TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING COMMITTEE

11:15 a.m.
Thursday,
June 10, 2004

Auditorium
State Capitol Extension
1100 Congress
Austin, Texas

COMMITTEE MEMBERS:

BETH ANDERSON, Chairman
C. KENT CONINE, Vice Chairman
SHADRICK BOGANY
VIDAL GONZALEZ
PATRICK GORDON
NORBERTO SALINAS

STAFF PRESENT:

EDWINA CARRINGTON, Executive Director
CHRIS WITTMAYER

ALSO PRESENT:

BRENDA HULL
AGENDA

ITEM PAGE:

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

ACTION ITEMS

ITEM 1 Presentation, Discussion and Possible Approval of Minutes of Board Meeting of May 13, 2004.

Item 2 Presentation and Discussion of Report from the Programs Committee:
C. Kent Conine  22
a) Update on Issues Raised at the May Committee Meeting Including HOME Funding Timelines, HOME Over-Subscription Rate for Current Cycle, Community Development Block Grant Housing Information Update and HOME Consolidated Plan Amendment Language

b) Report from Texas Interagency Council for the Homeless

c) Update and Discussion on Section 8 Program

Item 3 Presentation, Discussion and Possible Approval of Programmatic Items:
C. Kent Conine  30
a) Forgiveness of Housing Trust Fund Predevelopment Loans for: City of Orange for $50,000 East Austin Economic Development Corporation for $30,000

b) Update on Strategic Plan for Fiscal Years 2005-2009

Item 4 Presentation, Discussion and Possible Approval of Multifamily: Mortgage Revenue Bonds and Four Percent (4%) Housing Tax Credits With TDHCA as the Issuer:
Vidal Gonzalez

a) Proposed Issuance of Multifamily Mortgage 34 Revenue Bonds for Tranquility Bay, Pearland, Texas in an Amount Not to Exceed $14,350,000 and Issuance of Determination Notice (Requested Amount of $650,675 and
b) Selection of Underwriters for the Multifamily Bond Program 161

c) Selection of Trustees for the Multifamily Bond Program 162

Item 5 Presentation, Discussion and Possible Approval of Housing Tax Credit: Elizabeth Anderson Items:

a) Appeals to Board from Housing Tax Credit Applicants on Applications as follows:
   04-066 Pineywoods Community Development, Orange, Texas
   04-267 Brentwood Apartments, Aldine City, Texas

b) Issuance of Determination Notices on Tax Exempt Bond Transactions with Other Issuers:

04-425 The Masters, Dallas, Texas City of Dallas Housing Finance Corp. is the Issuer
   (Requested Amount of $511,061 and Recommended Amount of $500,879)

04-428 Primrose at Pasadena, Pasadena, Texas Southeast Texas Housing Finance Corp, is the Issuer (Requested Amount of $783,565 and Recommended Amount of $783,565)

c) Proposed Amendments to Housing Tax Credit Projects: 196

   03-134 Lilac Gardens, El Paso, Texas
   04-408 Hickory Manor, DeSoto, Texas

d) Extension of Construction Loan Closing Deadlines for: 203

   03-004 Arbor Woods Apartments, Dallas, Texas
   03-011 Jefferson Davis Artist Lofts, Houston, Texas
   03-136 Tigon Villas, San Antonio, Texas
   03-159 Summit Senior Village, Gainesville, Texas
   03-178 Jacinto Manor, Jacinto City, Texas
03-182 The Manor at Jersey Village, Jersey Village, Texas
03-212 Village of Kaufman Apartments, Kaufman, Texas
03-213 Fox Run Apartments, Orange, Texas
03-220 Desert Breeze, Horizon City, Texas

e) Request for Additional Housing Tax Credits for:

1) 0004T, Carroll Townhomes, Dallas, Texas, in the Amount of $13,587 (Total amount of Housing Tax Credits for Carroll Townhomes is $265,587)

2) 01401, Roseland Gardens, Dallas, Texas, in the Amount of $3,188 (Total amount of Housing Tax Credits for Roseland Gardens is 402,563)

ADJOURN
PROCEEDINGS

MS. ANDERSON: Call to order the Board meeting for the Texas Department Housing and Community Affairs for Thursday, June 10, 2004.

We'll call the roll. Beth Anderson, Chair, is present.

Mr. Conine?

MR. CONINE: I'm here.

MS. ANDERSON: Mr. Bogany.

MR. BOGANY: Here.

MS. ANDERSON: Mr. Gonzalez.

MR. GONZALEZ: Here.

MS. ANDERSON: Mr. Gordon.

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas.

MR. SALINAS: Here.

MS. ANDERSON: We have all six members present, and we have a quorum.

I'd like to begin this morning by asking that we have a brief moment of silence in the memory of the 40th president of the United States, Ronald Reagan.

Thank you for that. I have just one other comment I'd like to make this morning and this is to ask
that you keep in your thoughts and prayers the family of State Representative Jim Pitts, whose wife was tragically killed over the weekend in a car accident.

And as many of you all know, her brother-in-law is John Pitts, who is a member of our affordable housing community here in Texas and a participant in the Department's activities and programs.

Okay. Then the first item of business on the agenda is to solicit public comment. And as we do at all of our meetings, we entertain public comment both during this initial public comment period or a person can choose to speak at the time of the agenda item.

I have a number of witness affirmation forms, and I will call on you to speak.

If there's anyone in the audience that would like to speak to the Board this morning and has not completed a witness affirmation form, they're up here in front, and I ask that you fill out a witness affirmation form if you want to speak.

The first person is Susana Benevidez from Congressman Charlie Gonzalez' office. Good morning.

MS. BENEVIDEZ: Good morning. I'm here to represent Congressman Charlie Gonzalez, District 20,
Texas. I'm going to read a letter that he has sent the executive director, Edwina Carrington.

But before I do, I'd like to give you a brief overview regarding the applicant. This is application Number 04-074, Las Palmas Garden Apartments.

Urban Progress Park Recreation, a 501(3) has owned the property for 39 years. There have been three resident meetings. They were very well attended.

Development team has had several meetings with the residents in the surrounding community to listen to concerns, and they've worked together to set a program for rehabilitation.

A 100 units with 100 percent being affordable at 40 percent of the median income. Amenity center with computers, social and educational programs for the whole family.

They will be adding air conditioning, carpeting, energy efficiencies, swimming pool, perimeter fencing with security gates.

Residents are happy to live there and are happy with the schools. They don't want to move away. And this is located in a poor section of the Congressman's district.
And this is the letter that he has sent Ms. Carrington.

"I'm writing this letter in support of Las Palmas housing in their application to the Texas Department Housing and Community Affairs for housing tax credits to rehabilitate the Las Palmas Garden Apartments at 1014 South San Eduardo, San Antonio, Bexar County, Texas 78237.

The 100-unit multifamily development consists of one, two and three bedrooms on 7.15 acres. There is a need for quality, affordable housing on the west side of San Antonio.

This rehabilitation of the 35-plus-year old multifamily apartments will continue to address the needs of families in the 40 percent, 50 percent and 60 percent of the area median income.

Las Palmas Garden Apartments has long and good standing in the community.

I support this application to the Texas Department of Housing and Community Affairs. If you have any questions or concerns regarding this letter, please do not hesitate to contact my office.

Sincerely,

ON THE RECORD REPORTING

(512) 450-0342
Congressman Charles A. Gonzalez

Thank you.

MR. CONINE: Thank you.

MS. ANDERSON: Jose Angel Salinas.

MR. SALINAS: Yes. I'd like to yield my time to Mr. Ron Mayfield.

MS. ANDERSON: Leslie Hinds.

MS. HINDS: I'd like to yield my time to Ron Mayfield.

MS. ANDERSON: Patti Jeschke.

MS. JESCHKE: I'd like to yield my time to Ron Mayfield.

MS. ANDERSON: Chad Howard.

MR. HOWARD: I'd like to yield my time to Pete Dumont.

MS. ANDERSON: David Crane.

MR. CRANE: I'd like to yield my time to Peter Dumont.

MS. ANDERSON: Jason Simon.

MR. SIMON: I'd like to yield my time to Peter Dumont.

MS. ANDERSON: Patrick Lesley.

MR. LESLEY: I'd like to yield my time to Peter Dumont.

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(512) 450-0342
Dumont.

MS. ANDERSON: Okay. And Mr. Dumont, I have your form. It indicates that you want to speak during the public comment period. But do you prefer to speak when the agenda item is presented?

MR. DUMONT: Yes.

MS. ANDERSON: Okay. The other witness affirmation forms that I have indicate that people who want to speak, want to speak at the agenda item. Is there anyone who's filled out one of these forms that would prefer to speak now?

Yes. Your name, ma'am.

MS. RODRIGUEZ: Stella Rodriguez.

MS. ANDERSON: And you'd like to speak now?

MS. RODRIGUEZ: Yes.

MS. ANDERSON: Okay. Please come down.

MS. RODRIGUEZ: Good morning, Madam Chair.

Members of the Board. My name is Stella Rodriguez, and I'm the Executive Director of the Texas Association of Community Action Agencies.

We are based here in Austin, and we represent the network of community action agencies across the State.

On behalf of the Board of Directors of TACAA,
I'm here to present a resolution which was adopted by our membership regarding a policy by this Department that not creates a burden to the clients we serve, it also prevents many clients from being served with needed assistance.

Effective January 1, 2004 TDHCA implemented general policy number 04-3.2, which in essence requires service providers of three programs -- the Community Services Block Grant, the Comprehensive Energy Program and the Weatherization Assistance Program.

It requires them to use previous 90-day income of a household to determine eligibility as opposed to a 30-day period formerly used.

The policy further states that if income is unavailable, the applicant must complete and sign a Declaration of Income statement.

We understand this policy is a result of a recommendation made by the State Auditor's Office. However, it is our understanding that the SAO recommendation did not mandate a 90-day period.

And as advocates of the clients we serve, we're compelled to share with you the affects of this policy on our clients.

The clients we serve are extremely fluid in

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terms of employment. Many have seasonal jobs. They are left unemployed due to the unstable economy and live paycheck to paycheck.

They are familiar with federal and state programs, that most of them require 30-day income policy -- for example, food stamp, transportation, family planning, etc.

They're challenged in retaining documentation for a long-term period. They're reluctant to ask employers for information out of embarrassment in seeking assistance. And they're diversified in the type of circumstances and situations they find themselves.

A sampling of specific case scenarios reported to our statewide network include a number of things, but I'm not going to read to you every one. I do have written testimony to provide to you. But let me give you a few examples.

A woman who cleans house for a living is paid in cash. One of her employers moved away. A month later, she is in need of assistance. However, the TACAA was unable to help her because her income for the previous 90 days was unattainable.

And elderly woman's husband died four weeks
prior to the client applying for assistance. She receives $525 in social security. Her past 90-day income included her social security, her husband's social security and her husband's part-time wages.

When you factor in the 90-day period, this client is disqualified from receiving any assistance.

A woman left her abusive husband. She now works at the Dollar Store, earning $5.15 an hour for 20 hours a week. She and her three children are broke, and they need assistance now. However, they're ineligible, due to this policy.

Some general case scenarios include: client seeking assistance with utility bills are denied at a higher rate. Clients get frustrated with the process and choose to suffer the consequences of not receiving assistance.

Some employers are uncooperative and fail to provide income verification, thereby leaving a client unserved.

Clients usually assisted under a 48-hour response period through the energy crisis component of the Comprehensive Energy Assistance Program are now denied or forced to sign a self Declaration of Income statement.
Clients get angry with the local CAA and consequently contact their local elective officials for intervention, which ultimately are referred to this Department by the elected official.

The CAA network has a great working relationship with this Department.

And as partners, we simply bring to your attention the fact that clients needing are no longer being served or are having to wait much longer before they're assisted, which oftentimes compounds they're crisis situation.

Furthermore, we ask the Department not to penalize the community action agencies for client overuse of the Self Declaration of Income statement caused by this policy.

In any event, our network will implement whatever policy this Department adopts.

Thank you for the opportunity. And I actually have Dan Boyd with me from the Galveston County Community Agency, who I'd like to address you at this point, if possible.

MS. ANDERSON: Mr. Boyd.

MR. BOYD: Thank you, Ms. Rodriguez. Thank
you, Madam Chair, members of the Board, for this
opportunity to give you a brief look at this very
important issue.

My name is Dan Boyd. I'm Deputy Executive
Director of Galveston County Community Agency Council. We
serve four counties on the Gulf Coast of Texas.

In support of the TACAA resolution on behalf of
community action agencies across the State, we appear
before you today as advocates for the citizens of Texas
who come to us in their time of need.

We're eager to demonstrate to you how TDHCA
General Policy Issuance 94-3.2 affects the access to
services for our low-income citizens.

From the field you see a clear picture of how
this issuance puts in peril the ability to help needy
families. We wish to present now a set of five
undeniable particulars with respect to the lives of the
very people we seek to serve.

First, our customers have fluid lives. The
lack of adequate income precludes families from enjoying
certain stabilities that many of us take for granted.
Working in unprotected jobs makes continued employment an
uncertainty.

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Uncertain employment makes stable and long-term housing a vague and distant reality. Often families relocate in order to trail gainful employment. Often the arrival in a new place requires assistance with housing and basic necessities.

While finding adequate housing is a function that CSBG case manager have helped families do for almost 40 years. This issuance prevents far too many of these families from being eligible for the very assistance we're mandated to provide.

Second, our customers are more susceptible to crisis. Often a catastrophic event such as employment loss, illness, death or accident can send any family into crisis.

However low-income families need not have such a grand event to plunge their lives into a disparaging situation.

A broken alternator on the family's only car, back to school expenses or an unexpected increase in the cost of a maintenance prescription can quickly deplete financial reserves, providing any reserves ever existed.

Often such crises permeate every aspect to the family, from attitude to record keeping. Knowing that a
family will need income documentation for the previous 13 weeks of employment is frequently overwhelming.

Often, it's to the point that some families will not keep appointments with case managers when told that assistance requires compliance with the afore-mentioned issue.

Third, our customers seek our help in a predictable manner. Most Texas are proud people, and when faced with a crisis, they'd like to be able to handle it themselves.

But when no sustainable relief is in sight, and the second round of unpayable household bills begins to arrive in the mail, our services are sought. This usually puts needy families at our doorstep between five and seven weeks following any catastrophic event.

This is where the issuance can be at its most prohibitive. When calculating income for a 90-day period, all too many of these families become ineligible for the services they seek.

A 30-day look at the family paints a more accurate picture of the family's current situation. For many of us here a 30-day look paints the same picture of our lives that a 365-day look would provide.
For the overwhelming majority of your customers, however, this is not the case.

Fourth. This set of situations exists in every constituency in Texas. As more and more citizens cannot access available services due to this issuance, the number of communications to state legislators will continue to increase.

The phone calls and letter have already started and will most assuredly continue.

Thus the political implications of this issuance can be more far-reaching than originally estimated by the one person in the SAO that thought this was a good idea, instead of a necessity based on actual facts collected by reasonable tests of Texas CAAs.

Finally, there's no denying that my mother's mother was correct when she taught me the grandmother rule, which simply states, it doesn't matter who's right. It only matters what's right.

With that, let me say we're not here telling you your issuance was wrong. Nor will we concede that our movement against it is wrong. We will simply live by the credo that doing what's right for our citizens includes revisiting this issue.

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We sincerely that you will indeed revisit this issue, and please know that we are available to assist in any way possible.

MS. ANDERSON: Thank you.

MR. CONINE: Can I ask a question or two, maybe?

MS. ANDERSON: Sure.

MR. CONINE: Just out of curiosity. Let's play devil's advocate for just a second, if I might. You have a finite pool of dollars, and the 90-day rule is in effect. Are you having trouble getting the money out? Is there surpluses left over?

MR. BOYD: I will tell you the numbers are down. I can't tell you. We haven't done an entire program year. I don't know if there'll be a shortfall of spending all the money.

But I will tell you the numbers are down. The number of unkept appointments is up. I was in one of our field offices yesterday afternoon --

MR. CONINE: I guess I'm more concerned about the money actually going out the door.

It would seem to me that if a family or an individual that has 90 days worth of trouble and problems
and can get the assistance, has better access to the pool of finite dollars than the 30-day person that might slip in and get it before they do.

Aren't you really serving those who are in worse shape than the 30-day pool?

MR. BOYD: I can't see the difference. I can't see where a person who's been in trouble for 90 days needs our help less or more than someone who's been in trouble for 30.

I will tell you that, as I stated in my testimony, five to seven weeks after they get in trouble is when we see them. If we see them and their trouble has existed for 90, 100, 270 days, that's a system client. And we've seen them year after year.

MR. CONINE: Ms. Carrington, do we have a soft spot for the dual income to single income scenario that was painted by Ms. Rodriguez? And we don't have a car route for that sort of circumstance in our rules currently?

MS. CARRINGTON: What our policy issuance says is that a 90-period will be looked at for income. I do not believe that provides any kind of exclusionary exception language.

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MR. BOYD: There is an exclusion for migrant farm workers. And I think that's probably the only exclusion.

MR. CONINE: I guess the appropriate follow-up action, Madam Chair, would be to ask Staff to take a look at this issue and bring it back. The Programs Committee could take at it next session, and we'd bring it back to the Board -- whatever we need to do.

MR. BOYD: Yes, sir. That's all we're asking, that the issue be revisited.

MR. SALINAS: And you some of those elected officials you've talked to are people who agree with what we've done. Whenever you go back to them, they need to communicate with us and say we need to revisit this, instead of just telling you come see us.

We actually follow their mandate. And they are the people that are closer to you than we are.

MR. BOYD: Yes, sir.

MR. SALINAS: And I think those elected officials will tell you, the Texas Department of Housing and Community Affairs is responsible. It's not that way. We do do follow up on what they ask us to do, and we change the rules according to how they want us to do

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MR. BOYD: Actually there was no mandate for this issuance.

MR. SALINAS: But there is a lot of communication with the elected officials themselves. And we want to be able to take care of the needs of the people that do need assistance.

I am from south Texas, and I do have the exception on the migrant farm workers. But in the Galveston area, how is the Agency supposed to allow somebody that has cash money that they made.

How are we supposed to do that? Do we break the rules? You need to help us how to justify that. We go ahead and start doing that, then there's no end to people telling us they made some cash money.

We want to be able to find some kind of proof that they do have that income. We just don't want to take the heat ourselves, because we do care, and we want to be able to do that.

MS. ANDERSON: Okay. Thank you.

The rest of the witness affirmation forms that I have, I believe, are from people who want to speak at the agenda item. Is there anyone who completed one of

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these forms that chooses to speak no in the initial public comment period?

(No response.)

MS. ANDERSON: Okay. Seeing none, we'll proceed with our agenda then.

Item Number 1 on the agenda is around the discussion and possible approval of minutes of Board meeting of May Board meeting.

However, members, because of some printing problems and the way these books were prepared, we're going to defer approval of the May minutes until the next Board meeting, with your indulgence.

So then we proceed to Item Number 2 which is presentation and discussion of report from the Programs Committee.

But right before we do that, let me first welcome some guests we have today. We have Beau Rothschild from the House Urban Affairs Committee. Thank you for being with us, Beau.

Lisa Gonzalez from the Governor's office is also here. And I also saw Scott Sims from Speaker Craddick's office. Thank you all for being here this morning.
Mr. Conine.

MR. CONINE: Thank you, Ms. Anderson.

The Programs Committee met this morning and again had an update on our HOME Fund Program, and a lot of good discussion, I think, came from that.

I get a little frustrated in reporting to the Board that we had no action items, but I don't think we do at this point in time.

But as we get into the public comment period for the HOME program cycle for next year, we'll have a chance to take some action on a few items.

Also I heard a report from the Texas Interagency Council for the Homeless, which is a group of multi-state agencies that get together and talk about how to solve the homeless problem in Texas through the use of various Agency resources.

TDHCA has been kind of the lead dog on this particular Council for quite some time. We heard testimony from various sources and asked Staff to come back with some more information on that.

This is something that I think -- once the Programs Committee actually gets some more input, we'll probably have a presentation to the Board to make sure
that the balance of the Board has a particular
appreciation for what this Council does and what it's
doing in the future.

So stay tuned for that for future Board
meetings.

And we also discussed our Section 8 Program.
Most of you know that the federal government, and
specifically HUD, has proposed some changes in the way
Section 8 vouchers are allocated and paid for.

And that was a concern to several of the public
witnesses that we heard this morning. We're asking Staff
to take a hard look at our involvement in the current
Section 8 Program and come back to us with some more
information.

And again, we will bring that back to this
Board when appropriate.

That concludes the items of discussion that
were on the Programs Committee this morning.

MS. ANDERSON: Any questions for Mr. Conine?
(No response.)

MS. ANDERSON: Thank you, very much for your
report and for your leadership of that committee.

Now we proceed to Item 3 on the agenda,
presentation, discussion and possible approval of
programmatic items.

Mr. Conine.

MR. CONINE: Thank you. And I'll ask Ms.
Carrington to present the first item, please.

MS. CARRINGTON: Thank you.

The first item for your consideration is the
forgiveness of repayment for two predevelopment loans for
that were made through Department's Housing Trust Fund.

The first one is a loan to the City of Orange
for $50,000. That was the full amount of the loan, and
they are requesting forgiveness of that.

The second one is forgiveness of $30,000, which
is the $30,000 remaining of a $50,000 loan. It was made
to the East Austin Economic Development Corporation.

Both of the circumstances for these
transactions are in your Board materials.

With the City of Orange, the money that was
provided to them in redevelopment costs, was to examine
the feasibility of a Navy park addition, which was a
redevelopment of an area in the City of Orange.

The funds from Housing Trust Fund were used for
a study. And the study came back addressing social and
economic revitalization, but did not include a new
construction housing component on the plan.

So because of that, they are requesting
forgiveness of the redevelopment loan. I might add that
both of the documents and these two loans did envision
forgiveness.

Staff is recommending the forgiveness of the
loan to the City of Orange.

East Austin Economic Corporation -- they have
paid back to the Department $20,000. This $50,000 was to
be used for redevelopment costs associated with the
construction of a 20-unit elderly project in Lockhart.
And they have had difficulty.

The development has been completed. It is
partially leased. It has not performed as they had
anticipated it would perform. And so they are requesting
forgiveness of $30,000 of that $50,000.

And as I said, Staff is recommending that both
of these loans be forgiven.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion? Questions?

MR. CONINE: Ms. Carrington, I have a question

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on the City of Orange. You know I'm generally in favor of
Staff recommendations and so forth.

But I'm a little disturbed at an application
for Housing Trust Fund money that would ask for a study to
be produced on something that says a hundred-acre housing
development in the City of Orange.

And for us to spend $50,000 or City of Orange
to spend $50,000 on a study, to come back and say that no
housing component needs to be considered.

I'm just wondering how in the underwriting and
the processing of that application we thought or how the
City of Orange thought that there was a housing component
needed there based on, I'm sure, feedback from some of the
residents, and then all of a sudden we don't need any
housing.

Can you or anyone else shed some light on that?

MS. CARRINGTON: As we look at how we use this
Housing Trust Fund predevelopment money, it is typically
used for a variety of feasibility studies.

In this case, it was a redevelopment of an area
where they were looking at commercial, retail and
potentially residential.

And from the information that we have received

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back from them as they did complete the study, what they have determined was that either there is no need, or they did not believe it was suitable to include a housing component in this redevelopment.

MR. SALINAS: What county is that?

MS. CARRINGTON: I'm sorry.

MR. SALINAS: What county?

MS. CARRINGTON: Well, it's the City of Orange, and that would be in Orange County.

MR. SALINAS: Orange County which is what region?


MR. SALINAS: What's the population of the City of Orange? 18,000?

MR. CONINE: I'm still perplexed at how a hundred acres in a city of that size cannot warrant a housing component. What's it going to be? All retail or all industrial?

Could someone give me a copy of the $50,000 study, so I can take a look at it. I can't understand this one at all.

MS. ANDERSON: I'm wondering if somebody can

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shed some light on this letter from their Director of Planning and Community Development on April 16 of this year that says, "We would not have sought the funds or commission the study, but for the reassurances given to us that the obligation to repay the cost could and would be waived."

MS. CARRINGTON: We certainly do not commit to anyone that we will forgive a loan. But we do provide in the documents a forgiveness provision. We did verify indeed that the loan agreement in this particular instance did have --

MS. ANDERSON: How is that worded?

MS. CARRINGTON: Ms. Boston, do you --

MS. ANDERSON: To give the impression that forgiveness is an option at the discretion of the Department is one thing.

To even unintentionally give the impression that they don't ever have to worry about paying it back, because we're always going to forgive them, is a policy that I don't think this Board member wants to be a part of.

MS. BOSTON: I can assure that no longer happens. And I don't know that it did then. That may be
an impression he got that may not -- obviously there's two sides to that.

I would like to comment though that since then, that is the last time that we've approved a redevelopment loan that is not specifically tied to a proposed development.

Now our predevelopment loans have to be a particular parcel of land that they believe they're going to develop for affordable housing. And then they would come in, and we would help pay for, for instance, the market study or the environmental -- that type of thing.

So it doesn't happen any more.

MR. SALINAS: When did it happen?

MS. BOSTON: It actually was requested and approved at the end of 2002, and the contract was executed in March of '03.

MS. CARRINGTON: And we can certainly provide the Board the language from the loan agreement. If the Board would like to have that, we can get that and bring it back to you before the day is over.

MS. BOSTON: And actually just for clarification, it wasn't in the loan agreement. It was in the rule at the time. It was not in the NOFA, and it was

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(512) 450-0342
MR. SALINAS: And the study done was by somebody in Orange, Texas?

MS. BOSTON: I'd have to look. I just gave Mr. Conine my only copy. I know they had outsourced a third party to do the study.

MR. CONINE: Madam Chair, I'm going to move to table the City of Orange forgiveness part of the motion. I'm ready to proceed with the East Austin. But I move to table the Orange one until the next meeting.

MR. GONZALEZ: I second.

MS. ANDERSON: Any discussion on the motion? I guess this won't -- all in favor, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. That portion's tabled.

MR. CONINE: Now we can go and move --

MS. ANDERSON: Talk about East Austin.
MR. CONINE: East Austin.

MS. CARRINGTON: This loan was made in July of '02. It was for $50,000 also for predevelopment costs associated with the construction of a 20-unit elderly development in Lockhart.

As I indicated, they have repaid the Department $20,000 of the $50,000. They are requesting forgiveness of the remaining $30,000, because circumstances have caused their development in Lockhart to be less profitable than what they had expected.

Basically what they did was they used some of the predevelopment money to cover lease-up costs as they were attempting to lease up the Lockhart development.

There is some language that they say there's a deficit due. It's due to the lease-up phase that was longer than expected. And that actually East Austin has expended over $14,000 in non-budgeted funds.

We have in our Real Estate Analysis Division in our workout area, we have a request from this group to look to restructure their HOME loan. So they actually had two sources of funding from TDHCA.

They had the $50,000 loan for predevelopment, and then they also had a HOME loan in the amount of, I
believe, $1 million for the construction of the 20 units in Lockhart.

MR. CONINE: If that's the case, then I'm going to move to table this one, until the Real Estate Analysis comes back with the HOME restructure, so we can do them both at the same time.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: All in favor of the motion, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. East Austin is tabled.


MS. CARRINGTON: Thank you.

This is a requirement of all state agencies. And we have for you a draft of our five-year strategic plan, as Mr. Conine has said. This will cover fiscal years 2005 to 2009.

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This plan is required and submitted to both the Governor's office, the Budget and Planning and the Legislative Budget Board. It's a very prescriptive plan for the Department and for all state agencies.

We have identified for you on the summary page the items that the Agency must address in putting together this plan. I will tell you that our Center for Housing Research, Planning and Communication has put together the plan.

What they do is they draw from the State low-income housing plan. They draw from the consolidated plan, the one-year action plan and the workforce plan and performance measures.

If you look through this, you will see that much of the language and many of the items that are in here will look very familiar to you, because they are already in other existing plans that the Department is required to put together.

We will be submitting this plan. It's due to the LBB in the Governor's office on July 2nd.

There is no public comment period that's required on this plan. However, by virtue of bringing it to you today and putting it on our website, it basically
does provide a public comment period for this plan.

That is an overview. In the absence of Sara Anderson Brenda Hull, who is special projects researcher in our Center for Housing Research, Planning and Communications, is here to answer any specific questions that you all may have on our five-year strategic plan.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. Thank you.

MR. CONINE: That concludes my report.

MS. ANDERSON: Thank you, Mr. Conine.

Now we're ready to move on to Item Number 4, presentation, discussion and possible approval of multifamily mortgage revenue bonds and four percent (4%) housing tax credits With TDHCA as the issuer.
Mr. Gonzalez.

MR. GONZALEZ: Proposed issuance of multifamily mortgage revenue bonds for Tranquility Bay in an amount not to exceed $14,350,000 and issuance of determination notice.

Requested amount of $650,675 and recommended amount of $649,023 for housing tax credits for Tranquility Bay, Number 04-420.

MS. ANDERSON: We will have the Staff presentation on this item and then there's a lot of public comment on the item.

MS. CARRINGTON: Thank you, Madam Chair.

In the Board's book behind tab 4-A, the Tranquility Bay Apartments is a proposed new construction development that consists of one-, two- and three-bedroom units in Pearl and. It's actually in Brazoria County, right outside of the City of Pearl and.

It would be 246 units. It is a priority 1-C development, which the Board has seen before.

That is the new category that was created last session by the Legislature which does encourage the development of affordable housing in census tracts that have a higher median income than the surrounding area.
In this particular census tract that the development is proposed, the median income is $96,290. And the AMFI, the average median family income, for this Brazoria County area is about $62-, $63,000.

The financing structure on this particular transaction -- the tax-exempt bonds would be four-year bonds with a rate fixed. They would be privately placed. No credit enhancement. With approximately 6.5 percent interest rate on the permanent financing.

We'd like to call your attention next to tab 3, which is the housing tax credit profile and Board and summary. The amount of the bonds on this transaction would be $14,350,000.

The amount of tax credits that's being recommended for this transaction is the eligible basis amount, which is $649,023 in tax credits.

You will note, as we typically do for the Board, on the summary at the bottom of this page and on this one continuing over to the next page, we have the summary of public comment.

Summary of public comment from citizens is on the left-hand column. In support, 128; in opposition, 259. That was in Pearland.
Outside Pearland you can see that there's support; no opposition. Unknown location, one support; zero opposition.

From legislators or local officials please note that Senator Mike Jackson is opposed. Representative Glenda Dawson is opposed. The County Judge had no comment.

From Brazoria County -- Brazoria County does not have a local consolidated plan. You all will remember that we always look for consistency with the consolidated plan. Pearland Independent School District is opposed. City Council member Kevin Cole is opposed.

Going to the next page of this development, there was a petition the Department has received. In opposition on that petition there are 453 signatures and then also a summary of comments in support and opposition at the public hearing.

And is our practice, there is a copy of the transcript of the public hearing in your materials.

Behind tab 5 is the underwriting analysis on this particular development, which was performed by our Real Estate Analysis Division.

There are very few conditions on this
development. There are some above-ground storage tanks that have been removed. And there's some stained oil on the ground, and it's been recommended that that be removed and cleaned up.

That was really the only condition that was listed.

And behind tab 7, you'll see a map of where this development would be located in relation to the Houston area.

Behind tab 9 is the public comment summary from the public hearing, from public officials on letters received and general public letters and emails that have been received by the Department. And at the bottom we have also provided you a summary of the public comments.

Behind your transcript of the public hearing, you also have -- so it's your first gold separation page. You also have the letters that we received from Senator Mike Jackson, from Glenda Dawson, from Pearland ISD and others.

There's also a couple of presentations that were provided to the Agency by the neighborhood group, neighborhood organization.

And there's also a comprehensive plan from the
City of Pearland. A moratorium, and ordinance that was passed by the City of Pearland on the 23rd of February.

Again the development is located in the Brazoria County, not in the City of Pearland, but this ordinance was mentioned in several of the emails and the information given at the public hearing.

You have a presentation from Ron Mayfield, which is a request to the Department to reject Tranquility Bay. You also have a presentation by the citizens of Pearland, a request to reject.

There’s also a community presentation from Christy Chisholm. And then there’s a presentation in here from the developer of the project, who is Chris Richardson.

So what Staff has worked to do is provide the Board the information that we received in a timely manner.

When the Board books went on the web, as you all are aware, and throughout this past week since the Board book did go up, there has been additional correspondence that has been presented to the Agency.

I believe that copies of that -- okay. So maybe there has not been any additional inform.

One thing that was brought to the Department's
attention several days ago, and that was the letters of support that had been presented to the Department -- there was some concern that those letters of support had not been signed by the individuals whose names were on those letters.

We were in contact with the developer. And what the developer has provided for us is an affidavit that came in late yesterday afternoon. And those letters of support, I understand, are being withdrawn from consideration.

And there's also a sworn affidavit on the part of Chris Richardson, who is the developer of this transaction, who indicates that he was not a party to the securing of these support letters. It appears that at least some of the support letters are fraudulent.

MS. ANDERSON: Ms. Carrington, I'm sorry to interrupt you. Are the support letters in the book?

MS. CARRINGTON: No.

MS. ANDERSON: Okay. They're not in the book.

MS. CARRINGTON: They're not in the book.

MS. ANDERSON: And the affidavit from Mr. Richardson is not in the book either.

MS. CARRINGTON: It came in late last night,
late yesterday afternoon.

    MS. ANDERSON: Okay.

    MS. CARRINGTON: With that, I will conclude my report in saying that the Staff is recommending the transaction. It scored 15th out of a total of 45 applications.

    And using our very objective scoring criteria, which you all know looks at financial feasibility, environmental concerns, track record of the developer, quality of the housing, the social services provided.

    That that is what the Staff basis their recommendations on. For this development, for this application, Staff is recommending both the allocation of the 4 percent tax credits and the issuance of the tax-exempt bonds.

    MS. ANDERSON: Thank you. Okay. We have a number of people who would like make public comment on Tranquility Bay.

    And the reason we're having this meeting here in the Capitol Auditorium today was so that we would have adequate space for everyone to be here, because this Board invites public comment and takes it very seriously.

    I want to thank Senator Todd Staples for

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securing the use of the auditorium for us today, so that we could have this comfortable environment in which to have this meeting. We really appreciate Senator Staples doing that for us.

Because we have so many people who want to speak to this project, I'm going to ask that we have a three-minute time limit, and Ms. Groneck will monitor that for us.

Now there're a couple of people who are speaking for others who have yielded the time. So I will tell Ms. Groneck what amount of time they have, as I call on Mr. Mayfield and Mr. Dumont.

The first witness affirmation form I have is from Holly Jeffcoat in Senator Jackson's office.

MS. JEFFCOAT: Hello. My name is Holly Jeffcoat, and I'm here today on behalf of Senator Mike Jackson from Senate District 11.

I'd like to take this opportunity to read a letter Senator Jackson has sent to the TDHCA in voicing his opinion to the proposed multifamily housing development, Tranquility Bay Apartments, in Pearland, Texas. This letter was dated May 24, 2004.

"Dear Ms. Carrington.

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I'm writing on behalf of my constituents to express opposition to the Tranquility Bay Apartments application proposed for County Road 91 in Pearland, Brazoria County.

I've received many letters and phone calls opposing this proposed development. I've also received letters of opposition from the Lakes of Edgewater Estates Homeowners Association, Silver Lake Homeowners Association, Pearland ISD and Brazoria County MUD Number 1.

I believe from the negative interest this project has generated and from the community groups who are strongly opposed to this project, it would be a disservice to pursue issuance of multifamily housing development revenue bonds for the project at this present time.

I hope if you have any questions or need any additional information, you'll feel free to contact me.

Sincerely,

Mike Jackson"

MS. ANDERSON: Any questions?

(No response.)

MS. ANDERSON: Thank you for being here today.
Chris Cron [phonetic] from Representative Glenda Dawson's office.

MR. CRON: Good afternoon and thank you for this opportunity to speak.

I'm speaking on behalf of Representative Glenda Dawson. She's House District 29.

AS well I'm going to do the same. I believe you guys have a copy of the letter that we submitted, I believe, on May 23, 2004. And I'd just like to take this time to read it.

"Dear Ms. Myer,

I would like to voice my opposition to the multi-family housing revenue bond application for Tranquility Bay Apartments proposed at County Road 91 in Pearland, Brazoria County.

I've been contacted by many of my constituents both supporting and opposing this proposed development. I believe in the sincerity of those who are both proposing and supporting the development and know that they have the best intentions for our community.

However, the concerns voiced to me and myself have shown that this development will not be in the best interest of Pearland at this time.

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(512) 450-0342
Thank you for you time to speak to me, and
thank you for hearing my concerns of my constituents.

Please call me if I have any questions, or if I
can be of any additional assistance.

Thank you.

Glenda Dawson."

MR. CONINE:  Could I ask a brief question?  The
statement of the representative says it would not be in
the best interests for Pearland at this time, although the
project is not located in Pearland.  Could you shed some
light on that?

MR. CRON:  Sure. Absolutely. Vaguely. I've
been informed that the transportation polling.

As you guys may well know, there's a lot of
transportation needs in the area as far as the vast many
people it's going to bring in -- in the high hundreds,
eight hundreds.  Is that correct?

There's a lot of people coming in. Because the
transportation needs. They're going to be attending
Pearland ISD, so it will have an affect on Pearland.

MR. CONINE:  Okay. Thank you.

MR. SALINAS:  How far is Pearland away from
this project?
MR. CRON: Half a mile.

MS. CARRINGTON: Fifty yards.

MR. SALINAS: Does Pearland have zoning?

MR. CRON: I believe so, but I'm not advised.

MR. SALINAS: When you're so close to the City of Pearland, wouldn't the City of Pearland have jurisdiction up to two miles for whatever gets developed in that area?

And I see nobody from Pearland City Council really looking at the development in that city. Sometimes you have -- the city limits should be two miles away from there.

They have up to five miles CTJ, which they can control the development of any property outside the city limits of Pearland. They have a City Council, and they have a mayor. Right?

MR. CRON: That is correct. I do believe there is a letter of opposition from a councilman.

MR. SALINAS: But I mean, the Planning and Zoning in the City of Pearland did not have anything to do with this?

MR. CRON: I'm not sure.

MR. SALINAS: Somebody needs to answer that,
because it's their jurisdiction. And they would have a
say-so on what gets developed outside their city limits
which is inside the CTJ.

If it's on the county side, it would have to be
at least two miles outside the city limits for anything to
be approved by the county. The county has no building
codes, so I could understand how they could do that.

MS. CARRINGTON: Perhaps someone who is signed
up to speak to us on this matter will work that into their
discussion. We'd appreciate it.

MR. SALINAS: Is your representative a state
representative?

MR. CRON: That's correct.

MR. SALINAS: Okay. Well, somebody needs to
answer that because the city has the jurisdiction.

MR. CRON: Okay. Thank you. We can
definitely get back to you on that.

MR. SALINAS: I'm sure I'll find out in a few
minutes.

MR. CRON: If it doesn't get answered now, our
office will get back to you.

MS. ANDERSON: Okay. The next affirmation form
I have is from Peter Richard Dumont. And four people
earlier today yielded their time to him, so that's 15.

You don't have to go for 15 minutes. And oftentimes it does not serve you well with my colleagues to go for 15 minutes.

MR. DUMONT: Members of the Board, as you may know, we have a PowerPoint presentation prepared. First of all, I'd like to thank you for the opportunity to speak.

Although I'm allocated 15 minutes, I hope you don't find that this 15 minutes is time that's not well spent. In fact, you may compelled to have me speak longer when you hear the true facts and data behind this project.

First of all, I'm a resident of Pearland. I've lived there about four years. I'm a registered professional civil engineer, graduate of the University of Texas.

Worked for Tyco Thermal Controls as a special projects director. And I'm on Tyco's chairman's council.

I mention all this because as a registered professional engineer, I work every day under a code of ethics that I take very seriously.

And I conduct all my business activities in a very ethical, honest and fair way. And I expect that
other people in the business community would do the same.

I know you've mentioned that there's an affidavit from Mr. Richardson admonishing any involvement in the support letters.

But I would also like to say that there is perhaps somebody in his group of supporters working on his behalf that created this.

And it has shed such a light of uncertainly and doubt on the entire application and proposal. In fact there's significant evidence of the misuse of data and facts in his letter and in his application.

And I would be happy to go through a lot of that with you. And I will cover some of that in the presentation. But I would ask that you please take a hard look at this before you allocate over $14 million of taxpayer money.

To answer some of your concerns, Mr. Salinas, that you just asked, this property is actually 50 yards from the city limits of Pearland. And Mayor Tom Reed say Pearland does not have zoning authority over it. That's why he has not come forward with a statement.

However on behalf of the entire City Council, City Council member Kevin Cole has written an opposition
letter. They have discussed it, and they are in unified
opposition of this as well.

Our mission here today is primarily to convince
you that the approval of this project is going to violate
your core mission statement which is, "To help Texans
achieve and approve qualify of life through the
development of better communities."

This will not help to improve the quality of
life of the Pearland community.

We're going to provide facts that demonstrate
that the location of this project is unsafe. It's unsafe.
It's unsuitable for the potential residents of the
Tranquility Bay Apartments. It is going to affect their
quality of life.

And we therefore ask that you reject it
wholeheartedly.

I'd furthermore like to say that I want to
thank the residents that took the day off to drive up here
to Austin to help support this and give this presentation.

We've been working pro grata for months,
nights, weekends, sacrificing time from family and
everything to help work on this issue.

So we feel passionate about this. There are
literally hundreds of our residents that are absolutely upset about the travesty associated with the proposed project here.

And especially those residents whose signatures have been forged in these supposed support letters. It's ridiculous. I've got evidence here showing actual opposition petitions with their true signature and support letters with their feigned signature.

If something as basic as this is going to constitute the means and methods by which this project is trying to get passed, what else in here is suspect. That's what I ask.

And in fact, for your information you may have been contacted already. But the State of Texas Attorney General's office and the Brazoria County district attorney are both inquiring into this issue.

And they told me personally that if those inquiries generate enough dirt, they may launch a full-blown investigation.

So it's a big issue. It's a serious issue. We've submitted over 12 affidavits already that have been subject to the forged letters.

Is there a way to focus the projector a little
bit? I don't want anybody in the audience to miss this.

The Tranquility Bay project would pose a danger first of all to children walking to and from the school. Pearland currently lacks the infrastructure to adequately support this multifamily project.

The site is outside the Pearland police jurisdiction. Therefore it has to be served by Brazoria County police. Brazoria County, by the way, only has 12 squad cars throughout the entire Brazoria County.

This is in the very northernmost tip of that county, kind of a little island, all surrounded by the City of Pearland, a little island in Brazoria County.

This location will place an additional burden on our volunteer fire department.

They've already seen an increased call volume of 50 percent in 2003 alone, information that's in the appendix for you to review, because of all the housing and everything that's being built in the area.

There's also no public transportation in Pearland. There's no metro bus service. There's no park-and-ride -- anything within 15 miles.

There's a recent article in the Houston Chronicle that said that a similar project by Mr.
Richardson in Katy, Texas was rejected because there was no public transportation within three miles. We don't have anything within 15 miles.

Pearland's elementary schools are also over capacity. Currently all the surrounding elementary schools are over capacity. And I've got statistics in here to go through with you as well.

And we're looking at adding possibly up to 500 pupils from this housing development, when you apply the national average of 1.89 students per household to this apartment complex.

Also the area around this site is prone to flooding. And I've got photos in here to show you that we have localized flooding commonly. We've had it four or five times this year already, multiple times last year.

This is going to be taking away valuable moisture-absorbing soil. And by the way, as a civil engineer, I do understand drainage. I do understand all the technical aspects around that.

Also experts in the Houston Chronicle had clearly stated developers in the area need to stop building apartments. There's been multiple articles. We have one in here cited for you.
The basic solution is we're an overbuilt community. We're pretty close to Houston, about ten miles from the city limits. And the entire region is booming in population.

And right now the vacancy rates in the local apartments are high. And there's numerous apartments in the area that have dropped their rates to attract new residents, because we're so overbuilt.

You've heard from Representative Dawson.

You've heard from Senator Jackson's office.

What was not in this docket are some other letters though that you need to be aware of. The superintendent of Pearland ISD opposes this.

You have the Brazoria County Sheriff's Department that have stepped forward and said, we can't cover the area. We're already strapped. We can't do it.

You've got your sheriff's department saying that this project's a bad idea. I can't imagine that that happens that often.

All three homeowners associations, many prominent business leaders, people in the real estate market and so forth have come forward opposing this.

Hundreds of residents. Hundreds of us have
come forward and also say, we oppose this. We therefore ask again you reject the proposal.

This here is an overview of the area. I won't spend a lot of time on this. I know you have maps in your book. Generally we're very close to Houston. We have over 4500 homes in the area.

We already have over a thousand apartment units. And we have about probably 4- to 5,000 more apartment units that are on the books already.

So if we're in an overbuilt situation now, and they're already looking at building another 4- or 5,000, essentially doubling our capacity. Again this all just data that's adding up to say this a bad deal. Again we're only 50 years out the Pearland city limits.

What you see here on the next slide is, here's Fite Road. This is the actual road that borders the property on the south side. It's a rural two-lane highway. You have no sidewalks. And you have steep drainage ditches on this road.

This is the only means of access to the local middle school, Rogers Middle School. You have no way for students to walk to and from school.

And since the middle school is so close -- it's
probably a quarter of mile -- busing doesn't serve the area. So students either have to walk or be driven by their parents, or their parents have to pay a premium to get the busing.

So here you go. You have a student walking by the side of the road. You can clearly see the cars have to swerve around him. You've got some sort of SUV coming at the other cars in the other direction.

Picture now you've got ten, 10, 50 students trucking down to school every morning along this two-way road.

Here you can see this is more construction that's going on in the area. There's a picture of the Pearland city limits sign 50 yards away.

Please, we've been begging no more traffic on Fite Road. It's unsafe for children. It's unsafe for pedestrians.

To add to this even on the north side -- the highway that this abuts is Highway 518. Fifty mile per hour speed limit. No sidewalks. Deep drainage ditches.

Again, there's no way for these people to walk to the store, drug store, day care, grocery store, anything. And there's no plans in here to build that
So you're taking all these people, and you're throwing them on an island surrounded by a bunch of dangerous access roads.

According to Margaret Dixon of Brazoria County's Department of Welfare, we already have an apartment complex for low-income housing. In fact we have many of them.

And by the way, let me state, this is not a NIMBY issue. We live in harmony with a lot of low-income housing in our area. That's not our basis for arguing this.

We're saying that low-income housing is good. We support the efforts you do in the State. What we're against is this project in this specific location. We would request maybe you relocate it. Maybe you use the land for something else.

But the point is this is a bad idea in a bad spot. It's not against normal low-income issues that you might think. That's not why we're here, and that's not why we're against this.

Here is just an excerpt from a the Houston Chronicle article. You have the University of Houston
Director of the Institute for Regional Forecasting stating in that article, we're overbuilt, market saturated. This is not a good region for this type of project.

Brazoria County sheriffs. Okay. We talked about it's out of the jurisdiction of the Pearland Police Department. Police protection must be provided by Brazoria County.

Captain Dorman Davidson of that sheriff's department has written a letter, and it's in our appendix. You should have it in your information.

He has stated, listen, we have 12 squad cars to cover 1400 square miles of land, 12- to 1400. The ratio is one car for every 119 square miles.

What that equates to is for the entire city limits of Austin -- picture this, two squad cars for the entire city limits of Austin.

That's the kind of diluted police force that we have going on in Brazoria right now. So we're not serving our residents today, let alone tomorrow when we go ahead and add 248 more units.

Sixty percent of the cars already patrol the southern region of Brazoria County. So now you've got a good amount of those 12 cars now not even in the area,
because the lion's share of Brazoria County is in the southern end near Angleton, the county seat and so forth.

Furthermore, it's an old fleet. They've repeatedly been trying to get money passed for new squad cars. Dorman Davidson told us this.

He also said that at least one car -- usually two or three -- is unavailable because it's in disrepair or somebody's sick or something like that. So again you don't even have 12 cars to cover this.

Fire. Pearland is protected by a volunteer fire department. So we have no full-time fire people on staff. Okay. So what happens? A call comes. The volunteers have to get their calls. They all drive to the fire department, get suited up and take off.

What happens is, if you look at this graph, you can see because of the area development, the calls have increased significantly. In fact in 2003 alone, there were 50 percent more calls than the previous five-year average. They're getting over taxed.

The roadway to get to the fire department for most of the fire people is another small two-lane road. NO sidewalks. Steep drainage ditches. Typical Texas rural highway.
And they're already complaining that they have a hard time getting -- because the traffic's backed at the light. They can't get up to the firehouse. And they're saying this apartment complex will merely aggravate that situation.

And this was stated by a guy named Mr. Richards. He's actually a volunteer fireman. He was at the public hearing. He stated that, and it's actually in your docket from that public hearing.

It's quoted in there where he said, no more development in this area. Our response times are going to increase.

Hospitals. There's no urgent care facility in this area, although it does state there is in here. It says it's within a short drive to hospitals. That's untrue. The closest urgent care facility is about 15 miles away in the town of Alvin.

And in fact the demographic studies that made up your plan included an area of four zip codes. Those four zip codes span an area well beyond Pearland city limits. And they encompass a couple of hospitals.

What the proposal says is that's the demographic from which low-income residents are going to
be brought to this apartment. So let me ask you.

You're going to take residents from areas that have hospitals coverage 15 miles away and put them in an area that doesn't. It doesn't add up. Doesn't make sense.

MS. ANDERSON: You have about one minute left.

MR. DUMONT: We do have a few more things. Is there a possible relaxation. Maybe five more minutes, if you don't mind.

MS. ANDERSON: You need to ask somebody else to cover this for you. Let's keep moving.

MR. SALINAS: You had five, but you need two more. Anybody else there that you want --

MR. DUMONT: I'll finish up. These are statistics showing the current overcapacity situation of our elementary schools. They're over capacity now.

That's why the Pearland ISD superintendent has said, please no more residents. Yes, we'll educate them. Of course, we're a school. But you're killing us here, folks.

We've talked about public transportation. Not in the area. This just shows a photo of traffic on Highway 518, how congested the area is.
This is the main exit for the development here. You have people having to make a left turn into this heavy traffic to get out onto the main Highway 288 to get into Houston. There's no light at the intersection.

Again, no sidewalks. That's what you have to walk on to get to Kroger, Walgreens and so forth. It's not right.

The other exit's on Fite Road, as we've discussed. Here's a picture of a jack-knifed truck. It happens about every week.

There's a business right next to where Tranquility Bay's going to be built that has eighteen-wheelers. Eighteen-wheelers are getting stuck at these intersections. Police and fire departments, towtrucks have to come out there and get them unstuck.

Again you want your students, your kids and so forth to walk along this road.

Here's pictures of localized flooding. Again you have those in your book. This project has no proposal at all to do anything about the localized flooding other than aggravate it and make it worse.

MS. ANDERSON: I need to ask you to wrap up, please.

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MR. DUMONT: You got it. Here's a summary of our points, and let's finally go on.

MS. JACKSON: I'd like to yield my time to Mr. Dumont.

MS. ANDERSON: I'm sorry. Your name?

MS. JACKSON: Sondra Jackson.

MS. ANDERSON: Thank you, Ms. Jackson.

MR. DUMONT: Thank you, Sondra. I appreciate it.

All right. Who else opposes Tranquility Bay? As we've seen, you have all of these political groups. You've got our three local homeowners associations, all three surrounding it.

You've gotten 453 signatures on petition. You've got hundreds of our residents that oppose this. You've got three confirmed letters of support that we've shown in our data of people that support this, outside of the developer, himself.

The evidence, the data -- it's so compelling, that says this is not a good project.

I'm an engineer. I work in data. I develop estimates. I do this stuff for a living. I've never seen something like this before. There's no way that my

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company would ever do any type of project associated with this. And I say again, represent my code of ethics.

Thank you for your time and consideration. We do appreciate this opportunity to speak to you and we do appreciate you consideration very much.

I would like to maybe go through a couple of the appendices. We have copies of some of the letters. Just flip through them. I just want to show you some of this evidence that we've already been uncovering.

You have residents that care enough about this issue. We've been spending hundreds of hours, weekends and nights to look at this and study it and try to take an objective viewpoint.

And all of the data, all of the evidence, points to that this is a bad project. It's a bad idea. Again, it's not the concept of low-income housing. It's this project at this location.

Thank you for your consideration. Appreciate it very much.

MS. ANDERSON: Questions? Yes, Mr. Bogany.

MR. BOGANY: I didn't get your name. I'm sorry.

MR. DUMONT: Peter Dumont. I like to say it's
Dupont without the money.

MR. BOGANY: I truly appreciate your taking the time to come here. And I think when citizens get involved, things happen. And I really do appreciate you taking the time to come up here.

I sit here listening to you. I'm wondering you even live in this area. I will share with you -- yesterday I went out and took a look at this location. I live in Houston. And went and looked at that location.

One of the concerns I've got -- you've got a lot people. 518 is going. I never personally would ever thought I would even want to live in Pearland, because I wouldn't there wasn't anything at night there.

But now it's booming. It's doing exactly what you said.

I'm also a realtor in Houston. And I know for a fact that when people call me and say they want to live in Pearland and they want $1,000 month house note. I know that's impossible to live there.

People at Wal-mart, all the shopping, everything going to the service centers in the area. Where do you expect those people to live?

MR. DUMONT: Well, it's interesting. I'm glad
you asked that. We have a realtor who's also in our community. He's run MLS reports on the apartments.

We've actually found 33 apartments in the demographic zone that have rents that are either at lower than what Tranquility Bay's proposing. Thirty-three apartment complexes that already these residents can reside at now.

We don't have homeless people sitting on the street. It's not like there's people that do not have places to live in your community.

MR. BOGANY: Okay. I guess the other point that I have -- I know last month Brazoria County made a proposal to us that they wanted to start running their housing authority. And they're one of our biggest customers for Section 8 vouching in Brazoria County.

And that kind of throws me off there, because it seems like there must be a need there.

MR. DUMONT: I don't mean to interrupt, but you don't understand, Brazoria County is mostly south of us.

MR. BOGANY: I'm very aware the area. Trust me. Subsidized housing. Do you live in a house yourself?


MR. BOGANY: Do you write off your taxes, your
interest and everything?

MR. DUMONT: I do.

MR. BOGANY: Okay. That's the same as subsidized housing that these people that are living there. They're in subsidized housing. So are you, and so is myself.

Another concern I have. You presume that all these people are going to need public transportation. They couldn't be a teacher. They couldn't be a divorced parent. They couldn't be someone who wants to live in this area.

They've had a tragedy, a death of a spouse or something and need an affordable place to live. And that concerns me.

If you go up to the front of the subdivision, you've got Tranquility Oak and the Reserve at Tranquility Bay. And I'm probably mispronouncing the other name, but that's 518. That's a very busy street.

The kids that live in these apartment complexes have a tougher time getting to that junior high than the ones that live back here on this country road.

I walked the area when I went out there yesterday and looked at. You talked about the 4500
apartment units that are coming back in there now. My concern is are you guys protesting those units, too.

MR. DUMONT: Well, I'd like to say one battle at a time. Well, we're not pleased about those either.

MR. BOGANY: Did you protest Tranquility Park and Reserve?

MR. DUMONT: We didn't know about them. They were actually under construction when I moved to the area.

MR. BOGANY: Another question. Down that country road, Fite. You've got mobile homes, manufactured housing. You've got housing. Those kids are getting to school. Seems to be working okay.

MR. DUMONT: By the way, I'm not saying that these people don't have cars. Of course, a lot of them do.

MR. BOGANY: I'm just hitting my point, because I sit and listened to you for the last 18 minutes.

The other concern that I had was you presumed that the police's going to have more crime. You've got two apartment complexes. It is not unusual in Pearland to have an apartment complex around a sandpit.

Down in Westin Oaks -- there's an apartment complex there in Westin Oaks Subdivision. There's a
sandpit with apartments around it also.

   The thing I guess that concerns me is that this
developer -- I've seen his projects.

   They're going to look just like the ones on
Cullen and 518 that I've seen and been in that apartment
complex there that's down on Cullen where it comes into
518. It may be right closer to 288. It's another
apartment complex. I don't know the name of it.

   In my opinion, there's a need for affordable
housing there. I can't even sell people houses who are
looking for something under $120,000, under $100,00 in
that general area -- when we get calls for that area.

   And just looking at it, and I'm hearing what
you're saying. You've got all these housing subdivisions
that are going on out there, and it's booming. Places are
there. But I don't seem the schools complaining about all
these subdivisions going up along that area.

   Are you guys going to the developers --
Pearland, put a moratorium on single families in the area,
because there's a ton of single family going up in that
general area.

   I'm just concerned. I listened to you.
Fortunately, I'm familiar with the area, and I walked it
yesterday to make sure. The thing I didn't like. I didn't like the sign.

And I told the developers over and over, those signs you guys put out create this atmosphere. I didn't like it. The sign that said it was coming -- it made it seem like it is a problem. We need to be on guard.

The area is not that bad to me. And I walked it, got out of my car, parked it. It is a narrow street though. Fite Road is very narrow. But it just seems like a great spot for a subdivision.

Actually I think the other two apartments are more dangerous locations than this one here. So I just wanted to give you my input based on what saw yesterday when I went out there and walked the area.

MR. DUMONT: Well, I appreciate that, and I respect your comments.

I would like to say that increased crime will result from this development. We are presuming though that some core amount of police protection must be provided as in any other community.

And what the Brazoria County Sheriff's Department has already said is, we can't cover what's there already.
MR. BOGANY: And the only thing I'm saying is you've got to A-plus apartment complexes in the front within a hundred yards of this complex. And if they can cover them two, they're surely not going to have any problem with the one on the side.

MR. DUMONT: It's possible, but why would they have written the letter?

MR. BOGANY: Thank you, very much.

MR. DUMONT: Thank you, I respect your comments.

MR. CONINE: Can I follow up? Thank you. By my calculations, Mr. Dumont, the Brazoria County will receive in tax revenue from this particular project some $62,000 a year.

And my question would be when you talked to the sheriff's department, did you contemplate asking them about the additional income, whether that could afford to buy them another car or two?

MR. DUMONT: Actually we did. And I'm glad you brought that up, because one thing I forgot to mention is that we've also run numbers that, yes, even though there may be some additional income coming in, there's also going to be a tax drain.
Because the residents don't pay as much of a tax amount as people that would be living in, let's say Habitat for Humanity, low-income single family dwellings. And the calculations run to be about a $1.7 million shortage that the overall community is going to have make up for educating the students, dealing with expanding the roads, dealing with the drainage and the flooding and the runoff and so forth.

So it's net in the red on the taxpayers in the area.

MR. CONINE: Again. Schools don't have anything to the county. They have their own -- I didn't even mention that number. I was just talking about specifically the county revenue.

It seemed to me that $62,000 a year would be attractive to a sheriff's department that's little bit short.

Let me ask another question. On bullet 5 of your executive summary, which is on page 3, you talk about the Tranquility Bay area being prone to flooding.

Of course you said you were an engineer at first, and then you said you were a civil engineer. You do have a civil engineering degree. Is that correct?.

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MR. DUMONT: Two. Actually.

MR. CONINE: And it says here, the last phrase of this says, there are no plans to improve drainage in the area. Mr.

Richardson has provided us documentation from his engineer, talking about improving the drainage on the site and putting a pump station in to make sure the lake doesn't overflow and so forth.

Isn't that in direct opposition to this statement right here?

MR. DUMONT: Well, no, because that actually only deals with the flooding issue within this actual physical plot of land. It doesn't deal with the flooding issue in the surrounding communities that are older and built at a lower elevation.

MR. CONINE: But that's a separate issue. Anybody that develops this land, even if it's for single family, wouldn't have to fix all the flooding in the whole area, would they?

MR. DUMONT: What's going to happen though is this lake, all the water -- you're basically taking this rain-absorbing land, covering it with concrete. All of that runoff runs into the lake.
The lake has to pump it out into the surrounding roadways and ditches. And I believe the plan is to pump it north to the 518 drainage area.

MR. CONINE: Is there not some detention allocated in the underground storm water system of the project itself?

MR. DUMONT: I don't know. I'm not sure if there's an underground storm water system --

MR. CONINE: Well, normally there would be to get the approval process. Isn't that your experience?

MR. DUMONT: Well, the approval process with the MUD #1 district was very sketchy at best. I think there's a representative here from MUD #1 that's even going to speak to that.

And there's a lot of confusion about how the application went through, how the studies were done. And again, this is a big cloud of doubt. That along with those letters and so forth that have just led to a lot of uncertainty around this.

But what I can tell you is the community directly to the south, called South Glen, currently has localized flooding.

And the water from this property, from the
southern tip edge of this property runs southward, drains
southward into that community.

MR. CONINE: Is it your experience that with a
raw piece of dirt, and the way the Houston area gets
deluged on occasion, that when the ground is totally
soaked, that you get sheet runoff, just like you would if
it was a solid sheet of concrete?

MR. DUMONT: Sure. But it's obviously worse if
you've got a concrete place --

MR. CONINE: So some if some detainage
represented within the design of this project -- then that
would actually be better to build the project than it
would be to leave it as a raw piece of land, would it not?

MR. DUMONT: Well, it -- you know, there is
detainage there now, as a bare piece of land. You've
got -- you know, rain-absorbing soil --

MR. CONINE: Well, I'm asking your opinion as
an engineer. If you designed sub-terranean detention
within the system, is that not better than a flooded piece
of land that gets another ten inches of rainfall upon it?

MR. DUMONT: I guess if there is a -- if there
is some sort of means of removing that water and putting
it in an area that is not prone to flooding, or won't
aggravate flooding in other areas, yes. But that's not the case here. The case is that the water will aggravate the flooding in the other areas. That's the main concern.

And the wording here is the area around the site that is prone to flooding, not the site itself.

MR. CONINE: Okay. All right. Do you have any specific criticisms of the market study that was done? You're talking about Houston being vacant when everybody is saying Houston's got too much vacancy.

Have you looked at the market study, rather than having just a generic, you know, complaint? Have you looked at the market study to have specific issues with that?

MR. DUMONT: Yes. I looked at the market study. Like we said, it covers four zip code areas. One is -- two are in Pearland, two are in the tip of Pearland and touching other parts of Houston and Friendswood, stretching -- it says in here, I believe, it covers a certain square mile area, which is equivalent to a 4.8 mile radius.

Mathematically that may be true, but in reality it's not. The truth is that this property is at the far end of this oblong shape demographic. And the far edge of
this demographic is about 15 to 20 miles away. So it's a bit misleading in that respect. Yes. Absolutely.

It also references later on in here that the market study included the City of Houston. Okay. So where are they getting the residents from that are going to come to this? Pearland? Friendswood? Houston? It's very confusing. It's not worded very clearly.

It -- to me, that, combined with misrepresentation of school district statistics and things like that, has led again to this overall doubt around the whole legitimacy of this proposal and this project.

MR. CONINE: You talk about the school district being overcrowded already, but you don't talk about the fact that the school district is planning on building a couple of new schools over the next couple of years.

MR. DUMONT: I'm glad you asked that too, because that's really not true. We actually have a follow-on letter in our PowerPoint presentation, because we sent in this proposal that we got off the internet the other day, to the superintendent's office.

They read the proposal and said, You know, this isn't true. The truth is, there is one elementary school planned to be constructed, not two. There is only one.
And it's going to be located on the far other side of Pearland behind the Lowes. Okay. That is probably well over ten miles away, certainly not within the elementary school zoning for this apartment complex.

The other piece of property that's reference in here on Old Manville Road, is not even -- the school is still in negotiation to buy it. They don't even own it yet, let alone figure out something to do with it.

So there is one school planned, one elementary school. That's it.

MR. CONINE: Okay.

MR. DUMONT: And there is a letter in here from the assistant superintendent that's -- that says that. So those are his words.

MR. CONINE: Then you reference to the danger to kids walking to and from whatever school they may end up going to.

MR. DUMONT: Correct.

MR. CONINE: What's your experience about how many kids actually walk to school nowadays, percentage-wise?

MR. DUMONT: Well, maybe not many today in this area. But I don't know how the students are going to get
to Rogers Middle School, which is too close to be within
the normal busing area, unless you pay to have your
students bused.

So fine, if you want all the parents to pay
whatever it is, $40 a month, or whatever it is, to have
their students bused, it's not an issue.

MR. CONINE: Okay.

MR. DUMONT: But they still have to walk to the
store -- again, this is presuming some of them don't have
vehicles. And that's probably a fair assumption.
Certainly not all of them, but I'm sure some of them
don't.

MR. CONINE: Well, I would say it's a small
minority of fans that we service with these projects
actually don't have cars. Very small. Most of them do,
and I'd be willing to bet that most of them drive their
kids to school before they go to work nowadays.

MR. DUMONT: Maybe so. And if so, that's
great, because of the safety issue.

MS. ANDERSON: Questions? Any other questions?

MR. SALINAS: Let me ask you. The size of
Pearland is what? 20,000? The size of Pearland?

MR. DUMONT: It's bigger than that, actually.
I have the statistics in here. 49,500 as of the end of 2003, projected to be 106,900 by 2010.

MR. SALINAS: You have a mayor, and what? Four city councilmembers?

MR. DUMONT: I believe there is four. But there is -- you know, I don't know how many -- like four or five.

MR. SALINAS: Well, who would know today? I would think five, no? Where are they in this project? Do you know? Six?

MR. DUMONT: Six.

MR. SALINAS: Six plus the mayor?

VOICE: Sex plus the mayor.

MR. SALINAS: Seven. You've got seven people living in the $49,000 population -- I mean, 49,000 people in Pearland. Fifty yards away they're building this complex.

MR. DUMONT: Uh-huh.

MR. SALINAS: And they have no zoning at all? They do not have the right to stop it? Well, I mean, we've become here in the Houston area -- and I have to criticize this every time we have this kind of project. We've become drainage experts here. We've become -- we
have to take care of their planning and zoning.

    MR. DUMONT: Yes.

    MR. SALINAS: We have to take care of their --
    of the population growth. We don't know if TxDOT is doing
    a project over there.

    MR. DUMONT: Right.

    MR. SALINAS: But still we have to approve a
    project over there in Pearland.

    MR. DUMONT: Right.

    MR. SALINAS: Where you have seven people, they
    should be obligated -- they should have the responsibility
    of saying whether that project goes or not.

    And every time we have the discussions, it's
    always about that area. You know, they should have it
    planned and zoned. They should have public hearings
    within their own city.

    They should have like two or three mile ETJ,
    where they can control the growth, whether they're going
    to have a construction of a road, whether they're going to
    widen the street.

    You know, here I am seeing you and hearing from
    my colleagues here and from you that this is going to set
    up a project there, and they don't tell us -- if we're
going to be taking care of planning for this area, because
we hear it, who is going to widen the road?

Who is going to be taking care of the drainage?

Where are those elected officials that are supposed to be
here or supposed to have sent us a resolution saying they
don't want the project? We only have one.

MR. DUMONT: Well, you actually --

MR. SALINAS: Our job here -- and I was talking
to the coordinator from El Paso the other day, and he
said, Our job is only to say yes or no on the tax issue.
Not to take care of zoning and roads. But I can
understand that you all had public hearings, and you have
a lot of people that are concerned about having a project
like this.

And when you have, in a city of 49,000, a
project going fast, you want to have a master plan. Don't
you all have a master plan?

MR. DUMONT: Yes, there is -- they --
comprehensive plan. Yes.

MR. SALINAS: Things going? I mean, it sounds
to me like Houston is just going everywhere, and doesn't
have anybody controlling Houston roads. And they expect
this board to take care of everything for them.
You know, I get upset because --

MR. DUMONT: That's what I'm saying --

MR. SALINAS: -- this is not the first time.

We have Katy. We've had other problems here. We had 1,600 people in the public hearing -- 1,600 people against and nobody in favor. Now you have here 219 -- I mean, 197 opposed, and that probably 12.

You got a letter from your state senator saying that he doesn't want the project. And your state representative, which is -- Ms. Dawson, that says she doesn't want the project. And that's three points there and three points for Mr. Jackson. And then we have our staff recommended the project.

I just don't understand it -- why you think that we could get it together -- you know, why should we be able to discuss the drainage, the flooding problems, and when it's also supposed to be -- whether you needed --

How far is Orange County from Brazoria County?

MR. DUMONT: Quite a ways. Quite a long ways.

MR. SALINAS: Well, you have Orange County saying they don't need it. And we gave them $50,000 and they want us to write it off. Did you hear that a few minutes ago?
MR. DUMONT: Yes, I was listening. Yes.

MR. SALINAS: Yes? Okay. They don't need it, but they borrowed 50,000, and they want us to write it off now. Now, here we have a problem that somehow I can understand the people objecting in their own community about what's going to happen there. And then we have something that our staff has to do, whether we have to follow the QAP, and we have to follow the rules.

MR. DUMONT: Right.

MR. SALINAS: But I can understand the people that are objecting to this project. And you know, the developer is going to build it and he's going to leave. And I can understand that. But I just wanted to know that this problem has come to us several times.

And I think the message should be sent to our senators and our representatives and mayors. You only had one person that had the guts to go ahead and send a letter of opposition. Where are the other six?

MR. DUMONT: Well, he wrote it on behalf of the overall council. He says, "We are all in agreement. We want this proposal to be denied."

MR. SALINAS: And they do not have any jurisdiction 50 yards outside the city limits?

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MR. DUMONT: It says in here, "The city, apparently, cannot stop this development directly, due to no zoning control in the ETJ. So we are asking the board to help us. The proposed development will negatively impact the roads, traffic and --

MR. SALINAS: Who does take care of the shores and water in Pearland? Do they have it all? Or they have to depend on the same MUD that is going to service this apartment complex?

MR. DUMONT: I'm not sure how the MUD districts are split up. We're not covered -- I live in Pearland, and I'm not covered by a MUD. And I'm about two blocks or so away from this development.

MR. SALINAS: But you can understand the problem we're in? You know? We have --

MR. DUMONT: Oh, sure. And I feel for you. I mean, you're in a tough situation.

MR. SALINAS: But see, you want us -- we do not get elected. You know, people that get elected --

MR. DUMONT: I know. You're appointed.

MR. SALINAS: -- get voted out. We get appointed. So we don't have the quality. You get --

MR. DUMONT: Can I have your job?
MR. SALINAS: Yes, well, we don't -- the people that are over in Pearland, they get elected. Those people should be talked to.

MR. DUMONT: Yes, well, hey, I agree with you.

MR. SALINAS: You know --

MR. DUMONT: But you've got to understand --

MR. SALINAS: -- they send all the problems over here, you know, and they want us to solve them. And we have a state directive saying we have to follow the rules here, and we have to do what's right and approve this project.

MR. DUMONT: So you know, we only found out about this two months ago. We've been spending all this time, two months ago, and look at what we've been able to accomplish in just two months.

If we would have had more time and more notification and so forth, we would have probably been able to get additional opposition letters and so forth.

MR. SALINAS: You know, and the other thing is that the -- and I want to address the $62,000 in value -- in tax fundings that the county is supposed to get. But how about the other people that are going to inherit $62,000? Are they going to get 62,000? I think the
percentage of the $62,000 should be done as a tax break also for the rest of the citizens.

You know? If you're going to get to officers, well, where -- the rest of the taxpayers should get, you know, a break on the growth. You know, it's not only growing. You know, you're going to grow. You've got to give the taxpayers a break on that growth.

So I can agree with some of the people that live there, and -- but there is no control within your own city. You all don't have a zoning ordinance, and you all don't have a planning and zoning commission.

MR. DUMONT: Well, we do have a comprehensive plan, is one thing you mentioned. And you know, I'm not so, you know, intimately involved in our city politics to know how they work. I do know that they -- our mayor is a pretty incumbent mayor. He's been there for years. You know, might be classified as Good Old Boy kind of guy, nearing retirement, and so --

But in the comprehensive plan of Pearland, it's interesting. It states that all future multi-housing developments need -- their -- they have a term for it, TDH, or something like that. And the analogy they make is to have these developments with a lot of green space and
theaters.

They use the Arboretum here in Austin as an analogy. This is what we mean going forward in Pearland, as the type of multi-family development that Pearland needs going forward. Not high-density.

MR. SALINAS: Well --

MR. BOGANY: I'd like to make one comment, Mr. Dupont. And I've been real --


MR. BOGANY: Dumont. You got me. We have a requirement with Priority 1C. And Priority 1C has to do with the census tract having an higher average income. Now, the state representatives wrote these letters. They told us this is what they wanted done.

So all we're doing is following the rules. We did not pick this piece of land. All we're doing is that -- does it meet our criteria as affordable housing. And if staff has recommended it, then it meets our requirement.

And what the state has told us, that our representatives have told us, said, Hey, we want you to stop putting them all in poor neighborhoods. We want you to spread them out, disperse them. Scattered housing.
It's -- they found through studies, because somebody is in an area that has higher income, they tend to do better. They tend to see that life is not all about being poor.

And so we're just following the mandate that we were told. We didn't create this rule. All we're doing is following this mandate. And the last thing I'd like to say -- I voted for one next door, down the street from my house. Okay.

And so my values of my home have not gotten -- gone through. And if any realtor out there in Pearland tell you your value is going to go down, they're lying to you. It is no economic -- there is no facts anywhere says that this is going to bring your property values down.

And if you don't have a MUD, then you must live in Eastwater or Eastwood, or the -- and you live in Silver Lake, but you must live in a subdivision over there that does not.

MR. DUMONT: Lakes Of Edgewater.

MR. BOGANY: Lakes. Okay. Edgewater. I can't remember them all.

MR. DUMONT: There's a million of them.

MR. BOGANY: Okay. I'm just letting you know,
we're not -- all we're doing is following Priority 1C, that the state representatives and the state senator told us we needed to do.

So we're -- you know, so where do we go from here? You've put us under a rock and a hard place. We hear you. We -- you know, and we feel you. But we've also got other people who do vote too. And that we need to put them in a place.

And so I'm just saying we're just following Priority 1C. And that's the only -- and we've been told by your representatives who wrote the opposition letters to follow Priority 1C. And I just wanted to let you know that we're just following the rules.

We didn't pick the land. We didn't determine. You know, we're just following the rules.

MR. DUMONT: And I respect and appreciate that. And again, we believe you do a good thing for the state. We're not opposing this on property value issues or crime issues, or anything like that.

But isn't it interesting that the state senator and representative who helped drive Priority 1C now have looked at the facts and the data, added it all up, and said, You know, this isn't a good location. This isn't a

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good project. This is a bad idea in a bad spot at a bad
time.

MR. BOGANY: The only problem I've got with
that is that there are apartment complexes up and down
that area that are around sandwater pits. And you've got
two that are right in front that surround --

And I'm willing to bet that those apartments --
they rent for more, if you're looking at the water. I'm
willing to bet. I just would think that they are probably
leasing for more money. The one down farther street in
West Oaks, same situation.

And I know this area. So I'm just sharing with
you. I would love to be in subsidized housing and being
able to go out and look at a lake every day, and I just
would like to be able to do that. And I don't -- I see
this as not being Voucher 8, Section 8. I just see this
as being people just got out of school, just got out of --
people at WalMart. They can't --

You know, I see the people down at Target, the
people at Starbucks. All these people needing a place to
stay. And in Pearland, where do you go? You drive to
Houston, and then you drive back. Or you go out 518 to
League City or Friendswood, and some of those areas where
you have other apartment complexes.

And to be able to live close by where my job is -- I think everybody deserves that opportunity. And just as, you know, you feel Pearland's a great area, that's why you're there. I don't think this is going to have any effect but make Pearland a great area. That's just my own personal feelings.

MR. DUMONT: I appreciate that.

MS. ANDERSON: Thank you for your testimony.

MR. DUMONT: And thank you for your time and consideration.

MS. ANDERSON: The next witness is Ronald Mayfield. And three people ceded their time to him. So that's four times three. And again, you do not need to feel compelled to use all of your --

MR. MAYFIELD: Jenna, we'll go pretty quickly. But I'm sure you're going to have questions based on what has happened.

Yes, just -- my name is Ron Mayfield. I've lived in the South Glen Subdivision for almost 17 years. I raised all three of my kids in the area. To address some of your questions about the city and how its zones and the master plan -- if you look at how the city is
annexed over the last ten years, there has been a lot of
gerrymandering going on.

And there has been a lot of, I believe,
developers who influenced that process. So you get
situations where you have annexed land all around a small
island. And a developer has that and is able to develop
without being influenced or controlled by the city. We're
seeing a lot of that.

And you're talking about, you know, have we
tried to stop other apartment complexes? We don't have a
way of doing it as far as I know, other than going through
elected officials.

If someone is in the County of Brazoria, like
this one, it's just 50 yards outside of Pearland City
limits, they build pretty much whatever they want without
carens from the city, and without the city being able to
stop them.

I've lived in that area, like I said, for
almost 17 years. I have not been annexed by the city yet.
The annexation goes all around my little part of Silver
Lake Subdivision. But they haven't been able to annex us,
because of, I believe the issue is with MUD district. And
we're going to have someone from MUD district up here in a
little bit.

But my presentation is primarily about child welfare. Now, you've already stated that there are several apartment complexes and subdivisions around sand pits in the area.

And that's true. Sand pits in this area are very, very common. I've lived in the area about 40 years.

Go ahead and flip it. First of all, just -- it only takes a few minutes for a child to drown. That's the main point of that slide.

Go to the next one, please, Jason. I've lived in the area for 40 years. I'm an avid fisherman, and I'm a locally-known fly fisherman. You can go down to Austin Angler and buy some of my flies. I won an international fly-tying contest.

I work for two companies: Umpqua Feather Merchants, which is the largest fly-tying company in the world. I also work for Oracle Corporation, which is the second-largest software company in the world. And I cover the state and local division, which means you're actually one of my customers.

I've worked extensively with, you know, the Secretary of State, Insurance, Texas Parks and Wildlife,
TDCQ, HHSC, DHS. I've worked on the Tiers Project, which some people said I shouldn't mention, based on what's happened in the paper recently.

I also worked on Medicaid. So I'm quite aware of what these state agencies do. I work with them on a day-to-day basis. And like we stated before, this is not an if question. Low Income Housing is necessary, period, end of story.

This is a where question. This is not the right place to put this project in, basically because of -- well, my presentation is child welfare, or -- and child safety.

I've been fishing in these sand pits since I was about, you know, five or six years old, and with my parents, of course. You know, these things are dangerous.

And we've got, you know, Christy Chisolm [phonetic] sent in the information from Briar Glen Management, Department of Labor, all of these federal agencies, saying these sand pits are dangerous.

If you would go on to the next slide. So I went and -- now, my eight-year-old son, he's a great swimmer. He's on the swim team. When he was six years old, he won the Kamikaze award in a swim team. And we
went up to the sand pit. And the soil in there is primarily clay, and it's very slippery.

So I had him just walk out into the water. And right now the lake, because of the rain, is about four feet above when they did the initial study. And that's also the concern I have too.

These sand pits -- you know, they're talking about drainage into the sand pit. These sand pits go down below the water table and are spring-fed. These sand pits fill up even if there is no rain, because they pull in from the water table. So the actual depth of the lake will vary anywhere from four to six feet, depending upon what the water table is doing, and how much rain we've had in there.

So right now, the lake, because we've had so much rain in the spring and the water table is up, is actually about four feet above the original study. So what you see there is, you know, a sand pit is just -- you all ever seen a sand pit while it's being dug?

They dig as much sand out as possible so the banks are very, very steep. So usually they're about a 45-degree angle, sometimes a 60-degree angle on the sides. Then the developers will grade them out to about a 45-
degree angle, which is here.

So when the water comes up above where they've graded, you've got this little shelf. And right now the shelf is about four feet. Then after that shelf, it drops off at a 45-degree angle or greater.

So then you go to the next slide. Here is my son. He got to that part where it dropped off, and he just slid and fell into the water forward. Next slide, please.

Now, getting back up is even more fun because of the slippery clay. And imagine what that be like if that was a four-year-old child who was unattended going down into the sand pit.

Now, we had -- my wife and I had a similar -- or I had an opportunity to move into Crystal Lake Subdivision, which is a couple miles down the road, and we chose not to because of child safety, because these sand pits are dangerous.

And what you're doing is by putting this apartment complex around the sand pit -- and it's -- I would love to be able to walk out my back door, jump into my kayak and go fishing for a couple hours every evening.

But I didn't do it. Even though I could have afforded
to, I didn't do it. And you're right. In a subdivision, they charge 20 to $40,000 premium to have a lot on the lake. And I'm sure they do in the apartments too.

So we chose not to do it because of child safety. But you -- if you put a low-income housing on that sand pit, some of those people may not have a choice.

Anyone who has had children knows how well they can climb. You're going to put a fence up around the lake. Correct? Right? Now, this is actually at the club at Tranquility Bay, at Tranquility Lake area.

And I took my eight-year-old over there into the playground to see if he could climb the fence. He climbed over like nothing was going on. Go back, please.

You're getting ahead of me, Jason.

My five-year-old daughter was standing there saying, Hey, Daddy, my brother did it. Can I try and do it? I had no idea she could do this. Next slide. Next slide. Next slide. My five-year-old daughter -- it took her 25 seconds to climb over a six-foot fence.

How many people here would think they would have problems going over a six-foot fence? Yes. My five-year-old daughter can do it without much effort. Next slide. Next one.
Then, as you can tell, this picture is a little closer. I was running toward her, because frankly, she scared the BeJeezus out of me climbing over that fence. I was going to run up and make sure she didn't climb over without assistance. She went through the fence in 30 seconds.

The next time you get a cell phone bill, look and see how many of your cell phones are over three minutes. Can you imagine a single parent with two kids, their apartment is right up against the lake. They get a cell phone call. They're distracted for a minute or two. Their kid is through the fence. They are down at the lake. They are physically not able to climb over the fence.

Now, if -- that fence had six-inch gaps. I don't know what the developer has planned. But if you know child safety, if you're going to keep a kid -- and those fences are designed to keep people out -- keep the bad guys out. They're not designed to keep kids in. Right? You need three-inch centers on the fence, which is going to double the cost of the fence for child safety.

And if you really want to get into it, you need to have possible some barbed-wire over the top, because...
that six-foot fence won't even slow down a small kid. So do you want to put -- you know, if you really want to make this place safe, do you want to have to put up a chain-link fence with barbed-wire on it? How is your view of the lake now?

Okay. Here is an actual view of -- where is my laser, Peter? Here is an actual -- this is the -- yes, excuse me, map of the complex. And I want to point out a few things about the design of the complex when it comes to the child safety.

The playground areas are right here. There is a, I think, about an 80-by-35, maybe 40-foot playground here that the corner of it comes right up to the lake. You have your learning center here. You have a swimming pool here. You have your child daycare here. And you have the child daycare playground right up against the lake.

This is one of the reasons this is such a bad piece of property for this kind of development. There is nowhere you can put a playground that's not butting up to the lake, pretty much.

Now, I would have guessed that this whole complex should have been centrally located back over in
this area, and away from the lake, back down in here. But it was chosen -- you put it up here so there was easy access to 518.

Once again, the fence. What's the fence going to be around the lake? To keep it safe. And if you look at the southern corner -- southwest corner of the complex is just almost exactly a quarter of a mile walk all the way around, up to the playground and swimming pool.

So how many parents are going to walk their kids a quarter of a mile. All these kids are going to be in the lake. Next slide, please. See, in the summertime -- now, according to the developer, his estimates, there will be at least 267 kids in this complex.

I think that's kind of an underestimate. I bet there's going to be over 300 kids, if we go with the national average of 1.89 kids per unit.

So where are those kids going to play in the summertime? There's no soccer field. There is no baseball diamond. There is a small swimming pool. There is not enough room to play a game of kickball or baseball, unless you get out onto the street.

Especially those kids that are ten to 15 years
old. I teach Sunday School class at my church -- the junior high Sunday School class. That's such an important age for their development, ten to 15 years old.

Those kids are not going to be out on the playground. They're going to be looking for something to do. And they're probably not going to be in the complex. They're probably either going to be on the lake, or they're going to be on their bicycles on Fite Road, or heaven forbid, they're on 518.

I took that picture of 518 with the traffic. I was standing on the guardrail. Traffic was about four or five feet away from me going 50 miles an hour. In hindsight, that was actually pretty stupid. Some guy in a delivery truck honked his horn. I almost jumped out of my shorts into the ditch.

You cannot have kids going up and down 518. And you've walked Fite Road. You know how dangerous that is. Oh, and kids -- oh, we'll talk about Fite in a little bit.

So the question is, how are you going to secure this property for the children? And it seems ridiculous, but the only thing I can think of is put lifeguards out there. You can have full-time lifeguards out at the lake.
Next side, please.

MS. ANDERSON: You have about two minutes.

MR. MAYFIELD: Okay. Actually, go back to the next slide. Here is something else that I added that's not on your slides. The nearest park is 2.3 miles east on Fite Road. So for a kid to get to a baseball diamond, a basketball court, a soccer field, they would have to get on their bicycles or have their parents take them 2.3 miles down Fite Road.

Otherwise, like Peter said, what we're developing here is an island, a low-income island where kids are going to be stuck. You like that statement, right? I wanted to say low-income prison, but they wouldn't let me say that.

Next slide, please. Okay. I don't think there was a lot of thought put into this development when it comes to child safety. I really don't. There is going to be several hundred children living in this complex. And the sand pit lakes are dangerous. That's the bottom line.

The next slide.

And they've already shown a history of not really looking at child safety. Someone who owns a piece of property has a custodial duty to secure that property,
especially when you have something like a sand pit.

Here's some slides of a retention pond. And that sand pit there -- that's been there longer than I've lived in Pearland. And there's always been a six-foot chain-link fence and three strands of barbed-wire across the top.

Next slide. This is what has been done at Tranquility Lake. Four strands of barbed-wire, cheapest fence possible. Kids go in through the fence all the time. Next slide.

Southwest corner, there's not even a gate, and there never has been as far as I know. Kids in four-wheelers go zooming up and down around the lake. People drive their pickups in there and go fishing. That property is not secured.

So there hasn't been any, I guess, forethought on how we're going to keep the neighborhood kids out of the lake to keep them from drowning. Next slide.

Okay. Fite Road -- we've already talked about Fite Road. Now, to answer your questions about how many kids are on Fite Road, let's go ahead and go to the next slide.

Here is a map of the area. I live right about
there. Just right there. You've got -- this is the South Glen subdivision. You've got three roads here, Ash, Oak and Covey, that are primarily trailer houses, low-income.

And all of these kids that live in this area are less than two miles from Rogers. So you either have to pay for the busing, or your kid walks. Now, most all the people -- I was talking to all the people who live in South Glen pay the 40 bucks a month to get their kids bussed.

There are a few kids that live in this area that cannot afford it and walk to school. So there is only a handful of kids that actually have to walk to Rogers Middle School right now. How many --

MS. ANDERSON: Let's keep it at one now.

MR. MAYFIELD: Okay. How many people have seen kids walking on Fite Road to enter Rogers Middle School?

Okay. Just a few kids. This is what Fite Road looks like in the morning. This is a typical morning. There are six buses backed up and over 20 cars backed up going down Fite Road.

And Tranquility Bay Apartments are going to be just right on the other side of that residence. And this is looking just right near the Pearland City Limits west.
Next slide. This is from approximately the same place. And you'll see there is the Pearland City Limits right there. Looking east, Rogers Middle School is back there. There is a single-family home subdivision going up right there with construction.

And you notice -- you can see the ditches. This drops off very steeply on both sides. And that -- usually there is mud in the bottom of the ditch. So you have a choice. You get your shoes muddy, or walk right alongside the road.

Now, this is actually my child walking down. He doesn't go to Rogers Middle School yet. He will in a year. And frankly, I would go hungry before I'd let him walk down that road. We did this on a Saturday morning, because there was no way I would have my kid out there during rush hour traffic. We did it, and it was a controlled -- go to the next slide. Next slide.

We did this in a very controlled way so that he was not in danger. But there will be kids -- you know, you miss the school bus, you have to stay after for tutoring or sports or clubs. Your parents can't come get you. You're going to have to walk down Fite Road. And there are no plans right now to widen or improve Fite
Road. Okay. Go ahead. And that's pretty much it.

MS. ANDERSON: You'll have to wind up.

MR. MAYFIELD: Yes. That's pretty much my presentation. It's all about child safety. Now, go back up on, Jason, please.

MS. ANDERSON: Sir.

MR. MAYFIELD: Okay.

MS. ANDERSON: Thank you for your testimony.

MR. MAYFIELD: Any questions, please?

MS. ANDERSON: Do you all have any questions of Mr. Mayfield?

MR. BOGAN: I have one. Go ahead, Mayor.

MS. ANDERSON: Go ahead.

MR. SALINAS: Who is in charge of the road system? Is it the county road system, or --

MR. MAYFIELD: Let me tell you a story. I had a wreck at the corner of Fite Road and County Road 89. Pearland police showed up. Sheriff's county showed up, and DPS showed up. And it took them an hour to decide whose jurisdiction it was.

MR. SALINAS: Well, I mean, who is in -- do you all have a road district?

MR. MAYFIELD: No, there is no road district.

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MR. SALINAS: How do you maintain and upgrade the system?

MR. MAYFIELD: It's either county or city.

MR. SALINAS: County or city.

MR. MAYFIELD: Correct.

MR. SALINAS: The other question is, does the City of Pearland have any jurisdiction outside at all?

MR. MAYFIELD: None.

MR. SALINAS: How do you all know that?

MR. MAYFIELD: Because there is -- we've tried -- well, I personally haven't tried. But there has been so many complexes go up, people have complained. There is no way to stop them that we can find.

You're right. There is an extraterrestrial [sic] area, and I'm actually living in that area right now. But the city --

MR. SALINAS: Let me tell you. Every city -- at least my city -- I'm the mayor. And nobody can build anything outside our city limits, up to five miles, without coming to our zoning commission and our city council.

MR. MAYFIELD: Uh-huh.

MR. SALINAS: We control the growth five miles
out of our city limits.

MR. MAYFIELD: Okay.

MR. SALINAS: I don't know what is the difference between our city, which is 48,000 population and your city is 49,000.

MR. MAYFIELD: Mission. Correct?

MR. SALINAS: Mission.

MR. MAYFIELD: Uh-huh.

MR. SALINAS: And we control everything. We could not approve anything that is not in the best interest of the City of Mission.

MR. MAYFIELD: Correct.

MR. SALINAS: So why is Pearland different from our community in South Texas?

MR. MAYFIELD: I don't know. You'd have to compare the two city charters to find out. But what we've seen from city council is they cannot stop this project. And believe me, if they could --

MR. SALINAS: They can't, or they have not tried?

MR. MAYFIELD: They cannot. The letter sent to --

MR. SALINAS: In the courthouse -- is there a
courthouse in Brazoria County?

MR. MAYFIELD: Yes. It's in the county seat of Angleton.

MR. SALINAS: Okay. Well, there's always a solution to all these problems. That's why they built the courthouse. And the lawsuit, I think, cost about $187 to go fight it.

MR. MAYFIELD: Uh-huh.

MR. SALINAS: I guarantee you that another -- you know, this is where you could -- if you don't have zoning in your city, then the next bet is to file a lawsuit. And you go into the courthouse and then you have a public hearing. And then the district judge will say, Well, it's in the best interest.

I'm always in favor of public hearings. And I'm always in favor of local people deciding their own destiny in their own city. You know, this is why when you have public hearings, and you have so many people opposed to it, I don't see how state representative for that -- I think the destiny should belong to the people that live in that city -- and the arguments.

But what I see here is that nobody has tried, other than to come to this commission --
MR. MAYFIELD: I will beg to differ. Yes, we have tried.

MR. SALINAS: The other question I have is for -- certainly, if somebody would approve this plan, and someone -- some kid would cross that -- go over that fence and go into that lake and get drowned, is this agency in any way liable for approving this project, in that we are being told that this is -- can happen, and being the people that are going to be approving it?

MR. WITTMAYER: Chris Wittmayer, the department’s general counsel. The answer is no. This department would have no liability for an injury at this location if we approve the development.

MR. MAYFIELD: So legally you don't have an issue with it?

MR. CONINE: Mr. Mayfield, I appreciate your concern for kids. I don't think any of us here would disagree with that. In your pictures with the chain link fence and the barbed-wire, is that around Tranquility Lake itself currently?

MR. MAYFIELD: No, this is sand pits, that's about two, two-and-a-half miles away, behind the Wal-Mart.

And that sand pit has been there longer than I have lived...
in the area. Actually in South Glen.

MR. CONINE: So -- but Tranquility Lake currently doesn't have anything like that around there?

MR. MAYFIELD: No, around the two apartment complexes, they have those six-foot wrought-iron fences.

MR. CONINE: Right.

MR. MAYFIELD: But all the way around, from what I've seen, it's strictly a three or four-strand barbed-wire fence.

MR. CONINE: And Tranquility has been around since you were a kid. Is that right?

MR. MAYFIELD: Tranquility Lake is only about three years old. It's the most recent sand pit in the area, which is why it hasn't been developed yet.

MR. CONINE: Oh.

MR. MAYFIELD: I've seen it -- actually, it filled up -- they dug it. It filled up with spring water and rainwater. Then they drained it, I don't know why, out on Fite Road, with a couple of big pumps. And now it's filled up again.

MR. CONINE: Well, then on these others, with the chain-link and the barbed-wire, but with holes in them where the kids can get in there, are there any documented
deaths in those sand pits?

MR. MAYFIELD: No. I was not able to find any documented deaths, because no one keeps statistics on those. To find that information, you would have to go to all the local newspapers. As far as I know, I couldn't find anybody that kept statistics on drownings in sand pits in the area.

You'd have to go to every single local newspaper and do research, and we didn't have time to do that.

MR. CONINE: All right.

MR. MAYFIELD: It's common knowledge. It only takes a kid, you know, a minute or two to drown. Everyone in here, I'm sure, has heard of a tragedy of a small child drowning, whether it was in a bathtub, a swimming pool, a sand pit, at a river.

I have a good friend at my church, Ken Phillips. He's a Title Real Estate lawyer. One of his best friends went to the hardware store and bought one of those little goldfish -- little fountain things you put in your back yard. The two-year-old drowned in it.

MR. CONINE: I mean, I -- we -- I think we all understand and appreciate that. I have young kids as
well. But there is no directly-related historical deaths related to sand pits in the Pearland area that you can say that have occurred?

MR. MAYFIELD: No. And there are several subdivisions and apartment complexes around sand pits. But if you look at the demographics around those, if you go to Crystal Lake, if you go to the Oday sand pit, which is Westwood, or West Lake, and you look at -- you just drive through. I mean, you drove through there.

I drove through within the last couple of days all those complexes. And when I went to the club, when we shot those pictures that Saturday morning, do you know how many kids we saw in that complex? One.

We went to West Oaks, the apartments that were over on West Oaks. Do you know how many kids we saw? Two. We went over to Park Place -- I did this last night. Went over to Park Place at six o'clock, during dinner time. There were ten kids out playing around that apartment complex.

So the demographics of high-end -- because the apartments at the Club -- a two-bedroom apartment cost more than my house now, by several thousand dollars. Okay. So you're -- what you get is a lot of
professionals, a lot of young couples, a lot of retired
people who are on fixed income -- you know, get a fixed-
income.

You don't get that many young people,
especially single parents that can afford those apartments
with kids. So the -- if you go to Silver Lake, we have a
22-acre lake. And it's not a sand pit. It was a -- you
know, dug by the developer, and it's bulk-headed all the
way around it.

Twenty-two acres. There is dozens and dozens
of homes. I counted four homes that had playground
equipment in the back yard. People just know better
than -- most people know better.

MR. CONINE: So have you had a chance to
observe Tranquility Lake over the three years it's been
there?

MR. MAYFIELD: Oh, yes. I drive by it almost
every day.

MR. CONINE: You see kids out there swimming in
it any?

MR. MAYFIELD: I have seen kids swimming. I've
seen kids on bicycles. I've seen kids on four-wheelers.

MR. CONINE: Would you call it a little bit, or

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a lot?

MR. MAYFIELD: Just a little bit.

MR. CONINE: Okay.

MR. MAYFIELD: The biggest deterrent to getting to Tranquility Lake is the ditch on the side of Fite. The ditch on the north side of Fite is about four or five feet deep, and it's only about six feet across. So the fence isn't the deterrent. It's actually the ditch. Getting through the ditch is tough.

MR. CONINE: From the pictures we have in our brochure, that looks like an island with a walkway out in the middle of Tranquility Lake.

MR. MAYFIELD: Uh-huh.

MR. CONINE: Can you tell me a little bit about that?

MR. MAYFIELD: This was a peninsula. And someone told me about two or three years ago they're planning on doing a restaurant out there. They can't. Those pictures, like I said, were originally taken after they had pumped out the lake, and now it's refilled. A third of that peninsula is now under water.

MR. CONINE: Okay. But I guess my question would be, is it a logical place for kids to go out and
play, out on that island, and fish, or whatever they may do?

MR. MAYFIELD: Yes, it would be. Excuse me. Yes, it would be.

MR. CONINE: Have you ever seen anybody do that?

MR. MAYFIELD: No, I have not. Yes, I have. I'll take that back. Yes, I have. I've seen one or two people --

MR. CONINE: Wasn't you, was it?

MR. MAYFIELD: No, it wasn't me. It wasn't me, because my eight-year-old son is a voracious fisherman. He's been fishing since he was three. And he keeps asking --

MR. CONINE: Well, I'm just wondering if you might have gone out there to fish in that lake?

MR. MAYFIELD: I've never fished in that lake, nor will I, because I don't want my kids knowing that I go out there, because I don't want them jumping on their bikes, crossing Fite, and sneaking over to the lake and going fishing.

MR. CONINE: Are there any fish in it?

MR. MAYFIELD: There are some perch that I've
seen in it, but I don't think there are any bass that have
developed in there.

MR. CONINE: Okay.

MR. MAYFIELD: But there are other critters. We found snapping turtles. I'm sure the water moccasins are coming in.

MR. CONINE: Yes, they always attract those.

MR. MAYFIELD: And Autumn Lakes, which is two miles away, used to have a seven-foot alligator in it, oh, by the way.

MR. CONINE: Thank you.

MR. MAYFIELD: Any other questions?

MS. ANDERSON: Any other questions? Mr. Bogany?

MR. BOGANY: I really don't have any questions. I was there kind of in the middle of the day --

MR. MAYFIELD: Uh-huh.

MR. BOGANY: -- and I didn't see any kids out there. I did see the ditch, but I didn't see any kids out there playing. Apparently, like I said earlier, it's from the sand pit lakes, or whatever you want to call them --

MR. MAYFIELD: Uh-huh.

MR. BOGANY: -- and I just think it's just
amazing to be able to have a place that I could sit out on the lake and watch.

MR. MAYFIELD: Do you have kids?

MR. BOGANY: Yes, I do. And actually, my daughter was at a sleepover at Tranquility Park. That's how I knew -- and there were about ten of those kids. And the other day I asked her about --

MR. MAYFIELD: I'm sorry; Tranquility Park -- I'm not familiar with that.

MR. BOGANY: It was either the reserve, or one of -- she was over --

MR. MAYFIELD: The club is the only one that's open. The reserve is not open yet.

MR. BOGANY: Okay. Then it was the club. And she was there. And there were about ten or 15 kids. And I asked her the other day, Did you all have any thoughts of going into that lake that sits there? No. No, we played in the swimming pool, had no problems. She must be one of those kids you all saw over there. But there was -- so I mean, I'm familiar --

MR. MAYFIELD: Do you have any young boys?

MR. BOGANY: No. Well, boys are a little bit different.
MR. MAYFIELD: Boys are real different. You get -- like I said, a ten to 15-year-old kid -- a boy, they're not going to be stuck in their apartment. They're going to be down on the lake, because they can't get on their bicycles and go anywhere else.

MR. BOGANY: Thank you. I appreciate it.

MR. MAYFIELD: Any other questions? Thank you all for your time and your patience.

MS. ANDERSON: Well, we're going to take a ten-minute break, because we've been at this a long time. But we will come back in ten minutes and resume the rest of the public comment, about 1:30.

(Whereupon, a short recess was taken.)

MS. ANDERSON: Please. The next witness affirmation form that I have is from Scott Lester.

MR. LESTER: Hello. My name is Scott Lester. I'm a resident of South Glen. Have been for six or seven years, but lived in that area for about since '91. I am also a board member from Brazoria County MUD Number 1.

The proposed projects enter our boundaries around here because of the elevated entries from the residents there -- the rest of the residents to MUD 1. I'll highlight the major points detailed in a letter dated

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June 8 to the board from our attorney Paul Philbin, who represents the district.

First, the MUD board, per the Texas Government Code, was entitled to receive notice of the filing of the application by Blazer. We also believe the MUD board should have received notice of the public hearings.

No notice of either the filing for the Blazer application or for the public hearing was received by the board.

Secondly, as it currently stands, the board has not officially approved the project of water and sewer capacity for the Blazer project.

The board originally allocated 604 single-family connections for all the Tranquility Lake. Of those, 400 have already been accounted for between the apartments and a daycare facility.

The revised commitment request from Blazer dated May 27 would use 176. That would leave approximately 28 connections for the remaining eight acres of property there. Since the original allocation was issued to Views West Development for a different type of project, the board will, before issuing any capacity to Blazer requests the approval to Views West for their
revised allocation numbers.

Third, the board and MUD will also require that the drainage for the project comply with the approved plan. This means an approved storm water pump needs to be installed as acceptable and agreed.

I think you've indicated that Mr. Richardson has agreed to put in the storm water thing. Regardless if this project goes or not, we would pursue, from the previous -- or the developer there previously, that that would be done, and be done quickly.

So anyway, at this time, the board respectfully requests that the department table any action until the required notice of filing is issued -- the MUD board has issued a water and sewer capacity commitment for the project and, two, that the drainage issue regarding the storm water pump is resolved satisfactorily.

As a resident now, I'd like to say, you know, I've been in the commercial banking business for 20 years. When I give out a commitment to do projects -- and I've financed several apartment projects -- I don't let money out the door until I know one of them -- conditions will be they've got water and sewer capacity approval.

Well, at this time they don't. So I think you
as a board member looking to have that would have to take that into account if you are going to allow the bonds or the credits to be issued without having that.

I can also say on your -- maybe to address you, Mr. Salinas, in our letter dated May 28 to you guys, in paragraph 6, it does address the MUD's interests regarding how is it related to the City of Pearland. And I'll kind of -- I'll read that paragraph.

The MUD believed that the City of Pearland's adopted moratorium on apartment construction may apply. Attached to this letter was a copy of our strategic partnership agreement with the City of Pearland.

It was entered into by the MUD and the city. Pursuant to the agreement, the city has already conducted public hearings to annex the MUD, and has annexed the area of the MUD but, pursuant to the SPAW [phonetic], put off the effective date of the annexation. That's going to happen on midnight, December 31, 2006.

MS. ANDERSON: We need you to wrap up.

MR. LESTER: Okay. The MUD district is in the process of asking the city attorney -- and we've been asking that -- whether or not the moratorium applies to this, and do they have rights in that part?
As of this date, we have not received anything back from the city attorney. If it does apply, the MUD, pursuant to the SPAW and the city's consignories would preclude us from serving this type of project. That's all I have.

MR. SALINAS: Did they get a building permit?
MR. LESTER: I have no idea. We're not in the zoning side of it, sir.

MR. SALINAS: You're with the MUD?
MR. LESTER: Yes. We have not approved their application for water and sewer capacity at this time.

MR. SALINAS: Are you going to?
MR. LESTER: Don't know. We have not received final --

MR. SALINAS: See, this -- you guys want us to do --

MR. LESTER: No, sir. What happened is we weren't given proper notice.

MR. SALINAS: Well, it's not and then you don't want to do anything about it.

MR. LESTER: We have not provided sewer and water capacity. We have not approved it at this time. No.
MR. SALINAS: If you really wanted to stop this project, just tell them you're never going to give them any sewer or water.

MR. LESTER: I can't tell what their final --

MR. SALINAS: You don't want to do it.

MR. LESTER: No, I don't. I want you to table the request until that -- until we have given approval.

MR. SALINAS: That's not -- we're not in the zoning business, you know.

MR. LESTER: I'm not either. Unfortunately, I'm not in the zoning business. If you're familiar with MUDs.

MR. SALINAS: Well, yes. But you can always tell them that you're out of capacity.

MR. LESTER: Well, sir, again, if you just heard what I was saying there, we do have -- there is capacity. We are at limited capacity. There is no doubt on that acreage we have limited capacity.

Views West Development owned the whole property. Okay? Views West Development came to us originally, having two apartment projects with a townhome project in addition.

The townhome project would not require as many
connections as they're going to utilize. Thus, for us to go ahead and issue that capacity letter at some point in time, we would require Views West Development to acknowledge that, hey, when this is all said and done to your remaining eight acres, you're only going to have 28 connections. Obviously, to develop that property is going to be much more expensive if she has to go somewhere else to provide that capacity.

At this time, I don't know if we are or not. We have not provided it. I can tell you, I personally -- me as a board member -- I will not vote on the project until I do get a response from the city attorney.

MR. SALINAS: The county gave them a permit to build? That's what I hear.

MR. LESTER: Brazoria County Drainage District 4 did.

MR. SALINAS: The county commission this quarter, or --

MR. LESTER: I don't know who gave them the capacity to build. We have not received it from our standpoint. Nor have we given them capacity to -- for water and sewer. At this time, I can tell you we have not.
MR. CONINE: Mr. Lester, as a banker, I can appreciate you saying that you research projects, and make sure all the stuff's in place before you fund the loan. However, you're probably used to -- and you can tell me this, the way you may be or not, issuing loan commitments that have a lot of Subject 2s.

MR. LESTER: No doubt about it. Yes, sir.

MR. CONINE: And so we're basically in that same position. This would be a Subject 2, you guys making sure the project with water and sewer -- or it wouldn't go forward. So --

MR. LESTER: I can understand that.

MR. CONINE: I appreciate that. Thank you.

MS. ANDERSON: Any other questions? Thank you, sir, for your testimony. The next form I have is for Chris Richardson. And Joyce Bennett also signed a form yielding to Mr. Richardson.

MR. RICHARDSON: Thank you, Madame Chairman. I would also be taking Bob Coe's minutes if needed. But I'll try to make it very quick.

My name is Chris Richardson, one of -- the developer of Tranquility Bay. I'd like to confirm that there was neighborhood opposition and neighborhood support
at the TEFRA hearing. I do have a copy -- you know, not copies. I've got the original letters. I would like to confirm that, you know, I verified these letters as support.

They are part of the exhibit that I will give to the secretary. The other letters in question that were discussed earlier are these letters. There are people here today that have signed up to talk that will address those and how they got the letters, et cetera. So I think that issue is up to them. They are local Pearland residents, one of which spoke at the hearing.

We passed out booklets for your review, and I'd like to address several of the items. I also have David Brown, the civil engineer for the property, Mark Mucasey, Bob Coe, all professionals that --

Mark MuCasey is the architect and land planner. Bob Coe is the market analyst, and Karen Joel is an attorney here that's been involved with some of the utility situations, et cetera.

First of all, in your booklet, I would like to refer you to Tab Number 7, regarding the safety. This tab shows several areas and lakes in the subdivision adjacent to Tranquility Bay, and shows the fences that are in the
area.

The very first picture is of Silver Lake Elementary, which is the elementary where we had the TEFRA hearings. This elementary is open to an open lake, with absolutely no fence between the elementary school and the lake shown in the first picture in Tab 7.

If a child wanted to walk straight across the street and go into the lake, they could certainly do that.

Other pictures in there show the subdivision with the numerous lakes. It shows the 42-inch and 48-inch fences that are there. Most of them have six to eight-inch pickets, which are similar to the pictures that were shown to you earlier.

The -- and then the last pictures in that tab show pictures of what we will build around the lake. The code calls for a four-foot fence, pickets four inches on the center. We plan to build a five-foot fence. The pickets will be four inches on center.

That's an actual affordable housing property that you see there, in all the pictures that are after that in the back part of the tab. And that is the type fence we will build. All the way around the lake, we'll be treating it just like it's a swimming pool, and it will

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be secured similarly.

Regarding letters in Tab Number 8, if you could look at that tab. I notice that Mr. Peter Dumont was one of the speakers. We addressed a letter to Mr. Dumont earlier in the process, prior to the TEFRA hearing. There were several comments that Mr. Dumont has included on his letter, one of which is at the bottom of the second page.

I think it's very interesting, which reflects the attitude that was portrayed at the TEFRA hearing for the -- toward the Tranquility supporters, and toward the future residents.

With regard to the elementaries, and under Tab 10, if you'd turn to the very back page, this chart -- and I have a full copy of the Beauregard demographic survey done for the Pearland Independent School District, which shows their school capacity for each school in the last several years, and their projections going forward.

With the tremendous amount of growth you've heard about in Pearland, they project that their school district is going to double in the next seven years. And it shows at Tab 10 in the very last page is a good synopsis of what Beauregard puts in their report.

It shows 15,000 capacity, and then you can look

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at the years and see the number, totals, and by the school of each section. It shows them becoming full in 2006, and then there is an elementary school, elementary number nine, I think it is, reflected there that comes on line in time for them if they get to capacity.

Permits are addressed in number two, plat is addressed in number 15. We do have Brazoria County permits. We have approval from the drainage district. In the course of obtaining our utilities, the owner transferred to us the taps to build 19.36 units per acre on 16-and-a-half acres, which comes out to 319 total units. Our first phase here is 246 units.

So the -- and the district has confirmed capacity. There are several emails that have gone back and forth that basically conspire to try to slow us down on our utilities.

With regard to the moratorium, the moratorium is included in tab number 13. I know I'm going fast, but we don't have very many minutes.

The moratorium is included. This moratorium was put in place in February. This moratorium expires June 21 of this year. And there is a note from my attorney in there where she discussed with the city
attorney their plans for the moratorium. At this point there is no plan to reinstate the moratorium.

Mobility and drainage -- Tab 11, we've highlighted the extension of Cullen Boulevard. This is -- at the TEFRA hearing was a complaint about Farm Road or Rural Road 89, which is part of that site plan that you see. The city has confirmed Allen Mueller, assistant city manager, has confirmed that the extension of Cullen is scheduled for later this summer or early fall to begin.

This will give more access out to 518 from the Silver Lake area. Basically it branches. Right now one of those yellow Ys -- part of the yellow Y on the right goes to 518 now. The new road is the portion on the left.

If traffic does back up at 518, if you're on this Cullen extension, they've made a cross-over, where you can go back over to 89. So it basically gives you a couple of different options, depending on which way you want to go.

That's to start in conjunction with our construction, and should relieve some of the concerns of Silver Lake back in the subdivision that comes down Fite.

I find it interesting that in the TEFRA and in correspondence with the residents, they complained about
our sign that we're required to put on the property. They complained that we put it on Fite Road, so nobody would see it, because nobody goes down Fite Road. Everybody goes up 89 to 518. So that's a conflicting statement that they've given you.

With regard to affordable housing and the safety issues, we concentrate our effort on youth and education programs on our properties. That's why they are very successful. I take it as an insult and a slander that the statements were made that we don't take the safety of our children into consideration. And I think I've got other items in there that may come up later.

If you've got any questions about any of the items that we need to refute regarding this application, this would be an excellent affordable housing property, and I ask for your approval.

MS. ANDERSON: You still have two minutes, because I got a fourth form from Matt Fuqua yielding time to you.

MR. RICHARDSON: Okay. We do have a site plan showing the -- that we included. I think it was just the handout that the architect brought over this morning. He may want to speak regarding some of the highlights of the
property. They're here just as a backup.

There were some concerns about the distance between the water and the buildings. They're basically 57 feet, on average, from the buildings to the water. Just like the pictures you see under the tab, for the fences under Tab 7, this is a similar situation as to what you see on the -- in the yards, where there is a fence shown about 19 or 20 feet away from the buildings. Then there is a nice green area that we will landscape down to the water's edge, making it a very attractive situation.

You've got your accessible route on that side of the building also. So all the accessible route will be out to the parking lots and in front of the building, in the front door looking onto the water view, and not on the parking lot side. So that's a big plus for the design too. Mark MuCasey is here to discuss that with you.

With regard to the utility situation, we're applying for 246 units. We also own an acre and a half on this west end of the property that currently is not planned for development right now. On some of our other projects we have extra property like that. One has a soccer field.

You know, in the meantime, while we decide what

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to do with that, we will most likely make that a
recreation area. And it will be a benefit to the
residents on this end that go all the way down, you know,
to the playground.

People will be able to choose, the age of their
children, where they feel best to live on site. Just as
was discussed between some of the previous speakers, there
is interior units, if they feel like their children might
be too small to be over close to the water. You know,
then there's units for others that feel that they want the
amenity of the view of the water.

I think my two minutes is probably up.

MR. CONINE: Mr. Richardson, I'm a little
confused, and I think you may have just clarified it, but
I want to make sure I'm right, on the MUD issue and
utility issue.

Mr. Lester testified that you didn't get final
approval from them. But in his math, you were short some
units. And what I'm hearing you saying, you're long some
units, but you're probably long because you own another
piece of property that has some capacity to it that you
just have to shift over to this property. Is that --

MR. RICHARDSON: No, actually the contract with
the seller gave us 19.36 units per acre for 16 acres, which came out to 300-plus units. That's our contract with -- and there is capacity for that amount left on the site.

The project has been approved for, I think it's 165 unit -- come up and help me with this a little bit, David. David Brown, the project civil engineer, might be better to address this.

MR. CONINE: Okay. Great.

MR. RICHARDSON: But we have been through. He can give you comments from the --

MR. BROWN: The original project that was pursued by the previous owner of the property, which had approval by all the jurisdictional entities, included approximately 165 single-family townhome-style units.

Our project will include 246 units, but because they're apartments, historically, the data indicates that water and sewer use will be less for this type of unit at a ratio of about 71 percent of what you would normally expect for a typical single-family household.

So our equivalent single-family number of connections is 176. It's certainly not to indicate that we don't intend to build the 246 units. It's just from a
standpoint of the way jurisdictions compute capacity in
the system, it's based on equivalent single-family
connections.

So we have approximately ten or 12 more
equivalent single-family units on this particular first
phase of the development than the previous development
that had approval was pursuing.

At the same time, I think you heard previously
from Mr. Lester that not only is capacity available to --
for them to be able to provide us with a commitment for
that number of units, there is also excess capacity
available above and beyond that for other developers who
still own property within the area to be able to
adequately develop their tracts.

MR. CONINE: Is there capacity associated with
the excess land that --

MR. BROWN: No, sir. We're not requesting any
capacity on the excess.

MR. CONINE: No, that wasn't my question. Is
there currently approved capacity on the other acre and a
half?

MR. BROWN: There is --

MR. CONINE: On the MUD?
MR. BROWN: The MUD is currently approved. When Mr. Lester spoke about the 604 connections, this land was all at one time under one ownership, and it would include this additional acreage here that's -- that Mr. Richardson owns, but not currently planning to develop.

So there is, if you will, an allocated capacity of the whole tract. The way the utility district, though, typically treats allocations, an allocation is not a -- is -- the capacity is allocated to the tract, but as you develop, you chop away at that, and so if you end up with some property that becomes unusable because there isn't any available capacity at the time you choose to develop it, you would have to wait for either the utility district to increase the capacity in the plant, or somewhere within the confining portion of the system that's limiting that capacity in order for you to be able to move forward with development of that balance of the property.

MR. RICHARDSON: From an engineering standpoint, too, it's not the capacity at the plant that has any issue with it. It's the capacity at the lift station on site. And when -- part of our design is to increase the capacity of the lift station to give plenty of capacity there for the whole tract.
MR. CONINE: We heard some testimony from Mr. Dumont earlier that the drainage and the -- you know, the fact that this project won't help the surrounding area -- can you, as an engineer, can you speak to the drainage design on the property, and what it's -- what it is and isn't going to do?

MR. BROWN: Yes, sir. The -- I think as Mr. Dumont stated, and everybody is aware, the drainage will be directed toward Tranquility Lake itself. At the time we began the development of the project and our engineering portion of the work, our field surveys indicated the water level in the lake was approximately ten feet below the high bank of the lake.

Now, this is a lake that is some 33 acres in size. If you do a quick computation of the 33 surface acres of the lake at the ten-foot of depth, there is reasonably 33 times ten -- 330 acre feet of capacity the -- within that lake to handle the drainage from the area tributary to that lake.

The area tributary to the lake is approximately 118 acres, and that makes up the balance of these other two apartment complexes that we know are there, some commercial development up on 518, and in addition to that,
of course, the Tranquility Bay Apartments.

The statistical data would indicate to us that the hundred-year rainfall -- statistical hundred-year rainfall event for this part of the State of Texas is 12.9 inches of rainfall in a 24-hour period of time. The available storage capacity in that lake would be such that we could achieve approximately 30 inches of rainfall over the entire watershed for this lake, which it's a whole 118 acres -- forget about that we're only developing 16 acres of that, before the capacity of the lake would be exceeded.

The State of Texas has granted a permit to discharge water from this sand pit into 518, and across 518 on up to Hickory Creek. That discharge -- allowable discharge rate is only five cubic feet per second. That's a very, very minimal rate.

We expect that under the hundred-year storm, the peak discharge rate from the hundred-year -- from the 118 acres tributary to this whole lake is in the order about the magnitude of 350 to 400 cubic feet per second.

So a statement that development of this project and draining the property into this lake would aggravate flooding conditions in the area is just totally untrue,
because we will have very little, if any, discharge from the lake.

And the discharge will only occur once the capacity of the lake gets to -- diminished down to a point where it appears that, you know, it may be critical to try and discharge some of that water to bring the level of the lake back down so that it can continue to accept more water the next time it rains.

But -- and this discharge doesn't go back to the south -- to the South Glen area, where you've seen photographs. This discharge goes to the north, across 518 to Hickory Creek, in an area that's totally different than this area that they're saying they have flooding issues.

We certainly don't diminish the fact that there are flooding issues in that particular subdivision. But as you've so stated before, Mr. Conine, it's not necessarily the responsibility of this board or our developer to cure the drainage problems within the area.

Now, one thing I will say to you is that our project has been reviewed and approved by Brazoria Drainage District Number 4. They are the ultimate authority over all the public drainage structures that aren't either handled by the city, which are the city
systems are typically the pipe systems underneath the roadway, or the utility districts.

And the utility districts -- they have a relationship with drainage there, but they usually acquiesce to the drainage district for the approval authority on most of these projects.

The county handles the main systems, the streams, the bayous, the major ditch systems. And we do have approval from Brazoria Drainage District Number 4 for this project.

MR. CONINE: Chris, there have been some comment referred to about the playground area and the facilities provided for kids to play that would be, you know, eight to 18 years old. Can you comment on what you've provided for, and some of your experience, how you see it stacking up against other projects?

MR. RICHARDSON: Our projects will have as many activities as, you know, as any of them can possibly have. I mean, the older kids usually are involved in activities in the area, either at the schools --

Another point with the school district, I think, that's in your packet, is that there is a new YMCA becoming a partnership with the school. This is -- will
be located between Silver Lake Elementary, Silver Crest Elementary. The school district owns eleven acres there. It takes 15 acres to build an elementary.

So they've decided to go use that as a YMCA facility. That's not far from our property. So there is activities for older children real close to our site. On site, there are computer connections, high-speed internet connections with activities from Phoenix Outreach, that is involved in that.

Also, going down Fite Road, Phoenix Outreach and education-based housing have agreed to fund anyone that needs to pay and doesn't have free transportation to the schools. The middle school is the only one that is within the three miles that was mentioned earlier.

That's just two grades of our children. And they've agreed to aid with the -- with anyone that needs help with bus transportation.

MR. CONINE: The -- are there any soil problems associated with this site at all?

MR. RICHARDSON: Yes. There is the -- the situation is, you know, they excavated sand. We built one around a lake in Pearland in 1999. It's just a mile or so from this called West Lake. It's the same situation,
where you've got a lake that was a sand pit.

   The design would show some extra footing on the
   lake side, just for potential slough-off of the lake.
They've done their geotech, and we had to do more at the
other one. This bank does slope more than the one that we
had at the other lake.

   But they are concerned with shear, and they've
done their test to take that into consideration. There
are some fatty clays that were brought out and scattered
on the top layer. We do have to overexcavate. We plan to
lose those along the bank and bring in slag fill from
another sand pit in the area.

   There is excellent soil down there. So there
is not a lot of heave, but the concern with the fatty
clays that were excavated and just kind of lost as spoils
on the top little bit of land will be overexcavated to
compensate for the foundations.

   MR. CONINE: You've got another project a mile
or so from this one?

   MR. RICHARDSON: We were a minority owner of
that. We don't own it. We -- it was primarily as a HUD
contractor. We were a bonded contractor --

   MR. CONINE: Yes.
MR. RICHARDSON: -- on that property. So we're not an owner of that property. It's a -- we were just the builder.

MR. CONINE: Do they have any kids swimming in the sand pit?

MR. RICHARDSON: Yes, they've got boats, and lock the gates just like there. They have a 48-inch fence around there. Haven't had any problems. They've got a gazebo, palata, and paddleboats that they've had supervision, that goes out in the lake and uses that as a great amenity.

MR. CONINE: I'm finished.

MS. ANDERSON: Good questions. Thank you.

Gene Horr?

MR. HORR: My name is Gene Horr. I'm the contractor for -- controller for Blazer. And originally I was going to come up and -- I had a handout of excerpts from the transcript to try to present the attitude of the residents during the TEFRA hearing.

Unfortunately, time is running a bit short. And I think you do have the -- all of the TEFRA hearing transcripts in front of you. And I'm sure you can draw your own conclusion of what the true worries of the

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residents were.

MR. CONINE:  Could you -- can I -- excuse me. Did you guys meet with any of the neighborhood associations, other than at the TEFRA hearing?

MR. HORR:  I'd like to defer to Mr. Richardson.

MR. CONINE:  Sorry. I meant to ask that when you were up here, Chris.

MR. RICHARDSON:  Part of the tab that I didn't point out, since it had been discussed a lot -- we did -- we sent out a letter to every attendee at the TEFRA. Invited them to go see other properties with us. We arranged a bus tour. We got about four or five letters back that were undeliverable. But we had email contact with about six residents. The day we took the trip, one person showed up to go on the bus tour to see it. And her comment primarily was, It's very nice. It's pretty. And it belongs in that part of town.

MR. CONINE:  Thank you.

MS. ANDERSON:  Mark Mucasey?

MR. MUCASEY:  Hi. I'm the architect for the project, and I'll be available, really, if there are any questions. One thing I'd like to go through is that we

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are creating a separate bus shelter that is right in front in our amenity center package, that will be designed specifically for the buses to come all the way up Oak Road and our front door, and stop in a sheltered area to pick up the children and take them to schools.

We've got an accessible route to all of the units in the project to get to the bus, as well as all of the other amenities in our project. Just wanted to make one comment. We see this -- this site is really a jewel.

In terms of the lakefront property, we've tried to design a lakefront community. And the first view of this project going down Oak Road is a view through our amenity center of the lake. So we feel that that is just a tremendous asset to the project. I'm available for questions.

MR. BOGANY: I have a couple. Well, I really only have one question. On the drawing I have here, it has a four-foot fence. And I heard Mr. Richardson say it's going to have a five-foot fence.

MR. MUCASEY: Yes. That is correct. It's -- we meant to say it's a four-inch picket spacing.

MR. BOGANY: Okay.

MR. MUCASEY: And Chris is correct. We're

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proposing to do a five-foot tall, which is more than a pool fence would be required.

MR. BOGANY: Okay.

MR. MUCASEY: So we are going over the standard of any swimming pool in the project.

MR. BOGANY: Okay. Is that typical of a lake community, of having a five-foot fence versus a four-foot fence?

MR. MUCASEY: I think a four-foot is the code, and that's what people typically would meet. And nowadays, as opposed to the pictures we saw previously, you've got to have a four-inch picket so a small child can't get through the fence, and much less over the fence.

MR. BOGANY: Okay. So your picket is going to be a lot tighter than the ones we saw?

MR. MUCASEY: Absolutely. Yes.

MR. BOGANY: Okay.

MR. MUCASEY: Four inch on center, means that a small child cannot get through the fence.

MR. BOGANY: Okay. Thank you.

MS. ANDERSON: Any other testimony here?

MR. MUCASEY: No. Thank you.

MS. ANDERSON: Thank you. Mr. Brown, do you
have additional testimony? Thank you.

MR. BROWN: Madame Chairman, fellow board members, I'd like to just kind of highlight on a few things that I heard in some previous testimony to provide clarification, if I could, on some of the statements that were made.

We talked briefly a minute ago about whether this project does or doesn't aggravate flooding. Of course it doesn't. We're going to have to -- the jurisdictional requirements for any development within Brazoria County is if any other county adjacent to this project are such that we have to meet the test, if you will, that our project will not aggravate flooding, or we can't obtain approval.

I also previously mentioned to you that we do have approval from the primary drainage authority within the area, which is Brazoria Drainage District Number 4.

The -- we also spoke briefly about the water and sewer capacity issues. We've been working for several months now with the drainage -- with the utility district's engineer on this project. And from the very beginning of those discussions with him, it's been made very, very clear that capacity in their system is not an
issue on this project.

We are meeting some stumbling and resistance, if you will, of their board to work with us to grant that. You can draw your own conclusions about what that's really about, especially in light of the fact that this is a resident board, and at least three of their board members live immediately across the street from the project.

I'd also heard a little bit earlier about traffic concerns. We have worked with the City of Pearland. And of course, the City of Pearland does have a limited jurisdiction here with regard to platting. We do have to satisfy their subdivision ordinance, but however, their zoning requirements do not apply outside the city.

One of their requirements of the -- for platting is that we have to prepare a traffic impact analysis. On this particular project, that was waived because a traffic impact analysis was previously prepared on the project that was already approved for this site just this last year.

In addition to that, as you've heard before, you've heard testimony that the county is -- I mean, the city, if you will, is improving the roadway infrastructure
in the area by improving Cullen Boulevard to help the
people in South Glen and South Silver Lake to be able to
get better access to the major arterial, which is Farm to
Market Road 518.

We -- I also heard previously concerns about
fire protection to the area. I would like to make sure
the board understands that we have met with the City of
Pearland fire marshal, understanding that at some point in
time, this area will be annexed into the city.

And we have satisfied and have approval from
the City of Pearland fire marshal for our planning as it
relates to fire protection for this particular project.

We are --

MS. ANDERSON: Mr. Brown, I need to ask you to
wind up.

MR. BROWN: Yes. Okay. Thank you. I guess
really, those are the other issues I wanted to highlight.
And if you have any particular questions about any of the
utility aspects, roadway aspects, or drainage aspects,
I'll be more than happy to address those.

MR. SALINAS: TxDOT -- did you all have a
meeting with TxDOT?

MR. BROWN: No, sir.
MR. SALINAS: Public meeting, May 4 and 6?

MR. BROWN: I have not -- excuse me?

MR. SALINAS: Was that on a handicapped -- you

all had a meeting on May 6, 2004.

MR. RICHARDSON: There was a 288 Corridor

feasibility study. And they had a series of meetings. I

think that may be what you're looking at there.

MR. SALINAS: None of the highways or TxDOT

public meeting that --

MR. RICHARDSON: I didn't hear you, sir?

MR. SALINAS: No commitments at all from TxDOT

as far as the monies?

MR. RICHARDSON: Yes. There is one in the --

MR. SALINAS: Is that 518?

MR. RICHARDSON: -- program there. The 518

improvements and there's some crossovers over to 288 as it

goes back and forth from there to Houston. They

identified the 610/288 intersection, the 518 intersection;

McCard [phonetic] Road -- several intersections that need

to be improved. They took public comment, and are

planning their -- you know, their program there. But

they're well on their way to doing their study on what

they're going to do with the corridor there. And that may

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be what you're looking at.

MR. SALINAS: Yes. We don't have it here, but I'm sure the -- TxDOT is looking at --

MR. RICHARDSON: Right.

MR. SALINAS: -- widening some of those.

MR. RICHARDSON: Oh, yes. They're looking at overpasses, exits, you know, expanding some of those for years. 288 was a straight shot down, you know, down to Freeport. And the study includes a 58-mile stretch from Houston all the way down there, and where the areas need to go.

This area is growing so fast. There is the -- the Alvin School District is also right up against 288 right there at this intersections of 518 and McCarr.

MR. SALINAS: So TxDOT is looking at this whole area for improvement?

MR. RICHARDSON: Right. Improvement. That's right.

MS. ANDERSON: Thank you. David Smith?

MR. SMITH: My name is David Smith. I'm currently a resident at Pearland. I'm a fourth or -- I'm a senior communications major at Texas A&M University. I live at -- Corps of Cadets, Parsons Mounted Cavalry.
I'm living at -- I'm currently trying to work three jobs during the summer, part-time all three of them. But I do live with my folks. These types of homes have interest to me, because these are the select types that I hope to, I guess, enjoy.

I don't consider myself a bad person, but yes, low-income housing is, I guess, kind of my target. I'm an Eagle Scout, and I like to live -- I do like to live in a nice home, as with all my other friends and everything.

I don't have any kids. I have a dog. But like, these child centers that they -- that I'm told that they have, it's like a child care area, which that would prove to be useful for single parents.

I know when traffic's bad in Pearland. I've lived there for 13 years. And so I know when to leave and when not to leave in order to get -- not hopefully run over any kids or heading in traffic.

I don't normally travel down Fite Road. I normally take 518. But I've seen these homes. And they're very beautiful. I live in the Westwood Village area down McLean. And I've seen those houses are pretty nice, too.

But these townhomes look very nice. And I
would really like -- I'd -- if I had my choice to live in a place like that, which is affordable to me, hopefully when I do graduate from college, I would really appreciate to live in a place like this.

So -- but I guess I'm just speaking for myself, and some of my other friends here have seen this place, who are in the same boat I am, in college, paying off college loans. And hopefully, to start a family soon, but I guess that's much further down the road.

But I guess just kind of speaking my mind and saying, you know, I see this as a great opportunity for the young people in Pearland. I don't see it in any way how it downsizes Pearland's land value, because I know land -- Pearland is booming with commercialism and industry and stuff.

But there is also a lot of young folks who would like to make Pearland a good place to live. And so I hope to be one of those some day. So I guess I'm backing this project. So that's just me. Any questions for a resident?

MS. ANDERSON: We appreciate your testimony.

MR. SMITH: Thank you.

MS. ANDERSON: Valerie Rodriguez?
MS. RODRIGUEZ: Good afternoon, ladies and gentlemen. My name is Valerie Rodriguez, and I live in Pearland, Texas. And I'm also a native Houstonian.

I moved to Pearland six years ago. And I have son who is here with me today to see how Government works in progress. I am here today addressing the committee on an important issue of affordable housing for Pearland, Texas.

Pearland is a suburb outside of Houston, where country meets city living. This is one of the attractions of Pearland being nominated as one of the America's most-attractive cities to live in. In doing so, we must be able to accommodate all walks of life, despite their socio-economic backgrounds.

I have heard a lot of negative comments, and read emails pertaining to crime and lowering property values. As a realtor in Pearland, I beg to differ. The common term, what my fellow neighbors using as low-income housing, is demeaning.

The criteria that has been set before does not constitute low income. So let's ask ourselves what does low income? Is it our teachers, who start off roughly at 26,000? Or maybe our police officers and dispatchers?
Maybe our store managers? Maybe those who do our landscaping or clean our homes?

Is it our realtors who sell the homes? We are all tied together in one form or fashion. We have roughly 648 young adults that have graduated in Pearland High School as of this year. Some will go off to college, and some will go to junior college.

Others will go off to work, trying to make their way in life. The average college student working out of -- excuse me, the average college student walking out of college, not guaranteed a job, but could make as of this year maybe $33,000 according to the national average of salaries.

As a college student, most will walk away with some type of debt, having to repay it before they even acquired a job in their major or profession. Some of the young adults may not finish, or will return because they fell in love, or started a family.

Affordable housing is something that's needed for our young adults trying to get a start. I move to the elderly, who are on a fixed income. The fortunate that have pensions with or along with their Social Security, or maybe just their Social Security alone. That alone, to

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have the expense of having a home sometimes is not something that they would always need.

These are seniors that may or may not have family that visit, or does not visit them often. The opportunity that the elderly would have and be able to contribute would be a win/win situation. The enormous wisdom that the elderly have to mentor the young and help thy neighbor is priceless.

And not to mention how they could volunteer and stay productive in their golden years. A great mind is a terrible thing to waste, young or old. Between the young adults in their 20s and the elderly, not to offend anyone in their 60s, there are those in their 30s, 40s, or 50s. And all the groups -- people change, things happen, divorce, death within families.

People have to start over. People downsize. Single parents with children, siblings as caregivers -- we are susceptible to these in many situations in our lives. The need of affordable housing is necessary in Pearland to grow as a whole.

MS. ANDERSON: I need to ask you to wrap up.

MS. RODRIGUEZ: Okay. I would prefer that my son would have a nice, clean affordable housing somewhere
that he can come to after he finishes college, should he not want to move back home, within Pearland, where his family and friends are there to support him until he buys his first home.

I always tell my son and young people, as well as those I speak to, Knowledge is power, and also without power -- I'm sorry, I speak to knowledge as power, and without it we are powerless.

I stand before you as a part of Pearland community in full support of Tranquility Bay project. And I urge you to listen to those before me as well as after, and consider all the important facts presented to you today.

And one last note. Chris Richardson had some letters for you that was presented to you all. I had some of those letters. I had seven or eight that I can vouch for that was given to me by my family and friends in support of this. Thank you. Do you have any questions?

MS. ANDERSON: Thank you. Vincent Helms, Heims?

MR. HEIMS: Heims. I believe I have a couple of people that wanted to concede their minutes to me. Joe and Heather.
MS. ANDERSON: Who? I'm sorry.

MR. HEIMS: Heather -- Joe.

MS. ANDERSON: Joey Tapp?

MR. HEIMS: Yes.

MS. ANDERSON: And Heather Arnold?

MR. HEIMS: Yes.

MS. ANDERSON: Okay. Great. You have nine minutes.

MR. HEIMS: Thank you.

MS. ANDERSON: You don't have to use them all.

MR. HEIMS: Good afternoon. I'm a Pearland resident, and you're timing me, right? And I have been in the Pearland area since 1990. I appreciate the opportunity to get up and speak on behalf of support for Tranquility Bay.

I came in under the initial town meeting for Blazer Residential. And the reason why I started to help Chris was he wasn't getting a fair shake there. And I know you know the transcripts and so forth. I don't know if you've reviewed them.

But that's why. It made me want to come here today and try to help, because the need for this in the ever-increasing market values is paramount in Pearland.

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I want to make a comment about the flooding, the way the community is designed, with all the waters being there, rainwater or what have you, that they do not affect the southern boundary properties that the gentleman had mentioned earlier today. And that's the way it had been designed as well.

The school district -- it talks of capacity for there -- the schools right there at Silver Lake, which is at or near capacity. However, there is a large amount of capacity that is allocated for other schools that are not in Silver Lake, if need be.

Another comment was made concerning substandard housing. Actually, as you well know, because you've been a part of Chris's communities before, you know that it's not substandard. It's every bit as nice as the surrounding homes there.

The educational programs are designed for the children, for the adults. I feel like that that would be a fantastic opportunity for young folks and older folks alive, simply because they would have the opportunity to become better citizens, if you will.

And obviously, we've talked about the traffic issue. The development has designed a main entrance to
come off of 518, as you've seen earlier, the Oak Road.

So the traffic in itself is -- would not be as clearly changed because the main entrance being there, I would think the majority of the people would come off of Fite -- or excuse me, come off of 518.

My understanding is that with this -- you know more than I do about this. But I understand that they have to have good credit. They have to be actually employed. They do get a criminal background check on all of these apartments to qualify to be a part of this affordable housing project.

So I really feel like it's not going to bring anybody else as far as criminals, or those kind of people that has been presented in so many emails and at the town meeting. Many emails have been read concerning the development.

I'd like to point out that an email was brought up that a senior citizen community would be fine. I submit to you, what's the difference between a senior citizen and a graduating college student, you know, who is in the same salary range, versus retirement? I don't think there is a difference in the crime at all.

I don't have a problem with those kind of
people in my back yard. There is 21 percent of the people that live in that same zip code, which is 77581, are in that salary range that is the qualifying range for the affordable housing project.

Lastly, the TDHCA website, which is a wonderful website -- it shows where property values are not directly -- or the actual side notes, where you can pull up many things about the property values, as we had pointed out earlier.

And I believe that this website is accurate. That there isn't an issue. I think that's non-existent. Along with the professional management company that's been working with Blazer for many years, I believe it's important for us to look at the whole picture.

Number one, there is a true need for it. Number two, there is not a crime issue, because of all the checks and balances. Number three, with an A-plus quality project -- development, along with security systems in each and every one of the units, they also have a long-standing management group.

We would have a community atmosphere that would not bring down property values and so forth. As pointed out by the HOA member in the nearby community, to -- when
they sent a letter out to the other people to ask them to come up, they said this was a sham.

Well, this is a worthwhile development, as you folks will know. It does not give people a -- any people that have a different socio-economic level -- it gives them an opportunity that they otherwise may not have.

With the utmost respect, I ask you to please know that it is only fair to give Blazer Residential the community approval and nothing else. One of the best parts about this country is that anyone like myself -- and I just consider myself a regular person. I don't get up and do these kinds of things, can do anything they want, you know?

And I think this gives them an opportunity to do that. And as a couple of side notes, I've never seen anyone swimming in the lake the seven years I've been in Pearland, which is -- and I live real close, over on West Oaks Subdivision.

Please, I ask you to not let one bad egg that had some bad letters come to these people for support to you know, to deter us from a very good and worthwhile development. And I think it's desperately needed in our market in Pearland.
And I'd like to ask Mr. Mayfield and Mr. Dumont and anybody else that wants to talk about that -- in fact, I would like to speak with you or anybody else in that matter to try to help you in regards to who gave you those bad letters.

I wanted to make sure that you know, and I can vouch for all the letters that I did, and so can other people. But I want to also let you all know that as well. So if I can help, I would be more than happy to, because that put a cloud on something that shouldn't have been there. And that's for sure.

And one of the prerequisites -- I'm not sure if this is true, but I thought one of the prerequisites is didn't the people have to have a car as well, for them to live on-site, or not? And I believe that's all I have to say. And thank you very much for the opportunity.

It's a privilege to meet with you all, and I hope that I said something that was a little bit different than other people. And I just feel like this is something really, really wonderful, that would be something good for Pearland.

MS. ANDERSON: Any questions? Thank you very much.
MR. HEIMS: Thank you.

MS. ANDERSON: Vernice Hendon.

MS. HENDON: Good afternoon. I'm Vernice Hendon. I'm going to present a few points in support of the development, Tranquility Bay Apartments.

Number one, a master plan for Pearland for -- which has frequently been referred to -- thank you, by the opposition, is a non-existent document. There is a comprehensive plan, but the master plan is still, as I was told, in the works.

Number two, HUD has been encouraging affordable housing, some with rental and later option to buy, to replace the projects, quote, that we -- that have been built in past years. Affordable housing is not Section 8.

I am the parent of an adult deaf son. So I am aware that young adults and people with disabilities, even with college degrees, do not attain thoroughly in their work life, and some during their entire work life, the high-salary jobs that living in exclusive, quote, subdivisions require.

The taxes alone in some of these subdivisions are almost one-half of the annual salaries of these people.
Number four, in the past much has been said that is racist and elitist. For example, those people won't fit in. Number two, apartments in general are usually a breeding ground for criminal activity. More negatives. Unsupervised children, behavior of teens, vandalism issues, trash collection issues, tendency to not respect the local environment by way of increased litter. Noisy and excessively-polluting vehicles. Also this type of housing tends to be constructed quickly with substandard building materials relative to nearby non-subsidized construction, and with an overall low-cost approach.

It has been stated by some of the opposition that seniors would be preferred. Well, are not many seniors on fixed incomes, such as Social Security? Many were employed when today's wages were unheard of. Also, don't they need transportation, police and fire protection? As a retiree from the Federal Government, I worked 34 years, I am appalled that a citizen would publish in a local newspaper an article of opposition, and give as the author, an employee of the agency which will ultimately make a decision in this matter.
MS. ANDERSON: Ma'am, I need to ask you to finish up, please.

MS. HENDON: Okay. To my knowledge, this is totally unacceptable. Also, to those people who oppose, let's face it. The builder is going to utilize his land and my experience is that sometimes the usage of the land goes for what you consider bad, that is affordable housing, to something worse. Thank you.

MS. ANDERSON: Any questions? Thank you, ma'am. The last witness affirmation form I have on this agenda item is Karen Jewell. Okay. Okay. That is the -- I don't want to miss anybody. I want to make sure everybody that wanted to testify on this agenda item has testified. Thank you. Okay.

So we've heard the staff presentation, and the public comment on agenda item 4(a). What's the board's pleasure?

MR. BOGANY: Move for approval on Housing Tax Credits for Tranquility Bay, Number 04-420.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

MR. CONINE: Do you need to include the resolution -- the bond resolution?

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MS. ANDERSON: Yes, I do.

MR. BOGANY: And I'd like to include the bond resolution, number 04-028.

MR. SALINAS: Is Ms. Boston going to make the presentation?

MS. ANDERSON: Edwina made it before we had all the people comment.

MR. SALINAS: I was going to ask Edwina if the mobility plan and the construction of these roads by TxDOT were included in the presentation and the application.

MS. CARRINGTON: I'm sorry, Mayor. Would you repeat your question, please?

MR. SALINAS: The mobility and drainage program plan that they -- was that submitted in the application?

MS. CARRINGTON: I don't believe it's a requirement in the application stage. Mr. Gouris, could you answer that, or is there someone else that --

MR. SALINAS: Developer? It would really be -- it's clear in my conscience that if somebody is really moving on the roads that -- road improvements that are being planned, but I did not hear anybody talk about it, and the old Alvin Road and Broadway.

MR. RICHARDSON: Yes. The -- my understanding

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is that the 288 feasibility study being carried on by 
TxDOT is well underway. They've had three, you know, area 
meetings up and down the 288 corridor. And they -- there 
is -- they have zeroed in on specific areas that they plan 
to improve. Don't have a definite schedule for when work 
will start.

There is -- I think -- I picked up that two of 
the overpasses, 58, 59 I think are the numbers -- are 
imminent and supposed to start pretty soon.

MR. SALINAS: This would probably be some 
solution to some of the traffic problems that --

MR. RICHARDSON: That's right, along with the 
Cullen extension that I gave you the plan on, that would 
relieve a number of the issues in there. There is a 
big -- the school board has gotten behind a -- the 
Bailey -- what's called the Bailey 101 Route. Pearland 
has opened Pearland Parkway, which is more on the east 
side.

That's eventually to tie in all the way over to 
288. It's just like all the road work. It will be 
ongoing. When you've got a population that's gone from in 
1990, 17,000 -- in 2000 it was 37,000. Now it's in the 
40s, and expected to be close to 100,000 in seven or eight

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years. I mean, the roads will be in process.

But TxDOT recognizes -- they've been very responsive to -- in their feasibility study, and know that work needs to be done to keep the traffic moving.

MR. SALINAS: That answers my question.

MR. LESLEY: If I may, my name is Patrick Lesley. And regarding TxDOT --

MS. ANDERSON: Sir, have you signed a witness affirmation form?

MR. LESLEY: Yes, ma'am. I did.

MS. ANDERSON: Oh, did you defer to someone?

MR. SALINAS: I think he would answer my question --

MR. LESLEY: The opportunity -- right now, the feasibility stage is going to last for another two-and-a-half years before they do anything. And the problem is it's four lanes right there at 518 and 38. Then it goes to three lanes once you reach Mead Road. And then it goes to two lanes from 288 to 610.

So they don't know what to do and how to deal with that from 518 going north on 288.

MR. SALINAS: But they're talking about it?

MR. LESLEY: They're talking about it, but they
don't --

MR. SALINAS: They're talking. That's all you need is -- you see the road. You know they will try to get money from TxDOT. That's all I need for that.

MS. ANDERSON: Okay. Thank you.

VOICE: If I may interject something too.

MS. ANDERSON: Sir, the public comment period is completed on this transaction. Thank you for your understanding. Unless a board member has a -- a board member can always ask a question and --

MR. SALINAS: No, that was my question, as far as the feasibility and master plan that was not mentioned before, and the roads that are being looked at, which is -- took TxDOT three or four years to look at. So that answered my question. So --

MS. ANDERSON: Discussion? The board -- questions? Hearing none, I assume we're ready to vote. All in favor of the motion, please say Aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Next, Item 4(b), Selection of Underwriters for the Multi-family Bond

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MR. GONZALEZ: Yes.

MS. ANDERSON: Mr. Gonzalez, do you want Ms. Carrington to --

MR. GONZALEZ: Okay. We'll call on staff for the recommendation.

MS. CARRINGTON: Thank you, Mr. Gonzalez. Item 4(b) is the renewal, basically, of three underwriters for the Multifamily Bond Program. Board will remember in April of last year we did a request for qualifications, an RFQ, that is basically an open RFQ.

And we currently have 13 senior managers and three co-managers on the approved Multifamily list. And we've provided that list for you.

The three that we are asking you to approve today were three that were previously on the list, but had rotated off. Their time had expired, and they have reapplied to be on the list. Estrada Hinohosa would be co-manager. Raymond James and Associates would be a senior manager. And Red Capital Markets, Inc. would be a senior manager. And staff is adding that all three of these organizations be added to either the co-manager or the senior manager list for Multifamily.
MR. CONINE: Move for approval.

MR. BOGANY: Second. All those in favor.

MS. ANDERSON: Okay. So we're ready to vote.

All those in favor, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: Motion carries. Next item for your consideration, Item 4(c), is a Consideration of possibly addition Zion First National Bank to the list of approved trustees.

In April of last year the board did a request for qualifications to serve as trustee in our Multi-Family Bond Program. We tell you in your write-up that the department currently has five approved trustees on the list. We really have four approved trustees on the list with the merger of BankOne and JP Morgan/Chase.

We did have an application from Zion First National Bank to be added to the list. They have no Multi-Family housing experience in Texas. They do not have an office in Texas, and staff is not recommending that they be added to the trustee list for Multi-Family at this time.
MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Mr. Conine, would you -- I need to recuse myself on this item.

MR. CONINE: Any other discussion?

MR. SALINAS: This is what? The First National Bank of what?

MS. CARRINGTON: Zion First National Bank is the name of the entity. And they are located in Salt Lake City, Utah.

MR. SALINAS: Okay.

MR. CONINE: Motion is to -- and my understanding, motion is to agree with staff's recommendation to not recommend them to go on the list?

MS. ANDERSON: Correct.

MR. CONINE: And it's been properly seconded. Any other discussion? 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. ANDERSON: Ms. Carrington, I believe Item
MS. CARRINGTON: That is correct. Item 4(d) has been removed from the agenda.

MS. ANDERSON: Okay. We'll move on to Item 5 on the agenda, with regard to Housing Tax Credit Items.

Item 5(a) are -- we have two board appeals for Pineywoods Community Development in Orange, and Brentwood Apartments in Aldine City. And I do have some -- you make your staff presentation, and we'll hear public comment.

The first one is a termination -- and this is a termination of a 2004 Tax Credit Allocation. So what has happened is the department sent a letter to the applicant telling them that they were terminated. The applicant could then appeal to the department first. That was their first process.

And to lay out the case of why they believed they should not be terminated. And then in both of these cases, although both of them are very different, so we are going to be taking them separately, in the first case, the Pineywoods Community Development, the executive director -- I did deny their appeal.

And so the next road -- the next avenue for these applications -- applicants is to appeal to the board
the termination of the department and the decision of the executive director.

In the situation with the Pineywoods Community Development application, our 2004 Qualified Allocation Plan requires that initial approval of zoning must be in place by April 1, 2004. And the department must receive written notice from the local entity that's responsible for this initial approval of zoning that they have approved the appropriate zoning, and that that body is going to recommend approval of appropriate zoning to the city council or the county commissioner -- or the county commission.

In the case of Pineywoods Community Development application, the department did not receive by April 1 the approval of -- the initial approval of the zoning by the appropriate body, typically Planning and Zoning.

And because this development did not meet the requirements of the 2004 Qualified Allocation Plan, as you will see on page 2 of three, the staff recommendation -- the executive director denied the original appeal, and staff is recommending that the board deny the appeal of the termination to the board.
MR. BOGANY: So moved.

MR. SALINAS: Second.

MS. ANDERSON: Okay. I have Mr. Doug Dowler.

MR. DOWLER: Madame Chairman, board members, my name is Doug Dowler. I'm the executive director of Pineywoods Home Team. I appreciate the opportunity to address you today. I want you know first of all, we had nothing to do with the $50,000 that the City of Orange got. We didn't receive a single penny of that money in the pre-development monies for this tax credit application.

The -- we did receive the termination notice on May 6 from the department concerning our application, which was submitted on March 1. Included in that application, in Volume 3, Tab C(3), was evidence of our readiness to proceed, and the zoning letter from the City of Orange.

That letter, dated February 12, was in our application. And I'll read only a small portion of that, of which the reissue -- the issue concerning the zoning -- this letter is written by Jimmy Lewis, who is the Director of Planning and Community Development.

But he states in this letter that he is making

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recommendations to the city council for approval of the zoning. According to the QAP, it is required that we submit by April 1 evidence that there is a recommendation to the approving authority for the zoning. This letter so represents that authority.

We received a deficiency notice on April 19. The deficiency notice noted in there under issue one, that we were to submit evidence that the zoning change was approved by the Zoning Commission. There was nothing in that deficiency notice to state that we had not met the requirement of the QAP 50.9, I believe.

We so submitted the evidence that we had reached the zoning. The city council did approve the zoning on March 28. They so let us know on April 2, and we submitted that evidence that zoning was approved by the city council.

It might also be noted that it was not -- this is kind of an unusual -- this is not a multi-family single-site development. This is 36 individual single-family houses on 36 sites. Twenty-five of those 36 sites were already zoned correctly. It was only those other eleven sites that were not correctly zoned.

The city has strongly recommended approval of

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this application, and its commitment to make this
application work.

As I said in our response to the deficiency
letter of April 19, a letter again from Jimmy Lewis,
Director of Planning for the City of Orange, addresses
that he did recommend that the zoning be approved, and
that he did have the authority and was the entity
responsible for the approval. And that he had submitted
it to the city council for their approval.

I also have, after we followed the appeals
procedures and we were denied our appeal, a letter from the
Mayor of Orange, dated May 27, again reiterating that it
was the intent of the letter of February 12 to meet the
50.9 requirement of the QAP.

The letter of February 12 clearly states again
that it recommended and it was the entity responsible for
recommending, which meets the requirement of the QAP. And
it was submitted on March 1 with our application.

So I hope that you can consider that maybe the
letter is not written the way the department wants it
written, but it does clearly say that they recommend
approval of the zoning, and therefore, meets the
requirement of the QAP.

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I appreciate it. I hope you can see your way.

We'll be happy to answer any questions you may have.

MS. ANDERSON: Mr. Bogany.

MR. BOGANY: A couple of questions. What's the price range of the homes that you're building on this site?

MR. DOWLER: Well, these are single-family rentals.

MR. BOGANY: Rentals. Okay.

MR. DOWLER: And they'll be 70 to $90,000, roughly.

MR. BOGANY: Okay. And the other question -- are you saying that the city gave you the okay April 2 versus April 1, which was point of what we told you was the requirement?

MR. DOWLER: The city council did not meet until March 28.

MR. BOGANY: Okay.

MR. DOWLER: That council -- that was the second reading of the ordinance. It was approved at that reading. We did not receive the official letter from them until April 2. But the letter dated February 12 was submitted with the March 1 application deadline, which

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meets the QAP requirement that all we had to meet was that the entity responsible for recommending so did so on February 12. And it was submitted March 1, before the April 1 deadline.

MR. BOGANY: Okay. Thank you.

MR. SALINAS: If that's the case, I'll go ahead and remove my second. If that's the case that the meeting was on the 28th, and the second reading --

MR. DOWLER: And approved.

MR. SALINAS: Okay. So I'll remove my second. I have no problem with that.

MR. CONINE: I have some questions. Mr. Dowler, I'm still confused, which is not too unusual for this east Dallas boy sometimes. The letter you referred to that says February 12 --

MR. DOWLER: Yes, sir.

MR. CONINE: -- says that the P&Z will hear your case on March 2, 2004, very clearly. And then says the city council will take it up on March 23.

You're telling me that the city council met on March 28, I think. Normally when folks go to a city council meeting on March 28, they are there that night, and they hear the outcome of the decision. But you're
saying you didn't get a letter until April 2.

But the fact -- I think the way the QAP reads it, that a letter from the city council is moot at this point --

MR. DOWLER: That is correct.

MR. CONINE: What we needed was indication that the P&Z and the minutes from the March 2 P&Z meeting, where it would have considered this as an appropriate item on their agenda, as is stated in this letter, would have said, We recommend this to the city council. What happened on March 2?

MR. DOWLER: The QAP says that the entity responsible for making the recommendation must make that approval. That's in the QAP.

What the letter from the director of planning and zoning --

MR. CONINE: No, I don't think so.

MS. ANDERSON: It doesn't quite say that.

MR. CONINE: I don't think it says that. I think it says you have to have an actionable item from the planning and zoning commission. When we put this together in the QAP -- let me give you a little background here. Nine times out of ten, you don't own the property.
MR. DOWLER: That is correct.

MR. CONINE: So we wanted to make sure that the rezoning on somebody else's property did not take place until a decision on the credits were decided, because a lot of times landowners who don't get credits don't want that new zoning on their property.

So we needed an indication from the planning and zoning commission that they were going to recommend to the city council.

What this is is a letter from the Director of Planning Community Development, which is an entity of the city. It's not the P&Z, as I understand it. And what I need to hear from you is what happened on the P&Z meeting on the agenda item on March 2?

MR. DOWLER: It was approved.

MR. CONINE: Where is that evidence?

MR. DOWLER: Right here. I have a copy of the ordinance from the Planning and Zoning Committee where it was approved.

MR. CONINE: Let me see.

MS. BOSTON: That was not submitted to the agency on or before April 1.

MR. CONINE: Okay. So therein lies the
problem.

MR. DOWLER: But again --

MR. CONINE: No, no, no, no. Wait a minute. I was trying to get the facts here.

MR. DOWLER: Okay.

MR. CONINE: It was approved. You're saying it was approved at P&Z to get the rezoning you need for your application on March 2. And well -- just give me the vote, just out of curiosity. Do you remember what it was?

MR. DOWLER: Unanimous.

MR. CONINE: Unanimous. Okay. And so why didn't that particular document get to the agency by April 1?

MR. DOWLER: Because it was after April 1 that it was approved.

MR. CONINE: How could that possibly be when the March 2 occurred before April 1?

MR. DOWLER: Well, I take it back. It was approved on March 23. The second reading was March 23.

MR. CONINE: Which body?

MR. DOWLER: By order of the city council, the City of Orange.

MR. CONINE: That's not what I want. I want
MR. SALINAS: Well, if the city approved it, that means that the recommendation of planning and zoning was --

MR. CONINE: That's true. You're exactly right, Mayor. But I'm trying to figure out what happened at the P&Z meeting, because that's where it goes first.

MR. DOWLER: Well, the P&Z basically approved it when Jimmy Lewis wrote us the letter.

MS. ANDERSON: No, it says -- his letter says, "This issue of rezoning will be heard at the March 2 --

MR. DOWLER: March 2.

MS. ANDERSON: -- P&Z." So was it on the agenda?

MR. DOWLER: That is correct. What happened -- it was approved. Yes.

MR. CONINE: And where is that evidenced? Do you have the minutes from that meeting?

MR. DOWLER: Not with me today. But I have the city council minutes where it was finally approved.

MR. CONINE: So then what ultimately happened is the council met on, still, the 23rd or the 28th, and the council approved it. Right?
MR. DOWLER: That is correct.

MR. CONINE: And passed an ordinance and you got it on April 2, and got it to us shortly thereafter? Is that what the issue is?

MR. DOWLER: That is correct.

MR. CONINE: Okay. I think I understand.

MR. SALINAS: Planning and Zoning is just a body appointed by the city council. They approved this recommended it to the city council. It got approved on the 28th. It was your fault not to get it that day and bring it to HUD. That's what it is. And I think it's unfair. I mean, I think you should get the application. I mean, just -- it was approved on the 28th, period.

MR. DOWLER: That is correct.

MS. CARRINGTON: I'd like Ms. Boston to address any questions that the board might have about what staffers -- when we received that and what we received.

MS. BOSTON: We have not received documentation that P&Z -- we don't have proof that P&Z ever passed it. We do know -- of course have proof that if all the zoning has been approved. But it was received after the deadline that we would have given it.
MR. CONINE: When?

MS. BOSTON: It would have been after April 1. On or before April 1 we went through every file and made sure did they have the --

MR. CONINE: Okay.

MS. BOSTON: -- at least the preliminary P&Z, yes or no? And in this case, even though -- I mean, we had the letter from February, which we didn't feel like was sufficient to meet the requirement. And it's unfortunate, because it seems like through the evidence it actually was totally approved by the April 1 deadline.

MR. CONINE: All right.

MS. BOSTON: But unfortunately, it just wasn't provided to us. And so technically, it doesn't meet our requirement for the rule.

MR. SALINAS: No, it's not. You know, it's very funny. We have cities that do not have zoning. And here we are trying to punish people that have zoning and have rules. And we go by the rules. And just because they didn't give it to you after the 28th, but it was approved, and then we -- and you have citizen's input. It went through the whole process. They it got approved on the 28th. You didn't get it. It doesn't get

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done. Then you have people that we just heard, that don't have any rules.

MR. CONINE: I'd like to make a different motion whenever the question on it is finished, because I don't think we have a valid motion on the floor, because he withdrew, so --

MS. CARRINGTON: We do not.

MR. SALINAS: No. I pulled it out because I think he's right.

MR. CONINE: So whenever the discussion is finished.

MS. ANDERSON: Who has a motion?

MR. SALINAS: I remove my second.

MR. BOGANY: I withdraw my motion.

MS. ANDERSON: Okay.

MR. CONINE: I'd like to make a motion that we approve the appeal on the -- what project is it? Pineywoods -- Orange, Home Team, and allow the application to go forward.

MR. SALINAS: Second.

MS. ANDERSON: Discussion? Any more questions? Hearing none, I assume we're ready to vote. All in favor, please say aye.

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(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: Motion carries.

MR. DOWLER: Thank you very much.

MS. CARRINGTON: May I ask the general --

MS. ANDERSON: Yes. Would you ask --

MS. CARRINGTON: I would like to ask a followup question to our general counsel. Basically the action that the board has just taken waives a requirement in the Qualified Allocation Plan.

MR. WITTMAYER: Yes.

MS. CARRINGTON: And I would like to ask our general counsel under what provision of the Qualified Allocation Plan he believes the board can take that action?

MR. WITTMAYER: Chris Wittmayer, the department's general counsel. Under the 2004 QAP, we have a provision, the Section 50.23, which states the board, in its discretion, may waive any one or more of the rules in the QAP if the board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, or for other good cause, as determined by the board.

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MR. CONINE: That's the right answer. I would agree.

MS. ANDERSON: Okay. Brentwood Apartments, Ms. Carrington?

MS. CARRINGTON: I think I'd just like to ask Ms. Boston to come on up and talk about Brentwood. Brentwood is a termination that has basically gone through the same kind of process. They appealed initially to the executive director. The executive director denied the appeal. And so they are pursuing their right to come to the board and to appeal the termination of the application.

The situation on the Brentwood Apartments application, again, a 2004 Tax Credit application, are very different than the one that the board just looked at. And it does involve a couple of different provisions under the 2004 QAP.

So with that, I think I'd like to ask Ms. Boston to walk through the scenario in this particular -- this request for reinstatement.

MS. BOSTON: And just for clarification, it's actually not an appeal on a termination. They are still active. We deducted ten points.
MS. CARRINGTON: Oh. Thank you.

MS. BOSTON: And they are appealing the ability to get the ten points back.

Interestingly, any appeal that -- just to go back through the appeals process, because we haven't had some credit appeals before you all for a little while.

The process is, if we send out a notice of any kind that takes action, either a termination or a point deduction, the applicant is eligible to appeal that.

They first appeal to Ms. Carrington. And then within 14 days of that, Ms. Carrington responds. If the applicant is still unhappy with their response from the executive director, then it can come to the board, and it would not only be for terminations. People can definitely appeal point reductions.

Interestingly, in this case we had not done a full review of this application. We actually realized an anomaly with one of the documents we had produced, which made us realize they were ineligible for the points before we had ever even really looked through the application at all.

We had -- a new clause in the QAP this year, was that you could give ten points if a development was
located within what were -- what we casually call our exurban areas. Basically, it don't meet the rural definition, and it had a population of less than 100,000.

We released a list in our reference manual. And in that list we generated it from a Census report, with those population figures. Unfortunately, the error that we made was we did it from all Census places. And unfortunately, there are some things we call CDPs -- Census-designated places, that are indeed Census-designated places, but are not incorporated.

And the QAP very specifically said it had to be an incorporated place.

As soon as we realized the error, we looked back through the list and compared the Census-designated places that were on the list that were not incorporated, and compared that to all the applications we had in, to see if any of them met or fell in that area. And this is the only application, unfortunately, that fell in that scenario.

So without even looking at the application, we issued a deduction of the ten points, because for us the rule trumps any reference manual we would release. And we had to be consistent with the rule.
We definitely appreciate that applicants rely on the manuals that we release, and so I can appreciate the applicant's frustration on that.

As we've continued over the -- actually, up until the past few days even, after the board book came out, staff did continue to actually start going through this application to actually evaluate all of his scoring criteria.

He states that -- or he -- the applicant indicates in the part of the application where they say what city are you in? It says Aldine. And then in the rest, most of the backup documentation that supports zoning and notifications, Qualified Census Tracts, indicates that he's in incorporated Houston.

We definitely have confirmed with Houston and with the applicant that he is in incorporated Houston. Interestingly, what has come to pass is the whole issue of any error with the list is actually a moot point at this point, because we have established -- we have a definition from the Census of what a Census-designated place is, which specifically indicates that it's a statistical entity comprising a densely-settled concentration of population that is not within an appropriated place.
So you cannot be in Aldine and be in incorporated Houston. And we actually had our Housing Research Center map for us, you know, where the property is, and where Aldine incorporated is, which does -- according to the Census, has very specific boundaries.

And the application -- the development -- proposed development location is not in that area. And so kind of regardless of what had happened with the list, at this point, the development is not in this area either way.

So staff -- even though it's still the recommendation that we feel like the points should not be reinstated, it's actually kind of for a little bit different reason than what was originally presented in the book.

MR. BOGANY: I was just wondering --

MS. ANDERSON: We have some public comment too.

MR. BOGANY: Okay.

MS. ANDERSON: If you're ready for that.

MR. BOGANY: But I'm just wondering, Brooke, where Aldine City was. Because I kept looking, and I've never heard of the place. Are you saying that by deducting the ten points they wouldn't have ever even
gotten any tax credits, because they don't fit the exurban and suburban or the elderly situation?

MS. BOSTON: At this point -- and we haven't released a recommendation list. But at this point they would be ineligible for the ten points.

MR. BOGANY: Uh-huh.

MS. ANDERSON: They're trying for this cycle that comes up at the end of this month?

MS. BOSTON: Yes. They have an active application. They will be competitively evaluated against everyone else. We did not release the scoring notice for this application.

MR. BOGANY: Uh-huh.

MS. BOSTON: We have maybe about 30 apps that are still finishing out their deficiency periods. There may be other items, or not, that still could be unresolved scoring issues for this application. And I don't know off the top of my head if that's the case.

But once the score is final, which will include the board's decision on this --

MR. BOGANY: Uh-huh.

MS. BOSTON: -- then he will be evaluated in his region, and based on his set-asides --
MR. BOGANY: Okay.

MS. BOSTON: -- and may or may not be recommended.

MR. BOGANY: All right. So we're not terminating his application. We're just saying that the ten points that we were going to give earlier -- that we're taking away?

MS. BOSTON: Exactly.

MS. CARRINGTON: That is correct. Mr. Bogany, I did misspeak. And these were not two terminations. The first one was a termination, and this one is an appeal for reinstatement of the ten points. So I was incorrect.

MR. BOGANY: So after the application had been turned in, we found out that the site was in the City of Houston?

MS. BOSTON: Correct. The actual development location is inside the incorporated Houston City boundaries.

MS. CARRINGTON: And all of the notifications were also to elected officials and others within this -- the elected officials that were all within the City of Houston. I believe that was correct.

MS. BOSTON: Yes. And I don't know at what
point you'd like me to do this. We have two letters, and I know actually Bob Cash from Kevin Bailey's office has a letter that he wanted to read.

But I have another letter that I was requested to read into the record from another entity who is not here. Would you rather I do that now, or wait? However you want it.

MS. ANDERSON: Why don't you read your letter, and then we'll ask Mr. Cash and Mr. Lopez to speak.

MS. BOSTON: Okay. This is a letter from the Greater Greenspoint Management District. It's not too long. I'll try and read kind of quick. It's dated June 9. It's addressed to me. It's regarding File 04-267, Brentwood Apartment, Appeal of Application Point Reductions.

"Dear Ms. Boston, the Greater Greenspoint Management District requests this letter to be read into the record at the TDHCA Board of Directors meeting on June 10, 2004.

"This letter is to register our support for TDHCA staff recommendation to deny an appeal of application point reductions to Langwick Hardy LTD, the developer of the Brentwood Apartments, located within the

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boundaries of the Greater Greenspoint District in Houston, Texas, a political subdivision of the state.

"TDHCA guidelines state that an application can be awarded ten points if the proposed development is located in an incorporated city that is not a rural area, but has a population of greater than 100,000.

"The applicant has indicated the development should be awarded ten points for locating in Aldine City. This is inaccurate. The proposed Brentwood Apartments development is located in the City of Houston. Aldine City does not exist. It is not and never has been an incorporated city.

"This developer is familiar with the City of Houston and the Aldine area. Consequently, the claim of Aldine as a city was, in our opinion, a purposeful attempt to secure extra points without foundation.

"This claim raises questions in our view of the credibility of the developer, and of the accuracy of the entire application. We have other concerns with the application regarding the notification of public meetings and sufficient community input, all of which have been submitted to TDHCA in a previous letter.

"We cannot support the Brentwood Apartments,
given these circumstances. We believe the applicant sought to bypass the rules and procedures established by TDHCA in an effort to promote his application above other developers who have submitted accurate applications.

"We respectfully request that TDHCA carefully review the appeal of point reductions and deny the request." And it's signed by Jack Drake, President of the Greater Greenspoint Management District.

MS. ANDERSON: Thank you. Mr. Robert Cash?

MR. CASH: Good afternoon. My name is Robert Cash. And I work for State Representative Kevin Bailey. Representative Bailey had asked me to share a letter to Director Carrington with the board, dated June 8, 2004 regarding Brentwood Apartments, as it states here, in Aldine City.

"Dear Ms. Carrington, I am writing to request an investigation of an applicant, and prosecution if warranted, of what appears to be an attempt to commit fraud by the applicant.

"The determination by TDHCA to challenge the eligibility of the applicant to receive points for an exurban location is recognized and appreciated, but does not go far enough.
"While it is right -- while it is the right of community organizations, state representative and state senator for that area to determine whether an affordable housing development is needed in that location, I am compelled to comment because of the larger issues raised by this application.

"As a member of the Urban Affairs Committee, it causes me extreme concern that the very integrity of our competitive process is being attacked.

"If manipulative developers are allowed to make a mockery of the process by submitting applications that contain false information, it will lead to frustration and anger from those who do abide by the rules.

"The facts in this case are clear and unambiguous. The proposed complex is in the City of Houston. Proposed Brentwood Apartments it to be located at the northwest corner of Langwick and West Hardy. It was clearly within the city limits of Houston. But the applicants choose to list the location as the fictional Aldine City.

"The Houston City Limits sign is visible a short distance north of the property. The property being acquired by the Texas -- being acquired from Texas
Blackstar Investments is shown on the Harris County Appraisal District website as having a City of Houston property tax statement for 2003 of $1,763.39.

"This is a clear indication that the property is in the City of Houston. The proposed property is not within the boundaries of the CDP Aldine. I understand after reading your correspondence of April 19 that there was some confusion caused by TDHCA mistakenly identifying some unincorporated Census-designated places as eligible for meeting the criteria for extra points as cities of fewer than 100,000 residents. But this does not apply in this case.

"The property is located in -- about two miles from the nearest boundary of CDP Aldine. Furthermore, the applicant contacted my district office on March 1, 2004 requesting demographic information on Aldine City, and was told that there was no such incorporated city.

"My aide informed him that the area he referenced was not even in the area commonly known as Aldine, but did appear to be within Houston City Limits. I would appreciate it if you would investigate this matter.

"In addition, I would appreciate it if you
would keep me informed as to the results of your investigation. Thank you for your attention to this request. If you have any questions or comments regarding the matter, please do not hesitate to contact me. Kevin Bailey, State Representative, District 140.

MS. ANDERSON: Do you all have the questions? Thank you very much. Mr. Joseph Lopez.

MR. LOPEZ: I'm the developer. I was quite surprised to hear some of those comments, which I haven't heard before today. But from Jack Gray or from Representative Bailey.

This development has always been referred to as within the City of Houston. It's never been in a doubt in my mind that this development, and in many documents that exist in my application clearly identify it as being within the City of Houston.

For example, public notice that you have in your binder right here clearly indicates Langwick Hardy LTD is making an application for housing tax credits for the Texas Department of Housing and Community Affairs, and it's located at the corner of Langwick and West Hardy Road, Aldine City, Houston, Texas.

My point with filing this application is that
because of the way, if you look at a reference manual
document, which is the second page over, it simply says
Aldine -- it's in the -- if you look in the first -- it
should -- under the column, Reference Manual Document,
there is a page that we are provided with the QAP, that
you're supposed to figure out where your property lands,
and if you're entitled to get extra in points or not.

So I looked down here and see Aldine, Harris
County, six exurban. And then in the last column, it
says, Yes, exurban points. And if you go up that column,
that's where I claimed my ten points.

And that's what everybody did that reviewed and
looked at these applications. So when I made my
application, I believed that my site right here is in an
area commonly referred to as Aldine, Texas. Everybody
that ever lived in Texas in that part knows that to be
Aldine. This black area is the Aldine Independent School
District.

This is not a -- there is nothing in this --
it was difficult for me to determine exactly where the
property boundaries of Houston was in the area around when
I submitted my application, of whether it would be Harris
County, or whether it would be in Houston.
But there is certainly my view that this is -- this would be -- if you lived there, you would say this was in Aldine. And there is no little incorporated area called Aldine, that I subsequently found out.

But very early on this process -- for example on February 25, we had to submit a letter from the --

MR. CONINE: Use the microphone, Mr. Lopez.

MR. LOPEZ: For example, I've included a letter -- at the tab there is a letter from the City of Houston, which I provided to the state on February 26. Brentwood Apartments, 100 units, new construction for the elderly, 1600 block of West Hardy Road, Houston, Texas.

I mean, this is not -- everybody who has been familiar with this, who has just looked at the documentation in the application realizes that, yes, this is Houston, Texas. But within Houston, Texas there is an area called Aldine. And I'm trying to claim exurban points for that area, Aldine.

Now, maybe I can't do that. Maybe that the plans don't -- or the QAP doesn't allow me to do that. But the notion that I'm trying to deceive or be deceptive about it to anybody -- I don't see how that would -- I don't see how that flies.
Other documents in the contract that clear -- in the application that clearly indicate it would be the purchase money agreement for the land. Just -- sorry.

MS. ANDERSON: Sorry.

MR. LOPEZ: There is a list of things that I've -- that -- concluding, the public notice that I just gave to you clearly indicates Houston. Numerous places in the application clearly indicate Houston. Our market study prepared by Bob Poe, who is sitting right here, that we submitted as part of our application, says Houston, Texas on it.

The address of the property has always been the northwest corner of Langwick and West Hardy Road. So anybody who was doing research at the state on where that address is -- it's only in one place. It's in Houston, or it's in Harris County, or it's in Aldine. So I can't -- I didn't move the address around trying to -- it is what it is now.

MS. ANDERSON: I need to ask you to wrap up.

MR. LOPEZ: Yes. Okay. Sure. Further, again, the real estate property contract we originally submitted with this application -- it identifies -- just the title commitment identifies exactly the location of the

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property. And that it's in Houston, Texas.

In closing, I think that there is a confusion in this document that she indicated there was a confusion or a mistake, that I have fallen into here with this Aldine, trying to claim ten points for my Aldine application.

Now, if the ten points aren't available because it doesn't qualify, then that's -- so be it. But I thought that it did, filing this application because of what this particular sheet says.

And anyway, in closing, I --

MS. ANDERSON: Thank you, Mr. Lopez.

MR. LOPEZ: Thank you.

MS. ANDERSON: Any questions from Mr. Lopez?

MR. CONINE: I've got some for Brooke.

MS. BOSTON: Can I make a comment --

MR. CONINE: Now that I -- yes, sure. Go ahead.

MS. BOSTON: I just wanted to -- when we released the department's reference manual, I know people rely on it. And generally, what people tend to do is, for instance, they would look at this list and say, Oh, a given city on the list, you know, I can get ten points. I
better go check to see where that place is, make sure that
my site is within it.

And so you know, that someone would just look
at it and get a general feel for where Aldine might be, I
don't feel like is in keeping with the general process
that people tend to follow in the development process.
And that when they do look through our reference manual,
it's as a guide. It's not a definitive -- you know --

MR. CONINE: Here comes counselor to save you.

(Laughter.)

MR. WITT Mayer: The requirements to get these
ten points in the QAP are very explicit. And it requires
that you be in an incorporated city. It is not a rural
area that has a population no greater than 100,000.

So if you're in the City of Houston, you
clearly do not meet this requirement for ten points.

MR. CONINE: All right. Pretty much open and
shut as far as I'm concerned.

MR. WITT Mayer: Yes.

MR. CONINE: But the question I -- with the map
and everything that's now been presented, are there parts
of what would be called Aldine that don't fall within the
City of Houston?

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MS. BOSTON: Aldine Census-designated place --
MR. CONINE: Yes.
MS. BOSTON: -- does not fall within Houston at all. Aldine as a general area of town does --
MR. CONINE: Right.
MS. BOSTON: -- which is not a defined Census --
MR. CONINE: But it's not a corporate -- it's not incorporated city either?
MS. BOSTON: No. And Aldine ISD, obviously, has some areas within Houston. And so, you know, if we were talking about school districts, it might be a different issue. But as a Census-designated place, Aldine definitely is not inside Houston, and there is no overlap of the two places.
MR. CONINE: Move to accept staff recommendation to deny the appeal of point reduction.
MR. SALINAS: Second.
MS. ANDERSON: There is a motion on the floor. It's been seconded. Discussion? Questions? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.
(A chorus of ayes.)
MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: ; The motion carries. Item 5(b) --

MS. CARRINGTON: Thank you, Madame Chair. I'd like to recommend that the board take these two together. These are two applications for tax exempt bond with local issuers and the allocation of 4 percent tax credits by the department.

The first is the Masters in Dallas. And this is the Dallas -- the City of Dallas Housing Finance Corporation, new construction, family, a total of 144 units. The amount of tax credits that the staff is recommending is $500,879.

The second one is Primrose at Pasadena Apartments. This is located in Pasadena. This would be an elderly development, Southeast Texas Housing Finance Corporation is the issuer on this transaction. It's 248 units. And the recommended credit amount is $783,565.

MR. CONINE: Did you check with these guys and see if they wanted to be lumped in together? Just kidding. Move for approval.

MR. BOGANY: Second.
MS. CARRINGTON: Actually, no, I didn't.

MS. ANDERSON: Any discussion or questions about either of these two deals? Hearing none, I assume we're ready to vote. All in favor, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: Motion carries.

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

MS. ANDERSON: Yes, you go ahead.

MS. CARRINGTON: Okay. The next item for the board's consideration is Item 5(c). And these are two requests for tax credit applications that are involving material changes.

The first one is a 2003 application. It's Lilac Gardens Apartments. This was an acquisition or is an acquisition rehab development. And it is located already in El Paso, and came out of the at-risk set aside. And staff is recommending -- we have reviewed this.

Real Estate Analysis has looked at it also. And they are fine that there would be no effect on the underwriting of this particular development. And basically, what it relates to is there are some threshold
requirements in our QAP that really do not address -- they
don't adequately address rehabilitation or evaporative
coolers as we have in El Paso.

And so basically, what they are doing is
identifying these three items that were threshold, and
explaining to us how or why they are doing something other
than what was identified in those threshold requirements.

Staff is recommending that this request for a
material change be approved.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MS. ANDERSON: There are two individuals signed
up for public comment. But you're free to waive or
answer --

VOICE: We waive.

MS. ANDERSON: Thank you.

MS. CARRINGTON: Thank you.

MS. ANDERSON: All right. We have a motion on
the floor. Is there a discussion or questions? Hearing
none, I assume we're ready to vote. All in favor, please
say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?
(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: The second one for your consideration requesting a material change is Hickory Manor Apartments. This is a 2004 allocation for tax-exempt bonds and 4 percent credits. A change in the site plan, increasing the number of units by two.

They increased the size of the area from 18.95 acres to 24.31 acres. And because of that change, and because of adding a couple of new units, it makes a material change. Real Estate Analysis has looked at this. They have no issues or concerns. And staff is recommending that this material change to Hickory Manor Apartments, an '04 bond and credit transaction, be approved.

MR. BOGANY: SO moved.

MR. GONZALEZ: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)
MS. ANDERSON: The motion carries.

Mr. General Counsel?

MR. WITTMAYER: Chris Wittmayer, the general counsel. If I could speak on some additional information concerning the Pineywoods appeal.

It’s been brought to my attention that a letter from the City of Orange dated April 23, which is from the Director of Planning and Community Development, and it states that --

"This letter is a followup to a previous letter pertaining to the subdivision of the two lots referenced above. As I stated in the previous letter, a minor variance would need to be granted in order to finalize the resubdivision.

"I have spoken with the chairman of Planning and Zoning. And she feels strongly your project is much needed within the city, and would vigorously support your approval of the variance. As the planning director, I would recommend the variance be approved by the commission.

"With these two actions, I can say with confidence that the variance, and therefore the replat, would be approved by the commission."
The point is, is that as of the letter dated April 23, that the rezoning had not been completed, and I thought it was material to the board's decision that you would want to have this information.

MS. ANDERSON: Norberto?

MR. SALINAS: But the city council approved it.

MR. WITTMAYER: Well, apparently as to two lots in --

MS. ANDERSON: Just a minute, sir. One at a time. Mr. Wittmayer, please.

MR. WITTMAYER: As I read this letter -- as I understood the presentation, it was all approved in March, prior to the April 1 deadline, even though that was not communicated to us.

As I read this additional letter from April 23, it seems to say that that's not the case. That as to these two lots, additional action was necessary and it had not been completed as of April 23.

MS. CARRINGTON: So a portion of the zoning was in place for the majority of the lots, but there are two lots that the zoning was not in place?

MR. CONINE: Could we hear from the applicant again as to why the discrepancy is there, please?
MS. ANDERSON: Thank you, Mr. Dowler.

MR. DOWLER: I don't think that there is a discrepancy. The zoning was applied to the entire area and lots that we were talking about.

MR. CONINE: Uh-huh.

MR. DOWLER: The two lots that he's referencing there is one site that we are proposing to divide into two lots. Obviously, we don't want to do the division of the lots into two separate lots until after we know we're going to get the tax credits or not to build the houses.

Obviously, we have an option to purchase that lot. We don't even own it yet. And we'll not exercise that option to purchase that lot until such time we know that we have the credits.

But the zoning for that whole area and all of the lots has already been approved as of March 23 or eighth. Yes.

MR. SALINAS: Yes, so then you go back and then divide whatever you want to. But the zoning is in place as of March 28?

MR. DOWLER: That is correct.

MR. CONINE: And --

MR. SALINAS: Do you have minutes of that

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action that you all took on the 28th?

MR. DOWLER: You have the city council's -- I just gave it to him. He came and asked me for my copy. So I just gave him the actual ordinance passed and signed by the city manager, attested to by the city secretary, of the passing of the zoning.

MR. SALINAS: It can be five acres, it can be 100 acres. That area is zoned. Then they go back on their own and see what they are going to divide. But you have no design -- their area is zoned for apartments.

MR. DOWLER: That is correct. It's zoned.

MR. SALINAS: I can understand, but you know, legal counsel?

MR. WITTMAYER: I just wondered if this additional letter here had --

MR. CONINE: Yes. I think what I'd like legal counsel to do is to research it, because you can't do it sitting here on the fly.

MR. SALINAS: Yes. Legal counsel --

MR. CONINE: And send us an email as to your evaluation of whether or not the full tract had zoning March 28. And if -- you know, if in your opinion it didn't and we can get some other opinions back and forth,
we can move to reconsider this thing at the next meeting if need be.

MR. SALINAS: It's very simple. You need to call the city attorney. And he can give you the opinion.

MR. WITTMAYER: Excellent idea, Mayor. And we'll bring it back at the next meeting, if that's appropriate.

MR. CONINE: Yes, sir. You recommend two attorneys talking to each other?

MR. SALINAS: They'll really get along. Once you --

MR. CONINE: Okay. Thank you.

MS. ANDERSON: Thank you.

MR. WITTMAYER: You bet.

MS. ANDERSON: I'm going to -- we have a couple of people that need to leave to get on airplanes shortly. So I'm going to ask that we ask the questions we need to ask. But I'll ask Ms. Carrington to take us through this expeditiously.

MS. CARRINGTON: Okay. Will do. Item 5(d). You had in front of you when the board was put together nine requests for extension of the closing of the construction loans. I have just been notified that one of...
these developments has closed their construction loan.

These are all 2003 tax credit applications. So what you are looking at -- the first one, Arbor Woods, has already closed their loan. So the next eight I will tell you that they all paid their fee. That they all filed in time.

The deadline for closing the construction loan on these '03 tax credit transactions is tomorrow, June 11. And they are all requesting extensions ranging from July 11 to September 10.

There are a variety of explanations on why they need the extension, and staff is requesting that these extensions be granted now on all eight of these requests, with the exclusion of Arbor Woods.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Ms. Bast, will you relinquish your -- thank you. Any discussion, questions? Hearing none, I assume we're ready to vote. All in favor, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)
MS. ANDERSON: Motion carries.

MR. CONINE: Could I make a statement for the record. I am disturbed by the trend, though. And would like to encourage the development communities -- these are projects that got credits almost a year ago. And to be closing a construction loan, you know, in eleven months, is a little bit excessive for me, and -- or 12 months or 13 months.

And I would love to see this trend reversed.

That's all I have to say.

MS. CARRINGTON: Item 5(e) is a request for additional credits on two transactions, Roseland Gardens, which was a 2001 allocation of tax exempt bonds and credits, and a 2000 allocation, Carroll Townhomes. Both of these were with the Dallas Housing Authority. They were part of their HOPE 6 allocation or application.

Roseland would -- is requesting credits. And they've submitted their cost certification to the department. The department has determined that they are eligible for additional credits.

Roseland would be $3,188 in additional credits. Carroll Townhomes would be $13,587 in additional credits.

Now, in addition, Carroll Townhomes needs a waiver of the
requirement in the 2000 -- they come under the 2000 QAP initially.

But since the cost certification is being done and we are allocating these additional credits in 2004, we can technically say they are coming under the 2004 QAP. And that 2004 QAP would give the board an opportunity to grant this waiver.

In the 2000 QAP, basically the only way the board could grant a waiver was fire, flood, natural disaster. We did get a little bit more flexibility added into the QAP. This does inadvertently have one building that has a duplex in it, which is not going to be eligible. It's an ineligible building type.

They are taking that they -- taking it out of basis. Is that correct, Mr. Gouris?

MR. GOURIS: Correct.

MS. CARRINGTON: They are taking it out of basis. The development is built. Even with that building coming out of basis, they are still eligible for the additional credits based on their cost certification.

And last month you did approve for the Dallas Housing Authority a Lake West Townhomes, which was also part of this group of four that they developed using HOPE
6.

MR. CONINE: Move for approval of both requests.

MR. GONZALEZ: Second.

MS. ANDERSON: Questions? Hearing none, I assume we're ready to vote. All in favor, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: Motion carries.

MR. CONINE: Ms. Carrington's report?

MS. CARRINGTON: Nothing I have to say.

MS. ANDERSON: Nothing you have to say.

MS. CARRINGTON: Nothing I have to say.

MS. ANDERSON: Oh.

MS. CARRINGTON: Unless the board --

MR. CONINE: Looks like five items are on here.

MS. CARRINGTON: It wouldn't maybe have any -- in deference to the time -- your all's time --

We do not -- looking at Item Number 5, we do not know yet the date of the next Urban Affairs Committee hearing. We were told a few weeks ago it was going to be in June. We do not have a date of that yet. We will
communicate that date as soon as we hear it on the chair.

MR. CONINE: Move to adjourn.

MR. BOGANY: Second.

MS. ANDERSON: All in favor?

(A chorus of ayes.)

MS. ANDERSON: Opposed?

(No response.)

MS. ANDERSON: We stand adjourned. Thank you all.

(Whereupon, at 3:45 p.m., the meeting was concluded.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: June 10, 2004

I do hereby certify that the foregoing pages, numbers 1 through 227, 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.

06/21/2004
(Transcriber) (Date)

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