

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

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

8:45 a.m.
Monday,
December 13, 2004

BOARD MEMBERS:

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

STAFF:

EDWINA CARRINGTON, Executive Director
BROOKE BOSTON
CHRIS WITTMAYER
TOM GOURIS
ERIC PIKE
MICHAEL LYTTLE
ROBBY MEYER
DELORES GRONECK

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P R O C E E D I N G S

MS. ANDERSON: I call to order the December 13 meeting of the Texas Department of Housing and Community Affairs. The first order of business is to call the roll. Vice-Chairman Conine?

MR. CONINE: Here.

MS. ANDERSON: Shad Bogany?

MR. BOGANY: Here.

MS. ANDERSON: Vidal Gonzalez?

MR. GONZALEZ: Here.

MS. ANDERSON: Pat Gordon?

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas?

MR. SALINAS: Here.

MS. ANDERSON: We have six members present. We do have a quorum. As is our custom, we begin the meeting by soliciting public comment here at the beginning of the meeting. At the witness's option, you may defer your comment until the agenda item is presented.

We have several people that want to speak this morning. We are going to ask that you limit your comments to three minutes. And Ms. Groneck, as is her practice will be running the clock, so I appreciate your cooperation with that.

And I am going to kind of read a couple of

people at a time, so that you know how we have got these teed up. The first speaker will be Claire Palmer, then Ann Lott, then Neal Rackleff.

MS. PALMER: Madam Chairman and members of the board. I am Claire Palmer, and I am the attorney for the Dallas Housing Authority. Thank you for the opportunity to speak on behalf of the housing authority with respect to Agenda Item 1 of the proposed amendments to the QAP.

First, I want to say that I think the TDHCA staff did a wonderful job in drafting this year's QAP and presenting it for comment around the state. They were very open and responsive to comments during the process. Some, however chose not to participate in that process, but rather to wait until the QAP was on the Governor's desk.

Those of us affected by the changes which were made in the emergency amendment are at a severe disadvantage. This is where housing authorities like Dallas found ourselves today. We relied on having the at-risk set-aside to make decisions about our housing program for this year, and suddenly have it pulled out from under us less than a month from pre-applications is very difficult.

I am sure that all of you are aware by now that the original QAP defined the at-risk set-aside to include

housing authorities receiving HOPE VI grants. Chairman Talton's letter to Governor Perry alleged that this violated state law, Senate Bill 264 explicitly removing public housing authorities as qualified applicants. This is not what happened with the amendment.

Senate Bill 264 originally added housing authorities to the definition of housing sponsors. It was then deleted on the floor. Housing sponsors are entities that qualify for direct loans or grants from TDHCA.

The term is not used in Subchapter DD, which is the chapter dealing with tax credits. It would have been a change in they want to add housing authorities, but it still would not have affected housing authorities' right to apply for tax credits.

Now I understand that the argument has changed, and is that the HOPE VI developments, that adding HOPE VI developments to the at-risk set-aside violates state law because the TDHCA governing statute defines at-risk developments, and that definition does not include HOPE VI or capital grant developments. That might be true if the statute did not also define set-aside.

Section 2306.6702(14) defines a set-aside as a reservation of a portion of the available Housing Tax Credits to provide financial support for specific types of housing or geographic locations, or to serve specific

types of applicants, as permitted by the Qualified Allocation Plan. This makes clear legislative intent to give TDHCA flexibility to define those entities eligible for a set-aside.

If TDHCA could give a specific set-aside to housing authorities, surely they can do the lesser, which is to put HOPE VI development in the at-risk set-aside only. I would point out that it simply makes sense for TDHCA to have some flexibility to provide for special circumstances.

For example, our Legislature only meets every two years. Suppose that in an off year, there was a natural disaster like the hurricanes in Florida. In order for those areas to rebuild low-income housing, it would be up to TDHCA to devise a way to do that. Surely that is the spirit of the tax credit program.

I would end by just saying that under the 2005 HOPE VI grant application process we today must show that we actually have a commitment for tax credit. In Texas we already start at a disadvantage because we cannot do that.

Please do not put us at a further disadvantage by taking away the at-risk set-aside. Thank you.

MS. ANDERSON: Thank you. Ms. Lott?

MS. LOTT: Good morning. My name is Ann Lott, and I am the president and CEO for the Dallas Housing

Authority. DHA was created in 1938 by a resolution of the Dallas City Council. We are a political subdivision of the State of Texas. Ninety percent of the funding that we receive comes directly from Housing and Urban Development.

And we receive approximately \$247 per month for each unit of public housing that we operate. Most of our public housing inventory was created within five years of our origination. So if you are doing the math, that puts our inventory at about 60 years of age.

I am here today because I want desperately to modernize our aged and deteriorated inventory. To do that, DHA must stay in the tax credit game. I am here to ask you to give us that opportunity.

We are new to the game, and it seems that there are those who don't want us to participate in this game. I feel that I am at a clear disadvantage. Because DHA is a political subdivision of the State of Texas, we are prohibited from hiring a lobbyist to represent our self-interest.

So I am here today to represent that interest.

Please keep in mind, I do not gain personally from being here, but instead, me and my counterparts are here to represent the needs and the interests of some of the poorest families in Texas. Eighty-nine percent of the families that we serve earn less than \$20,000 annually.

If you adopt Chairman Talton's amendments, it will be next to impossible for us to modernize our aged inventory. Dallas has a \$20 million HOPE VI grants for one of its public housing sites, Frazier Court. This grant anticipated the ability to leverage tax credits in order to complete this grant.

Because of our funding stream and because of the target population that we serve, it is virtually impossible for us to compete in the general allocation. I am asking you not to make us do that. Because we don't make a profit, we cannot compete with those private developers who are making a profit.

We find it difficult just to meet some of the thresholds to provide for the amenities. I am asking you to exercise your discretion and to maintain PHAs as part of the at-risk set-aside, and in doing so, I believe that you will send a message that public housing is important to the State of Texas. Thank you.

MS. ANDERSON: Thank you. Mr. Rackleff? And the next witnesses will be Horace Allison and Brant Johnson.

MR. RACKLEFF: I have some handouts. Good morning, Madam Chair and members of the board. My name is Neal Rackleff and I am the general counsel for the housing authority of the City of Houston. On behalf of our agency

I want to very sincerely thank you for the great partnership that we have enjoyed with the TDHCA in the past. It is not any exaggeration to say that you have truly have helped us to transform our public housing stock.

We serve at the housing authority people with much lower incomes than are traditionally served by tax credit developments. In fact, approximately 80 percent of our residents are qualified as extremely low income, meaning that their incomes are at or below 30 percent of the area median. And actually, 70 percent of our residents have incomes that are 16 percent below the area median, and 33 percent of our residents have incomes that are 9 percent below.

There is a tremendous amount of need for affordable housing for those that are at the extremely low income level in the City of Houston. U.S. Census data shows that there are 110,000 households at or below 30 percent AMFI in Houston, Texas. At present, we have 28,000 families on our waiting lists. Now the resources that we have to meet the demands of those that we serve are inadequate, and those that we have are dwindling.

There is a popular myth that housing authorities have access to a myriad sources of federal funds to meet those needs, but nothing could be further

from the truth. In fact, the funds that we have, our HUD funds have been consistently and dramatically cut over the last several years. Our operating subsidy has been reduced.

The Harvard University Graduate School of Design public housing operating cost study, published in June of 2003 recommended that operating subsidies for housing authorities be increased by 5 percent above normal levels. However, the last several years, our funding has been reduced by HUD by approximately 5 percent of the normal level.

Additionally, our capital fund has dramatically been reduced. Ten years ago, the housing authority of the City of Houston received \$10 million annually for capital improvements. Last year, we received \$4-1/2 million. Our drug elimination grant, to help us with public safety, unfortunately has been eliminated. That grant we had for nine years received about a million per year to help with public safety and that is now gone.

The Section 8 housing voucher program has been cut. For the first time last year in the 28-year history of the program, the Section 8 program was actually cut. We actually in Houston had our funding reduced by about \$2 million in 2004, and if we had not had sufficient reserves in our program, that would have meant that we would have

had to eliminate assistance for 343 families.

The HOPE VI funding that is available, which has become more and more scarce, as you are all aware, requires leveraging with other sources of funding. And Mr. Allison, my good friend and colleague has graciously agreed to cede his time to me, of which I will not use all of it.

Now, given the challenge of doing more with considerably less, how can housing authorities revitalize their aging housing stock? We have very distressed, often physically obsolete properties. In the year 230 B.C., Archimedes said: Give me a lever long enough and a place to stand, and I will move the world. Leveraging is the answer.

The only way housing authorities are able to appreciably improve our housing stock is through dramatic leveraging of our dwindling federal resources. The Allen Parkway Village in Houston was a wonderful example of this. A thousand units of severely distressed property remained in extremely blighted condition, and was a drag on the City of Houston, right in the shadow of downtown Houston for more than 15 years. But when federal HOPE VI funds were leveraged with tax credits, we were able to completely turn that situation around.

In that one revitalization effort that this

body helped us to make possible, we were able to actually redevelop 25 percent of our public housing stock. That is an incredible accomplishment that you helped us to achieve.

For many housing authorities, the low-income housing tax credit has become the fulcrum for their lever, to enable them to raise additional funds that are necessary. If that fulcrum is removed, their ability to raise the funds necessary to leverage our resources will be severely if not mortally impaired.

It is arguable that a public housing authority can have the most dramatic impact for good or ill, depending on how it is managed of any municipal agency. And so we urge you to continue to assist us in our effort to revitalize our public housing stock. Tax credits are absolutely the centerpiece of our redevelopment and new development programs in Houston.

If the net result of the amendment that is before you today is to render housing authorities effectively uncompetitive for 9 percent tax credits, that will be a tragic result indeed. Now we understand that you are laboring under very difficult circumstances, and we understand and appreciate the fact that you have gone to great lengths to assist us in the past.

What we are asking is that hopefully, one of

the solutions proffered today or some compromise that can be reached in the future could yield a result that will allow us to continue the tremendous partnership we have enjoyed with each of you and with this body. And we thank you again for your continued support. The handout that I gave you provides before and after shots of Allen Parkway Village, which I think are quite telling. Thank you.

MS. ANDERSON: Brant Johnson, and then the next two witnesses will be Henry Alvarez and Henry Flores.

MR. JOHNSON: I'll waive my time.

MS. ANDERSON: Thank you, Mr. Johnson.

Mr. Alvarez?

MR. ALVAREZ: How are you? Good morning. I am Henry Alvarez from the San Antonio housing authority. And I am going to try to be brief. I have got some materials for you here. I must say, it is great to be in Texas. Happy holidays to you. And it is wonderful to be on this side of the dais as opposed to that side. So it is great to have this opportunity.

You know, I don't really want to talk about housing. I want to talk about people. We represent 50,000 families in the City of San Antonio of which 2,500 are in just abject obsolete housing that you can think of.

In fact, if you have got a moment after the holidays, during the holidays, come down to San Antonio and stand in

front of one of these doors and tell me if you will live in it.

What you have done for us in San Antonio is absolutely phenomenal and we thank you. You provided \$7 million of tax credits there that we have leveraged to \$84 million to replace 602 unit of obsolete housing in downtown. But what is more important is the low-income housing tax credit is what it is. It is designed to affect low-income housing households; we have the most of them in anywhere that you can look.

50,000 of them, 2,500 of them on a slippery slope, falling down. You wouldn't put your pets in them.

We have people living in them. Please, I implore you, come down to San Antonio, look at what your money is doing. Look at the work that we are doing with your money, and tell me if you would, if you could live in the housing that we are providing today.

And without the low-income housing tax credits, we are just simply out of business. So in that sense, again, happy holidays to you. It is great for me to be a Texan where I come from. It is wet and 40 degrees. It is wonderful to be here. Thank you very much.

MR. FLORES: Madam Chairman, members. Good morning. There is nothing worse than following a dynamic speaker, especially when he is also named Henry.

My name is Henry Flores, and I am here as the chairman of this housing authority. I have been appointed by three separate mayors to that capacity. I am also the Vice-President and representing Commissioners across the State of Texas on the board of the National Association for Housing and Redevelopment Officials. That represents the entire industry. And I appreciate this opportunity.

You know, I think Mr. Alvarez made a good point. I am not here to talk about housing. I am here to talk about people. There are 424 housing authorities in the State of Texas that have struggled mightily to provide services to the poorest of the poor. As you know, this agency is charged in its enabling statute to try to ensure that its resources serve the poorest of the poor.

Our average consumer makes less than 30 percent of the average median income in the State of Texas. Truly the poorest of the poor. Our average income here in Austin from rent only \$190.

So we don't receive most of our money from our residents. We receive most of our money from HUD. And I know there have been points made about our use of this activity, that there are other dollars. And my purpose today is to speak to those other dollars.

The HUD budget being proposed this year is \$30.4 billion. It has been reduced over the last three

years by \$3.2 billion; an enormous cut. But with a war to fight and a \$300 billion deficit, clearly, we understand what is happening on a national level. More and more states are having to prioritize public housing as part of their activities because there is no money at the federal level.

Of that \$3.2 billion that I just mentioned, 2.8 billion of that money has come from public housing. The HOME program is now being cut. The CDBG programs are now being cut. Public housing is being cut. Last year, the initial fund estimate for our operating subsidy was 83 percent of what we were supposed to get. We're there at 94 percent.

But for Austin, they make \$300,000 that we did not receive. The drug elimination program that historically has funded our security programs is gone. The resident opportunity self-sufficiency program that has funded our economic opportunity activities is gone.

The rural housing program, gone. The Baumfield [phonetic] program, gone. The empowerment zone program, gone. All of these programs are gone. When you look at the program that has been structured to respond to our capital needs, we annually receive about \$2.5 billion for our capital needs.

But a recent study found that on a national

level, if you look at the 1.2 million public housings in the United States, there is a \$25 billion need for deferred maintenance. \$25 billion. And they also estimated that figure is growing by \$2.5 billion a year.

They allocate less than \$2.5 billion a year, which means that every year, we are slowly slipping into the morass. We are not even addressing the needs that exist in our current housing.

The City of San Antonio has gone from the ninth largest housing authority to the 19th largest housing authority. Every housing authority in Texas is losing, Madam Chair. There are two other members here who will cede me time. I need just a few more minutes. Both of them are the residents of Texnero [phonetic].

MS. ANDERSON: Have they filled out witness affirmation forms?

MR. FLORES: Yes. They either have, or have them with them. It is Jim Hargrove and Robert Reyna.

MS. ANDERSON: Just a few more minutes, Mr. Flores.

MR. FLORES: Yes, ma'am. Less than three. Yes, ma'am. Because again, I think that the numbers are compelling. The budget has been cut. It is being cut on the back of public housing. We cannot expect federal monies to be available for public housing in the future,

not with the deficit, and with the war to fight.

States have to become more proactive in trying to address the housing needs. You know, when public housing deteriorates, it is not just the public housing project, but everything around it deteriorates. Neighborhoods are impacted. Cities are impacted.

There is contention about whether we meet the at-risk definition, by definition. Well, this is not an issue of definition. This is not an issue of verbiage. This is an issue of people. This board is empowered under Section 42 and under its statute to allocate its resources in the way it sees most appropriate.

If you don't want to use the word "set-aside" for public housing, then use the word "preservation of existing resources." There is ways to do this. There has to be a will. I am very appreciative, having worked for two governors and in running this agency, how difficult it is to allocate this resource. I don't -- as Mr. Alvarez said, it is better to be on this side of the dais, than on that.

But again, I on behalf of 400 housing authorities, and on behalf of a million poor people in the State of Texas ask you to consider public housing and the needs of public housing as part of this activity. Don't prioritize us, just give us an even playing field. Thank

you very much for your time.

MS. ANDERSON: Thank you. Mr. Henneberger, and then the next witness will be Cele Quesada.

MR. HENNEBERGER: Madam Chair, with your permission, Ramona Jute has agreed to cede her time to me.

MS. ANDERSON: I see that. Delores?

MR. HENNEBERGER: My name is John Henneberger.

I am the co-director of the nonprofit Texas Low-income Housing Information Service, and I am here to talk about the proposed amendments to the QAP.

First of all, I would like to state that as a longtime supporter and occasional critic of public housing authorities, I agree with what I have heard today that has been said. Public housing authorities do the heavy lifting as far as housing low-income people, and I cannot think of another state in the nation which excludes public housing authorities from participation in its tax credit program.

This is not an issue of who gets the money and who makes the profit. This is an issue of do the citizens of Texas who live in public housing, who often live in some of the worst housing conditions in our state, who are often the poorest people, who are overwhelmingly elderly and disabled -- will this board prioritize those Texans' needs? Or will they deliberately exclude them from

participation in the only program which is really viable today to rehabilitate the improvement of their developments?

Now I understand that this is not the Board's making. This problem is not of the Board's making. But I believe that the Board has the authority to allow housing authorities to apply in other areas under other categories than the one which appears to be prohibited, and to fail to do so would make Texas unique among the states in precluding the ability of our housing authorities to be able to access this absolutely essential resource.

That said, I want to turn my attention to the second problem, which I have with the proposed changes in the QAP. And that has to do with the prioritization or the exclusion of developments from census tracts where the income is above the median family income.

At the Texas Low-income Housing Information Service we respectfully disagree with Chairman Talton's interpretation of the provisions of the TDHCA statute. Throughout the QAP, TDHCA provides points to advance areas of public interest that are not explicitly provided for in the statute. The Legislature has never indicated that TDHCA cannot provide such incentives, and the Legislature has never indicated that it wishes to write all of the scoring criteria in detail for the agency.

Yet that appears to be what is argued that now is the law. Specifically, I have given you a letter which outlines what I believe to be the absolute essential reasons why the Department under both state and federal statute must provide incentives to allow developers to offset the substantial economic disadvantages of going outside of low-income neighborhoods and providing housing opportunities in non-segregated environments.

I don't have the time here today to go through all of those reasons. But I believe it is clear in your statute that you are required to affirmatively further fair housing. That you are required to explicitly provide opportunities which are non-segregated, and to provide housing opportunities in "underserved areas." And again, I cite five or six specific instances in your statute.

Chairman Talton provided you a letter on December 9 which outlined a final objection to the inclusion of the additional points to offset the economic disadvantage to locating outside of targeted low-income neighborhoods, and I would like to address that one in a little bit of detail. He cites Section 2306.127(8) as another reason.

That section is entitled: Priority for Certain Communities. And it states that in a manner consistent with the regional allocation formula, the Department shall

give priority through its housing and scoring criteria to communities that are located wholly or in part in federally designated urban enterprise communities, and urban enhanced enterprise community or an economically distressed area or colonia.

Now that is the gist of the argument in the December 9 letter, which is the final case for why you should not do these seven points. If you look at this, just look at this at the surface, then you will see this is not a reason for prohibiting the points. A federally designated urban enterprise community is an entire community.

We have multiple counties in fact on the border which are federally designated enterprise communities. Those are not low-income census tracts per se that the Department is directed to prioritize, they are entire communities.

And the economically distressed areas and colonias, it is argued in the letter that the Department has to prioritize the location of low-income housing in low-income census tracts because specifically of this provision. That the Department is required to prioritize economically distressed areas and colonias.

Well, what is an economically distressed area? It is not defined in TDHCA's statute, but it is defined

in the Water Code. And an economically distressed area is one of 27 counties across the state, most of which are located on the border, which are inadequately served with water and wastewater needs.

Now clearly, the Legislature did not intend TDHCA to locate all of the tax credit developments only exclusively in those 27 counties. There is tons of other law. There is tons of other references in the statute that you must allocate statewide.

And furthermore, it would be clearly inappropriate to locate all of these large apartment development in colonias. This is clearly not a justification for the exclusion of the seven points. Ask yourself this one question.

Was that my six minutes?

MS. ANDERSON: Yes. You need to wind up.

MR. HENNEBERGER: Ask yourself this one question: where would you want to live? Where would you want to bring your children up? Do you want to consign all of the future low-income housing in this state to low-income census tracts? Thank you very much.

MR. SALINAS: Let me ask you a question. When you say that the Chairman Talton is saying that most of this credit should go to areas in the border, and that we're going to colonias --

MR. HENNEBERGER: The December 9 letter says that the basis under which he argues that the Board should allocate these credits exclusively to low-income census tracts is this provision of the law. And I argue that that is not a correct provision of the law to cite. You cannot argue that the Legislature had in mind the allocation of tax credits when it speaks of economically distressed areas, which is defined as these counties, or colonias.

MR. SALINAS: Well, I need to have something on the record saying that in the colonia areas are built simply because those people do not want to live in an apartment. Those people want to have their own piece of property.

You can have all the apartments you want to in the border areas, especially in the colonias and distressed areas. They do that because they want to have the property and they want to pay for their property. They do not want to have and to live in the housing project.

MR. HENNEBERGER: Right.

MR. SALINAS: This is why you have colonias. And for them to say that they do not have water, it is incorrect. They might not have water in the area. Some areas, El Paso or Fort Hancock. But some of the other

areas that we have in the border areas have already been upgraded to have water and all of the regulations and the bottle rules that we have in the border areas.

Very few colonias do not have what we call water. They might have some new grants right now that are being started right now with the ETAC program, to have sewer. But for them to say that they want to target these areas and to put apartments in these areas, they are not going to have any fights.

Because the problem that we have in colonias is people moving out of the cities, and going and having their own half-acre lots, and being able to pay for it, and to have something for their own. They do not want to be put in an apartment area. And this is because I know the border area. I think somebody needs to talk to the Chairman.

MR. HENNEBERGER: I agree with you, sir.

MR. SALINAS: I just wanted to put that on the record.

MS. ANDERSON: Thank you.

Cele Quesada? And the next two witnesses will be Elizabeth Julian and Jonas Schwartz.

MR. QUESADA: Thank you, Madam Chairman. My name is Celonio, Cele Quesada.

MS. ANDERSON: Oh, I sorry.

MR. QUESADA: I am the director of the Port Arthur Housing Authority. First of all, I want to say thank you very much. Last year, we applied for, in conjunction with our private partner for rehabilitation of a five-story Section 8-based development. And we were successful.

And the result of that, we have our elderly and our disabled folks have been living in this building for 20 years. And it has not been rehabbed. We had leaking roofs and so forth. With this money, we were able to obtain, and our residents are going to be living in really a premiere development. And I want to say thank you for that. It is a wonderful program.

I also want to say to you that I echo what the Dallas housing authority is saying. And that is that in our planning discussions and our strategies, we were moving forward very aggressively and very hopefully and very faithfully to the effect that we might be able to affect the living environment of our very low-income children. With the less and less money that HUD provides us to rehab and redevelop our apartments, we have situations.

I have a situation particularly that we are targeting this year of 152 units of public housing that is more than 40 years old. It was built in a very dense

situation. We have huge problems there. Again, our planning, our strategy was to pursue this tax credit application. Basically what this does, is it knocks our legs out from under us.

You know, they tell me that basically, it is a done deal. The Governor is not going to sign unless you make these amendments, and I am here to ask you what can we say, what can we do? And I can bring you all kinds of statistics and numbers and issues and I can do all kinds, as you will hear, and as you will see, the bottom line is that we do not have the money to do redevelopment.

Developers are not coming to our door unless there is some attraction. The American idea of public and private, rather the entrepreneurial idea of public and private partnerships so that we can participate in the mainstream of our community has become a reality with this opportunity to do tax credits. Now you are taking that away from us.

And I am asking; we need that very sincerely, tremendously. And the effect that you have had so far has been tremendous. I hope that it is not going to be -- I hope that you do consider all of these numbers and figures.

But beyond that, what our hope is, and what our faith is, is particularly housing authority in having some

leverage, in having some partnerships in the community, that we can redevelop, and that we can affect our community. Thank you very much.

MS. ANDERSON: Thank you. Ms. Julian?

MS. JULIAN: Thank you. Good morning Madam Chairman and members of the Board. My name is Betsy Julian, and I am an attorney in Dallas. And I am president of a new nonprofit, not-for-profit organization, the Inclusive Communities Project, which works for the creation and maintenance of stable racially and economically integrated communities, expansion of affordable housing opportunities for low-income families, and redress for policies and practices which perpetuate the effects of racial discrimination and segregation.

At the outset, I want to endorse strongly the comments of the housing authorities that have spoken here today, particularly Ms. Lott from Dallas who knows very well the importance of this program to her effort to address many of those problems and to endorse Mr. Henneberger's excellent letter in this regard. I want to speak specifically today to the Chairman Talton's request that you further administer the tax credit program in a manner that further concentrates affordable housing in economically distressed or low-income areas.

I previously have spoken to this Board about

the importance of the Department's duty to administer the tax credit program in a manner that affirmatively furthers fair housing. It is a mandate of the federal Fair Housing Act which governs this Department as well as state law.

And I am not going to repeat all of those arguments today. However I want to urge you not to alter or delete the two selection criteria that award seven points to applications proposing to develop affordable housing in low-poverty areas or areas with high-performing schools.

Chairman Talton's assertion that by including these two provisions out of nine, that no priority is given in the scoring criteria to developments in economically distressed areas is simply incorrect. Indeed, from a fair housing perspective, these two provisions are really overwhelmed by the other provisions of the QAP that steer tax credit developments into low-income, predominantly minority areas.

However, they are constructive criteria. They reflect good housing policy, and they reflect the Department's recognition that the tax credit program is governed by federal as well as state law. It is my understanding of the process to be followed that the Department be putting any changes that you make today on an emergency basis out for further comment.

And depending on what action is taken, more extensive comment may be appropriate. But in the interests of time, I will conclude my remarks this morning. Thank you.

MS. ANDERSON: Thank you. Mr. Schwartz. And the next witness will be Antoinette Jackson, and then Barry Kahn.

MR. SCHWARTZ: Good morning. My name is Jonas Schwartz, and I am here today representing Advocacy Incorporated. We are the state's protection and advocacy organization for persons with disabilities. I came today to say thank you to the staff. I understand that they have worked very hard on this QAP for a very long time.

And one of Chairman Talton's recommendations is to take the word "accessible" out of the QAP because that particular word is not referenced anywhere in your statute. Well, he is correct. It is not in the statute itself.

However, I want to thank the staff for at least at this point, not recommending to remove that word from the QAP, because it goes to a much larger issue. What value base is this Department going to ascribe to when providing housing for people who need it, which include people with disabilities. Providing affordable and accessible housing is a value base.

And it is important for this agency to have the right set of values when it is making decisions. You know, a lot of people with disabilities live on Supplemental Security Income. That is less than \$500 a month. That is exactly 18 percent of area median family income. Okay.

Now, I want to support also what has been said by all of the public housing authorities. That is the resource that is really available for people for disabilities. Okay? That is the resource that has the housing that is at the right income level so that people with disabilities have a place to live. This set-aside for housing authorities is extremely important.

I thank you for your time this morning. And I thank the staff of TDHCA for recognizing that accessible housing is a responsibility of this agency, but it also says a lot about the value base that this agency adheres to. Thank you.

MS. ANDERSON: Thank you. Ms. Jackson?

MS. JACKSON: I want to defer my time to Barry Palmer.

MS. ANDERSON: All right.

MR. KAHN: Good morning and happy holidays. My name is Barry Kahn, and I am a developer from Houston. Very quickly, I support Bob Voelker's letter, which is in

the record, that we maintain market-rate units. We have had this in the program for many years, and there is tremendous benefits. And I think that letter speaks for itself.

Secondly, as to 499(G)(13)(g) and (h), at least as far as (g) goes, I recommend that you preserve the points, even if you restrict it to census tracts that have incomes lower than the county average because having exemplary schools is a very big advantage to area developments. And our school systems are very important.

And good education for our kids is very important. And if we have low-income areas that have better schools, there is definitely an advantage to offering additional points there. Thank you.

MS. ANDERSON: Susan Maxwell? And then the next witnesses will be David Kelly and Barry Palmer.

MS. MAXWELL: I am Susan Maxwell. Good morning. I represent the Texas Council for Developmental Disabilities. And we are concerned.

First of all, we say thank you very much. You have always supported people with disabilities in this Department, and have supported the concept of accessibility.

And I think the Legislature also has put that in, in three places in the statutes, per the QAP in

2306.6722 and do I need to say the rest of it? 2306.6725, and again in 2306.6730. So I think the QAP reflects exactly what the Legislature had in mind when they directed the QAP to be formulated in that way.

So we appreciate all that the staff has done, and what the Board continues to do to support people with disabilities. And we would encourage you to stay strong.

Thanks.

MS. ANDERSON: Thank you. Mr. Kelly?

MR. KELLY: Madam Chair and members of the Board. I will be try to be mercifully brief. Thank you for the time and the opportunity to address you. I am here to speak on Item 1, which is the change in the QAP regarding the set-aside for housing authorities.

Our firm acts as a private sector developer and consultant. We worked for ten different housing authorities, five of which are within the State of Texas. Five are throughout the nation over the last five years. That has been our privilege.

What we have found is three things that I would like to talk to you about today regarding the low-income housing tax credit process. One is the environment that housing authorities work under. Two is the need for the use of the credits. And three is the timing and planning-related issues.

With regard to the environment, both President Clinton and President Bush have both said that public-private partnerships are the way that they anticipate that housing authorities will move forward. Toward that end, unfortunately they have already started reducing capital grant funds and HOPE VI funds with which for them to effect that change in housing.

Quite frankly, they anticipated that tax credits would fill that gap. We have seen in other areas such as St. Louis, Missouri; Orlando, Florida; and Baltimore, Maryland, where those states have taken the action to actually allow tax credits to be used in conjunction with these other forms of leveraging. Stepping in at the local level, providing that commitment to back up the federal mandate to try and get additional public-private partnerships and leveraging.

Unfortunately, this is desperately needed. As we all know, Section 42 is a low-income tax credit. It is not designed for true low-income families but rather, moderate-income families. Only housing authorities have the resource pool to serve the most needy of our citizenry. Toward that end, they desperately need tax credits, along with the other forms of leveraging that they have to service this desperately needed housing stock and personnel.

Toward that end, what we have found in working with housing authorities throughout the country is they are better businessmen than we see in the private sector.

They have five-year plans. They work five-year plans. And they work to solve a specific problem. They don't look for the next site where they think they can get a deal done. That is not a plan, that is a pirate ship.

However, what we have seen is unfortunately, given the personnel and the income levels they serve, they require sufficient leveraging. Most of the transactions that we have worked on have had five different levels of subsidy involved. Unfortunately, that requires time.

Five levels of subsidy where you really need tax credits to drive the structure, you need to know that the tax credits will be there when you show up. Toward that end, HOPE VI funds actually require that the tax credits would be allowed, either through the QAP, or had in hand to get credit for that leveraging. Saying effectively that we will show up when the State has demonstrated that they will show up.

Therefore, actually removing and making the changes that are recommended to the QAP achieve three things. One, it backs away from a federal desire to see more public-private partnerships. Two, it penalizes housing authorities for having the foresight to plan and

work that plan by saying that we will not be available when you show up. And finally, it disadvantages our lowest income residents within the state. Thank you for the opportunity to address you.

MS. ANDERSON: Mr. Palmer? The next witnesses will be Bob Kafka and Stephanie Thomas.

MR. PALMER: Good morning. My name is Barry Palmer. I am with the law firm of Coats, Rose. And I am here to speak on behalf of a number of our public housing agency clients that are concerned about the changes to the QAP, and particularly the definition of the at-risk set-aside.

I would like to point out to the Board that the first years that we had the at-risk set-aside the money was underutilized each year. And that was because the definition of the at-risk set-aside was so restrictive that there simply weren't enough qualifying applications to use the money.

And then last year, we amended the QAP to allow housing authorities to participate in the at-risk set-aside and for the first time, on a statewide basis, we were able to use all of the at-risk money. Now the issue has been raised as to whether there is a legal problem with including in the definition of the at-risk set-aside, a public housing authority as a sponsor.

And so what we would propose to do is, we have proposed language amending the language that has been proposed by Representative Talton, that takes public housing authorities as a sponsor out of the definition of the at-risk set-aside, but still includes in the definition the types of projects we are talking about helping, which are public housing projects using either HOPE VI funds or capital grant funds. And so I would like to distribute to the Board members, if I may, proposed language. We have previously sent a copy to Mr. Whitmire.

And the reason that this is important is because with the point structure as it is, there are some point categories in the general set-aside, that housing authorities just can't qualify for. For example, the HUB points for the historically underutilized businesses. Housing authorities can't get those points. The exurban points for applications in exurban areas, which is seven points, I believe.

Housing authorities are for the most part in urban locations, in the inner city. They are not going to get those points. So, in your major metropolitan areas, like Dallas or Houston, a housing authority applying in the general set-aside will start out nine points behind any application in the surrounding cities, around Dallas and Houston. So it is impossible for them to compete on a

point basis with a point structure that we have adopted.

So I would respectfully request the Board to consider the proposed revised language that would in our view, solve the problem of Representative Talton of not including public housing authorities as a sponsor in the definition of the at-risk set-aside, but would still allow these very needy programs to go forward. Thank you.

MS. ANDERSON: Mr. Kafka?

MR. KAFKA: My name is Bob Kafka. I am the co-director of the Institute for Disability Access. And I am a life member of the Paralyzed Veterans of America. I very much like Jonas and Susan before me want to thank TDHCA for their sort of progressive rule on accessibility over the years, and I want to really encourage keeping accessibility in the QAP.

You know, we talk about accessibility sort of in a vacuum. And you hear the term: people with disabilities, almost like it is a separate sex segment of the population. People with disabilities are children, young adults, and old people. We get labeled, but we forget about the reality of what is happening in our society, in terms of just the demographics.

People like us previously died. Children are being kept alive. Young adults are being injured in the service, in car wrecks, in recreation. Older people, just

through the aging process. And you know, I know you have heard this over the years, but sometimes it is important because I know that especially with HUD guidelines, we are all put in little silos and little pigeon holes.

And you know, we are black, we are brown, we are green, we are orange, we are yellow, we are pink. But people with disabilities want to access accessible affordable integrated housing. That is why that whenever we testify, we are adamant that it is not affordable housing, it is accessible, affordable, integrated.

Because we think that all those are all intimately linked in terms of that. And people with disabilities cut across all the ethnic and racial and economic grounds. And so we really want to be able to support the keeping of the accessibility access into the QAP, but also in everything else you do.

I am also signed up for number two. Number two is some funding that you will see for TDHCA has been progressive in terms of getting and keeping people out of institutions and you should be commended for that, and have gotten national attention in terms of your progressive stand on access. So thank you, and happy holidays.

MS. ANDERSON: Thank you, sir.

Ms. Thomas, and then the next witnesses will be

James Walker and then Raul Garza.

MS. THOMAS: Hello. My name is Stephanie Thomas, and I am from ADAPT of Texas. And I am also here to very much support and urge you to keep the word "accessible" in the QAP.

When I first was injured, I lived in homes where I had to literally get out of my wheelchair, sit down on the first step of a flight of a stairs, pull myself up that step and pull myself up the second step and so forth, up a flight of maybe ten steps to get in, because there wasn't accessible housing. When I first got involved with the Texas Department of Housing and Community Affairs, there was no enforcement of the accessibility requirements.

And though I would like to think that people would do the right thing, and do what they are supposed to do, you know, and there are people that do that. There is also a lot of people that don't, either through not bothering to find out about it, or whatever. And it was unbelievable, the lack of compliance with the laws, the accessibility laws and so forth.

TDHCA has come a really long way in that. And I think you are very much to be commended on it; the staff and board both. And to go backwards on that now is just appalling. I mean, if you live in housing that is

not accessible, and you need accessible housing, that is extremely substandard.

If you have to wait every time you want to go and in and out of your house for someone to help you get up or down the stairs, what is that? I don't even know if you can imagine what that is like. Sitting there, just waiting. What is there is a fire? And you are just waiting for the firemen to come and carry you out. A crispy critter is what you turn into.

How about if there is no fire alarm, because we don't have accessibility for deaf people? Would that be okay with you to build housing like that? But if you don't have access in there, that is what happens. And if you don't talk about access, people don't do it.

So it needs to be in there. It needs to be emphasized. And you really need to keep that there. How about never using the bathroom in your own home? Finding some kind of alternative in your own home. That is what we are talking about. It is not rocket science, and it is no big fancy thing. It is basic life necessities.

I also wanted to talk about item number two, and just really commend you for putting this funding forward for Olmstead in helping people to find housing when they get out of nursing homes. That is where a lot of people can't find accessible housing get dumped at

higher cost to the state.

That is wrong, and it is very great that you are working against it, and also that these agencies that have applied for the money are working to hook people up and get them out. And it is a critical piece, and we really support it, and we thank you for that also.

MS. ANDERSON: Thank you. Mr. Walker?

MR. WALKER: Good morning.

MR. GARZA: Good morning. I am Raul Garza, and with me are James Walker and Dirk Van Syke of TKO Advertising. We work in partnership with your team; Eric Pike, Sue Cavasos and Kathy Gutierrez, in creating marketing for the first-time homebuyer program.

So what we are going to do today is update you on some concepts and progress since the last time we met, and let you know how it is developing. First we are going to get our technology in order here.

MS. ANDERSON: Go ahead.

MR. GARZA: While he is setting that up, I can tell you about some interim steps that we have been doing while we create the new brand presence or the new marketing presence for the first-time homebuyers program.

One of these, you may have seen, it is a trade show booth, customized for your messaging. It is outside in the hallway here, and we have had a lot of success with

this at trade shows.

We have also created fliers, print materials for events like the Houston Association of Realtors, the Texas Association of Mortgage Brokers, the Texas Association of Realtors, and the Texas Mortgage Bankers' Association. I will leave behind all this material on it, so you will be able to see what we are talking about. We have also created some print advertising for specific opportunities that come up.

MR. WALKER: Lucky we came prepared to deal with any IT difficulties, so we can proceed to look at the good old printed page.

MR. GARZA: Right. So if you go to page 3, I can take you through the brand update. When we talk about brand in context, of the first-time homebuyers program, we mean the relationship that you all build with your constituency. So it is an ongoing thing. It is not just a one-time logo or a message that we put out there.

And our news today is what we have done with that brand. We have created a brand launch campaign that captures the essence of that program. We have redesigned your website and we have developed a consumer and trade outreach campaign as well as prioritizing your markets for upcoming efforts. That means we will be able to spend your media dollars as wisely as possible.

The big idea, or the underlying language and basis for this campaign is a phrase and a visual that we came up with. And it is: Live Big. We landed on that because it is very aspirational. It is very inclusive of the diversity of Texas. It is very warm and conversational. We like the humanity of it. And it is uniquely Texas. It is proud, and it really reflects the pride of home ownership.

The first place that that idea came to light is in the website. And that was created in partnership with your IT department to update the look and feel and still work seamlessly with the agency's site. The big news about the site, and we are going to show you some pages subsequently, is the ability of the visitors to select contact as a lender, content as a lender, a broker or an agent or a homebuyer. It also features a mortgage calculator tool, and a lender locator.

And some really big news is that finding this website, you will now use the URL, myfirsttexashome.com. So it is much more consumer friendly just from the getgo in that title.

MR. WALKER: And so, Live Big on the web, as you will see here in a second, and that potentially would include the headline Live Big, and as Raul mentioned, we clearly have indicated the call out for the buyer, realtor

and lender. Moving forward, for the homebuyer here, one of the things was making the information very accessible and simple.

So we indicated in five simple steps the process that the homebuyer can expect in order to participate in the program. Another example of our effort to streamline the process, and make information very digestible and accessible for our audiences, right here for the homebuyer we have a pre-qualifier calculator. So now the prospective homebuyer can learn through this tool whether or not they qualify for a first-time Texas homebuyer opportunity as well as if they qualify for assistance in their down payment.

Next, we have now included a section specifically for lenders to include and invite them into the process. And so now we have streamlined the information in terms of how we communicate with them, provided key documents relevant for the lender to participate in the program right here on the sites.

MR. GARZA: The next phase of this campaign is going to be outreach, probably in the form of print. And so what we have done here is to create a set of goals, which is awareness of the first time homebuyer program, increasing the loan originations throughout the state, identifying and creating relevant messaging for

underserved markets. So we are going to find out which those are, and we are going to create specific messages for those.

And developing a cohesive long-range plan that we can we can continue and carry out. Creative tactics for solving these, for achieving this goals, are to include the Live Big theme throughout. You will see that visually, verbally.

You will see it in the tone. To build on success stories, and to leverage the pride of home ownership. That is in photographs, in the language, to address barriers to home ownership using positive language to let consumer knows that this program is a way that they can overcome those barriers. We want to reflect the diversity of Texas homebuyers.

And we want to link you all and your program to the pride of home ownership. This is a campaign some of you all may have seen in its development form. And it is really set up as a success story. First-time homebuyer success story is a banner that goes over the top.

And this example features an in-the-home photograph with the icon of the first-time homebuyers logo over them, the roof. The headline reads: bought first home, hosted family Thanksgiving ever since. Brought to you by Texas First-time Homebuyer program. And we talk

about some specific items in bullet point form on the left side of the ad, always. And always end with our Live Big callout.

MS. ANDERSON: I have a question.

MR. GARZA: Sure.

MS. ANDERSON: You mentioned a minute ago that the URL on the site was myfirsttexashome.com and so now I am seeing livebigtexas.com, and I am trying to understand why we have multiple URLs going on.

MR. GARZA: We don't. That is from the rough format of creating these ads before we had secured that URL.

MS. ANDERSON: Okay.

MR. GARZA: So when the final ad is created, it will have -- there is only going to be one URL; myfirsttexashome.

MS. ANDERSON: Okay.

MR. WALKER: And your previous URL still works, it just sends them to the same site.

MS. ANDERSON: Yes. No, I like having a consumer-friendly URL, but I just wanted some good clarification.

MR. WALKER: Correct. It is a work in progress there.

MR. GARZA: Just a second example of where the

campaign could go, and the way that it changes just reflects location, the home style and the people in the photograph. The first-time homebuyers success story. Bought first home, adopted Tiger, Jo-Jo, Goliath and Lucinda. Brought to you by Texas First-time Homebuyer program.

MR. WALKER: So the campaign really captures the essence of what we do for our audience; essentially provide hallmark experiences.

MR. VAN SYKE: And the portion that I am just going to talk about is market segmentation. If you will remember, it was in the original goals, we wanted to identify the areas of most need for this program. Obviously, with finite dollars, we can't reach everybody all the time. And so what we are going to do with those dollars?

So we created, actually, a methodology in doing exactly that. We base it on several criteria from a multiple variety of sources: Percentage of home owners per market, the Texas Affordability Index, which is developed by the Real Estate Center at Texas A&M. Percentage of the market population, between the ages of 25 and 49, which is the highest likelihood age group of first time homebuyers. The relative cost of the advertising media in each particular market, as well as

persons who fall below poverty level.

So what we did, is we created this market ranking, that we will then use for the execution of our campaign. You will notice that the index on the right basically indicates that Houston, for example is 72 percent, has about a 72 percent higher likelihood of need in that particular metroplex. And actually, we have copies of the details chart we created in order to come up with these indices.

So if you have any questions about that, we would be happy to answer those. And then some of the other opportunities that we are going to be working on moving forward are the recently announced Texas Association of Realtors partnership that I believe your executive director is going to talk about in just a few minutes. So we are going to be definitely capitalizing on that from a marketing standpoint.

The market; the market tests that we are planning on doing, using that model, testing radio for example, in some of the markets that have a greater need and checking the response of that. Also updating your collateral materials as your previous materials run out of quantities, and we need to update them, we will be doing that in Spanish language as well as English.

And then more importantly, tracking and

research. We really want to know what initiatives we are going to be doing, but also what is the success of those?

So we have instituted, both on your website, as well as your 800 number, some methodologies to track where people are hearing about our programs, so that we can use that intelligence for moving forward and really leveraging the dollars that we are spending.

And then the final opportunity that we have been discussing with your master services provider, countrywide, is the opportunity for a co-op program in order to leverage the dollars that they spend in marketing as well as the ones that we spend on marketing in order to get a greater reach. Thank you for the opportunity to talk to you about this. At this stage, we will take any questions you may have. Yes?

MR. BOGANY: I have a question. I think you guys are doing a super job. It is kind of what I envisioned on it. I think you guys are doing a super job and it is kind of what I envision on the marketing program. I had a couple of questions in regards to the web site.

I am assuming that we don't have the annual tax. And if I am an unsophisticated first-time homebuyer -- I am concerned that the 796 what that person think their house note is going to be.

MR. VAN SYKE: Actually, can you go back to the calculator page? We actually create sections in there for the calculator.

MR. BOGANY: Okay.

MR. VAN SYKE: So there is empty spots, and so if they know how to calculate those numbers, they can drop the numbers that they have calculated. If they have gotten, for example, an estimate from their insurance provider, you will note right here on the bottom, annual tax and annual insurance. If not, then that help question allows them to just create some ballpark averages for how much you should set aside for home owners' insurance, how much you should set aside for taxes.

MR. BOGANY: Well, and my thought would be to maybe give them a drop-down where you could choose a 2.5 with the area of 2.9 or divide the state in regions and just give an average of what the tax rate may be for them.

MR. VAN SYKE: That is a great idea.
Absolutely.

MR. BOGANY: And that way, they would be able to pull down some true number. And the same way on the insurance.

MR. VAN SYKE: Uh-huh.

MR. BOGANY: Because I know that when I am doing monthly payments, I have a general idea, it may not

be exact, but I think it would at least give the consumer a true picture of what their note is.

MR. VAN SYKE: I think it is a great idea. That help section is probably where we want to do that, because we give them some guidance on that. Because you are right. Property taxes, for example, fluctuate on an annual basis.

MR. BOGANY: Right. And I would do help on the annual insurance too.

MR. VAN SYKE: Okay. That is a great idea.

MR. SALINAS: So that is not including -- what you want to do is the taxes and be involved in it.

MR. VAN SYKE: Uh-huh. I think that is a great suggestion.

MR. SALINAS: You might as well just put \$3 for every \$100 of valuation.

MR. VAN SYKE: Exactly. It would be easy. And it really wouldn't affect the functionality of the calculator. That is something that is pretty easy to put in there. That is a great suggestion. Good. And this site will go live, most likely by the end of this week. Potentially at the beginning of next week at the latest.

MR. BOGANY: Are we going to do a press conference with this, again?

MR. VAN SYKE: If you would like to, we would

be happy to help you with that.

MS. ANDERSON: Mr. Conine.

MR. CONINE: You know, in a room full of multifamily developers and in a weird perverted sort of way, we are here advocating folks moving out of our tax credit apartments and being a first-time homebuyer. That being said, I am very pleased with the program that you have presented here. And I am really pleased with the success stories side of it.

I think that is really a good message to send.

And so my question to you, I am aware of some first-time homebuyer schools that are going on in major cities around the state, with realtor associations as well as builder associations. There is one in Dallas that the builder association does, gets some 150 people there. Every three months they do one of these things. And it is hugely successful.

So I guess my question to you is how do we penetrate some of the schools that are going on where potential first-time homebuyers are actually showing up and trying to figure out how to buy a house, get educated on the process, as well as the mortgage money that may be available?

MR. VAN SYKE: That is a great suggestion. And as a matter of fact, what we are doing with some of our

programs, is providing collateral materials and support. As a matter of fact, in some instances, some of your staff are going and making presentations at conferences with real estate agents, for conferences for first-time homebuyers.

Part of the executional elements of what we are doing, is we are doing an initiative with the greater Hispanic real estate agents association. I am probably not getting the exact words correct, but it is basically a Hispanic real estate agents throughout the State of Texas.

And we are doing partnerships and supporting some of their monthly events in order to help train the agents as well as their first-time homebuyers that they are targeting. So that is a great suggestion.

MR. CONINE: Well, that would be great, if you could target those schools that are going on. Put an ad or collateral material in a local newspaper is wonderful and it reaches a certain number of people, but when you have people directly interested in buying their first home showing up to a school to learn how to do it, you can't get more hands-on than that.

MR. VAN SYKE: Absolutely. As a matter of fact, one of the insights that we have ascertained as a result of all the research that we did in developing this campaign is the first-time homebuyers is actually one of

the most difficult to reach from a marketing perspective for agents and for lenders. And so, that is one of the gaps that we want to help close with our campaign.

MS. ANDERSON: Any questions? Very good presentation. Thank you all very much.

MR. GARZA: Thank you for your time.

MR. VAN SYKE: Thank you.

MR. WALKER: Thank you.

MS. ANDERSON: I have two more witness affirmation forms for the public comment period. Robert Reyna and then Diana McIver.

And Mr. Akbari, do you want to speak now? It is not clear from your form.

MR. AKBARI: Yes, I would like to.

MS. ANDERSON: Okay. Well, after these others speak, then I will call on you. Thank you, sir.

Mr. Reyna?

(No response.)

MS. ANDERSON: Mr. Henneberger, can I ask a point of personal privilege? Would you go out in the hall and see if Robert Reyna is out in the hallway?

And Ms. McIver, would you go ahead and approach the podium?

MS. MCIVER: Thank you. My name is Diana McIver, and I am president of Diana McIver and Associates.

And we are a consultant in the tax credit program. And I appreciate this opportunity to speak to the board.

I appreciate all of your efforts and staff efforts on the Qualified Allocation Plan this year. I think you have done an excellent job, a tireless effort. And by virtue of the fact that I have appeared before you at least four times, it has been a very open and inclusive process.

So I think it is very unsettling to the development community that at this late date, we are revisiting this QAP that we have been hashing for so many months. That aside, I am here today to speak to the issue that has appeared now twice in Representative Talton's issue, in his letter.

In his November 29 letter, and again in his December 9 letter, he is questioning the use of development consultants and how that allows developers to masquerade as consultants. And as a firm that serves in both roles -- we do serve as consultants and on other developments, under our development company, we service developers -- I think I have a clear understanding of the distinction between those two roles.

I personally believe that you have addressed this in the current QAP. Under the definition of development consultant it is in there, and then again when

you take that to the QAP, you have established a cap on what a consultant can earn and still be a consultant. And that is basically 10 percent of the development fee or 20 percent of its qualified nonprofit transaction, and then a cap on that of \$150,000.

If you want to make more money than that, you can. You just have to call yourself a developer, and it goes against your cap. So we already have built in a provision that controls either the difference between a consultant and a developer.

And in the consultant role, basically, when we provide consulting services, it is for either a for-profit or nonprofit developers and we truly, it is a situation where maybe it is a D-4 developer that we are just providing the tax credit nuances. Or maybe it is a nonprofit that doesn't have sufficient staff. And so we go in, and we help them with all those aspects. But it is a lot different than being a developer.

The example that I would show you, is that a couple of years ago, we earned a \$75,000 fee as a consultant on a transaction and the development fee was a million-five, and the developer requested a million in credits. So under Chairman Talton's recommendation to you all, we would have, for a \$75,000 fee, we would have that entire \$1 million cap applied to our fee. So I am here

with recommendations.

I think you are doing the right thing, but if I could quickly go through my recommendations. They are in writing. They are in front of you.

One is that we could remove from the definition of development consultant the fact that they can have an ownership role. And I think that is a good thing to do regardless. A development consultant should not have an ownership role. So we can remove that, and I think meet some of those objections. Then beyond that --

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

MS. MCIVER: Yes. I propose two different solutions if you need to do something in this area. One is to prorate the development consulting fee against the developer fee, so that if it was a \$100,000 fee and \$1 million allocated, it would be 10 percent for one party and 90 percent for the other party.

And the second is that if the Chairman's concern is that people are getting money out of too many pots, then simply eliminate the ability for a development consultant to participate in any other roles in the project, so eliminate that identify of interest. And I appreciate your consideration. Thanks.

MS. ANDERSON: Thank you.

Mr. Akbari?

MR. AKBARI: Good morning. My name is Ike Akbari. I am a private developer from Port Arthur, Texas.

First of all, I want to applaud you and also staff for the QAP; it is well done. And I believe that I support just the way the QAP is written right now.

I want to let you know, that some of you all probably have already been to some of the public housing and you know what kind of conditions they are. There are over 400,000 units of public housing in the State of Texas. And the majority of those, you probably would not ever consider to have anybody in those houses, in those apartments.

Now saying that, the only way you could be able to rebuild those units in this situation, you could be able to send somebody, a poor person or somebody who cannot be able to live in other places can be able to afford to live in public housing is by redoing those. By rebuilding those units. I support the QAP as you have, to have the housing authority as an at-risk. Thank you very much.

MS. ANDERSON: Thank you, sir. Barbara Holston?

MS. HOLSTON: Good morning. I am Barbara Holston, Fort Worth Housing Authority. We are all aware of the need for affordable housing, and the challenge that

housing authorities have to address that need. It is, of course, extremely important that we seek additional resources, leverage the existing resources that we have.

The at-risk set-aside is critical to replacement of affordable housing, and specifically public housing units that have been demolished. I speak this morning against the change to the definition of at-risk set-aside, which would remove the public housing authorities from eligibility.

We have planned over the year strategically to take advantage of this provision in the QAP. We have made adjustments, as federal funding has decreased for us, and for housing authorities all over the country, particularly in Texas.

And as we have searched for viable solutions to the affordable housing crisis in our communities, which is evidenced by the very long waiting list for housing assistance, we believe that the use of the low-income housing tax credits is a viable avenue for addressing that need. So I would respectfully request your consideration in preventing the change in the at-risk definition. Thank you very much.

MS. ANDERSON: Thank you.

Robert Reyna?

(No response.)

MS. ANDERSON: Has Robert Reyna rejoined us?

VOICE: Madam Chair, Robert has left. He is no longer here.

MS. ANDERSON: I'm sorry, sir?

VOICE: Robert has already left.

MS. ANDERSON: Okay. Thank you. Okay, well that concludes public comment for the portion of public comment at the beginning of the meeting. There are others that wish to make comment at the time of an agenda item.

So at this point, we will turn to our agenda. Item 1 is presentation, discussion and possible approval of Department rules, including an adoption of an emergency amendment to the 2005 QAP, and a proposed amendment for public comment to the 2005 QAP. Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair. What the board has for their consideration this morning is an adoption of an emergency amendment to the 2005 Qualified Allocation Plan, and also a proposed amendment that would be identical or will be identical to the emergency amendment to the QAP that will then go out for public comment.

The rationale for the proposed changes in the 2005 Qualified Allocation Plan come from the fact that on December 1 of this year, the Governor did reject the 2005 Qualified Allocation Plan that was submitted. It was

approved by the Board in November, and submitted at the end of November. And also, the November 23 letter that was written by Chairman Robert Talton who is Chairman of our House Committee on Urban Affairs.

Staff is recommending revisions in six areas of the Qualified Allocation Plan. And Madam Chair, I would like to ask the Board, we are prepared to do each one at a very high level or we can do a detailed review of each item. So what would be the Board's pleasure?

MS. ANDERSON: I think, initially, a high level.

MS. CARRINGTON: Okay. Thank you. The first two items and for the Board to track along, we have a two-page memo behind this item, and in the next document you have, it is page 3, and it is definition of at-risk, and then the at-risk set-aside.

These are two items that are on page 3, going over to page 4. These first two items concerning at-risk set-aside, and what we are doing by underlining is adding a new V, adding a new VI, which tracks our statute. And then we are deleting the small Roman numeral v. And the reason we are doing this, is because this does more closely track statute.

Also, items C and D, we are deleting some language relating to housing authorities and HOPE VI

because they did not track closely with our statute. Going over to the next page, on the certification of energy-saving devices, again, this change, this modification is being made to more closely track the language in our statute, as is the same with the affinity of interest transactional requirements for developments involving acquisition.

What we have done in that regard is actually add some clarifying language on the acquisition item. On the next item, rent levels of the units, we have added clarifying language on that one. Actually, I am sorry. On the rent levels of the unit, we were advised to give more points to more low-income units.

And then on the last one, on development locations, we have changed the scoring structure so that all of the scoring is four points. It had been seven points. And we did revise it to four points.

And we did that to ensure that no type of development location is given higher points than other types of development locations. So those are the six areas, Madam Chair and Board, that staff is making recommendations for, in the amendments to the 2005 Qualified Allocation Plan.

MS. ANDERSON: Thank you. Ms. Carrington, staff and Board, and all of you all, particularly all of

you all who are here today. We appreciate you being here and making public comment about these items related to the 2005 QAP.

The business before the Board today is before us in direct response to the Governor's rejection of the QAP, based, as his letter indicates, on advice from his counsel. And so our Board is about providing the Governor with a QAP that he can in fact sign later this week, so that we can move forward with the Housing Tax Credit program.

And there have been a number of concerns expressed today. I think you can tell by the Board's question of some of the witnesses and from my observation, the attentiveness with which we heard these comments, you know that we recognize there are legitimate concerns. And I just want to say that our business today is really not about addressing underlying policy issues. It is about deliberating as a Board to assure that we can provide the Governor with a QAP that is compliant with statute, that he can sign.

I know that I speak both for this staff and the Board, and in fact, I am aware that the Governor's Office has committed to some of you all that they are committed to have discussion as I am sure our Board and the staff are, with you to fully explore these concerns. And in

fact, to resolve the concerns going forward.

The last thing this program needs, this very important program needs is uncertainty. The Department doesn't need uncertainty. The Board doesn't need uncertainty, and certainly, the participants and particularly applicants for the 2005 round don't need this uncertainty.

The Governor and this Department and Board recognize that the Housing Tax Credit program is a critical component to putting badly needed affordable housing -- safe, decent, accessible affordable housing -- on the ground for Texas citizens. So I appreciate all of you all being here to make public comment on these important matters this morning.

At this time, the Board of TDHCA is going to proceed into an executive session. On this date, December 13, 2004, at a regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session as evidenced by the following: the Board will begin its executive session today, December 13, 2004, at 10:10 a.m.

The subject matter of this executive session deliberation is as follows, consultation with attorney pursuant to Section 551.071 of the Texas Government Code

concerning the 2005 Housing Tax Credit program, Qualified Allocation Plan, and rules. Consultation with attorneys pursuant to Section 551.071 Texas Government Code concerning pending or contemplated litigation. With that, the Board adjourns into executive session.

(Whereupon, the Board adjourned into executive session at 10:10 a.m. and reconvened at 11:05 a.m.)

MS. ANDERSON: The Board has completed its executive session of the board of the Texas Department of Housing and Community Affairs on December 13, 2004, at 11:05 a.m. I hereby certify that this agenda of the executive session of the Governing Board of the Texas Department of Housing and Community Affairs was properly authorized pursuant to Section 551.103 of the Texas Government Code.

The agenda was posted on the Secretary of State's office website seven days prior to the meeting, pursuant to Section 551.044 of the Texas Government Code, that all members of the Board were present, and that this was a true and correct record of the proceedings, pursuant to the Texas Open Meetings Act, Chapter 551, Texas Government Code.

We are on Agenda Item 1, presentation, discussion and possible approval of Department rules. The Department staff, prior to executive session made its

presentation on this item. Would the Board like Ms. Carrington to summarize the recommendations?

MR. CONINE: Restate.

MS. CARRINGTON: What staff is recommending are the changes to the 2005 Qualified Allocation Plan as outlined, beginning on page 3 of your memorandum, page 4 of your memorandum, and page 5 of your memorandum, making changes, making modifications in six areas of the Qualified Allocation Plan, And that once the Board does adopt these modifications, then they will be adopting an emergency amendment to the 2005 Qualified Allocation Plan, which will go into effect immediately. And then the second action required of the Board is the proposed amendment for public comment for the 2005 Qualified Allocation Plan and Rules.

MR. CONINE: Madam Chair, I move we adopt the emergency amendment for the 2005 Housing Tax Credit QAP.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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. CONINE: Madam Chair, I now move that we propose the amendment for public comment to the 2005 QAP, considering this change.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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 2, Olmstead board recommendations.

MS. CARRINGTON: Thank you, Madam Chair. The staff of TDHCA has had an open NOFA out, a notification of funding availability for funding for tenant-based rental assistance under the Olmstead set-aside. These are funds that are used for people with disabilities.

We have three applications for the Board to consider today. One of them was Texas Community Solutions, which serves people with disabilities on a statewide basis, Accessible Communities, and Dallas

MetroCare Services.

And staff is recommending the awards to total \$1,567,033 to these three entities. In approving these awards, the Board will be required to waive the requirement that we have in the rules, or the ceiling that we have in our rules that says that any one group is eligible to only receive up to \$500,000 in a HOME award.

And the reason staff is recommending that we exceed the \$500,000 and award the million, is that this organization will be serving people with disabilities and tenant-based rental assistance on a statewide basis that we are doing it. Not just in a regional area, but on a statewide basis. It is an entity that has quite a bit of capacity.

It is an open NOFA. It really has been undersubscribed, and we feel that a waiver of the \$500,000 requirement is warranted. If the Board makes these awards today, we will still have leaving about \$1.8 million in this NOFA of HOME funds.

And we will be rolling this, assuming we don't get any more applications before now and the end of the year, we will be rolling whatever is remaining in this open NOFA into our HOME awards cycle next year. Staff is recommending the award, and recommending that you waive the requirement of the \$500,000.

MR. CONINE: Move for approval along with the staff-recommended waiver.

MR. BOGANY: Second.

MS. ANDERSON: We have an individual that would like to make a public comment on this, Ms. Judy Telge.

MS. TELGE: Thank you. Probably the less I say, the better. Thank you very much. This is very much needed. I do want to tell you that as a director of the Center for Independent Living in the Coastal Bend, and as president of the Texas Association of Centers for Independent Living, there are three centers now that will be utilizing these vouchers to help people move out of nursing homes into the community.

I won a contract with DAVS [phonetic] that serves Houston, San Antonio, Corpus Christi and the Valley. In the Valley, ten of these vouchers have been received. Ten people have been relocated within two months. What that shows is that there is a huge need, and it has cut down the waiting time from over six months for people to get out of nursing homes down to one and two months.

We were not going to go after these vouchers, because in Corpus Christi, we have a great relationship with our local housing authority, where we have been able to have set-aside vouchers. In the past, we have been

relocating people since 1999. However, as we all know, those vouchers are in short supply under Section 8, if at all, as well as any public housing.

And I am so pleased to see everyone here today with public housing. We partnered very strongly with them. So these vouchers now, Olmstead vouchers, are going to do exactly what they were intended to do. Three more centers will have applications in before this month is out. So we fully anticipate seeing the money put to the use that it was intended.

We do wish that it would continue on. We know the folks who are there. We know the people with disabilities on Medicaid have a tough enough time finding affordable housing, then they have accessible housing, and it makes it really tough. Thank you so much. Staff has done a great job, and we really appreciate it.

MS. ANDERSON: Thank you. That was the only public comment on that item. We have a motion on the floor. Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: The next item for the Board's consideration is for three priority three tax exempt bond applications that will go into the 2005 waiting list for the Private Activity Bond program for 2005. Behind Tab 1, we have the board action request. In the fall, the Board induced 15 applications for the 2005 round. Those did receive lottery numbers.

And you have also approved four additional applications that will go on the waiting list. And so what staff is asking you to do today is to approve three more applications that will go on the waiting list for 2005 and they will go behind the 15 that have lottery numbers, the four that you have already approved, and then this will be three more. And if you will look behind Tab 2, you will see where these three transactions are located.

All three of them are elderly transactions. One in Murphy, one in Rowlett, and one in Murphy. This is not an approval of these transactions. It is just an approval for them to be put on the waiting list for 2005.

And there is a resolution, which is Resolution 04-100, should the Board decide to approve this item.

MR. CONINE: Move for approval of Resolution

04-100.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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. Let me just interrupt us just briefly. I should have done this earlier. And some of these guests I think, are still with us, and perhaps others have departed. But we are fortunate this morning to have with us Michael Gerber from the Governor's Office, Jason Smith, the committee clerk from the House Committee on Urban Affairs, Scott Sims from the Speaker's Office, and Perla Cavazos from Senator Lucio's office. Thank you all for being here.

MS. CARRINGTON: Next item for the Board's consideration is Item 3-B. This is a tax-exempt bond and credit development that was approved by the Board in November of 2002. The bonds were issued in 2002.

And there has been a change of ownership on this particular transactions, and what is happening is

that the majority owner of the bonds is requesting an extension of the completion date from December 31, 2004, to May 31 of 2005. And this particular transaction is called Ironwood Crossing. And to be able to actually extend the completion date would require an extension or a modification of the loan agreement.

This was a property that was in the Brisbane portfolio, which was a developer that was not able to fulfill its obligations under various guarantees. And so there is then a new majority owner that has come in on this transaction and there is actually two sets of bonds.

There is a \$15 million tax-exempt bond, and a \$1,970,000 on taxable bonds on the transaction.

The property is almost, I think it is actually already completed. Complete by April of 2005. So we are about 40 percent complete on this particular transaction.

And so staff is recommending because of the unusual circumstances with the former owner of the property that the Board does grant this amendment to the loan agreement to allow the completion date to be extended.

MR. CONINE: Move for the extension of the completion date to May of 2005 and for Resolution 04-103.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

MR. CONINE: We need to amend the Resolution

103 to say the 13th. Is that today? Lucky 13? Okay.
The 13th of December, 2004.

MS. ANDERSON: Discussion?

MR. CONINE: If the seconder will approve.

MR. GONZALEZ: Certainly.

MS. ANDERSON: The seconder approved that.

Thank you. Hearing no discussion, I assume we are 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.

MS. CARRINGTON: The next item for the Board's
consideration is the approval of a tax-exempt bond and a
tax credit transaction with the Texas Department of
Housing and Community Affairs as the issuer. It is
Providence at Village Fair. And this is Item 3-C on your
agenda. And we do have a modified, a corrected resolution
for the Providence at Village Fair Apartments.

And then I have also been notified this morning
that there is a corrected amount of credits to be
allocated on this transaction. The bond amount was
\$14,100,000 and the recommended credit amount in the board
book is \$995,291.

Mr. Gouris, is that the correct amount?

MR. CONINE: Could you read that again, please?

MS. ANDERSON: Okay. I am sorry. This one is correct. Okay. \$995,291 for the recommended credit amount, and they say it is correct. What is in the board book is correct on the recommended credit amount. However, there is a corrected resolution that some dates need to be changed in the record. So that the completion date in the resolutions is April 30, 2006, but it has been amended.

It should be June 30, 2006, and the address that has been recently assigned is 5151 Village Fair Drive, Dallas, Dallas County, Texas 75224. Sabine Council has asked us to read that into the record, and I believe the Board does have the corrected resolution in your materials. And that would be 04-101.

MR. CONINE: Move for approval of Item C, the Providence at Village Fair.

MS. ANDERSON: The Providence at Village Fair.

MR. CONINE: The Providence at Village Fair, with the recommended staff amendments as stated in the resolution 04-101.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are

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 is 4-A. And this is asking the Board to approve the participating lender list for our single-family mortgage revenue bond programs 62 and 62-A. We have a list of those lenders. We have 26 lenders that have signed up to participate in this program. And they have branches, 170 branches around the state.

We have included for you not only a list of the lenders, how many branches they have, but also a map that shows you the kind of coverage that we are getting through our lenders with our single-family program. And staff is requesting approval of the lender list for program 62 and 62-A.

MR. CONINE: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: Item 4-B. We are coming back to the Board to request an additional mortgage credit certificate program for first-time homebuyers. In November of last year you all approved a mortgage credit certificate program that was a \$15 million program and to date, \$12 million out of that \$15 million has been utilized, and lenders have indicated to us that they would like to have us continue to have a mortgage credit certificate program available as one of the products that they offer.

So what we are proposing to do is take part of our volume cap. It would be \$60 million in single-family volume cap that would be allocated to mortgage credit certificates, and there is a conversion rate on that. It is basically 25 cents for every dollar of MRB authority. So that converts to \$15 million of issuance authority for mortgage credit certificates.

And we have provided a sample out of our 2003 mortgage credit certificate program for you, of what the average cost of the house was, the market rate and how families did benefit by receiving this mortgage credit

certificate. So staff is recommending that the Board authorize an additional, another mortgage credit certificate program that would be our 2005 MCC program and the amount on that program would be \$15 million. And there is a resolution if you do approve this item.

MR. CONINE: Can we hear a little more about that from Mr. Pike, I guess, or whomever we may want to talk to. I am curious of how the first \$12 million has been lapped up. And anytime we shift, I guess, \$60 million in mortgages to MCC, I want to make sure we are doing the right thing.

MR. PIKE: Eric Pike, director of single-family. The program has been very successful. It was a little slow taking off, but once the lenders became familiar with the product, because many of them had not participated in an MCC program in a number of years. So it took them a while to refamiliarize themselves with them. It has been very successful.

As Ms. Carrington pointed out, we had a little over \$2 million, approaching \$3 million that is still available in the current program, but is reserved for targeted area set-aside. And you know, we are required to set aside funds for one year for targeted areas. So basically, we are out of non-targeted funds.

And we went out and did lender trainings in

November, across the State of Texas to train our lenders on the current program, as well as this upcoming MCC program. And it has been real successful. It is one of the few in the nation. There has been, I know the State of Alabama has done one. But Texas has been rather innovative in putting this program out. And our lenders have embraced it, fortunately.

MR. CONINE: My understanding, though, we are taking \$60 million of single-family volume cap that could have been mortgages and converting, do the conversion rate of \$15 million in these mortgage credit certificates, which then leaves us with how much bond cap left on the single-family for '04?

MR. PIKE: That is really going to be a Mr. Johnson question.

MS. CARRINGTON: Well, and I believe I can answer that, Mr. Pike. Thank you.

I did a bond issue in the fall, Mr. Conine, that was about \$72-75 million. That is your 62 and 62-A. And we have rolled over, we are rolling over in the next year, probably about \$100 million that we have put in I believe a convertible auction bond vehicle that allows us to preserve that volume cap.

So we have preserved I think 90 to \$100 million that is rolled into next year. And then next year, we

will get another 160 or \$170 million from our '05 allocation. And I think, I know that the Department's and the staff's philosophy on this has been that we seem to have ample volume cap, and that it serves us well to have the variety of different programs that we can make available to first-time homebuyers.

MR. CONINE: Okay. The answer was \$40 million is what we have got left?

MS. CARRINGTON: Yes, sir.

MR. CONINE: We have got 100 rolled and we burn up 60, you get 40 left?

MS. CARRINGTON: Yes, sir. Right. Yes, sir.

MS. ANDERSON: You have to watch those guys from Tech with their higher math.

MR. CONINE: Move for approval of Item 3-C.

MR. BOGANY: Second.

MR. CONINE: Wait a minute. We need a resolution on here. 04-102 with a new date of December 13, if the seconder will.

MR. BOGANY: Yes.

MR. CONINE: 3-C isn't it? Oh excuse me, 4-B.

MS. ANDERSON: 4-B, yes.

MR. CONINE: I'm on the wrong deal. 4-B, the mortgage credit certificate program.

MS. ANDERSON: Further questions for Eric or

discussion among the Board?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: Item 5-A. As we begin the discussion of Item 5-A, I would like to note that the fourth development listed on your agenda, Louetta Village Apartments located in Spring, of Harris County HFC is -- the issuer has been withdrawn. They do plan to come back next month.

So what the Board has for their consideration are ten proposed developments that all have local issuers on these transactions. So what staff is doing, is recommending the credit amount on each of these ten. And in reviewing these with staff over the last couple of days, we can take them one by one, or as staff has indicated to me, these transactions have relatively few conditions.

All of our transactions are going to have at least one or two conditions, and that is going to be the

execution of the social services agreement. And then should the financing structure change, that the amount of credits and the amount of bonds might also change. But I will either can take them as a group and can read them into the record, or if you want to do them one by one?

MR. CONINE: Group. We are into group stuff today.

MS. ANDERSON: Okay.

MS. CARRINGTON: Let me see when we are going to get to this one. Providence at Marshall Meadows which is at the top of the page.

MR. CONINE: You have got another withdrawal?

MS. CARRINGTON: No, sir. But we might take out, if you look at your second page, 04-456, Providence at Marshall Meadows in San Antonio with TSAHC as the issuer.

Mr. Gouris, will you maybe come talk about this one in particular? What the staff is recommending is \$472,469 as a credit allocation.

MR. GOURIS: Tom Gouris, director of Real Estate Analysis. Good morning. We were correctly informed of an error in our calculations. Yes, you heard it right. In the error in our applicable faction calculation for this transaction, and when that was brought to our attention -- it was Friday that it was

brought to our attention. And we worked through the weekend.

We corrected that, because it is a 4 percent transaction, I believe that the increase in the credit shouldn't be a problem for us. And we'll now be recommending \$503,778 as an underwriting recommendation for the transaction, as opposed to the 472- I think it was originally. And again, the reason for it, is we had an error in their applicable fraction calculation.

MR. SALINAS: 502?

MS. CARRINGTON: \$503,778.

MR. CONINE: Read them with the corrected.

MS. CARRINGTON: Wait a minute. I will do that. 04-453, The Pinnacle on Wilcrest; \$637,260 in credits. 04-464, Peppertree Apartments; \$642,993 in credits. 04-475 Fairlake Cove Apartments, \$529,664. Louetta Village has withdrawn.

04-494, Baypointe Apartments, \$694,059 in credits. 04-456, Providence at Marshall Meadows, credit amount of \$503,778. 04-461, the Villas at Costa Cadiz; \$588,003. 04-466, Rosemont at Pleasanton; \$840,926 in credits. 04-468, Prairie Branch; \$494,337 in credits. 04-486, Worthington Point Apartments, \$593,008 in credits. 04-491, Evergreen at Calla Seniors; \$559,597 in credits.

MR. CONINE: I move for approval of the staff

recommendation that Ms. Carrington just read with the duly noted error by Tom Gouris.

MR. GORDON: Seconded.

MR. SALINAS: Second.

MS. ANDERSON: Discussion? I have -- does anybody have any discussion or questions? I have one question, if there is anybody here from Peppertree Manor. I just have a question. If anybody from the applicant is here?

MS. BAST: Ms. Anderson, the applicant is not here today, but I can do my best.

MS. ANDERSON: Okay. My question, Ms. Bast, is I noted in the application that there is opposition from some, support from some, and opposition from some of the elected officials, as well as opposition from at least one homeowners association. And I am just wondering how the applicant is working to address that opposition?

MS. BAST: The applicant is aware that it has actually been working with all of the neighborhoods. Has had meetings with neighborhoods and elected officials and whereas it was previously thought that perhaps the county commission would not support this project, that has now been turned around. So they have been working very proactively to turn that around, and actually gain support where it actually originally was opposed.

MS. ANDERSON: It is unusual for a seniors development particularly to have opposition.

MS. BAST: It is. And the applicant has been working very hard on that.

MS. ANDERSON: Thank you very much.

MS. BAST: You bet.

MS. ANDERSON: Anybody else have any questions or discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: The next item for the Board's consideration is Item 5-B. And this item relates to correcting an administrative error for Kingfisher Creek Apartments. And the way staff is recommending that we correct this error is to make a binding commitment of 2004 credits and then to approve a waiver of the 2004 Qualified Allocation Plan. The Board may remember that Kingfisher Creek was awarded tax credits in July of 2000, and those credits were in the amount of \$225,813.

And the credits were to develop 35 units in three buildings. And the development is located here in Austin. There is a requirement that those buildings be placed in service by December 31 of 2002. Kingfisher Creek Limited was unable to place the buildings in service by the IRS deadline of December 31. And in January of '03, the carryover allocation expired.

The Board took action and granted relief to this development in March of 2003, asking that the development be given a new allocation of credits. And the Board approved the owner's request, and a commitment was made. We have been working very closely with our outside tax counsel to look to see how we could correct the administrative error that was made on this particular transaction.

In accordance with the IRS guidelines, a tax credit allocation is made in only one of two ways. And that is either a carryover allocation agreement that is executed by both parties, or the IRS Form 8609 is issued.

In this case, in the case of Kingfisher, neither one of these events took place. So at this point, the development does not technically have 2003 credits or credits from any year.

So staff is recommending two actions for the Board's consideration today. And those are at the bottom

of the page, on your board action request. And that is to correct an administrative error, such that a commitment being made in March 2003 is treated as a binding commitment of 2004 credits, in the amount of \$225,813. And the development is already completed.

It is impossible for the development to meet the requirements of either the 2003 or the 2004 Qualified Allocation Plan. And what we are requesting would be that the Board would waive that requirement that the development meet the 2004 Qualified Allocation Plan and Rules. So that is the request that is being made of the Board. We do have staff that can speak to this item.

MR. CONINE: Good. I would like to hear it.

MS. CARRINGTON: And what would you particularly like to hear, Mr. Conine?

MR. CONINE: One of the dangers of being on this board for as long as I have, is I guess I remember this thing probably in its entirety. What we are saying here is that we have got the extension through '03, but didn't grant a 2003 QAP waiver? Is that correct? Was that the first "administrative error" that was made?

MS. CARRINGTON: No, sir. The first administrative error that was made was that the Department did not issue a carryover allocation to this development.

MR. CONINE: In 2002 or '03?

MS. BOSTON: In 2003 for 2003. You all took action in March of 2003?

MR. CONINE: Right.

MS. BOSTON: And we were required to make sure either that the 8609 forms or the carryover allocation was in place by December 31, 2003.

MR. CONINE: Right.

MS. BOSTON: And that did not happen.

MS. CARRINGTON: Neither of which happened.

MR. CONINE: Did it not happen -- were the units finished in 2003?

MS. BOSTON: Yes. They have been placed in service?

MR. CONINE: And they have been placed in service in 2003?

MS. BOSTON: Uh-huh.

MR. CONINE: So --

MS. CARRINGTON: We goofed.

MR. CONINE: This one just slipped through the cracks, because it was from another list, coming from left field, and it wasn't on somebody's current list?

MS. BOSTON: Yes.

MR. CONINE: That is how it happened. All right. That clears that up a little bit. Who is the syndicator on this one, just out of curiosity?

MS. CARRINGTON: MMA Financial was the answer to the question, Mr. Conine.

MR. CONINE: And the units are in place, rented out? Everything else is okay? And all the other qualifications -- well, who knows what QAP it falls under at this point. Probably none. But suffice it to say that residents are living there and enjoying their occupancy today.

MS. BOSTON: That is my understanding.

MS. ANDERSON: And if the Board takes this, if the Board were to take this action, the staff can get this either 8609 forms or a carryover. Whatever we have to do. I assume there is still a December 31, 2004, deadline to meet?

MS. BOSTON: Correct. And we will do one of the two.

MR. CONINE: Which one?

MS. BOSTON: We are still -- the 8609 forms are issued by the Real Estate Analysis Division, but there is also a component of that that involves site inspection and review, and sign off through the portfolio management and compliance division. If it looks like in the next week probably, those two divisions are not comfortable yet with the issuance of the 8609s, then we will make sure that a carryover allocation is signed between the applicant and

the agency, to give us time to issue the 8609s when we are comfortable with it.

MR. CONINE: Okay.

MS. BOSTON: Yes.

MS. CARRINGTON: One thing I might also note, since this will be 2004 credits, over the last several months, as we have taken developments off the waiting list, and had some other actions related to our 2004 program, we have known that there was this issue with Kingfisher Creek, and so we have been holding out this amount of credits out of our 2004 allocation.

MR. CONINE: But the 2002 or '03 allocation doesn't roll forward to offset?

MS. BOSTON: It does. It has been rolling the whole time. And so we haven't --

MR. CONINE: So the net effect is zero?

MS. BOSTON: Correct.

MR. CONINE: Okay.

MS. CARRINGTON: We have just been preserving it.

MS. BOSTON: We are not taking credits from anybody else, sir. Right.

MR. CONINE: Okay. Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion? More discussion?

MR. SALINAS: This happened in 2000?

MR. CONINE: That is when it started.

MR. SALINAS: When it started?

MS. CARRINGTON: Yes, sir. And then the Board took additional action in March of 2003.

MR. SALINAS: And the developer did not come by and talk to the staff or didn't they care until now? You're talking about almost five years for us to -- I just say, is it legal for us to do this? Where is the board counsel? I mean, look at it. The small deal for five years.

MR. WITTMAYER: Chris Wittmayer, the Department's general counsel. We worked very closely with Anthony Friedman, our outside tax counsel, and he has advised us that this is an option the Board has to ensure that this development receives credits.

MR. SALINAS: But is it legal? Do you recommend that we do this?

MR. WITTMAYER: It is legal and we recommend it.

MR. SALINAS: Okay. So what. Five years. As long as we are going to set a precedent here, that anybody can come back and next time around, it says, well, you have a precedent set here the last time. This guy came, last project was in the year 2000. I was not on the board

yet. I got in here in 2001.

And now, we're almost 2005, and nobody cared to look at this project. Now we have to waive everything that happened in the last four years. You are saying that it is legal. That is fine. But I think you are opening yourself to some precedents here where some other developers and I think we will remember this day.

MR. WITTMAYER: There is one point of clarification. They will have to comply with the 2000 QAP.

MR. SALINAS: That is fine. But you know, my problems is that you are going to have a precedent here hopefully we understand that somebody else can come back and ask us for the same thing. And hopefully the staff will do the same thing here.

MS. CARRINGTON: Yes, sir.

MR. SALINAS: Okay.

MS. ANDERSON: We don't have any other developments that are similarly situated where we are about to miss a 2004 deadline to do a carryover or anything?

MS. BOSTON: Maybe never again.

MS. ANDERSON: Ms. Boston is shaking her head no. That would be the right answer.

MR. SALINAS: Okay. But if we do there, and

you don't have -- you haven't found out yet, then we can do the same thing for other projects?

MS. CARRINGTON: Yes. And you know, the project is completed and it is occupied. Mr. Conine asked very carefully if the project was completed. If people were living in it. You know there is no risk of the development not getting done, and it was done financially on the basis that they would have tax credits to assist the transaction.

MS. ANDERSON: Any other questions?
Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: Items 5-C. There are two requests for extensions to commence substantial construction and one to close the construction loan. The first one is the Pegasus Apartments. The deadline for the commencement of substantial construction was November 12 of 2004. They are requesting a new deadline of February

12, 2005.

In this particular situation, the applicant was originally the general contractor, but they closed their contracting business and was therefore required to find a new bonded general contractor and that slowed the start of construction. And the staff is recommending that this start of commencement of substantial construction be approved as requested.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Questions of the staff? I have a question for Ms. Boston, if you could approach? This may be a really dumb question, but the thing that I noticed is that there is no syndicator and no permanent lender designated for this.

Is that unusual at this stage that they don't? Are we looking at a deal that we are going to continue to see over and over, because it is just a troubled --

MS. BOSTON: It is a little unique. I think with the unique situation with the applicant kind of getting out of the business and therefore not being the general contractor, I think that has prompted the potential change in who most of the players on the BLR. They have definitely indicated that they will be ready to place in service. It is a rehab. They have done a lot of

the work. So we believe that they will be able to do it.

MR. CONINE: Did Glen Lynch just go to the farm, or what did he do?

MS. CARRINGTON: He has actually gone into the ministry.

MR. CONINE: He saw the light. Okay.

MS. BOSTON: And actually, are we just taking either one? Are we doing both?

MR. CONINE: Yes.

MS. CARRINGTON: Just one.

MR. CONINE: Yes. And the applicant believes we can start by February 12, 2005, which is not that much further along.

MS. ANDERSON: When would they have to place in service?

MS. CARRINGTON: They will have to place in service by year end 2005.

MR. CONINE: And we don't have a syndicator or construction loan closed yet? Which takes, you know, a few days before you can start construction. Is the applicant here?

MS. BOSTON: I don't think he is here, no.

MR. CONINE: Oh, Sherman. Okay. I think you are right. We will be seeing this one again, Madam Chair.

MS. ANDERSON: Any other questions or

discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: The second application requesting an extension of the commencement of substantial construction is La Casita Apartments, located in Starr County. Their deadline, again, was November 12 of '04. They are requesting a deadline of July 1 of '05, and we are recommending that.

Their construction was delayed by difficulties in obtaining clear title to the land. This was done at about the last minute. They were about ready to return the credits and found that they were able to resolve their issues.

And please note staff's recommendation. It is a small number of units. It is 28 units. And staff does feel that due to the applicant's successful track record on this, and the small number of units, the number of 28 units, that they will indeed be able to place them in

service by December 31 of '05.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: And the last in this group for the Board's consideration is the requesting of an extension foreclosing on the construction loan. And this is the Village of Kaufman Apartments, located in Kaufman. It is an at-risk development.

It is 67 units. It is attempting to participate in the mark to market program with HUD, which is a restructuring program of older assisted properties. You will notice that there have been several extensions on this particular transaction.

I do want to read into the record, staff is recommending the new deadline of January 11, 2005. However, we have had some language that we would like to

read into the record. Staff recommends the extension be approved contingent upon receipt in writing from the contractor for the development within seven days of the date of this meeting that indicates the development can be completed and placed in service by December 31, 2005.

MR. BOGANY: So moved.

MR. SALINAS: Second. It hasn't been that long.

MS. ANDERSON: I'm sorry. Did you have a question?

MR. SALINAS: No. I am saying that it hasn't been that long.

MS. ANDERSON: Hearing no discussion and hearing no other questions from the Board, I assume we are 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.

MS. CARRINGTON: Okay. The next group is Item 5-D. And what the Board is being asked to consider is five requests for amendments to Housing Tax Credit applications that involve material changes. The first one for your consideration is Sun Meadow Apartments, which was

a 1999 tax credit development.

And what the applicant, the recipient of the credits is asking for, is approval to substitute ten SEER air-conditioning units for 12 SEER air-conditioning units.

The original general partner was removed. You have a substitute general partner in this particular transaction.

What the substitute general partner found out was that ten-SEER had been put in rather than 12; therein the property is operating.

There would have been no impact on the awards.

There were three points for this. However it was rural and in a prison community and it would have received an award of credits. So we are asking for a waiver of that requirement in the 1999 QAP that would have required ten SEER air-conditioning units.

MR. SALINAS: Move for the recommendation.

MS. ANDERSON: We have public comment on this item.

MR. SALINAS: Oh, you do?

MS. ANDERSON: We have a motion made.

MR. CONINE: I'll second it, just for getting it on the table.

MS. ANDERSON: Thank you. Mr. Simon Fraser asked to make public comment?

MR. FRASER: Only if needed. If you have any

questions, I am representing the partnership.

MR. CONINE: I have a question. Come on up. Is it 76 units? Where are we located now?

MR. FRASER: Alamo, Texas.

MR. CONINE: Is this one- or two-story product?

MR. FRASER: One-story.

MR. CONINE: One-story product. So is there anything else you could do, in hindsight, retrospect, whatever you want to call it, to upgrade the energy efficiency of the 76 units, since we got ten-SEER versus twelve-SEER sitting there?

MR. FRASER: To upgrade the actual condensing units of the air-conditioning or in some other way?

MR. CONINE: In some other way.

MR. FRASER: We have looked at possibly providing shading, awnings, that type of thing. But the changes that we have looked at, relative to the actual air-conditioning are cost prohibitive. But we are open to suggestions. We have looked at the energy efficiency scoring and are looking at ways to meet that standard, if it is economically possible.

MR. CONINE: Well, a couple that come to my mind are solar window film, radium barrier shield up in the attic space may be another suggestion. Have you taken a look at either one of those two?

MR. FRASER: Not specifically. The window covering, I don't believe was included in the original energy efficiency guidelines, but we would be certainly willing to look at that.

MR. CONINE: They are already up. Right. The units are up and occupied?

MR. FRASER: Right. Up and operating for the last two years.

MR. CONINE: And this is a '99 deal?

MS. CARRINGTON: Yes, sir.

MR. FRASER: Yes.

MR. CONINE: We are setting all kinds of records here today. And all we are doing is just getting a waiver so that -- I presume the 8609 are issued or are not issued?

MR. FRASER: Not yet.

MR. CONINE: Not yet.

MS. CARRINGTON: I would imagine this showed up probably in that final inspection prior to the issuance of the 8609.

MR. CONINE: Do we have to do the 8609 before year-end, or do a carryover again? Is it in that box?

MR. FRASER: It is not a carryover, but we are keen to get the 8609 in before the end of the year, yes.

MR. CONINE: You got place in service for that

'09. I guess that instead of just rolling over on the 12 versus ten, although I recognize it is not your fault. But I would like to take a look at other ways that we could provide these residents with some energy efficiency. Because no doubt utility bills are killing everybody now, with the uptick in oil prices and gas prices and everything else.

And I don't know of any other way to do it, other than waiting 30 days until the applicant can have time to go out and explore some items and come back and say yes, I can do these, or I can't. And I don't know what kind of burden that puts on you. But at least it gives the 76 residents a shot at something extra.

MR. FRASER: Sure. We'll definitely look into that.

MR. CONINE: You would be willing to do that?

MR. FRASER: Sure.

MR. CONINE: Move to table until the next meeting.

MR. BOGANY: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion to table carries.

MR. SALINAS: Well, we need to put my motion in your second so you can go ahead and make a motion.

MR. CONINE: I tabled your motion.

MS. ANDERSON: Yes. I think that has got precedent.

MR. SALINAS: Okay.

MR. CONINE: At least I think that is what I did.

MS. ANDERSON: Yes.

MS. CARRINGTON: The next item for the Board's consideration concerns the Valley View Apartments located in Pharr, in Hidalgo County. In this particular instance, the applicant is requesting approval to change the applicable fraction to allow the development to contain 100 percent tax credit units as opposed to the 95 percent which was originally elected in their tax credit applications.

So what they had elected was 95 percent tax credit units and then 5 percent would be market rate units. And with this item, as with all of these items requesting extensions, or amendments or modifications, we have included the letter from South Texas Economic Development Corporation, and they have given us basically twofold reasons for why they are requesting this change.

The first is that they indicated that they were having difficulty leasing up their units. And making the change would allow them to lease up more quickly and to provide more affordable housing for tenants in the area. The total number of units in the development is 128. And what they had originally proposed was 121 tax credit and seven market rate units.

And then the second reason they indicated was that it would allow them to minimize the impact or the effect of the credit adjusters and allow for the developer fee to be paid within 15 years. And you might note staff's recommendation. And what we are saying is that we would request that the Board approve this request, because the award would not have been impacted had it been 100 percent.

It still would have been awarded the credits. And we feel like the increase in affordable units outweighs the benefit of having market rate units in the development. So staff is recommending that they be allowed to increase that applicable fraction from 95 percent to 100 percent.

MR. CONINE: I don't understand, Ms. Carrington. I assume the market rate units could drop to whatever the market rate would be.

MS. CARRINGTON: I would assume that. That is

absolutely correct, Mr. Conine. Yes, they can.

MR. CONINE: And when the market gets healthy again, and we want to have disparate incomes living together in a project, we wouldn't under this scenario presented. Is that correct?

MS. CARRINGTON: Yes, sir. If they were 100 percent restricted.

MR. SALINAS: This is in Valley View. You have another project about a quarter of a mile away. Who knows about that other project?

MS. CARRINGTON: I am sorry, Mr. Mayor.

MR. SALINAS: I think we talked about this. How you would have to have 5 percent, simply because people would not want to go to the projects. I think you have another project that they are doing there, a quarter of a mile away. Not a mile away. In that area, in Valley View.

MR. GOURIS: I don't have any specific deals on it, but I figure that there are several properties --

MR. SALINAS: That are not a mile away.

MR. GOURIS: That are more than, well --

MR. SALINAS: I think he would know. I think that is why they are asking.

MR. PATLAN: Well, I signed up to speak, hoping that it would be smooth as silk. And it may still be as

smooth as silk. My name is Juan Patlan. I am the development consultant for Valley View. And as Ms. Carrington has indicated to you, we are requesting to convert seven market rate units so that we can have a 100 percent low-income property.

Of the seven market rate units, we have only leased one. And so we have had considerable difficulty in leasing the market rate units. As a matter of fact, the one market rate unit tenant requested fairly strongly to be let out of her lease for whatever that is worth. That is not the reason we are doing it. We are doing it because it is obvious that we are having difficulty leasing the market rate units.

And other reason we are asking for that is indicated in the letter, is that we have a considerable deferred fee that we may not be able to pay back if we do not convert the market rate units to low-income. If we convert the market rate units to low-income, we will have more credits available for that project.

We are not asking for any more credits for the project. And so we think we would have a better project from a physical standpoint, and from a fiscal standpoint, a financial standpoint, if we had 100 percent low-income property.

MR. CONINE: How do you get more credits when

you can't get any more credits?

MR. PATLAN: By having 100 percent. We have a cap. We have a ceiling on how many credits we can get at all. That has been determined by the State.

MR. CONINE: Right.

MR. PATLAN: But within that cap, we only came in with 95 percent, okay. But because of the cost certification --

MR. CONINE: Eligible basis. I got you.

MR. PATLAN: Right. We do not exceed that ceiling.

MR. CONINE: Ms. Carrington, I move to deny this request.

MR. PATLAN: Oh, no.

MS. ANDERSON: Second?

MR. SALINAS: Well, I think that if you deny this request then they won't be able to rent those apartments. And I think the staff is correct in their recommendations. Because they are not going to be able to get those apartments rented at that --

MR. CONINE: You can drop the rents.

MR. SALINAS: That is another solution. They can drop the rents.

MR. CONINE: Get the income coming in.

MS. ANDERSON: Can I ask a question?

MR. SALINAS: But you know, they are in an area --

MS. ANDERSON: Thank you for your testimony, sir.

MR. SALINAS: They are in an area where all they are going to be able to get is vouchers. And this is what they are saying. You are not going to be able, it is going to be very hard. First-time homebuyers in that areas, it is a very popular program.

People are not -- going to buy a house are going to go there. If not, they are going to go buy a lot. Something that they have for themselves. This is the only market this area is going to get. So that is why I am completely in favor of what the staff is recommending. Even if they drop the rates, they are not going to be able to get any private project there.

MS. ANDERSON: May I ask? I have a question for Mr. Gouris, if you would approach? In the board materials, it notes that the Real Estate Analysis Division concluded the amendment would not undermine the feasibility of the development. The need for the change was not substantiated or well supported. Could you expand on that comment?

MR. GOURIS: Tom Gouris, director of Real Estate Analysis. That comment actually paraphrased what

we had in our addendum or our memo back to production staff. And it goes along the same lines that Mr. Conine has been talking about.

In fact, they could reduce the rents and lease those units. The issue really isn't, from our perspective is a matter that they had less eligible basis than they had originally anticipated, and in order to take advantage of that eligible basis, converting their market units to tax credit units allows them to get access to that eligible basis and get their full credit amount.

MS. ANDERSON: Okay. And then I have a process question. So then, you make one set of recommendations, and then an EARAC, is that from a procedural standpoint, how the ultimate staff recommendation is derived?

MR. GOURIS: We didn't make a recommendation not to recommend the transaction. We looked at the feasibility of the proposed change and said, yes, this proposed change is feasible, but make the additional comment that as a policy decision it may or may not be warranted, and this is the rationale.

MS. ANDERSON: Okay. Thanks.

MR. CONINE: My opposition is the long-term effect of the project, 20 years from now, when interest rates are at 15 percent and nobody is buying houses and everybody needs apartments, we'll have a mixed income

property sitting there, and I don't want to get rid of it.

MR. SALINAS: But Ken, these people are still going to go buy some piece of property.

MR. CONINE: Well, then we shouldn't have built the apartments to begin with. We built the apartments.

MR. SALINAS: Well, and I don't know. You all looked at it when we gave them the tax credits. But what I am saying is, this is why you have a big amount of people buying property for their own. Whether these people have these those seven --

Are those seven apartments?

MS. ANDERSON: Yes, sir. It is seven units that are market rate units.

MR. SALINAS: You know, this can go ahead and reduce that rent. They are not going to find any tenants.

I guarantee you that. They are not going to find any tenants -- 50 percent -- because some of the people that are wanting those apartments are people who have vouchers.

Now we should look at the tax credit program in the Valley, because it might not be feasible in areas, especially in this area where you have three projects in the same area, in Valley View, north of Pharr, a quarter of a mile away. When we talk about a mile away or two miles away in the Houston area, we just never thought about it in the Valley.

I think we have two or three projects there in Valley View in the same area. So that is why they are having problems getting this seven apartments rented.

MS. ANDERSON: And so we must have had market studies at the time that said no matter what was already there, there was plenty of demand for one more.

MR. SALINAS: The Valley is composed of --

MS. ANDERSON: This application has a market study that supported the feasibility of the market rate units at the time of the application.

MR. SALINAS: But then we came back, I think, with two more, three more units in the area. It is only seven apartments. I mean, I think what these people are trying to do, I just saw the deal, but I think what they are trying to do is to get it 100 percent occupied. If we don't change the status on it, then it is not going to be occupied 100 percent.

MS. ANDERSON: Well my concern about changing the status on this, is that everybody, to your point earlier about precedent. That we now if we send a signal that if you get tired, and you don't want market rate units anymore, the Board will --

MR. SALINAS: Market units work in some areas of the Valley. In some areas of the Valley. I can tell you, it is not going to work in this area, the Las Milpas

area. This is where they are at, in Las Milpas. And I know that area very well. The market areas are going to work in the McAllen area, the Weslaco area, the Harlingen area, the Mission area, and areas like that, where you are going to have fixed.

But when you have an area like Valley View, who has their own school district, I mean, if you can't get seven apartments rented, you have got some problems. This is where they are coming. Now they can go ahead and give them 50 percent off on the rents. I guarantee, they are still not going to get it.

And we'll come back and look at it 30 days from now, or 60 days from now, and they are still going to have seven vacancies there, because they are not going to be able to rent them. We don't want to set a precedent either. I agree with you.

MR. BOGANY: Can't he lower his rents still, to rent them?

MR. CONINE: Yes. There's nothing in the rule that says he can't drop his rents.

MR. BOGANY: To rent those units?

MR. CONINE: Yes.

MR. BOGANY: Okay. All right.

MR. SALINAS: How much are the rents?

MR. PATLAN: Well, we had 60, 50 and 40. We

can lower the rent, but the point is that --

MR. CONINE: The definition of market rate rents are what the market is willing to bear. What a renter and an owner can come to an agreement upon. There is nothing that says that a market rate unit can't go below the 60, 50 or 40 percent rent.

MR. PATLAN: We can rent them for free.

MR. CONINE: Right. You can give them away, if you want.

MR. PATLAN: But that is the second point we addressed. The financial feasibility, Mr. Conine, as one of the reasons. And it doesn't cost the Department anything. We are not asking for any more credits.

MR. CONINE: No. What it costs is the opportunity to do market rate units in the future, along with the other citizens in that project. That is what it costs. And again, that is my objection.

MS. ANDERSON: Any other discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

MR. SALINAS: Aye. I would have to agree with

the staff.

MS. ANDERSON: The motion carries. The staff's recommendation is not adopted.

MS. CARRINGTON: The next item for the Board's consideration is Lilac Gardens, which is located in El Paso. And this request comes as a result of the Board's action in October of this year, related to developments that are for rehabilitation, that there are certain requirements by the Section 504 or requirements in excess of Section 504.

So in this particular instance, this developer had originally indicated that there would be eight units in this acquisition rehab that they believed would be subject to the 504 requirements and what they are requesting is based on the October actions of the Board, that this applicant was not necessarily required to list these eight units, and they will indeed comply with 504. But their requirement will not be above and beyond what is required in the 504, in Section 504.

And so staff is recommending that the Board approve this request, and that the applicant is not obliged to provide a specific number of accessible units at this time, but only with the understanding that compliance with 504 will be required.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: There is public comment on this item. Mr. Wright?

MR. WRIGHT: Only if an explanation is requested.

MS. ANDERSON: Questions? Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: The next item for the Board's consideration is Arcadia Village Apartments, located in Center. In this instance, this was a 2003 development. And they are requesting approval to change the development from 26 single-family residences to 16 single-family residences and five duplexes.

This is as a result of some of the zoning requirements. There was a need to change the site plan. It does still comply with the scattered site development requirements. Staff is recommending that this request be approved.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: And the last one in this group for the Board's consideration is Palacio Del Sol Apartments, which is located in San Antonio. And this request is to change up the bedroom mix in this particular transaction. And this is an at-risk development. It is an elderly development.

Currently, they have 50 one-bedroom units and 150 two-bedroom units, and what they are looking to do is to change those 50 one-bedroom units to 112 one-bedroom units and 150 two-bedrooms to 88 two-bedrooms. And the reason for that is HUD has a maximum amount of subsidy that is allowable.

And basically the Section 8 project based a subsidy that is going to be allowable is for 106 one-

bedroom units, so what they are looking to do is to change the configuration of the existing bedroom units into the maximum amount of subsidy that is available. And staff is recommending this amendment, recommending this change.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MS. ANDERSON: Discussion? Commissioner?

MR. CONINE: Have we looked at the market down there to see if maybe they would agree with some HUD regulation out in Never-Never Land?

MS. CARRINGTON: Well, Real Estate Analysis did take a look at the transaction and the development of course is for elderly residents. So, I don't know if there was a separate market study done, or whether the recommendations are being made as a result of what HUD has said is going to be available for Section 8 subsidy.

MR. CONINE: Can we engage the applicant maybe to go back to their market analysis, and give us an update?

MS. CARRINGTON: It looks like there may be a couple of people who may perhaps can speak for the applicants.

MR. CONINE: Oh, great.

MS. ANDERSON: Good. And just complete a witness affirmation form after you finish your testimony.

Thank you.

MS. JACKSON: Hi. This is Toni Jackson with Coastroads [phonetic] here representing the developer, Southwest Housing. There has been a market study completed for this property. However the 106 half-contracts already exist and are occupied.

HUD requires for the developer to change to go in for those half-contracts to be changed, it would be like re-underwriting the deal and those half-contracts already exist on that project -- this project-based contracts. And so therefore, the developer must maintain the same number of existing units as currently set up for the half-contract.

MR. CONINE: Is this a rehab deal?

MS. JACKSON: Yes.

MR. CONINE: This is a rehab.

MS. ANDERSON: It's a rehab.

MS. JACKSON: It's a reconstruction of an existing property.

MR. CONINE: So the original proposal was to take some unit mix that already existed and change it to the 50 one-bedroom and --

MS. JACKSON: Right. It was believed that we would be able to get the halves extended to the new property as was applied for with the new unit mix.

However under what is going on with the budget cuts and everything, in order to maintain the existing halves, and not have it underwritten again, then we must maintain the current half as it exists.

MR. CONINE: And so what we are going back to is where it exists today?

MS. JACKSON: Well, yes and no. Yes, from the standpoint it being 106 units to maintain the half contract. However it still will see an increase in the one-bedrooms so that the developer is able to actually redesign the units.

MR. CONINE: And that is still, at least from our side, probably a little market analyst work, I would think.

MR. SULAKHE: I am Deepak with Southwest Housing. The 106 units already exist. All we are doing is re-placing the tenants, reconstructing 200 units on the project, and bringing back the 106 existing tenants back into the deal. So we know that there is a market for the 106 units, because they already exist.

MR. CONINE: But you know that. But we don't know that.

MR. SULAKHE: We do have a market study that we have provided that supports it. And this is a HUD project.

MR. CONINE: You have got a market study for the old unit mix. You don't have an updated market study for the new one do you?

MR. SULAKHE: We do have it for the update market.

MR. CONINE: You do have one? Oh. Has our staff seen it?

MR. SULAKHE: But again, once again it says that our existing tenants for 106 units.

MR. CONINE: I understand that but they are going to now be paying probably higher rents in a different unit base.

MR. SULAKHE: They cannot be higher rents, because we are getting relocation vouchers as the same rent for room. When they come back, it will be the same rent level.

MS. JACKSON: But the half contract will continue to cover the rent. So there will not be a rent increase for the tenants. And that is why the developer wants to maintain these as the half contracts. Because there will not be a change for those existing tenants. And we applying to relocation vouchers which covers the subsidy for the tenants while they are relocated during the construction period.

MR. CONINE: There is 200 units, total. Right?

MR. SULAKHE: Yes.

MS. JACKSON: Yes.

MR. CONINE: How many units total are going to end up after this change?

MR. SULAKHE: 200. Well see, right now it is 106 units.

MR. CONINE: The half contract.

MR. SULAKHE: Yes.

MR. CONINE: But the other 94 are rented to somebody else?

MR. SULAKHE: No. Right now there are 106 units, period. That is the deal.

MR. CONINE: Oh. Okay.

MR. SULAKHE: What we are doing, is the plan is to tear down the 106 units and to add 200 units.

MS. JACKSON: Right.

MR. SULAKHE: So the 106 units --

MS. JACKSON: It is an increases of units on the property. It currently is 106 units and the developer is adding units to the development.

MR. CONINE: And that was part of the original proposal, but now we are changing the unit mix of what the 200 is going to look like from the original proposal that the credits were awarded under. Correct?

MR. SULAKHE: Yes.

MR. CONINE: And have you updated the market study done by the market analysts since the application was done originally to account for the different unit mix?

MR. SULAKHE: We have a market study, yes. We have done the market study. We have made an application.

MR. CONINE: Have you updated it for the new units?

MR. SULAKHE: Yes. Yes, we have.

MR. CONINE: Has our staff seen it?

MR. SULAKHE: I am not aware of that.

MR. SALINAS: Where is the staff? I mean, they are recommending the project. And they haven't seen the study?

MR. SULAKHE: But again, the rents are a little over half rents at lower levels and we have existing tenants for all those 106 units anyway.

MS. ANDERSON: What is Southwest Housing's role in this development?

MR. SULAKHE: Consultant.

MS. ANDERSON: You introduced him as a developer?

MS. JACKSON: Perhaps I just misspoke. Yes, I did.

MR. SULAKHE: Yes.

MS. ANDERSON: And so who is the developer?

MR. SULAKHE: The developer is, we have the Mexican American Minority Council as a developer.

MS. ANDERSON: And they are here today?

MR. SULAKHE: Yes. They are here too.

MS. ANDERSON: Thank you.

MR. CONINE: Could I speak to Mr. Gouris, please? Have you seen an updated market study for the new unit mix on this project?

MR. GOURIS: I have not. I don't believe we have received one.

MR. CONINE: But you went ahead and went along with the approval of the project without seeing it?

MR. GOURIS: Yes, sir.

MR. CONINE: Oh what basis?

MR. GOURIS: Again, the 106 units are sort of not of significant concern from a market study standpoint, because they are going to be filled with tenants that are Section 8.

MR. CONINE: Section 8 voucher tenants. Yes.

MR. GOURIS: So it was the other units that we would be concerned about. The difference between a one-bedroom and two-bedroom tenancy for an elderly project in this case, wasn't a significant issue. There is plenty of demand at either level originally. And so we weren't seriously concerned about the small increase in one-

bedroom units.

MR. CONINE: But we are getting room of 3-bedrooms, it looks like. Aren't we?

MR. GOURIS: No. Not in this. It is an elderly transaction.

MS. CARRINGTON: No. Moving 50 one-bedrooms to 112 one-bedrooms.

MR. GOURIS: It is an elderly transaction.

MS. ANDERSON: May I, for clarification, I believe they are project based. That there is housing assistance payments contract. So they are not vouchers.

MS. JACKSON: Correct.

MR. CONINE: Right.

MS. ANDERSON: It is project-based assistance.

MR. CONINE: Right. I misspoke. And is there an immediacy for this to be granted today? I am not comfortable with the fact that staff hasn't seen an updated market study. Not that you don't have the all-knowing omnipotency of knowing what the market really is, but --

MR. GOURIS: Frankly, I just think that the additional demand is going to show from what is in the original market city. And they will still have two-bedroom units in the transaction. There will be fewer of them, but they will still have them. So the market demand

calculation that we would accept probably is not going to change.

MR. CONINE: But you are going from 150 two-bedrooms to how many two-bedrooms?

MR. SULAKHE: Eighty-eight.

MR. GOURIS: Eighty-eight.

MR. CONINE: And that is not going to affect the economics?

MR. GOURIS: The economics is something else. And we did look at that. And we did check the feasibility and the economics of it. And got to that conclusion, that that it would change, but it wouldn't materially affect it in a way that would make it infeasible.

MR. CONINE: Really? You can go from 50 one-bedrooms and 150 two-bedrooms to 100 and 100 and not have them materially change?

MR. GOURIS: It would remain financially feasible.

MR. CONINE: Wow. I have never been able to do that.

MR. GOURIS: Yes. Well, remember that the majority of the ones that are changing are changing from a half contract two-bedroom status to a half contract one-bedroom status. Actually, they are not changing at all. But that is what the proposal was, originally, that they

be two-bedroom units. And the rent difference between the two-bedroom and one-bedroom is low enough so that there is a change. It is just not change that would dictate that the project was no longer financially feasible.

MR. CONINE: Okay. If he's happy. He has made his mistake before. He has already admitted to that.

MR. GOURIS: Man, I had better sit down.

MS. ANDERSON: So what is the Board's pleasure?

MR. SALINAS: I think you have a motion and a second.

MR. CONINE: Is there a motion to approve.

MR. BOGANY: I put the motion forward and I have got a second on it.

MS. ANDERSON: Okay. My apologies. So there is a motion and a second. Any other discussion or questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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. At this point, we are going to take a lunch break for -- sorry for

the people that are next up. Somebody always gets to be the one.

(Whereupon, a lunch recess was taken.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

MS. ANDERSON: We are ready, Ms. Carrington. I believe we are at 5-E. Yes.

MS. CARRINGTON: For the Board's consideration, Item 5-E. This is the rural rescue. This is the one I really have a hard time with.

MR. CONINE: You don't want to fight them?

MS. CARRINGTON: No, preferably not. Request approval of award of three 2005 Housing Tax Credits in accordance with our 2004 Rural Rescue policy. The Board approved its rural rescue policy in May 2004.

And the purpose of the policy is for the Department to be able to work with transactions, with rural development transactions that are either experiencing foreclosure or loan acceleration and they can only apply for these credits if it is not during a regular cycle. The staff has reviewed all of these three applications.

The threshold is required by the policy. They have been scored. And the applications have been reviewed for financial feasibility and for their compliance record.

The tax credits are awarded for these three transactions, the owners will be able to prevent foreclosure and sale of the developments and will preserve the affordable housing.

I will remind the Board that the credits for

these three developments will come out of the 2005 credit ceiling, and they will come out of the amount of that 2005 credit ceiling that is in the rural allocation amount. And they do come out on a region-by-region basis. Two of these developments are located in Region 13. One of the developments is located in Region 12.

There are three of them. Mountain View Apartments in Alpine. The Villa Apartments in Marfa. And the Oasis Apartment in Fort Stockton. And staff is recommending the allocation of 2005 credits for these three rural rescue transactions.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Discussion? Questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: The next item for the Board's consideration, Item 5-F. I think this is probably kind of a day of firsts. This is another one unlike what we have

seen before.

MR. CONINE: Oh, boy.

MS. CARRINGTON: And on this transaction, we are requesting a waiver of a particular section of the 2004 Qualified Allocation Plan and it is Section 50.6F. And it regards the one mile, one calendar year rule as it applies to two development, Grove Village Apartments and Pleasant Village Apartments.

Both of these transactions are tax-exempt bond and 4 percent credit transactions and they are both located in Dallas. And the combined amount of bond issuance on these two transactions is \$12,580,000. These developments are acquisition rehab. They are all financed, they are both financed under one bond issue. They are owned by the same entity.

They do meet the requirements for a scattered site, however the Bond Review Board wanted the applications to be placed as two applications rather than one. The Department would have handled them as one application. But the Bond Review Board wanted them to be counted separately, and if they are indeed counted separately as the Bond Review Board requires, then they do violate the one year one mile rule.

Now next year, in the 2005 QAP, we believe we did not interpret that correctly in '04, so that one mile

one year rule is not going to apply to bond transactions.

But basically, the bottom line is, they are a couple of hundred yards apart. We are looking at them as one development that would be scattered site, and so that it would not violate the one mile, one year rule. The properties are rehab.

Right now, they have a significant number of uninhabitable units. This will allow both of the developments to be worked on basically simultaneously.

MR. CONINE: Are they still owned by the same entity?

MS. CARRINGTON: Yes, they are. They have common ownership.

MR. CONINE: So that in theory, the financial feasibility won't be split in two. If there was any reason for the developer to lump the two together, because of economic considerations, or other words, the splitting of the bond, the debt piece won't affect that. Is that correct?

MS. BOSTON: It is my understanding that it is one financing plan. They are doing it all together. One bond issuance.

MS. CARRINGTON: One bond issuance. But there is two different amounts of bonds that are allocated for the transactions. One of them has 6 million -- I mean, it

is combined to \$12,580,000 but it is divided into two. One amount of the bonds for the Grove Village Apartments and the other one for Pleasant Village Apartments.

Grove Village has \$6,590,000 in bonds allocated to it. And then Pleasant Village has \$5,999,000 of bonds allocated to it. But basically, what you have got is one bond issuance, and it is financing two properties underneath that.

The cost of issuance, if it was done as two separate bond issuances, then you are going to be doubling the cost of issuance, as opposed to getting some economies of scale because it is one bond issuance.

MR. CONINE: Did we check the debt service coverage ratio on both properties after the split to see if they both stood on their own, or not?

MS. CARRINGTON: Okay. Who would be the appropriate one to answer that question. Would they please come to the mike?

MR. CONINE: Because when you split a bond issuance like that, and you collateralize them each independently, you can have bad things happen to the one, and not bad things happen to the other. I was just curious if you had looked at that.

MS. MEYER: Whenever we did, we did them as two separate applications. Because we weren't sure whether we

were going to be able to put them together. So yes, we did. We did the qualification on both transactions separately.

MR. CONINE: So you are satisfied that he can still meet debt service coverage requirements independently?

MS. MEYER: Yes, sir. Independently, they do.

MR. CONINE: Okay.

MS. MEYER: And you approved it as the inducement for the traditional carryforward.

MR. CONINE: Okay.

MS. CARRINGTON: Robbie, would you introduce yourself, please?

MS. MEYER: Robbie Meyer, the Multifamily Bond administrator.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: We have public comment on this item. Mr. Spicer?

MR. SPICER: Only if you have other questions.

MS. ANDERSON: Okay. I have a question for someone, Ms. Carrington, and that is, if I understand what we are being asked to do is because the Bond Review Board would not split the transaction that therefore, we are now being asked to waive the one mile, one year rule. And my

question for whoever the appropriate person is, is has that been has the staff's intention to bring that to the board for consideration been discussed with the Bond Review Board?

MS. MEYER: Again, Robbye Meyer with the Multifamily Bond administrator. We haven't discussed it with the Bond Review Board because that is just how their rule is. We have separate sites so we have to give separate applications. However, we have conferred with Bond counsel, and they are in what they are doing it is like a pool transaction like we have done with 501(c)(3)s.

Does that answer your question? We haven't discussed it directly with the Bond Review Board. However, Bond counsel and we have had a conference call with the parties involved for that.

MS. ANDERSON: Okay. Well, I may be worried about nothing. But I am sensitive to the potential for appearance that we are just I would be more comfortable had we told the Bond Review Board that this was what we were going to do, and that we are well in our authority to do so, is what I am kind of reacting to.

MS. CARRINGTON: We will notify the Bond Review Board either this afternoon or tomorrow morning.

MR. SALINAS: I had a hamburger.

MS. ANDERSON: We missed you.

MR. CONINE: We missed you.

MR. SALINAS: Thank you.

MR. CONINE: We missed her.

MR. GONZALES: She's coming back up.

MS. ANDERSON: Any other discussion or questions?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no? No. The motion carries.

MR. CONINE: Madam Chairman, the cynic in me tends to cause a red flag, if you will, in dodging the one mile rule by applicants coming under the scattered site with two projects close by. And I would hope that in future QAPs, we would take that consideration into account. I would hate for this to be two new construction jobs that just happen to be applied for, that were 200 yards apart.

But the issue of this being a rehab deal, comforts me a little bit. But we need to look at that to make sure that that doesn't become pattern, an established pattern of practice.

MS. CARRINGTON: Next item for the Board's consideration is Item 5-G. This item is a request for a waiver. It is a requirement found in at 50.9 of the 2004 Qualified Allocation Plan. And that requirement states that the applicant must submit to the department's written evidence that the local entity responsible for the national approval of zoning has approved the appropriate zoning, and will recommend that to the final approval for zoning.

And that is required to be done no later than 14 days prior to the board meetings, or the credits will be committed. This is a proposed credit and bond transaction, 206 units. It will come before the Board at the January meeting. So this is not an approval of this transaction today.

What the staff is requesting is a waiver, a limited waiver of this portion of the rule that says that the zoning be submitted to the Department at least 14 days prior to the date of this meeting and at the bottom of the background, in recommendation on this page. And over on the next page, there is a discussion about the work that this applicant has had with the Arlington City Council. It was initially not approved.

And then they have had additional, they tried to have an additional hearing on it, and they are still in

discussions with the Arlington City Council on planning and zoning. And they do believe that they are going to be able to ultimately receive the zoning that they need.

So again, the Board is not being asked to approve the transaction today. What you are being asked to do is to approve this limited waiver of the particular section of the QAP. And I believe the City Council is scheduled to meet on January 5, January 4. So if indeed, they do not receive this zoning on January 4, then the application would not be on the agenda in our meeting in January.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Discussion? I have a question if nobody else has anything. Again, this may be a dumb question. They received the reservation on August 31, and so I guess my question is, is it normal practice that you wouldn't even put the zoning wheels into motion until you have the reservation.

Can you not kind of monitor the progress of applications ahead of you on the list and derive some reasonable likelihood that you are going to get a reservation in July or August or September that might cause you to initiate forward planning, so that you wouldn't be in this situation?

MS. CARRINGTON: It is my understanding that in this particular case, the Arlington Planning and Zoning didn't want to allow them. It was currently zoned as office business. And that the Arlington Planning and Zoning Commission evidently had a backlog of applications. And they weren't even able to apply any earlier than September 21 to receive their zoning approval.

MS. ANDERSON: All right. That doesn't quite get to my question. I mean I understand that they asked. They tried to submit their application on September 2, which is two days after they got the reservation. My question is, is first, do these developments have some sense of where they are on the waiting list and when they are likely to get a reservation?

And then knowing that, I guess I am asking why they wouldn't have applied back in August, or in anticipation of, so that instead of applying on September 2, and being held up to the 21st, if they had applied on August 5, because they thought they were going to end up getting a reservation, then maybe they would have been on the September 2 agenda. That is what I am trying to ask. Is that just not done?

MS. CARRINGTON: Ms. Meyer --

MS. BOSTON: I would imagine that probably the best person to answer it would be the applicant. But my

impression is that even if they had tried to turn it in in August, they would have been told to wait until this late September date. Just that's from my impression from conference calls and stuff.

MS. CARRINGTON: I can answer the first part of you questions, and that is, the developers indeed do track when their reservations are going to come up. Many of them check every day to see if a reservation has been turned back or to see how close they are. So I can answer yes to the first part of your question.

MS. ANDERSON: And this was turned down at the zoning and planning commission? And we don't have anybody from the applicant here? The staff comment is that the applicant believes they have sufficient support.

MR. PALMER: Yes, I am Barry Palmer and I am the attorney for the developer, and so I have some knowledge of these issues, if I can be of any help.

MS. ANDERSON: Well, if you could shed some light on why they think they have got the City Council's request in spite of the City Council's members on the zoning commission.

MR. PALMER: Well, and those were not city council members on the zoning.

MS. ANDERSON: Appointees. Designees.

MR. PALMER: Right. Which as you know, people

once they are appointed, may have a mind of their own.

(Pause.)

MR. CONINE: I resemble that remark.

MR. PALMER: But we have had meetings with a number of city councilmen, including the councilman whose district it is in, and several of the at-large council people who have pledged their support to the development.

So we have full reason to believe that it will be approved at the January 4 meeting.

And just pointing out, this rule, this 14-day-in-advance rule was really something that came out of the 9 percent program. I don't think this was really designed for 4 percent transactions. And I believe that in the 2005 QAP, it has actually gone away. But back on the 9 percent transactions.

We had this rule in place, so in the competitive rounds you would know that if you didn't have zoning far enough in advance of the board meeting, so that staff could analyze what that did to the competitive balance of who else might be next up. But there is really no policy reason that I am aware of it, where it was ever considered that this would be necessary for 4 percent transactions.

MR. SALINAS: How many members are on the City Council?

MR. PALMER: I believe that there are nine members.

MR. PALMER: So it was turned down by the Planning and Zoning?

MR. PALMER: Yes.

MR. SALINAS: So you would need five votes. When you have five, you need four afield. So you need to have almost what seven board members?

MR. PALMER: Super majority.

MR. SALINAS: Super majority seven maybe to pass it. Even if you have a majority in the Council, but if you don't have that seven members, it won't pass. Because Planning and Zoning has rejected you.

MR. PALMER: Right. But again, the district councilperson whose district that this is in is supporting the deal, and so we have every reason to believe that it will be supported by the full council at their January 4 meeting. And if it is not, then it just won't be on the agenda for their January board meeting.

MS. ANDERSON: Any other questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: The next item for the Board's consideration is Item 5-H.

MR. GORDON: I am going to recuse myself on this matter.

MS. ANDERSON: They are mumbling under their breath.

MS. CARRINGTON: This is consideration of the award of 2004 and or 2005 Housing Tax Credits to developments that were impacted by the November 2, 2004, HUD notice regarding difficult to -- develop areas. And what staff is making the recommendation is the allocation would be made for four developments that were impacted by this notice on DDAs.

Basically, what happened is the difficult development areas are determined by HUD, and we had several applicants who applied in the 2004 cycle who believed they were in a difficult to develop -- well, were in, indeed, a difficult to develop area. And then a notice came out from HUD very late in the year that changed seven difficult development areas.

There are actually seven in Texas that were removed. They were in 2003, and they were removed in

2004. And the counties are El Paso, Kimble, Burnet, Llano, Walker, Rains, and Hudspeth Counties. After that notice came out, on November 2 of this year, HUD came out with an additional notice that basically said if you have applied, basically in the last 365 days, and you thought you were in a difficult development area, we are still going to allow you to retain that DDA status.

And the value of that status is actually 130 percent boost on the credits. And some transactions had been underwritten with the DDA status, and they were okay.

Others had restructured. But there are four. Three of them 9 percents and one of them a 4 percent that was impacted by this change in the DDA.

So if you go to page 2 of the staff memorandum, what you see are the developments listed. Americas Palms did receive an award of credits. And these developments were given an opportunity to restructure based on the renewed DDA status. So Americas Palms had received an allocation of \$635,064; the new credit amount for them, because of their DDA status would be \$667,244. And we showed you how much of a increase that was.

Horizon Palms had an increase of \$47,487. Let's skip the Vistas for a minute. Well, let's do the Vistas. The Vistas is actually a 4 percent transaction, so it is 4 percent credit, private activity bond, so this

would not be any credit amount that is coming out of '04 credit ceiling. Their amount went up by \$86,702.

And then the last one is Cedar Oak, which was located in El Paso. And that original credit amount was zero. And the reason for that, was because when they lost their DDA status, the development was determined to be financially not feasible. So they terminated it. It was just financially not feasible, and there was not an award made.

We also believe there was an excessive capture rate on that transaction also. With their DDA status put back, then the transaction was financially feasible. And at the bottom of page 2 and the top of page 3, we go through the scenario of the violation of the capture rate.

And rather than me stumbling through it, we might let Ms. Boston come up basically tell you how we looked at what the points would have been and which one would have trumped or which one would have tied. So I will let Ms. Boston do that.

MS. BOSTON: Okay. When we go with capture rate issues, usually it would be two deals that are too close together and if you do them both, the capture rate would be violated. So there is a question of which is the one that quote doesn't get to be done. And we have historically on a 9 percent would make that decision based

on score.

In this case, Cedar Oak, because they had to restructure after they turned their application in, was part of restructuring and no longer having the DDA designation was to adjust their scoring structure, which included no longer lend for it, low-income targeting, things that they could no longer afford to do without the 30 percent boost. When they did that, their points went down significantly.

However, because the region is undersubscribed, they still would have been considered eligible. Then when it comes time to look at the capture rate, we re-evaluated the score, based on now having a DDA designation and then we went in and looked back at the score again and we recalculated it. Well, they lost 19 points.

The reason they lost the 19 points was they lost their -- they didn't have a subsidy or proof of a subsidy for the low-income targeting points. The reason they didn't have the subsidy is because after they revised their application at our request to no longer serve DDA designation, they weren't doing low-income targeting units, so they didn't need the subsidy.

So 14 days before the board meeting, which was when everyone else was required to have their subsidy proof, they didn't give it to us, because they weren't

asking for those points at that point. Now, you know, two weeks ago, I am sitting down to score it, and I can't give the points because I don't have the subsidy proof.

However, we have reason to believe and based on our dialogue with the applicant that had they been going for those points at the time and known they needed the subsidy they would have had it 14 days before the meeting.

If they had those 19 points back, then they would have won in the capture rate issue, and they would have been the one to get the deal, so to speak.

So what it boils down to, is if it hadn't been restructured, the subsidy letter would have been in place, then the points would have been awarded. Then the capture rate tie would have favored Cedar Oaks, and therefore they would have been given an allocation.

MR. BOGANY: I have a question.

MS. ANDERSON: Yes, sir.

MR. BOGANY: If I remember right, this was a project that wasn't recommended before.

MS. BOSTON: Correct.

MR. BOGANY: And so, where are these dollars for these tax credits coming down to give them. Because if they weren't recommended before we used these credits and they went out to someone else, and now because of this ruling, they are coming back and saying, yes, so where are

we getting those tax credits to help them?

MS. BOSTON: Right. We actually for the three deals that are off on the 9 percent zone, that were impacted by this, our proposal is to -- on the two that were already funded, which are the Americas Palms and Horizon Palms to fund that difference out of basically there was another development that was returned down there.

Remember Las Palmas? It had been awarded, and then it came on appeal, and it was denied on appeal, which means that was about \$600,000 roughly in credits back. So we would have come this month to recommend something with those credits anyway, and this interestingly came up at the same time.

So we are recommending that those two deals be taken entirely out of '04, the increase. Then because the underwritten amount for Cedar Oak is significantly larger than the amount that we have, we will actually give them a split allocation.

And while your board book does have specific numbers, the numbers may be a little off. And so what we are asking that basically we will fill up the rest of the '04, we will basically take up the rest of the '04 ceiling with Cedar Oak until we have used every last dollar, and then the balance will have a 2005 forward commitment issue

for it.

MR. BOGANY: But if we voted not to do forward commitments, so how does that come into play here?

MS. BOSTON: This is its own separate board action item and you know, it is only because there is not enough credits to do it. But had the DDA designation from HUD, and had that whole trail of events not occurred, the applicant would have been given an award in July.

MR. BOGANY: One more question. Any more groups, any more projects going to come up with this DDA, or is this the only ones?

MS. BOSTON: No. This is the entire population of then.

MR. BOGANY: Okay. Thank you.

MR. CONINE: Did the person who came from HUD with this particular letter show in a sleigh with some reindeer? Where are we at? We have affected the '04 9 percent credits with some other earlier actions today I think. Is anyone keeping a running tally? Where we are before this agenda item?

MS. CARRINGTON: Yes. We would have \$682,946 in 2004 credits available.

MR. CONINE: Available.

MS. ANDERSON: Even after what we have done today?

MS. BOSTON: You all didn't --

MS. ANDERSON: There haven't been any --

MR. CONINE: We didn't do something today?

MS. ANDERSON: No, sir.

MS. BOSTON: No. None of the action that you all took today was on the 2004.

MS. ANDERSON: No. Wouldn't have awarded any more credits.

MR. CONINE: Well, I thought we did.

MS. ANDERSON: The rural rescue is 2005.

MS. BOSTON: I don't think so.

MS. CARRINGTON: No.

MR. CONINE: Maybe I am thinking that Kingfisher took up some '04 credits.

MS. BOSTON: Correct. And they have, actually, because you we were explaining earlier that those credits have been kind of held out the whole time, they aren't impacted.

MR. CONINE: It was a wash.

MS. ANDERSON: We have been saving them. We never reallocated them.

MR. CONINE: Okay. So we have got six what left?

MS. CARRINGTON: We have \$682,946 in 2004 credits remaining to be allocated.

MR. CONINE: Well, you get \$2-1/2 million if you are sitting here. No, okay. It's the difference.

MS. CARRINGTON: The Vistas is not included.

MR. CONINE: That is the difference, I am sorry.

MS. ANDERSON: Yes. They are not included.

MR. CONINE: But the one that really hurts is the \$973,684. And what you are saying is, that we use up all the \$600,000 and then how much of the '05 credits do you think we are going to use on this transaction?

MS. BOSTON: It will be roughly \$300,000.

MR. CONINE: 300-?

MS. BOSTON: It may go up to about 400,000.

MR. CONINE: Between 3- and 4-. Thank you.

MS. BOSTON: Yes.

MS. CARRINGTON: And then if we have anything, as Ms. Boston did explain, if we have anything that comes back between now and the end of the year, and that is possible, then we would allocate any and all of that to Cedar Oaks so that it would reduce the amount of '05 credit that was going to Cedar Oaks.

MS. BOSTON: And this action also proposes that Cedar Oak be held to the '04 QAP, because it will have two QAPs on it. And so we are just asking that as long as they meet the '04 QAP, they will be deemed to be meeting

the '05 requirement.

MS. ANDERSON: And that portion that would apply to the 2005 credits would come out of Region 13, kind of off the top? Kind of looks like a forward?

MS. BOSTON: Well, it would come out of urban exurban, 13.

MS. ANDERSON: Thirteen.

MS. BOSTON: Correct.

MR. CONINE: How does that work on placed in service dates on the buildings with the '04 and '05 credits?

MS. BOSTON: They will have to meet everything for '04. I mean basically, they will have to meet kind of the earlier tests to show that need all -- that everything that the '04 covers. I have been chatting with someone from another state.

They do this a lot. And so I have been chatting to try and get a better feel, because they do it regularly and they don't seem to have a big administrative challenge with it. So we have generally tried not to do it a whole lot, but --

MR. BOGANY: So, in 2005, 13 will get \$300,000 something less tax credits, because we are obligated to give them to him.

MS. BOSTON: If you take the second guess, yes.

MR. BOGANY: He doesn't have them. Yes. And I guess that it seems -- this is the first time we've done this, at least since I have been here.

MS. BOSTON: Well, I should note too that the region was undersubscribed this year. And so we didn't give Region 13 all of its credits. It ended up going to other regions.

So in theory, you could say that it is kind of just over two years and a cost to a different region, but it is kind of just shifting around. But ultimately, they should have gotten more credits in that region.

MR. BOGANY: Okay.

MS. ANDERSON: Have you heard, has the Department received any correspondence from any of the elected officials or individuals that opposed this transaction when it came before us in this summer?

MS. BOSTON: No, I have not heard from anybody. I will be very frank. We haven't advertised this. I mean, because it came up with such short notice.

MS. CARRINGTON: However, it has been on our website for a week.

MS. ANDERSON: We have public comment on this item. I don't think we have a board -- I don't think there is a motion on the floor. So the question is, do you want a motion on the floor, or do you want to hear the

public comment first?

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

MR. CONINE: Second.

MS. ANDERSON: Okay. Mr. Monty.

MR. MONTY: Thanks for being here. I really have only two comments. One hopefully is please and the other one will be thank you. But we feel like this allocation, it is a development that is on the east side. We made the presentation.

HUD came with this ruling, and we feel like it has just been a great situation to where everybody wins. So I really don't have anything else to day. Thank you.

MS. ANDERSON: Any other people that have witness affirmation forms want to make public comment?

(No response.)

MS. ANDERSON: Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are 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.

MS. CARRINGTON: Item 5-A was only in the event that the Board did not take the action that you just took on the previous item. So the last item for the Board's consideration is the Executive Director Report. We have for you our outreach activities for the month of November.

I also would like to announce that one of our portfolio management and compliance employees went through the Housing Tax Credit training program in October in Austin and she is basically a new employee with TDHCA. And she earned a perfect score of 100 on the exam and I am told that only four people have ever achieved a perfect score on this exam. So her name is Kimberly Caldron [phonetic], and so we would like to congratulate Kimberly for her score of 100 on that exam.

(Applause.)

MS. CARRINGTON: The next item for the Board's information is the press conference that was held on Tuesday of last week with the Texas Association of Realtors. And I did send an email to you all I think. I sent you the email that had come from Eric Pike who is our director of Single-family. It was a very successful event for TAR, for TDHCA, for Fannie Mae.

There was coverage from nine television and print media there. It made the front page of the Austin American Statesman on Saturday morning this week, in the

business section. I heard from Ms. Anderson on Wednesday morning, that she had heard it in Dallas. We are very excited.

It is an initiative called the United Texas Housing Initiatives That Work. There is a separate portal. There will be a separate portal on the Texas Association of Realtors' website where potential homeowners can click on that and find all kinds of useful information for first-time homebuyers.

And the last item for the Board's consideration is the announcement that we have combined for strategic purposes, the Center for Housing, Resource Planning, and Communications and we have combined that with the Governmental Affairs Division. And it now has a new name, that has been approved by our deputy general counsel. And that new name is Division of Policy and Public Affairs.

That was a big internal discussion about what we are going to call that division. And the head of that division is Michael Lyttle. So we are pleased to make that announcement to the Board. And that is it. Happy holidays.

MS. ANDERSON: I have just one last announcement to make. That for any of us that were not already aware of this, that Mr. Bogany has again been named Realtor of the Year by the Houston Association of

Realtors.

(Applause.)

MS. ANDERSON: And with that I'll entertain a motion to adjourn?

MR. CONINE: So moved.

MR. SALINAS: Second.

MR. BOGANY: Second.

MS. ANDERSON: All in favor?

(A chorus of ayes.)

MS. ANDERSON: We stand adjourned.

(Whereupon, at 1:45 p.m., the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: December 13, 2004

I do hereby certify that the foregoing pages, numbers 1 through 158, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

(Transcriber) 12/17/2004
(Date)

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