula.

MR. CONINE: Well, we have two amendments to the adoption of the HOME program rules. Is there a motion, Mr. Salinas?

MR. SALINAS: So moved.

MR. CONINE: There's a motion to amend from the Mayor --

MR. BOGANY: Second.

MR. CONINE: -- a second from Shad, to make these two amendments. Any other discussion?

(No response.)

MR. CONINE: Hearing none, all in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Now, we'll vote on the amended adoption to the amendment of the HOME program rules. Do I get a motion?

MR. SALINAS: So moved.

MR. BOGANY: Second.

MR. CONINE: Motion and a second by the Mayor and Shad. All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)
MR. CONINE: Motion carries.

MR. PIKE: Thank you.

MR. CONINE: Final integrated housing rule, Ms. Carrington?

MS. CARRINGTON: Thank you. Item 3(e) in your board book, the integrated housing policy has been a policy of the Department since December 2002. It was a policy that was approved by the board. What we are proposing is that this become a rule. This was also part of the public hearings that were held around the state and the only change from the policy that the board adopted in 2002 and the rule that you're seeing today is that we added a definition of assisted living facility. So we are asking for the adoption of our integrated housing policy as a rule.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MR. CONINE: Motion by Mr. Bogany, seconded by the Mayor. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?
MR. CONINE: Motion carries. Final portfolio management and compliance rules, Ms. Carrington?

MS. CARRINGTON: Thank you. Item 3(f), last year, as I already mentioned, we took the underwriting guidelines out of the QAP and made them a separate set of rules, because as those underwriting guidelines apply to all the programs within our agency, not just the Tax Credit program, we have done the same thing this year with our compliance monitoring rules. We lifted them out of the QAP and we are proposing them as a separate rule.

The board did approve the draft on September 11, comment from September 26 to October 10, also published in the Texas Register. On the second page of your memorandum, we have laid out for the board any comments that we received, which were not very many, and we did also include the alternative dispute resolution language in the compliance monitoring and asset management rules. We are recommending adoption as Chapter 60.

MR. CONINE: Do I hear a motion?

MR. SALINAS: So moved.

MR. GONZALEZ: Second.

MR. CONINE: Motion and a second by Vidal.

Motion by the Mayor, second by Vidal. Any further
discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of adopting the final integrated housing rule, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. CARRINGTON: Multifamily compliance rules.

MR. CONINE: Oh, did I -- excuse me?

MS. CARRINGTON: Yes, the compliance rules.

MR. CONINE: It was the last one. That was the -- I'll rephrase the motion once again, or the call for the vote. All those in favor for the final portfolio management compliance rules, please signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries. Okay. Now, the final multifamily bond rules.

MS. CARRINGTON: I know this may strike fear in the heart of the board, but I'm going to bring out general counsel back up again, because, as you notice, there are six items related to these final multifamily bond rules. And so, I'm going to ask an attorney to walk through these
with you all.

MR. WITTMAYER: This is item 3(g). It's not nearly as intimidating as it looks. It involves the adoption of the repeal of three chapters which we previously had for bond rules, that is, the Title X, Part 1, Chapter 33, Chapter 35, and Chapter 39. We are recommending the board adopt the repeal of those three chapters.

In its place, we recommend the board adopt at Title X, Part 1, Chapter 33, the new multifamily housing revenue bond rules. As you recall back in August, you recall you adopted an emergency bond rule so we could get on track for the application of the new scoring, under the new legislative requirements. So we were putting in the new Chapter 33 in place of the previously adopted emergency rule. This requires that we approve the withdrawal of our emergency repeal of Title X, Part 1, Chapter 33, and also withdraw our emergency new rule of Chapter 33.

Our adoption of new Chapter 33 in place of the emergency rule is the same as the new emergency rule, with two exceptions, based on the comment that we had. We previously included as a discretionary factor for the board, that it consider fair housing law. We had public
comment which indicated that we have a legal obligation to
affirmatively further fair housing and it was my opinion
that was included in the language of the fair housing law,
but to make that explicit, we recommend an amendment to
include the language on affirmatively furthering fair
housing.

Also, we recommend the addition of language on
alternative dispute resolution.

MR. CONINE: Okay.

MR. WITTMAYER: That is the staff's
recommendation.

MR. CONINE: Let me get a motion to withdraw
the emergency repeal Title X, Part 1, Chapter 33, to being
with.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MR. CONINE: Motion by Mr. Bogany, second by
Mr. Gonzalez. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor,
signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries. Now, we're going
to adopt the repeal of Title X, Part 1, Chapter 33. Can I
get a motion?

    MR. BOGANY: So moved.

    MR. GONZALEZ: Second.

    MR. CONINE: Motion and a second. Any further discussion?

    (No response.)

    MR. CONINE: Seeing none, all those in favor, signify by voting, Aye.

    (A chorus of ayes.)

    MR. CONINE: All opposed?

    (No response.)

    MR. CONINE: Motion carries. Now, we're going to adopt the repeal of Title X, Part 1, Chapter 33 of the taxable multifamily --

    MR. WITTMAYER: Chapter 35, actually. You just did Chapter 33.

    MR. CONINE: Excuse me, Chapter 35, of the taxable multifamily mortgage revenue bond program. Is there a motion?

    MR. GONZALEZ: So moved.

    MR. CONINE: Is there a second?

    MR. SALINAS: Second.

    MR. CONINE: Motion by Mr. Gonzalez, second by Mr. Salinas. All those in favor, signify by saying aye.
(A chorus of ayes.)

MR. CONINE: Motion carries. Now, we're going to adopt the repeal of Title X, Part 1, Chapter 39. Is there a motion?

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MR. CONINE: Motion by Mr. Bogany, second by Mr. Gonzalez. All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now, we're going to adopt the repeal of -- did I just do the repeal of 39 or not?

MR. WITTMAYER: Yes, you did.

MS. CARRINGTON: Yes, you did.

MR. CONINE: Okay. So now, we're going to withdraw the emergency of the new Title X, Part 1, Chapter 33. Do I have a motion?

MR. GONZALEZ: Second.

MR. CONINE: I need a motion first.

MR. BOGANY: Motion.

MR. CONINE: Motion by Mr. Bogany, second by Mr. Gonzalez. All those --
MR. WITTMAYER:  Mr. Chair?

MR. CONINE:  Yes.

MR. WITTMAYER:  Mr. Chair, to clarify, that was withdrawal of the emergency repeal of Chapter 33.

MR. BOGANY:  Right.

MR. GONZALEZ:  Yes.

MR. CONINE:  Correct. That's what we're voting on.

MR. WITTMAYER:  Thank you.

MR. CONINE:  All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE:  All opposed?

(No response.)

MR. CONINE:  Motion carries. Adoption of the new Title X, Chapter 1, Part 33, do I hear a motion?

MR. BOGANY:  So moved.

MR. GONZALEZ:  Second.

MR. CONINE:  There's a motion and a second.

All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE:  Motion carries. Did we do that right, Counsel?

MR. WITTMAYER:  Yes.
MR. CONINE: Or close to right, anyway?

MR. WITTMAYER: Exactly.

MR. CONINE: Okay.

MS. CARRINGTON: Thank you, Chris.

MR. CONINE: In light of the time constraints, do you want me to move to something else?

MS. CARRINGTON: Yes, I think so.

MR. CONINE: I mean, 4 can wait, I know.

MS. CARRINGTON: Well, 4 can wait, yes.

MR. CONINE: That might.

MS. CARRINGTON: Oh, yes. Oh, okay. Five won't take any time.

MR. CONINE: All right. Let's go to item 5. Ms. Carrington?

MS. CARRINGTON: We are looking at doing some reordering of the agenda, based on time, and so we will get to the items that require action by the board today. Item number 5 is the multifamily application and submission procedures manual and it covers both the Housing Tax Credit program and the Housing Trust Fund.

This is a draft only that you're being asked to approved today and the reason being is that this manual will track the qualified allocation plan. And so, since there had been some changes that have been made to the QAP
today, then we're asking for your approval of this draft, which will be substantially the same, but we will be making changes based on the qualified allocation plan.

This is the document that goes to developers who are applying and who are looking to do either Housing Trust Fund or Housing Tax Credit developments. It's basically their roadmap. It's their A to Z on how they apply for funds through the Department.

MR. CONINE: Then, we'll be getting the final version back to us?

MS. CARRINGTON: We certainly can bring the final back to you, yes, sir.

MR. CONINE: Okay. Do I hear a motion to approve the draft?

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MR. CONINE: Motion made by Mr. Bogany, second by Mr. Gonzalez. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Opposed?

(No response.)
MR. CONINE: Motion carries.

MS. CARRINGTON: We will have started doing business, however, under the draft since the date for pre-apps is December 2, and your next board meeting, I think, is December 11.

MR. CONINE: That's okay. I think even the developers in the room can understand that.

MS. CARRINGTON: Okay.

MR. CONINE: Let's see, 6. You want to go to 6?

MS. CARRINGTON: Yes, sir. We have three items related to the administration of our Section 8 program.

MR. CONINE: Okay.

MS. CARRINGTON: The first item, 6(a)(1) is approval of the Section 8 payment standard for our housing choice vouchers. The Department administers about 2,200 Section 8 vouchers around the state, and we administer those in three regions, and HUD requires us, no an annual basis, to adopt a payment standard. We can go anywhere from 90 percent to 110 percent, as a payment standard for the administration of those vouchers.

What the board has in front of you all this morning is to approve a resolution that will go to HUD, adopting the payment standard. You have, behind this tab,
right before 6(a)(2), the payment standards for each of the counties that Department administers the Section 8 program in. Our payment standard that we have identified for all of the counties is either 100 percent of the fair market rent or it's 110 percent of the fair market rent.

The other thing that we're asking for the board to approve is to have the ability to have the ability to go up to 120 percent in an area, if our clients cannot find decent housing at 110 or 120 percent. Staff does inform me that the executive director has had the ability, over the last several years, to go up to 120 percent on the payment standard, or requesting that to HUD. To this date, we've never used it. We've had the ability since 1999, but we would like to have the ability to petition HUD if the case so warranted.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MR. CONINE: Motion by Mr. Bogany, seconded by Mr. Salinas, for the resolution number 03-085, authorizing the payment standard for Section 8 program standards. Any further discussion?

(No response.)

MR. CONINE: Hearing none, all in favor, signify by saying aye.
(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. CARRINGTON: Okay. Thank you.

On the next item related to our Section 8 program, 6(a)(2), we administer these vouchers out of three HUD offices, Dallas, Houston, and San Antonio. What we are requesting with this item and this resolution is to consolidate these three annual contribution contracts that we have with HUD, each one is a separate ACC, and HUD has suggested that we consolidate those ACC's into one annual contributions contract.

This would give us more flexibility to move those vouchers, not anywhere in the state we wanted to, it would only be in the areas where we currently administer, but it does give us that flexibility to go to some underutilized areas with some of the -- take some vouchers from the underutilized areas to the overutilized areas.

There is a resolution related to this action.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MR. CONINE: Motion by Mr. Bogany, second by Mr. Gonzalez, resolution number 03-086. Any discussion?
(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. CARRINGTON: The last item related to the administration of our Section 8 program, 6(a)(3), we have been petition by the Marble Falls Housing Authority to receive 30 vouchers to assist them in fully leasing some units in the Marble Falls area. The San Antonio area is an area that has an underutilization of Section 8 vouchers. And so, the process that HUD has told us that we would need to go through is the board would approve of the relinquishment of 30 vouchers.

These vouchers would actually be relinquished to the Fort Worth HUD office. That office would then turn around and allocate those vouchers to the Marble Falls Housing Authority. That Housing Authority currently administers a Section 8 program with several hundred vouchers, and there is a need in the area, and staff is recommending that we do relinquish these 30 vouchers to the Fort Worth HUD office.
MR. CONINE: Isn't there a waiting list for these things in every community that everybody has?

MS. CARRINGTON: Not in all of our communities. We definitely have some that have an underutilization, which is why on the last item, we want the ability to be able to move them within our regions.

MR. CONINE: Hmm.

MR. SALINAS: I move for the approval of the resolution.

MR. BOGANY: Second.

MR. CONINE: Motion by Mr. Salinas, seconded by Mr. Bogany, approval of resolution 03-087. Any further comments?

(No response.)

MR. CONINE: Hearing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. 6(b)(1), we have some public comments, I believe --

MS. CARRINGTON: Yes, I think you do.

MR. CONINE: -- on the HOME program, the fiscal year 2002-2003 multifamily HOME appeal for Bethel Senior
Housing.

MS. CARRINGTON: Right. Yes, sir.

MR. CONINE: Van Dyke Johnson is the first public comment. It looks like we have several.

MR. JOHNSON: Dr. Griffin is going to be speaking to this. So he can speak first, if you don't mind.

MR. CONINE: Okay. Dr. Griffin, how are you today?

DR. GRIFFIN: Fine.

MR. CONINE: Let me see if I can turn. Be mindful that we have a three minute time limit.

DR. GRIFFIN: Thank you. I'm Marvin C. Griffin.

MR. CONINE: Did you fill out a witness affirmation form?

DR. GRIFFIN: Yes.

MR. CONINE: You did?

DR. GRIFFIN: Uh-huh.

MR. CONINE: Okay. Only thing I have to do -- there it is. I got it. Okay. Go ahead.

DR. GRIFFIN: I've come to speak in favor of your approval of this project. I'm the president of the East Austin Economic Development Corporation. It is...
something that has emerged from our congregation because of our concern for housing and particularly in areas where it's needed most, rural areas.

We are in favor of this project and we want to emphasize the fact that not only do we have a strong history. We've been in existence 15 years and we're have $4 million in such project that we have handled. We have the capacity to assure you of the support of this particular project.

So we have not only the financial capacity, and not only do we have a good history, but we have the experience and we're primarily concerned in working with partners in concretizing the Gospel.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Next speaker would be who?

VOICE: [inaudible.]

MR. CONINE: Okay. Your name, please?

REV. HARRIS: Reverend Earl Harris.

MR. CONINE: Okay.

REV. HARRIS: Bethel Baptist Church, Crockett.

MR. CONINE: Got it.

REV. HARRIS: We're happy to partner with East Austin Economic Development Corporation to make this
project in Bethel a reality because there are people in
the rural Crockett that's still living without running
water and outside restrooms, and there are people within
the City of Crockett that have poor living conditions,
that being seniors. And so, we would hope that you would
favor and grant this pool to make this project a reality
in Crockett, Texas. Thank you.

MR. CONINE: Thank you very much. Next?

MR. McPHERSON: I'm Marvin McPherson. I'm the
Chairman of the Bethel Economic Development Community,
Economic Development Project. We're here -- our
relationship with East Austin has bene a good one. We
started with them over a year and a half ago, just talking
with them, meeting with them, and they was telling us
about their program. We knew that this was needed in the
Crockett, Texas area, for us to develop the Crockett area
for senior citizens and also for other housing that is
needed there in that area.

With this partnership, with their experience,
and the capacity that they have, we felt that it was a
better opportunity for us to partner with them, to allow
them to teach us, to guide us through this, and maybe
we'll be able to stand one day on our own, and present
these things to the board, that we may be able to really
move Crockett into a direction that they need to be in, in housing those homeless. Thank you.

MR. CONINE: Thank you.

MR. JOHNSON: Hi, my name is Van Johnson and I am the Executive Director of the East Austin Development Corporation. We're located right here in Austin, Texas and we've done a number of projects, probably about $11 million worth now. So we have a lot of experience in what we do.

As a part of our mission, we go out into the rural areas and through Dr. Griffin, whose a dean in the National Baptist Congress, we partner with small rural communities to bring out capacity, out in those communities, because it does not really exist. As a matter of fact, when you consolidate a plan, that is clearly stated that that is one of the issues that affects rural areas, but I want to deal with the appeal real fast. I don't actually understand. We went through threshold, scored high, and a bit, and I don't understand why we were even turned down, but I'll just read that to you so you have it in front of you. TDHCA's statement was that "the applicant's underwriting performance was more 5 percent outside the underwriter's verifiable range."

Our total operating expenses were in 3 percent
and the only change that took place was when the underwriter arbitrarily attached $960 to our operating income for laundry and vending machines, which we don't put in any of our units because they're small units. They may work on a 60 or 70 unit project, but on a 16, 20 unit project, we put amenities, washing machines, dryers. Okay. So we're within 3 percent, which, okay.

The other direct construction costs, the Department said differed from underwriters Marshall and Swift, based estimates by more than 5 percent. Our total development costs are within 4.6 percent. This issue never came to us when we were discussing this with staff. They discussed everything else, the underwriter. They never discussed this issue with us.

The other thing is we're within the HUD 221(d) guidelines and that's what we used when we did our takeoff. Even though these are preliminary construction estimates, when we get to final construction, we will nail it down.

"The development's 30 year performer does not maintain a DCR in the acceptable range and net operating income remain positive over the project 30 years." Well, that one just kind of -- well, first of all, I'd say, in response to the underwriters' department's request, we
provided a written solution to the issue by pledging, out of development fees, $17,108, to be placed in a reserve account to fund any negative cash flow through years 25 through 30, or earlier if needed.

A conservative estimate of this reserve account, in 20 years, at 4 percent annum, would have a balance of $38,000. This in year 25 though 30, when you would need $17,000. We were not taking out of operating income. We were taking it out -- we were reducing our development fees and putting it in there.

And then, even though this wasn't part of the thing, one of the things that was mentioned -- and I -- we're one of the strongest non-profits in the state of Texas, particularly as a CHDO. East Austin -- and they raised that question. I don't why, but when projects with a lot less fly through, and we've had many go through EADC.

East Austin Economic Corporation, we're 15 years old. We manage and own over $4 million in real property, including two HOME projects, a twelve unit and a 20 unit HOME project. Our audit and financial statements submitted in the application, and this is a year ago, show $47,000 in cash in accounts receivable. We have a net worth of over a million dollars. If they looked in tab 38
and 47 of the application, delineated, the development
ownership experience of EADC, including identified and
real property by EADC.

In addition to that, we have great
relationships with banks to do almost anything we want to.
We have great credibility. I just put in your folder one
letter from Frost Bank. We also have it with Chase and
Wells Fargo. Just with the two banks, we have a $700,000
line of credit that we can draw on to do any development
that we want to do.

I just want to summarize what's the most
salient point was about the 30 year cash flow. I just
want to summarize. TDHCA and its underwriters have the
authority, and are directed, under the rules and
guidelines, to make such reasonable and
plausible adjustments so as to make proposed projects both
feasible and workable. This is appropriate since, under
current underwriting guidelines, there are more than 60
counties that could not receive from TDHCA with small
projects without applying that rule.

In certain instances, as recent as September
11, in cases before the board, staff underwriters used
this discretion to make certain projects, especially
non-tax credit projects, more feasible, increasing income
estimates, forgiving certain debt. The Bethel Senior Housing application seems not to have received that kind of consideration and assistance.

We respectfully request consistency and fairness in the application of the guidelines and rules. This rule seems to be applied selectively. We respectfully appeal to the board, requesting consideration of this project, and request approval on the basis of our last submission.

MR. CONINE: Thank you, Mr. Johnson. Any questions of Mr. Johnson?

(No response.)

MR. CONINE: I also had a witness affirmation form on Mr. Mike Harms. Is he here?

MR. HARMS: I'll pass.

MR. CONINE: Okay. Close public comment on 6(b)(1). Ms. Carrington?

MS. CARRINGTON: Thank you. I would, as Tom Gouris is coming up, because I suspect that the board is going to have some questions related to the underwriting. Bethel Seniors did follow the process that's laid out for the agency and in both applying under the HOME multifamily CHDO round. They applied on April 2. They were not recommended in that group of applications that went to the
board on September 15, due to financial instability. They did timely file their appeal to the Executive Director. The Executive Director did deny the appeal and then, of course, they have the ability to appeal to the board. All of the backup for the appeal is in the board book. It has been articulated what the agency did use. We have a requirement to identify a positive cash flow over a 30 year period, as required by the Department statute. This is what we did use to deny the appeal on this application and also to terminate the application.

Mr. Gouris is here and available to answer any questions that the board might have specific to that.

MR. CONINE: Any questions of Mr. Gouris?

MR. BOGAN: One quick one. Why won't this work? I know it's a 30 year cash flow that you're looking at. Kind of explain to me, what you look at, if you can, quickly.

MR. GOURIS: Both in their pro forma and our pro forma, it reflected that it would miss that break even at some point before the 30 years were up. They attempted to adjust their expenses over time so they didn't grow by the factors that we used to do our analysis. So that would show that it would happen further out in time, but
still within the 30 year period.

The reason that it happened is because the operating expense number is a high percentage of the potential gross. Whenever that happens, the likelihood that those two paths will cross, that expenses will exceed income, is great. That's what happened in this case.

MR. BOGANY: Have we approved a project similar? It seems like there's a need for it, but in his comments he said, we've approved other projects that didn't meet those types of deals. I'm just wondering, have we?

MR. GOURIS: There was one this year, that we talked about.

MR. CONINE: I think we overruled one that I can remember.

MS. CARRINGTON: Canal Street --

MR. GOURIS: Canal Street is the one that I'm --

MS. CARRINGTON: -- in Houston was the one that was approved.

MR. GOURIS: Correct. The --

MR. BOGANY: What's the difference between the Canal Street and this one?

MR. GOURIS: The mitigating information, the
information that allows us, I think, to grant additional
deferece. The Canal Street property was their
fundraising capacity, their ability to bring other funds
to the development. There's no other funds being brought
to this development. In fact, one of the suggestions to
solve this was to use the developer fee that the
department was going to fund and set it aside for this
future potential use.

That's a huge difference, the ability to raise
funds from other places, and bring it to bear on the
property. That would be a strong suggestion to make this
property work in the further, is to bring some additional
funds from other sources.

MR. BOGANY: Right, but if they defer the
development fee, if they took their development fee, it
still wouldn't work from your analysis?

MR. GOURIS: Well, if they took that developer
fee, and didn't use it as developer fee, then it wouldn't
be developer fee, and we couldn't pay it as such. We'd
have to pay it -- I mean, it wouldn't be developer fee any
more.

MR. CONINE: How much was the total developer
fee on this project?

MS. CARRINGTON: We do have that information.
As Tom is looking that up, one of the things that the board just did was approve an open cycle for funds that are not required to go into the regional allocation formula and the multifamily CHDO funds are ones that do not have to go through an open cycle. What we are encouraging all applicants to do, that applied last summer, and for whatever reason, were not recommended, we are encouraging them to come back to us during that open cycle, addressing the concerns of why they weren't recommended in the first place.

MR. GOURIS: Or if I might add, before that cycle has been opened, so that we can discuss this, so that we can help them work those issues out, because I think there's a reasonable solution.

It's $105,000, by the way, the developer fee.

MR. CONINE: Before the $17,000 offer, there wasn't any deferred in your financial analysis?

MR. GOURIS: Correct.

MR. CONINE: Okay. Mr. Johnson, you want to mention something?

MR. JOHNSON: Yes, I would. What we suggest is -- because this particular thing affects more than us, in Bethel. It affects over 60 rural counties, that prevents money from getting there. The other thing, the
reason we really are doing the appeal, is that this rule is applied selectively. Okay?

MR. CONINE: Okay.

MR. JOHNSON: That is the issue. The other thing is -- it is, in terms of the development fee, when the project is built, the Department doesn't determine what happens to the development fee. The owner does. That is money that the owner gets and if we choose to invest the development fee back into the project, that is feasible.

MR. CONINE: I --

MR. JOHNSON: I mean, why go out and sell cakes and pies?

MR. CONINE: I agree with you there. What are the HOME funds? Is that requested in this particular project?

MR. GOURIS: They requested $999,000, I believe, $999,999.

MR. CONINE: Okay.

MR. JOHNSON: A million dollars.

MR. GOURIS: A dollar less than a million, yes.

MR. CONINE: Are those available now? If the board were to grant this appeal, are those funds available?
MS. CARRINGTON: Yes, they are.

MR. SALINAS: Do we have any discretion?

MR. CONINE: Oh, don't ask that question.

Where's Jones when you need him?

MR. SALINAS: I'm afraid we don't have any discretion.

MR. CONINE: I think because the appeal is in front of us, we can grant the appeal. I would presume that counsel would not have let it get on the agenda unless we could.

MR. SALINAS: Can we grant the appeal?

MR. BOGANY: I move that we --

MR. SALINAS: Here we go.

MR. WITTMAYER: There's a good cause exception in our appeals procedure, in Section 1.7 of our appeals process. It states that if the board, in the exercise of its discretion, determines there is good cause, even if it doesn't find other grounds for the appeal, it may exercise its discretion, if there's good cause.

MR. BOGANY: I have one question.

MR. CONINE: Okay.

MR. BOGANY: Is there any way, if we grant the appeal, that you can get with this group, because they seem to be financially sound, why we can't work something
out, or move something around, to make this thing work?

MR. GOURIS: Regardless if you grant the appeal or not, I think we're more than willing and happy to do that.

MR. SALINAS: Well, I'll move to go ahead and grant the appeal.

MR. BOGANY: Second.

MR. CONINE: Mayor Salinas, motion to approve the appeal. Bogany seconded. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. CARRINGTON: Thank you, Tom. Thank you.

MR. CONINE: 6(b)(2).

VOICE: Thank you.

MR. CONINE: You're welcome. Make sure it's pretty.

VOICE: We build them pretty.

MR. CONINE: Invite us to the open house.

VOICE: You better go.
MS. CARRINGTON: We are moving now to utilization of HOME funds out of the single family portion of the HOME program, for the allocation of $13,832,000 worth of HOME funds for disaster relief. In January of last year, the board did approve a deobligation policy for HOME funds. The first priority on deobligated funds is appeals and the second priority is disasters.

You will notice this is a large amount of money. It's a large amount of HOME funds. Over the past year and a half, TDHCA staff has been performing an extensive reconciliation of HOME program funds. We have basically been scrubbing the contracts and the obligations to determine whether all money had indeed been spent, whether there is some that is coming back to the Department. This is really an ongoing process for us.

As a result of identifying these dollars, the Department has established a committee that's consisting of members of single family, multifamily, portfolio management compliance, accounting, and senior oversight by the Department's Chief of Agency Administration that will be responsible for continually determining how much the Department has in deobligated funds.

All of the recommended awards that you see in front of you today have a FEMA designation, which means
that they have been declared disaster areas. We have also
received a letter from Governor Perry on all of these
communities requesting disaster relief from the agency.
It's a variety of different disasters, as identified by
each of the different FEMA disaster relief numbers. And
then, if you're interested in what happened in a
particular community and what they're going to use the
funds for, we have their application attached behind that.

The project costs for actually doing the
rehabilitation and the reconstruction on the houses would be
$13.3 million. The communities are eligible for a 4
percent administrative fee. That's $532,000. And so, the
total that staff is recommending is $13,832,000 and I will
note that these disasters do go back for about a year and
a half. So it's over about a year and a half period of
time.

MR. SALINAS: I move for the approval.

MR. BOGANY: Second.

MR. CONINE: Motion and second, motion by Mr.
Salinas, second by Mr. Bogany, for the approval of the
HOME fund awards on the deobligated funds in the amount of
$13,832,000. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor,
signify by saying aye.  

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. CARRINGTON: The next item, 6(c), on the agenda relates to a Housing Trust Fund award that was made on May 5, 2000. It was made by the board out of the Housing Trust Fund. This award was made to Green Bridge Development Company. The purpose of the award was to provide funds to Green Bridge, and it was $250,000, to assist in the acquisition and preservation of multifamily properties, by providing free development services and due diligence reviews on properties under contract for purchase.

In particular, the portfolio that was being looked at was a portfolio of 515 properties, sometimes known as Farmer's Home, but now known as rural development, you know, those properties of 2436 units around the state that are developed in rural communities. The loan contract that was executed with Green Bridge did allow, does allow, for either forgiveness or deferral of the loan. So that was anticipated when the contract was executed.
Actually, $168,000 was drawn down under the $250,000 of the contract. What Green Bridge has done is request forgiveness to the Department. The remaining $82,000 has actually been deobligated and has gone back into the Housing Trust Fund. Staff is recommending forgiveness of the repayment of the 168,000.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MR. CONINE: Motion by Mr. Bogany, second by Mr. Salinas. Is there any further discussion?

Were these HOME funds?

MS. CARRINGTON: No, sir, it was Housing Trust Fund.

MR. CONINE: Housing Trust Fund?

MS. CARRINGTON: Yes, sir.

MR. CONINE: Okay. Thank you. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Is 7 the right
one to go to next?

MS. CARRINGTON: Yes, sir.

MR. CONINE: Okay.

MS. CARRINGTON: 7(a), (b), and (c), Byron Johnson, finally. These items relate to some activities in our Home Ownership program. The first, item 7(a)(1), actually, I'm going to ask you to go to 7(a)(2) first, which is approval for the board, from the board, to actually offer, create a mortgage credit certificate program.

In May 2002, you all received a presentation from staff with a recommendation from us, that rather than issuing tax exempt bonds to make mortgage loans, that we take a portion of our private activity authority, and we convert it into mortgage credit certificates, which the Department had done back in the late '80's, but not done an MCC program for several years.

What we are doing -- and if you will look behind your tab and at the chart on the bottom of that page -- we are recommending taking 60 million of our private activity bond cap. The IRS conversion rate is actually 25 percent. So that would make 15 million that was available for a mortgage credit certificate program. The credit rate that we would be using is 30 percent and
we can actually, the IRS allows you to choose between 20
and 50 percent as to how much that benefit would be.
We're actually going to start at 30 percent, and see how
that goes, and may look for an adjustment.

We believe that this will allow us, if we have
an average purchase price of about $75,000 on a home, that
it will allow us to assist between 500 and 600 first-time
home buyers around the state. And so, staff is requesting
approval of the resolution and converting this volume cap
into 15 million of mortgage credit certificates.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MR. CONINE: Motion by Mr. Bogany, second by

Mr. Gonzalez, resolution number 03-080. Any further
discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor,
signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. CARRINGTON: Okay. Going back now to item

7(a)(1), since we will have an MCC program, we now need an
MCC administrator.

Staff did do a request for proposals for someone to assist the Department in marketing the program and doing some administration of the program. We received one response to our request for qualifications and that is behind your cover page. The group is Housing Administrators, Inc., who I believe probably assisted the Department back in the '80's when we had our other MCC program.

The list of what we are expecting from them is included on the first page and there's about ten items that we've identified that we are looking for assistance on. And then, the last page on their three pages is the fee schedule for Housing Administrators.

We are recommending that they do be hired as the administrator and consultant for TDHCA in this program.

MR. CONINE: Is there a motion?

MR. BOGANY: So moved.

MR. SALINAS: Second.

MR. CONINE: Motion by Mr. Bogany, second by Mr. Salinas, that we approve this mortgage credit certificate program administrator. Any further discussion?
MR. BOGANY: I have one quick question.

MR. CONINE: Okay.

MR. BOGANY: What assurances are we going to have that they're going to market this program and get it out there to the public, to the realtors, to the builders, on this program? Are they saying what they're going to do? I guess, we didn't see that part of it in here, but what kind of marketing plan are they planning on doing? Are they going to send a bunch of brochures out? Or what are they going to do?

MS. CARRINGTON: Eric, is that a question for you or Byron or both?

MR. PIKE: Both probably. Eric Pike, single family director. Byron and I probably need to have some additional discussions on this, but my thought is, is that my division will be responsible for marketing this program, along with our other first-time home buyer products.

My understanding is that the administrator will be responsible for preparing a program manual for us, processing the actual certificates, and issuing them, and things of that nature, but as far as getting out there and marketing this program, it's my thought that that would be my responsibility.
I will say, Shad, to address this, we are going to be participating in the Texas Mortgage Bankers Association conference, in Dallas, Monday and Tuesday of next week. We have a booth assigned to us and we're going to be marketing this MCC program. We already have developed a brochure that we're going to be using initially, as well as our expand approval program and the regular first-time home buyer program.

Our thought is that this gets us in front of lenders who will be there at that conference. Those are the types of people that we want to market this to initially, to get them on board, and then, you know, they in turn would go out and actually help us to market it to the public.

MR. BOGANY: Okay.

MS. CARRINGTON: Shad, I might also add, as you know, we have been working with the Texas Association of Realtors, and they have a meeting in February, the last part of February. The Department has been invited to participate in some of those workshops and do some presentations at that meeting. And so, I think that will be very timely for our MCC program also.

MR. BOGANY: Good, because I really truly believe to make this work, you've got to get to the people
to make it happen. That's going to be the realtors and the builders because we're going to suggest that the lenders, you need to get them signed up, but the realtors, the people that are on the street, are the ones that are going to make it work, and whatever we can do to get to them is going to be real important.

MR. CONINE: Okay. There's a motion on the floor. Any further questions?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Any nays?

(No response.)

MR. CONINE: Motion carries.

MS. CARRINGTON: The next item is an update on the Capital Fund Program. The board took a look at this about a year and a half ago. This is an update only. I would encourage you all to take a look at this. We are having meetings with housing authorities. We're having conference calls with HUD. We will be coming to you all, probably in the next couple of months, with this program. I think that's all we'll say, since we do need to move onto the next item. That does require a motion.
This would be item (c), which is a resolution authorizing the additional series for TDHCA's single family mortgage revenue refunding tax exempt commercial paper notes program. In July of this year, the board approved an increase in our commercial paper program, from 75 million to 200 million.

The idea is we need that additional increase to be able to manage about $101 million of private activity volume cap. We have gone to the bond review board and the good work of many staff who were involved in basically providing information, education to some new members of the bond review board, the bond review board has approved this additional increase in our commercial paper program.

What we are asking for today is to create a Series C, which is a third series in our commercial paper program. We have a Series A and a Series B that accommodates our 75 million. This Series C would allow us to accommodate the remainder, the difference between the 75 million and the 200 million.

And so, staff is recommending that you all do approve this creation.

MR. Bogany: So moved.

MR. Salinas: Second.

MR. Conine: Motion by Mr. Bogany, second by
Mr. Salinas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries. That was for resolution 03-081.

I guess we need to go to 8.

MS. CARRINGTON: Yes, sir. Thank you, Byron.

MR. CONINE: Thank you, Mr. Johnson.

MS. CARRINGTON: Okay. What the board has in front of them this afternoon, on item 8, is requests for extensions. These are all related to extensions in our Tax Credit program.

MR. CONINE: We've got some public comment I guess we need to get to first on that on 8(a)(1), which would be Mr. Robert Greer.

MR. GREER: Good morning, Mr. Chairman, members of the board. My name is Robert Greer. I am the president of Michaels Development Company and I make myself available to you this morning to trace the history of these projects leading to this request should you have such questions.

If I may briefly address, I was before you
previously requesting your approval to be accepted to step
in the position of the general partner of these four
programs that were previously awarded to Century Pacific.
And that, in doing so, and in joining into a settlement
agreement with the Department; that we would proceed with
the full rehabilitation of these four developments, in
doing so, not requesting any additional consideration for
more financing from the Department; that we would, in
fact, begin immediately to be involved in a rehabilitation
activity in one of the properties damaged by storm, which
we have done and have spent over a million and a half
dollars to date.

We also represented to you our willingness to
move forward with a HUD mortgage insurance program, to
afford us the ability to do far more rehabilitation
activities on these four properties than were demonstrated
in the tax credit applications which received the initial
rewards. We propose to do an additional $4.5 million of
additional rehabilitation activity, ensuring the greater
success of these existing affordable housing properties.

In doing this, we propose utilizing both the
Dallas-Fort Worth HUD office and the Houston HUD office to
begin that process, and did, in fact, submit our
pre-applications with Riley Mortgage, received

ON THE RECORD REPORTING
(512) 450-0342
pre-application approval, and invitation to firm and closing. This involved both IRP decoupling, the mortgage insurance program, the rent approvals, the operating approvals by both HUD offices.

However, upon receiving that invitation to firm, we were then notified by Washington HUD that one member of the Riley Mortgage Company was in fact a member of a partnership with our company in a development in Pennsylvania and because of that relationship, HUD felt they could not accept all of the underwriting that was submitted to them for these deals, and required us to then engage another MAP processing entity to re-underwrite all the conclusions HUD had accepted.

We then engaged GMAC to begin the process all over again. It meant that all of the market studies, environmental reports, all the aspects of the pre-application that were done by Riley would have to be done by other third party members, in order to eliminate any possible taint in the initial underwriting. That has now been redone and resubmitted. They are all in the hands of the Dallas-Fort Worth and Houston HUD offices and we are told to expect responses to those by the beginning of next week.

That enables us to conclude the mortgage
insurance processing and take these developments to a completed process of financing and begin the construction activities.

The only other outstanding element has to do with TPA, the transfer of the physical assets from one entity to another. When I stood before you several months ago, we were lead by counsel recommending -- at that time, counsel brought by Century Pacific -- to submit what's called a modified TPA, or an abbreviated form of documentation, which we then submitted.

Again, upon receipt of HUD, very recently, they declared that in fact the modified TPA was not going to be acceptable, under all these circumstances, that they wanted a full TPA presented to the HUD offices, which we have now done. It has all been submitted and we're informed by telephone, but not in writing, that this will also be accepted.

Based on these unforeseen setbacks, and required duplication of activity, we present ourselves to you today and request your support for an extension for a loan closing.

MR. CONINE: Thank you, Mr. Greer. Any questions of him?

(No response.)
MR. CONINE: Close public comment in 8(a)(1).

Ms. Carrington?

MS. CARRINGTON: Four developments are included in this request and it is a request for an extension on the closing of the construction loans for all four and the commencement of substantial construction for all four. The deadlines were all the same. They're listed on the bottom of the first one, which is CPL Limited and staff is recommending extensions for each of these requests. I can identify them if you want.

MR. CONINE: No, let's just do them as a bulk.

MS. CARRINGTON: Yes.

MR. CONINE: Do I hear a motion?

MR. GONZALEZ: So moved.

MR. BOGANY: Second.

MR. CONINE: Mr. Gonzalez moved, seconded by Mr. Bogany. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.
MR. GREER: Thank you so much.

MR. CONINE: Thank you. It's 8(a)(2). Ms. Carrington?

MS. CARRINGTON: Yes, 2, 3, 4, 5, and 6 are all requesting extensions for the commencement of construction, which their current deadline is November 14. Staff is recommending extensions per the request of the applicants -- some of them do differ as to what the new deadline will be. Staff is recommending all of these. Mr. Chair, would you like us to do them one by one? Or would you like to take them as a bulk?

MR. CONINE: How far are we extending out to?

MS. CARRINGTON: Park Manor Apartments, which is the first one that's listed, the new deadline is January 13. Valley View Apartments, the new deadline is January 14. Lovett Manor Apartments, the new deadline is February 10. Meadows of Oakhaven Apartments, new deadline is January 30. Heatherbrook Apartments, new deadline is February 12.

MR. SALINAS: I move for the approval of the extensions.

MR. BOGANY: Second.

MR. CONINE: Motion for approval of all five of the project extensions, seconded by Mr. Bogany. I will
note for the record I have a couple of public comments, but I assume if we're going to approve it, they wouldn't mind not speaking. Thank you.

VOICE: Thanks guys.

MR. CONINE: Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Let's go, if we can, Ms. Carrington, to Brooke Boston to the item we left off the agenda back awhile ago, one of those little items called approving the 2004 QAP.

MS. BOSTON: The technicality. As it relates to the amenities, what we're proposing, which is partially consistent with Ms. McIver's request is that in the threshold section of the QAP, which would be Section 49.9(F)(4)(a). Right now, it has language that you'd have to have a certification of the amenities and you'd actually submit the amenities.

Our alternative statement would say, "The applicant must certify that they will meet at least the
minimum point amenities for threshold, as further described in 49.9(G)(7)(d)", which is the section of amenities that's referenced under the scoring criteria. Having it there will ensure that people who have to deal with threshold wouldn't necessarily have to score will be required. So even if it was someone who, for whatever reason, because of a non-competitive setaside or maybe a region didn't go for those, they'd still have to do a certain level of them.

Then, the actual list that was in there, we're just going to mesh it with the list that was under selection and make sure that not repetitions, and just kind of merge them together.

So that's our suggestion. Someone else actually pointed out to me that we right now, on page 37 of QAP that you have, we are giving points, or one point, for tenant populations with children, and it had said, "must show that 35 percent or more of the units have more than two bedrooms". And so, that would conflict, like just to the number, of your suggestion under the eligible building type. So our proposal would be, on the family point, to lower it down to the 30 percent, and just say they must show that 30 percent of the units have more than two bedrooms.
MR. CONINE: Okay.

MS. BOSTON: So that someone could actually meet both their requirements.

MR. CONINE: There's two amendments. Can I get a motion on the floor?

MR. BOGANY: So moved.

MR. CONINE: There's a motion by Mr. Bogany. Do we have a second?

MR. SALINAS: Second.

MR. CONINE: Second by Mr. Salinas. Any discussion on the two amendments that Brooke has brought to us?

(No response.)

MR. CONINE: Seeing none, all those in favor of the amendments, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now, we're going to vote on the adoption of the new Title X, Part 1, Chapter 50, 2004 Housing Tax Credit program qualified application plan and rurals, as amended.

MR. BOGANY: So moved.

MR. CONINE: There's a motion by Mr. Bogany --
MR. GONZALEZ: Second.

MR. CONINE: -- and a second by Mr. Gonzalez.

Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now, back to item 8(b), I believe.

MS. CARRINGTON: May I go back to that item, Mr. Chair?

MR. CONINE: Which item?

MS. CARRINGTON: The tax credit item, the QAP.

MR. CONINE: You want to make an editorial comment?

MS. CARRINGTON: Yes, sir.

MR. CONINE: Go right ahead.

MS. CARRINGTON: Thank you very much. I would like to congratulate and thank all of those folks in the room who are still left who participated in the QAP working group that started in February of last year and we will be cranking up a new group, I guess, in January or
February, actually January or February of this year, and we will be beginning that group next year.

    We also had several of you all who participated in the public input group. I want to thank you all for the hours that you spent related to working with us on the qualified application plan.

    I also want to thank our staff, who attended all of these public hearings and read through transcripts, and wrote down public comments, and have done, I think, an excellent job in summarizing comments, and then doing recommendations based on those comments or not based on those comments. I think, you know, we certainly know that everybody is not always going to agree with us and we understand that. I haven't heard anybody today say that they thought they were inaccurately quoted.

    And so, I think that is a very positive thing and I certainly would like to commend the staff for the job that you all have done through these hearings.

    (Applause.)

    MR. CONINE: Item 8(b).

    MS. CARRINGTON: Thank you. When your agenda was published and your book was sent to you, there were eight tax exempt bond and 4 percent credit developments for your consideration. Two of these are not going to be
considered today.

   The first one, Primrose Skyline Apartments, this they've asked that this be postponed until December. So this one will not be considered. The one that is the next to the bottom, Little York Park Apartments in Houston, this development has been officially withdrawn.

   So what the board has in front of them for consideration this afternoon is six tax exempt bond finance developments, with 4 percent tax credits. All six of them have issuers other than the Texas Department of Housing and Community Affairs. Your agenda does tell you, in each case, who is the issuer on each of these transactions. So the Department's role is to allocate the 4 percent credits.

   You have both the tax credit recommended sheet on how much the allocation of tax credits would be, along with the summarization of public comment, down at the bottom at each of those sheets. Again, someone else holds the public hearing for these transactions. TDHCA does not hold the public hearing. And then, you also have the underwriting report for each of these developments.

   Each of these developments, they are all being recommended by staff for an amount of low income housing tax credits. Each of them do have conditions, conditions
that are put on first by the multifamily area related to bonds and then conditions in the multifamily area related to tax credits.

Those conditions are always the same with the exception of the bond requirement is, per the QAP, that there be a qualified service provider, to provide special supportive services that would not be otherwise eligible for the tenants. So when you look at the requirements from the bond side and the credit side, they're always going to be the same, except the bond side is going to have one more requirement.

Each of these developments do have certain requirements related to them that we will be verifying prior to closing. With that, I will be happy to read them one by one. Or, Mr. Chair, how would you like me to?

MR. CONINE: Why don't you read off the development number and the name? That's all I need.

MS. CARRINGTON: How about the credit amounts?

MR. CONINE: Okay. Go ahead.

MS. CARRINGTON: Okay. The first would be 03-433, Southern Terrace in Dallas. The credit recommended amount is $1,043,740.

Development number 03-434, Preakness Ranch, Dallas, has a credit amount of $939,661.
Development number 03-436, Northland Woods Apartments, Houston, has a credit amount of $865,730.

Development number 03-438, Parkside Point Apartments, in Houston, has a credit amount of $792,586.

Development number 03-441, Primrose At Jefferson Plaza, San Antonio, has a credit amount of $616,285.

The last one is development number 03-449, Little Nell Apartments, Houston, credit amount of $920,281.

MR. CONINE: Do I hear a motion?

MR. SALINAS: So moved.

MR. BOGANY: Second.

MR. CONINE: Motion and approval for the six determination notices that Ms. Carrington read off. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: So moved.

8(c), we have some public comment on that, I
believe.  Ken Mitchell?

MR. MITCHELL:  Good morning, board.  I am here to address a restriction on the Grand Texan that is giving me a whole lot of trouble.  I would request that the board to remove this restriction.  I have a handout and I will only take three minutes.  Most of this is really to support those communities.

Do you have the staff's report?

MS. CARRINGTON:  Yes, they do.

MR. MITCHELL:  You do, okay.  If you would turn to tab 1, this is the way this project was approved.  The amendment, if you'll turn to page 3, there is a condition to this project which is very, very detrimental to senior citizens.  The restriction limits the occupancy to all the units to senior citizens who make 50 percent or less of the area median income.  Now, this leaves out low income seniors who make 50 to 60 percent of the low income.  Those are low income people.

If you will turn to page 11, in my pictures, I want to show you some of our residents.  This is Diane.  She's in a wheelchair.  She's had a stroke.  This is a typical resident that we have.  We cater to old, old people.  They all have disabilities.

Page 12, you see Ms. Margie.  She's 94 years
old.

Page 13, we have a picture of Mr. Hubert. He has COPD. He has trouble breathing.

Page 13, we have Latrice. You can see that she's in a wheelchair. She has degenerative arthritis. You see, next to Latrice, is Hugh. He has Parkinson's disease and he is in a wheelchair. Thirty percent of our residents are totally disabled.

If you turn to the next page, you will see Ms. Olla Burke. She is 98 years old and that's incredible that someone 98 can live in our project. She has dementia.

Now, if you'll turn to page 2, tab 2, in the second page, this is the Fair Housing Information that we post in all of our projects. It is illegal to discriminate based on handicap and when you start turning away low income people that are all handicapped, you are running into big trouble with their housing. I mean, these people can go down and file a Fair Housing complaint really quick because they qualify to live in the project. They're income eligible under the tax credit rules.

If you'll go to the pictures on page 26, this is our senior campus. As far as low income person, a low income person can live at Country Lane. They can live at
Grand Reserve. Oh, I'm sorry. It's this last picture. A low income person can live at Country Lane, can live at Grand Reserve, but a low income person cannot live at Grand Texan. If one of these seniors who is handicapped come to me, and they're low income, 50 to 60 percent, I'm saying we don't allow low income people here. Now, what kind of rule is that?

In fact, they can live in any project in the state except this one. This is the only project that has ever had this restriction.

I would like to respond to the staff's position that I have delivered less in my amendment than what my original application was proposed. Tab 4, do you have their report?

MS. CARRINGTON: Yes, they do.

MR. MITCHELL: You do. Okay. Thanks. Staff recommendation, this is the last part of the report. It says that "the application was originally proposed based on serving a larger portion" -- that's the key word, larger portion -- "of lower income families". Well, I have calculated the portion. If you go over to the second page, and you make a calculation in accordance with the QAP, you can see a portion on this form, I've highlighted for you. It says page 28. The original application, the
portion would be 50 percent. That would be the
calculation according to the QAP.

    My amended application, the portion, would be
calculated 50 percent. It's equal. So this statement by
staff is incorrect. They have not given a calculation for
you to approve.

    I would like to go to tab 5 and I have a letter
from Bank of America. The rents would increase a little
bit, $2,700 a month. They're saying that their rents are
adequate. Based on this letter, from Bank of America,
they are not adequate. They are not adequate for our
permanent loan. Bank of America did produce a
calculation, based on underwriting numbers, I would
qualify for a loan of 4,225,000. Our loan is supposed to
be 4,600,000. We are 375,000 short.

    I would like you to go to tab 6. I met with
our local city council member, Gilda Garza, and I said,
Gilda, I can't believe that we cannot admit low income
seniors to this project. I said, they have not done this
to any project in the whole state. She, of course, wrote
you a letter to support my position. Her comment was, you
know, Medicare's decreasing, people are trying to take
rights away from seniors, why would the state take housing
benefits from low income seniors?
I have a letter from the City of McKinney also in support of my amendment. I would request that you consider these letters of support in my amendment.

That's my presentation. Are there any questions?

MR. CONINE: Any questions of Mr. Mitchell?

MR. SALINAS: What's the recommendation?

MR. CONINE: We'll get to that in just a second. Hang on just a second.

I also note for the record, Ms. Cynthia Bast -- there she is, back there -- is here and is available. Okay. Thank you.

Close public comment on 8(c). Ms. Carrington?

MS. CARRINGTON: Thank you, Mr. Chairman. This was a transaction, or is a transaction, that was a forward commitment in '01. The transaction was restructured from 230 units down to 100 units. When the applicant applied to TDHCA, the election that they made on their application was that they would lease units to families. They chose the 20-50 test as opposed to the 40-60 test. So there was an election that was made at application time.

The statement that we can't admit low income seniors. Actually, this recommended amendment would allow seniors of higher income to be accepted into this
development. What the Department is saying is regardless of the number of units in this development, the election you chose at the time you applied, is 20 percent of the units at 50 percent. So in this case, since it's 100 percent affordable, 100 percent of the units have to be, at this point, at 50 percent of area median income.

It is certainly this Department's practice to fairly and consistently require developers to adhere to what they applied for initially. Also, it is legislative mandate of this Department to serve more lower income. That is what requiring this developer to stay at the 50 percent level does. Yes, indeed, it does eliminate those seniors who would be between 51 and 60 percent. That was the election that was chosen.

The staff's recommendation is to deny this request.

MR. CONINE: Is there a motion?

MR. SALINAS: So moved.

MR. CONINE: Motion to deny the request of the applicant by Mr. Salinas. Is there a second?

MR. BOGANY: Second.

MR. CONINE: Second by Mr. Bogany. Any further discussion?

MR. BOGANY: I just have a question.
MR. CONINE: Mr. Bogany, yes?

MR. BOGANY: The 50 percent that he -- what you're saying is you're just following what he initially presented to us when he got the deal. Am I correct?

MS. CARRINGTON: That is correct. Now the transaction was restructured. The number of units was reduced.

MR. BOGANY: Okay.

MR. CONINE: Was that because of our call? We were short of tax credits on the forward commitment, if I remember right. That was the only reason. Is that correct, Mr. Mitchell?

MS. CARRINGTON: No.

MR. MITCHELL: We reduced our market rate units.

MS. CARRINGTON: Yes.

MR. CONINE: Okay.

MR. MITCHELL: We turned them into tax credit units.

MR. CONINE: Okay. Any further discussion on the motion on the floor?

(No response.)

MR. CONINE: Seeing none, I'll call the question. All those in favor, signify by saying aye.

ON THE RECORD REPORTING
(512) 450-0342
(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Desert Breeze, El Paso, Texas?

MS. CARRINGTON: Thank you. This is an '03 allocation of tax credits and the applicant is requesting an approval for a change in the site plan. It's located, the development will be located in Horizon City in El Paso. It relates to some right of way with the City of El Paso.

Noted down in your write-up, effect on change of scoring, indeed, this does deduct the seven pre-application points on this particular development. However, this was in the rural setaside and the rural setaside was undersubscribed. So losing those seven pre-application points would not have affected this development's ability to receive an allocation.

So based on that, the Department is, staff is recommending the change in the site plan for Desert Breeze Apartments.

MR. CONINE: Is there a motion?

MR. BOGANY: So moved.

MR. SALINAS: Second.
MR. CONINE: Mr. Bogany motions, Mr. Salinas
seconds to approve the Desert Breeze site plan. Any
further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor,
signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. We have one
public comment that's here, only if needed to clarify, on
Montgomery Meadows. Ms. Carrington?

MS. CARRINGTON: Thank you, Mr. Chair. The
last action item for the board this afternoon is
Montgomery Meadows Apartment and this, again, is an '03
tax credit allocation. The applicant is requesting
approval for a change in the site plan. This is located
in Huntsville, in Walker County.

Again, this change would have resulted in the
seven pre-application points being deducted. However,
there was only one other eligible applicant in this
setaside and it was the same developer. And so, we could
not say that anyone would be harmed by not granting this
change in the site plan. Staff is recommending that the
board approve this amendment.

    MR. BOGANY:  So moved.

    MR. CONINE:  We're not going to hold the motion and the second because Mr. Gonzalez has left the room and we do not have a quorum.

    Ms. Carrington, would you like to fill in on any of your Executive Director's report while we're waiting on Mr. Gonzalez to come back?

    MS. CARRINGTON:  Only if you have questions.

    MR. WITTMAYER:  Ms. Carrington, would we have an opportunity to go back to item 4, on the tax credit agreement with Office of Rural Community Affairs? Or do you want to delay that?

    MR. CONINE:  We can't take action on it anyway.

    MS. CARRINGTON:  Again, we don't have a quorum.

    MR. WITTMAYER:  When he returns --

    MR. CONINE:  That one can wait. He's back.

    MS. CARRINGTON:  Now, you know how important you are.

    MR. CONINE:  Okay. Let's get a motion for both of these approvals, for 03-220 and 03-221.

    MR. SALINAS:  So moved.

    MR. BOGANY:  Second.

    MR. CONINE:  Motion by Mr. Salinas, second by
Mr. Bogany, for the approval of both. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries. Anything else we need to do today?

MS. CARRINGTON: No, sir.

MR. CONINE: Any other comments from the board?

(No response.)

MR. CONINE: Thank you for your diligence. We stand adjourned.

MS. CARRINGTON: Thank you.

(Whereupon, at 12:35 p.m., the meeting was adjourned.)
CERTIFICATE

IN RE: Texas Dept. of Housing and Community Affairs board

LOCATION: Austin, Texas

DATE: November 14, 2003

I do hereby certify that the foregoing pages, numbers 1 through 216, 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.

11/29/2003
(Transcriber) (Date)

On the Record Reporting, Inc.
3307 Northland, Suite 315
Austin, Texas 78731