

TEXAS DEPARTMENT OF HOUSING AND  
COMMUNITY AFFAIRS

BOARD MEETING

11:15 a.m.  
Friday,  
September 16, 2005

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

TDHCA BOARD:

Beth Anderson, Chairman  
Kent Conine, Vice Chairman  
Shadrick Bogany  
Vidal Gonzalez  
Patrick Gordon  
Norberto Salinas

TDHCA STAFF:

Edwina Carrington, Executive Director

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P R O C E E D I N G S

MS. ANDERSON: The September 16 Board Meeting of the Texas Department of Housing and Community Affairs. Good morning. Feliz Diez y Seis, and welcome to you all. I appreciate your attendance here at our meeting today.

The first order of business is to call the roll. Vice Chairman Conine.

MR. CONINE: I'm here.

MS. ANDERSON: Mr. Bogany.

MR. BOGANY: Here.

MS. ANDERSON: Mr. Gonzalez.

MR. GONZALEZ: Here.

MS. ANDERSON: Mr. Gordon.

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas.

MR. CONINE: He's here.

MS. ANDERSON: He, I'm sure, will return. He was here. And he will, no doubt, be back shortly. So we do have a quorum. As our custom, we solicit and welcome public comment at the Department of Housing and Community Affairs. We take public comment both at the beginning of the meeting, and we also provide for public comment on each of -- at -- if the person prefers, at the agenda item itself.

Just a moment, please. We will be taking public comment shortly. I want to turn it over for a few minutes to Ms. Carrington to make some introductions and announcements.

MS. CARRINGTON: Thank you, Ms. Anderson. For the first two, I'm just going to stand up here. But then as we honor and acknowledge Suzanne Phillips, I'm going to come down, and Suzanne, I'm going to want you to come up.

We do have two senior employees, Executive Staff employees at Texas Department of Housing and Community Affairs. One of those employees is Kevin Hamby. And Kevin is our General Counsel. And Kevin started work with the agency on September 1. And he asked me a couple of days ago if it's always like it's been over the last two weeks of the agency. And I tell him, Well, yes, mostly it's been like that.

Kevin is a fifth-generation Texan. He's a graduate of the University of Texas. And he obtained his law degree from Catholic University in Washington, D.C. He did come to us from the Attorney General's office. I think I first met Kevin probably in January or so of this year. And he has been the attorney at the Attorney General's office who has represented this agency.

He was the general counsel and senior vice

president of advocacy for the Texas Credit Unions, working both in Austin and Washington. Kevin was also with Fulbright and Jaworski, where he was in the commercial litigation section. While in D.C., Kevin worked for the Department of Policy and Communications with the U.S. Department of Justice, and was a legal intern in the Office of the Vice President and clerked in the chambers of Judge Lee Satterfield.

And as I told Kevin a couple of days ago, he has already earned his keep with the two weeks that he's been at TDHCA. We are very pleased to have him, and we look forward to all of you all getting to know him and working with Kevin.

(Applause.)

MS. CARRINGTON: And the second senior level employee, someone that when you call the Executive Office, and I'm not at my desk, you get her. And that is Susan Woods. And Susan is over here. Susan, you may stand up.

Susan actually came to work about August 15. So we did have about two weeks of overlap between before Delores Groneck left and retired, and Susan came on.

Susan is a native of Waco, and she's a graduate of Texas Tech, Mr. Conine. And Susan was previously at Hughes and Luce, where she was a public policy legal

secretary, and brings over 20 years of experience in executive level support and experience to TDHCA. So please help me welcome Susan.

(Applause.)

MS. CARRINGTON: I told her that she was a brave woman, and that we really appreciated her being willing to come to this agency and stepping in the very large shoes that have been vacated by Delores Groneck.

The next person we'd like to acknowledge and honor is Suzanne Phillips. So Suzanne, come on up. Suzanne worked for TDHCA for a little over 13 years. She started with this agency in 1992 as a special project director. In 1995 she was made the director of the Compliance Division, which as a result of the reorg about three years ago, became the Portfolio Management and Compliance Division.

And I have several of Suzanne's accomplishments that I would like to reiterate or iterate for this group that I think has been extremely important in the tax credit, and the bond, and the compliance industry around the country.

She worked with the National Association of Homebuilders to create professional standards for housing tax credit participants. And her role in that actually

evolved into a seat on the Board of Governors on the Housing Credit Certified Professionals Organization.

She served on the board of trustees of the National Housing Conference. Suzanne was very involved in the creation and the participation of the memorandum of understanding on fair housing initiatives with the Department of Justice and Treasury and HUD. Suzanne has worked very closely with the disability community over the years in her work with TDHCA.

She has participated in numerous NCHA workshops. Suzanne was almost always a panelist anytime NCHA had a conference and we had issues on compliance, issues on fair housing. Suzanne was on that. Suzanne was on that panel.

She participated in the publication of NCHA's Essential Guide to Housing Credit Compliance, and also participated in helping rewrite TDHCA's tax credit compliance manual.

She participated in the publication of the Internal Revenue Service Audit Guide, and Suzanne, what did I leave out? That you had -- and very important to us as we did our reorganization, very important to this agency, was working with the HOME Program, bringing in outside consultants, consultants that had been approved by

HUD, bringing those consultants into our agency to work with our staff so that our staff knew and understood and had the expertise that they needed, but then also worked with the organizations providing technical assistance that were applying for HOME funds.

I and the whole staff at TDHCA want to acknowledge and recognize Suzanne for the many contributions that she has made for the State of Texas to this agency, and to those of you who have used our programs and credits and credits and bonds to finance your development.

So with that, Suzanne, we have a plaque. We always have a plaque. And this says, "Presented to Suzanne Phillips in grateful appreciation for your years of outstanding leadership and devotion. Texas Department of Housing and Community Affairs."

(Applause.)

MS. ANDERSON: Thank you, Ms. Carrington. We're -- we now are going to hear public comment before we begin with the Agenda Action Items. There are numerous people that have asked to make public comments before -- you know, at this portion of public comment. I'm going to ask you to limit your comments to two minutes apiece.

And Susan, you know, sort of unfair to do to

her -- this is her first board meeting with the department, and we've already got her being the timekeeper. So don't blame her for that. Blame me. But I -- the board is very interested in your comments, and we have so many people that want to speak that imposing that constraint is necessary. The first witness affirmation form I have is for Michael Gerber in the Governor's Office.

MR. GERBER: Good morning, Chair Anderson and members of the board, Ms. Carrington. My name is Mike Gerber, and I work for Governor Rick Perry. The last three weeks, as you all well know, our state has responded to an unprecedented challenge in meeting the needs of nearly 225,000 evacuees of Hurricane Katrina.

No need has been as pressing as that of housing, short, intermediate and long-term housing. And no state agency has responded as ably and as quickly as the Texas Department of Housing and Community Affairs.

When Governor Perry issued his directive to state agencies to help, the team at TDHCA was the first to stand up and identify specific ways they could help. Thousands of vacant units across Texas have been identified by this department, enabling local housing agencies to move evacuees out of shelters quickly.

I'm especially proud that TDHCA was the first state agency, other than the Department of Public Safety, to be at the Houston Astrodome two Fridays ago when evacuees were first arriving. It took some time to set up operations, but your team stuck with it, identifying needs and specific ways that they could help.

You should know that the Governor has asked TDHCA and its team to turn on a dime, and play key supportive roles to local housing agencies in Houston, Dallas, San Antonio, here in Austin, and countless other communities. We have truly stretched the staff to great limits.

It's been hard. It's long hours. And the Governor has asked for TDHCA's staff to take time away from their families to go to other parts of this state to help others. The only thing the Governor has heard from TDHCA is what more can we do to help?

Well, more will be asked of this department. Just this morning it was reported that a Washington Post poll of Astrodome evacuees indicated that more than half want to stay in Texas. Our state is facing an extraordinary housing challenge, and I wanted you to know that your team at TDHCA, I'm sure, will do as they always do, by asking again, what more can we do to help?

This morning, I simply want to tell the men and women of TDHCA that Governor Perry and all Texans are very grateful and proud of your help for these folks. Thank you.

(Applause.)

MS. ANDERSON: Thank you. Mr. Larkin Tackett.

MR. TACKETT: Thank you for the opportunity to speak. I'm Larkin Tackett. I am the Legislative Director for Senator Zaffirini. Good morning, everyone. Senator Zaffirini represents 17 counties in South Texas, one of which is Bee County. And she asked me to testify today on behalf of Bee County and their appeal of the HOME Program grant recommendation. That's Item Number 5 on your agenda. I won't read the letter into the record, but you all have a copy of that.

So she just wanted to make you aware of, of course, the increasing need for affordable housing in Bee County, and how important this kind of funding would be. We understand that there was a scoring correction in the -- and initial letters were sent out. And then another letter was sent out subsequently. We understand that that was a mistake. However, we would still urge your consideration of identifying deobligated funds to potentially fund this important project.

In addition to that, the Senator wanted me to echo the comments of the Governor's Office and to thank the staff of TDHCA especially for their hard work in these last several weeks assisting the victims of the hurricane. Thank you.

MS. ANDERSON: Thank you. Jennifer Stewart. And the next person will be William McDonald.

MS. STEWART: Good morning. My name is Jennifer Stewart. And I'm a city councilwoman with the City of Montgomery. I'd like to thank each and every one of you for your commitment, your time, and the work you do on this committee. I think it's very important. I wanted to tell you a few things about the City of Montgomery.

I'm here for the 2005 HOME appeal. And the City of Montgomery has less than 500 people in our town. About half of them are on fixed income, are at or below poverty level. We also have the task of supporting a 4-A school system on our sewer and water infrastructure. And with our tax base, that's a very, very difficult job.

Now, last May I was helping deliver some dinner. And I was delivering a dinner to a home. And I walked into the home, and this was a woman who was an amputee, lives by herself, elderly. And as I put her dinner down, I looked up, and I could see through the hole

in her roof the sky.

And I said to this lady, What in the world do you do when it rains? And she said, Sometimes I get wet. Now, we, I think are very deserving. And I would appreciate your consideration for our application. This would mean a difference in every one of these individuals' lives.

The city cannot do this by themselves. These people are in dire need of your help. I know you have the funds available. And this is exactly the kind of people who would appreciate and need your help.

Because I said to myself walking out of her home, this is the United States of America and no one in our country should have to live like that. Thank you for your time.

MS. ANDERSON: Thank you. Mr. William McDonald. The next witness will be Terri Reddell.

MR. MCDONALD: Madam Chairperson, if Mayor Reddell and myself could wait until our item agenda, Item 2<sup>©</sup> comes up.

MS. ANDERSON: Okay. Thank you. Bernadine Spears.

MS. SPEARS: Madam Chairperson, for the board members and Ms. Carrington, I'm back again. Bernadine

Spears from Odessa, Texas, Odessa Housing Authority 124 East 2nd. I'm asking your consideration for Key West Senior Village, although it's not on the waiting list anymore. We would consider -- we would hope that you would consider allowing us to have 36 units of single housing in Odessa, Texas.

Along with the evacuees that are coming throughout the United States, Odessa is being influxed with a number of evacuees. And we're looking for permanent long-term housing and not just short-term. So any consideration that you would give us would definitely be appreciated. Thank you for your time and consideration.

MS. ANDERSON: Ronald Duncan. The next person will be Corby Alexander.

MR. DUNCAN: Ladies and Gentlemen, members of the board, I'm Ron Duncan. I'm the city administrator of Crockett, Texas. And I'm here in support of Mr. Gary Traylor of Gary R. Traylor and Associates's appeal of the scoring of the 2005 HOME program.

After looking at some of the evidence that Mr. Traylor presented to us, and looking at what appears on the surface to be at least an effort to skirt around the application process and possibly is much worse, the City

of Crockett wholeheartedly supports Mr. Traylor in his appeal to the board to at least have a hearing and an investigation on the allegations that he's making, because they strike to the very heart of the HOME program application process.

The City of Crockett has participated in the HOME program for as long as I've been at the city, and for ten to 15, 20 years beyond that. And we have managed to put some low-income and disabled homeowners in a position where they could live in a decent house that wasn't falling down on their heads, wasn't rodent infested. And this year we're able to put ten quality families back into a home they would otherwise not be able to afford.

The City of Crockett is a small city. We're just 7,141 people. I'm joined by City Councilman Jackie Jones, Jr., who represents one of our poorest precincts. He -- we're putting four families in his precinct into a decent, affordable home, which they otherwise wouldn't have.

We ask that -- the City of Crockett, that you at least give consideration to Mr. Traylor's appeal. We may not somehow come out in the scoring, and again, get our scoring restored, but at least it will give us faith that the process is intact. Because without this

particular program, the City of Crockett wouldn't be able to put those people into those houses. And I would just beg the board to at least consider the appeal and to give it your consideration. Thank you.

MS. ANDERSON: Thank you, sir. Mr. Alexander. And the next witness is Tim Glendening.

MR. ALEXANDER: Hello, Ladies and Gentlemen of the board. My name is Corby Alexander. I am City Administrator of the City of Goshen. And I am here to echo the same sentiments as my colleague from Crockett, Texas. We were another community that competed in this year's round of applications for the HOME grant project.

We are, like many communities, have a dire need that your program allow us to serve people that really need renovations to their housing projects. We need to get -- one of the things I wanted to share with you was that during our process of walking through the grant application this year, one of the things that was a big consideration for us was what could we afford?

We went through a grant application process. We -- our request was dictated primarily by the amount of resources that we felt we could commit to the program. And I will say this to you, that I think it would have built primarily -- basically three homes. And that was

primarily because we knew what money we had available. It would not have been appropriate for us to, in my opinion, for us to have engaged in any sort of mechanisms whereby we could have upped the amount that we could have afforded falsely.

Any of this -- all those are things that I think that you've been presented with. And those are just some of the things that we ask you to consider, is that you take action to make sure that what we have is a level playing field, that all communities can compete, and can compete in an equitable manner. Thank you for your time.

MS. ANDERSON: Thank you, sir. Mr. Glendening. And then the next witness will be Mark Taylor.

MR. GLENDENING: Good morning. My name is Tim Glendening. I have an agenda I'd like to pass around. Thank you. Let me begin this by saying that I've been involved with the state grant program for about 21 years.

And during most of that period of time, I've represented a number of cities and one of those towns is the City of Kemp. I had a telephone conversation with the new city administrator of Kemp recently, Mr. James Stroman [phonetic].

They submitted an application for HOME Program funds, and it appears that they are one of the cities that

are scheduled to be awarded that grant. He brought to my attention that there was a letter that had been submitted to them for Grant Works. And it was a promise, essentially, that Grant Works would provide the reserve funds that were -- that was a scoring item in the application.

The letter was unsigned. Mr. Stroman contacted Grant Works. They were -- responded back that they were not going to provide a signed letter, that they were reluctant to do so, which I thought was interesting, since this program was supposed to be on the up and up.

But basically, Kemp does not have the resources to provide those cash reserves. So I'm concerned about making this presentation to you this morning because, as some of the towns you've heard from already, and some of those you'll probably hear later on, they have a very severe need for housing assistance.

But more importantly, we are concerned about the process, and the information that was submitted to the state for their application, that they want to make sure that the information is accurate. And they don't want to be in the position of having to pay money back should they accept these funds later on and find for some reason that some of the information contained in the application

perhaps was not totally accurate.

We'd like to ask that you reconsider these applications in light of this issue. And I've been told that this is not unique to Kemp, but to several other cities as well. Thank you very much.

MS. ANDERSON: Thank you, sir. Mr. Taylor. And then the next witness is Kay Howard.

MR. TAYLOR: Good morning. My name is Mark Taylor. I'm employed with Gary Traylor and Associates. I won't take up much of your time this morning. I can assure you I won't take the full two minutes. What I have to say is kind of short and sweet, as most of my speeches are.

I do want to just very briefly discuss with you, though, the cities that we represented in this HOME application cycle. All of these cities have needs, as I'm sure all of the other applicants do.

Bottom line is meeting these needs with the funds that are available, with the Government funds that are available. The cities that we represent took this very seriously. They took their obligations very seriously. They worked very diligently as a city to determine what they could realistically do.

Many cities that we represented we have

represented in the past. Some of those cities we have represented numerous times. Most of the cities we represented went so far as to lower their grant application amount this year in order to raise the amount -- the percentage of matched commitment, because they are limited with the funds that they have available.

There is an old saying. I'm sure a lot of you have heard it before. Just because you put your boots in the oven, that don't mean they're biscuits. As board members, I do ask you to take your responsibilities very seriously. I do ask that you do look in the oven and see what's in there. That's an issue that definitely needs to be addressed. Thank you.

MS. ANDERSON: Kay Howard, and then Linn Joffrion.

MS. HOWARD: Thank you, Chairman Anderson and the board. My name is Kay Howard. I'm president of A&J Household Services, Inc. I'm from West Texas, as you can tell by my brogue, I'm sure.

We -- my cities that I represent, the City of Floydada, City of Muleshoe, City of Olton, City of Seminole -- they were concerned about this thing that was happening in Kemp. You know, as they said -- they said, Kay, you told us this is real money. That we needed to

have this money in cash reserves for our city so that in order that if we were using particularly local contractors, if they needed to make draws, we would have the money provided there for them, and then we'd get reimbursed from TDHCA. We thought this was the way the program worked.

In fact, all that time Muleshoe has participated in these programs. And we've got some wonderful homes for our new low-income people. And we would just ask that the board would direct staff to look into these allegations a little bit more thoroughly before you go ahead with those recommendations.

We don't feel like it ought to be on the compliance side, in that once we've already made the mistake, we find out a city that doesn't have the money may not be able to meet their obligation match. And as we all know, you all are very serious about us making that match.

And we understand that, and our cities want to take on that obligation. So if you would, we would really appreciate you all looking into it and asking the staff just to take a little more time for investigative purposes. And thank you all.

MS. ANDERSON: Okay. Lin Joffrion and John

Meinkowsky.

MR. JOFFRION: Good morning. My name is Linn Joffrion. I'm the city commissioner with the City of Carthage. And I'd like to tell you that I'm here to thank you for funding our HOME program grant application but that's simply not the case. We don't mind not getting funded. We're adults, and when we get beat out on a fair playing field, that's fine. And it's happened to us often.

I've been in your shoes before. I -- the 20 years, ever since Governor Bill Clements appointed me to the East Texas Regional Review Committee that oversees block grant funding, I've been on that committee and I've been trying for 20 years to get off. And after you deal with this issue you may want off of here as well.

But I would just ask that you take a look at the process in the -- and I failed to say in the 20 years I've been on the East Texas Regional Review Committee, probably the first 15 years or so, those applications were handled through TDHCA. And I had nothing but respect for them. The -- and for the processes that they took us through.

Our process is a little different. We actually had a part in scoring these applications. And one thing

that was constantly drilled into us by the staff was the issue of fairness, the issue of making certain that the questions were properly answered, that the information that was on the applications was correct, and -- because we were not professionals at this. We were appointees, just as yourselves are.

But -- and the very reason for that was to avoid appeals. And I think I would implore you to take a second look at these applications. See what you can do on this, and please do take a second look at it. And see -- if we get beat out on a fair level playing field, that's fine with us, and we'll apply again, but I'd just like to see everybody on the same page. Thank you.

MS. ANDERSON: Thank you, sir. Mr. Meinkowsky. And then the next witness is Diane McIver.

MR. MEINKOWSKY: Good morning. Thank you for the opportunity to talk to you today. I'm John Meinkowsky with ARCIL, Inc., one of the contractors for a tenant-based rental assistance with the Olmstead set-aside, using rent assistance for people who are coming out of institutions. We do appreciate the program. There is a continuing need for it. Please don't think that this is going away.

The other opportunities for affordable housing

for people with severe disabilities is not getting better on the national scale and locally. Our service area is within the Austin Region and we originally received funds to provide assistance to ten people. We should have number ten going into their own apartment in the next few days. So we're doing okay. It started slow in some places, but it's happening.

There will be an ongoing need for quite a while, this program. The program is still important. We know that there are over 2,000 people a year coming out of nursing facilities, and again to Austin, folks from other institutions as well.

Most of those people don't need this, but there is going to be a steady stream of people that do. And I do appreciate your support. I appreciate the TDHCA staff who have done really wonderful things and teaching us how to get this done and making it possible.

Do I have any time left?

MS. ANDERSON: You do until she says time.

MS. WOOD: Forty seconds.

MR. MEINKOWSKY: I can do that. Go Tech.

MS. ANDERSON: Thank you, sir.

MR. CONINE: A man after my own heart.

MR. CONINE: Another letter.

MS. ANDERSON: Another letter.

MS. MCIVER: It's another letter.

MR. CONINE: Love letter, I'm sure.

MS. MCIVER: I'm Diana McIver. And I am the president of TAAP, the Texas Affiliation of Affordable Housing Providers and my comments today are on the 2006 Qualified Allocation Plan.

First off, though, I want to echo the comments of Mike Gerber, complimenting the agency, and also the industry on how well this state has reacted to Hurricane Katrina. It is just awesome. I think the response from the housing providers and the service providers from the agency really makes Texas coming out looking very, very good in this whole process. And I thank everybody for that.

Mr. Gonzalez was actually at a groundbreaking for us the other day, too. So I appreciate your coming. And in Pearsall, Texas, which many of you know is 45 miles south of San Antonio. And that day we actually had our first evacuee receive housing in a tax credit property in Pearsall. So it's reaching beyond even just the urban areas, and I think part of that is the outreach with the agency and that our organizations put out there.

Today I want to walk through more board

comments. We were here a month ago. And I'll try not to dwell on the ones that I addressed the last time but this time we've been through the entire QAP, and wanted to let you know what the concerns of our members are and we do represent 150 members.

But the first one really gets back to the issue of quantifiable community participation. And we had three options the last time. We have culled that down to two, one being a different scoring which condenses points, which then means if you do not have a neighborhood association, you're only losing one point over your competitors who have a neighborhood association who supports the development.

Option two is to simply provide a category below the line that gives points for places where there are no neighborhood associations. And it doesn't equalize the gap, but it gets you within four points.

Other ways, and a lot of our members are really trying to push getting projects out into the smaller cities. And so other ways to promote projects in smaller cities -- one is you're already allowing three points for projects not greater than 36 units.

So we would recommend that you increase that size to 76 units. That would help some of the smaller

projects get built to the exurban areas. We also are recommending that you consider some -- a set-aside type of approach in Regions three, six, seven and nine, whereby either not more than 70 percent of the funds went to the urban cities, or to have an exurban set-aside of ten percent in those regions to get some of those out to the cities in exurban areas.

Under local political subdivision funding, again, we really do believe that the HOME funds issued by the state should pass. And I know they were in last year. They were taken out this year because there was some concern about whether those are truly local funds.

Because this agency acts as the holder of those funds for our local rural communities that don't receive them directly, I believe they should be treated the same as HOME funds.

If you don't do that, then you've got to say that all HOME funds are federal funds, because they all start at the Fed, and so either to the cities allocate directly or to this agency to allocate on behalf of non-participating jurisdictions.

The other one is a, again, we would like to emphasize we really believe that the vouchers -- that's one source that our rural areas and smaller cities have,

is the ability to do those projects -- vouchers to get that 18 points. So we'd really like to see that back in.

And there really is a direct cost -- a development cost savings, because those vouchers oftentimes, generally, have rents that are ahead of or higher than your 30 and 50 percent rents so that means you have a lower mortgage. So I think you can actually justify that that is a development subsidy, not just an operating subsidy.

Ineligible applications -- again, we oppose the idea of requiring projects located in census tracts that have in excess of 500 units of housing or new construction in Regions three, six, seven and nine. We are opposed to those -- that class of projects having to go out for a special resolution from the local government.

HUD points -- we worked on this, and here is what we are proposing. We are proposing that under project sponsor characteristics, that we add a section that encourages those points for historically underutilized businesses. And what we are proposing is that it be a pot of funds not to exceed four points. And you can qualify them -- for them by getting two points if you have a HUD general partner with at least 50 percent ownership, two points if you have a developer with at

least 50 percent of the earned developer fee, and then one point each if you engage HUD staff or -- in your development team who are either consultants, contractors, architects, engineers, attorney accountants, management agent and real estate brokers, provided the fee for the service is at least 50,000. So those would be one point each.

That's our way of trying to engage the broader community outside of just the ownership and the development role, and to qualify, the basics would have to be submitted, that HUD certification from the state, which is already a requirement, and would have to be in place by March 1, which is the application acceptance date, whatever the magic date is.

And then if you were to have to, for some reason, change one of those HUDs, you'd have to replace it with another HUD. So for example, if you were using an architecture firm that had a HUD designation and something happened to that, then you would have to replace that with another architecture firm. So that's the way it would be tracked and enforced.

So that's our attempt right now to get to where we were at the last meeting, to really encourage HUD participation in the program in a meaningful way.

Then the other part of that is just more of a technical correction. And there already is a sponsor characteristic proposed by the staff in their version that has to do with people who are not performing. And they used a test of folks who have received an allocation and not placed into service and gotten 8609s.

8609s are controlled by the agency. What we as developers control is the submission of a cost certification, so we were just proposing to change that language to make it something under our control rather than your control. And I think you would really like that, because otherwise there is going to be huge pressure on getting 8609s issued. So --

Populations with special needs. We like that part. What we would recommend is that the definition of persons with special needs be amended to include individuals and families displaced as a result of Hurricane Katrina. We think that would be a good category for special needs.

But also to avoid any abuse in that area, we would propose that applicants receiving points for serving special needs in any of those categories be required to hold these units open for at least 12 months so that people aren't abusing that.

I believe there are a couple of people that --

MS. ANDERSON: I've already -- that includes all the people that yielded time to you.

MS. MCIVER: Oh, do you have Jerry Wright?

MS. ANDERSON: He said he wanted to speak.

MR. WRIGHT: I yield my time to --

MS. ANDERSON: Okay. Two more minutes.

MS. MCIVER: The others are community revitalization plan -- we would ask that you go back to last year's definition of that, because most communities don't have a capitalized community revitalization plan. It's generally part of another plan.

Ineligible building types, our position stays the same on that. We appreciate the greater flexibility important in the border regions, and also important as a result of what we experienced with Katrina.

Rehab costs, we would ask that the \$12,000 rehab cost not be enforced if someone has a project needs assessment showing that they don't need to do at least 12,000 to get some of the rehab projects out there.

And then one of our ideas, and this -- Brooke has always said we're a self-policing industry. And what we are going to propose -- there has been some issues with people delivering a different product than what they

promised. And so what we would say, here are the penalties we would suggest.

We would suggest that when that happens, and it -- and someone produces something that's significantly different from what they proposed and said they would do, then it would be one-year debarment. It would be a fine imposed equal to 10 percent of the amount of the annual credit allocation. And the applicant, in addition to that, must submit a plan to be approved by the agency, which shows additional amenities to make up for the things they left out.

So we believe -- we know it's been disconcerting to you all for people to change their applications and not have a way of penalizing them, so that is the penalty that our board would propose.

And that ends my comments. Thank you very, very much.

MS. ANDERSON: Thank you very much. For the benefit of everyone here that may not understand some of our -- how we do things, there were several people who yielded their time to Ms. McIver, and that's why she had the time to make more extensive comments than the other people we've heard from this morning.

This concludes the public comment for people

who want to make comment at the beginning of the board meeting, unless there is someone out there that wants to change their mind about when they want to speak.

If not, then we will turn to our agenda.

Action Item Number One is Presentation, Discussion and Possible Approval of Minutes of the Board Meetings of July 27, 2005 and August 19, 2005.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MR. GONZALEZ: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: Thank you. The motion carries.

Next we go to Item 2, which is a series of things about housing tax credit items, the first being Item 2(a), some tax credit amendments. Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair. The first two items are requesting amendments for tax credit transactions that involve material changes. The first one is South Union Place Apartments and this would be located

in Houston.

And what they are requesting is a change in the bedroom configuration in the 99 one-bedroom units. We would actually have 100 one-bedroom units.

And the 26 two-bedroom units that were proposed would actually go down to 25 two-bedroom units. And there would be an increase in the square footage. The original square footage in the application was 95,571, what would ultimately be built would include 97,940 square feet. And staff is recommending that this change be approved.

It would not -- these changes would not have adversely affected the selection of the application in the application round and we are recommending this approval.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: I have public comment on this item. Mr. Tim Smith.

MR. SMITH: That's for Rancho de Luna.

MS. ANDERSON: Oh, I'm sorry. I can't tell that from this. Thank you. No. There's a motion on the floor. Discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Thank you, Madam Chair. The second item for your consideration under this particular section requesting a material change is the Rancho de Luna Apartments and this would be located in Robstown. They are actually requesting two changes in this application, and you will note that this was a 2001 application of tax credits and the development is built at this point.

The two changes that they are recommending is that originally as -- and this was actually tabled from the July 27 board meeting, and Mr. Conine's request that we come back and look at this again with some additional information.

It was originally proposed to be built with one bedroom/one baths, and two bedroom/two baths, as was explained in July, what was ultimately built included two bedroom/one baths instead of two baths. And then also they are requesting a reduction in the number of market rate units.

What was originally proposed in the market rate units was 19 units. What they are proposing to the department now is actually 17 units. And the reason for

that is that there are presently about \$9,900 in eligible basis left in tax credits that could be allocated to this property.

And because of the age of these credits, being 2001, if those -- if this additional basis was not used, then these credits would not be used. They cannot be recaptured and returned to the department.

And we sort of went through the whole explanation for you in July. I mean, basically what happened is that the inspector missed it when he went out to inspect the property, and in looking at Mr. Conine's question and concern when this was tabled at that July board meeting, it was what mechanisms have we put in place to ensure that this does not happen again?

And so what I have is an explanation of the process that we're using now. This was a third-party inspector that the department was using to do these inspections. We now are doing two inspections. We're doing what we call a mid-construction inspection and the owner does have an obligation to tell us at what point they believe they are at mid-construction and need that inspection.

And when we go out -- and these inspections are primarily being done by the manufactured housing division

of the department. So when they go out, they have a list of the amenities; they have a sheet that tells them what they're -- what is supposed to be built, how many buildings, how many bedrooms, how many baths, so they are working off of that sheet as they make the inspections. And we're also checking for all threshold items at that point and also for all accessibility items. Then of course, we do a final inspection on these transactions also.

So I will not tell you that it's a 100 percent guarantee that this will work, but we do believe that we put a process in place and rewritten rules that will help minimize this kind of occurrence in the future.

So with that, the fact that it is built and I would assume occupied, staff is recommending that the board does grant these waivers on both of these transactions -- on these two items on this transaction.

MR. SALINAS: What were they supposed to be doing?

MS. CARRINGTON: They were supposed to be building 40 two-bedroom/two-bath units, Mayor.

MR. SALINAS: This is what the board approved.

MS. CARRINGTON: That is what the board approved.

MR. SALINAS: Two and two.

MS. CARRINGTON: What was actually built were two-bedroom/one-bath units.

MR. SALINAS: Is that -- what does legal counsel say about that? I would rather have the legal -- I mean, something that got approved by this board and then they change the rules, and then they come back and say we're sorry, we only built you one bathroom, and that's -- that would be hard for me to swallow that one.

MS. CARRINGTON: I think it's very, very unfortunate, but I think --

MR. SALINAS: So what is the attorney saying? Or let's just not give him any tax credits. They can go ahead and build --

MS. CARRINGTON: And as he is coming up, there were no additional points given for the fact that it was going to be a two-bedroom/two-bath, as opposed to a two-bedroom/one-bath. So from a rule standpoint, what they violated was what they coveted to this agency in their application that they said they were going to do.

They said they were going to build one thing; they built something else. From a points standpoint, they didn't violate anything in points. They would have still gotten this allocation most likely, but what the

department does have is a different product than what was originally proposed in the application.

MR. SALINAS: What do you say?

MR. HAMBY: Kevin Hamby, General Counsel. Mayor, I believe that -- and of course all of this is prior to my getting here.

MR. SALINAS: Is it prior to my being here?

MS. CARRINGTON: Well, it was an allocation in 2001, Mayor.

MR. SALINAS: Was I here?

MS. CARRINGTON: 2001 in July.

MR. SALINAS: Maybe I was not here then.

MR. HAMBY: Obviously the board expects developers to build what they say they are going to build; however, this board has the discretion to approve changes after the fact when they're submitted in the proper fashion and brought before the board. So you have the authority to do this.

MR. BOGANY: I had a question.

MS. ANDERSON: We have some public comment, so we might want to hear -- whenever you're ready to hear from the developer, we can do that.

MR. BOGANY: Yes, let's hear from the developer.

MS. ANDERSON: Mr. Smith.

MR. SMITH: Good morning. My name is Tim Smith with Barron Builders Development. I represent Barron Rush, the developer on this project. This was an unfortunate mistake. We worked with staff over this intensively the last couple of months to backtrack, find out what did happen. Again, this was a set of plans that we had done several successful tax credit developments with in the State of Louisiana.

We used the same architect. The architect contract was for two-bedroom/two-bath units. We sent it out to staff. They verified it. It was signed, sealed and executed. We had a new employee come on that was very experienced in architecture and construction, not versed in tax credits.

Saw these plans, and saw that it was -- this person that was in charge of the development saw that this is what we had done before, and it just slipped past. It was something that we had built successfully, leased up, and very marketable, provided good housing.

And it slipped through the syndicators review process, the lenders review process, the developers and even the third-party inspector.

As soon as we found out about the mistake after

it was -- we were starting the lease-up, that was when the management team discovered it. We researched immediately what had happened, what was in the application, what the QAP said, talked to public consultants and then notified the board and said here we are. How do we handle this?

And here we are today looking to solve this problem. And the staff has stated this would not have impacted scoring. It should have been originally in the application as a two-bedroom/one-bath unit. It would have scored just the same as it did then. And unfortunately, here we are trying to fix this situation.

But it's leased up. It's full. It's providing good housing in the City of Robstown right now and it would be a shame to see a development that's on the ground fulfilling the much-needed housing need on --

MR. BOGANY: The first one -- did you say that the architect was experienced, not that the builder, the contractor, excuse me, was experienced, and you gave him plans for the two-bedroom/two-bath, and he went ahead and built two bedroom/one bath?

MR. SMITH: No, no.

MR. BOGANY: What did you say? I didn't understand.

MR. SMITH: Yes. At the time in this company,

there was lots of development going on, and they brought in a new employee who had experience in overseeing development.

So this person was in charge, but not familiar with the intricacies of tax credit applications. A architect contract was submitted to the architect for two-bedroom/two-bath designs. The architect -- the third-party architect gave us the same set of plans that we had used from him on two previous developments. We even forwarded those up to the staff to see for themselves that they matched up with Rancho de Luna.

And so when it came across the board, I can only say this employee is not with us anymore. I can only assume that since this was a successful design that we had built and put in place and leased up, it didn't raise any flags, and they went forward.

There was no change in the actual architectural construction documents with that.

MR. BOGANY: Okay. Second question I had, are you charging the same as the two/twos would have been charged, or the two/ones?

MR. SMITH: What's -- tax credit -- it's charged in the tax credit --

MR. BOGANY: I mean, but your application said

I'm going to charge 650 for a two/two. Now you're delivering two/ones, and you've got it leased, but are you still charging 650?

MR. SMITH: I have -- I don't know what the management team is working on. I would assume that they are looking at the maximum rents available for a fifty -- you know, people living at the 60 percent, 50 percent, 40 percent, and 30 percent rent skews minus the utility allowances, and that's what is being charged. Assume that's comparable with the market.

MR. BOGANY: So the actuality, really, with the citizens of Robstown is benefit because we've got a project there.

MR. SMITH: Yes.

MR. BOGANY: But you guys are making more money because you're selling -- you're doing better because you didn't have to do construction for two/twos. You ended up doing them for two/ones. So it increased your profit line also.

MR. SMITH: Well, there were cost overruns on this development anyway. The best -- I guess the best we can determine, that if you want to put a price tag on it, is you look at the big difference in the basis; that with the second amendment.

MR. BOGANY: Okay. And this is my last question. Are -- you guys have any other projects that are on the board in Texas?

MR. SMITH: No. No. We did not submit last year, and we have not -- have no plans to submit an application for this year.

MR. BOGANY: Thank you.

MR. CONINE: I have a couple of questions of staff, if I might. You're going to fix the microphone. I need an expert in basis for a second.

MS. CARRINGTON: Well, then that would be Mr. Gouris, I believe.

MR. CONINE: Well, let me ask the first question first. On the final inspection that we did on the -- by the department staff in May 18, 2005, were there any deficiencies noted other than the one-bedroom discrepancy?

MS. CARRINGTON: No, there were not. And as we said in the write-up, although it hasn't been mentioned, we did discover this basically in 2003. But at that point, the developers told us that the advice that they got from staff was it's already built, let's go ahead and cost-certify the development and then sort it out at the end.

And then it was another couple of years by the time -- from -- between 2003 and 2005 until the documentation came to us to cost certify on this development.

MR. CONINE: Okay. And as I understand by the second request, the cost-certified eligible basis amount is -- is it in a -- the equivalent of \$9,000 worth of credits short of filling up the eligible basis to gobble up all the credit. Is that \$9,000 credit amount equivalent to what cost expenditure on the project?

MR. GOURIS: Tom Gouris, Director of Real Estate Analysis for the department. I don't know that we can pinpoint the specific -- you know --

MR. CONINE: I don't want exact numbers. Give me a round number. In other words, if you leave it at 19 market units instead of going to 17, what is it -- how much money -- how much more money does a project need to spend in order to gobble up the other \$9,000 in credits they need?

MR. GOURIS: I'd have to look more specifically at it, because the reason -- the two issues are separate. The two-bedroom/one-bath two/bedroom/two-bath issue is separate from the credit issue.

MR. CONINE: Correct. I understand they're

separate.

MR. GOURIS: And what we've done is said is there any way to spend the allocation that you received. We went back to them and asked them to present to us a plan so that they could utilize the extra credit, because that credit was going to be lost to the state otherwise. And they came back with this plan to switch out.

MR. CONINE: Well, we had asked, I think, at least in my discussion, in addition to asking Ms. Carrington how to prevent this in the future, one of the other things I asked and I haven't heard an answer for yet, is where can we go and spend some more money on this project without disrupting the market-rate units, and what -- and still keeping the two/ones and still gobble up the -- have enough increase in eligible basis to be able to utilize the credits?

And I can tell you where I'm going with this, if you'd like.

MR. GOURIS: What else could they spend it on? They could spend it on other eligible costs, but the project is complete, and so we'd just be --

MR. CONINE: How much more money would it take?

MR. GOURIS: It would be the \$379,000 that's --

MR. CONINE: 379 then translates into \$9,000 of

credits?

MR. GOURIS: Yes, sir.

MS. BOSTON: That's the basis. The basis -- by switching the two units the basis they're getting is about 380.

MR. GOURIS: Right.

MS. BOSTON: And so if you would look at that as roughly the cost, but the costs are all eligible.

MR. CONINE: But by reducing the two market rate units in this scenario, two units are worth 380,000 bucks? What's wrong -- something's wrong with that picture.

MS. BOSTON: That's --

MR. SALINAS: I think it's the extra bathrooms.

MR. CONINE: You guys spending 380 grand a unit out there? Oh. Excuse me. I guess it translates into 200,000 a unit. What's wrong with the math? Do you all want to go do the math and come back? Would that be a --

Let me tell you where I'm headed with this. And I'm going to move to table this item until either later on in this meeting, or to the next meeting. I had someone go take pictures of this project, and it is deplorable, the exterior elevation of this project.

If we had an inspector go by there in May and

we pride ourselves as an agency of building tax credit projects that you can't tell the difference between those and conventional projects, this thing looks horrible.

And they could spend \$300,000 worth on landscaping to make it look better and get the basis, and that's where I'm heading with this thing. And so I would like an answer on how much more money they need to spend in order to gobble up the credits, because I think we ought to make them spend it. It is a deplorable-looking exterior. If it's the right project that I got sent pictures on, it's a deplorable project on the outside, and it's not doing Robstown a favor.

MR. GOURIS: Yes, sir.

MR. CONINE: Thank you. Move to table.

MR. SALINAS: Second.

MS. ANDERSON: All in favor?

(A chorus of ayes.)

MS. ANDERSON: Opposed?

(No response.)

MS. ANDERSON: The motion to table carries. So moving on, Ms. Carrington to Item 2(b), please.

MS. CARRINGTON: Next item for the board's consideration are six requests for extensions of construction loan closing, and then one of those also

includes a request for an extension to commence substantial construction.

The first one is Villa del Sol. It's an '04 tax credit allocation. And the reason given for the need to extend the closing of the construction loan was working with HUD in the property disposition involved getting HUD approvals with this application.

They are rehabilitating a development that is occupied by elderly. They've executed a contract with the general contractor. They are moving forward, but they are requesting an extension until November 15 of 2005 for closing of their construction loan, and we are recommending that that be granted.

MR. BOGANY: SO moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

MR. CONINE: Question. I have a question of staff. We've got a lot of HUD extensions in here. Are all -- do all these projects have firm commitments, using the HUD definition? Do you already have firm commitments?

Or are they still under the SAM, or waiting on firm commitment? Or I'll ask it about this one, and then you can speak generally to the others if you'd like.

MS. BOSTON: It's my understanding they all do,

and that they are just dealing with like minor logistics of just getting to closing.

MR. CONINE: Okay. Thank you.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Second for the board's consideration is Providence at Boca Chica. It's also a 2004 allocation. And the reason given on this one was, again, working with HUD on the commitments and telling us -- this is a mixed-income financing proposal, and they have completed their loan negotiations. Their documents have been finalized, and they are finalizing their documents with HUD, and we are requesting that this extension be granted.

This property is located in Brownsville, and they are requesting until December 15, '05, and we are recommending that date.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: Next one, Providence at Edinburg Apartments, also a 2004 allocation. Again, this is a mixed-income financing proposal. It is a rehabilitation of the property. The tenants have started to move on this. The tenants -- they are beginning to relocate the tenants on the development, and they have finalized loan documents.

This one is located in Edinburg. They are also requesting December 15, 2005 for the date, and staff is recommending that day.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next for the board's consideration is Commons of Grace, a 2004 application. This one is located in Houston. And in this particular application, they are indicating that the City of Houston has required some changes.

They have prolonged their permitting process. They are now expecting that this permitting process will be finished by early November. They are also looking to receive a \$700,000 HOME loan from the City of Houston, and they are requesting an extension date of December 1, 2005 for the closing of the construction loan.

With this one, they are also requesting an extension of the start of substantial construction, and that date they pushed out and requested March 1, 2006. This will have to be in service by December 2006. Because of the experience of the developer, staff does feel that they have the ability to get this transaction completed at the required times.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion? I just have a question about this one since it involves the City of

Houston and HOME funds. Are the communications with the developer about their ability to get the HOME loan in November -- have those discussions occurred before or after the onset of the evacuees coming to Houston and needing --

MS. CARRINGTON: It was before, absolutely --

MS. ANDERSON: Well, I just have a question about whether the City of Houston's plans -- they put \$20 million into housing.

Is -- you know, is that affecting any of --

MR. PALMER: My name is Barry Palmer, and I am the attorney for this project, and we are working with the city to get the HOME funds. The city remains committed to the HOME funds, to this project. Even after Katrina, we have been talking to them on a daily basis. They are going -- they have told us that they will go to city council on this within the next two weeks to get this final city council approval.

So even though they have committed a massive amount of money to Katrina, they are not renegeing on any commitments that they had outstanding.

MS. ANDERSON: Okay. Thank you, Mr. Palmer. If you would fill out a witness affirmation form for this agenda item. I know you're speaking later for this agenda

item 2(b). I appreciate that.

MR. PALMER: Thank you.

MS. ANDERSON: Any other questions?

Discussion? Hearing none, I assume we're ready to vote.

All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next for the board's consideration is Lansborough Apartments, a 2004 allocation, also located in Houston. And the reason for the request of this extension is for the City of Houston to continue to review their plans and necessary site changes that had been made at the request of the city.

They tell us they're now on the second round of submission plans on city approval, and they are requesting a November 1, 2005 deadline of close of their construction loan, and staff is recommending this approval.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Discussion? I have the same question -- same nature of question about this one. The conversations with -- you know, what the City of Houston

is doing. Did those conversations occur before or after the evacuees from Katrina arrived?

MS. CARRINGTON: It would have been before.

MS. ANDERSON: Okay. Well, I just ask the staff to keep a very close eye on situations like this, where we're supposedly waiting for -- you know, because these cities now have a few other -- all across the state now have a few other things on their plate.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The last extension request for the board's consideration is L.U.L.A.C. Village Park Apartments, 2004 allocation, located in Corpus Christi. And the reason for this particular request for an extension is the 221(d)(3) loan that they are closing with HUD and working to renew a housing assistance payments contract, which is a project-based contract.

They are moving forward. They've closed a \$400,000 pre-development loan, obtained a demolition

permit, and they've resubmitted -- or they've submitted their reallocation plan to HUD -- relocation plan to HUD.

They are requesting an October 1, 2005 deadline for the close of construction loan, and staff is recommending the same.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Item 2(c), which is a 2005 Housing Tax Credit Appeal. Ms. Carrington?

MS. CARRINGTON: The appeal before the board this morning is an appeal for the Villas of Hubbard Apartments. This particular transaction is located in Hubbard, Texas, which is in Hill County. And part of the scoring criteria for the 2005 allocation of tax credits was an award of project-based assistance, project-based vouchers.

And that was -- that had to be proved up, you

know, you made the awards the end of July, and that project basing of those vouchers had to be proved up to the department by August 15, and if that was not proved up by the applicants who had actually received awards, then points were deducted, and if the application was still competitive -- it still had a competitive score, then it moved forward.

If the application did not have a competitive score, then it would -- it was taken out of the recommendations for awards. In this particular instance, once those points were deducted, the application was non-competitive in the region.

The applicant has appealed. Gary Moore from the Waco Housing Authority has provided information to the staff on the types of vouchers that would actually be provided to this development, and has also stated that the Waco Housing Authority would be willing to stand behind those vouchers for a five-year period of time.

But staff does not believe that it meets the language -- the required language in the qualified allocation plan for 2005, and we are recommending that this appeal be denied.

MS. ANDERSON: I have public comment on this item. Are you ready for that? Mr. Craig Davis.

MR. DAVIS: Hi. My name is Craig Davis. I'm here representing Jim Pitts, who was not able to be here today. He just asked that I come and read this letter that I've -- is being handed out to you at this time.

"It's my understanding that the department staff has recommended a decision that the tax credits previously awarded to the Villas of Hubbard, project number 05-243, based on a technicality regarding the type of vouchers being committed by the Hill County Section 8 office under the authority of the umbrella of the Waco Housing Authority.

"The staff's interpretation of the QAP has resulted in a loss of six points for this application, causing the application to no longer be competitive in the region. I would urge the members of the board to carefully consider the intent of the language contained in the QAP with respect to development-based vouchers.

"If the intent is to provide a guaranteed source of rental assistance to a project, it would appear that this application has received such a guarantee, albeit not in the form of the more familiar project-based vouchers.

"Smaller housing authorities, such as the Hill County Section 8 office, are at a considerable

disadvantage compared to housing authorities in the larger metropolitan areas, both in terms of funding and personnel, thereby making it difficult, if not impossible to administer a traditional project-based voucher system.

"In the case of the Villas of Hubbard, the local housing authority is willing to work with the resources that they have available and guarantee two Section 8 housing source vouchers to the project out of their tenant-based program.

"The guarantee includes the provision that the housing authority will pay for any overages out of their fees or other resources, to the extent that providing such vouchers for the projects would cause them to exceed their allocation authority, i.e., they're willing to put their own resources on the line in order to provide vouchers for this project.

"I would also urge the staff to consider the fact that the City of Hubbard has never received a tax credit award, although there is a dire need for affordable quality housing in the community. The senior citizens of Hubbard need the options in their own community as they grow older and can no longer take care of their home.

"There are currently no senior housing options in the City of Hubbard, tax credit or otherwise. I thank

you for your careful consideration of this appeal, and personally request that you consider a forward commitment for the Villas of Hubbard in the event the appeal's denied on a technicality. Thank you.

MS. ANDERSON: Mr. William McDonald.

MR. MCDONALD: Madam Chair, members of the board, I'm here today to ask you to support the City of Hubbard's request for this appeal, for the Villas of Hubbard. Basically this project is extremely important to Hubbard, Texas, because we're located halfway between Waco and Corsicana on Highway 31, but we have many elderly in our community that need some type of housing assistance.

And in the past five years, we've invested over \$3 million in a new water plant, diverse osmosis plant, and also money invested in a wastewater treatment plant and funds invested in the senior citizen center.

It's important that this project will add \$2.5 million to our tax base of 39.7 million for the 36 units.

As city manager during the past two years, I've personally tried to contact many developers to come to our community, and we haven't been able to do that until Ms. Griffin came forward and said she would build these projects within our community.

I believe that the citizens in surrounding

communities, as a hub of our community, will come forward and appreciate this worthwhile project. I've personally had citizens contact me who said their homes are dilapidated and need help. This project will meet that need.

Finally, I would suggest to you that if the City of Hubbard has not had tax credits in the past, this is a good opportunity to help rural areas, and our community is very needy.

I suggest to you finally, that if we cannot get this under the Section 8 program of the vouchers which are committed to, please provide us a forward allocation to allow this project to go forward.

We know we want to help the individuals of Katrina, but this permanent home situation that we can have will help the elderly both now and into the future. Thank you.

MS. ANDERSON: Mr. Terri Reddell.

MR. REDDELL: Chairman Anderson and members of the board, my name is Terri Reddell and I'm mayor of Hubbard, a newly elected mayor. So a lot of this I don't know much about, but I do know that we need this project in the worst way.

I've lived there for 37 years so I'm pretty

familiar with the area. The city has no affordable senior housing developments, has had none for its approximately 496 residents that are senior citizens.

There have been no new multi-family construction in Hubbard since 1983. So the -- you know, we do need the project. The support for the project has been overwhelming at both the state and local level. The entire city council and the community stands behind the project, and we would appreciate it if you could help us out here. Thank you.

MS. ANDERSON: Thank you. Deborah Griffin.

MS. GRIFFIN: Good afternoon. I'm Deborah Griffin, president of Hearthside Development. Obviously what this issue surrounds is a -- the issue of whether or not the type of vouchers that were received from the Waco Housing Authority meet the definition of the QAP. Those on the staff that know me, I'm very particular; I'm a CPA. I'm very cut-and-dry, and I never do smoke and mirrors.

I wouldn't be up here making this argument if I didn't think it was real.

The QAP specifically provided that the development would receive development-based housing choice rental assistance vouchers, or rental assistance subsidy approved by an annual contract, blah, blah, blah, with

HUD.

What we have received from the -- and the -- my commitment was two vouchers from the Hill County Section 8 Office. The Hill County Section 8 Office is under the Waco Housing Authority.

I have specifically received two vouchers. They do not have project-based vouchers at Waco Housing Authority. There are -- it's not something they do, but in an effort to meet the exact language of the plan, they have agreed to provide out of their regular housing choice Section 8 portable voucher a guarantee, and they literally use that word, a guarantee of two vouchers to this project.

And what that -- and they're allowed to do that without going to a competitive bid process, because they're willing to pay for those vouchers out of their own fees if they don't have any vouchers left.

And so this is a real commitment that can come out of their pocket. They have indicated that they've actually used the word guaranteed, and what this also means is that there is 100 people on the waiting list that there is no vouchers left. The people for the Villas of Hubbard would still get these two vouchers, even if there is no vouchers left, because the housing authority is

willing to pay for it out of their own pocket.

So Mr. Moore, with the Waco Housing Authority, has gone just above and beyond. He's bent over backward with their resources to make a guarantee for this project.

And because they're actually guaranteeing it, and they're willing to pay for it themselves, to me that meets the language of providing guaranteed rental assistance to this project. Thank you.

MR. CONINE: Is there a time limit on the guarantee?

MS. GRIFFIN: It actually is an ongoing guarantee. So as long as the HUD program is available, it's ongoing. So it's a minimum of five years, but he's willing to do it forever, however long the program is in place.

MR. CONINE: Okay. Thank you.

MS. ANDERSON: Other questions of Ms. Griffin?  
Thank you.

MR. CONINE: Is that it?

MS. ANDERSON: That's the end of the public comment. Yes.

MR. CONINE: I have one question for staff that I had. Did this advent of the guarantee from the Waco group occur after the cut-off date that we had or were you

knowledgeable about the guarantee when you wrote them the kick-out letter?

MS. BOSTON: No, the guarantee was in an earlier letter so the issue for us, that wasn't the guarantee at all.

MR. CONINE: What was the issue?

MS. BOSTON: The issue is that the commitment, as far as tenant-based vouchers, and in that commitment they have the authority to do -- to transfer 20 percent of their tenant-based vouchers and some development-based vouchers with the permission of HUD. And the executive director of the housing authority confirmed they had to get HUD approval for that, and that process hasn't taken place.

The QAP requires that the vouchers be development-based vouchers, and at this time, those vouchers aren't. So if anything, we would still need HUD approval for that process to take place.

MR. CONINE: I thought she said they had the ability to do that without HUD approval.

MS. BOSTON: The executive director of the housing authority has told us he does need HUD approval.

MR. CONINE: Okay.

MS. BOSTON: That's -- he would be who I got my

information from.

MR. SALINAS: Can we try and get HUD approval?

I think that HUD is wanting everybody in the state of Texas to have vouchers for --

MS. BOSTON: That would be one alternative.

If the board did choose to grant this, you could condition it on their --

MR. SALINAS: Subject to the --

MS. BOSTON: -- getting HUD approval of that transfer of the vouchers.

MS. ANDERSON: This letter of the 22nd of August says, "This practice is allowable by HUD as long as the authority is willing to pay for the overages, blah, blah, blah."

MS. BOSTON: Right. And when we talked to him, he indicated that that allowable is with permission, and that permission hasn't happened yet.

MR. CONINE: What I'm hearing them say, though, is that it doesn't matter what HUD says. If HUD says no, we're going to come up with the money to fund those two people their rent --

MS. BOSTON: And I don't disagree with that at all, but the QAP says we can only give the points if they're a certain type of voucher.

MR. CONINE: Okay. All right.

MS. BOSTON: So we don't disagree that the housing authority is going to back the financing of this.

MR. CONINE: Okay.

MS. BOSTON: We just say that it doesn't meet the requirement. And if they get HUD approval, ultimately, it might meet the definition even in the QAP.

MR. CONINE: Right. Okay. I'm sure it will.

MS. BOSTON: It just doesn't have that one permission yet.

MS. ANDERSON: What did the application say? How was this money identified in the application?

MS. BOSTON: It indicated that they would be getting vouchers.

MS. ANDERSON: Did it say vouchers? Green vouchers? Pink vouchers? Development vouchers? HUD tenant-based vouchers?

MS. BOSTON: They requested points under the development-based vouchers section. But then when we proceeded to get documentation, everyone is in agreement that the evidence has been given to support tenant-based vouchers. It's just that the second step of getting permission for those vouchers to be reclassified as development-based vouchers hasn't yet taken place.

And it's -- I hear that the applicant is saying that that approval doesn't need to come from HUD. The housing authority executive director says it does. So --

MS. ANDERSON: Any other questions?

MR. GORDON: How hard would it -- what's the likelihood of getting that approval?

MS. BOSTON: I would imagine that it's very likely. HUD tends to be supportive of the housing authority when they request something like that. And on similar type -- similar situations where we're still asking for HUD approval from other entities for their local financing, we're giving them until the 10 percent test. So I mean, if you're trying --

MR. SALINAS: Why don't we do that? Why don't we just approve it? Approve the Hubbard apartments subject to the HUD approval of the vouchers? Can we do that?

MS. ANDERSON: What were --

MR. SALINAS: -- I mean --

MS. BOSTON: On some of the other items where they were granted -- vouchers that -- remember there was a whole thing where they had to go through a formal bid process, and the housing authorities have to go through a bid process even to do the development-based vouchers.

They have to take it out. They have to award it to a specific development. HUD had very specific requirements for that.

We would not require that the entire bid process and all the HUD requirements take place by commitment notice. We're requiring that that process take place by the 10 percent test in June, because feasibly there is no way that that all could have happened.

But the housing authorities are preliminary committing on as long as these entities meet -- satisfy the bid process.

MR. CONINE: Could we hear the applicant on a follow-up, please?

MS. GRIFFIN: The other comment that I'd like to make is what the staff is bringing up about this requirement for bid process and HUD approval, that was not in the QAP. That language is not in the QAP. It simply talks about the development-based vouchers. That was added at a later date.

When everybody had these outstanding commitments at a later date, the TDHCA was trying to -- and everybody is calling, going can we substitute sources, and all of that? Well, TDHCA was trying to work all that out, and decided, No, you can't substitute sources. It

has to be the source that you said.

And at that point in time, they came out and said that if you don't have your full commitment, then it has to have -- you know, you would say that you haven't gone all the way through the bid process. The bid process and HUD approval was not mentioned in the QAP.

And that's my whole issue here, is that I have a housing authority that's willing to come out of pocket to make sure that there is two vouchers available for this project.

MS. ANDERSON: When was all this done? All you're talking about, what's going on with the department? Last month?

MS. GRIFFIN: No, in -- when the department -- sent out to everybody that had pending points in this area, they sent out notification to everybody. That was on July 1 that they sent out notification to everybody, and then they added further clarification, but that language wasn't in the QAP that you had to go through a competitive bid process or whatever.

So I admit this is an unusual type of voucher, but the housing authority has bent over backwards with their resources to look at what the language in the QAP was asking for and using what they had, and willing to

come out of pocket if they had to, to make sure that the -- you know, they had the two vouchers on an ongoing basis.

So they've taken a tenant-based voucher and converted it to a development-based voucher by agreeing to guarantee it and come out of pocket for it.

MR. CONINE: No matter whether HUD gives any approval to it or not.

MS. GRIFFIN: Right. They're willing to do it, and they have the right to do it, as he says in his letter, Mr. Moore says in his letter, they have the right to do that without going to HUD. Thank you.

MS. BOSTON: Just to clarify, before we have released the additional things indicating that people needed to give us that proof later, HUD was telling us that we were not going to be able to count any voucher points for anyone if we took it the way the PHAs were giving it to us.

So us coming up with this additional follow-up was a chance to give applicants the point. It was -- it would have been more restrictive had we gone purely based on the QAP language. And again, it's a different issue because in her case, the vouchers haven't been reclassified yet. So if we weren't willing to look at HUD

issues, then purely out from the get-go as tenant-based vouchers, in our opinion, that would not have qualified at all.

MR. SALINAS: So I'm --

MS. ANDERSON: But to Representative Pitts's letter's point, some of these small cities don't have development-based vouchers. So I mean, that sounds like something we need to think about for the QAP for next year. I mean, it sounds like we've got a flaw in our thinking.

MS. BOSTON: If they'd go through the process of requesting that 20 percent be transferred to project-based, then that's fine, which is what the case is here.

MR. CONINE: I'm going to move that we grant the appeal subject to staff being happy with the guarantee language from the Waco Housing Authority.

MR. SALINAS: I'll second that motion.

MS. BOSTON: Okay. Just for clarification, can that include that we condition it by the 10 percent test -- we have proof either that HUD did not need to approve it, or that HUD has approved?

MR. CONINE: Yes.

MR. GORDON: Will that work?

MR. CONINE: Well, I -- wait a minute. If HUD

turns them down, though, for some crazy reason, and the Waco authority is suggesting that they'll pay for it no matter what, and we are satisfied with that guarantee language, then what I'm suggesting is we're using the board's discretion to clarify a misnomer within the QAP. And like the chairman said, we can fix it next year.

MR. SALINAS: Okay.

MS. BOSTON: Okay. So you mean -- you don't mind that they are not development-based vouchers.

MR. CONINE: As long as we're happy with the guarantee language. Correct.

MS. BOSTON: Okay.

MS. ANDERSON: I want to ask the vice chairman about the acceptance of her clarification to your motion.

I mean, I guess I question whether we want to give them until the 10 percent test, or whether we want to give them until whatever date is appropriate so if they can't get it, we can redeploy these credits this year.

MR. CONINE: Yes, I mean, I -- what -- Brooke, what's your experience on timing, at least from the HUD's side? I know that if the Waco Housing Authority can react fairly quickly, but what on the HUD side?

MS. BOSTON: Well, if we go with what you just said, then you don't want HUD approval.

MR. CONINE: No.

MS. BOSTON: Or you -- the question I thought was that as long as you're comfortable with the guarantee, then even if HUD denied it, then you still wanted us to go with the guarantee. So --

MR. CONINE: Well, but my question to you was how long does HUD normally take when asked these sorts of questions?

MS. BOSTON: I don't know.

MR. CONINE: You don't know.

MS. BOSTON: I really don't know.

MR. CONINE: Okay. Because the chairman is wanting to put a time limit on it, and I don't necessarily disagree with that, but I want to make sure we give them enough time.

MR. GORDON: Are you going to need a time limit, though? If you're happy with the guarantee, you're almost approving it anyway.

MR. CONINE: Right.

MS. BOSTON: Well, we wouldn't need to take it to HUD. If we go with your --

MR. CONINE: Right. I mean, I think it's to their benefit to get HUD's approval, but if they turn them down and the Waco Housing Authority says I'm willing to

buck up into infinity, then -- and we're happy with the language that that creates, then I think that meets the intent of what we're trying to do.

MS. ANDERSON: I think that's fine. I just don't want to give them until next June to get that done.

MR. SALINAS: No, no, no. Let's do it now.

MR. CONINE: 12/31/2005.

MS. ANDERSON: Well, we can't deploy the credits if you give them that --

MR. CONINE: 11/30/2005.

MS. ANDERSON: There you go.

MR. GORDON: Okay. So we are going to require that they get HUD, and they'll actually convert it then. Right?

MR. CONINE: We're going to require that we get happy with the language from the Waco Housing Authority. A guarantee.

MR. GORDON: Okay.

MR. CONINE: By the end of November. How's that?

MR. GORDON: All right. That's fine. That's good.

MR. CONINE: Is that all right?

MR. SALINAS: Okay.

MS. ANDERSON: Has that been seconded? Have you seconded it -- right -- Mr. Mayor?

MR. SALINAS: Okay.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed no?

(No response.)

MS. ANDERSON: The motion carries. Okay. We are going to go through -- we're going to do Item 2(d), which is determination notices on tax-exempt bond transactions with other issuers. We have four of these.

And then we are going to take a lunch break for an hour, and during our lunch, the board will also go into executive session. I'll read that language into the record in just a moment after we finish agenda item 2(d).

And I do have one person for public comment.

The first item for the board's consideration is Riverbend Residential, located in Georgetown. This is a proposed elderly transaction, 201 units. The Capital Area Housing Finance Corporation would be the issuer on this transaction. It's a priority 1A. The amount of credit that's being recommended by the department is \$635,004.

This particular transaction had no public opposition. We did note in the underwriting report that there have been two recent 9 percent senior transactions that have been approved in Georgetown. But in looking at the market, we do believe that the market can absorb those transactions, and this new transaction also, and staff is recommending the allocation of credits not to exceed 635,004.

MR. BOGANY: So moved.

MR. CONINE: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the board's consideration is Northwest Residential Apartments. This would sit right next to the Riverbend Residential Apartments you just approved.

Also, the Capital Area Housing Finance Corporation is the issuer on this transaction. This one serves the general population, in other words, a family

population. It's also a priority 1A, a total of 180 units on this development. The amount of credits being recommended is 546,063.

It's worth noting on this one and the one before that they are being underwritten with a 50 percent tax exemption, even though the Capital Area Housing Finance Corporation is most likely a tax-exempt entity and may be getting 100 percent. When we were underwriting these transactions, we did not have proof of that so we did underwrite both the previous one and this one with a 50 percent exception.

Staff is recommending approval of the allocation of the credits.

MR. BOGANY: So moved.

MS. ANDERSON: Second, let me -- I mean -- I'm ready for lunch.

MR. SALINAS: I'll second.

MS. ANDERSON: Thank you, Mr. Mayor.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The third one for the board's consideration is the Villa at Bethel. This is an elderly transaction. It would be located in Houston. This is a priority 2 transaction.

There are several letters of support that are in the record for this transaction from Representative Al Edwards, from several councilmembers, from the Houston ISD, the superintendent, Sunny Side Civic Club, as well as two members of the community.

The credit allocation on the 181 units, I believe -- or 177 units, excuse me, is \$491,245 in credit allocation.

MR. CONINE: So moved.

MR. BOGANY: Second.

MS. ANDERSON: I have a couple of questions of Mr. Gouris, if I might. On page 3 of the underwriting report, I see language that I'm not used to seeing at all, which is staff performed a site inspection on June 3, and found the location to be questionable for the proposed developments due to following observations: Ground vibrating underneath me -- you know, I never --

This jumped out at me because you always think every site is perfect. So talk to me about this site. This doesn't sound so good. Plus it's in the -- entirely

in the 100-year floodplain.

MR. GOURIS: Tom Gouris, director of real estate analysis. The site inspection process is done by -- is outsourced to our manufactured housing division.

We have had, actually, a couple of transactions that have had issues like this. If you'll recall, SeaBreeze in Corpus Christi, I think had some issues that we had addressed in the report.

And there was another transaction in Houston that also had some issues. We always will identify those issues in the report, because that is what the inspector said. And then we will look to the ESA to determine if there was any other reason to believe that there is additional concern that we need to investigate further.

In this case, the ESA gave us a comfort level that was there -- we'd go back to ask the inspector to, you know, give us more detail, but this is were his written comments we incorporate in the report.

MS. ANDERSON: Okay. Thank you. On page 9 of the underwriting report in the summary of the financial viability and financing conclusions for this deal, you talk about the need to reduce the loan and the reduction of the loan and syndication funds, and so we've got 100 percent of the application -- the applicant's developer

fee, and some of the general contractor's fee on deferrable.

And we've got a -- and it's just all the added weight of this is what bothers me about this transaction.

You've got a non-profit partner with a net worth of \$6,000. What are we doing?

MR. GOURIS: This transaction was a very tight transaction. There are a lot of -- as with a lot of our transactions, there are a lot of moving pieces, and this one in particular we have concern about its ability to move forward, especially if the HOME funds aren't received.

I mean, it's clear to us that the transaction won't move forward without the HOME funds, and that's why we spent some time talking about the different scenarios there.

We believe that the HOME funds will be approved here, to, but, you know, it's a chicken and the egg kind of thing. We're having to go get our approval before they've gotten all their ducks in a row.

MS. ANDERSON: Okay. Any other questions? Discussion?

MR. SALINAS: Did you say that it was on a 100-year floodplain?

MS. ANDERSON: Uh-huh.

MR. CONINE: How did they -- how were they able to do that?

MS. ANDERSON: Would you fill -- would you like to speak to this? And then you can fill out a form afterward, Terri?

MS. ANDERSON: Yes, please.

MR. SALINAS: Would somebody tell me how they can do something like that in a 100-year floodplain?

MR. CONINE: She's getting ready to.

MS. ANDERSON: Let's hear from a representative of the applicant.

MS. ANDERSON: Good morning, board. I'm Terri Anderson, Anderson Capital L.L.C. I'm a consultant on this transaction. I'm primarily dealing with the financial components. With regard to the property being located within the 100-year floodplain, there is a portion of it that's located within the 100-year floodplain, and the entire property the way that FEMA now buys, in 2001, I believe, it was located within the 500-year floodplain.

But they have gone in and done improvements to the Sims Bayou, which is basically almost complete. And it's certainly across from the property, so it's basically lifting it out of the 100-year floodplain.

Mr. Kemp anticipates having the City of Houston and their actual board focusing on planning it out of the floodplain based on the engineering. But obviously the City of Houston is not specifically working on that right now, but it was not anticipated that this property will remain in the 500-year floodplain once the City of Houston goes and revisits the flow of water with the improvements of the Sims Bayou.

In addition to that, the City of Houston has preliminarily approved a \$1 million HOME grant for the property. And with that \$1 million approval, they do have to go to city council, or actually I think it was decided that they didn't specifically have to go to the city council for approval, but that \$1 million has been approved for the HOME grant, which obviously enhances the property.

The market study does show that the rents are viable. Instead of keeping all the rents at 60 percent AMI, we have put 10 percent of the units at 50 percent AMI. Mostly on a voluntary basis, the amount of HOME dollars that are going into the development don't specifically require that number of units going in there.

So there have been various concessions, I would suggest, that are made. The 60 percent rents are not at

the 100 percent maximum threshold; they have been reduced some, and like I said, the 50 percent AMI rents are included. So I believe that the developer has gone in to try to make sure that we addressed all of the issues with regard to a tight transaction, and making it a viable deal.

When you look at our most current models on the transaction, it looks like the developer fee would probably be the first 54 percent.

MS. ANDERSON: Questions?

MR. BOGANY: I have a question of Tom.

MS. ANDERSON: Thank you, Ms. Anderson.

MR. BOGANY: Mr. Gouris, there is a question of the market study on this supports this area? I'm familiar with this area. You know, you're beginning to make this area look like Mesa Road Tidwell Northeast Houston. There are so many projects over there, and of course there is a lot of vacant land in that general area, but it's beginning to be a little overcrowded, it looks like to me.

So I'm just curious about the market study here.

MR. GOURIS: The market analyst did provide support for this project.

MR. BOGANY: For Houston. Everything has been

tight, you said. So was that tight?

MS. ANDERSON: Is Mr. Ziegler in the room?

No. Do you want to -- he was the market analyst.

MR. BOGANY: Okay. I'm just -- because I know that area. We've approved some projects along the Beltway, which is right down the street from that area, in the last three or four months.

And I'm just -- and if you look at the -- it's a lot of projects in that general area.

MR. SALINAS: How about the floodplain?

MR. BOGANY: It floods over there. I know they're working, as she said, on the Sims Bayou area. That whole airport -- when it rains good, it will -- it does flood there.

MR. GOURIS: I second on the floodplain. Our rules do allow transactions, buildings to be built on the floodplain as long as they're built a foot above the base flood elevations. That's where we are with those rules. I think that, you know, we could discuss what that would need to be, but that's where we are with them.

MR. CONINE: Let's make sure it's not like the bedroom enforcements -- the bathroom enforcement. Excuse me.

MR. GOURIS: Yes, sir. As far as the capture

rate, that is also another area that is tight. It's at 95 percent, to be allowed to 100 percent for seniors transactions. So the -- you know, we --

MR. BOGANY: Is this is a senior's project?

MS. ANDERSON: Yes.

MR. BOGANY: Okay.

MR. SALINAS: So --

MR. BOGANY: Go ahead.

MR. SALINAS: So you're telling me the City of Houston will go and issue a permit on a one-foot high on the floodplain?

MR. GOURIS: As Ms. Anderson said, they are working to change the flood waters and the floodplain in this area.

MR. SALINAS: How many -- the floodplain is how many inches of rain?

MR. GOURIS: I think that depends on the area, but I don't --

MR. SALINAS: A ten-year floodplain is ten inches or more. So if you have a hundred-year plain, you're looking at what? You've got what? Twenty-five inches? I don't know. I mean, that place is going to be flooded.

I mean, if that's what the city is doing, I

mean, that's fine with us. I mean, I'm not -- sooner or later you're going to get water the same thing that happened to New Orleans. You know New Orleans is in a floodplain, a hundred-year floodplain, and look at what happened to them. Now, this is part of the things that we need to look at.

And the City of Houston needs to look at it because they're in the Gulf area. Now, I know that we cannot allow anybody to build on a ten-year floodplain. They have to be out of the floodplain completely, not one year. They've got a few others because of the questions on colonias.

But here you're telling me that you have a 100-year floodplain, and you're going to address all this money, and the City of Houston is going to recommend that they do one foot from -- to raise that -- the building, but the floodplain is going to be there one of these days.

MR. GOURIS: The department does have restriction on building within the flood way, and that's not allowed.

MR. SALINAS: But this one is allowed?

MR. GOURIS: This would be allowed under our rules as long as they can show to us that they're building -- either built out of the floodplain, and that's

actually the way they're going to solve this issue is --

MR. SALINAS: So FEMA would want them to give you a map that this place will not be on a floodplain?

MR. GOURIS: I believe that's what they're doing.

MR. SALINAS: You know, we could approve that subject to the FEMA approving the process, you know, getting it out of the floodplain because they do that. But you've got the seal on the -- you've got FEMA's approval, then that could probably work.

MS. ANDERSON: In addition to that, none of the buildings will be constructed -- none of the actual buildings will be located within the 100-year floodplain.

So the site plan has been designed to make sure that the actual portion of the land that does fall within the 100-year floodplain does not contain any buildings on it.

And conveniently, the detention pond will quite probably be located in that area. So -- and according to the site plan.

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

MR. CONINE: Aye.

MR. GORDON: Aye.

MS. ANDERSON: Opposed, no?

MS. ANDERSON: No.

MR. SALINAS: I will oppose it.

MR. BOGANY: No.

MR. GONZALEZ: No.

MS. ANDERSON: You're a no, I'm a no, you're a no.

MR. SALINAS: I'm a no.

MS. ANDERSON: The motion fails. The last application for the board's consideration with a local issuer is MidCrowne Senior Pavilion. This is located in San Antonio. San Antonio Housing Finance Corporation is the issuer for this transaction.

It's 196 units. It targets the elderly population. It's a priority 2 transaction, and the department has received no letters of support or no letters of opposition on this transaction. And the amount of credits that we are recommending for an allocation is \$582,138 of credits.

MR. CONINE: Move to approve.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

MR. GOURIS: Yes, ma'am.

MS. ANDERSON: I have some questions of Mr.

Gouris. I'm looking at the page 6 of the underwriting report, where we -- you know, the thing -- without the 100 percent, I guess it's a tax exemption. It's not feasible.

The DCR is below the department minimum. The site control is inconsistent. You know, again, I guess my question is on all these things, this thing doesn't seem very nice -- doesn't seem very tied up for me.

MR. GOURIS: Yes, ma'am. I mean, I think --

MS. ANDERSON: Well, are we -- we think that they're going to get the 100 percent tax exemption, although it doesn't -- have they -- it doesn't -- it wasn't clear to me that they even applied for it, but we think that they're going to get that.

MR. CONINE: They're probably not going to do it until they get induced. Right?

MR. GOURIS: Right. Well, they'll induce --

MS. ANDERSON: Because they're induced. They're in the first of the credits. Right?

MR. GOURIS: Their structure would be a lease ownership, and they have indicated to us that they were able to do that. They've done it before so we felt comfortable that that is likely to occur.

MS. ANDERSON: Okay. And so without any property tax then, their financial -- the multifamily

comparative analysis says the debt covered ratio is 1.0 --

MR. GOURIS: Right.

MS. ANDERSON: -- which we don't -- that's not in our --

MR. GOURIS: Which we do with our 1 percent requirement. So like many of our transactions -- especially bond transactions, we will underwrite as we think it's going to underwrite.

MS. ANDERSON: Right.

MR. GOURIS: It's a mix. The lending committee believes that our underwriting is fairly conservative, and they will underwrite a little bit richer than we will.

MS. ANDERSON: And they'll redeem the bonds --

MR. GOURIS: That's right. And we underwrite to see what that redemption might be based on our analysis, and in this case, if the bonds are redeemed to the level that we think they might be, based on our analysis, the transaction is still viable.

MS. ANDERSON: It is?

MR. GOURIS: It is. And in fact, we would look at a -- the third developer fee by about a half a million dollars, which is not a large amount for these types of transactions.

MS. ANDERSON: No.

MR. GOURIS: But that -- this scenario is very common with our bond transactions.

MS. ANDERSON: I mean, the difficulty for me is knowing when it's common. When it's common you all let it go through, and when it's common, but it falls over the tipping point of, you know --

MR. GOURIS: Right. And there are a lot of -- there is a lot of uncertainty with these transactions because they're moving, and some of them are -- some are moving more than others.

MS. ANDERSON: And I'm -- and I know they have local issuers.

MR. GOURIS: Right.

MS. ANDERSON: Well, all we're supposed to be doing is voting tax credits, but I can't do that blindly either, you know. Even that's based on what we're voting on.

Okay. Thank you. Other questions? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Okay. We

are going to now take a one-hour lunch break, and I will read for the record, on this day, September 16, 2005 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, September 16, 2005 at 1:08 p.m. The subject matter of this executive session and deliberation is as follows.

The board may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

The Board may go into executive session.

Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, or to hear a complaint or charge against an officer employed with TDHCA.

We also have consultation with Attorney Pursuant to §551.071 of the Texas Government Code with respect to pending litigation styled Hyperion, et al v. TDHCA, filed in State Court. With Respect to pending

litigation styled Rick .R. Sims v. TDHCA et al, filed pro se in federal court. With Respect to any other pending litigation filed since the last board meeting.

Discussion of charges of discrimination filed with the U.S. Equal Employment Opportunity Commission. Legal developments related to the ongoing FBI investigations in Dallas. With Respect to pending litigation styled TP SENIORS II, LTD. v. TDHCA filed in State Court.

(Whereupon, a recess was taken.)

MS. ANDERSON: Okay. The board has completed its executive session of the Texas Department of Housing and Community Affairs on September 16, 2005 at 2:10 p.m. I hereby certify that this agenda of an executive session of the governing board, Texas Department of Housing and Community Affairs, is properly authorized pursuant to Section 551.103 of the Texas Government Code.

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

We now will take up Agenda Item 2(e).

MS. CARRINGTON: Thank you, Madam Chair. Item 2(e) is the discussion of issuance of forward commitments of 2005 tax credits. At the August 16 board meeting where tax credits was allocated, there was a discussion of forward commitments. And the board did direct the staff to put the discussion of forward commitments on the agenda. So we have done that for you.

We would like to note for the record, and this is in your third paragraph, under Background and Recommendations, that should the board decide to award any forward commitments today, that there are four conditions that are very important that must go with those awards.

And one of them, the approval is contingent on successful underwriting. Number two, that the credit amount and the commitment notice be the amount recommended by underwriting. Number three, that all department conditions be made a condition of the award. And number four, that the applicant successfully undergo a review by the portfolio management and compliance division.

MS. ANDERSON: Ms. Carrington, the action items and the required action -- should that not refer to 2006 rather than 2005?

MS. CARRINGTON: Yes, it should. Thank you.

MS. ANDERSON: Okay. Show it for the record.

MS. CARRINGTON: Thank you.

MS. ANDERSON: I have public comment on this item. Okay. Granger MacDonald.

MR. MACDONALD: I'd like to call Ms. Vasquez.

MS. ANDERSON: Jacqueline Martinez. Bobby Bowling?

MR. BOWLING: Good afternoon, Madam Chair, members of the board. I realize that on forward commitments the direction from the board has always been that you're really interested only in giving us forward commitments when there are extreme and unusual circumstances.

And I think my project, Mission Palms, meets that criterion. And I think there's three reasons for that. This is project number 05-153. Our Mission Palms is located in San Elizario. I gave you all some background on San Elizario and the need for housing in this area at the July board meeting.

I won't go over that again but to say that -- remind you that San Elizario is the, per capita, according to Senator Shapleigh's study based on school district boundaries, per capita, the poorest community in the State of Texas based on property taxes per capita.

It's an extremely poor colonia community that is a small rural community where there is a lot of people living without water and sewer, electric, and it's never received a tax credit project.

The second reason that I wanted to point out to you, that -- or ask that you consider in forward committing credits for Mission Palms is on the list that was prepared by staff, on the percentage of underfunding for subregions, with the awards that were given at the July board meeting, Region 13 rural is now the most underfunded subregion in the state.

That would mean that the -- any additional credits that come through, Mission Palms, according to the way staff presented it at the July meeting, it would be kind of the next one on the waiting list. My project is requesting \$587,000 more or less in credits.

The July board meeting left about 375 or 400,000 in excess credits. So there is a very small discrepancy that I would need, I think, to make my deal work by the end of the year on a forward commitment.

The third reason is a little bit technical, and I'll try to get through it all, but -- and if I don't, I would appreciate some questions what I'm about to lay out. Since the July board meeting and we saw the Socorro

project in our Region, in 13 rural, that got awarded under the USDARD loan program and set aside, we had recognized some building houses in El Paso. Socorro was not really a USDA-eligible city to our knowledge.

We've never been able to put a single family deal together. Socorro is over 20,000. It's 27,000 people. It abuts the City of El Paso. It's not a USDA-eligible program city for their single-family or multifamily programs.

So we met with the director in the Region 13 USDA office after the July board meeting to discover how Socorro got this loan, or how this project got this loan in Socorro. He explained to us that there is a migrant farm worker -- a transient migrant farm worker program that's called a Labor Housing Loan, that's not specific to the community, but instead, is specific to the commitment that the developer gives.

In other words, the program can be used in downtown El Paso, downtown Houston, anywhere, as long as the development commits to bus migrant farm workers to farms every morning to work, and bus the migrant farm workers back home to the development at the end of the day.

I don't think -- now, under the QAP for 2005

this is a proper application of putting that project in the rural set-aside. Under the definition of rural area is an area that is eligible for new construction or rehab funding by Texas USDARD or RHF.

But I think that there is a little glitch there. I don't think that that was really intended to mean a transient program that no matter where you put the development, Texas USDARD was going to fund it.

In other words, under this definition, if I propose this same Socorro project, I could get downtown Houston declared a rural area under the 2005 QAP and placed into the rural set-aside.

Why this is all important, and I'll wrap it up right now, is I have scored the Socorro project by a great number of points. I'm not advocating that you kick that project out. It's probably a needed project, it's a worthwhile project, but really, San Elizario is a rural community under all the definitions of the 2005 QAP. And Socorro's project is only under this rural area Item C, and it's only in there because the Texas USDARD loan is attached to that today.

And again, if there is -- if I didn't make that clear, if you should have any questions, but that's my -- why I'm -- the grounds I'm appealing to you all for a

forward commitment on.

MR. GORDON: It's what section of the QAP?

MR. BOWLING: It is under the definitions. It's Item 70(c), where you have the definition of the rural area.

MR. GORDON: Okay.

MR. BOWLING: It's on page 8 of the QAP, and if you want, I can read the whole definition into the record, if you need me to.

MR. GORDON: That's okay.

MS. ANDERSON: Questions? Do you have any questions?

MR. BOWLING: Thank you.

MS. ANDERSON: Ms. Bast?

MS. BAST: Thank you, Madam Chair. Just to clarify, I do have witness forms for two projects, Landa Place in New Braunfels and Tierra Blanca in Hereford. And so I'm going to speak to Landa Place in New Braunfels.

At the past few board meetings you have heard testimony with regard to the challenges faced by Region 9 in the urban/exurban area, particularly the problems faced by the exurban cities in that particular region, how it's difficult for them to score and receive appropriate points for an allocation of tax credits.

You've heard testimony from Mr. MacDonald. You've heard testimony from your own staff about this issue, and at least partially in response to some of that testimony, I believe you directed the staff to put this agenda item on the agenda today.

So I am here formally requesting a forward commitment of tax credits for Landa Place in New Braunfels, 100 units of elderly housing. Just to fortify this request, I have a couple of things for you. I simply want to point out that New Braunfels is the largest community in the urban/exurban section of Region 9 without any tax credit projects at all.

And then if you look on the second page of my handout, you see that I looked at some statistics for tax credit units in Region 9 over the past three years. Why over the past three years? Because 2003 was the first year that we had Region 9 in its current configuration with the current counties.

You'll see that in 2003 through 2005 we have 1,424 low income units receiving tax credits in Region 9. 1,224 of those are in San Antonio. So we respectfully request that you do offer a forward commitment to this project based on these statistics.

Forward commitments should be used in

extraordinary circumstances when there is no other remedy to address a unique housing need, and we believe that this meets all of those criteria, and we thank you very much.

MS. ANDERSON: Thank you. Mr. MacDonald.

MR. MACDONALD: Thank you for having me back. I know that you're surprised to see me. You heard Ms. Bast to speak about the lack of geographical dispersion of tax credits in the allocation process as applies to New Braunfels. The fact that New Braunfels is a town of 50,000 people and it does not have any tax credits, never had a tax credit deal, nor has there been one in Comal County.

I come before this body for three years now trying to get a senior housing project in New Braunfels, and we discussed the fact that New Braunfels cannot compete with San Antonio because it is a 500-pound gorilla in Region 9.

It has been suggested that we go to try to get waivers of fees and permits to boost our points. We've done that. It's been suggested that we try to fix the QAP. We've attended all the seminars, all the meetings, had all the input, tried to work out every solution possible.

It was suggested we try legislative fixes. We

tried that, all to no avail, and the reason is, you can't write rules that fit every city in a state as vast as ours. This is why the board is empowered to issue forward commitments to fix such unforeseen consequences.

The fact still remains that New Braunfels cannot compete with the Federally mandated at-risk set-aside projects in San Antonio. Nor can it compete with the not-for-profit/housing authority projects that have ready access to HOME funds and neighborhood group support.

Small rural senior bond deals will not work in a community like this. They do work in San Antonio, and San Antonio has several of them. There are no other options for affordable housing in New Braunfels. You've seen numerous applications from some very efficient and good developers trying to do a project in New Braunfels, and all of them have come up short.

The same enabling legislation that creates the aforementioned problems of unlevel playing fields gives you, the board, the right to issue forward commitments to fix just such anomalies as New Braunfels. I'm asking you to make that correction today and issue a forward commitment for New Braunfels.

MS. ANDERSON: Ms. Bast on Tierra Blanca. MS.  
BAST: Thank you again. These remarks relate to the

Tierra Blanca project in Hereford, Texas. We represent the tax credit applicant. At the last board meeting, you heard from me that we would be filing an alternative dispute resolution request on behalf of that applicant. It has been filed, and I just gave you a copy.

A brief recap of the facts, because you hear so many of these. The Tierra Blanca application was the highest-scoring application in rural region 1. It was on the recommended list for tax credit awards. At the July 27 board meeting, this board awarded 12 points to a competitor, Central Place, points that Central Place did not originally apply for.

Central Place claims that it received erroneous information as to what would qualify the local political subdivision from the department, and as a result, it claimed that its application was damaged because it did not take those points.

Our client received the same erroneous information, but still managed to score the points to local political subdivision funding within the time frame and the requirements of the QAP. Our client did everything right within the process.

We do believe that this ADR request presents a compelling argument. There was a problem created by the

department with this allegedly erroneous information. When the problem was addressed, another problem was created. A win/win situation was possible, and a win/win can still be had with a forward commitment to Tierra Blanca.

Again, we believe that this is an extraordinary circumstance. It's not just a compelling story. It's a circumstance where a harm was created within the department, and that harm led to another harm, and now we have an applicant that went through the process correctly and did not receive the award. So we respectfully request a forward commitment for Tierra Blanca in Hereford, Texas.

Thank you.

MS. ANDERSON: Thank you. Colby Denison. And the next witness will be John Hintz.

MR. DENISON: Thank you. My name is Colby Denison, and I'm just going to keep this short. As you all know, the Hurricane Katrina has affected the Houston Region -- or the Houston City area more than probably anywhere else in the state.

So I just brought some support letters from some of the -- from a senator for the Houston area and a councilmember, asking you all to consider Houston when doing forward commitments. Thank you.

MS. ANDERSON: Thank you. I do have a letter on Greens Crossing Senior Village, information to the board, from Senator Kyle Janek that is a strong letter of support. Harris County Housing Tax Corporation has committed a significant size loan package. This letter serves to add to that basis forward, given the current lack of long-term affordable housing for the evacuees.

With the relief funding, Greens Crossing Senior Village would go a long ways toward alleviating the problem. That's Senator Janek.

And also -- right, from -- and I think these were at your places when you came into the boardroom this morning. There is a letter of support -- a general letter of support for forward commitments in Houston not specific to this deal, from Mark Ellis, who is the Houston City Councilmember at large from position one, noting that the board has the authority and discretion to award additional projects through these forward commitments, and urging our consideration of forward commitments for Houston.

Mr. Pitts? Okay. Ms. Suzanne Chauvin.

MS. CHAUVIN: Chauvin.

MS. ANDERSON: Chauvin.

MS. CHAUVIN: You can tell I'm from the state next door. Everyone see those? Good afternoon, Madam

Chair, members of the board. My name is Suzanne Chauvin and I'm here representing T.P. Seniors Limited II, asking for a forward commitment for the Towne Park Phase 2 project in Houston.

Towne Park is a proposed development in the west part of Houston. It was previously slated to receive tax credits. The staff had recommended they receive tax credits, and unfortunately, the project was displaced and moved from the list when an appeal was granted for a project called Olive Grove Manor.

Staff had recommended that the appeal not be granted. It related to a neighborhood association letter which came from the Pine Trails Subdivision Association.

Now, when Olive Grove was looking for community support, it didn't go over here to Thornhill subdivision, right across the street, this lovely gated community. It didn't go over here to Wood Forest, this large community right here. It didn't go over here to the two houses right next door.

Instead, it went down the street, past the elementary school, past an intermediate school, to Pine Trails, and received a letter of support from the Pine Trails Subdivision.

The staff determined that the letter from Pine Trails was not eligible, because as you can see, Pine Trails is located right here. This property, Olive Grove, was never a part of Pine Trails, through the 30 years of its existence until March, right before it sent the letter.

Why the board sent the letter, Pine Trails reportedly annexed Olive Grove. Didn't do that according to the -- excuse me. I think Mr. Palmer --

MR. PALMER: I'd like to assign my time to Ms. Chauvin.

MS. CHAUVIN: It didn't do that according to its own bylaws. Its own bylaws require a two-thirds vote of the members in order to annex property that's -- excuse me, its covenants. Its bylaws require that its action be related to contiguous property.

Also, its deed restrictions say prohibits multifamily dwellings. We believe that this annexation was invalid; the staff agreed, but on June 27, Olive Grove's second appeal was granted. The unfortunate result was that the Towne Park subdivision project was pushed off the list.

I'm not here asking you to turn back the clock. I can't do that. I cannot come before this board and ask

you to take somebody's points away, and I'm not doing that here. What I am asking is that you grant a forward commitment in the amount requested, in the amount recommended by staff.

As you look at the factors that you can consider, you can consider the market study. We can show that the proposed rates -- rental rates were substantially below estimated market rates. The location -- it's an Asian community, a community underserved.

There is eight-and-a-half times more demand for property for rental properties for the elderly in this area than there are in other areas that were granted tax credits.

Towne Park Phase One is fully occupied. It leased up at 13 rental units per month, more than double the usual lease rate for the elderly. I know I've given you a lot of material. It's tabbed. I've got you the -- thank you, Your Honor. Excuse me.

MR. KILDAY: May I give her my three minutes that I have?

MS. ANDERSON: Two. Yes, two.

MR. KILDAY: Thank you very much.

MS. ANDERSON: If you will complete a witness affirmation form when you can get through the easels.

MS. CHAUVIN: I appreciate the time, and I really don't want to take much more of this board's time.

You can consider the compliance history of this developer. This developer has one of the highest compliance histories of any developer here, Mr. Lopez. He has engaged the neighborhood. He has got the support of the Chinese Community Association. He's got the support of Representative HOffberg. He's got the support of Senator Ellis.

As I said, the market study shows that there is at least eight-and-a-half times the need in this particular area as there is for at least one area that was granted the tax credits. So I appreciate your time, and I respectfully request the forward commitment for the Towne Park Phase Two project.

MS. ANDERSON: Thank you very much. Jacqueline Martinez.

MS. MARTINEZ: Good afternoon, Madam Chair, board members, Ms. Carrington, and TDHCA staff. My name is Jacqueline Martinez and I'm here today on behalf of Las Palmas Gardens Apartments Resident Council.

My involvement comes from a desire to give back to the community that raised me. I grew up less than a mile from Las Palmas Gardens. I attended high school and

St. Mary's University nearby.

I am here specifically to read a letter into the record on behalf of Ms. Marti, who is the Las Palmas Resident Council president, and she isn't able to be here.

And just for the record, this is in regard to Application 05-119. This is an effort to request that you consider the application and awarding development a forwarding commitment of 9 percent housing tax credits.

Her letter reads, "Dear Ms. Anderson and board, as the president of Las Palmas Gardens Apartments Resident Council, I submit to you my sincere support for the awarding of low income housing tax credits.

"Our resident council has eagerly anticipated the awarding of these tax credits. However, I feel that we've been pushed aside and ignored from this tremendous opportunity. Unfortunately, the recent fire to our apartment complex has only intensified our hopes in receiving the much-needed credits to rehabilitate our community, where many of us have raised our families and have called it our home.

"As a resident at Las Palmas Gardens, I have enjoyed living in this community for over 21 years, raised my children and have seen other families striving and working to improve their lives. It is my sincerest hope

and desire that the board consider our application so that we may begin to prepare it for future generations.

"Finally, accept my letter of support to award the tax credit to Las Palmas Gardens, as I remain deeply appreciative and respectful of your consideration.

Sincerely, Mrs. Rosario Marti, President of Las Palmas Resident Council.

MS. ANDERSON: Okay.

MS. MARTINEZ: And I'd also like to make a note that we have also acquired the support of our city councilperson in District 6, Councilwoman Delicia Herrera.

And if there are no questions, I sincerely thank you, and your consideration is very much appreciated.

MS. ANDERSON: Okay. That concludes the public comment that we have for this item.

MR. CONINE: I'm going to make a motion and throw it out on the wall and see if it sticks. I have heard the testimony not only today, but the last several months regarding a couple of projects that at least I have a particular affinity for relative to their plight and circumstance.

One, the Tierra Blanca project in Hereford, I think, because of the -- what we perceive as a misinformation that kind of went back and forth relative

to what could be used by the applicant at some certain time during the application process.

I have an affinity for that particular story. And in the case of New Braunfels, I -- not because the applicant is bigger than I am, but because he has tried for three years. I don't know how the math is ever going to get to the point where New Braunfels can win, based on what I've seen. So I'm going to move that we place both of those in the forward commitment category for 2006.

MR. GONZALEZ: I second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. All right. We are going to -- because of some board members' schedules this afternoon, we're going to take some things out of order in order to get to some things that are very time sensitive.

So we are at this point going to skip Item 2(f) and 3, and go to Item 4(a). These are multifamily mortgage revenue bonds and 4 percent tax credits with

TDHCA as the issuer.

MR. CONINE: Which number are you going to, please?

MS. ANDERSON: 4(a).

MR. CONINE: 4(a). Thank you.

MS. CARRINGTON: And the first one for the board's consideration is Canal Place Apartments, located in Houston. This would be a market -- a mixed income property with 50 market rate units, 150 rent-restricted units. It's ones, twos and three bedrooms.

This is a new design concept than what the board has looked at before. It is a very dense urban infill development. It basically has 79 units an acre. The credits that are being recommended are credit amounts in the amount of \$764,846. The bond amount would be not to exceed 15 million in tax-exempt, and 1.1 million in taxable.

I do want to note for the record that on Tab 7 in the board's book it did say that this -- what was included was the public hearing transcript of August 1, 2005. What was actually included in your board book was the transcript of January 26, 2005.

This transaction was first proposed as a priority two application. There was a public hearing on

it. Then it was withdrawn, and then it came back, and then there was a second public hearing.

At the first public hearing there were eleven people at the hearing, and they were all in support of the development. The second public hearing that was held on August 1, there was no one -- there was one person there, but then no one spoke for the record either in support or opposition of this transaction.

So staff is recommending the allocation of the credits of 764,846, bonds in the amount of 15 million, tax exempt 1.1 million in taxable. And the resolution number is 05-073.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MR. GONZALEZ: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The second development for the board's consideration with TDHCA as the issuer is

Providence at Marine Creek Apartments. This would be located in Fort Worth. It's a total of 252 units. And this is another proposed development that would fall under the intergenerational housing concept, which you will remember last month you did develop a definition for intergenerational.

And it is in the draft QAP that's out there right now, and basically what that means is the development would serve both elderly and families. However, there are separate leasing offices for the elderly, separate facilities for the elderly, separate facilities for family.

It is one, two, and three bedrooms. The credit amount that's being recommended is \$992,460, and the bond amount is an amount not to exceed 15 million.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: And the third and last for the board's consideration is Providence Place II Apartments in Denton, in an amount not to exceed 16 million on the bonds, and the issuance for determination on credits of \$1,082,319 in credits. This property is one, two and three bedrooms.

It is, again, proposed to be an intergenerational development, again, elderly and families in combination or housed together. There were actually 15 persons in attendance at the public hearing which was held on August 2. Ten spoke in support of the development, four were opposed to the development, and one was neutral.

We do have a copy of the transcript in the -- in your materials behind Tab 7, I believe, and staff is recommending allocation of the credits, and also the issuance of the tax exempt bonds.

MS. ANDERSON: I do have public comment on this one. Dr. Ramsey?

DR. RAMSEY: Thank you. Good afternoon. I'm Dr. Curtis Ramsey, president of the school board in Denton. Although I'm here under the auspices of the City of Denton and on their expense account, asking me to appear in their behalf.

The public hearing occurred and the city

council voted before they had the information they needed from the City of Denton -- I'm sorry, from the school board, which was all substantially negative to this -- to the proposal in terms of its impact on the schools.

I wear an unusual hat when I come to you saying no in the category of a respect for and concern for housing for those in the lower income brackets. I've had about two centuries of experience in civil rights and socioeconomic equity, all of this one, and most of the last one.

I began my work in civil rights in 1950s in the desegregation of lunch counters and movies in Nashville, with the Fisk and Maharry and Tennessee A&I students. I worked at Central High School to restore order in the curriculum there after the riots there.

My wife and I headed up the desegregation team for HeadStart in Atlanta, when no institution in Georgia would accept that contract. I had desegregation efforts in Cleveland and also Ohio. I headed up the desegregation efforts in Connecticut and Hartford, and that part of Connecticut.

I'm probably the only professor in the world who has had three of his professional associates assassinated politically, Joe Black from Dayton because he

had the audacity to try to drive plans for busing the students.

The point is, I think my credentials go unchallenged in terms of support for social equity. This is a bad proposal. It has a very serious impact on us. You have our letter, I believe, of August 2 on this, and I will not repeat it.

I distributed to you a brief map that shows the impact already that we have. We do not need more low-income assisted housing within the school district of Denton. Thank you.

MS. ANDERSON: I Have a question for you, sir.

DR. RAMSEY: Sure.

MS. ANDERSON: If the City of Denton -- you made a statement that the City of Denton didn't have information, you know, that they needed when they voted the resolutions for it. I guess my question is, once they had that information, why didn't they meet and rescind --

I mean, the law is very clear that where you've got -- where you have a county like Denton County, where you've got more per capita tax credit units than other states, that we leave this decision to the local communities.

DR. RAMSEY: Well, it's a very sensitive point,

and that's why they sent me instead of coming themselves, I think. The city council has stood on this issue. The mayor didn't want to bring it up again.

MS. ANDERSON: Okay. I have a question for -- thank you, sir. I have a question for staff. I've become accustomed and am spoiled by seeing census tract information, and I don't see any on this board writeup. You need to give it to her if you -- you need to give it when you come into the meeting in the morning. Do we have it?

MS. CARRINGTON: Ms. Boston, do we have that information, or -- I think I know the answer to the question and if these writeups were done while we had multiple staff out working on Hurricane Katrina efforts.

MS. ANDERSON: Okay.

MS. CARRINGTON: And so we may have excluded some information that the board is accustomed to seeing.

MS. ANDERSON: Okay. It's just very helpful, particularly when you're in a situation like this. It's just --

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: I have one other person who would like to make a couple of comments. Matt Harris?

MR. HARRIS: I'll wait.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Madam Chairman, the next item we do need to consider my staff advises me is Item 4(e).

MS. ANDERSON: Okay.

MR. CONINE: Before we get my book out of whack --

MS. ANDERSON: Yes, we are getting out of whack.

MS. CARRINGTON: Item 4(e) is a resolution. And that resolution is number 05-076, which would authorize the extension of the certificate purchase period for the Single Family Mortgage Revenue Bond Program, Series 2004(a), 2004(b), which is the variable rate bonds, or otherwise known as Program 61. At this time, the certificate purchase period for this program will terminate on November 1, 2005.

We have shown you by the chart how much has

been loaned, how much is in the pipeline, how much is left, but we are requesting an extension for this program to January 1, 2007 to allow us to originate the proceeds.

And staff is recommending that this is --

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: I want to make sure I'm looking at the same thing you are.

MS. CARRINGTON: 4(e), Program 61.

MR. CONINE: Just an extension of the time.  
Right?

MS. ANDERSON: Well, wait a minute. Then it says -- now you're -- on the back page it says you're going to review several options and may recommend restructuring 61.

MS. CARRINGTON: We're not doing that. We're only -- we were just trying to give you a heads up. All we're doing is extending the certificate purchase period on Program 61, and I apologize for that.

MS. ANDERSON: And the -- there was another agenda item proposed, 4(j), that's not -- that wasn't on the final agenda.

MS. CARRINGTON: Correct.

MS. ANDERSON: Okay. So I need you to help me

understand what we're doing.

MS. CARRINGTON: Okay. What we are doing, and Mr. Johnson, you can come up and help me out here. All of these -- all of our Single Family programs have a period of time that all of the loans must be delivered and purchased, and in this particular situation, since the program has been --

MS. ANDERSON: I'm sorry to interrupt you, but let me just -- I think I can make this go faster. So are we extending it through January so that in October and November you're going to come bring us a different recommendation?

MR. JOHNSON: We're extending it now because the period to purchase the loans have expired. We want to extend it, as you said, to January 1, 2007, and then in about two months we are going to come back and possibly provide you with another alternative in terms of if the funds don't move as they are in assisted form, we'll probably come back and recommend that we change it to unassisted monies.

But whether they are assisted or unassisted, we need additional time to keep the program alive.

MR. CONINE: We have a motion and a second on the floor, Madam Chair.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Now we go  
to 4(g).

MR. CONINE: G? Or F?

MS. ANDERSON: I guess we go to G.

MS. CARRINGTON: Mr. Johnson, 4(g). F, we have  
some time on.

MS. ANDERSON: Okay.

MS. CARRINGTON: So we don't need to take --

MR. JOHNSON: We can go through 4(g).

MS. CARRINGTON: 4(g).

MS. ANDERSON: Thank you. Okay.

MR. CONINE: I want to go to 4(g).

MR. JOHNSON: 4(g) is our proposal, just on a  
preliminary basis. This is the structure we are  
contemplating for the next bond transaction. To cut to  
the chase, it will be a refunding of a prior bond  
transaction with higher interest rates.

We probably will take new volume cap and  
somehow manage it, warehouse it for future use until we

originate the 75 million that we just referred to in Program 61.

So this program will consist primarily of refunding bonds of a prior series of the bonds, and a COB [phonetic] or some form of a COB or warehouse ability.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MR. JOHNSON: Thank you.

MS. ANDERSON: 4(h), inducement resolution.

MS. CARRINGTON: 4(h), four applications to apply to the Bond Review Board for an inducement resolution of 2005, private activity bond authority resolution 05-074 on page 1 of two on your write-up.

We detailed the names of these properties, Hallmark at Burleson located in Fort Worth, Harris Branch Apartments, which would be located in Austin, City Parc at Golden Triangle Apartments.

We want to bring to the board's attention that City Parc at Golden Triangle was previously submitted with the local issuer, Tarrant County, and that it was unanimously turned down by Tarrant County, and so they have applied to the department for the department to be the issuer.

And then the fourth one is Spring Branch on the Park, which would be located in Houston.

MR. BOGANY: I'd like for us to make a motion that we approve all of them except City Parc at Golden Triangle Apartments.

MR. CONINE: Second.

MS. ANDERSON: Discussion? Do you want to stand up and say something?

MS. BOSTON: I think so. Actually, two of these are being pulled. I apologize. The City Park at Golden Triangle -- they are still working on the organizational structure of the non-profit. So we're going to keep it for informational purposes if there is public comment, because there is opposition and we wanted to make sure they were able to come and comment on it as an item.

The transcript of whatever is discussed will be put in your next month's board book to be sure that you

see it again, and then Hallmark at Burleson has also -- they move to October. They're having some funding delays.

MR. CONINE: Do you want to modify your motion?

MR. BOGANY: Yes, I'd like to withdraw my motion and make a new motion.

MS. ANDERSON: You may do that.

MR. BOGANY: I'd like to approve -- that we approve Harris Branch Apartments and Spring Branch on the Park.

MR. CONINE: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

MS. ANDERSON: All those in favor, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. With apologies, Mr. Opiela. I just sort of got away from me here. Please come speak if you'd like to.

MR. OPIELA: Eric Opiela, representing Finlay

Development. They ask that you table City Parc because they're trying to work out their funding, I think as Brooke had said. So I didn't know whether you all were going to do that or not, and they had asked me to come up and ask that you all table that on your behalf. Thank you.

MS. ANDERSON: All right. Thank you very much. Now we're going to 5(a).

MS. CARRINGTON: 5(a) is a request for approving the draft proposed methodology for the 2006 HOME regional allocation formula. This is included. It's a part of our state low income housing plan, and annual report.

Last month you approved the methodology as a draft for Housing Trust Fund and housing tax credits because HOME funds are used differently and used in different areas than what trust fund and credits are. We are proposing this methodology separately or -- separately.

It is a requirement of statute. We do -- we allocate these funds on a regional basis, and this will be part of the agenda for the public comment for the public hearings that we are beginning to start at the end of this month.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: I just have one quick question for Mr. Schottman, on page 7 of 7 of the writeup where it's talking -- table 3 is talking about the Single Family Bond funding in 2005 and 2006, I'm just confused about what this Single Family Bond funding means?

Does this mean that this is where people live that have borrowed -- gotten mortgage loans with our money?

MR. SCHOTTMAN: Yes. For the record, my name is Steve Schottman, the Division of Policy and Public Affairs. That does represent the first-time home buyer award since 2000.

MS. ANDERSON: Okay. By our network of participating lenders?

MR. SCHOTTMAN: Right. We basically get --

MS. ANDERSON: Well, it's just very interesting to me, because it points out that we've got a lot of work to do in San Antonio getting our network of lenders using our money. I mean, I'm stunned by these numbers. Thank you.

This -- any other questions?

MR. CONINE: How does -- one thing to say is

'05 and '06 -- how are we able to derive those numbers? Is that based on history? Is that what's going on here? And how do you know whether --

MS. ANDERSON: It's where you are going to target them. Wait a minute. This isn't the tape-up, this is the targeting?

MR. CONINE: Page 7.

MS. CARRINGTON: It's on page 7 of 7, and Steve, Affordable -- the Regional Allocation Funding.

MR. SCHOTTMAN: Oh, I'm sorry. Basically '06, shows how the money was awarded up until -- it shows how it -- what we're considering this year for the '06 formula, and basically, the '05 shows that it looked like last year when we were doing the '05 formula.

MS. ANDERSON: For Single Family?

MR. SCHOTTMAN: Right. This is the Single Family, shows the difference.

MS. ANDERSON: I really don't understand this table. I mean, how can San Antonio only have \$315,000 of anything relative to Dallas's seven million, Austin's 57 million? I mean, I -- what does -- what do these dollars represent? The targeting of our Single Family?

MR. SCHOTTMAN: The actual -- our single family -- also all the Housing Finance Corporations.

MS. ANDERSON: Oh.

MR. SCHOTTMAN: Single Family SEI.

MS. ANDERSON: It's local housing finance corporations. So this is originated loans by region?

MR. SCHOTTMAN: Correct.

MS. ANDERSON: You're saying that the HFCs and TDHCA only originated \$315,000 going to single-family loans -- that's pitiful.

VOICE: Maybe I ought to make sure --

MR. CONINE: Now you're back to that marketing program Mr. Bogany keeps talking about.

MS. ANDERSON: Yes, that's not working down there. I think that the Single Family staff ought to take a hard look at these numbers, and I am bitterly disappointed in them, and would expect something really specific out of the Single Family production division to get these numbers more in line with population, housing need, and reality.

MR. CONINE: This will come back to us as a out for comment. Right?

MS. CARRINGTON: Yes, sir. Out for comment.

MR. CONINE: Okay.

MS. ANDERSON: 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: Out for comment also, Item 5(b), the proposed methodology for the 2006 HOME affordable housing needs score. This is not required by statute. However, there are couple of directives through Section 42 of the Internal Revenue Code that requires us to allocate funds based on housing needs in the State Auditor's report, which asks us to use objective and need-based criteria to award TDHCA funding.

On page 2 of three, we have outlined for you two bullets that were as a result of this last SAO report on HOME and Housing Trust Funds that we are incorporating into our methodology for the affordable housing needs score, and those two are that our need reductions are going to be tied to households assisted with TDHCA funding.

In other words, if a household has received TDHCA funding, then the need in that area is decreased, and then also we are going to account for increases and decreases in need tied to population change over the decade.

So in other words, that would be updated, rather than just going back and looking at 2000 census data and living with that 2000 census data for eight or nine years.

Again, this is part of what will be going out for public comment and out to our 13 public hearings around the state.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. 5(c).

MS. CARRINGTON: Item 5(c) is the approval of the proposed 2006 State of Texas Low Income Housing Plan and Annual Report. Again, going out for public comment on this public comment cycle. This document is a very important and significant document for our department.

It provides a comprehensive reference on our state housing needs, on housing resources, on strategies for funding allocation. It reviews TDHCA programs,

current and future policies, a resource allocation plan, and it reports on our 2005 performance for the preceding fiscal year.

We have provided you on the bottom of the write-up on the board action item, and going over into the second page, the summary of the changes that we have made from the 2004, what we call the SLIP, and the 2005, and we would be happy to look at any of those particular changes that --

MR. BOGANY: So we're just putting this off for public comment. Right?

MS. CARRINGTON: Yes, sir.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Thank you. Jonas, I see public comment?

MR. SCHWARTZ: Good afternoon, board members. My name is Jonas Schwartz. I'm here on behalf of Advocacy, Incorporated, and I'm not sure if my comments should go to this agenda item or the next one, but any more proposals for the Housing Trust Fund, you are proposing to do away with the special-needs set aside for the trust fund.

When I saw that, it raised a red flag for me.

Upon speaking with staff, I understand that there is a new proposal that will be forthcoming about how to handle dollars for special needs populations within the trust fund in the future.

So I would just ask that in whatever methodology you are speaking about or that you come up with, please involve your stakeholders so that we may assist you in the shaping of whatever methodology that you come up with.

I also understand from speaking with staff that the methodology used in your past year as determined have not reached the largest member of groups of individuals that fall under the special needs categories. So I certainly would support looking at this methodology and coming up with something new, just to utilize your stakeholders in whatever you develop and feedback [phonetic] from them. Thank you.

MS. ANDERSON: Thank you. I would trust that staff would do that during the policy formulation process while thoughts are being kicked around is exactly the great time to involve you all.

MR. SCHWARTZ: That's what I meant.

MS. ANDERSON: Okay. So we have a motion --  
did we get --

MR. CONINE: Is there a motion?

MR. BOGANY: Yes, we got a second.

MS. ANDERSON: Okay. Thank you for keeping me organized. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Item 5(d).

MS. CARRINGTON: Item 5(d) is the 2006 State of Texas Consolidated Plan and One-Year Action Plan. Again, it's a draft for public comment that will go out on the public comment cycle. This plan actually covers four programs; only two of them are administered by TDHCA. It covers the program that the dollars that come to the state from Housing -- U.S. Department of Housing and Urban Development.

It's the community development block grant fund program which is administered by ORCA, the Emergency Shelter Grants Program, which is administered by this agency, and Home Investment Partnership Program, again, administered by this agency, and Housing Opportunities for Persons with AIDS, which is the Health and Human Services Commission.

We do gather input from those other two state

agencies as we put this plan together so it does include their comments, and what we are doing is proposing the use of the funds under those four programs for this upcoming year.

We did note for you on page 2 of the writeup the changes where we're recommending both in the HOME program and the Housing Trust Fund, and as Mr. Schwartz did indicate, there is a proposed change on the set-aside for persons with special needs being removed.

That requirement also required -- it applied to pre-development capacity building, Bootstrap, which of course basically didn't apply. Rental development funds were the ones that are used by the disability community, and there certainly are some suggestions that can be provided during the public comment period that would allow that to go back in for the rental development, which is the -- really the activity that it's -- it makes sense to set aside for.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Now we're going -- and I know we've got a lot of people here to make public comment on the HOME awards, and I think we're going to have time to come back to them, but we are moving through the statutorily time-limited items today that we have to do today.

So we're going now to Item 5(I). Just bear with us. We'll get back to you.

MS. CARRINGTON: February 2001 there was a contract that was awarded to Texas Community Solutions by this board. That contract was for \$1,060,000. It was to administer some Olmstead vouchers for tenant-based rental assistance.

We have been notified by Texas Community Solutions that they will be going out of business as of September 30 of this year. What we are recommending is that the other four organizations who also have the ability to administer these dollars be awarded the remainder of that contract amount.

The amount that was remaining is about \$1,051,000. And those four entities are listed for you, Lubbock Regional MHMR, ARCIL, which is located in Austin,

Accessible Communities located in Corpus Christi, and then Lifetime Independence for Everyone, which is located in Lubbock.

Should the board approve this, we note that Accessible Communities, Inc., which is asterisked, their total amount would now be \$734,000, and we would need a waiver, because the typical HOME maximum award amount is \$500,000.

Texas Community Solutions did come to us, tell us about this, and so we are recommending that this is a solution to making sure that those dollars still stay out there and stay available for Olmstead and tenant-based rental assistance.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MR. CONINE: I have a question. Didn't we hear testimony, Ms. Carrington, last month from our friends over in Marble Falls asking for some TBRA money. The Marble Falls Housing Authority -- I don't see them on this list, and I guess my ultimate question is, how do we get back to these four?

MS. CARRINGTON: Well, these are Olmstead dollars, Mr. Conine. And as Olmstead dollars, are for individuals who have been in institutions and are being

deinstitutionalized. So it is a special population.

MR. CONINE: Special.

MS. CARRINGTON: Yes, sir.

MR. CONINE: Thank you.

MS. CARRINGTON: Yes, sir.

MS. ANDERSON: Mr. Gold, will you -- you wanted to defer comment?

MR. GOLD: I'm here with the Texas Department of Ageing Disability Services. I'm in charge of the Olmstead initiative. I'm only here for resource, actually.

MR. CONINE: Move for approval. Is that on the floor?

MS. ANDERSON: There was already a motion.

MR. CONINE: Okay. Excuse me.

MS. ANDERSON: Okay. I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Thank you.

Now we go to Item 6 -- pulled from the agenda, and we now go to Item 7, which is a series of items relating to Hurricane Katrina. As we're doing that, I want -- I'm

just compelled to read this letter into the record from State Representative Veronica Gonzalez in McAllen, who on September 9 wrote to Ms. Carrington.

"The unprecedented devastation by Hurricane Katrina to residents of affected Gulf Coast states, it's reassuring to see our local, state and Federal Government agencies working collaboratively toward providing short -- both short and long-term housing options.

"TDHCA's quick response to address the critical need for housing by establishing a database of surgical vacancies throughout Texas is commendable and greatly appreciated. Thanks to your efforts of making the housing information accessible, families have already benefited in my hometown of McAllen.

"I want to extend my sincere thanks to you and your staff for your efforts to provide this information when it is most needed. No one anticipated the scale of disaster relief efforts needed for the Hurricane Katrina evacuees, but it makes me proud to see Texas agencies respond so quickly to our neighbors in need.

"With sincere thanks, Veronica Gonzalez."

MS. CARRINGTON: Item 7(a) is a report item only, and the board has been getting those regular updates. Item 7(b) is an item that does need the board's

approval. And this would be approval for use of unallocated Housing Trust Fund and Community Housing Development Organization Funds, HOME/CHDO funds for use of housing assistance for evacuees from Hurricane Katrina.

And what we tell you in the write-up is that we've identified about \$1.8 million in Housing Trust Fund dollars that are currently uncommitted. And because the governor has declared Texas a disaster area, then that allows him and this agency to waive some of the state requirements about how we allocate those funds, the most notable being funds need to be allocated on a regional basis.

With the HOME program, while I think we want to go ahead and get this permission, at this point we are working with the National Council of State Housing Agencies and others in Washington to get the statutory waiver to be able to use CHDO funds in this manner.

We have about \$10 million in CHDO funds that are set aside. It's a federal requirement that 15 percent of your HOME dollars must go to Community Housing Development Organizations.

So that's not one that the governor can waive. It's not one that HUD can grant us, but it has to come from Congress. So we want to go ahead and get these

permissions to use these dollars, and noting that the Regional Allocation Formula and CAP limits -- anything that was found in 2306 related to our administration of these programs would be and could be waived because the governor has declared Texas a disaster area.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion? I just want to say something briefly about this. We are -- and I support this motion. We are giving executive director and through the executive director of the staff a lot of autonomy on this. And so you know, I urge careful thought about how many people remain to be served, and what the best way is to serve those people.

You know, because there is a trade-off, duration versus the number of people you can serve if we're talking about using these for rental assistance.

And you know, I just ask that you -- you know, as you are -- one of the reasons we need to do this is so that you have contracting authority outside of the competitive bidding process, and so forth, so you can put the money where it's needed in a very quick way, and I would ask that you keep us very apprised of all your

activities in this area.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The last item for the board's consideration related to the Hurricane Katrina is Item 7(d) and this is actually authorizing the executive director to make awards from previously determined funds to assist the victims with housing assistance through this declaration. We --

MR. CONINE: 7(c).

MS. CARRINGTON: Oh, I'm sorry. I'm sorry.

MR. HAMBY: Well, with 7(c), I think there's actually -- CHDO was addressing this, 7(c).

MS. CARRINGTON: I'm sorry. Yes. I was. Okay. May I just say that we are having a meeting on Monday to begin to talk about what the parameters will be, what our policies will be, how we will actually go about making these dollars available, and what we will utilize them for. So indeed, we are giving this -- beginning to

give this very careful thought and consideration.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: Send us a memo on where you spend the money.

MS. CARRINGTON: I indeed will do that. And the last one -- thank you, Mr. Hamby -- the last one is 7(d), which is the waiver of the Board Integrated Housing Policy to allow greater concentration of physically challenged in the projects that may be assisted with funds from this agency related to the Hurricane Katrina disaster.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Public comment on this time?  
Mr. Schwartz?

MR. SCHWARTZ: Thank you. I'm Jonas Schwartz.

You know, we've been inundated with calls at Advocacy, Incorporated, requesting assistance for people that have been displaced by the hurricane, and particularly, given our expertise, individuals with disabilities.

I am in full support of doing whatever we can to support individuals who are displaced by the hurricane.

I would just ask that caution be used when looking at waiving the integrated housing policy.

First of all, the integrated housing policy was never intended to apply to transitional housing, and if we begin to waive it, there may be some circumstances where that's needed. I just don't want to see us go down a slippery slope that we might not be able to get back up.

Secondly, I want to say that one of the things that the disability community is concerned about in looking for accessible housing for individuals is San Antonio and Houston particularly, there were two very large institutional facilities that have been closed over the last year.

Advocacy, Incorporated, had a hand in closing those facilities because the conditions within those facilities for housing quality standards were deplorable.

And so they were closed. I have concern that because those physical plants are available, people and providers

may try to open those and put people in them because they need someplace for people to go.

But I will tell you that the housing quality standards within those facilities has not been rectified.

I would certainly hope that no dollars from TDHCA will be used to -- for facilities of that kind and so I'm just asking that let's just be cautious here.

And lastly, I wanted to say that the department responded so quickly to the housing needs for individuals, and the set-up on your website to be able to put in what information you know to come up with available units. I think it's been fantastic. My hat is off to staff. I've never seen you all respond so quickly, and it's nice to know that it can happen when it needs to. You all have done a great job. Thanks.

MS. ANDERSON: Thank you. Barry Kahn.

MR. KAHN: I'll pass.

MS. ANDERSON: So we have a motion and a second. Discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Now we got

back, I believe, to 5(g). Yes, 5(g).

MS. CARRINGTON: The first item behind 5(g) is considering appeal of the 2005 HOME award decision for Bee County Community Action Agency. And you will remember at the August meeting when we represented the HOME awards to you, we did outline to you that the initial list that had gone up on our website recommending these awards we found out was in error that we had missed a scoring item that was required under Rider 3. And as soon as we discovered that -- the list went up in the morning on Monday.

On Thursday before the board meeting a week from Friday, that scoring error was determined or was detected. We pulled that list down that afternoon, rescored the applications, and then on Friday the week before the board meeting, as required by statute as seven days prior, we did post a new list.

We had actually 18 applications that were impacted by the staff's error. Thirteen of those, I believe, still received an allocation.

There were obviously five that did not receive an allocation of HOME Funds. One of those five that did not receive an allocation of HOME Funds was the Bee County Community Action Agency.

And what you have in front of you today is an

appeal that has been filed by Bee County Community Action Agency appealing the fact that they were initially on the list, and then once we rescored, they were not on the list, and staff is recommending that the board deny this appeal.

MS. ANDERSON: I do have -- so we're taking this one separately than the others? Or in a group? Or are they all separate?

MS. CARRINGTON: The three that we have writeups on are Bee County Community Action Agency, Bay City, because they each filed individual appeals, and then the City of Montgomery.

MS. ANDERSON: Okay.

MS. CARRINGTON: The rest of the applications were all included in the next one, which was the Gary Traylor and Associates appeal.

MS. ANDERSON: Okay. I have some public comment on the Bee County, which is the item before us. Mr. Jack Seals.

MR. SEALS: Thank you, folks. We got a letter one day saying that we had the money. We let our seniors know -- our senior citizens center. We were very happy about it. The next day we had to let them know that the award had been recanted, and so trying to explain we

didn't understand why at the time. I'm not sure I still do. I'm sure it's quite a valid reason. However, it's hard to interpret to local folks. They're feeling, whether it's unfair or not, they feel that it's unfair.

Bee County is a needy county, and we do qualify. We were having trouble coming up with enough cash match to compete effectively.

We do -- we know right now. Bee County is raising taxes and cutting staff, and the city of Beeville is about the same shape. So we're just making an appeal to you to see if you have any deobligated funds that might be able to fund this project. We'd appreciate it.

MS. ANDERSON: I also, with regard to Bee County, I have a letter from Senator Judith Zaffirini dated September 6. It appeals to us to encourage -- "urge your consideration of Bee County Action Agency grant application for the HOME program, agency-submitted timely at 2005 HOME Program Application.

"Subsequently notified by letter from TDHCA that the project was recommended for funding to construct five homes for low-income persons in Bee County. However, subsequent to the approval letter, TDHCA notified the agency that due to a scoring correction, the Bee County project would not be recommended in light of the

significant need for owner-occupied housing improvements in Bee County, especially for low-income elderly persons.

Your favorable consideration of identifying deobligated funds to support this important project would be appreciated greatly. Very truly yours, Judith Zaffirini."

MR. CONINE: I need some help understanding exactly where they fell out, and I think -- I'm trying to get a hold of it here, and I'm reading this paragraph that was sent from us to the Honorable Jimmy Martinez, where it talks about counties whose median income is at or below the statewide median income will receive the same number of points.

Can you tell me what -- kind of give me this in layman's terms?

MS. CARRINGTON: Yes, sir. I can. And then I'll ask the Single Family staff to come on up if I stumble. It's a Rider 3 requirement, which is in our appropriations. And what that Rider 3 requirement says is if you have counties that are below the statewide area median family income, which is \$53,000, then those counties get additional points. They get basically the ten points that other applicants are eligible for.

And so when we scored -- initially, when we scored our loan applications, we missed that Rider 3

requirement. It was not included as part of our scoring.

MR. CONINE: Bee County's income -- median income is what? Over 53?

MS. CARRINGTON: I'd like to ask somebody from our Single Family staff to come up, please.

MR. CONINE: Over 53 or under 53 is all I need to hear.

MR. GORDON: It says it's currently --

MR. PIKE: Good afternoon. Eric Pike, Director of Single Family. Mr. Conine, I'm not sure if I have their average income for that particular county with me. But basically what happened was there are counties across the state whose incomes are very low, and so what this Rider 3 attempts to do is to allow those very poor counties to compete with other counties.

MR. CONINE: By giving them extra points.

MR. PIKE: By giving them extra points.  
Exactly.

MR. CONINE: Okay.

MS. CARRINGTON: And it's ten points.

MR. PIKE: So someone -- let's say someone in a Rider -- someone in a very poor county would receive the same number of points for serving a household at 50 AMFI as another more affluent county would for serving someone

at 30 AMFI.

So it basically allows them to compete. What we failed to do when we looked at the calculations across the state, we picked up all these -- most all of these counties, but there are some counties that are Rider 3-eligible within MFA, and those are the ones that we failed to include.

So we recognized that error, and we went back and took into consideration those counties in the MFA. And so consequently, what it did is it gave some applicants an additional ten points that didn't initially get them.

So it enabled those communities to have a higher point score.

MS. ANDERSON: To leapfrog.

MR. PIKE: And so what happened initially was Bee County was one of the recommended projects, but when we reconfigured it, it came in fourth place, I believe, if I remember correctly. There were three other communities ahead of it that bring out the -- or were recommended funding at the last board meeting.

MR. CONINE: Okay.

MR. PIKE: The cities of, I believe, Odem and Taft --

MS. CARRINGTON: And Yoakum, I believe.

MR. PIKE: -- and Yoakum.

MR. CONINE: So it was no fault of Bee County.

It just -- it was a --

MR. PIKE: Exactly. It was --

MR. CONINE: -- scoring leapfrog -- on the list one day, off the list the next.

MR. PIKE: Right. We put it --

MR. CONINE: And this is out of HOME funds, and we have a certain allocation set aside for this particular program?

MR. PIKE: Yes, sir.

MR. CONINE: Which is?

MR. PIKE: Oh, in total it's \$20-something million, but each region gets funds just like they do in tax credits. You have urban, exurban, and then you have rural, and so you run everything through a regional allocation formula, and you have a certain amount available for each activity.

MR. CONINE: Okay. Thank you.

MS. CARRINGTON: And what they were requesting was \$275,000 for owner-occupied. So rehabilitation. And I believe it was five-year --

MS. ANDERSON: And the owner-occupied was about

60 percent of -- TBRA was about 30 or 40, and owner-occupied was --

MR. PIKE: Actually, owner-occupied was much higher.

MS. ANDERSON: Really.

MR. PIKE: We're very oversubscribed for owner-occupied. It's extremely competitive.

MS. ANDERSON: Right. It's oversubscribed, but up to 22 million, about 80 percent of it does go to owner-occupied, and it still was oversubscribed. So it's never going to have enough.

MR. PIKE: Typically what happens is we're able to fund two to three projects in most regions in the rural areas.

MR. CONINE: Because of the Regional Allocation Formula?

MR. PIKE: Uh-huh.

MS. CARRINGTON: Yes, sir.

MR. CONINE: And all these appeals --

MS. ANDERSON: They're all different issues.

MR. CONINE: -- different issues?

MS. ANDERSON: Different issues. Yes, sir.

MR. PIKE: Correct.

MR. CONINE: IT will be coming out of the same

pot.

MS. ANDERSON: These are -- it's all coming out of the same pot. It's all owner-occupied.

MR. GORDON: It's that million-six that we have left.

MS. CARRINGTON: And that's CHDO. So no, it wouldn't be.

MR. GORDON: I mean, assuming we -- there is some funds that we could?

MS. CARRINGTON: We anticipate, and this is on page 2, where we estimate the department has approximately 1.6 million in deobligated funds.

MR. PIKE: That is correct.

MR. CONINE: Could we hear the other two?

MS. ANDERSON: That's -- yes, you want to hear staff's presentation for all the issues?

MR. CONINE: Yes.

MS. ANDERSON: Okay. So then let's go to the Bay City.

MS. CARRINGTON: The next item for the board's consideration is Bay City, which is -- what's it, a 2005 application. And they were applying for the American Dream Downpayment Initiative, ADDI. This is downpayment assistance.

And they received three out of 15 points, three out of 15 possible points for citizen survey forms. And what they are requesting is that they be granted the other 12 points for those citizen survey forms.

We note in paragraph 3 for you that 26 citizen forms were submitted as part of the application package. However, only three of those forms were completed on the American Dream Downpayment Initiative. The other 23 were completed on owner-occupied housing assistance.

And so the requirement in the program is that the citizen survey forms that come in must be for the activity that the applicant is applying for. So they did receive three points, but they are requesting their additional 12 points.

MR. GORDON: Is there a reason they used the different form?

MS. CARRINGTON: Mr. Pike?

MR. PIKE: I think it was -- Mr. Gordon asked if there was a reason they used the different form, and I believe it was just an oversight probably on their part.

MS. ANDERSON: I have some public comment on this one from -- unless you had questions of staff.

MR. CONINE: No, go ahead.

MS. ANDERSON: Mr. D.C. Dunham. I'm sorry.

I'm sorry.

MS. DUNHAM: I'm D.C. Dunham, the executive director for Bay City Community Development Corporation. I'm also representing the City of Bay City, and the reason for the forms is because one, of my inexperience in doing this.

I am a new resident to Texas from the State of Louisiana, and I would like to tell you that I really appreciate all that the State of Texas has done for the evacuees. Also, since this appeal, we are going to be putting 80 families in apartments just in Bay City on Monday. We're going to our county commissioners to ask for that funding to be able to do that.

And we do hope -- there are many of them that have already found jobs, even though Bay City has been traditionally very high in unemployment. We have already been able to find some of them jobs, and we're excited about locating them here.

And hopefully, we would like to be able to offer this downpayment assistance to them as well, but I'm here mainly to plead that part of it is my ignorance, because it was a last-minute on the forms, and I just said, you know, it is for a home, and I scratched it out and did that.

But really, the person who was handling that for us is Carol Smiley, and I think she is next on your list. And she is the one that can really give you the just cause that we're asking for. Thank you.

MS. ANDERSON: Thank you. Ms. Smiley.

MS. SMILEY: My name is Carol Smiley, and I'm here representing the City of Bay City. And our appeal is based on the grounds that there was a procedural error in scoring Bay City's HOME 2005 application according to Tab 4 guidelines for the citizen survey.

And the citizen survey forms state that, in the guidelines, "A citizen form is considered complete when following -- the following blanks are filled with the requested data. Name, address, city, zip code and county of residence, signature and date, annual income amount, and AMFI box check.

"For OCC, a picture of the house must be included to be deemed complete. On all 26 forms that we did submit, all of the information was complete. So it's -- according to the guidelines, the guidelines do say that on Tab 4, it says, "Please review the citizen survey form attachment to applicable to the requested activity."

We did review it because we did get through that. We had three that did come in on the right form.

But on the incorrect form, they were all adjusted to show that winter's -- we did the surveys with winters on the ADDI program.

So it was a very, very dumb mistake, and we hope it's not going to be a costly mistake. But the forms were adjusted to reflect winters, even though it was on the OCC. And then we did fill in all of the names, address, cities, zip code, and county of residence, signature and date, annual income amount and AMFI box checked correctly.

So our contention is that they were complete, and we ask the board to accept the 25, and in so doing, it would raise our score into the middle of the pack of the funding entities.

MS. ANDERSON: Thank you. I have a question for staff. Thank you. Do you remember ballpark, sort of off the top of your head, how many -- it appears from this board writeup that there are others besides the City of Bay City that made a similar error. Is that correct? And put the stuff on the wrong forms?

MR. PIKE: The --

MS. ANDERSON: We say staff consistently did not award points to applicants submitting incorrect citizen survey forms. Did anybody else make this kind of

mistake? Or did they make other kinds of mistake?

MS. CARRINGTON: It looks like Paige McGilloway has the answer to that question.

MS. MCGILLOWAY: First time. Paige McGilloway, project manager of a Single Family. Yes. This did happen on occasion, and for every time an applicant submitted the wrong citizen form, it was not counted.

MS. ANDERSON: Thank you. Any questions about Bay City? Are you ready to go to Montgomery?

MR. CONINE: Yes.

MS. ANDERSON: Let's go to Montgomery.

MR. CONINE: Both of those were \$250,000 requests. Is that right?

MS. CARRINGTON: One was 275.

MR. GORDON: One was 275. That Bay City is 275.

MR. CONINE: 275. Thank you.

MS. CARRINGTON: And the third one in this -- that has filed an individual appeal is the City of Montgomery, and they were applying for owner-occupied assistance, and their issue is similar in that they were awarded 12 out of 15 points for the citizen survey form.

And on their form, as we note in the third paragraph, that one citizen form didn't include the

address, and that basically what they received was 12 out of 15 points, or having 88.88 percent of the forms complete.

Again, basically the same answer that Ms. McGilloway just provided you, and this was in the rules of the HOME program and that we applied those rules consistently to all applications.

MS. ANDERSON: I have public comment on this item. Ms. Edith Moore.

MR. CONINE: We had public comment this morning on this one, didn't we?

MS. ANDERSON: Yes, we did.

MS. MOORE: Thank you very much for this opportunity to speak to you. I know you've had a very long day. My name is Edith Moore, and I'm mayor of the City of Montgomery. It's a community of about 500 citizens with an average income of 17,000.

Pat Easley, who is the chair of the Town Creek Civic Community will speak a little bit later. And I have handed out letters from Kevin Brady, who is a U.S. congressman, and Ruben Hope and Todd Staples, legislators.

The City of Montgomery has made it to the Texas Department of Housing and Community Affairs HOME Program for owner-occupied housing for the past two years. The

first year we scored low in the affordable housing needs formula because of our proximity to the Woodlands, and inclusion in the county, and not on our specific needs.

As a result, we were third in line for funding in our region, with the first two cities receiving funds while we did not. We appeared before the board of TDHCA that year, and perhaps our testimony helped, because that portion of the scoring was changed.

Had it been fixed one year earlier, we would have received funding last year. I'm sorry, I'm having throat trouble. We had great hopes that we would score well this year and be able to help some of our citizens, mostly elderly widowed women with a number of critical housing repair needs or reconstruction.

The needs are great, particularly in a community that we call Town Creek. That community has organized a civic organization in an attempt to help itself. Pat Easley will -- when she speaks, she'll speak to that.

This year the City of Montgomery submitted nine citizen forms with names, locations, income levels, authorizing signatures and pictures of our proposed project. In the scoring process, our application only received 12 points, but should have received 15.

MS. WOODS: Time.

MS. MOORE: Sorry.

MS. ANDERSON: Just finish up. You don't have to just stop.

MS. MOORE: Okay. Thank you. Well, I'm an old schoolteacher, and I expect people to be -- we found that one of our elderly widow ladies, Mrs. Rudy Bates, did not have her address on her form, and therefore, the City of Montgomery received 12 points instead of 15 for having only eight citizen forms.

She is a 40-year resident. She is wheel-chair and blind, and she had applied the previous year and had -- her application was one of those accepted. The form was signed by her, and a picture of her house is attached.

With those three points, our application would have scored the highest in the region and we would have been the first to be funded. As it stands now, we will receive no funds. This application does not give specific instructions about street address being absolutely essential or points will be taken away on scoring.

Additionally, you will see on page 7 and 8 of the application guidelines a statement is made that opportunities were given to correct deficiencies --

MS. ANDERSON: I do need you to wind up. Go ahead and wind up.

MS. MOORE: Okay. At any rate, we are appealing that because it was an error made by a quite old lady, and we appreciate the opportunity to speak to you and that was the only thing on our total application that was omitted. So it was an error and we thank you for your time.

MS. ANDERSON: Thank you. Patricia Easley.

MR. CONINE: How much was this Montgomery application for, this?

MR. PIKE: 500,000.

MR. CONINE: How much?

MR. PIKE: 500.

MR. CONINE: Thank you.

MS. EASLEY: Good afternoon. My name is Patricia Easley, and I am the president of the Town Creek Civic Organization. We are located in the City of Montgomery. Of the nine survey forms that were submitted in the city's application, all nine of those citizens were from the Town Creek community.

And we took some effort a couple years ago to get organized in our community and trying to do some things for ourselves in our community. That included

beautification processes and trying to refurbish or restore some of the homes of the elderly. We inspired people like the Rotary Club, other civic organizations around us, and the city with our efforts, and they wanted to join hands with us and help us.

And the city applied for this grant, and we were all really thrilled about it. And was very disappointed to find that we got -- we were not awarded what was needed in the city because of one application. Now, I understand that staff, you know, have to follow rules, and that type of thing, and I understand what it's like when you have to do that.

But staff do have the ability, I would think to interpret, and maybe make a phone call and maybe inquire as to why that was left off. So it's hard to explain to people why for that reason, which seems like a technicality to us, that we're not going to be awarded the help that this community really truly needs.

You heard from Jenny Stewart, Councilwoman, a little earlier this morning talking about some of the conditions of the homes in our community. And she put it mildly. We are a community of elderly and disabled individuals, and the median income for Montgomery is 17,000. The median income at Town Creek is much lower.

So it is for that reason I would like for you to reconsider giving us the three points, that it would have almost given us a perfect score, had it not been for Ms. Bates's application not having an address, because I believe it will be in keeping with what your mission is for these funds.

I thank you for your consideration.

MS. ANDERSON: Thank you. Just for the information of some board members, I have several other witness affirmation forms for people that wanted to be on record in support of Montgomery's appeal, but they didn't want to speak. But we appreciate at this hour of the day, Mr. J. Rice, Ms. Vicky Ruby, who is the city administrator of the county -- of the City of Montgomery, and Mr. P.L. Moore.

In addition, I have a letter from Congressman Kevin Brady, and I know that he also made phone contact and phone -- attempted contact with board members, but he writes a letter about the City of Montgomery and their application for HOME Program in order to help with repairs to nine homes.

Based on errors, the city has received a score lower than anticipated, and the purpose of this letter is to request that you permit the city to submit a

correction. With the city's application, nine forms were included, representing the nine citizens whose home will be repaired.

"One of these citizens was Ms. Ruby Bates, a widow without resources who has lived in the Town Creek area of the city for over 40 years. Ms. Bates's address is missing from her form. Unlike previous occasions when the city was invited to make corrections to its submission, no such opportunity was given, and the city received a score of 12 rather than the 15 that was anticipated, as -- had Ms. Bates address been included on her form.

"I would be grateful if in your help, board members would reconsider this matter and permit the City of Montgomery to amend its application."

I also have a letter from State Senator Todd Staples, and in part it reads, "One resident's address was inadvertently omitted from the application form. While the city submitted a strong application, this clerical oversight reduced the overall score, and it appears to be the sole basis for denying the award. Program guidelines indicate applicants may clarify or correct applications deficiencies.

"The City of Montgomery wishes to provide the

omitted address and move forward in the review process. Denying the city's grant request due to a technicality would damage the momentum of community-wide efforts to improve local low-income areas.

"Partnerships established by the Town Creek Civic Organizations, Lake Conroe Rotary and Bent Water Civic Association have fostered a spirit of cooperation and teamwork to make much-needed improvements in the communities.

"These and other organizations are well-positioned to put the grant money to work in a way that will make a lasting and significant difference in the lives of low-income homeowners. I strongly support the City of Montgomery's application, and respectfully ask TDHCA's due and favorable consideration for reviewing scores used to determine grant eligibility."

And finally, I have a letter from State Representative Ruben Hope, who is the congressman from Conroe, which reads in part, "Add my voice to those urging TDHCA to give favorable consideration to award the City of Montgomery's appeal to the board. Montgomery County is divided by a large margin of income levels, The Woodlands being very affluent, and Montgomery being very poor.

"This community has a population of only 489

citizens, and it's mostly made up of the very elderly minority and poor with an average household income of 17,000, and therefore has a greater need for critical housing repairs." And he discusses this situation with Ms. Bates.

"I understand the competitiveness of these grants, but also recognize that many of these residents live in deplorable conditions. The City of Montgomery deserves this financial assistance to restore their homes to acceptable living conditions.

"The citizens of Montgomery are certainly dissembling of this money, and I hope that you will consider this hearing in their favor.

I have a couple of questions of staff. I'm drawn to the comment in Congressman Brady's letter. It states, "Unlike previous occasions when the city was invited to make corrections to its submissions." Did we have deficiency -- a deficiency process for something in prior years in the HOME Program for OCC?

MR. PIKE: In prior years we did not have deficiency processes.

MS. ANDERSON: Did we make phone calls and invite people to make corrections?

MR. PIKE: Yes, last year we implemented our

first deficiency process, and in years prior to that we scored applications based on what was submitted. We did not have the flexibility to pick up the phone or to write a letter or what have you to clarify stuff.

So for 2004, we implemented a deficiency process in our rules, and basically what we do right now is we will send out a letter and call if there is some conflicting information or to properly categorize an application.

You reach a point where, you know, if you call on everything, basically everyone is going to score 100 points, pretty much. I mean, it gets real difficult to try to distinguish the HOME applications, there is such competition between them.

So we look at things that we can -- like the deficiency process, if there is some conflicting information, maybe they checked they were urban/exurban and they were rural, and we don't really know if -- you know, that's just an example.

But we would call them and say, Okay, clarify that for us. But something as far as a form was submitted incorrectly, we did not contact folks.

MR. GORDON: Yes. I am confused. Let's assume everybody submitted a correct application. There's got to

be some process to grade these.

MR. PIKE: Exactly. And that's -- and we have a process that we use to grade them, and what we still run into is there is such competition, there will be oftentimes, in some competitive regions where you'll have three or four people scoring the same scores, so what we do in that case is we have to take the amount of money and pro-rate it.

And so --

MR. GORDON: Okay. But you're not --

MS. ANDERSON: But you're saying it's conceivable to get a score of 100 on one of these applications? I mean, they're all scoring way up in the 90s. Maybe our problem is we don't have enough -- we're not requiring -- we're not stratifying your local match or something to make these things shake out a little more.

MR. GORDON: Yes, and my point is we ought to be grading them based on not if you make an error on your application --

MS. ANDERSON: That's right.

MR. GORDON: -- but on criteria.

MS. ANDERSON: I agree.

MR. GORDON: And that's what's happening here, is --

MS. ANDERSON: They're tripping people up.

MR. GORDON: -- this -- we're -- yes, this is a game of I gotcha.

MS. ANDERSON: Is it your presumption, though, in fairness to the staff, is it your presumption though that these forms, such as these citizen surveys are reviewed by the local jurisdiction that's submitting the application, so it's incumbent on the local jurisdiction to make sure address is filled out?

I'm not going to lay that at Ms. Bates's doorstep, but I will -- the city should be reviewing component parts of its application.

MR. PIKE: Absolutely. Typically under the owner-occupied program, most of the applications are submitted by grant consultants, in reality. Ultimately, the city is the applicant, so it does fall on their shoulders.

But typically you have grant consultants that put these together, and review the information for accuracy and submit it on the city's behalf.

MR. CONINE: Could we hear the rest of these appeals? I mean, there is only one, but I --

MS. ANDERSON: Yes. I know. I just want to -- I think that's my only other --

MR. CONINE: Whenever you get finished with these three?

MS. ANDERSON: I think I'm through with the questions on this one. Now then we have a group of appeals represented by Mr. Traylor --

MR. TRAYLOR: Madam Chairman, we did not certainly design this, but I think you can see that there were a number of problems with the 2005 Single Family HOME competition, and for the last --

MR. CONINE: Could you identify yourself.

MS. ANDERSON: Wait a minute. You're not supposed to be up there, sir. I didn't call you to speak. If you would sit down, we need a staff presentation first.

MR. TRAYLOR: Oh I'm sorry. I thought that you did. I misunderstood you.

MS. ANDERSON: No, I was referring to the agenda item. I'm sorry.

MR. TRAYLOR: I'm so sorry.

MS. CARRINGTON: And I paused, and that gave you an opportunity to -- I'm sorry. The next item is one appeal. It does concern a group of applications, and this is appeal that we received from Gary R. Traylor and Associates. On the second page of this, you will note

that he has 13 applications that were listed.

And what Mr. Traylor is alleging is that the board failed to follow the department's HOME Program rules, specifically the time line for board action on department funding recommendations, which is mandated in our rules, and requests -- he's actually requesting that the board rescind its August 19, 2005 vote, and consider this matter at a future date.

It is staff's position that these awards were made by the board in a proper manner and in a timely manner. As you all were told in August and have been told again today, that we initially had recommendations that went up on Thursday, August 11.

We discovered our error that afternoon. On Friday, August 12, the new scoring recommendations were posted on our website, and those were made. Those were posted seven days prior to the board taking action, which was on August 19.

MS. ANDERSON: Okay. Mr. Traylor?

MR. TRAYLOR: I'd just like to note for you that in your board book you do not have a copy of our appeal. All you have is the department's reply to it for -- or their recommendations, and so I just want to make that available to you here.

MS. ANDERSON: I'm sorry. Sir, would you state your name and position for the record?

MR. TRAYLOR: Yes. My name is Gary Traylor. And I am the President of Gary Traylor and Associates, a consulting firm in Tyler, Texas.

MS. ANDERSON: And you prepared the applications for these appellants?

MR. TRAYLOR: Yes, I did. Ladies and gentlemen --

MS. ANDERSON: Which letter are you referring to that you're saying we don't have? Is it a letter, Ms. Carrington, that came in after the board book went up?

MR. TRAYLOR: The letter that is being distributed to you now is our actual appeal to the governing board.

MS. ANDERSON: We have it in our board book.

MR. TRAYLOR: The -- so the letter was in the board book?

MS. ANDERSON: It absolutely was. It's right here.

MR. TRAYLOR: We were -- we attempted to locate that in the online version of the board book, and we were not able to find that.

MS. ANDERSON: Right here. So let's -- I'd be

careful about making allegations about what we have and don't have. Maybe better phrase your question to us.

MR. TRAYLOR: Sorry about that. I apologize. And I may be somewhat terser than I would wish to be because I'm so limited as to time here.

Ladies and gentlemen, we have been working for the last 30 days to bring to the department's attention the existence of extremely serious flaws in the scoring of the 2005 Single Family HOME applications. I'm here today as a very reluctant, but nevertheless determined challenger of those scores.

And the handling of these applications, although we greatly respect the department, they simply did not get it right. And when we brought this to the department's attention, we were -- we had truly been dissuaded, delayed and denied our right to appeal to the board the entire list of questions that we had concerning this competition.

THE REPORTER: Time.

MS. ANDERSON: Yes, let's ask you some questions. I mean, your time's up. Let's ask some questions, and I think that will give you some additional time to make your position clearer. I'm confused by the public comment you just gave, because your appeal letter

is all about did we give seven day's notice?

So are you saying this appeal letter is no longer of interest to you and you're shifting your argument to some other grounds for appeal?

MR. TRAYLOR: No, ma'am.

MS. ANDERSON: Okay. Then why don't you address your appeal briefly with me, this appeal letter written on the 26th of August. Because that -- the staff has said they analyzed your appeal letter, and that in fact, we did notify and post to the web in a proper time frame.

MR. TRAYLOR: We actually had no way, Madam Chairman, of knowing when the department posted the information, because the department communicated with a lot of people who had an interest in the outcome of these applications by means of an automated email system.

Initially we were notified that the results of the competition had been posted, and we were then instructed to disregard that.

MS. ANDERSON: Right. I see. I have copies of those emails.

MR. TRAYLOR: And in that instruction to disregard, we were notified that the recommendations and assorted summaries would be posted by the close of

business --

MS. ANDERSON: Right.

MR. TRAYLOR: -- Friday, August 19, which would have been after this board had actually approved them.

MS. ANDERSON: Okay. So that's a typographical error. Okay. And then I have a copy that says they're posted on Friday, August 12 at 1:30 in the afternoon.

MR. TRAYLOR: We did not receive that.

MS. ANDERSON: Okay. So you weren't notified on Friday, August 12 at 1:30 that the revised scores were back up on the web?

MR. TRAYLOR: That is correct.

MS. ANDERSON: Okay. How did you become aware of when they were back up on the web?

MR. TRAYLOR: Through telephone conversations with staff.

MS. ANDERSON: On what day?

MR. TRAYLOR: The following week, Monday or Tuesday.

MS. ANDERSON: Okay. Were none of your clients -- did none of your clients receive this email from these various, you know, cities?

MR. TRAYLOR: We have not been able to identify those that did.

MS. ANDERSON: Could you produce some email -- sent email, Paige, that shows that you sent the email?

MS. MCGILLOWAY: That's the email right there.

MS. ANDERSON: But I can't tell who is on this list serve. Can someone go get that?

MS. MCGILLOWAY: Can I say one thing about the list there? That communication is only sent to individuals that have subscribed to our list, sir.

MS. ANDERSON: Right. Then let me ask you about the communication you sent out Thursday that turned out to be erroneous, but that was your first award communication. Did that go to the same list, serve?

MS. MCGILLOWAY: It went to the same list serve, but all of our applicants were notified via fax with a letter of their funding recommendation, whether they got a recommendation or not.

When the scores were pulled, we did notify through the list serve that the scores were incorrect and going to be modified, and that we would only let those applicants know that had a difference in a funding recommendation know via a letter which we sent that following Friday still in a timely manner, seven days prior to the board meeting.

You still need the email? Okay.

MR. TRAYLOR: Madam Chairman, we have been attempting to -- we filed this appeal because we felt that we had been forced to swim upstream as hard as we can.

MS. ANDERSON: But this appeal -- but I don't think you're getting my point. This appeal is only about the seven-day issue. That's your grounds for appeal, and so then the staff has written its response to that appeal on those grounds only.

MR. TRAYLOR: I see what you're saying.

MS. ANDERSON: See what I'm saying?

MR. TRAYLOR: I see what you're saying. We are -- we have been denied our right to appeal the substantive issues that I had referred to here that are not on the agenda.

MS. ANDERSON: Why aren't they in this August 26 letter to us?

MR. TRAYLOR: Because they are in a number of other letters that the department has not provided to you. That's what I'm -- it's one of the things I'm trying to point out.

We feel that we have a legal right to this appeal, and we feel like the department has lawyered us here to the point that we have been forced to retain our own counsel, and it -- it would be in the department's

best interest that an investigation of this scoring process be undertaken and it would be far better for that to be a process undertaken within the department than for us to have to leave here and go outside for that.

We're trying to work with the department every way we know how to. Now, I realize that this is a procedural point that our appeal is based on that is currently before you, but I will say to you that if you look at how deftly the department's rules are constructed regarding appeals, I hope that the board understands that there is no possible way that any applicant when he's done, may ever present an appeal regarding the scores of the applicant -- that the applications has received, or the scores that the department assigned in the competition while those are still in recommended form.

There is no way -- your rules exclude that possibility because of the way that the notice requirements were written, the way that the agenda deadlines that the department uses occur. So we actually have and have brought with us complete copies of the correspondence that we have had with the department going back 30 days.

MS. ANDERSON: Do you have any questions for him?

MR. CONINE: No, I think what I'm hearing, there is enough confusion on both sides to warrant tabling of Mr. Traylor's appeal on these -- this group of cities till our next month's board meeting, until we get this straightened out.

MS. ANDERSON: Yes, and I would -- yes, and let's submit an appeal with all the issues in it so that the staff can respond to all of your issues. Okay?

MR. TRAYLOR: Thank you very much, Madam Chair. I appreciate that.

MR. GORDON: And I would like that your appeal include all these substantive areas that you've alluded to.

MR. TRAYLOR: We've done open records requests. We've got the documentation. We --

MR. GORDON: I want to see your appeal with those to us.

MR. TRAYLOR: Okay. Would you like to see that now?

MR. GORDON: No.

MS. ANDERSON: No, sir.

MR. TRAYLOR: Thank you very much.

MR. CONINE: Motion to table.

MS. ANDERSON: Second. Did somebody second it?

MR. GONZALEZ: Second.

MS. ANDERSON: 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: Now I'd like to go back --

MS. ANDERSON: Go back.

MR. CONINE: -- to these other three for just a  
minute. Do I understand that one of these is a  
downpayment program, and the other is owner-  
occupied/rehab -- other two are owner -- and aren't those  
different buckets?

MS. CARRINGTON: Bee County is owner -- yes,  
they are different buckets.

MR. CONINE: Okay.

MS. CARRINGTON: Bee County is owner-occupied.  
That was for five units.

MR. CONINE: All right.

MS. CARRINGTON: The City of Bay City was for  
the American Dream Downpayment Program, and that was for  
260,000 to assist 25 households.

MR. CONINE: All right.

MS. CARRINGTON: And then the City of Montgomery was also for owner-occupied, and that was for assisting nine households, 500,000 plus 20,000 in administrative funds.

So two owner-occupieds, one American Dream downpayment. Yes, out of different -- two different buckets.

MR. CONINE: I'm going to move that we grant the appeals for all three.

MS. ANDERSON: Can we take these individually?

MR. CONINE: Sure we can. I'm going to move that we grant the Bee Community Action Agency, 250,000, I guess plus the admin fee on the owner-occupied.

MS. ANDERSON: 25,000.

MR. GONZALEZ: Second the motion.

MS. ANDERSON: Discussion? I'm going to speak against this motion because I think all three of these -- I wanted them broken up because I think the merits of them are different.

MR. CONINE: Sure.

MS. ANDERSON: And in this one it is just you, know, the breaks of it being a very competitive program. They didn't do anything wrong. Staff didn't do anything wrong. When staff did this -- the Taft and Odem and

scored them correctly, they leapfrogged, and I don't think that merits making a change to the awards for this one.

MR. CONINE: All right. And I'm in the compassionate conservative mode, and think that once you taste the sugar, you ought to be able to get it if there is no other discrepancies and no fault to begin.

MR. GONZALEZ: And I agree.

MS. ANDERSON: Any other discussion?

MR. CONINE: I don't like the way this is shaping up.

MS. ANDERSON: And we're usually pretty aligned. So just once in a while we have to -- is there any other discussion?

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

MR. GORDON: No.

MS. ANDERSON: No. The motion fails.

MR. CONINE: Now I move that we approve the American Dream Downpayment issue, for the City of Bay City.

MR. GONZALEZ: Second the motion.

MS. ANDERSON: You know, I have a concern about

this one too, because it's other -- it -- and I'm -- maybe I ought to clarify this with staff. Is it correct that other applicants also incorrectly filled out the survey forms and used OCC forms when they should have used ADDI forms, and those applicants didn't get the points either? Okay.

MR. CONINE: Is it correct that the surveys they did turn in, though, supplied the information you needed to make a decision? I know you don't like to be in this position.

MS. MCGILLOWAY: Oh, I love. I don't care. The application says specifically that you have to have the right form per activity. The forms are, in fact, different. The owner-occupied asked what improvements you need on your home, and you have to check boxes, whereas in Homebuyer Assistance, that ADDI one, says, I'm a first-time homebuyer. I'm interested in purchasing a home.

Yes, the address, fill in the blank, date is the same, and that's what we have in the application, but we also say it has to be on the applicable form.

MR. CONINE: Well, I'm in the mood to try to find a little more corrective procedure. What was the word you used?

MS. ANDERSON: Deficiency.

MR. CONINE: Deficiency. Thank you. That's the word.

MS. ANDERSON: Yes, I'm --

MR. CONINE: I'm -- the HOME Fund department is going to have to figure out a way to do this a little better than we're doing it, because we are playing Gotcha. And that's not right.

MS. MCGILLOWAY: You better believe I already have a new form for that.

MR. CONINE: Right. I'm sure you do, but for right now, I'm encouraging my board members to vote for ADDI for Bay City.

MR. GORDON: Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(Pause.)

MS. ANDERSON: No. The motion carries.

MR. CONINE: And I'll move that we give the City of Montgomery 500,000 of owner-occupied. Again, when a nice lady fails to put her address on the form, I don't see that as a reason to kick it out.

MR. GORDON: Second.

MS. ANDERSON: And I'm going to support this one, believe it or not.

MR. CONINE: No, I believe it.

MS. ANDERSON: But I'm going to caution local applicants and consultants everywhere, you're accountable, not the department, for having these forms filled out right, and you know, so it -- you know, it's tough to blame the staff. You know, it's tough to be in a position that we're in today because somebody didn't fill out the address form.

And the simplest way to have solved that would have been to have eagle eyes, you know, looking at it in the City of Montgomery.

We have a motion and a second. 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. Hamby, may I ask you to sit down, because I goofed earlier and I'm going to ask Mr. Strama to make his public comment.

MR. STRAMA: And Madam Chairman, I really apologize. My name is Keith Strama. I'm an attorney at the McInnes office in Kilgore, and the good news is I have

to be one of the last people who is going to talk to you all today. But the bad news is I have to jump in front of a train that might have already gone by.

Here is the tabling of Mr. Traylor's motion for 30 days. You -- well, there really is a posting problem here, and I looked into the case last night. And I would like to see the list of -- but he looked pretty carefully, and Mr. Traylor is as good and decent a man as I've met this week for sure, and he didn't receive that email.

So you have an email problem, and it's not going to be up there for a week, and then you posted it. Whether you posted it or not, I think it's really going to become the irrelevant support at that point.

This affects every grant you made, but subsequently there was a letter provided to you today, and this is from the letter of the City of Kemp that you all saw earlier that really -- I really beg you all to read this and think about it, because this casts serious doubts on the entire scoring process.

What you have here is a system where you get a score based upon the matching funds that the city provides. You have one consultant with 30 percent of the applications that got 75 percent of the grants. Now, either one, he had really good clients. Two, he was a

really good consultant. Or three, they figure out a way to get this point system just right, and said Gotcha. He figured out the point system right.

And if they were doing it the way the City of Kemp described, you've got a really serious problem. And I just would ask you all to consider this whole -- backing up on this whole process and ask them to look at all these grants, every single one of them.

MS. ANDERSON: May I ask you a question?

MR. STRAMA: Yes, ma'am.

MS. ANDERSON: When did the staff get this letter from the City of Kemp to Mr. Traylor?

MR. STRAMA: And this goes --

MS. ANDERSON: Excuse me. I asked you a real simple question. When did the TDHCA staff get this letter dated September 15?

MR. STRAMA: I'm not sure that they have seen it before now.

MS. ANDERSON: Okay. Thank you. We can't -- the staff cannot respond to appeal issues it knows nothing about. Sir? You know, by tabling it we're giving -- and I'm sure the staff is very clear that we expect a thorough airing of all issues, and we expect the applicant, applicants, to provide an appeal letter, you know, in a

form that the staff can then do some due diligence on and respond to in a way that we normally handle our appeals.

Let me just -- I believe we're finished with this agenda item.

MR. CONINE: Who is next?

MR. HAMBY: If I could interject for just a minute.

MR. CONINE: Yes.

MR. HAMBY: The Bee Community Action Agency -- you had a motion that failed because it was a two/two tie, but you had no motion that disposes of the matter.

MS. ANDERSON: Picky, picky.

MR. GORDON: Well, bring it up next month when you have more board members.

MS. ANDERSON: All right. So --

MR. HAMBY: Maybe unless somebody --

MR. GORDON: The mayor will be for it.

MS. ANDERSON: Oh, I see.

MR. HAMBY: I don't know what -- what can we do about it? We try to -- you can --

MR. GORDON: If we try to raise a vote that's two and two --

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

MR. GONZALEZ: Second.

MR. HAMBY: You can move it to table it to the next meeting, and you could ask for another vote. It changes their opinion on it, but we have no matter that disposes of it, because a motion that fails for a lack of a majority is not a valid motion. Move to table is probably the most expedient thing.

MR. GORDON: All right. Move to table.

MR. CONINE: There is a motion -- there was already one on there and a second.

MR. GORDON: Move to table. Okay. Second.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(Pause.)

MS. ANDERSON: No.

MR. GONZALEZ: Another time.

MR. CONINE: Wait a minute. He moved it. Did you vote yes or no? No, what did Pat vote?

MR. GORDON: I seconded the motion.

MR. CONINE: Yes.

MS. ANDERSON: I mean --

MR. GORDON: I seconded your motion.

MR. CONINE: It's three/one to table.

MS. ANDERSON: I know. I'm sorry, the motion failed.

MR. CONINE: No.

MS. ANDERSON: The motion carried. To table.

MR. CONINE: It was tabled till the next meeting.

MS. ANDERSON: Okay.

MR. CONINE: End of discussion.

MS. ANDERSON: We -- I'm going to encourage my fellow board members that are still here at 4:15 on a Friday afternoon to encourage the board members who didn't stay to stay next time so that we don't have to look at everything, we get to postpone on and we end up having to look at two months in a row, and that's no fair to us or to the folks that are affected by our decisions.

And I have three witness affirmation forms come in after the conclusion of action on Item 5(g), and so they're welcome to come next month. We'll be hearing all of this next month.

MR. CONINE: What's next? 5(h)? I've got 5(h) and 5(I) still in front of me.

MS. CARRINGTON: No, 5(I) we voted on.

MS. ANDERSON: 5(h) doesn't have to be --

MR. CONINE: Oh, that's right.

MS. ANDERSON: What's 5(h)? Which one was it?

MS. CARRINGTON: The CHDO award --

MS. ANDERSON: 5(I) we've already done.

5(I) we've done. Because we didn't have to do this.

MS. CARRINGTON: All we need to do --

MR. CONINE: Whatever happened to this one, the VOA thing?

MS. CARRINGTON: Which one is this one?

MR. CONINE: The VOA thing.

MS. CARRINGTON: We tabled it. Next month. It can go next month. Weber Gardens.

MS. BOSTON: It can with their council asked that we review for those requirements.

MS. ANDERSON: Well -- what time do -- you have a -- what time is your plane?

MR. CONINE: 5:20.

MS. ANDERSON: You're about four minutes away from having to leave, and I've got questions on this CHDO. So we can take questions. Let's see if we can --

MS. CARRINGTON: Well, of course this one was a different one. The one Ms. Bast is talking about is Webber Gardens, which is requesting permission from the board to perhaps purchase the subordinate mortgage on Webber Gardens. It's a preliminary action on the part of

the board, and then the CHDO one is a separate time.

MS. ANDERSON: Okay. So the Webber Gardens is Item 2(f).

MS. CARRINGTON: Correct. Yes.

MR. CONINE: 2(f).

MS. ANDERSON: Why don't we take that one?

MS. CARRINGTON: Okay. This item is asking for Resolution 05-076, to authorize the department to issue an offer to HUD for purchase of subordinate debt secured by Webber Gardens Apartments in Fort Worth, and it would be in an amount not to exceed \$100,000.

If the board does decide to move forward with this, there are some amendments or some language changes that need to be made in the resolution. This property was an old HUD property. It was involved in the mark-to-market restructuring program, and this restructuring happened prior to the effective date of being able to assign a subordinate debt to a non-profit.

So it's one that's kind of out there by itself.

Volunteers of America or a subsidiary of Volunteers of American is the entity that would actually be purchasing these properties. This would all happen simultaneously, in that this is only the first step. This is issuing an offer to HUD.

Should the transaction move forward, there is a group of these properties that would be moving forward together as part of the bond issuance. The \$100,000 or the 80 to \$100,000 would become available for the department to actually purchase this subordinate debt for a very short period of time, like it's all going to happen concurrently before it moves over to the subsidiary of Volunteers of America.

MR. CONINE: I'm going to move with some amendments, if I might, Madam Chair. The resolution number needs to change to 05-078 instead of 076, in that we had one of those earlier.

And the fifth whereas, I'm going to -- in the third line where it says "proceed," change the word to "proceeds of the bonds." And then after the word "VOATX," add the words, "Or an affiliate thereof."

Down in the sixth -- in the eighth whereas, down at the bottom of the page, where it says in the third line where it says \$80,000, change that to, "an amount up to \$100,000," to be consistent with the staff writeup that Ms. Carrington just read.

On page 2, the Section 1.1, second sentence, again, there is an \$80,000 figure that needs to be changed to read, "an amount up to \$100,000." And I so move.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion? I just have one question. I read this several times. Are we just sort of in a transfer mode? We're not taking risk. We're just sort of taking the ball and then handing the ball off to VOA?

MS. CARRINGTON: Yes, that's correct. I asked that question also. And the risk -- and the transaction wouldn't happen. It just wouldn't close if it -- we would never take possession if the transaction wasn't going to close. It's all going to happen concurrently.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. Now we don't have to do the contract. We can try to go back to 5(h) and -- which is the CHDO.

MS. CARRINGTON: The CHDO, the 1.5 million on the CHDO award. Okay. We're recommending an award of 1.5 million out of CHDO funds under our rental development award. This was part -- this was an application that came

in during the open NOFA cycle we had for rental development.

We have reviewed their CHDO certification, the threshold criteria and underwriting. The proposed financing would be for 22 units that would serve the elderly. It would be located in Luling, in Caldwell County, and the award would actually be split into two loans. The first loan we are proposing would be a fully-amortizing 30-year zero percent interest loan that would be for \$810,000.

The second would be an amount of 690,000 would be amortizing nine -- five-year forgivable loan. There are some additional underwriting conditions that are included in the underwriting report. That is included for your all's information. Staff is recommending an approval of this award.

We also put one of those items that we just kind of like to note for your attention is that the applicant on this particular development has also requested an additional 125,000 in HOME funds for their most-recent development that's been funded by the department.

MR. GONZALEZ: So moved.

MR. CONINE: I'll second just to get it on the

table.

MS. ANDERSON: I have public comment from Mike Harms.

MR. HARMS: I'm Mike Harms, the executive director for Center for Housing. I'm just here to answer any questions.

MS. ANDERSON: I have several questions. Why are you not claiming the CHDO tax exemptions in the underwriting application?

MR. HARMS: The County of Caldwell has been all over the board on the application for tax exemptions. You can't ask for a tax exemption until you own the property. We won't own the property until we close into the loan. Then we can ask for a tax exemption.

So they've given no clue as to what they'll do in terms of the tax -- abatement of taxes. So we followed the CHDO law, and asked for half -- that we pay half the taxes.

MS. ANDERSON: And I am -- you know, you read this underwriting report, so I know you know what it says.

MR. HARMS: Yes, and I'm pleased with it. Thank you.

MS. ANDERSON: But my concern is the net worth of your organization, and, therefore, in the words of the

underwriting department, you're limited -- very limited ability to provide financial support for developments when things don't go as planned.

What are -- you know, what are your plans to strengthen the net worth of your organization?

MR. HARMS: Well, could I speak to this individual project first? First of all, we have a very stable and good contractor. He is out of Lockhart. He built a HOME project in Lockhart about two years ago. When he affixes his name to a contract, and he's been very involved in all the estimates on this project.

All the other costs are fixed -- are pretty well fixed. So the construction costs are the key element in bringing it in on budgets, and we feel very confident we can do that.

In terms of other funds, we -- this is our second project, and we're -- we got a capacity-building loan -- or a grant from the -- actually, it's from TDA, and the department put out the NOFA to help us increase our capacity for fundraising.

MS. ANDERSON: And what have you done to increase your capacity for fundraising, besides get a capacity-building grant from the department?

MR. HARMS: Well, we haven't got the grant yet.

We haven't started that process. We use our development fees from these projects to do the next project, is basically what it amounts to. So all the proceeds go back into doing other projects, and we're being asked by many communities to come do a CHDO application with them and joint ventures or other ways.

The City of Luling Economic Development Corporation loaned us the money in forgivable loan to do the market study and the phase one environmental, and the survey. So we reach out to the community, and that's one of the ways of kind of increasing our capacity.

MR. CONINE: Mr. Gouris, I was looking at this application. They applied for a loan structure different from the one that was recommended. And would you say that is attributable to what Ms. Anderson just brought out about the property tax exemption? Or was it something else that caused you to shift the loan around from what they requested?

MR. GOURIS: Tom Gouris, Director of Real Estate Analysis. It was a combination of things, including the taxes, but also what they indicated that they would be able to achieve income-wise. Or what they projected was less than what we thought was available in the market, based on the market study.

And so we, you know, used what the market study said was achievable in that area to underwrite this. So there is another \$7,000 --

MR. CONINE: I guess where I was heading was if he gets title to the property and does get the 100 percent exemption, then maybe he comes back before you and the board to restructure this in a manner that would be more beneficial?

MR. GOURIS: Well, we estimated a 50 percent exemption --

MR. CONINE: Right.

MR. GOURIS: -- because we don't think a 100 percent exemption is probably available to them.

MR. CONINE: Okay.

MR. GOURIS: But he still had taxes a little bit higher than what we have.

MR. CONINE: Okay.

MS. ANDERSON: That was my question.

MR. CONINE: Okay. Is there a motion?

MS. ANDERSON: Yes, there is. Any other discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries. I think we  
have --

MR. CONINE: Move to adjourn.

MS. ANDERSON: Yes, thank you. Second?

MR. GONZALEZ: Second.

MS. ANDERSON: We stand adjourned.

(Whereupon, at 4:30 p.m., the meeting was  
concluded.)

C E R T I F I C A T E

IN RE: Board Meeting  
LOCATION: Austin, Texas  
DATE: September 16, 2005

I do hereby certify that the foregoing pages, numbers 1 through 205, 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) 9/22/2005  
(Date)

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