

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Capitol Auditorium
Capitol Extension
1500 N. Congress Avenue
Austin, Texas

Monday,
July 18, 2011
9:00 a.m.

MEMBERS PRESENT:

C. KENT CONINE, Chair
TOM H. GANN, Vice Chair
LESLIE BINGHAM ESCAREÑO
LOWELL KEIG
J. PAUL OXER
JUAN S. MUÑOZ

TIM IRVINE, Acting Executive Director

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ITEM 1: Approval of the following items presented in the Board materials:	
<i>Community Affairs</i>	
a) Presentation, discussion, and possible action on approving program year 2011 Emergency Shelter Grant Program awards	
<i>Requests for Proposals</i>	
b) Authorize and direct the Executive Director to move forward with the procurement of a provider to perform a Phase 2 Analysis of Impediments (AI) to Fair Housing Choice for the State of Texas through a Request for Proposal (RFP)	
<i>Multifamily Division Items - Housing Tax Credit Program</i>	
c) Presentation, discussion and possible action regarding Housing Tax Credit amendments	
<i>HOME</i>	
d) Presentation, discussion and possible action to ratify HOME Program reservation system participants approved by the Executive Director	
e) Presentation, discussion, and possible action to publish proposed amendments to the rule for the HOME Program, 10 TAC Chapter 53, Subchapters B, C, and D for public comment and publication in the <i>Texas Register</i>	
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- a) Presentation, discussion and possible action of challenges made in accordance with § 49.(10)(e) of the 2011 Qualified Allocation Plan and Rules (QAP) concerning 2011 Housing Tax Credit (HTC) applications

ITEM 3: Appeals 129

- a) Presentation, discussion, and possible action on Multifamily Program appeals
- b) Presentation, discussion and possible action on Tax Credit Assistance Program appeals
- c) Presentation, discussion and possible action on Neighborhood Stabilization Program appeals
- d) Presentation, discussion and possible action on HOME Program appeals
- e) Presentation, discussion and possible action on Underwriting appeals

EXECUTIVE SESSION 128

1. 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;
2. Pursuant to Texas Government Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - a) *The Inclusive Communities Project, Inc. v Texas Department of Housing and Community Affairs, et al. filed in federal district court, Northern District of Texas*
 - b) Claim of Gladys House filed with the EEOC;
 - c) *Heston Emergency Housing, LP and Naji Al-Fouzan v Texas Department of Housing and Community Affairs, Michael Gerbert, Martin Rivera, Jr.,*

Marisa Callan, and Timothy Irvine; Civil Action No. H-11-1121 in the United States District Court for the Southern District of Texas, Houston Division

3. Pursuant to Texas Government Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Texas Government Code, Chapter 551; or
4. Pursuant to Texas Government Code §559.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person

OPEN SESSION

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P R O C E E D I N G S

MR. CONINE: Good morning, and welcome to the hot July summer Board meeting of the Texas Department of Housing and Community Affairs. I appreciate everybody being here today, and we will attempt to get through our agenda as quickly as possible.

Calling roll. Is Leslie Bingham here?

MS. BINGHAM ESCAREÑO: Here.

MR. CONINE: Kent Conine's here.

Tom Gann?

MR. GANN: Here.

MR. CONINE: Lowell Keig? I don't see him yet.

Juan Muñoz?

DR. MUÑOZ: Right here.

MR. CONINE: J. Paul Ozer?

MR. OZER: Present.

MR. CONINE: Good enough to get started.

We will attempt to -- we do have a quorum -- we will attempt to have public comment both at the beginning of the agenda, which is our custom to do here, as well as at the individual particular agenda items.

I would remind the witnesses, if you haven't -- if you want to speak to the Board today and you have signed a witness affirmation form, you need to get that done.

Otherwise let's try to keep it to three minutes, unless you have time allotted to you by someone else, and if that's the case, we'll give you five minutes.

And in addition I'll try to call the person who's next in my batting order here so that we can kind of speed things up today. And so far it doesn't look too bad, but the day is young, shall we say.

So we'll get started first with Commissioner Joey Treviño. And I have Tina Goltl I think is next.

COMMISSIONER TREVIÑO: Good morning.

MR. CONINE: Good morning. How are you?

COMMISSIONER TREVIÑO: Good. Thank you.

Joey Treviño, city of Harlingen City Commissioner.

I came before you last meeting, gentlemen, and talked about La Casitas, Hacienda La Casitas in Harlingen, and in full support of it, the City Commission is in full support of this.

And we are in dire need of housing in Harlingen.

I talked about the jobs that it's creating right now, but -- and we're enthusiastic about the new housing that we need in Harlingen. And you can't [inaudible] funding in the future. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

Tina?

Jeff West is next.

MS. GOLTL: Good afternoon, panel.

MR. CONINE: How are you?

MS. GOLTL: Hi. My name is Tina Goltl. I'm the North Park Manor representative of Leopard at Palms. Right now we need a better, better environment for our living conditions. Where we live at is very bad. Okay? But we want a better future for our children today, not like where we're living right now.

And I represent for Leopard at Palms. Please stand up for -- everybody that's here Leopard at Palms, for this grant. They are represented here today for you all's vote to give us the chance to have a better place for our children and a better place for our people to live. Thank you very much.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: We appreciate everyone being here today.

MS. GOLTL: Thank you.

MR. CONINE: Thank you.

Jeff West has time allotted to him by someone else.

MR. WEST: Good morning, Chairman Conine, and distinguished members of the Board. My name is Jeff West. I'm with Matthews Southwest, and we're the developers of 1400 Bellview, Number 11127, a proposed 2011 tax credit application in south Dallas.

I understand that the amount of tax credit availability for 2001 -- or 2011 rather is minimal in Region 3. Therefore, I'm requesting the Board award 1400 Bellview a forward commitment at the July 28 scheduled Board meeting because of the following reasons. And I ask you to look at the handout I gave that has some of the information which I'll reference.

Last year the Board awarded a forward commitment in the same census tract, which has since been rescinded. However, the demand for multifamily affordable housing remains significant for south Dallas. Thus it is critical to reassign those credits to a viable new project in the same tract.

On pages 2 through 5 you'll see that 1400 Bellview site it already properly zoned. The zoning is in place and provides for the project's 164 units of one-, two- and three-bedroom homes within a four-story mixed use development with structured parking for all residents and a

transit-oriented development within walking distance from downtown Dallas.

On pages 6 through 8 you'll see that 1400 Bellview's environmental analysis and report shows the land is clean and ready for development today.

1400 Bellview received the enthusiastic support from The Cedars Neighborhood Association, our community association, with 94 percent of the members supporting development as meeting the neighborhood's desire for quality affordable housing. And in recent years two other projects have been rejected by this group.

Now, I'll reference -- I'm a resident of The Cedars and a member of the CNA, but I abstained from the vote. But I'm pleased to have this in my neighborhood.

On pages 9 through 10 you'll see that the project, 1400 Bellview, has received government instrumentality authorization already from the city of Dallas. On June 22, when the city approved entering into a TIP agreement for \$1.56 million, conditioned only on the award of tax credits from the TDHCA. The TIP funds are currently available and ready to be drawn as soon as the building permit is issued.

The last general new construction multifamily tax credit development in Dallas was awarded in 2009. But as noted, the demand for affordable housing continues to grow

with a population of over 1.2 million people.

Our development team is led by Jack Matthews of Matthews Southwest, and I direct you to the endorsement letter from DART on page 11. Any time DART endorses you, you've got to feel good about that, they want to work with you.

And Jack has the experience and financial strength to develop a successful community in a timely manner. The development ownership team has HUB partner and counseled other development corporations with certified developer experience.

1400 Bellview is also going to be a lead silver certified development, reaching above minimal green building initiatives, and we at Matthews Southwest have experience in doing lead projects.

We will market to families and we'll set aside 5 percent of the units for victims of domestic violence. And as you recall last June 30's meeting, Mayor Pro Tem Pauline Medrano talked about our conversation A Family Place, a local agency, about utilizing those units for victims of domestic violence.

In addition, we're pursuing the opportunity to lease a portion of our project, 1400 Bellview, to a nationally recognized early childhood education development program to create a childcare center for the youngsters of the property

and of the community.

In addition, 1400 Bellview, if you look at page 12, is within easy walking distance of City Park Elementary School, which received an exemplary rating from the Texas Education Agency.

Finally, on page 13, you'll see this site is part of a larger eight-acre tract, which we currently have under contract, and the contract's pending, of course, getting awarding of these affordable housing credits. And our plans for the larger tract are to use the affordable housing component as a catalyst for additional development for the remaining parcels of a mix of residential commercial projects generating additional employment opportunities and economic development.

Importantly, the project is located within easy walking distance of existing employers, including the Dallas police headquarters with over 1,000 employees, and the Dallas County Community College headquarters with over 200 employees. And a letter from Chancellor Wright Lassiter of the DCCCD is at page 14.

On page 15 you'll see a letter from Omni Hotels. You may know there's a convention center hotel being built in downtown Dallas, and Matthews Southwest is the developer

of that project, and the operator will be Omni Hotels.

And that letter states, in part, "Upon opening, the hotel will employ in excess of 800 workers, many of whom are in the service industry and qualify for affordable housing. The 1400 Bellview project is just one DART stop away from our hotel, and will provide much needed housing for our employees. We will actively market the availability of this project to our employees and anticipate many will take advantage of this housing option."

Finally, on page 16 you'll see a second hotel we're building and developing within four blocks of the project.

It is the Nylo Dallas Southside Hotel, which will open next summer and it's employee base will also benefit from the availability of affordable housing.

In conclusion, if you look at the larger map on page 17, you'll see that this site is juxtaposed in the right place in downtown Dallas. 1400 Bellview, TDHCA Number 11127 is the highest scoring new construction general multifamily application in the city of Dallas, and is highly competitive in Region 3 with 210 points awarded.

Zoning and local government funding is approved and in place. The environment is clean. 1400 Bellview is the only tax credit project in this census tract.

It's a four-story elevator-served, lead silver

certified, with structured parking for all residents. We will market to families and set aside 5 percent of our units to victims of domestic abuse. The project is working to include a childcare development and is close to an exemplary school -- elementary school.

The city of Dallas has already identified 1.65 million of Cedars' TIP funds conditioned only on the award of tax credits from the TDHCA. It's located within 900 feet from The Cedars DART station providing easy access to destinations throughout the Dallas area. And there are existing institutions with large employee bases which will benefit from the affordable housing option.

For all of these very sound reasons, I respectfully request your consideration and approval of awarding 1400 Bellview a forward commitment from 2012 at your next Board meeting. Thank you for your attention, and thank you for your service to the citizens of the state of Texas.

MR. CONINE: Any questions of Mr. West?

(No response.)

MR. CONINE: Thank you for your testimony.

Daniel Esparza, Senator Lucio's office, followed up by Mark Hey from Senator Jerry Madden's office.

MR. ESPARZA: Good morning Mr. Chairman Conine --

MR. CONINE: Good morning.

MR. ESPARZA: -- and Board members. My name is Daniel Esparza. I'm here to read a letter on behalf of Senator Eddie Lucio, Jr.

"Dear Chairman Conine and members of the Board, I write this letter to comment on the dire need for new rental housing in the city of Harlingen, and to comment on application 11031, La Hacienda Casitas, to be developed by the Community Development Corporation of Brownsville, CDCB. If funded, it will be a positive step to meeting this need.

"It has come to my attention that the Texas Department of Housing and Community Affairs has made the preliminary decision not to recommend for funding any of the 2011 Housing Tax Credits applications submitted in Region 11, despite the high score of some of the projects.

"This is very disappointing to me, and to the thousands of low income residents in Region 11, especially while considering the high percentage of residents that live under the federal poverty line in the region.

"I am informed that CDCB has conducted an extensive analysis of the applications, both new and forward commitments made last year. The conclusion of this analysis is that the two top scoring projects in Region 11 could, in fact, be funded out of this year's allocations. In other words, the funds are available to make this top scoring project a reality.

"La Hacienda Casitas project is very important to our community, to our Valley community for many reasons, including the positive impact on economic development, energy efficiency, sustainable development, and affordability.

"In particular, the project will demolish an existing 40-plus year old substandard blighted 56-unit complex and reconstruct a 56 modern, green, energy-efficient cottage development. The cottage single family design allows families with children to live in rental situations, but have the feeling of living in a single family house.

"Given the housing need of Region 11 and the availability of funds, I respectfully request that you consider funding this high ranking project in Region 11, which is one of the poorest regions in Texas. It should not be denied the right to compete for funds meant to meet the housing needs of people in all parts of the state.

"At minimum please consider the high scoring project for a forward commitment from 2012 funding.

Sincerely, Eddie Lucio, Jr., State Senator, District 27."

MR. CONINE: Thank you, Mr. Esparza.

Are there any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

Mark Hey and then Rachel Hendrickson, I think,

will be next.

MR. HEY: Good morning. Mark Hey, Legislative Aide to Representative Jerry Madden. I'm here to read a letter he had written in support of the Evergreen at Marsh Lane, Project Number 11145.

"Due to circumstances which have made approval by TDHCA of developments of affordable housing options to senior citizens decidedly more competitive, I wish to speak to the proposed 140-unit Evergreen at Marsh Lane Senior Living Community.

"I fully supported the Evergreen at Richardson project in my district, where construction presently is underway, and now offer my enthusiastic endorsement of this complementary endeavor in close proximity to my district.

"Various economic and independent life style pressures, which are routinely confronting today's senior citizens, will probably only be exacerbated over time. The area of Region 3, where the Marsh Lane property is sited, is among the most under-served urban environments relative to provision of housing options when figuring the need and availability of age restricted TDHCA senior communities.

"Since forward commitments from 2010 have significantly depleted available resources in 2011, even for such a high scoring application in Region 3 that would have

got approval upon customary review without a discretionary request, I would have proposed that the TDHCA staff and Board authorize a tax credit allocation for Evergreen at Marsh Lane with either waiting list funds from 2011 or a forward commitment from 2012 funds.

"These certainly are very challenging times due to fiscal concerns being confronted at both the state and national level. The decisive responses actually can help provide direction and develop confidence, which in turn can spur resilience and optimism.

"In an effort to establish a more resilient and optimistic outlook for our present and future seniors, my recommendation is that any funds which are available in 2011 or 2012 be awarded Evergreen at Marsh Lane, TDHCA Number 11145.

"Thank you for giving consideration to my support, both of this project and the proactive means to bring about its completion. Sincerely, Representative Jerry Madden."
Thank you.

MR. CONINE: Thank you.

Okay. Rachael Hendrickson. Next will be Daisy Flores.

MS. HENDRICKSON: Hi. I'm Rachael Hendrickson, and i work for Jodie Laubenberg, who's state representative for Lavon, and she asked me to come here and testify on her

behalf in support of the Silver Spring Grant Heritage project.

She already sent you all a letter in late February in support of the project, but she just asked me to come and reiterate her support.

So there's already Grant Heritage in Lavon, which is an award winning master planned community, and this would be by the same developer. She asked me just to state that, you know, the developer has invested ties in Lavon and, you know, has been working with our office from the beginning.

And so she believes that Silver Spring will have the same high standard that Grant Heritage proper does. And I know that if you all have any questions or need any information from her, just let us know and we'll be more than happy to help. So that's all.

MR. CONINE: Thank you. Appreciate --

MS. HENDRICKSON: All right. Thanks.

MR. CONINE: -- you being here today. You bet.

Daisy Flores?

MS. FLORES: [inaudible].

MR. CONINE: Excuse me?

MS. FLORES: [inaudible].

MR. CONINE: Oh, you got -- after John Mosley maybe.

MS. FLORES: [inaudible].

MR. CONINE: I can't hear. You're passing?
Okay. Okay. Great. Thank you.

Susan McDowell?

Diana McIver will be after here.

MS. McDOWELL: Good morning. My name is Susan McDowell, and I'm Executive Director of LifeWorks, an Austin-based youth and family service organization that serves more than 10,000 families every year.

I've previously spoken before you about our project, the Works at Pleasant Valley, which is a 36-unit supportive housing program that will focus on youth aging out of foster and families in the East Austin community. We are in a position now to ask you as well for a forward commitment of funds for our project for the following reasons.

First the Works is a high impact project. It is supportive housing, it will -- all residents will be between 30 percent, 50 percent of area MFI, and will be built adjacent to a 31,000 square foot independently funded youth and family resource center that will provide educational, workforce and social support for residents. Support will far exceed what you typically see in supportive housing programs.

Additionally it has -- this project has

neighborhood support. Last month you heard from leadership of the Del Valle Neighborhood Association, which has been involved in the planning of this project for more than two years. And their participation has helped us receive all of the points available for qualified community participation.

Third, this is a relatively small request for allocations, and it will leverage financial support from both the city of Austin and more than \$600,000 in private philanthropic funds. If we do not receive a forward commitment, these commitments, these financial commitments will likely go away and have to go to other projects.

Finally, the Works is designed to serve young people and families who are the most at risk of homelessness, including youth who are aging out of foster care, young families, and families who struggle to stay in East Austin.

In summary, this project has all of the elements of success, a strong and highly accountable organization to develop it, significant city and philanthropic funding leverage, neighborhood support, and a whole continuum of independently funded support service to help families succeed.

These elements will combine to help hundreds of families transition from poverty to success, and I urge you

to consider it strongly for a forward commitment. I'm available for questions, and I thank you for your service.

MR. CONINE: Thank you. Appreciate it.

Any questions of the witness?

(No response.)

MR. CONINE: Diana, and Eugene Sepulveda. If you all want to swap places, you can.

MR. SEPULVEDA: Commissioners, thank you. My name is Eugene Sepulveda. I'm the president of the Entrepreneurs Foundation, which is a foundation founded by venture capitalists and high tech entrepreneurs in Austin. We have an affiliate in Silicon Valley.

I'm representing our foundation, as well as the Austin Community Foundation, where I oversee a fund that we generated with -- I also taught at the University of Texas, and with a local developer, my MBA students did an innovative project that generated about \$1.2 million that was set aside in a housing fund.

We are very excited on behalf of both organizations. They're excited about the LifeWorks project.

We've known LifeWorks for a long time. My MBA students and my undergraduate students have worked with them on innovative entrepreneurial programs to get their folks back up and running, and contributing in society.

We're looking at this housing project and are very interested in possibly granting half a million dollars to help make it work. You know, not much else to say. I won't take your time. It's an excellent project, we're ready to stand behind it and hope that you will too. Thank you.

MR. CONINE: Thank you. Appreciate your testimony.

Diana McIver.

Craig Lintner is next.

MS. McIVER: Chair, Board, Mr. Irvine, I'm Diana McIver with DMA Development. And I'm not here asking for a forward commitment. As you know, we're 10 days away from the tax credit allocation meeting, and there's a quirk in the process that I want to discuss with you in advance of that meeting.

You've heard some testimony over the last few meetings, it's going to be a really tough year --

MR. CONINE: What in the process?

MS. McIVER: Pardon?

MR. CONINE: A quirk? Is that what you said?

MS. McIVER: A quirk.

MR. CONINE: Okay.

MS. McIVER: Just a quirk.

MR. CONINE: Just to make sure I understood what

you said. A lot of quirks.

(General laughter.)

MS. McIVER: Basically what happens is there's a lot of regions this year through that subregion that the amount of data within the subregion is less than the highest scoring application in that region. And what we all know, is staff cannot make that decision. If there is 950,000 in credits available, and the application is a million, staff cannot approve that.

So staff, over the years, bless their hearts, they're the only ones who understand this process, they have accumulated all of those funds into a pot and then they do some kind of calculation to decide what the most under-served regions are and then those go in a recommended in your board book on the next meeting, the 28th.

A flaw happens when projects haven't been underwritten. So my concern this year is Region 3 because as you will recall, there were a lot of forward commitments last year for Region 3, that's Dallas-Ft. Worth metro area, and what happens is, there's four of those remaining, two of those have been underwritten, two of these awards made last September, two of those have not been underwritten yet.

So what happens is that the two remaining, one's requesting 21,000 a unit in credits, the other 12,500,

statewide you do about 11,500 in credits, so it's possible if those were underwritten, there would be more credits for that region.

Why do I care? I care because I'm the general partner in the Terrace at Midtown, which is Midlothian, and it is actually the next in line for funding. It wins the tie breaker, it's got 211 points. So what happens is there is roughly 869,000 in credits remaining in Region and Midlothian needs a 1,067,000. So what's going to happen is that surplus of credits is going to go back -- 869,000 in credits is going to go back into this pool.

Well, here's the real injustice of what is happening, by the way, we keep carrying this forward every year, and that is that when you look at Region, they lost 770,000 last year because there was 770,000 on the table that was not allocated. So then when you come forward this year, all of the forward commitments, even those that are not underwritten, all of the forward commitments go out of the Dallas-Ft. Worth allocation, the Region 3 allocation.

So this year, unless something is done, then there's going to be 770,000 that was lost last year, and then there's going to be 870,000 that was lost this year, and when you start adding it up, you get pretty good sized projects not being funded.

So I guess what I'm asking is two things. One, we need to get projects underwritten that are forward commitments if they're they top ranking in their regions or subregions, and, two, when forward commitments are granted, then only the excess of that amount should be charged against that regional allocation the next year so that, for instance, Dallas, in theory, should have 770,000 more this year than it did last year.

Otherwise, we end up with a continuing cycle of a region truly not getting the amount that they should be entitled to on a percentage basis. So that's my request. Thank you very much.

MR. CONINE: I think I even might have understood it. I'm not sure.

MS. McIVER: Correct.

(General laughter.)

MS. McIVER: Thank you.

MR. CONINE: Mr. Gouris? All roads lead to, you know, with problems lead to you.

MR. GOURIS: Thank you, sir.

(General laughter.)

MR. CONINE: Brent too. Which one -- Brent, you want to come handle this one?

It sounds like we have at least two forward

commitments from last year that haven't been underwritten.

Is that correct?

MR. GOURIS: I believe the one was posted on -- today -- or Friday. It should be posted today. And the other one is still --

MR. CONINE: So we're down to one. Are there any others in any other regions?

MR. GOURIS: No, there are not.

MR. CONINE: Okay. So Ms. McIver's problem on the underwriting situation will be handled before the next meeting more than likely.

MR. GOURIS: It may be. As I understand it, there are some changes to that application that make it difficult for us to underwrite it in a way -- they're needing some significant -- potentially need some significant amendment type changes.

What happens with forward transactions oftentimes, one of the reasons we don't care for them, is because they haven't put all the effort into telling us what they're going to do before they make the application, in some cases, and instead rely on some other issues to try to move those balls forward.

This was a transaction, this last one that we're working on, where there are some things that weren't put

together well, and now we're kind of stuck because what they need to do, we understand, what they said they were going to do was something different. We're a year after the application was made, and clearly things change after that period of time --

MR. CONINE: Yes.

MR. GOURIS: -- but they were awarded as if they were going to do this other thing. And so we don't -- this is an unusual situation for us. We don't usually do an amendment to an application that hasn't been fully underwritten.

MR. CONINE: I wasn't aware that it was our practice that if a forward got awarded, to wait from May or June or July of last year until now to underwrite these. What --

MR. GOURIS: Well, I think I can speak to that some, but if Brent wants to join in on the conversation, he's welcome to. I think part of the issue was at the close of last year there was a number of forwards that were -- you know, a large number of forwards that were being done in addition to a large volume of other things that needed to be re-underwritten in order to close for exchange in TCAP and what have you.

MR. CONINE: Yes.

MR. GOURIS: A couple of these transactions -- well, we started working on all of them, but a couple of them were -- you know, once they got the award, they felt like they didn't have to be very -- as responsive to us as we needed, and we had other things to work on, so we weren't pinging them every day for information.

I think the urgency of this matter for both of these has consumed a lot of our time recently to try to ping them every day for the information. So there's, you know --

MR. CONINE: I think we can -- well, we can fix that problem if, you know, if they aren't being responsive obviously. But --

MR. GOURIS: So that always becomes a he said/she said, but you're right, we should have had those underwritten by now, and --

MR. CONINE: Right.

MR. GOURIS: -- we had a large volume of them, you know, it just hasn't happened to -- you know, as we would have hoped it to. And now we're sort of stuck at this point.

MR. CONINE: The issue she raised is a QAP issue, is it not, because --

MR. GOURIS: It is.

MR. CONINE: -- we have a standard operating procedure with left over funds. It may be punitive, as she

pointed out, but it still is a QAP issue.

MR. GOURIS: It may or may not be punitive. I mean there is an issue with the fact that that region got -- because it's got such a large slew of forwards, they actually got a lot more in allocations last year than any other region, unless you count them as this year's allocations, which, you know, gets counted because it comes out of this year's fund.

The money is not lost, it goes to other state -- other parts of the state that may also have been under-funded. As we've said before, the way it works is that everybody goes to the last deal that can fit within the cap for the regional allocation. And we take all those funds and fund those areas of the state that have the biggest deficit to their cap.

And some are just not going to make it. It's still regionally allocated. They aren't funds lost to that region. They're not, they're just -- that last incremental amount is absorbed throughout the state.

This year is unique in that we'll have the first time that I know of that there may be some regions of the state that are going to be 100 percent under-funded out of this year's allocation round. They got an allocation last year, so a forward last year into this year, so they actually

are getting an award this year, just from last year.

MR. CONINE: Let's see if -- since there's only one left that hasn't been underwritten, let's see if you can let the Board know when that gets posted --

MR. GOURIS: Okay.

MR. CONINE: -- so that we can know, because i have a lot of sympathy for that particular issue, you know, if there's somebody in front of that whole Dallas -- that whole Region 3 group that gets kicks out because of underwriting, you know, everybody needs to know plenty -- ahead of time, so.

MR. GOURIS: Right. I agree.

MR. CONINE: Any other questions of Tom?

(No response.)

MR. CONINE: Thank you.

MR. GOURIS: Okay.

MR. CONINE: Craig Lintner?

Next is Sarah Anderson. Oh, she's yielding time to Craig. Never mind.

Craig, you got five minutes.

MR. LINTNER: Good morning, Chairman Conine and members of the Board. My name is Craig Lintner with Pedcor Investments. I'm here this morning to discuss our two pending tax credit applications. I've been before your Board twice

in the past to discuss our application in Fort Bend County, this is 11072, The Landings at Westheimer Lakes.

To summarize, this project is located near the Katy Cinco Ranch area, which has been one of the fastest growing areas in the entire country in the last 10 years. During this time there hasn't been a single tax credit new construction family deal approved.

The current Fort Bend Consolidated plan and the community plan specifically highlight the need for affordable rental housing in this area. When we began our community outreach back in November, we researched and determined that the Westheimer Lakes Property Ownership Association, which includes hundreds of acres, is the only one of record that includes our parcel.

We provided all pertinent information indicating our desire to come to a neighborhood meeting, and we were told that a meeting wouldn't be necessary, as they would be supportive of our project as all types of housing were needed in the area.

Our initial legislative meetings were scheduled in November, but both the state representative and state senator failed to show up for the meetings.

We discussed our proposal with the Lamar School District in early December and were told that they are against

all tax credit deals. The school demographer explained that the schools are against tax credit deals because they change the composition in a bad way, have a lot of transient students, bring down test scores, and generally ruin the quality of life in the area.

I met with school officials in early January and was told that they would send a letter of opposition because they are tired of the state sending more students their way without a way to pay for them.

I met with the County Commissioner and members of the Economic Development Council in early January. This is -- they stated that this is the gem of Fort Bend County and this was not a good fit. They could virtually guarantee legislative opposition. However, they would be supportive if we were to switch to a market rate type of community.

We received numerous rejections on the local level ranging from a signed company withdrawing their proposal to place a sign, citing their opposition to low to moderate income housing. We also had a church indicate that their services were already quite full and they would have a difficult time accommodating additional parishoners.

And finally, other organizations just flat hanging up on us when we would tell them about the project and mention it was an affordable housing community.

We were notified in late January that local homebuilders and realtors are now telling prospective homebuyers that maybe they shouldn't buy in the area because a potential Section 8 housing project is coming to the area.

Early February we had another meeting scheduled with Senator Hegar, which was cancelled at the last minute.

In mid-February we received a letter from the Westheimer Lakes POA indicating that they were now withdrawing their support. They cited a fear among homeowners, builders, realtors and politicians that this project would devalue area property values, increase crime, affect the local system, and generally have a negative impact on the area.

On March 1 I receive a copy of a letter that was distributed throughout the community with the headline, You're house is about to lose value, and it goes on to describe our project.

Now, as important as it is for me to demonstrate the clear NIMBYism prevalent throughout this area, Fort Bend County, it's equally as important for me to paint a clear picture of the timeline of community outreach and notification that began back in November.

The reason being, at the April 5 public hearing

in Houston, it was portrayed by local residents and politicians that we somehow try to fly under the radar and that we purposely avoided contact with neighborhood organizations.

As I mentioned previously, we worked with the POA of record since last November, but residents at the hearing represented that this POA could not be trusted. They also mentioned that we were unwilling to attend any meetings, but I can assure you that we were never invited.

Now as I mentioned in my opening remarks, we have a second application on file, 11073, Cypress Run in Universal City, which was in first place in rural Region 9 until just this past Friday when a project on the at-risk log slid over to the regional log and now has us beat by a point.

This is a suburban city near San Antonio where there are zero tax credit units. As with our Fort Bend project, we began outreach in November. We met not only with Universal City officials, but the mayors and staff of Live Oak and Converse.

Additionally, we met with the school system, area businesses and state legislators. While there wasn't a local neighborhood organization on record, we were able to have a meeting with the closest neighborhood after working with the city.

In the end, we were able to gain the support of the mayors and state representative early -- by starting early and demonstrating the need for affordable rental housing in Universal City. So I wanted to come here this morning to demonstrate that we are a company that strongly believes in getting on the ground early so that interested stakeholders are given an opportunity to learn and be part of the process.

Universal City is an area where this process worked well, and Fort Bend is an area where we never really had a chance to get started. So I'm requesting that you carefully consider both of these projects for forward commitments of 2012 credits. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

MR. LINTNER: Thank you.

MR. CONINE: Deborah Sherrell?

And Dru Childre will be after Deborah.

MS. SHERRELL: Good morning, Chairman Conine, Board members, and all. My name is Deborah Sherrell. I'm the Senior Vice President of Housing and Community Development for the Corpus Housing Authority.

Actually, I'm not giving a speech. This goes along with Thelma Reyes, who also has an affirmation form.

MR. CONINE: I see it now.

MS. SHERRELL: Okay. I would just like to introduce Thelma Reyes, and Thelma Reyes is a resident of the Lamada [phonetic] 2 project, and she's also in support of our project, Lexington Landing.

MS. REYES: Good morning. I'm Thelma Reyes. I'm a single mother and I have four kids and I'm also disabled. I've been living in Lamada for four years. I'm actually here to tell you about some issues that are going on, and what we have to face living there.

As far as my kitchen, it's very well damaged by water leak that comes in from the tub on the upper stairs.

The cabinets, they're not usable because of the water damage, my counters in the kitchen are not usable, the floor is very well damaged, you can see through to the outside, and unfortunately I hardly ever use my kitchen.

I'm actually disabled, so I'm not allowed to work, and I can't actually afford to buy a home. And this new community project that we're trying to get, it's mainly for the kids, you know, to show them that there is a better way of life besides living in the low income family. And showing that there's a little bit better hope and future for them besides having to live in an uncomfortable place.

As far as what it would show, it would show them

that, you know, working a little bit hard, because unfortunately we're there because of my sickness, and it'll show them that, you know, because of me being sick, that's, you know, it's not the only place there is for them.

And I'm sorry. Thank you for your time. And please support our project. Okay?

MR. CONINE: Thank you, Ms. Reyes.

Any questions of the witness?

MS. BINGHAM ESCAREÑO: Could you just remind us --

MR. CONINE: Sure

MS. BINGHAM ESCAREÑO: -- which development is that, Lexington Landing?

MS. REYES: I'm sorry. It's Lexington Landing, Number 11079.

MR. CONINE: What town is it in?

MS. REYES: In Corpus Christi.

MR. CONINE: Corpus Christi. Thank you very much.

MALE VOICE: Seven eight or seven nine?

MS. REYES: Seven nine.

MR. CONINE: Any questions -- any other questions?

(No response.)

MR. CONINE: Thank you.

Dru?

MS. REYES: Thank you, every one.

MR. CONINE: Dru Childre, and then Matt Fuqua will be next.

Is Dru not here?

Matt Fuqua?

Lee Sherman after Matt.

MR. FUQUA: Good morning, Chairman, Board members. My name is Matt Fuqua. I'm with Blazer Residential, Blazer, Incorporated.

On behalf of Chris Richardson, I'm here in support of TDHCA Application Number 11255 for Justice Park Senior Villas. We are very close to receiving an allocation with our current score of 207 points. And we would like to ask for you to consider a forward commitment for our application.

We have worked hard to gain the support of Representative Dwayne Bohac. Representative Bohac has not previously been a supporter of the tax credit program and he previously opposed an application that we had submitted.

We were very pleased to receive his support for this application. Additionally, when using the tie breaker rule, there is an advantage to general population properties versus senior properties, and therefore a hardship for our

application.

Our senior development consists of one- and two-bedroom units, as compared with general population developments that consist of one-, two- and three-bedroom units. When averaging the tax credit price per square foot per unit, a senior property will always fall short.

We ask for your consideration in support of our application for Justice Park. Justice Park Seniors will be another high quality senior development for which we can all be proud of. We're asking for you to grant us a forward commitment. If I can answer any questions, I'd be happy to do so.

MR. CONINE: Any questions?

(No response.)

MR. FUQUA: Thank you.

MR. CONINE: Thank you for your testimony.

Lee Sherman. Tracy Witte, I think.

MR. SHERMAN: Hello. My name is Lee Sherman. I'm here to speak with you guys about a potential project that's going to be built in our neighborhood, which is the Kealing neighborhood over 78702.

And I guess my concern is that we have the highest concentration of project-based Section 8 in the entire city of Austin. And we are also experiencing crime and theft and

assault. My neighbor was assaulted in his backyard.

And we're working really hard, we're committed to trying to improve our neighborhood and making it a better place for everybody involved, but it's difficult when factors out of our control tend to feed the problem, as we see it.

And I guess I'm asking for your support in helping us work to improve our community.

And also I just want to say that I feel the way we spend money on affordable housing needs to be thought out very well; it needs to be smart. We can't afford to do cost ineffective projects because in the grand scheme of things, we help fewer people. So this particular project, the Marshall Project on 12th Street, it's \$10.3 million I believe for a project that at the day is going to be worth \$5.8 million, and I just feel that's a waste of money.

We could do more and for -- we could help more people, and also not put people in a neighborhood ridden with drugs, prostitution, crime which could cause inadvertent relapse due to dealing with stress and also proximity and access to drugs and anything else you could possibly want.

So I think we owe the people we're trying to help more than that, and I think we need to be equitable to where we place permanent supportive housing, and I think it would be great for myself and others who wish to live in this

neighborhood and not have to move out to Round Rock or something like that in order to raise a family, if we could get your support. Thank you very much.

MR. CONINE: Any questions of the witness?

DR. MUÑOZ: Yes, just a minute.

MR. SHERMAN: Yes, sir.

MR. CONINE: Dr. Muñoz?

DR. MUÑOZ: I'll start by saying that -- you started by saying that this area was disproportionately over-represented by this type of housing?

MR. SHERMAN: Yes, sir.

DR. MUÑOZ: What do you base that on? Just looking at it totally, or --

MR. SHERMAN: We have -- yes, we've counted up the units of project-based Section 8 housing in our zip code and compared that same concentration to other zip codes in the city, and we are number one. And so -- and it's also historically -- this neighborhood's been historically segregated against -- it's well documented, they took all the people of color out of Clarksville and placed them in Central East Austin.

And then due to that, you know, one of the things that happened because of that was we had this urban revitalization corridor that was meant to kind of undo some

of that segregation and some of the blight and terrible conditions that we're dealing with.

And then so I guess to see the city and others pushing additional low income homeless housing type project in an area that's traditionally been dumped upon and segregated, it's upsetting to me, and it may sound funny coming from Anglo, but I would have disagreed with the segregation as policies in the '60s, I disagree with them now.

I understand that they say, Oh, well, it's cheap land. I mean you can't build this anywhere else, you can't build it in West Austin where there isn't any, because it's too expensive. But --

DR. MUÑOZ: But let me -- do you have any -- i mean when you cite some of these crimes for example, and your neighbor being assaulted --

MR. SHERMAN: Absolutely.

DR. MUÑOZ: -- I mean have you done any analysis of the rate of crime in this particular zip code as opposed to other parts of the city? I mean how do you draw that conclusion that the crime is directly attributable to those that avail themselves of affordable housing?

MR. SHERMAN: Well, if you -- am I allowed to continue or --

MR. CONINE: Go ahead, yes.

MR. SHERMAN: I would just say that I can certainly provide crime statistics. I would say I don't believe -- I don't know if the Austin police department tracks the location of the offenders, but I can tell you for certain that we have a ton of people that hang on 12th and Chicon all day long selling drugs, prostitutes, you name it. I don't know where they all live, so I guess I can't relate it directly to that type of housing.

But I do know that the downtown Austin plan and various other folks have discussed taking public offenders -- or public order offenders, people who frequently break laws, frequently class C misdemeanors, that sort of thing, and placing them in permanent supportive housing, which generally I support. But generally not in areas that are ridden with drugs and crime.

And there's a report out by the US Department of Housing and Urban Development that specifically states that you should carefully avoid placing permanent supportive housing in areas of high crime and drug activity due to the potential for inadvertent relapse. And that makes sense to me.

And I think people -- you guys can probably come to the same conclusion that if you put enough people that have a history of offending -- breaking the law in the same

place, that eventually that place is over-saturated with people that break the law, and therefore you're going to have crime problems.

DR. MUÑOZ: But let me -- can my colleague answer the question as well --

MR. SHERMAN: Sure.

DR. MUÑOZ: -- but I appreciate --

MR. SHERMAN: Thank you. Thank you.

MR. CONINE: Mr. Ozer?

MR. OZER: You mentioned the project would be \$10.3 million, and that's -- that's how you did 5.8? What's the foundation of your description?

MR. SHERMAN: We have looked up all the money through the city applications and from the money they're requesting from tax credits, and also forgivable city loans.

I believe it's 2.5 million forgivable loan from the city of Austin, another 5- to \$6 million in bonds, and then tax credits from the state. And if you just add them all up, it comes up to about \$10.3 million.

MR. OZER: What I was curious about was your assessment of the evaluation after the project --

MR. SHERMAN: I believe that came from the actual sale price of the property.

MR. OZER: Okay. Of the property, or the property

and the project?

MR. SHERMAN: I'll tell you what, Tracy's going to speak in a minute, she's got better bead on some of those numbers. But I believe it's --

What did you say?

FEMALE VOICE: The appraised value.

MR. SHERMAN: The appraised value.

MR. OXER: The appraised value of the project, not the property.

FEMALE VOICE: Post-foundation.

MR. SHERMAN: So, yes, we --

DR. MUÑOZ: The project number again?

FEMALE VOICE: 11400.

MR. CONINE: I think it's a bond deal that's coming through instead of a 9 percent tax credit. Is that correct?

MR. SHERMAN: And my particular neighborhood association has voted to opposed tax credits coming from Texas Department of Housing and Community Affairs, and I just wanted to communicate that as well.

MR. CONINE: Okay. Any other questions of the witness?

MR. SHERMAN: Thank you for your time.

MR. CONINE: Thank you.

Tracy Witte. I hope I didn't mess it up.

MS. WITTE: It's okay.

MR. CONINE: I probably did.

MS. WITTE: Good morning. I'm Tracy Witte, and I've lived on East 14th Street in Central East Austin for 11 years. My neighborhood of Sweet Hill and others in Central East oppose all public funding for Summit Housing Partners acquisition of project-based Section 8 Marshall Apartments and conversion of 20 of the 100 units to permanent supportive housing for the chronically homeless.

Our neighborhoods are in 78702, the Austin area code with the highest concentration of project-based Section 8 units per square mile. Our neighborhoods are also home to an open-air drug market at 12th and Chicon that has persisted for decades.

Housing formerly homeless individuals who are struggling to recovery from addiction in Marshall, next door to drugs and crime, makes little sense and will intensify poverty in a historically segregated area.

And Summit's record with Section 8 properties suggest they are not the company to preside over such an ill-advised siting of PSH. Last year after closing on tax credits for its Elm Ridge project, Summit sold the Americana, a violence-plagued Section 8 complex in Houston the Summit had owned for only six years and supposedly renovated.

In 2007 and 2008, physical inspections turned up across the board below average ratings. How did this property fall into such disrepair so soon after renovations? How did it fall into such disrepair at all?

Summit has three properties in Jacksonville and Riviera Beach, Florida, that last rated 61C, 61C and 62C out of 100 on REAC reports. A score of 59 or lower is cause for referral to HUD. So that's 61, 61, and 62 out of 100.

The residents there are largely minorities, the properties are of similar age to Marshall Apartments, complex owners receive weeks of warning for inspections. So what do you make of such abysmally low scores? I don't consider them evidence of commitment to exemplary property management.

The Marshall deal was a last minute purchase for Summit in September 2010 after its Springdale Garden Apartments deal in Austin fell through. The Springdale owner toured a Summit property in Mississippi called Westwick, which he had committed to purchase, even as he agreed to sell Springdale to Summit.

This owner pulled out of both deals last summer after he found staff in Mississippi in tears, burned out units, and reports of lawsuits, shootings and management tolerating an atmosphere of violence. He wanted nothing more to do with Summit, so at the last minute Summit contracted to purchase

Marshall, nine days before the city's funding round began on October 1.

I know there's a question that this company should preside over a last minute experimental PSH project in a historically segregated area of Austin, two blocks from an open-air drug market. We'll be back to speak with you further when the Marshall application makes your agenda this year, and we ask that you please visit nfor12th.com. You find a lot more information there about why many neighborhoods oppose this project, and I thank you for your attention and your service.

MR. CONINE: Thank you, Ms. Witte.

Any questions of the witness?

Dr. Muñoz?

DR. MUÑOZ: How are you able to ascertain details such as staff?

MS. WITTE: I and another person who owns property on 12th Street, he spoke to Charles Rycoff [phonetic] in California, who owned Elm Ridge and sold it to Summit, and then contracted also to sell Springdale and was going to buy this property. He and his senior property manager, whose name is Joann LaTorre [phonetic], they visited Mississippi.

I spoke to Ms. LaTorre and Scott Way spoke to Charles Rycoff and they both told us the same story.

And I also did check, there is a lawsuit that is currently underway for one of the shootings, a woman was shot through a wall in the leg. And her lawsuit alleges that there was an atmosphere of violence and that management did nothing about it ever.

MR. CONINE: Any other questions?

MR. OXER: What's the address of this property?

MS. WITTE: Westwick, it's in Jackson, Mississippi. It's on a street called North Flag Chapel Road.

MR. OXER: No, the one here.

MS. WITTE: Oh, the one here? The one here at two sites. It's at 1157 Salina and 1401 E. 12th Street.

MR. OXER: You don't have a copy with you. Is that correct?

MS. WITTE: Sure. I can send you a copy. And I also dropped off the letter that we sent to the Board.

MR. CONINE: Make sure it goes to staff first, if you would.

(General laughter.)

MS. WITTE: I will. Thank you.

MR. CONINE: We learned that lesson last week, didn't we?

MR. OXER: The hard way.

MR. CONINE: Ernesto Silva?

Followed up by Larry Hillman.

DR. MUÑOZ: Though we still want them.

MR. SILVA: Good morning, Mr. Chairman, members of the Board. My name is Ernesto Silva, and I represent the Harlingen Economic Development Corporation. I am the Chairman of the Board.

I'm here to speak to you on Project, I believe it's 11031, which is La Hacienda Casitas in Harlingen, Texas.

I'm here in support of the project. This project will be another component on the city's economic development recovery program, which has been ongoing ever since Hurricane Dolly.

During the last couple of years the city has committed itself to bringing new industries to our community, also new jobs. Currently we're on pace to create approximately 3,000 new jobs in the last two years. Some of the jobs that we've created, we partnered with the Texas State Technical College in Harlingen for the creation of a distance learning center.

We also cooperated with the University of Texas Regional Academic Center for the creation of a health center in Harlingen, Texas, a Veterans Administration Clinic, which is one of the few in South Texas south of San Antonio. And most recently we had the ground breaking for the Bass Pro

Shops, which the total development will be over a million square feet in retail.

And all of these projects will need housing. Most of these employees will be service industry employees, and we'll need additional housing in our community. And I do understand budgetary constraints, and if for some reason this project cannot be funded this year, we ask that there will be a forward commitment for next year.

And I appreciate your time, and I hope this project gets funded. It's a very important project for our community as Commissioner Joey Treviño mentioned earlier.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony, sir.

MR. SILVA: Thank you.

MR. CONINE: Larry Hillman, followed up by Bitty Truan.

MR. HOLLMANN: Hi. My name is Larry Hollmann. I'm here on behalf of the Community Development Corporation of Brownsville, and the Hacienda Casitas, Project 11031.

I'm with the Board of Directors from Community Development Corporation of Brownsville. I'm a CPA and had my first introduction to CDCB approximately 30 years ago. I'm an auditor, I learned the financial aspects of CDCB, and

I've switched hats lately.

I've always kept in contact. I've always been interested in CDCB, and for the last two years I've been on the board. And I've gotten to know the folks at CDCB. CDCB started out in Brownsville. Their goal was to eliminate [inaudible] back in the '70s. And that's how they got started.

I've seen first-hand for the last two years how this group, this dedicated group has done a lot and have really worked to stretch the dollars that they receive. We have -- and I'm going to give you some examples -- we have a self-help program where 10 families build their own houses. We do that -- we try to do it at least once a year.

We have financial and credit counseling. People have problems with their mortgages. We have a youth build program whereby troubled youth, we give them an opportunity to try to pass the GED and teach them construction at the same time, how to build houses.

We have a home ownership counseling program, how to save for a house. Nick Mitchell, our Executive Director, gave us anew challenge last year. He said, Look, we need to provide for more families. How do we do that? Let's look at multifamily housing. We've never done that. I mean we were shocked.

So to kind of bring us up to speed, we did a series of workshops, we got together and we came up with a list of goals. If we're going to do this, well, what should our goals be? Number one, and the ones that I remember, we want room for children to play, we want green areas where families -- that families can call their own, we want them to be energy efficient, we want large recreational areas where kids can play football Sunday afternoons while their dad watches football.

We want community spaces. We want to target young families. We want to target families that have 60 percent or lower of the area median wage income. And so our directive to Nick was we want a project that we can be proud of, and my words were, I want something that I would actually want to live in.

We think we have it with the La Hacienda Casitas in Harlingen. It's a six-acre site now that has dilapidated apartment buildings on it. We want to replace the 56 unit apartment complex with 56 rental houses, of one-, two- and three-bedroom units in the file of single family casitas.

Amenities, we're planning to have sidewalks with walking trails. It's going to be a six-acre project for 56 units. So we'll have room. An outdoor pavilion with picnic tables, a community building, a learning center with a

computer lab, laundry facility, community gardens, recreational areas.

The casitas will be built to green, energy efficiency standards. Right now the old project that's dilapidated is in sort of the middle of Harlingen.

MR. CONINE: I need to ask you to wrap it up if you could, please.

MR. HOLLMANN: Okay. Okay. So our image is to really to form sort of an oasis in the middle of Harlingen for up and coming families that we at CDCB, and I'm going to say we at CDCB can be proud of. Thank you for your time.

MR. CONINE: Thank you for your testimony.

Any questions of the witness?

(No response.)

MR. CONINE: Britty -- Bitty Truan. Excuse me. Darrell Jack's after Bitty.

MS. TRUAN: Good morning. My name is Bitty Truan, and I'm here to speak in support of Application 11031, La Hacienda Casitas in Harlingen. I too am on the board of the Community Development Corporation of Brownsville.

I live in Rancho Vallejo. I taught in Brownsville schools for 22 years before becoming an insurance agent, first in San Benito, then in Harlingen, and the last 15 years in Brownsville. In January I'll celebrate my 22nd year as a

State Farm agent. I'm here to speak to you as a business owner and a former teacher.

And I know that living in a safe place is fundamental to the success of our workforce and our young people. The construction of this very special project will not only provide new energy efficient, safe and affordable housing for many families, but will also eliminate an eyesore and enhance the neighborhood and the whole city of Harlingen.

As any business owner will tell you, the biggest challenge that we have in keeping employees happy and engaged and motivated is to keep them happy. Happy people -- people that are happy at home are usually happy at work. In our company we don't call employees just employees or staff; we call them team.

I like to tell people that everything I know I learned not in kindergarten, but at Gladys Porter High School, a barrio school in Brownsville where I taught home economics for most of those years that I taught. In those days homemaker teachers were required to do home visits, which gave me great insight of where and how my students lived. It was eye-opening, sad, but educated me and opened my heart and made me a better teacher and a better employer now.

I learned during those home visits that everyone needs air conditioning in Texas, but still need to keep a

front porch. We need to have neighbors that we know, green spaces for children to play, and quiet areas for students to study.

I'm fortunate to have a great team of employees who have been with me 15 years, and another one with 30 experience. But in my infancy in my business, I went through many employees, all, like you and me, have their share of joys and griefs. Nothing disrupts the normalcy at work more often than something going wrong at home.

MR. CONINE: I need to ask you to conclude, please.

MS. TRUAN: Just like the Porter students, our workforce success depends on a large part by what we can do to provide adequate housing that is new, energy efficient, safe and affordable. Thank you so much.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MS. TRUAN: Thank you.

MR. CONINE: Darrell Jack?

Board members, we're going to take a little break after Mr. Jack gets finished.

MR. JACK: Thank you, Board. My name is Darrell Jack, and my firm is Apartment Market Data. We do a lot of the research for both bond and tax credit properties that

many of the developers in this room bring before you. I just wanted to bring to your attention some information that you received on the East Austin project because I believe that you as Board members do a much better job when you have the full information.

There was a statement made that this zip code, 78702, has the largest concentration of Section 8 vouchers in the city of Austin. I actually happen to have information that we got from the Austin Housing Authority in 2010 that actually has the number of vouchers by zip code.

I just want to bring to your attention in 78702 there's 108 Section 8 vouchers. By no means is this the highest concentration by zip code in the city. For instance, 78704, which is bounded by Ben White going south between 183 and I-35 has 527 vouchers. So I just wanted to bring this to your attention that this particular zip code is -- by no means has the highest concentration.

Although, you know, when even myself think of East Austin, we think of that being a very concentrated area for low income housing. The facts just don't prove it up. I'd be happy to answer any questions you have.

MR. CONINE: Mr. Ozer?

MR. OXER: Where does it rank on the list?

MR. JACK: You know, it's -- I mean from this map,

probably the high side by zip code is 527 vouchers. Out in the Northeast Austin, by Walter E. Long Park there's 437 vouchers, 78723 to the northeast inside 183 has 356. You have some zip codes that only have one or two vouchers by zip code also. If you'd like to look at the map at a break, I'd be happy to show you how the picture really shakes up for Austin.

MR. OXER: Can you email the [inaudible] of that map to the staff?

MR. JACK: I can send that draw later to the staff, that they can bring into their own program. They have the same basis.

MR. OXER: You'll get the crayons or the pointed scissors.

(General laughter.)

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Thank you, Mr. Jack.

MR. JACK: Thank you.

MR. CONINE: We will -- in the spirit of pacing ourselves, we're going to take a 10 minute break.

(Whereupon, a short recess was taken.)

MR. CONINE: Don't ever give a builder a hammer, he'll use it.

(General laughter.)

MR. CONINE: Okay. Winston Shows is the person I have, followed by Emanuel Glocklin after that.

MR. SHOWS: Board members, thank you for your time today. My name is Winston Shows. I live in Carrollton, Texas. I'm here today on behalf of myself as a resident of the Wellington Run neighborhood in Carrollton, and as a representative of the Estates of Wellington Run Homeowners Association, also in Carrollton, Texas.

This is regarding File Number 11145, Evergreen at Churchill. We have two issues we'd like to bring to the Board's attention today. One involves a community support form which we understand Churchill Properties, the developer in this case, is receiving 24 points. We have two problems with this form.

First, the form as it was sent in to the Board is false and a misrepresentation of the property covered by the Estates of Wellington Run HOA. I sent each of you a letter with some exhibits, which I have labeled as Annexes.

If you look at Annex 1, you'll see a map that was provided by the Estates of Wellington Run HOA that shows the boundaries of their homeowners association. And if you look at Annex Number 4, you'll see a written description that includes north of Kings Gate and Running Duke. This is a

clear false misrepresentation of the boundaries of the Estates of Wellington Run Homeowners Association.

As you can see from the Annex Number 2, which is taken from the Dallas County records and from the Estates of Wellington Run HOA website, it shows that to the north of the utility easement is an HOA of Wellington -- the Estates of Wellington Run, and to the south, adjacent to the proposed development site, is the neighborhood of Wellington Run, which are two entirely separate neighborhoods. So that's my first problem with this community participation form.

The second problem I have is how it was obtained.

The map that you see attached as Annex A, and the language, the descriptive language in Annex 4, were provided to the president of the HOA, Ms. Lisa Smith, by a representative of the developer, Churchill Properties, and were not her own words, or were they her own map.

Secondly, after speaking with Ms. Smith, the president of the Estates of Wellington Run HOA, she informed us that they were -- that the developer misrepresented to them the nature of this development, what kind of development it would be, when they first obtained their support.

Ms. Smith, the president of the Estate of Wellington Run HOA, has since -- is in the process and has rescinded the community support form, as you'll see -- you'll

see a letter from Ms. Smith dated July 17, 2011 where she is, on behalf of the Estates of Wellington Run HOA, is rescinding this community support form and asking this Board not to award any points to Churchill Properties for the Evergreen at Marsh development for community participation.

Real quick, I just want to ask, I know things are tight now, I know that tax credits are limited. We know we didn't meet your deadline because the developer has continued to misrepresent to us the facts of this development, and as such we were not able to meet the June 15 deadline.

Therefore, we ask this Board to use your powers under Section 49.9(a) to investigate this matter, to contact Ms. Lisa Smith, to contact the names of the people in the petition before you -- so that you can make a true granting of the tax credits to a deserving developer, not one that engages in false misrepresentations. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

MR. SHOWS: Thank you.

MR. CONINE: Emanuel Glocklin?

And Gwen Nickerson will be after Emanuel.

MR. GLOCKZIN: Good morning, Chairman Conine, members of the Board, TDHCA. I'm Emanuel Glockzin, developer

of Stonebridge Place Senior Housing, Number 11221, located in Palestine, Texas.

As you'll recall, there was an appeal filed at the last Board meeting by Curtis Fitzgerald, president of South Royal Property Owners Association, of which was farmed and organized for support of this development. In the appeal there was testimony given by him, and also Cynthia Bast and Tom Gouris, that the QCP had language in it that wasn't real clear.

And because of the point structure of this development being 12 points, there was some discussion among Board members and staff about maybe issuing something less than 12 points, but it was either all or none, and the appeal had been denied. And here I am asking for a forward commitment on this development that's badly needed in Palestine, Texas.

Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Gwen Nickerson?

And Gilbert Piette will be after Gwen.

MS. NICKERSON: Good morning. My name is Gwen Nickerson. I'm a current resident of North Side Manor Apartments in Corpus Christi, Texas. We, the residents of

North Side are in favor of the New Palms at Leopard.

North Side Manor apartment complex needs a complete move due our living conditions. It's becoming unbearable. The new property will be better for our elderly people and our handicapped people. Thank you for giving us this opportunity to speak. Please consider the Palms at Leopard. Thank you.

MR. CONINE: Thank you very much.

Any questions?

(No response.)

MR. CONINE: And Gilbert Piette?

David Potter will be next.

MR. PIETTE: Good morning, Chairman Conine, members of the Board.

MR. CONINE: Good morning.

MR. PIETTE: My name is Gil Piette. I'm the Executive Director of Housing and Community Services in San Antonio. We're a not-for-profit that oversees and operates about 2,500 Section 8 housing units. And I'm here to -- this morning to encourage you to seriously consider a forward commitment for the Palms at Leopard.

The apartments that currently exist are the North Side Manor Apartments, and the situation is that both the apartments in the neighborhood have seriously deteriorated,

and it is no longer either a property or a neighborhood that's really suitable for families.

And so we have, for several years, been trying to come up with a solution that preserves the property-based Section 8 contract, because if that contract goes away, although vouchers are issued, it only takes care of the current residents of that property. It's not going to take care of residents down the road as the property goes forward.

We took over the property in 2005 because HUD informed the previously owners that they needed professional management. And so we had -- we stepped in, we've tried to keep the property afloat, and we have subsidized it with support from some of our other affiliate properties. And we think it's a property worth preserving because, especially because of the makeup of the resident profile.

There 120 units. Of those 104 are residents who are at or below 30 percent of the area median income. So 97 percent of the residents are extremely low income. And of those, 84 percent earn less than \$10,000 a year, 57 percent of the residents are kids below the age of 17, and 89 percent of the residents are single moms, single heads of households.

So we think it's worthwhile to try to preserve this property and the Section 8 contract. And the solution we've come up with after years of looking at it, is to try

to move the Section 8 contract to a new property, which is the Palms at Leopard.

That's not an easy task. We have been working at it now for about three years, and we're trying to get all of the pieces to fall into place. Those pieces are coming together. The city of Corpus Christi has given this project their 2011 home allocation. We have been in touch with HUD, and in order to transfer this contract, you have to meet certain conditions.

There is a program, it's the Section 318 transfer of Section 8 subsidies. You have to have a property that is obsolete in a neighborhood that has gone downhill. You have to move it to a project that's approximately the same size, and you have you have support of the residents and the community.

We have all of that, and there are any number of details that we could go into. I think you have a handout that I gave you. There's a sewage treatment plant that's being expanded next to the property, and there's concerns about pollution. A project that the city of Corpus Christi tried to put in nearby a few years ago was not allowed to go forward because of ground pollution.

So we're trying to find a way to get these residents moved to a better property. And we're not asking you to do

everything, we're doing our part to work with HUD to transfer this contract, but to do that we need your support for a forward. I'd be glad to answer any questions you might have.

MR. CONINE: Any questions of the witness?

MS. BINGHAM ESCAREÑO: Yes, sir.

MR. CONINE: Yes, Ms. Bingham.

MS. BINGHAM ESCAREÑO: Well, sir, on one of the pages there's a photo of -- it looks like a wood siding kind of single-story unit, and then there's another photo that has several three-story units. Are we phasing out the one and then trying to move those vouchers to the other?

MR. PIETTE: Actually, if you look at this page --

MS. BINGHAM ESCAREÑO: Yes.

MR. PIETTE: -- the center picture, that is -- those are the current North Side Manor Apartments.

MS. BINGHAM ESCAREÑO: Okay.

MR. PIETTE: The foundations are shot and rehabilitating in place is not really a possibility. If you look in the forefront of that picture, there's -- it looks like there's some new construction. That's actually the expansion of the sewage plant. And the property on the left is sort of typical of what's left, although most of the houses have been bulldozed.

MS. BINGHAM ESCAREÑO: Okay.

MR. PIETTE: The houses that remain have large become crack houses, and so we need to move the --

MS. BINGHAM ESCAREÑO: Gotcha.

MR. PIETTE: -- the property.

MS. BINGHAM ESCAREÑO: So the location for the -- where you want to move --

MR. PIETTE: Will be next to Miller High School, so it moves out of the low lying area by the port, moves it up the bluff, gets it up above where we would have ground water seepage with perhaps some pollution. And it's near grocery stores and banks and the amenities that the residents would need.

MS. BINGHAM ESCAREÑO: You mentioned the city already supports it, and you're working with HUD.

MR. PIETTE: The city has given us their 2011 HOME fund allocation, we've been meeting regularly with HUD and with legal counsel that has worked with HUD in the past to move contracts. And the word that we have gotten is that this is sort of the poster child, where you're not trying to move a property because the neighborhood gentrifying, you're trying to move it because it's become a place that's really not amenable to families and raising kids.

MS. BINGHAM ESCAREÑO: Thank you.

MR. CONINE: Thank you. Any other questions?

(No response.)

MR. CONINE: Thank you, sir.

MR. PIETTE: Okay.

MR. CONINE: David Potter?

Followed by Tamea Dula.

MR. POTTER: Good morning, Mr. Chairman and Board members. I'm David Potter, representing the city of Austin.

I'm here to read into the record a letter from Austin Mayor, Lee Leffingwell regarding a project that's on your agenda today, Number 11218.

And he says, "Dear Mr. Chairman and Board members, Although I am unable to join you personally today, I want to express on behalf of the city of Austin our strong support for the Pleasant Valley Works, LP tax credit application, Project 11218.

"This planned new construction development known as the Works at Pleasant Valley, will be adjacent to the new LifeWorks East Austin Youth and Family Resource Center, and Austin Community College's East View campus. As planned, this development will represent extraordinary opportunities for very low income families with housing, support services, and higher education all coming together on this one property.

"While this development is designed to serve the general public, it will also focus on some of LifeWorks' most

vulnerable populations, young adults aging out of foster care, formerly homeless youth and young adults, and pregnant teenagers and parenting families. To my knowledge, this is an under-served population, one that is perhaps at most risk of experiencing poverty and homelessness.

"With the Works at Pleasant Valley providing support services, access to higher education, and job training programs for youth and young adults, we can help break the poverty and homelessness cycles. We can provide hope and restore the promise each resident has to have a fulfilling and productive future. I believe this concept bodes well for them as individuals, for their families, and for the community as a whole.

"We strongly support the Works at Pleasant Valley, and the city of Austin has made an initial funding commitment of \$200,000. We are grateful for your past investment in affordable housing in Austin, and we are hopeful you will approve the tax credit award, or a forward commitment for the Works at Pleasant Valley. Sincerely, Lee Leffingwell, Austin Mayor." Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much, sir.

MR. POTTER: Thank you.

MR. CONINE: Appreciate it.

Tamea.

And Paul Holden is next.

MS. DULA: Good morning. Tamea Dula with Coates Rose. I'm here today to talk to you about a situation that's developing with the scoring this year. A concern that I have, another quirk, if you will, in the system.

MR. CONINE: Oh, geez.

MS. DULA: As you know --

MR. CONINE: Two quirks.

MS. DULA: -- two quirks. We make a quark.

(General laughter.)

MS. DULA: This year it's very, very competitive, and the scoring system is, there's not a lot you can do to distinguish yourself. In five regions this year, those projects that are on the cusp of funding.

There are five regions that have tied projects for points,

I am concerned that in the challenging process this year, which has been very active with 41 challenges, there have been a lot of challenges with regard to the community revitalization plan points. In particular those having to do with new construction.

In fact, there were so many challenges that staff went back and looked at all of the applications apparently,

to claim these points, whether they were challenged or not.

My concern is that in doing this, the challenger has said, Look at this project, this project is not within a revitalization zone, it's not within the targeted area. But that's not what the QAP requires.

The QAP says that if you have new construction, the development is new construction and it's proposed to be located in an area that is part of a community revitalization plan. That's what you have to do to get the points.

A community revitalization plan is defined as a published document under any name approved and adopted by the local governing board -- body, or if the governing body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that governing body, that the governing body so designated by ordinance, resolution or vote, the targets, specific geographic areas for revitalization and development of residential developments. That's what a community revitalization plan is.

That definition includes most of the consolidated plans that eligible participating jurisdictions put out each three to five years. As such, when you are in an area covered by a consolidated plan, the application requires, if you're new construction, that the evidence you provide be a letter

from the appropriate local official stating that there is a community revitalization plan, i.e. a consolidated plan, in effect and the development is within the area covered by the plan, i.e. the city.

Please give thought to what the QAP says. Developers pay a lot of money to put an application before you. They should be entitled to rely upon what the QAP says, and not have the requirements made stricter after the application is already submitted. Thank you. Any questions? Thank you.

MR. CONINE: Ms. Dula, when you said what the QAP said originally, before you read the definition of the community revitalization plan, can you restate that one more time?

MS. DULA: Sure. This is in the selection criteria provision --

MR. CONINE: Right.

MS. DULA: -- and it has different criteria for if you have a rehabilitation project and several other different ways that you can get these points, and the last one, for three points, it says, "The development is new construction and is proposed to be located in an area that is part of a community revitalization plan (three points)."

MR. CONINE: Well, not to question an attorney,

but what's the definition of "in"?

MS. DULA: In, covered by the plan. But the plan is defined so that a consolidated plan, which generally covers to the city limits of the jurisdiction --

MR. CONINE: Okay.

MS. DULA: -- includes that project.

MR. CONINE: Okay.

MS. DULA: Okay. Thank you.

MR. OXER: Any other --

MR. CONINE: Come back. One more time.

MS. DULA: Yes?

MR. OXER: Yes, unfortunately, this is not going to get any easier if I'm around [inaudible]. But I agree with your point that the evaluation at the time of the application should not be made more strict. I mean that's sort of rules of fair play. But your contention is --

And I just want to make sure we're clear on this, Mr. Chairman.

Your contention is that by being in a consolidated area for the city, a project, if it is within that area of the consolidated plan for the city, does not have to be a part of -- or actually located in the geography defined by the community revitalization program?

MS. DULA: Generally speaking, the consolidated

plan with talk about its view for the city as a whole, and if you're a project in the city, you're covered by that plan.

Now some plans may also designate certain areas where, under HUD rules, if they are so designated, you can use CDBG funds with relaxed requirements in that area, and so those might be considered specific targeted areas.

But, the way the QAP reads, if you're in an area that's covered by a consolidated plan, and the consolidated plan deals with revitalization and the development of residential developments, then you should be able to qualify for the points.

MR. OXER: Okay.

MS. DULA: It might be bad language.

MR. CONINE: Yes, I think --

MS. DULA: It might be poor drafting.

MR. CONINE: I think the Board's intent was -- you know, would have been that the project would have been in the area specifically designated.

Does the staff have a rebuttal to that, or position?

MR. OXER: This needs some more discussion.

MR. CONINE: Yes, we might as well flesh this out.

MR. OXER: Let's get it out --

MR. CONINE: Might as well flesh this out now.

MR. OXER: Knock the burrs off this right now.

MR. GOURIS: I guess -- yes, staff's thought was to accede the -- typically to accede to the letter that we get from the city. If the city says they've got a plan, it's part of targeted revitalization, they meet the requirements, they give us a letter, we take that on face.

We had some challenges to those letters basically that said, But their plan doesn't include -- the permit doesn't include -- isn't included in the targeted areas that they have for revitalization. When we looked at that, we saw that that seemed to be correct in many cases, that the property itself was within the city boundaries, but not within an area that was targeted for revitalization.

For the consolidated plan to meet the qualifications to be a revitalization plan, it has to target areas. It stands to reason that if it has to target areas, that the property should be in those targeted areas as well, not in the entirety of the city. Otherwise every project would meet the requirement.

MR. CONINE: Yes, I mean that's -- I would think the intent of the language, and the intent would have been that they'd be in a specific area. But I can't speak to the craftiness of the language. I mean I'm --

MR. OXER: Well, you can speak to the lack of

craftiness.

MR. CONINE: Yes. Fortunately I'm not an attorney.

(Pause.)

MS. DULA: Yes, sir.

MR. OXER: Okay. Back to this, I mean there's -- you should all recognize, there's a certain amount of subjectivity to the intent of the QAP was to narrow the subjectivity down as much as possible.

Is that right, Tom?

MR. GOURIS: Generally.

MR. OXER: Generally. It's lot of effort to get down there. We'd like to make this not right. Tragically, in times of stress when projects are high and money's low, that's when we find these little gray spots.

People, of course, kind of live in a gray zone.

So as your interpretation, you're saying that these projects, while they exist in a community development, or revitalization area under our program, if they're part of the larger city program, then they should qualify for the points.

MS. DULA: The consolidated plan generally qualifies as a community revitalization plan under the QAP definition, if it includes concepts of revitalization and residential development.

MR. OXER: Okay. Let's get back to the SO question here.

MS. DULA: Okay.

MR. OXER: Where are the city limits?

MS. DULA: Where are they?

MR. OXER: Yes, do the projects have to be in the city limits, or not?

MS. DULA: Generally, yes.

MR. OXER: Okay. So that defines and outlines where the plan should be.

MS. DULA: I would think so, yes.

MR. OXER: Okay. So what your contention is, is a community redevelopment program includes the entire city, generically.

MS. DULA: The consolidated plan does, yes.

MR. OXER: Okay. So it's the city limits that defines the project as opposed to a specific plan that identifies the zones or a few blocks or square miles, something like that.

MS. DULA: I say that with the proviso that I'm not aware whether some cities include --

MR. OXER: That's what we're waiting on.

MS. DULA: -- extraterritorial jurisdiction within their consolidated plan. That's a possibility.

MR. OXER: Okay. I would say, first off, we need to focus on what the QAP --

MR. CONINE: Oh, absolutely. I mean if it's -- if we have that sort of language that's out there, we certainly need to tighten it up. If we're trying to target specific community revitalization areas, which I think is what we were trying to do --

MR. OXER: I think that was -- it seemed to be the intent, but --

MR. CONINE: This is probably something we'll take up during our Executive Session on some lawyer language here, but --

MS. DULA: May I suggest that if you do decide to change the definition next year, that it be definite than this concept of only an area that has been put forth to HUD as an area where CDBG funds can be utilized under relaxed rules. That's very restrictive and not many consolidated plans have that.

MR. OXER: Do we have any generic -- Tom, do we have any generic language that would offer this up to outfits or to cities who are planning to have these -- or applicants within these zones??

MR. GOURIS: Do we have any --

MR. OXER: Maybe I should ask you, Jeff.

MR. GOURIS: Do we have any language right now?
I don't know that we have it --

MR. OXER: Okay.

MR. GOURIS: -- have language --

MR. OXER: Then here's the issue -- well, to my mind there's an issue of this redevelopment plan, they're supposed to get their project within the area of these community redevelopment programs. As a city we'd probably want it written as broadly as possible. Right? But we're trying to get them as specific as possible.

MR. GOURIS: Yes, I think the language that we have in here actually is general enough to encompass a lot of different kinds of plans. What it specifically says is that the community -- the city has to vote on a plan that targets specific geographic areas.

What that question is, in these plans that we're talking about, the target area isn't the entire city. They have to have a specific sub-area that's targeted. And they don't meet the requirement of being a revitalization plan unless they do that.

So now the question is, does it stand to reason that the project has to be in that targeted area, or because the plan covers the whole city, can it be outside of that targeted area because it's within a plan that covers the whole

city. And that clearly doesn't meet the intent, I think, of the Board.

MR. OXER: But the contrast to trying to decide what the definition of "is" is --

MR. GOURIS: Right.

MR. OXER: -- we're trying to define how specific is specific.

MR. GOURIS: Yes. And what we typically did was we said the city is the best focal point for that to determine that. So we let the city tell us in a letter that they met it, or they didn't meet it. The argument earlier was, Well, we went beyond that. Well, we did because we got a challenge and we investigate challenges.

And basically the challenge was the city said the property met the targeted area, when, in fact, it didn't, and they provided evidence to us that it didn't, and then we allowed the applicant to respond to that challenge. And it was clear to us that, you know, it's not within the targeted area.

So we made a decision that we need to go back and look at all of the letters and not just rely on the letters from the city, unfortunately, making everyone's life much more difficult. But that, you know, that's the essence of the problem is that I think the city was -- maybe misunderstood

what the rule required, what the intent of the rule was.

I don't know -- I mean I don't how you could read it different than that. If you have a targeted area, I don't know how you could read it to say, But you can be outside of the targeted area as long as you generally, you know, are called into question by this plan.

MR. IRVINE: And I might just -- Ms. Dula did raise the point that the language, when considered for the next [inaudible] taking into account not to be particularly restrictive because a lot of cities, you know, approach their planning processes a certain way. And, you know, scoring and competitive points and all, the whole idea is to be a differentiator, and this isn't necessarily something that every city would have in place. MS.

DULA: May I speak to that? My intent was not to say to make it completely general, but specifically to define what is a revitalization targeted area, and not necessarily confine it to one in which the CDBG requirements are requested by the city to HUD to be waived to a certain extent. But if they say, We're going to revitalize the downtown area within the central business district and they have a defined specific geographic area, then that's fine.

MR. CONINE: Gotcha. Okay.

Paul Holden?

Chris Luna's up next.

MR. HOLDEN: My name is Paul Holden. I'm with Zimmerman properties, and it's always fun to follow up a conversation like that.

(General laughter.)

MR. HOLDEN: Hopefully mine's going to be a little bit more straightforward. I'm here to talk to you about the Dunes Apartments in Seminole, Texas, Number 11181.

Mr. Muñoz, you may be familiar with this area. It's about -- less than 100 south and west of Lubbock. Very small town in West Texas that has never had a tax credit application approved. And the reason for that, it is a small town of about 7,000 people, median income is rather low, has not been able to compete in the past. There was just -- you just couldn't make the numbers work.

However, this year we took it upon ourselves to take a look at it, and would have been the only applicant in that Region, in the rural area, up until Friday. And we did everything possible to score as high as we could.

The city does not have a revitalization or redevelopment plan, and we didn't feel like it was appropriate to try to maneuver their comprehensive plan and skew something to get the points that simply wasn't there.

There is no property owner association in the

county, much less the city. There is no homeowner association, and we didn't feel like it was appropriate to try to create something simply for this project that wasn't currently within the city.

On Friday we had an at-risk project that was allowed to move from the at-risk list over to the general set aside in this particular region, which is Region 12, the rural region of 12 by the way. That took us out of the scoring range as far as the amount of money that's there.

Now, the thing -- the reason I'm talking about Seminole is, first of all, I've spent a lot of time there, and you've got a property -- or you've got a city that desperately needs housing. It's a very rural area of West Texas; it doesn't get a lot of attention. And as you know, the equity in debt for market rate communities simply is not available to a rural property in West Texas.

This is the only opportunity this city is going to have to have some new housing built. There has not been a new housing community, multifamily or single family, built in the city in 35 years. They have a pretty good industrial base, a lot of it is agricultural.

A lot of the people there commute to different cities for their work, but they want to live in Seminole. There simply are not options available to the people to live,

unless they want to rent a substandard house. The apartments there are completely full, and the majority of them are substandard living.

So I think we have -- I mean there's a story to be told about Seminole, Texas, Board members, and I'm asking you to take a look at this. I'm not saying that we -- anything was wrong in the way that the ranking was done, but I think there is something to be said about Seminole, and I'm asking you to look forward to that as a forward commitment.

The mayor and city council was not able to be here today, but I'll have -- they're not here next week, I'll have letters from them, from the mayor as well as the county commissioner in support of this community.

MR. CONINE: Any questions of the witness?

MR. OXER: I have a question, Chairman.

MR. CONINE: Mr. Oxeer.

MR. OXER: Are there any other -- you talked -- you spoke to the agricultural and industrial sector, are there any other state operated or federal facilities there, prisons, schools, anything?

MR. HOLDEN: Well, they're just building the new junior high, which they're staffing right now. There are some prison facilities, low level facilities within that area, yes. There's a nice employment base for this area. But they

just can't attract the housing. The dollars just aren't there for it.

MR. OXER: Thank you.

MR. HOLDEN: Yes. Thank you.

MR. CONINE: Thank you for your testimony.

Chris Luna. He's got some dedicated by Claire Palmer. Five minutes.

MR. LUNA: Mr. Chairman, I actually had signed up to speak at the time of the appeals under 3A --

MR. CONINE: Okay.

MR. LUNA: -- and it may be more the appropriate time to speak.

MR. CONINE: You'd rather do that? I'll move you to there.

MR. LUNA: I think that's probably more appropriate, Mr. Chairman.

MR. CONINE: Okay.

MR. LUNA: Thank you.

MR. CONINE: We'll move you to there.

Rosa Linda Silva?

David Kozier, it looks like -- excuse me, Koogler is next.

MS. SILVA: Good morning. First of all, let me thank all of you for the opportunity to speak here today.

I am a little nervous.

MR. CONINE: So am I. Don't worry about it.

(General laughter.)

MS. SILVA: Nervous and emotional. I am Rosa Linda Silva, board chair of the America GI Forum Village I and II in Robstown, Texas. Ruben G. Garza was my father. He was a Korean War veteran, a civil rights advocate, and a giving person that helped those in need throughout his life here with us.

He unselfishly labored to provide the people of Robstown a place to live. He especially focused on those people in need. Our family experienced living in housing ourselves. We lived in what was known back then as a labor camp, and it's -- the houses that are built now for American GI Forum Village Number I and Number II, it's the same location, so it's kind of a little personal.

When we lived there, it was -- the houses were well built and they provided everyone a nice place to live.

As a veteran, my father was a very proud of the fact that both these projects were built and that the names on the project would say American GI Forum. He was Korean War veteran and a Purple Heart recipient. We know now how much it means to have someone who has proudly served our country.

He continued to serve by becoming involved the

community of Robstown by serving as a city councilman for many years. My dad always strived for the underdog and always did what was right to do for others. My dad saw a need to provide housing for those in need and was able to do this by developing the American GI Forum Village Number I and II.

When he was still alive he tried to keep these two locations in adequate conditions. Now both places could use some tender loving care. Everyone deserves a nice place to live.

In the time that he was alive, he was able to provide some extras for the children that lived there because education was such a big part of his life. He wanted what was best for the children that lived there. He decided that they needed a place to study, so somehow he was able to provide the students with computers to use in the center that was located in the housing project.

I believe that if he were still alive, I would probably be typing a similar letter to convince this Board that we need to help renovate these projects. Ruben B. Garza is now with the Lord, lung cancer and the rigorous toll of chemotherapy took his life, but even though all -- through all that, he managed to have my brother, Ruben B. Garza, Jr., and myself named to the board governing the decisions that would be made for the American GI Forum housing project.

I recall we were at MD Anderson and he was calling Mr. Martinez, who was in charge of the housing project at that time, and making sure that we were next in line -- he wasn't going to let us off that easy -- for the board position that would be vacant when he would leave us. And I thought, He shouldn't even be thinking of that, but he always thought of others.

This project is just one of many concerns that he took care of, and it seems that he continues to care for the needs for others and continues to make sure that we, his children, understand how important it is to give of yourself unselfishly.

That is why I am here today, to ask you to consider your decisions to help our people in the American GI Forum Village housing project. I thank you for lending me your time, and for listening, and I ask for your sincere consideration in providing these housing projects with the monies needed to provide much needed renovations. Thank you.

MR. CONINE: Thank you for your testimony.

Are there any questions?

(No response.)

MS. SILVA: Thank you.

MR. CONINE: David Koogler, followed up by Barbara Thompson.

MR. KOOGLER: Good morning. My name is David Koogler. I'm with Mark Dana Corporation, the developer of Spring Trace, Number 11037. Good morning, Chairman, Board members, Mr. Irvine. Thank you for this opportunity to speak with you.

I'm here to ask you to consider a forward commitment for Spring Trace. Spring Trace is located in the northern part of Harris County in Spring. It's in Texas House of Representatives District 150, Representative Debbie Riddle, and Senate District 7, Senator Dan Patrick.

This is kind of unusual in that the state senator and state representative for these districts are just not generally in favor of affordable housing. In fact, Representative Riddle, to my knowledge, has never written a letter of support for a tax credit project, and I'm not aware of one from Senator Patrick, but I'm not sure of that.

In fact -- hopefully you have a copy of my package in front of you, I won't go through everything in detail -- but Representative Riddle has been quoted in the paper, and there's a copy of it in your package, stating that, you know, as long as she's a representative, she's not going to allow any tax credit projects in her district.

We're working with her to change her views, and hopefully we'll have some success there, but we haven't had

that success to date. When we developed this project, we believed that if we could show that there was community support for the project, that we would have the legislative support that's needed.

That has not been the case. We do have good community support for the project, as is evidenced by the nine or so letters that's in your project, including one from the Houston Northwest Chamber of Commerce, and the president, Barbara Thomason is here and will be speaking a little bit about their support for our project. The utility district has also passed resolution to send a member to speak in support of the project, and they'll probably be here at your next Board meeting.

Nonetheless, Representative Riddle did send letters of opposition to all of the projects in her district in January. And we've tried, and met, with staff for both the senator and the representative prior to the April 1 and June 1 deadlines, with no success. I think that it's a good thing to have these legislative points, but when their constituents want it, I would think that the legislators should support it.

And so our thought is that, at least in these legislative districts, unless we get an award, or a project, whether it's this one or another one, gets an award via a

forward commitment, it's just not going to happen in that district.

There's some other information in the package that I sent you, but I see that I've run out of time. So I won't talk any further. We just ask that you keep this on your list for consideration for a forward. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Barbara Thompson.

Mike Fowler will be next.

MS. THOMASON: Good morning, Chairman and Board members. I'm Barbara Thomason. I'm the President of the Houston Northwest Chamber of Commerce, again speaking of Project 11037, Spring Trace.

I'm representing my chamber, my chamber board and membership, the business community in favor of this project.

Now we as a chamber, as many chambers, are very selective about the projects that we stand behind. But we do stand behind this senior community.

We recognize the value of such projects, and those in particular developed by Mark Dana Corporation. They have demonstrated quality construction, over 40 years track record. They maintain long term ownership, and they continue

to manage their own projects.

Another reason that we're in support of this is that there is no other senior tax credit development in that census tract, or the entire zip code, 77373, and we do believe that there is a need for such a thing in that area.

It's a very nice area. We believe this parcel, this is the highest -- one of the highest and best uses for this parcel, and most importantly, as Mr. Koogler said, they have enthusiastic approval and acceptance by the immediate neighborhood around this parcel.

So we're in favor of this. We're the primary economic development entity in our area. We hope Representative Riddle will come around, and respectfully we request your consideration of a tax credit allocation for this project in our community. Thank you.

MR. CONINE: Thank you for your testimony.

Any questions?

DR. MUÑOZ: I have a question.

MR. CONINE: Dr. Muñoz.

DR. MUÑOZ: I've read one, two, three letters in opposition of several projects. The first paragraph, the letter from the state representative, recognizes apparently pleas from the constituents and the decline of property values. It's the same language in all three letters.

How would the presence of a senior apartment complex reduce the value of property?

MS. THOMASON: Well, that's not our position.

DR. MUÑOZ: Right.

MS. THOMASON: That's someone else's position. This is an empty parcel. Building anything on it is going to increase its value. I can't explain the logic in that thinking.

DR. MUÑOZ: Okay. All right.

MR. CONINE: Thank you for your testimony.

Michael Fowler?

MS. HORVAK-BROWN: Chairman Conine, Michael Fowler and I appeared together. Might I speak first?

MR. CONINE: You may.

MS. HORVAK-BROWN: Thank you.

MR. CONINE: She has dedicated time, so we get five minutes of Ms. Brown.

MS. HORVAK-BROWN: I won't take that long. Chairman Conine and members of the Board, thank you very much for being today to hear me once again speak about 11150, Rittenhouse, which is the subject of a request for a forward commitment.

I'm Joy Horak-Brown, Executive Director of New Hope Housing in Houston, Texas. We are a non-profit developer

of affordable single-room occupancy housing, a supportive housing type dedicated to serving the neediest of our citizens in Texas, veterans, elderly, disabled, people recovering from substance abuse, a large percentage who were formerly homeless, all residents are at risk of homelessness when they enter our housing.

We're Houston's largest developer of this housing type. And it's a housing type that's in dire need in our state for many reasons. One of those reasons is the economics of it. You simply can't make money developing affordable housing. And most of the tax credit developers in our state are dedicated to developing a solid profit and making reasonable and fair profit on that product, and I think that's a great thing for the people of Texas.

My role, Chairman Conine, is a bit different. The property at Rittenhouse would be lead certified just as is, 2424 Sakowitz that I showed you at the last meeting, first lead certified affordable housing in the state of Texas, and platinum *Houston Business Journal* award winner, and Rittenhouse would be designed by the same architect who designed Braes Crossing that I spoke with you about at the last meeting, winner of innumerable awards, including two Urban Land Institute awards.

And here is Rittenhouse. It's to be located north

of the Loop, 610 Loop, off of I-45 North at the Steubner-Airline exit. It's 160 units of dire needed single-room occupancy housing. There's a substantiated need in Houston for 8,000 units of this type of housing, and there are approximately 1300 today. 160 units will rent for around 420 a month, free utilities, free cable television and available to the neediest citizens of Houston.

There's strong neighborhood support and there is no other supportive housing close to this property. I do hope that we'll be able to convince you over the next meeting or two to help us. We've never asked for your assistance before. We must respectfully ask for it today. MR.

CONINE: Any questions of the witness?

DR. MUÑOZ: Yes, I have a question. On the diagram --

MS. HORVAK-BROWN: Yes, sir.

DR. MUÑOZ: -- there's one unit that -- hearing impaired.

MS. HORVAK-BROWN: Well, there are a number. There's certain percentages of units that are for hearing and sight impairment, and that are for individuals who are in a wheelchair. All of the units, Dr. Muñoz, are accessible, so that they have wide doorways for visitability. That's correct.

DR. MUÑOZ: Thank you.

MS. HORVAK-BROWN: Thank you.

MR. CONINE: Thank you for your testimony.

Michael Fowler?

Michelle Pryor will be after Mr. Fowler.

MR. FOWLER: Chairman Conine, members of the Board, I'm Mike Fowler. I'm board chair of New Hope Housing. I was thinking, I don't think I've been here for about seven years, so it's sort of a time lapse.

MR. CONINE: Why do you have to look at me?

(General laughter.)

MR. FOWLER: Chairman Conine, you're a good looking guy.

(General laughter.)

MR. FOWLER: You're going to do fine. There are other members of the Board --

(General laughter.)

MR. CONINE: Today.

MR. FOWLER: There are other members of the Board that may be better looking, but --

(General laughter.)

MR. FOWLER: -- we're here to get your support, so --

MR. CONINE: You'll say anything. Oh, yes.

(General laughter.)

MR. FOWLER: There's usually no reason to follow our extremely able Executive Director, Ms. Horak-Brown, and I find that when I do follow her, she has usually said everything that I was supposed to have said anyway.

Maybe I can just tell you that New Hope Housing has an extremely dedicated independent Board of Directors.

They represent all elements of the Houston business community. I'm an independent oil man, I'm in the chemical business. The board is dedicated to making New Hope Housing be an enduring, we often say hundred-year sort of institution.

And we have learned the tax credit program, we'll break ground on our third project with -- that has had your support, next month. This project is in our development cycle. As Joy said, these are extremely challenging units to build because they're small and because they have plumbers and electricians that cost a lot more than sheetrock in that sort of concentration.

So it's fascinating to come to Austin and to watch the process that you manage. We appreciate your service, and we appreciate your support of New Hope Housing, and we look forward to working with you in the future. Thank you, sir.

MR. CONINE: Thank you, Mr. Fowler. Appreciate your leadership.

Any questions for the witness?

(No response.)

MR. CONINE: Thank you very much.

MR. FOWLER: Yes, sir.

MR. CONINE: Michelle Pryor?

MS. PRYOR: Mr. Chairman --

MR. CONINE: Yes.

MS. PRYOR: -- there are three of us, may we switch order?

MR. CONINE: Sure. Which one wants to go first?

MR. HAMMONS: Ronald Hammons.

MR. CONINE: Ronald Hammons. Okay.

MR. HAMMONS: Good morning. My name is Ronald Hammons, and I am here to speak in opposition of Application Number 11056, the St. Paul Apartments. As a concerned parent of two daughters who currently attend the day school immediately adjacent to the proposed site, i would like to talk today about the eligibility of individuals to live in this facility, specifically sex offenders.

Our current laws would prohibit some individuals from living in the St. Paul Apartments due to the proximity of the day school. There is no guarantee that all sex

offenders would be prohibited from living in this development, and some people who have convicted crimes that have harmed children would no be prohibited from living in the facility as a matter of law.

Although Texas law requires enforcement of a child safety zone for offenders placed on probation and parolees who were serving a sentence for certain offenses where the victim was a child, Texas law does not require the creation of a child safety zone for parolees convicted of indecent exposure, or for offenders placed on probation for continuous sexual abuse of a child.

Because of the proximity of the proposed facility to the day school, these exceptions are of particular concern to me, and the parents whose children attend the day school and play on the playground that is immediately to the proposed facility, literally just steps away, as close as you are to me today.

Hamilton Properties has indicated that the proposed facility will provide on-site support facilities and employ safety measures to ensure the safety of the community surrounding the facility.

However, I would like to point out that Hamilton first approached the church affiliated with the day school to manage the St. Paul Apartments. The church has a

long-standing reputation for its commitment to the city's homeless population, and provides services at The Stew Pot in Dallas.

However, the church declined to provide services at the St. Paul Apartments, citing an insufficient operating budget, inadequate on-site support in facilities, and an inappropriate building site. Hamilton Properties has since partnered with Metro Dallas Homeless Alliance, which operates The Bridge and provides temporary housing to homeless individuals.

At the Board's meeting on May 5, 2011, Mike Faenza, the president and CEO of the Metro Dallas Homeless Alliance, indicated that since 2008 The Bridge has placed almost 1,000 people in permanent supportive housing, with a 90 percent stability rate.

Now, I would agree that in most circumstances a 90 percent success rate is pretty impressive. However, in this context, a 10 percent margin of error is simply unacceptable. Does that 10 percent represent instances of relapse episodes of criminal activity? This is not a suitable risk to impose on the children who attend the day school. It only takes one event to forever impact a child.

None of the parents here today dispute that PSH is a step toward ending chronic homelessness. We simply

dispute the location of this particular facility. The distance between the playground, where my children play daily, and the proposed facility, again, is no more than the distance that you are from me today.

Is it really that hard to imagine that someone could get from where I am standing right now, to where you are sitting this morning, and cause serious physical or psychological harm to a child before security was able to intervene?

Please help us maintain an adequate perimeter of safety for our children, and remove this project from the -- at this location from the list of applications un for consideration for the 2011 and 2012 forward tax credits. Thank you for your time.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

Michelle or Julia.

MS. WIBLIN: Julia.

MR. CONINE: Julia. Okay.

MS. WIBLIN: Good morning.

MR. CONINE: Good morning.

MS. WIBLIN: Thank you for giving me time to speak.

I am talking in regards to opposing Project 11056, the St.

Paul Apartments. My name is Julia Wiblin. My husband, son and I are downtown Dallas residents. We own a townhome, it's across the street from the Farmers Market, five blocks from the proposed site. And my son is -- goes to school at the day school.

Just simply would I support -- as my son and 130 other children at the day school spend five days a week up to 11 hours a day, I believe it is my responsibility as his mother to speak on his behalf. I supported downtown -- a vibrant downtown community. I live downtown, my husband works downtown, I do as well, and our son attends school. We are fully committed to the downtown area.

My family and I support the goal of ending homelessness in downtown Dallas. We fully support that. And support the First Presbyterian's long history to the service to the downtown homeless population in trying to find a solution.

What I specifically do not support is the current location of the proposed project at this point. I believe that due to the nature of the project, as Bud had already commented, is that the location is not the best solution for ending homelessness.

Please note that I do support this type of project in my neighborhood. I live by The Stew Pot, I live by The

Bridge. I simply do not -- I'm not comfortable with this type of project sharing a fence with the playground that my son attends. I ask that the Board reconsider the forward commitment to this project.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

Appreciate it.

Michelle, I presume?

MS. PRYOR: Yes. Thank you for giving me the opportunity to speak today out against the location of Item Number 11056, the St. Paul Apartment project adjacent to the First Presbyterian Church Developmental Day School.

I'm Michelle Pryor. I'm married, I have three children, all of whom either have attended or are attending the day school at this time. I am also the sister to a 35 year old brother who has been diagnosed with paranoid schizophrenia 18 years ago. For these reasons I believe I have something unique to bring to the table.

As a protective and loving mother, I want my children to be as safe as possible throughout the day. And also as the protective big sister of a severely mentally ill little brother who has been a homeless person during parts of his life for the past 18 years, I understand the desire

to go forward with the St. Paul Apartment project.

However, I am adamantly opposed to the location adjacent to the day school. The church, who's also served this community for a number of years, is opposed to the location as well.

The project has been called a rehabilitation opportunity for the chronically homeless. Many chronically homeless people are mentally ill and substance abusers, and can benefit from some sort of structure and a stable place to live. From experience, I know this is a constant challenge in taking care of them, and their behavior is often unpredictable.

It can swing into threatening mode in a heart beat, creating great danger for themselves and for those around them. They usually don't even remember what happened after -- while they were in this state. And I can personally attest to this type of behavior.

The chronically homeless of course deserve a dignified place to live, but the location of this apartment is unacceptable for the welfare of hundreds of children, and I don't see how children playing just yards away from mentally sick people is safe.

A homeless apartment complex could help some of its residents to become productive members of society.

However, I know from personal experience this is not as easy as providing support services, and many residents will not be successful. I wish it were that easy.

For me personally, I know when the times comes that I'm the sole caregiver of my brother. I will have to make the decision of whether or not he will be able to move in with my family, or to another location. I know that I cannot have him live with me and my family, and that is really difficult to say out loud.

He adores my kids, and they love him. On the flip side, if I were researching a PSH for him, I could not in good conscious introduce him to a place that was right next door to daycare facility.

We have an alternate solution that would be a win-win for both sides. Mr. Hamilton can develop the apartment complex across the street and down the road from the day school. The push back has been a matter of inconvenient paperwork. The stars are aligned, he says. And for whom, I ask.

Weigh this, we have an option for Mr. Hamilton to locate the apartments down the street with additional paperwork, on the other side we have the potential threat of putting two vulnerable parties, innocent young children and mentally ill and substance abusers side-by-side in what

might escalate into tragedy that will be devastating to both.

Which carries the most weight? That's for you to decide. I ask you to please remove this from the list. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

Sue Winkles?

And Naomi Byrne will be up after Sue. Let me correct myself. It looks like Norma Williams will be after Sue, because they're on both -- they're both on the same project.

MS. WINKLES: My name is Sue Winkles. I'm from San Gabriel Senior Village, Georgetown. We have a group that's representatives, if they would stand. And we're all here in support of Merritt Bryan Station.

We come here on behalf of the seniors, the elderly petitioning for support for additional building, housing for the seniors. Being a part of that group, as we see how vital it is. The safety, the security that seniors feel in a group home setting, it's home away from home, it takes away from the loneliness of being alone, don't have to worry about living all alone and worry about someone breaking in and so on and so forth.

We appreciate you letting us speak here today. And by the way, I don't see anyone that's not good looking up there.

(General laughter.)

MS. WINKLES: So don't let anyone put you down, you're looking great.

(General laughter.)

MS. WINKLES: But we do appreciate your allowing us to come and speak and to encourage you to pay -- to give some really serious thought to this because we just cannot emphasize strong enough how important these senior homes are for -- not just for today, but for the future because we're getting more and more. And I know we at San Gabriel Senior Village, we are almost daily getting phone calls, getting people walking through the door inquiring about apartments and homes for their parents, not just for today but six months and in a year.

They're moving in these senior citizens because they live here, they want their parents close by, and there's not enough housing. There's just not. You cannot build fast enough to supply the homes for them. So we're just here and asking you to pay close attention, give us some serious thought, and some help on that. Thank you so much.

MR. CONINE: Thank you for your testimony.

Any questions?

(No response.)

MR. CONINE: Thank you very much.

Norma Williams?

MS. WILLIAMS: Good morning.

MR. CONINE: Good morning.

MS. WILLIAMS: I'm here in support of the Merritt Bryan Station, 11169. I am a new resident at Buda -- in Buda, Texas as the Creek Side Villas that Merritt recently built, and I have started living in apartments after the death of my husband. And it is something very -- it's very hard to find something that has wide doors, accessible lighting, et cetera, et cetera.

And as seniors get older, you need walkers, you need wheelchairs, you need to be able to reach things. And they're just not available in most of the apartments that are available. And we don't really need to live having assistance, we need to be able to just live on our own in apartments and be like everybody else.

But you also need friendship, and you don't always get friendship in apartments with people who are hurrying up getting to work, we've got to go, et cetera, et cetera, and you don't talk fast enough for them, and you don't have the same interests, you know, you don't know have -- your

garbage doesn't consist of pizza boxes and beer cases. I mean, you know, you tie yours up and put a bow in it and that kind of stuff.

(General laughter.)

MS. WILLIAMS: So it really is -- you need to feel like you're wanted. In large apartment complexes you're not wanted. And here we have friends, and then you also get involved in helping others when they move in and get to know other people.

And there isn't enough of it available. In San Antonio I know they have waiting lists to get in senior apartments, of my friends that have tried to get into them.

So I wish you would consider approving this project. Thank you.

MR. CONINE: Thank you very much for your testimony. Appreciate you being here today.

Naomi Byrne?

MS. BYRNE: Good morning --

MR. CONINE: Good morning.

MS. BYRNE: -- Chairman Conine, Board. I'm Naomi Byrne, Executive Director for the Housing Authority of Texarkana, Texas, here speaking for Application 11097, RoseHill Ridge in Region 4.

Our request is simply, we're in one of those

regions where there are not enough credits to fund both an urban and rural deal. We are the top scoring application, and we also have a Hope 6 application that was awarded in 2008 that has to be expended by 2013, and this is the last phase of that project.

I just want to ask the Board, as you go forward with your approvals for forward commitments, if you would consider giving a forward commitment to our project because of the unique nature of the Hope 6 grant, and the fact that this is the last phase of a revitalization program that's not only supported by the city, but also by State Senator Eltife, whose office called TDHCA last week. We just ask that you remember us as we go forward with the awards next week.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

MS. BYRNE: Thank you.

MR. CONINE: Appreciate you being here.

That concludes the public comment witness affirmation forms on our agenda. So we'll close public comment and move on to the consent agenda. That's Item 1.

Any Board member that would request anything be removed from consent agenda, otherwise I'll take a motion.

MS. BINGHAM ESCAREÑO: Move to approve the consent agenda.

MR. CONINE: Motion to approve by Ms. Bingham. Is there a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

I guess we'll move on into Item 2 for a short period time. We are going to break for lunch today with an Executive Session, so -- oh, I had -- let me back up, I had one witness affirmation form and he didn't need to speak, so everything's wonderful. Okay. We're going to move on into Item 2.

Mr. Irvine?

MR. IRVINE: Yes. I believe --

Robbye, are you presenting the challenges?

Robbye Meyer.

MS. MEYER: Robbye, Meyer, the Director of

Multifamily. I have three updates for you for the challenge.

One is on page 14 of your log, and it is -- these are all verifications, it's changes in your logs that we've been able to update since the last posting. And it has to do with community revitalization. You've already had a taste of that this morning, so we'll -- these are good things though.

We verified that the Villas at Tuscany was in a targeted area, so that one we weren't going to take points away from, so I'm sure we one developer happy, and someone else unhappy. So that one will keep their points.

On page 15, for Main Street at Commons, again, revitalization, we were able to verify they were in a targeted area, so they will be able to keep their points. And on page 29, for the Grove at Elm Park, we were able to verify they were in a targeted area, and they will be able to keep their points.

MR. CONINE: Would you hit --

MS. MEYER: I'm sorry.

MR. CONINE: -- all three of those one more time, because I just --

MS. MEYER: Okay.

MR. CONINE: -- finally got to you.

MS. MEYER: Page 14 --

MR. CONINE: I got that one.

MS. MEYER: Okay. Was it Tuscany? Page 15, Main Street at Commons, and also page 29, the Grove at Elm Park.

MR. CONINE: Twenty-nine you said?

MS. MEYER: Page 29.

MR. CONINE: All those are within the area?

MS. MEYER: Yes, sir.

MR. CONINE: Okay. Thank you.

MS. MEYER: There's one that is remaining, and that has to do with Hidden Valley Estates. It's in the city of Houston. We're still looking for information for them to verify. On a map, the information that we allowed for them to turn in, this particular development is hiding behind an I-45 emblem.

It actually received a challenge, and we don't have the back up data from the city of Houston, so they are having to actually get their data and pinpoint that particular location for that application for us.

We haven't heard back from them. As soon as we do, we'll be able to verify whether that one is actually in their target area or not. When you decide whether that is actually an issue or not, it may not make a difference.

That's all of the challenge information. If you have any questions on any of the other challenges, I'll be here for the Board's pleasure.

MR. CONINE: Mr. Ozer?

MR. OXER: Good morning, Robbye.

MS. MEYER: Good morning, sir.

MR. OXER: What percentage of the challenges out of the -- how many challenges were there exactly?

MS. MEYER: Forty-one.

MR. OXER: What percentage of the -- what number of those were -- have challenges where the challenge is based on the interpretation of community revitalization plans? Is there any way to determine that?

MS. MEYER: Well, I don't remember exactly.

Raquel, do you remember how many we actually had?

MR. OXER: A lot of them, a few of them?

MS. MEYER: No, sir. The majority of them were community revitalization. Well, not actually challenges. When we went back, we actually took points away for community revitalization.

MR. OXER: Well, it wasn't necessarily a challenge, but it was an issue that needs closer vetting, more interpretation of the QAP.

MS. MEYER: Yes, sir.

MR. OXER: Okay.

MS. MEYER: There were several challenges, and there were actually challengers that challenged other

applications for community revitalization.

MR. OXER: This being a competitive process, I can see how that would happen.

(General laughter.)

MS. MEYER: Well, they challenge each other on the same thing that they were challenged on.

MR. OXER: Right.

MS. MEYER: And if I can make a point on that particular item, if you'll keep in mind, we're giving preference to an application, and as you go through -- and I think one developer asked, and actually said one time, Let's use common sense -- if you're actually giving preference to an application, and this is one of the things that we've looked for, the three tests that we made was the plan in place, was it approved by the governing body, and was it in a targeted area.

If you're looking for a development to be -- to receive preferential treatment, it would make sense if it was part of the plan in a targeted area that the plan was covering. If you're looking at the city of Houston, and you're going by the consolidated plan, Houston's huge. Every development pretty much in the city of Houston's going to be taken into consideration.

Same thing with Harris County. If you use

consolidated plans, which for a lot of -- the community revitalization is, and a lot of developments used the consolidated plans, that was a question, should we use those, but if we are going to use those, and a lot of use revitalization and spelled it out in their plans, then they need to be in those targeted areas.

It would make sense, it would make common sense, it would make logical sense that they would be in the targeted area. That's something that you need to decide whether it makes logic sense, if it makes common sense.

MR. OXER: It's makes that way too easy for us though. Right?

(General laughter.)

MS. MEYER: That's what Raquel and I tried to do. We tried -- and we worked really hard. Raquel, you know, contacted a lot of cities, a lot of little cities, read through hundreds of plans. We did a lot of work on this. And that went for a lot of the scoring items that are before you today, the appeals that Raquel is going to go through.

They're not before lightly today. So staff has done a lot of work before an appeal is brought before you.

So the recommendations that staff brings before you, there's a lot of work that has gone into them before they step in front of you. But that being said, that was staff's position.

MR. OXER: Well, we're certain there's considerable effort that's gone into the interpretation of this --

Mr. Chairman, I would suggest this represents even more evidence of our need to refining some aspects and points of the QAP.

MR. CONINE: We generally find the gray areas about this time of year.

(General laughter.)

MR. CONINE: This will be -- this isn't a one-time occurrence, nor will it be the last time --

MR. OXER: Yes.

MR. CONINE: -- that this happens, so --

MR. OXER: I guess being new --

MR. CONINE: -- we welcome you -- yes, we welcome you to support the party.

MR. OXER: Being the new kid on the block, I can feel the stripes going across my back --

(General laughter.)

MS. MEYER: I think this is an area that's on the top of staff's list, the QAP.

MR. CONINE: Robbye, as I flip through here, I see where the staff of the department has specific remedies, you know, no action at this time, reduction of points, and

the letters have gone out. But there's a few of them in here that still have --

MR. OXER: The gray is greater than most.

MR. CONINE: Yes, the staff hadn't made their mind up yet. And my question is, for instance the first one, Palm Gardens, says, No action is required at this time. So is that -- am I to take that to mean that tomorrow you may wake up and decide to take action, or what's going to happen there?

MR. OXER: Because we'll be back next week.

(General laughter.)

MS. MEYER: Palm --

MR. CONINE: Yes, 11050, the very first one on the log, under the resolution it says, There's no action required at this time. Which is different from all the others that, you know, no action's required.

So my question is what -- is there going to be something that's going to happen between now and our next meeting that's going to require the staff to take action, which would then require probably this project to appeal whatever that action might be?

MS. MEYER: Well, Palm Gardens has been resolved.

And I'm --

MR. CONINE: Tom is just itching to come and help you.

MS. MEYER: Yes, I'm not --

MR. GOURIS: I know you're -- Palm Gardens, and there's several others that have scoring criteria that allow them to get the points now and prove up what they need to do later, what they needed to do. And they can switch out financing.

I think was Palm Gardens one with financing -- I know that was one issue with some of the other things, that some of those have --

MR. CONINE: The same thing happened with Main Street Commons. It's got --

MR. GOURIS: Have some financing issues, whatever. But if it says, Nothing needed at this time, we don't expect that that decision is going to change prior to next month's -- or the next Board meeting. There may be something that falls out afterwards that needs to be addressed.

The accusation may or may not be true, it doesn't impact the score today. That's why it's not at this time.

It would be something that happened in the fall, if it happens at all.

MR. CONINE: Okay.

MR. GOURIS: That's why we put the, Not at this time. We don't think anything will happen between now and

the recommendation meeting next --

MR. CONINE: Well, how about on like Main Street Commons says, The department is currently re-evaluating this conclusion.

MR. GOURIS: That's a different comment.

MR. CONINE: Yes, that's a little different.

(General laughter.)

MS. MEYER: Which page are you on?

MR. CONINE: I'm on page 15.

MS. MEYER: Okay. That's the one that I just said that we updated. They were found to be in the area, and the points --

MR. CONINE: All right.

MS. MEYER: -- they all qualified.

MR. CONINE: Okay.

MS. MEYER: So that one has been resolved.

MR. CONINE: So that one's going to be resolved.

MS. MEYER: I'm sorry. That one has been resolved.

MR. OXER: So essentially what you're saying here, Robbye, is there was certain information you were in the process of getting and --

MS. MEYER: Correct.

MR. OXER: -- the meeting got underway before

you got that finished.

MS. MEYER: Correct.

MR. OXER: Okay.

MS. MEYER: And so that one has been updated.

MR. OXER: I have a question regarding -- Mr. Chairman?

MR. CONINE: Go ahead.

MR. OXER: I have a question regarding follow-on for those who are given the points with some expectation that they do something in the future. Because there was a question -- there was an issue about that this morning. Is there a shop clock running on them when that's offered to them? You understand what I mean?

MR. GOURIS: Yes. So go to page 1, Lexington Villa.

Is that the --

MS. MEYER: Okay. Like on LPS, like Tom is saying, like if we say, Not at this time, like on LPS, they have turned in something at application which is what they were supposed to have turned in. So right now they have fulfilled what they were supposed to turn in at application.

If there's something else, that they have to prove up a final commitment of their local political subdivision points at commitment, if they fail to do that, that final

commitment, if they fail to turn that in once they receive their award, then they'll lose their points, they'll lose their award, and then the next deal with pop up.

MR. OXER: So let me -- back up, do they --

MS. MEYER: Okay.

MR. OXER: -- so they make their --

MS. MEYER: Okay. Let's say -- I'll just give you a hypothetical. Let's say the very first one --

MR. OXER: Let's try one that's real.

MS. MEYER: Oh, that's -- okay.

MR. OXER: I know. Okay.

MS. MEYER: Well, that's -- okay. Well, it's better if we do it fake, because I don't want somebody sitting out here thinking that I'm going to actually give them the award.

Lexington Villas, let's just say the very first one that's on the log here. Let's say that they receive an award. They have to prove up what they said at application, which means they're going to get HOME funds, or at least that's what they told us they were going to get from the city of Corpus Christi.

If they don't get the final commitment from the city of Corpus Christi at the time of -- when we issue our commitment, at the time of -- when they have to prove up their

commitment, if they don't prove up to us that they got the city of Corpus Christi HOME funds, then they would -- we would take their 18 points away, which means they would lose our award. Or, unless they substitute something else for those HOME funds to where they could still keep the 18 points.

Does that make sense?

MR. OXER: Yes.

MS. MEYER: Right now they haven't done anything. They don't have to prove up that final commitment --

MR. OXER: So some of these are -- it's they're saying the HOME funds are contingent upon --

MR. CONINE: Right.

MR. OXER: -- funding from TDHCA.

MS. MEYER: Correct.

MR. OXER: That would be --

MS. MEYER: Or they can -- that's one point item that they can substitute out at the time of commitment.

MR. OXER: It becomes a little bit more than an organic process.

MR. CONINE: Oh, yes.

MR. OXER: All right.

MS. MEYER: But they know that.

MR. OXER: All right. Well, with respect to the issues this morning, you said, Tom, that some of them were

needing their underwriting, had not achieved that.

MR. GOURIS: This morning's comment was about a forward from last year that had some issues that had changed, and we tried to get all these things -- everything underwritten before the meeting, before the July meeting so that we don't have these things follow on like that. They were forwards, weren't anticipated to move forward by staff, staff didn't recognize that.

One of the things we really would like to see happen, if there's a consideration for forwards this year, and in future years, is we'd love to see the Board provide us with, you know, Here are the ones we're thinking about, say in July or in August, and let us get -- let us focus on underwriting those for the November meeting so we have that timeline to deal with and bring you a complete report when you actually award the forwards.

In many years we don't have that. Sometimes we're able to do some extra ones that we anticipate, but we don't know for sure, you know, forward candidates. But we -- and sometimes, you know, we -- sometimes we some heads up for that. But, you know, if we have a better heads up for that, we can get those underwritten and get those accomplished.

And then everyone's kind of under the gun to get it done. You know, everyone is in the same -- you want a

forward, get all the information, make sure you've got it all done.

With regard to this year's allocations though, I think we have --

How many do we have, 33? Thirty-three of this year's high scoring prospective ones we think will be on the recommended list at this point finished and posted. I think we have how many pending? About eight?

MALE VOICE: Yes.

MR. GOURIS: Eight to ten.

MALE VOICE: We have four in process, about four in --

MR. GOURIS: Yes, so there's maybe eight to ten more that we think we have to accomplish in the next week, which we think is very -- the majority of those will be done.

So we're farther ahead of the curve than we were last year because of a lot of reasons, but as long as we are dealing with this year's recommended list, we think we'll have our underwriting accomplished but for maybe one or two transactions by the next Board meeting.

MR. OXER: What I was --

MR. GOURIS: I'm sorry.

MR. OXER: -- trying to avoid, or wanting to avoid is, if somebody's given a forward with the idea that they

will produce something in the future --

MR. GOURIS: Right.

MR. OXER: -- when does the clock -- what's the date, the delivery date on that, because we don't want to say any forward -- you don't get until July of next year to deliver that.

MR. GOURIS: The QAP is pretty quiet on forwards.

It just says the Board can do it with discretion based on good cause for, you know, justifiable reasons.

So there's not -- we don't anticipate them, they're taken out of order from the rest of the waiting list.

So there's not a lot of rules in play with regarding to completing lagging underwriting or any other changes that could occur.

We kind of play it by ear. If they come up to you and say, We've got the city's support for this transaction, and we've got HOME funds for this, and whatever, whatever, and the city comes up and says, And we need a forward because we've got all this funding, then we kind of hold them to that funding because that's what caused you all to then make that award.

We had a transaction last year that lost its city funding, and therefore they lost their forward for that very reason this spring. You know, so we try -- so the forward's

become kind of a different thing for us.

MR. OXER: Yes, I think I heard another quark --

MR. GOURIS: Yes. The quark, hard place, whatever you want to call it.

MR. OXER: Right --

MR. CONINE: We had a substantial amount of forwards last year, a lot more than what I would call normal.

MR. GOURIS: Right.

MR. CONINE: And so that's what caused the issue.

MR. OXER: Okay.

MR. GOURIS: But we think we're in -- we believe we're in much, much better shape this year for the award cycle.

This one forward is an exception, this one forward from last year is sort of an outlier for us.

We also -- I mean the point of the challenge is, is all the information that we've researched is in there, there's one challenge that's remaining that we feel like we still have a little work to do that we'll get you information on before the next Board meeting.

But the other challenges are either resolved by -- as far as the challenge is concerned, but there still may be some work to do on now we've taken points away and they're appealing.

MR. OXER: Thank you.

MR. CONINE: Any other questions of staff on Item 2A?

(No response.)

MR. CONINE: I guess not. What we will do now is break for lunch, an Executive Session by the Board, and probably be back, let's just say one o'clock, and go through the appeals. I have a substantial witness affirmation stack here that you might suspect, so we will break.

I want to also thank Brian Owens and Rebecca Martinez for coming over from the Governor's office. Good to see you guys.

We will recess. Mr. Irvine.

MR. IRVINE: At this time, 11:48, the Board is going into Executive Session. 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, evaluation, reassignment of duties, discipline, or dismissal of a public officer or employee;

Pursuant to Texas Government Code 551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:

The Inclusive Communities Project, Inc. v TDHCA, et al.; the

EEOC claim of Gladys House; the discrimination charge of Arnold Willis; and the lawsuits filed, *Heston Emergency Housing, LP and Naji Al-Fouzan v TDHCA, et al.*;

Or pursuant to Section 551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the conduct of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar clearly conflicts with Texas Government Code, Chapter 551;

Or Pursuant to Texas Government Code 559.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person.

(Whereupon, at 11:50 a.m., the meeting recessed, to resume later this same day, Monday, July 18, 2011.

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

(Time Noted: 1:00 p.m.)

MR. CONINE: Okay. Let's come back in session.

MR. IRVINE: The Board concluded it's Executive Session at 12:50 p.m., and no action was taken.

MR. CONINE: All right. Item 3A. Presentation of the appeals.

Mr. Irvine.

MR. IRVINE: Raquel Morales will present the appeals.

MS. MORALES: Hello.

MR. CONINE: Hello.

MS. MORALES: Raquel Morales, Housing Tax Credit Program Administrator. We have quite a number of appeals to go through today, as you've heard already. And many of these appeals are going to be about common issues. The biggest one this year is community revitalization. This is obviously a very competitive process, and the applicants that are going to be appealing today are seeking to maximize their scores.

Staff would underscore that in taking a position that a given set of facts and circumstances do not qualify as community revitalization, staff is in no way saying that the applicant is not proposing a development that would be positive, only that it just doesn't meet what the scoring item was intended to encompass particular to community revitalization, mainly situations where the local government body had adopted a plan which identified one or more specific areas within its larger jurisdiction that needed a concerted effort, including housing, to achieve revitalization.

The operative premise is that because developments in such areas would promote a targeted planned actively,

supported public purpose they should receive some additional scoring benefit for that.

Before we get into the detail of each appeal, I wanted to kind of suggest maybe how I'm going to present these to you, just because several of the appeals deal with common issues. I'd like to group them and deal with those appeals that deal with termination of an application first, get those resolved, and then maybe proceed with the higher point scoring items next, and the deal with the community revitalization plans last.

So it will kind of take things out of order. That's up to you. If you prefer to go the way it's presented in your book, I'm totally fine with that. I'll leave it up to this Board, but --

MR. CONINE: I don't want to --

MS. MORALES: -- I just thought for ease, you know, going through appeals and dealing with the issues at the same time.

MR. CONINE: If you'll give me enough lead time, I'll try to follow the bouncing ball, because my -- all these witness affirmation forms are now in the order of the book, so.

MS. MORALES: Okay. I can list off the order. I'd like to start with 11114, Green House on the Sante Fe

Trail.

MR. CONINE: Which isn't even in the book at all.

MS. MORALES: They're in the supplement. They're in the supplement.

MR. CONINE: At the bottom.

MS. MORALES: And then next we'll listen to 11051, which is Sweetwater Bend.

MR. CONINE: Okay.

MS. MORALES: And from there we'll listen to 11074, the Villas at Tuscany. Do you want me to list them all now, or you want to just go as we go.

MR. CONINE: No, no, just one or two ahead of time, and I'll --

MS. MORALES: Okay.

MR. CONINE: -- try juggle this.

MS. MORALES: Well you have the first three at least.

So the first appeal is for termination of Application Number 11114 Green House on the Santa Fe Trail, which is an urban Region 3 application in Dallas, Texas.

The Board originally heard this appeal at the March Board meeting, and then again at the June Board meeting. The application was originally brought before the Board regarding ineligibility due to unit size requirements, and

single-room occupancy design issues.

At that time the Board tabled the issue and directed staff to work with the applicant to see if there was a way to resolve the design issues in order to fit within the current rules, as opposed to waiving any of the rules of the QAP to fit the proposed development.

MALE VOICE: Okay.

MS. MORALES: Green House on the Santa Fe Trail. Sorry. 11114. And it was in the supplement.

MR. CONINE: The supplement.

Hang on just a second, Raquel, and let's all get on the same song sheet here.

(Pause.)

MR. CONINE: Part of the problem is there's no little piece of blue paper in here dividing all these, so --

(Pause.)

MS. MORALES: If it's easier just to take them in the order that they're listed, that -- we can totally -- it's fine. We can do that.

MALE VOICE: Apparently.

MR. CONINE: Yes, because all these -- all the back up in the board book is all in the order that it's listed on here, and since there's no divider in here on picking them out, it makes it --

MS. MORALES: Okay. Let's just take them I guess in the order that's reflected in the -- in that cover sheet.

MR. CONINE: Okay. Sorry about that.

MS. MORALES: Sorry. So that means we'll start with 11033, American GI Forum.

MR. CONINE: Right.

MS. MORALES: Yes, you got it? Okay.

MR. CONINE: Got it.

MS. MORALES: American GI Forum is an at-risk application proposed in Robstown, Texas. The applicant is appealing the loss of 12 points for quantifiable community participation. The Department received a QCP packet from GI Forum Village Apartments residents council supporting the proposed development.

However, it was determined during staff's review that the residents council was ineligible for the QCP points because of a conflict of interest that existed between the applicant and the neighborhood organization. Specifically, a board member of the non-profit GP for the applicant also happens to be the president of the residents council. For that reason, staff did not award the QCP -- the maximum QCP points.

The applicant is appealing that the conflict of

interest was unintentional and that the person who creates the conflict of interest has offered to resign his position with the residents council to correct the ineligibility.

However, at the time the application was submitted and the QCP support was provided, the conflict of interest existed and the Department objectively and consistently applied the rules in place. Staff recommends denial.

MR. CONINE: Okay. I've got witness affirmation forms on this one. Actually, I have four, and you only get three, so Ms. Bast is going to lead off, I see.

MS. BAST: Yes, sir. And since we're paper shuffling, hopefully you do have a handout from me.

Cynthia Bast of Locke, Lord representing the applicant in this appeal. Mr. Rudy Blanco is an active resident of the American GI Forum property, who has willingly volunteered for that community and it's activities during the 20-some years that he has lived there.

This veteran is willing to serve, and his willingness to serve has unwittingly jeopardized this very important tax credit application. TDHCA staff contends, as you heard, that because he was willing to serve as both the president of the residents council and the board of the non-profit organization that is the applicant for the tax credits, there is a conflict of interest that prohibits the

application from receiving the points for quantifiable community participation.

But we disagree, and we actually believe that the quantifiable community participation points can, and should be, awarded in accordance with the rules, and the key to this issue is the chronology of events, which is why I gave you this timeline.

On January 28, the residents of this property met in Robstown to decide whether to form a neighborhood organization and to support the tax credit application. Mr. Garcia, a housing advocate, was present at that meeting and he will be here to talk about the organizational efforts.

So at that meeting the residents decided they did want to form an organization, and they asked Mr. Blanco to serve as the president. He agreed, he signed the TDHCA form, the paperwork for quantifiable community participation points stating that the organization was not formed by the applicant, developer, or any employee or agent of the applicant. The paper was filed in Nueces County, and sent from Corpus Christi to TDHCA in Austin on February 3.

On that same day, February 3, in San Antonio the San Antonio Community Developer Council, which is the non-profit applicant here, was meeting with its Board of Directors to talk about this particular project. And at that

time they decided that it would be a good idea to have resident participation on their board.

So they voted to add a spot for resident participation, and it was discussed at that time that Mr. Blanco would be a good candidate and should be invited to that position. Again, he was invited based upon the notion that he'd been a very active resident, not knowing that just a few days earlier he had been asked by the residents council to serve as an officer of the residents council.

Note that Mr. Blanco did not attend this board meeting on February, he wasn't even in the same city, and the fact that the board meeting was on the same date that the neighborhood organization sent their materials to Austin is merely coincidence.

So subsequent to the conclusion of that February 3 meeting, Mr. Blanco was asked to serve on the board of the non-profit applicant, he agreed to do so, and because he was a board member prior to filing the tax credit application, he was required to sign the document that said certification of principal development owner.

And on that document, one statement he was required to certified is that the applicant, developer, or any employee or agent of the applicant has not formed the neighborhood organization. Well, Mr. Blanco signed this on February 14,

and he signed it truthfully.

The non-profit applicant didn't form the neighborhood organization. An agent of the non-profit applicant didn't form the neighborhood organization. The neighborhood organization, the residents council was formed by a collective of residents, including Mr. Blanco, on January 28. At the time of formation, he was not on the board of the non-profit applicant, and was not an agent of the non-profit applicant.

So when TDHCA states that at the time of application for the proposed development, and at the time the support by the neighborhood organization was submitted to the Department a conflict of interest existed, we don't believe that that is correct.

At the time the support from the residents council was submitted, there was no conflict of interest because Mr. Blanco was not a member of the board of the non-profit applicant. Admittedly, at the time the tax credit application was submitted, he was in both capacities. But he signed a truthful certification that the applicant had not formed the neighborhood organization.

TDHCA staff also contends that there was no action, such a recusal, taken to resolve the conflict of interest. Well, again, the timing wouldn't have made this possible.

When the neighborhood organization met and he was asked to serve on the residents council, he wasn't on the board of the non-profit applicant, and therefore there was nothing for him to recuse himself from.

Had he known that his willingness to serve in these capacities would cause a problem and jeopardize the potential competitive position of this application, Mr. Blanco would have never agreed to serve in both positions. Had the non-profit had known that this would be a problem, they would not have asked him to be the resident representative.

These two events literally occurred independently of each, as they're supposed to, frankly, and created this situation. So we respectfully request that you acknowledge that no conflict of interest existed at the time the residents council was formed and voted to support this application, and that you grant this application the 12 points for quantifiable community participation for this appeal. And I will then allow my time for Mr. Garcia and Mr. Blanco, who is here, to speak to you. Thank you.

MR. CONINE: We can only have -- Cynthia, you know we can only have three witnesses.

MS. BAST: These are the other two.

MR. CONINE: Okay.

MS. BAST: I had yielded time.

MR. CONINE: You got yielded time from Walter Martinez.

MS. BAST: Yes, sir.

MR. CONINE: Okay. Thank you.

MR. GARCIA: Good afternoon, Mr. Chairman, and distinguished Board. My name is Filiberto Garcia, and I come today -- I accompanied Mr. Rudy Blanco. You've heard his name now mentioned several times in our discussion. Ms. Bast said it eloquently.

I'm just here to lend my support. I did participate in the formation of the residents council there in Robstown. I am a member of the GI Forum in Corpus Christi, and a member of LULAC Council Number 1 in Corpus Christi as well.

But I wanted to just say that I would ask the Board to honor our request for those points that we need so severely.

Mr. Rudy Blanco, he will tell you a little bit about his history and the needs of the apartments there in Robstown.

MR. BLANCO: Good afternoon, I think. My name is Rudy Blanco. I'm a disabled veteran, Army veteran. I have lived at the American GI Forum for 27, 26 years, and I wanted to come here because I live there, and who else can say what's happening at the American GI Forum Village, but

one who lives there.

And it's pretty painful for me to travel in my conditions. But I had to come and say my side. When I was in, well, my apartment, you know, constantly needing repairs, you know, it's one thing, it's another, you know. Gas leaks every week, a pipe breaking, all the time there's something.

In other words, these apartments are in need of repair, you know, badly, you know.

And that's what I wanted to come here and tell the Board, we really badly we need some help, you know. Any questions you would like to ask.

MR. CONINE: Questions of the witness?

DR. MUÑOZ: I've got a question.

MR. CONINE: Dr. Martin -- Muñoz. Excuse me.

DR. MUÑOZ: Señor Blanco, on that first meeting back in January where you were part of a group and they asked you to serve as the president, who led that meeting?

MR. BLANCO: Well, I volunteered when nobody wanted the job. I volunteered.

DR. MUÑOZ: (Speaking Spanish.) Right at the beginning, kind of when people were talking, who convened the meeting?

MR. BLANCO: What do you mean by that?

DR. MUÑOZ: Who was sort of organizing what was

being discussed? Was there one person?

MR. BLANCO: Well, I was approached by the manager of the place, you know, and I was asked by her, you know, if I wanted to accept the job because nobody wanted it.

DR. MUÑOZ: But were there other people at that meeting on January 28?

MR. BLANCO: Well, just Mr. Garcia, Mr. Martinez, and the rest of the residents, and the manager of the place.

DR. MUÑOZ: Other residents? Other residents? Other people that lived there?

MR. BLANCO: It was a meeting. A resident meeting.

MALE VOICE: How many?

DR. MUÑOZ: Mas hermanos? How many people?

MR. BLANCO: Say maybe 35, something like that, more, something like that.

DR. MUÑOZ: Okay. All right. Thank you.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. BLANCO: Thank you distinguished members of the Board. Thank you.

MR. CONINE: Thank you.

Ms. Bast, I have a question for you. This property is under contract to be purchased by the non-profit in San

Antonio?

MS. BAST: Yes, sir, there is a purchase contract. As you know, it is typical in a rehab situation that it would be under purchase contract for the new tax credit application. When I'm talking about the non-profit applicant, I'm talking about the San Antonio Community Development Council, which will be the general partner of the tax credit limited partnership.

MR. CONINE: How do they know who Mr. Blanco is if they're meeting in San Antonio?

MS. BAST: Mr. Martinez is here, he's the Executive Director of the San Antonio Community Development Council. He can certainly tell you how they identified Mr. Blanco as an active resident of the property.

MR. CONINE: Well, more specifically an active participant, board member of the non-profit's where I'm going after.

MR. MARTINEZ: Mr. Chairman, Walter Martinez. I'm with the National Housing Management Corporation, who's managed the property for about eight years now. So we're familiar in that process.

We've worked with Mr. Blanco, with the manager, and with other residents there in not only managing the property, but starting about five years ago, in 2008 -- in

2007, we started the first effort to first apply for tax credits, which were awarded back in 2008.

So even back then Mr. Blanco was active among the people that were active residents participating and supporting the effort to rehabilitate the property. Given that history, we felt he would have been -- he would be an eligible candidate for the board so that we could have board input from the property.

DR. MUÑOZ: Let me as a question. Did you know at that time in February, when you invited him to serve on the board, were you aware that he had been -- volunteered to serve --

MR. MARTINEZ: We weren't aware of it. What we were aware of was that the residents were having a meeting and that they planned to discuss the project, but we weren't -- obviously we're not aware of what they decided to do and what -- who was being selected or who's being nominated for any position.

MR. CONINE: But given the timing of all this, I can see now how maybe the two may have been coincidental events, but still when March 1 rolls around, you had a problem at that point.

MR. MARTINEZ: And there was an issue raised, and to be honest with you, I don't remember when the San Antonio

CDC -- I think it was some time in April when we became aware that there was an issue with a resident having two offices.

We were -- the San Antonio CDC was meeting in February to try to get our application in early, like by February 22, we wanted to beat the March 1 deadline.

And there was a lot of other resolutions that the board had to consider at the time, among them was modifying the board to qualify as a CHDO so we could have low income representation. We thought about -- and we'd been, you know, working with the GI Forum on this, partnering with them for a number of years now, so we thought of selecting -- or asking someone from San Antonio, but we thought it'd be better to have people from the project.

MR. CONINE: And was -- the residents council wasn't in existence back in 2008 or '9 --

MR. MARTINEZ: No, sir, they weren't.

MR. CONINE: -- when you previously did this?

MR. MARTINEZ: No, they were active supporting, but they had not formalized anything.

DR. MUÑOZ: Let me ask a quick follow up question.

So if the group of 35 that met had elected, or volunteered someone else to serve as president, you would have still approached Mr. Blanco, given your history with him as an active member of that development?

MR. MARTINEZ: No, we would have accepted whoever they wanted to nominate to the board. Our intent -- the San Antonio CDC and the board primarily wanted to make sure that we had low income representation and it was a resident from the property that was active.

MR. CONINE: Any other questions of the witness?

MS. BINGHAM ESCAREÑO: Mr. Martinez, you weren't --

MR. MARTINEZ: Yes, ma'am.

MS. BINGHAM ESCAREÑO: -- the Mr. Martinez that was at the meeting where they -- not where they asked Mr. Blanco to serve?

MR. MARTINEZ: I was at the meeting and I delivered the documents of what they needed to, you know, consider, whether they wanted to form an organization. But I was not involved in the meeting with the formation.

MS. BINGHAM ESCAREÑO: The resident council.

MR. MARTINEZ: Yes, there was -- they have a small community room and it was pretty packed. They had 30-some odd people there, 40 people.

MS. BINGHAM ESCAREÑO: You were there, but you weren't aware that he was the one that --

MR. MARTINEZ: No, because -- no, I wasn't because I was there briefly, and then I was busy with some of the

property activities and I was out on the property. So I didn't know what they decided to do.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Thank you for your testimony.

MR. MARTINEZ: Yes. Yes, sir. Thank you.

MR. CONINE: I guess we're open for a motion at this point on this particular appeal.

DR. MUÑOZ: Well, let -- I'd just like to add, Chairman, that, you know, based on this chronology, and I understand it, he -- I mean I find the chronology and the argument compelling.

You know, the other thing that to me is compelling is often in these meetings, particularly in my experience on organizations with particularly Chicanos, you know, often one or two people seem to sort of surface as just very reliable, very conscientious people that are volunteered repeatedly.

And almost through no fault of their own, just because of their willingness to serve.

And, you know, the pool that you can draw on to be aptly representative becomes just sometimes quite small and so, you know, I have been in meetings like this where one or two people become the go-to person that gets volunteered, or recommended repeatedly.

MR. CONINE: That's how you got here.

(General laughter.)

DR. MUÑOZ: Precisely.

(General laughter.)

MR. CONINE: Do I hear a motion?

DR. MUÑOZ: Yes, I'd like to move that the appeal
be granted.

MR. CONINE: Motion to grant the appeal. Is there
a second?

MR. OXER: Second.

MR. CONINE: Second by Mr. Oxer. Any further
discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Next.

MS. MORALES: The next appeal is for 11045,
Lexington Vista.

MR. CONINE: Okay. Really?

MS. MORALES: Spring Terrace was originally

listed on the agenda, but they've withdrawn, so.

MR. CONINE: Use this book. I can tell. Okay. Go ahead, please.

MS. MORALES: Lexington Vista is an urban Region 2 application in Corpus Christ, Texas. The applicant utilized the Corpus Christi consolidated plan as a community revitalization plan for purposes of the three points that were requested.

Staff determined that the proposed development is not located within the targeted areas identified in the consolidated plan. The applicant appeals that the letter provided by the city of Corpus Christ confirms that the consolidated plan covers the entire city limits of Corpus Christi.

Just to give the Board some additional background as it relates to community revitalization plans, this year all applications were given two options to provide evidence.

One was a letter from the appropriate local official or a copy of the actual plan itself. Of the -- I think we had 77 applications total ask for these three points, and over 50 percent of them provided the letter from the appropriate local official.

In this case, the Department does not dispute that we got a letter from the city of Corpus Christi stating that

the consolidated plan was its community revitalization plan, and that the development was covered by that plan.

However, when we went back and reviewed all of these community revitalization plans that were submitted to determine if it met the definition in the requirements of what a community revitalization plan should entail, we were able to verify, with the case of Corpus Christi, is that it was approved and adopted by the local governing body, it does target specific geographic areas, those areas being those CDBG target areas, and in the case of city of Lubbock, they also target low to moderate income block census -- I'm sorry, low to moderate income census block groups, I believe is what it's called.

We did verify with the city directly, I did, and asked them to provide me with a list of those areas that are targeted as far as the block groups are concerned, and this development does not fall within one of those targeted areas.

Therefore, the applicant was ineligible for the point request.

MR. CONINE: Okay. A couple of witness affirmation forms. Mark Lechner and Tamea Dula.

MS. DULA: And Tamea Dula with Coates Rose and I would like to speak first.

MR. CONINE: Okay.

MS. DULA: Thank you. I am going to be little Johnny One-Note today. This is one of those quirks. And I am speaking on behalf of Lexington Vista Apartments. This is 100 units of new construction elderly development in the Corpus Christi region, Region 10.

If you look at the materials provided on appeal in your board book, there is a letter from Barry Palmer of our firm, and it states that Section 49.9(a)(3)(D) states, and this is the QAP requirement for the selection criterion that this project was attempting to qualify for.

The development is new construction and it's proposed to be located in an area that is part of a community revitalization plan. Going down the community revitalization plan is defined. It's defined as a published document under any name approved and adopted by the local governing body, or if the governing body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that governing body, the vote the governing body so designated by ordinance, resolution or vote to target specific geographic areas for revitalization and development of residential developments.

Now note there are 10 geographic areas here. One is up in D. You have to be located in an area covered by a plan. Number 2, in order to be a plan you have to target

areas. But nothing says that the project has to be in a targeted area.

This has been a problem for a number of developers.

One of the developers got caught in this conundrum and chose not to appeal it because the three points wasn't going to help them, advised me that in 2006 there was a FAQ with regard to the community revitalization plan, and I'm reading from it.

Regarding the community revitalization plan, now defined in the QAP, will a plan meets this definition if it refers to -- and in this instance back then it was low income development -- residential development in general -- across the city or county, which in its entirety is a specific geographic area, or does it need to be smaller areas within the community? The answer, The QAP does not specify the size of the specific geographic area, therefore, citywide redevelopment of low income housing that will meet this -- will meet this definition, as long as it satisfied the other parts of the definition as well.

Now back in 2006 it was a very closely similar definition, but it was targeting specific geographic areas for low income residential development serving residents at or below 60 percent of area median income.

If I might point out, that in B, Exhibit B, it

shows what you need to provide in order to qualify for the points: a letter from the appropriate local official stating that there is a community revitalization plan in effect and the development is within the area covered by the plan that was provided, that is what you have to do to qualify, according to the QAP.

We respectfully request that these points be granted to Lexington Vista.

MR. CONINE: Okay. Mark Lechner.

MS. DULA: Thank you.

MR. LECHNER: Mr. Chairman, Honorable Board members, Mark Lechner. I'm a developer with MBL Derby City Development, and I just wanted to paint a little picture on this development. This is a gated senior community development, it's class A quality development, and we have support from the local -- from Mayor Adame, local council members Larry Elizondo, Mark Scott, State Representative Al Torres.

This is an area that's in a commercial residential area, kind of high end area which fits perfect for seniors, and we actually feel it's really deserving for Corpus Christi because they haven't had a senior tax credit development in 10 years, in over 10 years. And then in the area it's at, it's perfect because it's right next to the shopping and the

restaurants and all the support they would need, dining, you know, for seniors.

But the biggest thing is, we went to the neighborhood associations and we presented our plan to the neighborhood association exactly what it was going to be, and it was 35, 40 folks there at the Brighton Village Neighborhood Association. They took a vote -- we left the room, they took a vote and they voted unanimously, that they thought this was a very deserving project.

And actually, we had to get it re-zoned, and they supported the rezoning and showed up at the Corpus Christi board meeting in support of the rezoning. And they're very, very supportive. In fact, several of them are thinking of their parents, or one of their parents in this project.

So we respectfully request that you rule in our favor. Thank you very much.

MR. CONINE: Any questions of either witness?

(No response.)

MR. CONINE: I just -- I hear your logic, Tamea, but I just don't feel that that was the intent of what the Board had intended in the QAP, and I'm going back to Barry Palmer's letter where the defines the community revitalization plan.

And that targets a specific area where it says

the word "specific". To me that connotes that if a city is targeting a specific area, it isn't going to target its whole geographic boundary, it's going to target a specific area. And I think that's at least where this Board member comes from on the way I interpret that particular language.

Anybody else want to chime in?

MS. BINGHAM ESCAREÑO: I would agree, Mr. Chair, and certainly, you know, it's difficult. All of the projects are just really worthy and I appreciate the back story information that the developer provided. But I would agree that -- I feel strongly that the intent was otherwise. And it will definitely be something that we ask staff to work on in the future.

MR. CONINE: They'll try to tweak the language I guess a little bit.

Do I hear a motion? Is there any more discussion? Either way.

MR. KEIG: I move to deny the appeal.

MR. CONINE: Motion to deny the appeal by Mr. Keig.

MR. GANN: Second.

MR. CONINE: Seconded by Mr. Gann. Is there any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor

signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MORALES: The next appeal is for 11046, Buckhorn Place in Huntsville. This appeal also relates to community revitalization. Buckhorn Place is a rural Region 6 application in Huntsville, Texas.

In this case, the applicant utilized the Huntsville Horizon Comprehensive Plan as a community revitalization plan for purposes of the points requested. Staff reviewed the plan and determined that it does not target any geographic areas for purposes of revitalization and/or residential development.

What it does do is provide a description of the existing land use patterns for this city, and describes the city's goals with respect to those land use patterns. And then the key here is that the plan does not target specific geographic areas of the city for revitalization and resident development to the extent that a diagram or map is included in the plan which is what -- which it was, identifying the land use pattern. This development is located in an area the city identified as rural and agricultural.

So there was no indication within the comprehensive plan that the particular area of the city, or that the city would even encourage a particular type of revitalization and residential development. Staff recommends denial of the appeal.

MR. CONINE: I have no witness affirmation forms on this particular item. Any discussion?

Dr. Muñoz?

DR. MUÑOZ: Move staff recommendation.

MR. CONINE: Move staff recommendation. Is there a second?

MR. OXER: Second.

MR. CONINE: Second by Mr. Ozer. Is there any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Which one is next?

MS. MORALES: I've just been told that 11048, La Privada, has been withdrawn.

MR. CONINE: Okay.

MS. MORALES: Therefore, the next appeal is for Application Number 11049, The Palisades at Inwood.

MR. CONINE: Give us just a second.

MALE VOICE: It's in the book.

MR. CONINE: What?

MALE VOICE: It's in the red book.

MR. CONINE: Well, I think the supplementary --

MS. MORALES: The supplement includes all the new deals.

MR. CONINE: -- has them all in here.

MS. MORALES: Yes.

(Pause.)

MR. CONINE: The Palisades at Inwood?

MS. MORALES: Yes, sir.

MR. CONINE: Bingo.

MS. MORALES: The Palisades at Inwood is an urban Region 6 application in Houston, Texas. The applicant utilized the Near Northwest Management District as a community revitalization plan. Staff researched the information provided in the application, as well as the website for the Near Northwest Management District to determine if it could qualify s a community revitalization plan.

What we were able to verify is that the Near

Northwest Management District is the appropriate local governing body, and that there is a specific geographic boundary or area targeted for any activities related to the Near Northwest Management District. However, we were unable to verify or locate any published approved documented plan as it relates to community -- or, yes, as it relates to revitalization and residential development.

The applicant appeals that the district has approved several projects within its jurisdiction, or its boundaries to promote revitalization and residential development. However, no formal document consistent with a community revitalization plan has been provided to date. Staff recommends denial of the appeal.

MR. CONINE: Okay. I have two witness affirmation forms from Marvalette Hunter and Wayne Norak?

MS. HUNTER: Wayne Norden.

MR. CONINE: Norton. Okay.

MS. HUNTER: Good afternoon, Mr. Chairman and members. I appreciate the opportunity to address the Board today. My name is Marvalette Hunter, and I'm the development owner of the Palisades at Inwood. It's a proposed 127-unit senior housing development in Houston, Texas in Region 6.

I'm here today to ask that the Board consider evidence to support a reinstatement of the three points to

our application, and those three points are for new construction with community revitalization, which has been your hot topic today.

The basis of our appeal rests with three primary factors. One is that the Palisades at Inwood project is located within Harris County, it is consistent with the consolidated plan. But it is also located within the boundaries of the Near Northwest Management District.

Now the District was created by the Texas legislature in 2001, and as such, was also approved by consent of the city of Houston, and as such, it is also a governing body for this particular area. And I think staff has already alluded to that.

The second factor is that the purpose outlined in the enabling legislation, in the ordinance, includes housing, housing rehabilitation, housing development as one of the stated purposes of the Management District.

And thirdly, I ask that the Board consider the District has for the past 10 years been involved with revitalization of that particular area. This revitalization has included specifically the targeting of dilapidated and abandoned apartment complexes for demolition, for redevelopment and for new construction.

What we've tried to show through the documentation

that we've submitted to staff is that the Near Northwest Management District does, in fact, have a community revitalization plan. And to support this, we provided a letter from the chair of the board indicating such. The chair of the board is the appropriate local official of the District.

In addition, we also have here today, and he will speak in a minute, Mr. Wayne Norden, who is the president of the Near Northwest Management District, and he'll be able to attest to specifically the revitalization efforts that the District has undertaken in the past and those that are current.

Staff contends that the Near Northwest Management District does not have a community revitalization plan because there's no official published document. However, we ask that you, the Board, would consider several things. First, we ask that you would consider that there is a consolidated plan for Harris County, of which this project is located.

Secondly, we ask that you would consider the Near Northwest Management District's enabling legislation, which sets out its stated purpose which is, of course, revitalization, and we also ask that you would consider the 15-year service improvement and assessment plan, which is a published document.

But most importantly, and this is my final thing,

that you would consider the 10 years of revitalization that this district has been involved with, with the support and approval of its Board of Directors.

We also have a letter of support from our state representative, State Representative Sylvester Turner. He's been very active in this community, very closely -- worked very closely with the board to carry out revitalization for this area, and we ask that you would please reconsider reinstating the three points to our application. Thank you so much for your time.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. Wayne Norton.

MR. NORDEN: Good afternoon.

MR. CONINE: Good afternoon.

MR. NORDEN: I'm Wayne Norden, the President of the Near Northwest Management District. We are a district designed in the city of Houston, we're a 16-square mile area. We encompass a large -- a large portion of our population is very -- considered very at-risk.

We're a bit of a blighted neighborhood within our area, and we're spending a lot of time in working on the redevelopment of that area. For the last 10 years we've been very focused on security and addressing the issues that are

preventing any positive growth within our area.

In the last three years we've been successful in reducing crime within our area by 24 percent, which is a very dramatic number. We've identified -- we've got eight constables that are on contract for us. We also just brought in a drug-sniffing dog, and that's having a direct impact on the -- on driving crime out of the neighborhoods.

It's making a big impact also on the feasibility and the comfort level of the people that are living there. You're seeing a large number of families now on the streets. We see them buying houses within our community. We see a whole different clientele of people moving back into our area.

We've also been very involved -- what this has led to is that we have been -- received from the Houston-Galveston area council a grant to conduct a livability center study within our area to help us become a more mobile community, and make a community that's better capable of providing the kinds of services that people that live in our area really need and deserve.

So we've been working very aggressively on doing that. At the same time, at this similar time, the city of Houston has been awarded a grant from the Urban Life Center -- the Urban Life Institute, and that study has been focused also on our specific area to help us get a much clearer

vision.

So we currently have two major studies taking place within our community that's going to give us a very clear vision of the things that we can do to change the area, what resources we need to identify to bring into our area that will make our community a much more quality neighborhood for everyone to participate in.

We've also very aggressively worked with our local businesses. In the last two years we've been conducting job fairs, and the stats at our job fairs have been designed to bring the local businesses area into the community, connect with the local residents that live there, and identify employment opportunities for them.

Our current stats show that one out of every four people that come through the door walk out of those job fairs with jobs. That's playing a major role in the fact of we're getting more individuals, we're spending more money, and we're becoming more successful.

So I'm hoping that you'll consider the work that we've been doing for revitalization in our community as a very valid opportunity to support.

MR. CONINE: Mr. Norden, what's the primary source of revenue for the District?

MR. NORDEN: The revenue from our district, as

with management districts, are really kind of unique to Houston, is the fact that the commercial property owners are the ones that provide us an assessment that we use to support our organization.

MR. CONINE: So in essence you're a subset of the city government, but you actually have a taxation based on property valuation that's --

MR. NORDEN: Correct.

MR. CONINE: -- like a --

MR. NORDEN: Correct.

MR. CONINE: -- hospital district or something?

MR. NORDEN: Yes, we don't use the word T, but we talk about assessments.

MR. CONINE: Right.

(General laughter.)

MR. CONINE: Right.

MR. NORDEN: It's all in definition.

(General laughter.)

MR. CONINE: All right. Any other questions of the witness?

(No response.)

MR. CONINE: Thank you for your --

MR. NORDEN: Thank you.

MR. CONINE: -- testimony.

Any discussion? You know, I never heard of one of these things, but obviously there's a lot of things in Houston I never hear of, show up. But I would think staff would look to the ultimate higher authority, which would be the city of Houston, you know, as opposed to some subset municipality.

This would be like saying a school district could have a community revitalization plan or something like that.

There's just a lot of legal entities -- a hospital district -- no offense to the hospital person here on the Board, but I just -- you know, it seems like the one that is ultimately responsible, which would be the city of Houston, would have weighed in on this one.

Any other discussions, comments, motions?

MS. BINGHAM ESCAREÑO: So I'm guessing you're challenge --

MR. CONINE: Go ahead.

MS. BINGHAM ESCAREÑO: Your challenge was that originally Harris County wasn't presented. Right?

MS. MORALES: Right. Originally the Harris County consolidated plan, which would have been accepted, was not presented in the application. They presented the Near Northwest Management District.

MR. CONINE: There is a letter we need to get read

into the record. Let Elena read this in. I apologize. I forgot.

MS. PEINADO: Elena Peinado, TDHCA Legislative Affairs. I'm reading a letter from Representative Sylvester Turner into the record.

"Dear Mr. Irvine, I'm writing to express my continued support for the Palisade of Inwood, a proposed 127-unit senior community tax credit development project to be located at 5800 West Mount Houston Road, Houston, Texas 77088.

"This proposed project will meet a growing need for quality affordable senior housing, and will assist in establishing a new standard for multifamily development in the area. It will also assist in contributing to the revitalization of the Inwood community while promoting investment and economic development.

"One of the primary reasons why I'm expressing support for this project, is its support from the Near Northwest Management District and the Greater Inwood Partnership, two community-based organizations which have played an integral and vital role in the existing success of the area.

"Thank you for your review and consideration of my comments, and I would be honored to visit with you about

this letter should you have any questions. Sincerely,
Sylvester Turner, State Representative, District 139."

MR. CONINE: Sorry about that.

DR. MUÑOZ: I've got a question, Mr. Chair.

MR. CONINE: Dr. Muñoz.

DR. MUÑOZ: This hinges on their -- the District not necessarily having the authority to not use the consolidated plan of Harris County, I presume. If I understand correctly.

But, you know, when you look at this legislative language, Near Northwest Management District, a governmental agency, a political subdivision, and further on it very clearly stipulates -- I mean a school district or a hospital district, the examples that the Chairman used earlier, which immediately sort of resonate with me, but they wouldn't necessarily be given the purview as necessary to promote tourism, recreation, transportation, economic development, safety, welfare, including housing.

So don't they -- I mean don't they have the --

MR. IRVINE: Can I clarify?

DR. MUÑOZ: Yes.

MR. IRVINE: It didn't seem to me like it was an authority issue.

MS. MORALES: Right.

MR. IRVINE: I mean I think the authority is there. The question is whether the District actually took some action either to adopt a plan itself under the authority that statute confers on it, or whether it took action to clarify, Oh, we're under the Houston plan.

MS. MORALES: Right.

MR. IRVINE: One or the other since it was submitted -- the District was the plan body, all right, let's see the plan.

MR. CONINE: Right.

MS. MORALES: Right. And they did provide I think -- the applicant mentioned that they -- a liveable studies grant something.

DR. MUÑOZ: He referred to two studies underway a minute ago.

MS. MORALES: Right. The liveable study one is the one that we were presented with as a result of the back and forth conversations with them. And that document, I mean it's a study, but again, has it been approved by this local governing body, which is Near Northwest Management District --

DR. MUÑOZ: Approved, voted on --

MS. MORALES: Right.

DR. MUÑOZ: -- is that what you --

MS. MORALES: By resolution, ordinance --

DR. MUÑOZ: It's to see whether something had been voted on?

MS. MORALES: That's what they presented to us. Correct. And I looked through and I didn't see that there was any formal action to approve that study as the document that is the revitalization plan for the District.

DR. MUÑOZ: So it may exist, it just hasn't been apparently discussed and voted on and into the record.

MS. MORALES: Right. Originally it was just the District --

DR. MUÑOZ: And then --

MS. MORALES: -- and then they presented the Harris County plan, but since it wasn't provided in the original application, we did not consider it. And in going back to the Near Northwest Management District, they gave us this liveable studies -- I'm sorry, I don't know what it's called -- but we looked at the study again trying to fit it within the requirements of the QAP, you know, didn't get any evidence that it was, like I said, adopted by the District.

So there's -- like I said, I think we got to a point where we accepted the Near Northwest Management District as the appropriate local governing body.

DR. MUÑOZ: Right.

MS. MORALES: There is just no evidence that they had formally approved -- that there's a published document that was adopted by, you know, resolution, ordinance or vote.

DR. MUÑOZ: Is that still the case?

MR. NORDEN: We accepted the funds from --

MR. CONINE: You're going to have to --

DR. MUÑOZ: You have to come up so that the court reporter can get you on the record. Thank you.

MR. NORDEN: We accepted the funds early on to actually start the studies. We're now coming to a point where the studies are -- they're nearing completion. So I guess that's where we're actually at.

We have continually been working on the service plan, which was established in January of '09. We adopted the new service plan, which again, outlines housing as one of the major -- one of the parts of our four-part plan that's outlined in that document that I believe you have.

DR. MUÑOZ: Was that submitted, the service plan?

MR. NORDEN: Yes, it was.

It wasn't?

MS. MORALES: The only information I received on the service plan was just the information that on it's website, but nothing formalized as far as this is our community revitalization plan, it's a service plan. No, I didn't.

I've not received that information.

MR. CONINE: All right.

DR. MUÑOZ: Thank you.

MR. CONINE: Mr. Oxer?

MR. OXER: How many points are at issue here?

MS. MORALES: Three.

MR. OXER: Three. All right. Back to our edge of the world problem here. If you get too close to the edge on it, somebody's going to interpret it and you tend to fall off. So I would recommend to all the other applicants, so that this question doesn't come up, to make sure you dot these Is and cross these Ts.

So the question is not whether or not they have a plan, or whether or not they would fall under the Houston plan, but did they provide in the application a written documentation to that effect.

MS. MORALES: Yes.

MR. OXER: I know, I mean that's the question. So that is the question, did they --

MS. MORALES: Right. Right. Did they provide sufficient documentation.

MR. OXER: And the answer would be no --

MS. MORALES: I'm saying, yes.

MR. OXER: -- they didn't.

(General laughter.)

MS. MORALES: No, they didn't.

MR. OXER: I'm sorry. It's sufficiently complex anyway, so.

DR. MUÑOZ: Documentation that has been discussed and voted on and part of the record.

MS. MORALES: Correct.

MR. OXER: How would an applicant -- well, this is just a passing comment -- any place there's an opportunity for staff or Board members to do any interpretation whatsoever, I'd have a whole lot of paper in front of you documenting whatever it is you're trying to defend.

MR. KEIG: I move to deny the appeal.

MR. CONINE: Motion to deny the appeal from Mr. Keig. Is there a second?

MS. BINGHAM ESCAREÑO: Second.

MR. CONINE: Second by Ms. Bingham. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MORALES: The next appeal is for Application Number 11050, Palm Gardens Apartments in Corpus Christi. Palm Gardens is an urban Region 10 application in Corpus. The applicant in this case utilized the Corpus Christ consolidated plan for its community revitalization plan.

And after staff reviewed the documentation, has determined that the development is not located within the targeted areas identified in that consolidated plan. So it's very similar to appeal you guys just heard on another Corpus Christi deal. Staff recommends denial of the appeal.

MR. CONINE: I have no witness affirmation forms on this particular --

MR. KEIG: I move to deny the appeal.

MR. CONINE: Motion to deny from Mr. Keig.

DR. MUÑOZ: Second.

MR. CONINE: Second by Dr. Muñoz. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MORALES: Okay. The next appeal is for Application Number 11051, Sweetwater Bend. Sweetwater Bend is an urban Region 6 application in Galveston, Texas. There are actually a couple of different -- there's two different appeals on this particular application. The first that I'll discuss is the termination of the application, and then depending on how the Board goes with that, the scoring items.

Staff determined through review of the application that more than 50 percent of the developer fee is being deferred. The applicant's original financing structure included the use of a \$627,000 interim and permanent loan from Strategic Housing Finance Corporation. The application reflected this loan structure as a one-year permanent loan, which the applicant confirmed would be paid out of developer fee in one year.

As a result, staff determined that this interim and permanent loan should have been included in the application test to determine if more than 50 percent of the developer fee was being deferred. The total amount of deferred developer fee amounted to 58 percent. Staff terminated the application for not meeting this application test pursuant to 49.4(b)(11) of the 2011 QAP.

The applicant has appealed this termination, and

has a provided a revised financing structure in order to cure the ineligibility issue raised. Specifically, the applicant has replaced the interim and permanent financing from Strategic HFC with an interim only source through Capital Area Housing Finance Corporation in the exact same amount.

The applicant also appeals that the QAP allows an applicant to substitute any source utilized for purposes of 49.1(a)(5), which is the selection criteria for a commitment of developing funding by governmental instrumentality.

The Department administered no administrative deficiency with respect to that item in order to receive a revised financing structure, and to the extent that the applicant wants to substitute the source, it appears to be in response to a challenge received against this application on this particular item, and the termination of the application.

Consistent with previous staff recommendation and Board action on another 2011 application with this same issue, the Department did not accept the changes because this section of the QAP is an application test and not an underwriting test that could be mitigated as proposed by the applicant with the revised information. Staff does recommend denial of the applicant's appeal to reinstate the application.

Do you want to hear on this issue first, or do you want me to continue with the -- they're also appealing some scoring items, and depending on whether or not this application is reinstated or --

MR. CONINE: Or they're probably going to witness to both, so you might as well go ahead and tell us about both.

MS. MORALES: Okay. The applicant is also appealing point losses with respect to the cost per square foot, 10 points related to cost per square foot. The applicant selected the 10 points for not exceeding \$87 per square foot in a first year county. In order to meet this test, the applicant included the square footage of the elevators-served interior quarters in the calculation of net rentable area, or the square footage for net rentable area.

The applicant cites that the rules under this particular section of the QAP, 49.9(a)(8), allows high rise buildings with four or more stories to include elevator-served interior corridors. However, the development plan for Sweetwater Bend includes a total of four residential buildings, none of which could be -- none of which appear to be high rise and while four stories exist on the buildings, only three stories are actual residential units in the buildings exist.

Staff did not aware the 10 points because the exception in the rule was not intended to apply to developments that did not consist entirely of four-story buildings.

The applicant is also appealing the loss of three points related to new construction with community revitalization. The Galveston consolidated plan was used in this particular case as the community revitalization plan.

And after review of this document in more detail, the Department was able to determine that the targeted areas identified within the Galveston County consolidated plan did not encompass this proposed development, so therefore the development was considered ineligible.

And then finally, the applicant is appealing the loss of six points related to pre-application participation as a result of the 10-point loss for cost per square foot.

The 10-point loss resulted in their final score being more than 5 percent lower than their final pre-app score, which then disqualifies them for the six pre-app points, so.

MR. CONINE: Double jeopardy.

MS. MORALES: Yes.

MR. CONINE: Okay. So it's developer fee issue and --

MS. MORALES: Right.

MR. CONINE: -- the cost per square foot and --

MS. MORALES: Community revitalization.

MR. CONINE: - community revitalization are the top three --

MS. MORALES: And pre-app.

MR. CONINE: -- plus the pre-app. Okay. Got it.

Okay. Barry Palmer and Mark Lechner. Barry's got five minutes.

MR. PALMER: Good afternoon. My name is Barry Palmer with Coates Rose, here to speak on behalf of the Sweetwater Bend project in Galveston.

You heard staff mention four issues; we're only going to talk about two of them. We're going to concede that the consolidated plan issue for Galveston will be treated the same way as Houston and Corpus Christi. The pre-app follow the termination on the 10 points for cost per square foot.

So the two issues I wanted to talk about, one is the termination for deferring more than 50 percent of the developer fee. In the application we showed a deferral of only about 10 percent of the developer fee, but then we had a loan from a governmental entity that was in our sources and uses that we showed being paid off in a year. And so staff took that out of our sources and uses and added it to

the deferred developer fee.

And we're -- our position is that's not the correct way to handle it because we had pointed out in the application and the response to the deficiency that the developer was committed to paying off that loan with cash developer fee.

And in this project there's approximately a million dollars of cash developer fee, of which 700,000 would be paid in the first year. That money would be used to pay off this governmental loan so we would qualify for the loan from a governmental entity, and we would not increase the deferred developer fee because it would be paid off. So we think that that determination that we're over 50 percent of the developer fee is not correct.

On the issue of the cost per square foot, we had claimed the 10 points because this is a four-story construction, or at least two of the four buildings are four-story construction. This is in Galveston, so the residential area has to be elevated up above the first floor.

So the first floor is going to be piers, it's going to be wall that's going to contain parking, there'll be no residential area on the first floor, and the residential area will all be on the second, third and fourth floor.

But the QAP doesn't say anything about in a

four-story building that you have to have residential area on all four floors, just it recognizes the increased cost of building a four-story facility and allows you to use the higher dollar per square foot for a four-story facility.

So this four-story construction -- you have floor plans that were in the packet that we sent in our appeal packet that shows the fourth floor of two of these buildings, and so if it's treated as a four-story building, which it is, then we're allowed to use the \$87 per square foot, and we qualify for the points for not going over the cost per square foot limit.

MR. CONINE: What are they using the fourth floor for?

MR. PALMER: For residential area. We're going to have apartments, units on the second, third and fourth floor. We're not going to have any residential units on the first floor to get up out of the flood plain.

This is new construction in Galveston, we believe this would be the first new construction of a family deal funded by the Department since the hurricane, not that that's necessarily determinative of appeal issues.

But certainly the termination of the project on this developer fee issue we feel is really not warranted, that it's not the correct interpretation of how to calculate

a deferred developer fee. If we're going to pay off this loan with cash developer fee, then our deferred fee doesn't increase. So we would ask your approval to reinstate the application and to grant us the points for the cost per square foot.

MR. CONINE: Any other questions of the witness?

Mr. Oxer?

MR. OXER: You said you had a loan from another government agency?

MR. PALMER: Yes, and I point out, in the QAP it provides that you're not required to have your final commitment for the loan from a governmental agency until you accept your commitment notice.

So we feel that it's premature to be terminating the application based on the terms of this preliminary term sheet that we have in the application when, in fact, we should be allowed to substitute in a different source, and we're allowed under the QAP to substitute in a different source for that source.

MR. OXER: What was the agency that you had the loan from?

MR. PALMER: We had it from Strategic Housing Finance Corporation, and it's been replaced with a commitment from Capital Area Housing Finance Corporation.

MR. CONINE: Kind of out of their district, isn't it?

MR. PALMER: Yes, but the Galveston Housing Finance Corporation, we're in the process of getting a cooperation agreement from them. Galveston Housing Finance Corporation has never made a loan like this, so they're not comfortable doing it. But we will be receiving a cooperation agreement from them to allow Capital Area to do it.

MR. CONINE: Were the two loan amounts the same virtually, or close to --

MR. PALMER: Yes.

MR. CONINE: Okay.

MR. OXER: Was the Galveston agency's lack of comfort with that loan a product of their risk evaluation on it?

MR. PALMER: No, it's just in order to -- what I see is, in order to make these loans, you've got to have money, and some housing finance corporations have access to funds and have cash reserves, and some -- the smaller ones don't.

MR. OXER: So it's strictly a liquidity issue?

MR. PALMER: Yes, and unfamiliarity with the process.

MR. OXER: Right.

DR. MUÑOZ: I have a question.

Did you all take into consideration that this is in Galveston with that first floor? I mean, you know, that just seems awfully prudent. Right. There's new construction, I mean is this correct that there's nothing in the QAP that requires the square footage to be --

MR. GOURIS: Yes, the intent is to -- for that item is to allow for a higher cost for, you know --

DR. MUÑOZ: And maximize, but --

MR. GOURIS: -- high rise buildings. Not all the buildings are four stories to start with. Even the -- there are a couple that are, even though one floor of those buildings are parking.

So there's the issue of parking and the three stories of residential, but then there's several buildings that are just three-story buildings. So the entirety of the project isn't a four-story high rise. So to your point, to your issue, they didn't build the garages up on all the buildings.

Oh. Is that right?

FEMALE VOICE: [inaudible].

MR. GOURIS: Just elevated -- not garages, but in the first floor of the other -- the three-story buildings, that's not elevated, that's just three stories, straight

buildings, yes.

So that's several -- they have a couple of buildings, as the plans we have right now, that the first floor is residential, and then they're three stories tall, and then there are a couple of buildings that the first floor is above -- you know, parking that's covered and then three stories of residential above it.

MR. OXER: Oh. Okay. So the cost of the project, for the cost per square foot includes all of them, or just that one building, includes the --

MR. GOURIS: The threshold item is to allow it to go up for all the -- for all of it. But not all of it is a four-story or greater --

MR. OXER: So the point threshold applies to four-story buildings.

MR. GOURIS: Correct.

MR. OXER: And this is not all four-story buildings.

MR. GOURIS: Correct.

DR. MUÑOZ: Some of them -- you're saying some of them have use on the first floor and then some of them don't, it's only the second, third and fourth.

MR. GOURIS: As we understand it, some of them have a residential first floor, second floor, third floor,

and then we have some non-residential first floor, just parking --

DR. MUÑOZ: Parking. And then second, third --

MR. GOURIS: Second, third --

DR. MUÑOZ: -- and fourth --

MR. GOURIS: -- and fourth floor residential.

Is that right?

MR. PALMER: We have four buildings, two of them are four-story and two of them are three-story. And my understanding is all of them are elevated so that -- so there would --

DR. MUÑOZ: That's different than what he's saying.

MR. GOURIS: Yes.

MR. OXER: Elevated versus non-residential use of the first floor.

MR. GOURIS: Is there parking in any of them?

FEMALE VOICE: No.

MR. GOURIS: No?

I'm sorry. So there's no parking in any of it, I guess is what she was trying to tell me. And they are all -- all three buildings -- or all four buildings are elevated. That's what we understand. So two buildings elevated first floor, nothing there, no parking, second and

third floor residential. Two buildings first floor elevated, nothing underneath -- nothing there, second, third and fourth floor residential.

Is that right?

MALE VOICE: I think that's incorrect.

MR. GOURIS: Well, what --

DR. MUÑOZ: What is correct?

MR. GOURIS: Yes, why don't you --

(General laughter.)

MR. LECHNER: Mark Lechner, I'm the developer with the Derby City MBL.

I'd like -- Justin Hartz is my development coordinator who's been working on this thing around the clock, but my understanding is, when we put the plans together, initially the first set was incorrect and those were corrected.

According to Galveston, it is on the island and they are hurricane construction. There's no residential allowed on the initial, so we've always planned on parking underneath. They're all completely walled, they have breakaway walls because that's the code. And we've always planned for parking underneath. We have openings on the plans where you drive the cars underneath, and it is up -- it is piered, and --

DR. MUÑOZ: Of all four buildings you have two that have residential on second and third floor and two that have residential use on the second, third and fourth floor? Is that right?

MR. LECHNER: Correct. And they're enclosed, they're elevator-serviced and they're enclosed, so we do -- we contend we do have the square footage. I don't think there's any question, and maybe they weren't looking at the fact it is Galveston Island, it is hurricane construction.

Justin Hartz is my development coordinator, he may be able to --

MR. HARTZ: We even considered the -- Justin Hartz, representing Mark Lechner. There's only really one building that is actually three stories. The other two is actually called a two-three-two, so it's actually a three-story and a four-story building, because the middle residential actually extends for four floors. The other two buildings are actually four-story buildings.

MALE VOICE: Four four-story.

MR. CONINE: Okay.

MR. GOURIS: Why did it say -- in talking with staff, I mean I think we're having a problem knowing exactly what it is that they are doing because I think that wasn't entirely clear. But what we do know, and what we relied on

was the fact that not all the buildings are what we would consider four-story buildings and don't meet the high rise standard.

That's the underlying basic thing. Whether there's parking underneath or not isn't significant, but it still -- I mean it is, but not to the point of whether they are all four-story buildings or not.

MR. PALMER: One thing I'd just like to add is there's nothing in the QAP that says all of your buildings have to be four-story. And we're hearing a lot today about the intent of the QAP.

But I think if you're a developer and you're relying on the language of the QAP, and it says that you can use the higher per square foot cost if you're building four-story buildings, and you're building -- part of your project is four-story, that it would make sense for you to use -- to think that you were entitled to that cost, notwithstanding what staff's intent was.

MALE VOICE: Interpretation.

MR. PALMER: Or interpretation.

MR. CONINE: And I'm okay. If you've got more than 50 percent of the footage in four-story buildings, you're four-story, in my world anyway.

I'm more interested in this creative developer

fee financing scenario, because we had a governmental entity that had a loan, you know, intention, a regular loan. Then we went out and -- that entity decided not to do that, and then we went out and got Capital Area Housing Finance to do a loan.

Now the loan that went away is coming back and giving a one-year loan that's being paid back out of the developer fee. And my recollection on underwriting these things, we normally pay back loans out of rents and expenses, not out of developer fees, and this would be an unusual case.

MR. GOURIS: Very unusual.

MR. CONINE: Very unusual.

MR. GOURIS: Yes.

MR. CONINE: In my view, just to circumvent the 50 percent rule.

MR. GOURIS: That's staff's opinion as well, yes.

MR. CONINE: So I just want to make sure I understood that from your perspective --

MR. GOURIS: Yes.

MR. CONINE: -- which is what was happening here.

Okay.

All right. Anything else? Any other questions?

MR. OXER: Just a comment, Mr. Chairman?

MR. CONINE: Yes, sir.

MR. OXER: I think we, I hope, dispatched the issue of what four stories are and aren't, so this will hinge on the developer's fee. Is that fair?

DR. MUÑOZ: Now should we vote on these separately or --

MALE VOICE: No?

MR. CONINE: Yes, we probably -- because they're separate point structures we probably should. Why don't we get a motion on the --

MR. OXER: Isn't it -- are they two appeals? There are --

MS. MORALES: Yes --

MR. CONINE: Straighten us out.

MS. MORALES: -- the first appeal relates to the -- the application was actually terminated for exceeding that eligibility requirement of having more than 50 percent of the developer fee deferred. So that's the first appeal.

And then depending on how this Board acts on that, you either move or don't move forward on the others.

MR. CONINE: Let's handle the developer fee issue first then.

Do I hear a motion?

MR. OXER: Move to deny the appeal.

MR. CONINE: Motion to deny the appeal by Mr. Oxer.

Is there a second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries, the rest is moot. On to the next one.

MS. MORALES: Okay. The next one -- you have three that have withdrawn; 11056, 11057, and 11065 have all withdrawn their appeal. So we are on 11066, Anson Park III.

MR. CONINE: Can you give me just a minute to sure --

MS. MORALES: Sure.

MR. CONINE: -- I catch up with you.

DR. MUÑOZ: St. Paul Apartments, is that the one we've heard so much about?

MS. MORALES: Yes. They withdrew their appeal.

MR. IRVINE: Perhaps we should have advised everybody of that before we spent the time on -- we're happy

to have the public comment, but --

MR. CONINE: Got it.

MS. MORALES: Okay. Application Number 11066, Anson Park III. This is an urban Region 2 application in Abilene, Texas. The Department did not award the six pre-application points requested because the development site increased in acreage from 5.43 acres to 6.8 acres, which is an approximate 25 percent increase in size.

Per section 49.9(a)(14) of the QAP, which is -- which relates to the selection criteria for pre-app points, and applicant is eligible for the six pre-app points if, among other things, the site is identical or a reduced portion of the development site that is under control of the pre-app.

The applicant appeals that the points should be reinstated because the increase is due to a city requirement as a condition to receiving their requested zoning change.

The Department does not believe that this increase in acreage was outside of the control of the applicant and could have been prevented prior to submitting the application if the zoning issues had already been taken care of prior to application submission. Staff recommends denial of the appeal.

MR. CONINE: I have one witness affirmation form.

Eric Opiela.

MR. OPIELA: Howdy. Eric Opiela for Anson Park III. This is a situation where we have another little quirk in the QAP.

MR. CONINE: A quirk.

MR. OPIELA: The QAP requires that it be -- that in order to receive the six points, it has to be for the identical development site, or reduced portion of the development site. It doesn't exclude an increased portion of the development site, and that's what you have in this case here.

We have consistently -- the Department has allowed for reducing the development site, and we want to actually increase the development site in order to accommodate a fire lane.

Just a quick scenario of what happened here is when the application was going through pre-application, it was for a 5.43-acre tract. This is the same tract of land, it has had an identity of ownership with the developer for many years, so you don't have that problem. And the environmental site assessment was also done on a larger piece of property. And you have in your packet there evidence of both of those.

The developer was not allowed to submit those

because it was not in response to a deficiency. They were never given a deficiency by the Department, they just were not allowed to have the points. And so that's why you have that in your board packet here today.

What we're asking the Board to do is to be fair to both sides of the coin. If identical means less, it should also mean more, as long as it's the identical site. And there's not a substantial change to the site plan at all. It was just to allow a turn around because the city, when they reviewed the zoning, they wanted to have an egress, not through the adjacent development, and so they had to have a turn around.

And that's what you see -- well, you -- if you have the board book in front of you, in terms of the application, you will see it's just a loop around. It makes it sound like it's a lot because it's 25 percent, but it's not anything beyond a fire lane and a turn around, because it's a small development, only 5.43 acres to 6.8 acres.

So we ask that you grant the appeal in fairness to the developer, since in many other cases before, the Department has allowed a smaller subset of the development site as well.

MR. CONINE: Mr. Opiela, was the site under rezoning procedure when the application was submitted?

MR. OPIELA: They had begun the process of going to the city and -- one important thing to note here is that it's not a requirement that you have this egress out as part of the city's ordinances. They asked -- the city asked for that, the fire marshal asked for that in this rezoning process and the developer consented to it. And it's the result of that's consent that required that to be there.

So we don't believe it's reasonably foreseeable on the part of the architect or the engineer when they were designing the original site to know that that was going to be a requirement. It was something that came out in the time between the pre-application and the application phase.

MR. CONINE: Okay. Any other questions of the witness?

Mr. Oxeer?

MR. OXER: And that issue came out in what context?

MR. OPIELA: My understanding is that when they had applied for the rezoning, they were in the process of applying rezoning, as they do many cases in terms of developments in between that time of the pre-app and the application. The zoning was required as a condition of the city providing the support letter that they provided, and so that's why that all kind of came out at the same time during that intervening month between the pre-application and the

application period.

MR. OXER: Here we are. Raquel?

MS. MORALES: Yes, sir?

MR. OXER: How would they have controlled that? Would they have -- what's staff's sense of how they would have been better in control of that process? They're contending that they were not in control of the process, and you're suggesting that they should have been, or could have been.

MS. MORALES: Yes, just by -- they could have started the whole rezoning -- or request change earlier than they had, you know, just having that all kind of worked out before the application was submitted.

MR. CONINE: Well, I think we -- do we not allow for zoning to be implemented some time before the awards are given? I forget what the date is. It has to be in place by X date?

MS. MORALES: Right. If it's not in place by the time they receive an award, we verify that again at the time commitment if it gets an award of tax credits.

MR. CONINE: Right. So we're -- it doesn't have to be zoned multifamily when they apply, but it has to be zoned multifamily by the time they get the commitment.

MS. MORALES: Right. And they have to have

already started that process.

MR. CONINE: So the way I view this, this is a change during that process that, I agree with Mr. Opiela, it couldn't have been predicated.

MR. OXER: Right. It got caught in the squeeze.

MR. CONINE: So we have any other --

Yes, Mr. Keig. Sure.

MR. KEIG: Ms. Morales, what's your understanding of the purpose of that six points for the site acreage increase/decrease?

MS. MORALES: I'm sorry?

MR. KEIG: What's the purpose for having that six points?

MS. MORALES: Well, it provides the six point, you know, bump for anybody who submitted a pre-app and then pursues a full application, if they've been able to meet all of the threshold requirements at app. And then as a review -- you know, during our review of the full app, if we know that there is no change to that development site, it hasn't increased any, they get that six points.

MR. KEIG: Does it inconvenience staff in any manner if there's a variation that goes beyond that threshold?

MR. IRVINE: I don't believe it's a convenience issue. It's a public disclosure issue. The whole purpose

of pre-app is to put your real deal out there so everybody knows what it is.

MR. CONINE: Any other questions?

MR. OXER: This was not in the -- I mean it's not like it was --

MR. OPIELA: The site didn't move.

MR. OXER: The site didn't move and it didn't go from six acres to 90, so --

MR. CONINE: You got the same number of buildings, same number of units --

MR. OXER: Same number of houses, you got a little more room for the fire trucks to get in and out. Is that right?

MR. OPIELA: That's correct. I have the plan here if you want to take a look at the --

MR. CONINE: That's okay.

(General laughter.)

MR. CONINE: Do I hear any more discussion, or a motion?

MR. OXER: Move to grant the appeal.

MR. CONINE: Motion by Mr. Oxer to grant the appeal. Is there a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Any further

discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. MORALES: The next appeal is for Application Number 11074, The Villas at Tuscany.

MR. CONINE: Hang on.

MALE VOICE: Oh. Westheimer.

MS. MORALES: Oh, I'm sorry. They withdrew.

MR. CONINE: Westheimer did?

MS. MORALES: Yes.

MR. CONINE: Okay.

MS. MORALES: I'm sorry.

MR. CONINE: Now we're over into Tuscany. Good spot in the world.

(General laughter.)

MR. CONINE: Okay.

MS. MORALES: You ready?

MR. CONINE: Got it.

MS. MORALES: Application Number 11074, The

Villas at Tuscany is an urban Region 1 application in Lubbock, Texas. The applicant in this case is also appealing the loss of the 10 points for cost per square foot, and the resulting loss from the pre-application points.

The applicant for Villas at Tuscany selected 10 points for not exceeding \$95 per square foot. During staff's review of the originally submitted information within the application, the cost per square foot amounted to slightly over the \$95 per square foot threshold without rounding.

The applicant appeals that the development is eligible for the point selection made with the originally submitted construction costs. However, despite this, the applicant has revised the construction costs several times after the original application submission.

The applicant has also appealed that the net rentable area, as reflected in the original application, is incorrect, and that utilizing the correct net rentable square footage would render this development eligible using the original construction costs.

However, to date we have not received any revised rent schedule or any revised information to show the correct net rentable square footage and it's questionable whether they're revised rents -- net rentable square footage would be something that's accepted by the Department based on how

they're measuring their units.

Again, with the loss of the 10 points for cost per square foot, the final application score is over that 5 percent threshold from their pre-app, so it would be six pre-app points have also been lost as a result. Staff recommends denial of the appeal.

MR. CONINE: So let me make sure I understand this. Originally it was a freckle over \$95.

MS. MORALES: Right.

MR. CONINE: Then it --

MALE VOICE: It may not even be a full freckle.

MR. CONINE: Yes, it's a half a freckle. All right. And then in the pursuant discussion, then the net rentable changed a little bit maybe --

MS. MORALES: Well, the -- right.

MR. CONINE: -- the cost changed, and then the net rentable got decided on and so the cost could go back up.

MS. MORALES: The net rentable was alluded to in the appeal that it was wrong. But we've not gotten any revision to the corrected net rentable, if it is, in fact, corrected, or it's just something that they've mentioned in their appeal, that is was wrong to begin with.

MR. CONINE: But then because of all that, the

double jeopardy occurred with the pre-app points.

MS. MORALES: Correct.

MR. CONINE: Thank you very much.

I have several witness affirmation forms.

Sara Andre, it looks like she's ready to come up.

She's got extra time if she needs it.

MS. ANDRE: Good afternoon.

MR. IRVINE: Was this handout made available for everybody back at the desk?

MS. ANDRE: We tried to provide it at the desk, but no one was sitting back there when we brought in. But I did have it marked the way that you all like it with the item number and the development number.

MR. IRVINE: It's short enough, maybe you can just read so that everybody in the room can follow along.

MS. ANDRE: Sure. The very top of it says, Net rentable area as submitted, 63,135 square feet equals 95 dollars and .0015364 cents per square foot. The second items says, Net rentable area as corrected, 68,130 square feet, equals 88 dollars and .0364304 cents per square foot.

Good afternoon. I'm Sara Andre. I'm here to speak on behalf of The Villas at Tuscany, Project Number 11074.

Now, in my opinion, this is an unusual appeal because we're not here to argue about the rules, there's no

quirk in the QAP for this object, we're not even here to ask to bend the rules. We just want the opportunity to clarify what was submitted in the application.

The root of our disagreement with staff, as you've heard, is whether or not the application submitted meets the \$95 per square foot test for development costs. We believe that it does meet that test, and that, in fact, it always has met that test.

As you know, staff argues that Villas at Tuscany was submitted at 95 dollars and .011536 cents -- that's \$106 by the way -- per square foot. Don't worry, I'm not going to talk about rounding or how that should have been rounded down. We are just going to talk about the process, because I think that this appeal boils down to a failure in the deficiency process.

I want to take you through that process so you can understand where things broke down. On April 6 we received a deficiency notice from the Department outlining issues in the selection and the threshold criteria.

Now as a refresher, and you have this in your packet, I do want to quote the definition of a deficiency from the QAP. Administrative deficiencies, information requested by the Department that is required to clarify or correct inconsistencies in an application that in the

Department's reasonable judgment may be cured by supplemental information or explanation. And that actual information is on the deficiency that we received.

On April 12 we responded to the deficiency, and that was in a timely fashion within the period that's allowed.

Now you may not know the accepted process on deficiencies is you receive a deficiency, you respond within a time frame, and then if you do not clear that deficiency and there's still time left, the staff comes back and asks you for additional information. And that process is also outlined on the deficiency notice that we received.

On April 13, still within our initial time period, we asked staff if they had any additional questions or concerns. We received an email back, and I quote, that said our responses have been sent on for supervisory review. We heard nothing further from the multifamily staff.

On May 17, a month later, we received a call from real estate analysis about the application, and then real estate analysis sent us an RFI, or a request for information about the application. That, in our mind, indicated that the multifamily staff had passed the application on to real estate analysis and had no further queries about the information that we had submitted. And, in fact, the RFI referred to data that we had submitted in the deficiency

response.

As late as June 7, real estate analysis staff were still asking us questions about this application. So in our mind it was an active application. On June 1, we received a scoring notice that said that we were not eligible for the square footage points, and that the information we provided in our deficiency response was not adequate to address the cost per square foot issue.

That was very unusual, given that the deficiency process is all about correcting inconsistencies or errors that were identified, and in this case it was errors that were identified almost two months previously, and that for at least a month we thought were resolved.

However, as you know, we appealed the scoring notice and in that submitted additional information about the project from our architect, where the architect included square foot calculations that measured our units per TDHCA's definition from the outside to the stud. Those measurements are what you have and what I read aloud.

And they were included in our appeal letter, and you have that also in your packet. It's the stapled packet, that's our response to the -- that's our response. And it provides that information about square footage, even though the denial of our appeal says that we didn't provide that.

I'm not sure where that came from.

Anyway, using the correct calculation, and that's a clarification of an inconsistency, we do meet the \$95 a square foot. And in summary, I just want to say that staff issued a deficiency on the item, making it an item that's eligible to be fixed.

They agree that the measurement to the studs would be permissible and would fix the issue, but they denied the appeal based on the idea that we didn't fix it correctly the first time. However, they waited until June 23, 72 days after we responded to the deficiency, to let us know that. Nothing in the project has changed. It's always met the criteria.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Pat Beatty. He has extra time too.

MR. BEATTY: Thank you, Mr. Chairman, and thank you committee members. My name is Pat Beatty. I'm with Overland Property Group, we're the developer.

I believe this all boils down to a miscommunication during the administrative deficiency process. The administrative deficiency, by definition, allows for corrections and clarifications. We had an error in our cost worksheet, we corrected it one day before the deadline to cure the deficiency.

We heard nothing back from staff. We moved on to underwriting, and we were in communication with underwriting. We were given notice that staff wouldn't accept our correction. Had we known that no correction would be allowed, we would have challenged on a technical point, that our application did not have correct square foot calculations.

Our plans have not changed. We had incorrect measurements of eligible footage from the onset. We ask for your consideration that we understood staff would not allow a correction until the administrative deficiency, and we would have brought the square footage issue to light had we known this. Thank you for your consideration.

MR. CONINE: Any questions of the witness?

MR. OXER: Clarification, Mr. Chairman?

MR. CONINE: Yes, sir, Mr. Oxer.

MR. OXER: The project -- sir, I'm sorry -- your project hasn't changed?

MR. BEATTY: Right.

MR. OXER: Your finances haven't changed.

MR. BEATTY: No.

MR. OXER: Construction costs been re-estimated and corrected?

MR. BEATTY: Yes.

MR. OXER: Scheduling hasn't changed?

MR. BEATTY: No.

MR. OXER: Same number of rental units.

MR. BEATTY: Yes.

MR. OXER: Basically the same number of square feet as it was going to be before, you just measured it differently.

MR. BEATTY: Correct.

MR. OXER: Different tape measure.

MR. BEATTY: Yes.

MR. OXER: Thanks.

MR. BEATTY: Thank you.

MR. CONINE: Any other discussion?

(No response.)

MR. CONINE: If not, I'll entertain a motion.

MR. KEIG: Move to approve the appeal.

MR. CONINE: Move to approve the appeal by Mr. Keig. Is there a second?

MR. OXER: Second.

MR. CONINE: Second by Mr. Oxe. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. MORALES: Next is the appeal for 11076,
Saddlebrook Apartments.

MR. CONINE: Saddlebrook you said?

MS. MORALES: Yes, sir.

MR. CONINE: Got it.

FEMALE VOICE: Saddlebrook is withdrawn.

MS. MORALES: It's withdrawn?

Oh. Sorry. It's withdrawn.

MR. CONINE: Saddlebrook's been withdrawn.

MS. MORALES: Then we will move to 11087, Tidwell
Lakes Ranch.

MR. CONINE: Tidwell Lakes Ranch. Thank you.
Okay.

MS. MORALES: Tidwell -- oh, I'm sorry. Are we
ready? Tidwell Lakes Ranch is an urban Region 6 application
in Houston. This appeal was with respect to the community
revitalization points.

The applicant utilized the Harris County
consolidated plan in this case, and the key to this appeal
is that the development is not located within one of Harris

County's consolidated plan's targeted areas. The applicant appeals that the development is located in a low to moderate income area, and also that Harris County prioritizes these low to moderate income areas in its consolidated plan.

The Department does not dispute that fact, and has reviewed the Harris County consolidated plan. They do prioritize low to moderate income areas, and reflect that prioritization by reflecting those target areas via a map.

We have confirmed with Harris County that the development is not located within a target area, and therefore staff recommends denial of the appeal.

MR. CONINE: Okay. I've got some witness affirmation forms.

Cynthia Bast.

MS. BAST: Cynthia Bast of Locke Lord representing the applicant for this appeal. Hopefully you do have the handout package that accompanies this particular appeal.

As Mr. Morales mentioned, all we're talking about here is whether this development has a site that is located within an area that is prioritized by the Harris County consolidated plan. And I want to make sure that we're all speaking the same language, because we're using the word targeted a lot.

The phrase "target area" is a defined term that

is used in consolidated plans to refer to particular areas for particular HUD programs like CDBG, et cetera. But the governmental body can also prioritize other areas within its jurisdiction as part of its plan. And that is the case here.

TDHCA's rule, and its definition of community revitalization plan, doesn't say that the site must be within a defined target area, if you use the capitalized letter of the phrase there. It says you must be within a specific geographic area identified by the plan.

So in this case, the plan identifies areas of concentration of low income persons as a priority area, and defines a concentration of low income persons as 51 percent or more of the people having an income of 80 percent or less of the area median family income.

So we believe that in order to qualify for the points under the QAP, Tidwell Lakes Ranch would need to be located either in a target area, or in one of the prioritized areas that has a concentration of low income persons. And we believe that staff actually does agree with this standard.

If you look on Exhibit C, an email from Robbye Meyer on July 8 says that the points were denied because the proposed Tidwell development is not one of the target areas or in an area with 51 percent or greater low to moderate income

persons. This email was sent after TDHCA initiated dialogue with Harris County about the information that are client had submitted.

Our client provided the map under Exhibit B. This is a published map as part of the Harris County consolidated plan. The dark pink areas identify areas with 51 percent or greater low to moderate income. The red arrow points to the location of the Tidwell Lakes Ranch development.

When TDHCA began revisiting al of these community revitalization plan issues, they contacted Harris County for confirmation that the development is in a dark pink area. Well, at first Harris County staff provided a map, that is at the back of your appeal, that indicated that it was not in a dark pink area. That was on July 7.

But then Harris County came back, the email in Exhibit D, and said, The email sent to you yesterday, July 7, regarding Tidwell Lakes Ranch was inaccurate. They followed with the email at Exhibit E, from David Turkell, saying, The area is low to moderate income.

So at this point, this is July 8, lots of moving parts, TDHCA's under a deadline to post its board book by Monday, July 11, and despite this information all going back and forth, staff posted its position that the development was not in a low income area prioritized by the plan.

We think this sort of distinguishes this appeal in that staff simply did not have enough time to digest the information that was being provided by Harris County in response to its inquiry.

Now I also note that once Harris County saw the board book and the supplement that was published last Friday and the recommendation of staff, Harris County sent another map, which is the second map in Exhibit B of your packet, painting all of census tract 2323 pink, and confirming that all of census 2323, which Tidwell Lakes Ranch is undeniably in, is a low to moderate income area.

Now clearly Harris County would not have gone to the trouble on a Friday afternoon of assembling this map and sending it in if it thought that TDHCA's conclusion that was published in the board book supplement was correct.

A final note for you is that, as has been mentioned, all of this review of community revitalization plans came about as a result of challenges that were submitted. And if you look at your QAP, the QAP says that when a challenge is submitted, that the staff must use a preponderance of evidence standard. Preponderance of evidence means that a majority of the evidence must favor the challenger's -- whatever the challenger is submitting.

And here we don't believe that that standard was

met. The applicant provided evidence, census data, and a map showing that the property was in a low income area, phrases from the consolidated plan indicating a low income area was a priority, Harris County submitted a map showing that this particular census tract is a low income area, we have staff's confirmation that you had to either be in a target area or a low income area.

So all of these make me believe that a preponderance of the evidence says that this is in a low income area and is entitled to these points. The only thing that we have to refute the fact that this is not in a specified geographic area is the one incorrect map that was sent by Harris County on July 7, which they subsequently recanted by the two emails in your package.

So with that information, we respectfully request that you restore the points, keeping in mind they were originally awarded and then they were rescinded based upon all of this investigation. We ask that you restore these points for community revitalization plan.

MR. CONINE: Any questions of the witness?

MR. OXER: Of course, it'll be the first mistake that the city of Houston ever made in one of these. Right?

MR. CONINE: Harris County, isn't it?

MS. BAST: Harris County.

MR. OXER: Harris County?

MR. CONINE: Yes.

MS. BAST: Yes, I think that that is probably right. Okay.

MR. CONINE: Well, before -- hang on before you're going to talk.

But, Raquel --

MS. BAST: You want to talk to me instead of him?

MR. CONINE: I don't want to talk to you, I want to talk to Raquel.

MS. BAST: Okay.

(General laughter.)

MS. MORALES: Yes, sir.

MR. CONINE: It appears that subsequent information has now come to light after the deadline of the board book getting printed. Do you know believe its in a targeted area or not?

MS. MORALES: No, and only because we had direct communication with Harris County staff July 11 and July 15 confirming that it is not either in a pink area or in a target area.

MR. CONINE: All right. All right. Then you can sit down and we can listen to Mr. Barry Kahn.

MR. KAHN: Good afternoon, Mr. Conine, Board

members.

Mr. Ozer, a couple of comments you made earlier almost looked like they were taken from my notes.

(General laughter.)

MR. KAHN: Hopefully to avoid this type of appeal, we were proactive and asked the city to coordinate up front with TDHCA what was required for community revitalization to avoid these issues.

You will see an email in this packet, which is Exhibit A, and it's from Etta Paranski [phonetic] at the City of Houston, and it says, We researched your suggestion trying to get clarification on the community revitalization plan.

Spoke with Robbye Meyer at TDHCA who offered the following, that you have a plan, and that's not an issue, that addresses low to moderate income areas and shows something to prove that up.

Based on Exhibit C, which was Robbye's initial denial, it still seems to be their plan, with the target area, or an area 51 percent or greater. Now, from July 8 to now it sounds like staff has taken a different position, that they are only saying it has to be a target area, not a target or an area with 51 percent or greater low to moderate income persons.

We intentionally tried to get everything cleared

up up front. We got clarity as far as what was required, we had an application, both in the city and the county. The city one, with the same type of data got points. In fact, there's four or five other deals in the city that got points based on strictly a low to moderate income map.

That's the second page of Exhibit A, which was cleared to be the basis of getting points in the city. Why shouldn't a deal in the county be treated the same way? Why is now only a specified target area and not a low to moderate income area that meets this standard?

We have language initially up front, we have back up language on July 8, we have Harris County working when even on July 15 a map was sent to Ms. Bast. I forwarded that to Harris County. What did they do? They sent back the map that's the second part of Exhibit B. In the words of David Turkell, I sent them an email saying it's a low income area.

Here's, you know, the one step further. He kept somebody overtime just to get this map. This is a deal he wants, it serves a lot of interest for Harris County, it helps -- it's four-bedroom homes, it helps their overcrowding issues. We followed everything to a T. We were proactive up front, found out what the rules were, we followed the rules.

The rules are spelled out in Exhibit A and C, we followed them with B, D, and E. And we've met the requirements and we request that the points be reinstated. There was an erroneous map. If you'd like to see a copy of it, that's fine. But that, as you see in the email, that was retracted. And that's what caused a lot of the confusion.

But we have followed everything to a T. We've done what you suggested, Mr. Ozer, and that's find out up front if there's any confusion.

MR. CONINE: Any questions of the witness?

DR. MUÑOZ: You heard a minute ago where staff said you're not in a recognized area.

MR. KAHN: But the definition doesn't have target area defined as per the HUD definitions. It just uses --

DR. MUÑOZ: Low to moderate income.

MR. KAHN: It uses a generic term.

MR. CONINE: I think I phrased my question wrong a minute ago. Let me ask my question to Raquel one more time.

Raquel, do you now believe this project is in an area with 51 percent or greater low to moderate income people in it?

MS. MORALES: It has been confirmed by Harris County staff that it is in a low to moderate income area.

MR. CONINE: Okay.

MS. MORALES: However, depending on the consolidated plan, some consolidated plans make it specific that they target -- there are target areas and low to moderate income census block groups or just target areas.

And in this case, the Harris County consolidated plan has target areas only. I mean they speak about low to moderate income areas, and to the extent that they're prioritized, they're located within the target areas that are identified by Harris County.

MR. CONINE: Okay. I think that clarifies my issue.

Go ahead --

DR. MUÑOZ: It doesn't clarify mine.

MR. CONINE: Okay.

DR. MUÑOZ: So there are some consolidated plans that have -- that use that language, target --

MS. MORALES: Yes.

DR. MUÑOZ: -- and others that do not.

MS. MORALES: They use target area or -- CDBG target area or low to moderate income.

DR. MUÑOZ: Have we used that -- have we recognized consolidated plans that use both of those?

MS. MORALES: Yes. Yes. There were appeals when we looked back and looked --

DR. MUÑOZ: So what's the issue here?

MS. MORALES: The issue is that it's not in the target area. There's no dispute that it's located in a low to moderate income area. But Harris County's consolidated plan does not target low to moderate income areas, and if it does, it's already encompassed within the target areas.

We have a map of target areas identified, and there may be low to moderate income blocks or tracts that are within --

DR. MUÑOZ: You're saying it doesn't target low to moderate income. But it's -- the Houston consolidated plan addresses low to moderate income areas --

MS. MORALES: Right.

DR. MUÑOZ: -- as art of our revitalization efforts.

MS. MORALES: It does. And it does identify some of those low to moderate income areas within a target area. So there is a map in the consolidated plan for Harris County that is -- that identifies the target areas.

DR. MUÑOZ: Low to moderate income within a target area.

MS. MORALES: Within a target area. And so -- I'm sorry.

DR. MUÑOZ: And this would not be a low to moderate income within a targeted area.

MS. MORALES: It is not because we received confirmation from Harris County staff that it is in a low to moderate income area, but it's not in a target area.

DR. MUÑOZ: Mr. Barry.

MR. KAHN: I'd like to say two things. One, if you look at Robbye's email, it doesn't limit it that way, which is Exhibit C. It says, Or at 51 percent. Secondly, these target areas that they're referring to were from the 2000 census. This may very well change based on the 2009-10 census.

We've got clarification we're a low to moderate income area. The Harris County plan targets, or prioritizes, and it's all a manner of definition, low to moderate income areas. That their goal and their funding is to support those individuals with 51 percent or more low to moderate income.

We've met the --

MR. CONINE: Barry, doesn't the QAP say specific areas, and if the Harris County Plan had targeted areas, wouldn't you naturally assume that that would be a specific area that would be targeted -- that would -- the word target in their definition?

MR. KAHN: Well, David Turkell says, We put our money in low to moderate income areas. HUD, by its definitions, has some other separate targeted areas. If he

didn't believe in their position, Friday afternoon he wouldn't have kept people after hours to generate this map to clarify and hopefully put to an end this issue. I mean --

MR. CONINE: Do we have a map of the Houston -- or the Harris County targeted areas somewhere?

MS. MEYER: You actually have it in Exhibit B.

MR. CONINE: Where?

MALE VOICE: B.

MALE VOICE: E or B?

MALE VOICE: B.

MALE VOICE: B. Thank you.

MR. CONINE: B?

MS. MEYER: It's Exhibit D.

MR. CONINE: E?

MS. MEYER: D, delta.

MALE VOICE: Oh, we've got it.

MR. CONINE: Oh, I got it right -- right here?

MS. MEYER: It's in their exhibit.

MR. OXER: Oh, it's this one. With the pink?

MS. MEYER: Is it in -- yes. That's it.

MR. OXER: Come show us, Robbye. Is it this one?

MR. CONINE: Yes.

MS. MEYER: That's the one. Is it not the same?

MR. OXER: It says D's the --

MR. CONINE: It's a map, but I don't know that it says -- it has targeted areas on there.

MALE VOICE: That's the same one as this one.

MR. CONINE: Is that the same one? Yes, that's the same one that's --

MALE VOICE: That's not the one that she's talking about.

DR. MUÑOZ: It says 51 percent or greater low to moderate.

MS. MEYER: Yes, it's Exhibit B --

MR. CONINE: It's all definitional.

MS. MEYER: Exhibit B in Cynthia's deal.

MR. CONINE: You want that one?

MS. MEYER: And this is the low income areas in Harris County's action plan, which is part of their consolidated -- it's an update to their consolidated plan. And I will quote Mr. Turkell's email to me at 8:37 on Friday morning. And it says, "Tidwell Ranch is not in the pink area of the R2011 action plan's low income areas map." I don't know how more specific to be with you.

MR. CONINE: Okay.

MR. OXER: Have you got a comment for that, Barry?

MR. KAHN: Yes. Friday afternoon he prepared the

other map, If they want a pink area showing your project in it, I'll give it to them if there's any confusion. And he generated that Friday afternoon.

MR. CONINE: Okay. I have one more witness affirmation form here.

Jerry Lord, do you want to speak at all, wherever Jerry is?

MR. KAHN: He was just deferring time.

MR. CONINE: Okay. Any other questions of either staff or witnesses?

MR. OXER: I have a question, Mr. Chairman.

MR. CONINE: Yes.

MR. OXER: Raquel, this is probably for you, but it's actually a question for Harris County. When Harris County targets an area, would they target any area that's not more than 51 percent low to moderate income?

MS. MORALES: I don't believe so, because most consolidated plans refer to being over that 50 percent low to moderate income. But it depends on the city and/or the county, and their, you know, goals and what they're wanting to do with their --

MR. CONINE: But I think the other way is also true, they don't target all 51 percent --

MR. OXER: I know, that's --

MR. CONINE: -- area, just some. And that's what's causing the problem.

MR. OXER: This is a square and rectangle problem.

MR. CONINE: Yes.

MR. KAHN: If I could say something?

MR. OXER: Square and rectangle, but a rectangle's not a square.

(General laughter.)

MR. KAHN: Based on the current data they now have, it may very well be a targeted area.

MR. CONINE: Right.

MR. KAHN: They just can't say it because their data is based on 2000 data, not 2010 data. The fact that it's in a low to moderate income area that may be subject to a target area, when they redo their maps, is, you know, a -- you know, it's a real possibility.

MR. CONINE: Not to be argumentative though, Barry, but the fair issue is what was it as of the application date. That's the real fair issue, because everybody's got to be on the same page.

MR. KAHN: Right. And as of January 15, with the 2011 action plan that was in effect on January 15, this is data, as David Turkell says in Exhibit E, from the 2009 census. So, yes, it was in effect at the time of application, that

this was a low to moderate income area.

MR. CONINE: Right.

MR. KAHN: Staff up front said low to moderate income areas work. Staff in the initial deficiency -- or initial rejection said a low to moderate income area would work. It's highlighted in your book, and we're in a low to moderate income area. And David Turkell is supportive of us by his mere, you know -- and was willing, as I said, to provide the map Friday afternoon.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Thank you for your testimony.

Dr. Muñoz?

DR. MUÑOZ: I'm just curious, is there any way possible -- you know, there seems to be a dispute over this fellow Turkell, is that it?

MR. KAHN: Well, the dispute is over a HUD-defined term or a Harris County term.

DR. MUÑOZ: Oh, we have an email that was read saying it's not -- your development is not and your contention is of that Friday afternoon when he generated that map, that --

MR. KAHN: Well, it's not --

DR. MUÑOZ: -- that intimates that he is, in fact, agreeing that it is.

MR. KAHN: It's not in a HUD target area, but it's in a Harris County priority, and you could say targeted, not in the true definition of HUD target, because the plan targets low to moderate income areas.

MR. OXER: So this is entirely definitional.

MR. CONINE: Every bit.

MR. OXER: Raquel, does the -- are the points scored based on HUD definition or the Harris County --

MS. MORALES: No. I mean it's based on what the consolidated plan that's utilized, how they identify -- I think the issue here is, again, nobody's disputing that it is in the low to moderate income area. There is no dispute about at all. And Mr. Turkell has confirmed that.

But it is not in a target area, and there are HUD defined target areas in a consolidated plan, and in this case there are also Harris County consolidated plan targeted areas, which encompass those low to moderate income areas. And that development is not --

MR. OXER: That map.

MS. MORALES: The only copy I had I gave to --

MR. OXER: That's the HUD map.

MR. CONINE: Yes, what she's saying is this project isn't in either one of those two. It's not in a HUD target or a Harris County --

MR. OXER: Or a Harris County.

MR. KAHN: No.

MS. MORALES: It's in a low to moderate --

MR. KAHN: David's Turkell's words are, I cannot say, when somebody asks me, Is it in a targeted area. It's a defined term. No, it is not. It's in one of our areas that we want to support? The answer is yes.

MR. CONINE: Right. I understand that.

Okay. Do I have a motion?

MS. BINGHAM ESCAREÑO: Move staff's recommendation to deny.

MR. CONINE: Move staff recommendation to deny by Mr. Bingham. Is there a second?

MR. OXER: Second.

MR. CONINE: Second by Mr. Ozer. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MORALES: Okay. The next appeal is for

Application 11140, Villas of Giddings.

MALE VOICE: [inaudible].

MR. CONINE: I've got Green House.

MS. MORALES: Oh, is Green House next? I'm losing it. Okay. 11114, Green House on the Santa Fe Trail. Green House is an urban Region 3 application in Dallas, Texas. The Board originally heard this appeal at its March Board meeting, and then again at its June Board meeting.

The application was originally brought before the Board regarding ineligibility due to unit size requirements and single-room occupancy design issues. At that time the Board tabled the appeal and asked staff to work with the applicant to see if there was a way to resolve the design issues.

We did work extensively with the applicant thereafter and the applicant has redesigned the units in order to now conform with the QAP requirements post-application submission. However, while the unit now technically meets the definition of an SRO unit, staff still has significant concerns with the application.

Primarily the fact that if the Board approves the applicant's redesigned unit, it will also require Board approval of a material change to the application, given that the information provided in their original application will

likely change as a result of the revised unit design. A material change to the application is not allowed by the QAP unless it is waived by this Board.

However, before getting into that part of the appeal, prior to the June 30 Board meeting, staff was made aware of the applicant's ex parte violations which renders the application ineligible for further consideration.

The Board tabled that issue at the last meeting, so I don't know if you all want to address that first and then deal with the second part.

MR. CONINE: Probably a good idea.

MR. IRVINE: Before you jump into the ex parte issue, Mr. Chairman, I'd just like to say before we hear which way the Board goes on it, that I want to send an unwavering signal to the world at large that any identified instances of ex parte communications will be treated by staff as grounds for declaring the application ineligible, and the only way that it will ever be resuscitated is by coming back through this Board. Thank you.

MR. OXER: To make sure that we don't trip over the things that are in front of us, any time we ask for any information, it goes to them down now to him. Okay? For the record.

MR. CONINE: Okay. Chris Luna. He's got time.

MR. LUNA: Good afternoon, Mr. Chairman, members of the Board. I feel kind of like the guest that's been invited over for dinner and then the next morning I'm still sitting at the breakfast table. So I hope you'll give me a little patience.

The only thing I want to talk about on this first part is the ex parte, and I'll save my comments on the design for after the Board's determination on the ex parte issue.

As outlined in our last Board meeting, we do not believe there was an ex parte violation. I won't go back into that discussion. I think what is more fruitful is talking about the path out, and that is, as the Board is aware, the Board can waive the disqualification under Section 49.16(a) of the QAP.

We talked about a waiver at the last Board meeting. And there are two independent ways for the Board to grant that waiver. First, the Board can waive any rule in the QAP for good cause as determined by the Board. We believe that good cause exists in this situation.

And going back to Mr. Irvine's comment about the Board -- or rather the staff taking the position that any ex parte communication will lead to disqualification. These are all fact specific. And so we believe [inaudible] come along with these facts the Board can do something different.

The first good cause exists because it was responded due to a request for information from a Board member.

And we've kind of made light of it today and the last Board meeting, whenever a Board member says, Oh, give me some information, or tell me something new. And you all said, Send it to the staff. Well, when we were here, nobody said that. And so we were responding to a Board member's request.

Second, any violation was not intentional, and clearly, had we started off earlier and sent out materials and information, that would be a different fact pattern. But here we've been responsive, and I don't think anyone agrees or thinks that it was intentional.

And lastly and probably most important is that there is no injury or harm or prejudice to any party. Clearly if someone has been harmed or injured, than you might take it under consideration. But I think the fact that we have been delayed -- or deferred to two Board meetings, has been given opportunity to present the materials, has evidenced the fact that nobody's been harmed or injured.

I do want to take one minute to talk about, in the Board briefing materials there was some discussion of the Texas Open Meeting laws and had a policy issue about the reason for ex parte. At this Board meeting, at previous Board meetings, materials have been handed up to the Board that

only the Board has looked at. There's a stack of materials.

And I'm a big fan and believer of transparency and the public having a right to know. But the reality is, while these items may not pass the ex parte -- or rather they pass the ex parte test, they really don't pass the transparency.

These materials aren't put on the website, these materials aren't handed out to the public that comes to these meetings, and so in many respects there's still information being provided to the Board that the public isn't aware of.

And so we believe that that is another reason.

I will close in the Board packets two times the staff has taken the position that there really is no kind of path out except this. In the materials it says, under the cure section, the statute does not address the possibility of prohibited ex parte communication. Earlier it says the statute does not specifically create or provide for consequence of such action.

We respectfully disagree. If you look at section 2306.041 of the Texas Government Code, there is a specific provision that says this Board can assess an administrative penalty. I'm not suggesting that we are deserving of an administrative penalty, but if somebody does something so bad or so wrong, that section says the Board may impose

administrative penalty on a person who violates this chapter or rule or order adopted under this chapter.

So my view point is that the scheme in the statute in the Texas Government Code is the administrative penalty.

A death penalty, which this really is, is a fairly stiff penalty and we don't believe the facts in this particular case warrant it. And so we believe there's good cause to grant it.

I apologize. Excuse me. The second independent cause is the Board may waive any rule in the QAP if the Board finds that a waiver is appropriate for fulfill the purposes of the policies of Chapter 2306 of the Texas Government Code, which is to provide for the housing needs of individuals and families of low, very low, extremely low income and families of moderate income.

Those are disjunctive, so you can find either good cause or that it promotes the policy, and clearly Bernadette Mitchell and Linda McMann who testified at the May 5 Board meeting gave those reasons why this project advances housing for low to moderate low income individuals, and there's also grounds for granting the waiver under that provision.

MR. CONINE: Okay. Thank you for your testimony.

Any questions of the witness?

(No response.)

MR. CONINE: I think I tend to agree with most of what you said, Mr. Luna. I probably would disagree that I think it is an ex parte violation. But I think at least that you were being responsive, you were being -- you know, it wasn't intentional to violate the ex parte. I certainly agree with that.

Any other discussion with the Board on --

(No response.)

MR. CONINE: Then I would entertain a motion at this point on the ex parte violation.

MS. BINGHAM ESCAREÑO: Move to reinstate the application.

MR. CONINE: Move to reinstate the application by Ms. Bingham. Is there a second?

MR. OXER: Second.

MR. CONINE: Second by Mr. Ozer. Any further discussion?

MR. IRVINE: Might I just ask for clarification on the record? Is that because of the arguments that he made?

MS. BINGHAM ESCAREÑO: Yes.

MR. CONINE: I think it's pretty punitive, I think is what she's saying. The punishment doesn't fit the crime. And the Board sees reason to waive this particular ex parte issue.

Do you agree? Is that okay with everybody?

DR. MUÑOZ: I just might also ask -- add, the point mentioned about even just tongue-in-cheek during this meeting advising those that would provide additional materials to direct those to staff, that certainly wasn't mentioned at the original meeting, and so it strikes me, as I suspect others, a bit disproportionate.

MR. CONINE: Okay. All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now, on to the architectural issue.

MS. MORALES: Right. The original reason this application was terminated and brought before the Board was because of the ineligibility of the application as it relates to unit size requirements.

The original application included units that did not meet unit size requirements, but reflected both one- and two-bedroom units. At that time the applicant appealed that they were single-room occupancy units, but according to our defined term in the QAP, staff did not agree with that determination.

We have since worked -- like I said, the Board directed us at that time to work with the application to see if we could resolve some design issues, or redesign of the units in order to conform to the definition of a single-room occupancy.

And we went through -- or the applicant went through several iterations of the unit design, and I believe ultimately provided the Department with a unit design that now technically meets the QAP as far as single-room occupancy.

But there are still some issues or some concerns that we have with the application as it relates to long term compliance of the deal. And we have followed up with the applicant in that respect after one of our staff members went down to -- or went up to Dallas to visit one of the applicant's existing properties to get a better idea of what their mission and their concept was.

So at this point what's before the Board is whether or not they're going to accept the redesigned unit for this application after March 1, after application submission, and in doing so, will likely have to approve some significant change to the application after that March 1 submission deadline as well as a result because of the redesigned unit.

MR. CONINE: Mr. Luna, would you like to address the Board again?

MR. LUNA: Let me talk about the design first. I think we're in agreement there. At the May 5 Board meeting, the Board instructed the staff and the applicant to kind of go do our homework and see if we can come up with a design.

And we did go through several iterations to come up with what's option D, and which is in the Board briefing and I think in Ms. Morales's comments, the staff acknowledges that option D now meets those requirements. So I think we've accomplished what we set out to do.

With respect to compliance issues or even other issues, I feel like that might be a little premature. We've not been able to engage with staff on those because the thought was, let's see what the Board does with the design.

But on that issue we currently have received ESG, which is Emergency Services Grant from HUD; HUD's COC, Continuum of Care funding; some SHP, Supportive Housing Program; federal stimulus funds, HPRP, Homeless Prevention Rapid Rehousing; CDBG from the city of Dallas, Community Development Block Grant. We receive a lot of federal funds and we comply with all of those, the single rent audits, the compliance issues.

So I understand the staff may have come and looked at one of our current programs on the ground, but we

acknowledge and understand that that program may have to change to meet the compliance requirements of a tax credit project. We recognize that and understand that. So compare apples and oranges we think is both probably premature and inappropriate.

The other comment I want to make is in terms of the major redo, we have said we are increasing our request for tax credits, so that's not a major redo. We remain the same number of units, that's not a major redo. We're not changing -- we already own that piece of property, so the property is not changing. So when Ms. Morales says major redo, in our view point we're going from one SRO design to another SRO design. And so there's really nothing major about that.

In the law there's a concept when you object when there's a fact not in evidence, so somebody builds an argument off of fact that's not been entered as evidence yet. And so every time that staff says that our original design didn't meet the QAP, the hair on the back of my neck goes up a little bit because that was the staff recommendation. The Board never made that determination.

And if you'll recall, if we had a time machine to go back to May 5, at our discussion about the rooms not being enclosed, and the sleeping rooms being less than 100

square, and there being no doors, and there not being three by five by five closets, those were SROs then. So we have never said that first design was not an SRO design. The staff has said it's not an SRO design.

So in our view point, all that we're doing is swapping out one SRO design that the staff now admits meets the technical requirements of the QAP with our first design, which they had questions on, and didn't meet the QAP. And so at that May 5 -- I think it was Mr. Keig and Mr. Ozer and the Chairman, even Mr. Irvine commented, go off and see if you can redesign it to meet the QAP instead of trying to tweak or bend the QAP to match the design, and that's exactly what we've done.

And the last thing I will tell you, having been a public servant much like yourselves, and having worked with staff, we really appreciate the work and effort of your staff.

While we didn't always agree, your staff was always professional and responsive and helpful.

Ms. Morales, Mr. Gouris, Mr. Irvine, I mean early conference calls, late conference calls, conference calls on a short turn around, can we get your comments and feedback on this. So regardless of what happens today, what you asked your staff to do, they did that and then some, and as taxpayer, I certainly appreciate that.

We believe that option D meets the QAP. We respectfully request that this Board grant the appeal, let us substitute in option D, and then any other issues, compliance or otherwise, I guess we'll see you on July 28. Thank you.

MR. CONINE: Okay. Ms. Morales, just for quick clarification, the resubmitted design, option D, does -- staff does agree that's meets the QAP requirements?

MS. MORALES: Yes.

MR. CONINE: So all we're voting on -- or being asked to vote on here is whether or not we --

MS. MORALES: You're going to accept --

MR. CONINE: -- will allow it.

MS. MORALES: -- that redesign. Right.

MR. CONINE: Okay. All right. Any other questions?

MR. KEIG: Yes.

MR. CONINE: All right. Mr. Keig.

MR. KEIG: Ms. Morales, in the write up, you or your staff said, The application as submitted appears, based on a preliminary review, to have significant program issues and underwriting deficiencies and inconsistencies.

Could you expound upon that, please?

MS. MORALES: Right. Well, not having gone

through a full review of the application, just kind of doing a preliminary review, it would seem that there is some -- there are some issues with respect to some of the -- not just the threshold, but just some of the point items selected and whether or not they understood the points that they were requesting as far as qualifying for them.

As far as underwriting, I'm not -- like I said I haven't -- this file has not gone to underwriting. I know that Cameron, who's working up here now, has kind of taken a preliminary look on the underwriting, and maybe he can address that.

MR. CONINE: I think it may be slightly premature in getting into those issues. Let's get this design issue clarified, and then I think the program issues will come at the next meeting, from what I'm -- because staff really hasn't had a fair enough chance to take a look at this thing, I don't think. Have you?

MS. MORALES: Well, I mean I think we've had a good enough chance to look at it, just even based on the preliminary review of it.

MR. CONINE: But that's not what we're being asked on the appeal.

MS. MORALES: Right. Right.

MR. CONINE: So I don't want to confuse the issues

here. Let's just deal with the design issue currently, if we could.

Can I get a motion?

MR. OXER: I move to grant the --

MR. CONINE: Motion by Mr. Oxer to grant the appeal.

MR. OXER: Correct?

DR. MUÑOZ: Second.

MR. CONINE: There's a second by Dr. Muñoz. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

We'll see you at the next meeting --

MR. LUNA: Thank you, Mr. Chairman. Thank you.

MR. CONINE: -- I got a feeling.

(General laughter.)

MR. OXER: You got 10 days to get to work.

MS. MORALES: Okay. I believe we are now down to 11140, Villas at Giddings?

MR. CONINE: How about let's take a five minute break.

MR. OXER: What a splendid idea.

(Whereupon, a short recess was taken.)

MR. CONINE: Let's resume, please.

Ms. Morales.

MS. MORALES: Yes, sir. We are on the appeal for Application 11140, Villas at Giddings.

MR. CONINE: All right. Hang on just a second. I've got to get past all these wonderful designs.

(Pause.)

MR. CONINE: Go ahead. I'll catch up with you.

MS. MORALES: Okay. Sure. Villas of Giddings is a rural Region 7 application in Giddings, Texas. The applicant requested points under Section 49.9(a)(18) for developments located in a census tract where there are no other existing same-type developments.

During staff's review, we determined that the application was not eligible for the points because there is another existing tax credit development targeting the same population within the same census tract.

The applicant is appealing that the points should be awarded because the other existing tax credit development offers one- and two-bedroom multifamily units for small or

individuals -- I'm sorry, for smaller families or individuals, whereas the application for Villas of Giddings proposed three- and four-bedroom single family homes with garages for larger families.

The Department's housing tax credit site demographics report, which is the reference that all applicant's competing under a competitive cycle uses to determine their eligibility for this particular point item does not differentiate developments on the basis of targeting larger versus smaller families.

Right now it only differentiates between those developments that target elderly versus those that target general population. Staff recommends denial of the appeal.

MR. CONINE: Okay. I have three I guess witness affirmation forms.

And there is Mr. Shackelford. Go right ahead.

MR. SHACKELFORD: Mr. Chairman, members of the Board, and Mr. Irvine, the good news is I'm not here to talk about the consolidated plan or revitalization plan.

(General laughter.)

MR. SHACKELFORD: Hopefully this will make it a little bit easier. I do not deny that there is a development already in this particular census tract, Windmill Apartments. I do not deny that at all.

Here, as Ms. Morales said, that to differentiate the language in 49.9(a)(18) from the project, is Windmill Apartments is a multifamily project that serves a community that only needs a one-bedroom or two-bedroom type property for a family unit.

This particular project is 56 single family detached homes with a garage. It's in a single family subdivision, has only three and four bedrooms comprising each house. So we think there's a material difference between the type of population that is being served.

And in looking at the language, I guess essentially our argument is two-fold, that at best the language in 49.9(a)(18) is ambiguous because it says that it can't be in an area that's supported by housing tax credits that serve the same type of household, regardless of whether the development serves the general or elderly populations.

And I guess, you know, essentially the way -- I don't exactly know what that means with the clause "regardless of whether the development serves the general or elderly populations." It appears to possibly mean that regardless of whether it's general population or elderly, if there's another housing tax credit project that's already in that census tract, you can't bring in another project and get these particular four points.

But if that the was intent behind the language, and I know we've had a lot of discussion about intent today as to what the QAP may mean or what the -- or how it's being interpreted, I would suggest to you, if the intent was that essentially -- and as it said in the supplemental board book, at the end of it where staff wrote that essentially the intent behind the rule is not to have a concentration of development using tax credits that serve the same population.

I understand the intent behind that, but I would say if that's what the intent is, then merely putting in that sentence a period after "supported by housing tax credits", that would have done it.

They didn't need to add the additional language in 49.9(a)(18) that says, That serve the same type of household, regardless of whether the development serves the elderly -- or serves the general or elderly populations. If the intent is you don't want to serve the same population, same population is not defined, type of household is not defined, and so I know it gets difficult as to, you know, how far are we going to go with the QAP in defining everything and making it more difficult for staff and for you all in making close calls.

But to me, a housing unit such as an apartment complex that only has one and two bedrooms, is not serving

the same type of household, it's not serving the same population as single family detached houses with garages that only contains three or four bedrooms. So we would respectfully request the Board to grant the appeal and reinstate the four points on this particular matter.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Jeff Spicer?

MR. SPICER: Jeff Spicer, State Street Housing Advisors. I'm speaking on behalf of Villas of Giddings.

Again, as John Shackelford mentioned, this is a three and four single family bedroom development, and across town in, you know, a relatively small town, is a one- and two-bedroom development. The key here is that we serve different households. A three- and four-bedroom house development is not serving the same household.

You know, I think the language is clear that it looks at serving households. Staff has a tool, which is on the website, that serves 95 to 99 percent of the developments. And that's those it catches. And it's a good tool.

However, this is the oddball, this is the outlier where that tool doesn't make sense. This is the one where the household definition is in definite contrast, the one and two versus three and four, multifamily versus the single

family setting.

This is the one case where the tool -- and staff uses the tool very effectively for most of the developments, and that's why we're here before the Board, to make sure that the tool isn't the only tool that they have, that we can come before the Board and ask for consideration for the actual language in the QAP that looks at households rather than just the tool that's used by staff. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Dru Childre.

MR. CHILDRE: I was going to --

MR. CONINE: You're just donating time to Jeff?

MR. CHILDRE: -- give time. Correct.

MR. CONINE: Okay. All right. You know, there's -- our opposition -- restate our opposition one more time, because I was fiddling around with papers and I didn't hear you.

MS. MORALES: Well, our opposition is that the QAP references at the end of that particular section, that the way to determine eligibility for these points is to look at the housing tax credit site demographics report. And our report only differentiates on the basis of general versus elderly.

MR. CONINE: Right.

MS. MORALES: We don't differentiate between any other type of population.

MR. CONINE: Right.

MS. MORALES: And so to, you know, grant the appeal in this case would kind of put an unfair advantage to any other applicant that might have qualified if we had differentiated between smaller versus larger, but we've never really, you know, put that into place with respect to this particular scoring item.

MR. CONINE: And is it true we do have other single family tax credit deals that have met --

MS. MORALES: Sure.

MR. CONINE: -- the qualifications --

MS. MORALES: Yes.

MR. CONINE: -- and for some reason this one doesn't.

MS. MORALES: Right. It's just not eligible for the points for being in a census tract with another tax credit deal.

MR. CONINE: Okay.

DR. MUÑOZ: We don't differentiate between one- and two-bedroom and --

MS. MORALES: No.

DR. MUÑOZ: -- three- and four-bedroom?

MS. MORALES: We only differentiate between elderly and general population.

MR. CONINE: I mean I think I understand where you're headed with it. I just think, as long as I've been around, I've been -- I've had this vociferous opposition to four bedrooms especially, and we've got it shrunk down over the years to a tolerable level of I think 5 percent or something in our QAP.

And I understand -- I just don't believe that the two-bedroom individual in Giddings, Texas is being well served by passing this off as -- or approving this particular appeal.

There's got to be a lot of two-bedroom usage in Giddings, Texas that isn't going to get served.

And so, you know, I would tend to think I would deny the appeal. But I'm up for whatever the Board wants to do. Is there a motion?

MS. BINGHAM ESCAREÑO: I move staff's recommendation to deny the appeal --

MR. CONINE: Moves staff's recommendation to deny the appeal. Is there a second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

All right. Moving along to the next one.

MS. MORALES: The next one is 11142, Veterans Place.

MR. CONINE: Hang on.

(Pause.)

MR. CONINE: Okay. Got it.

MS. MORALES: Okay. Veterans Place is an urban Region 3 application in Dallas, Texas. The applicant selected points for development location, specifically for being in a high opportunity area.

The key to this appeal is that that in order to qualify as being located in a high opportunity area, which the QAP specifies what criteria must be met, that criteria includes that the development must include the use of a four-story or greater building with structural parking that is located within one-quarter mile of an existing major bus transfer center or regional or local commuter rail service.

This development does include the use of a four-story building, additionally it is located within one-quarter mile of a local commuter rail station. However, it does not include structural parking, which means garage parking.

The applicant has confirmed that structural parking is not proposed within the tax credit application for Veterans Place, but is appealing that structured garage parking will be available once the larger development plan, which I believe encompasses maybe like a block, one city block of this Veterans Place application of which the Veteran Place application is a portion of, that that structural parking will be available to the residents of this tax credit application.

However, the application for Veteran Place did not include any information with respect to some sort of agreement, or memorandum of understanding with the developer of the larger one-block complex, and staff did not award the points on the basis of awarding points to an amenity that's not proposed within the tax credit application. Staff recommends denial of the appeal.

MR. CONINE: Okay. I have one witness affirmation form. Yigal Lelah.

MR. LELAH: Good afternoon.

MR. CONINE: Good afternoon.

MR. LELAH: My name is Yigal Lelah. I'd like to thank Chair Conine and the Board for the chance to speak today on behalf of Veteran Place, and the opportunity to appeal Application 11142.

Veteran Place is appealing the development location pursuant to Section 49.9 of the 2011 QAP. Veteran Place is part of a much larger mixed use development plan that will service and honor the veterans of the United States that live in the Dallas area.

It will consist of affordable housing for veterans and their families, a veteran museum, a pedestrian skybridge that will provide easy, comfortable access to the VA Hospital and transit rail line, much needed medical office space, along with retail and restaurant space.

In addition to all of these amenities, the Veteran Place master development plan will provide structured parking that will be available to everyone who uses any and all of these facilities.

Veterans Place is in a transit-oriented district, it is in a TIF district, redevelopment area, low income census tract. We have several veteran service organizations that are eager to work with our veteran residents once our structure is complete.

The Veteran Place affordable housing component will provide the required structured parking spaces for its residents. These designated spaces will be available to, and only to its residents as intended, to have a separate entrance -- and is intended to have separate entrance gate specific to the affordable housing component.

The decision was made to add the structured parking as part of the medical office space of the planned development due to budget constraints.

As I believe the Board is aware, this project is being developed in partnership with the city of Dallas, which has committed itself to developing the entire Veterans Place site of seven acres with \$4.3 million in financial assistance to date.

This has enabled Veterans Place to purchase and close on the entire seven-acre site, reach almost full completion of construction drawings for the 149-unit affordable housing component, and initiate demolition and site clearing of all dilapidated structures and complete rezoning of the property by August 10, 2011.

This partnership has also given Veterans Place the ability to start preliminary design of its second phase, the structured parking and the -- the structured parking for the affordable housing and medical offices. In a recent high

level meeting with the city of Dallas, the decision was made to pursue construction of the medical offices and structured parking.

While we have no formal agreement with the city of Dallas prepared for the second phase, we have had several discussions regarding funding for the parking structure and medical offices, including new market tax credit, HUD 108 loans, and bond funds. We would be glad to provide a formal agreement at the time of a commitment notice, or as a condition of the award of credits.

As you see, Veterans Place is a shovel-ready affordable housing project should it be fortunate enough to gain enough points to receive a commitment. If not, we hope the Board views Veterans Place as a good and timely project of affordable housing for America's veterans.

In closing, I'd like to thank the Board for all your effort and hard work, and to ask that Veterans Place be afforded points under Section 49.9. Thank you.

MR. CONINE: Okay. Any questions of the witness?

DR. MUÑOZ: Yes --

MR. CONINE: Dr. Muñoz.

DR. MUÑOZ: Why can't you provide some sort of memorandum of agreement now about this structured -- about the garage, the structured parking?

MR. LELAH: I think we would be able -- I think we could do that now. I think if we had the opportunity to be able to provide that, I think we could get that accomplished.

DR. MUÑOZ: Because you said you don't currently have any sort of formal agreement.

MR. LELAH: We have a formal agreement with the city of Dallas to develop the entire second -- seven-acre site, but we do not have the agreement in place for the structured parking and the medical offices. In our last meeting, it was agreed upon that we --

DR. MUÑOZ: We're only interested in the --

MR. LELAH: -- were pursuing that.

DR. MUÑOZ: I think we're only interested in the structured parking. That's the issue.

MR. LELAH: Correct. Okay.

DR. MUÑOZ: And you could generate --

MR. LELAH: We could generate that, yes.

DR. MUÑOZ: Now?

MR. LELAH: Yes.

MR. OXER: Within 10 days?

MR. LELAH: Within 10 days.

MS. BINGHAM ESCAREÑO: I have a question.

MR. CONINE: Question by Ms. Bingham.

MS. BINGHAM ESCAREÑO: The letter though probably -- at this point you don't have financing secured. You've talked about different instruments and how you'd get there, but there -- really the city of Dallas -- the letter would probably say they intend to support you, but there's no secured financing for that second phase. Correct?

MR. LELAH: That's correct. There is no secured financing. We are preparing sources and uses, which we have prepared. They have asked for plans and they have asked for solicitation from finance companies for that phase.

MS. BINGHAM ESCAREÑO: I guess, you know, my heartburn would be it's a very worthy project and I, you know, I've followed it from the last time you presented it, and it looks great. It's just it's a competitive process and you're asking for points for something that you just don't have locked in, you know, so that's -- I believe you're going to make every effort to get it, but at this point you're just not in complete control about making sure that that can happen.

MR. CONINE: Ms. Morales?

MS. MORALES: Yes, I would also add, I mean that's the basis for why staff didn't award the points to begin with, it's because, one, they're relying on getting points for something, like I said, an amenity that's not even going to be included within their tax credit application.

The cost for constructing that structured parking isn't something that's included in that application, whereas other applicants who did select those four points for that particular item did include the cost, and it's a pretty significant cost differential between, you know, not having it and versus having it, so, you know.

MR. CONINE: I would almost think in reverse, you know, it'd be nice not to have it, not to have to pay for it with tax credits. That's kind of where my mentality comes from. Okay.

MR. OXER: Well, the Board has come down on several occasions on clarity for things had not been firm and fixed. Is that fair?

MR. CONINE: That's fair.

MS. BINGHAM ESCAREÑO: I move staff's recommendation to deny.

MR. KEIG: Second.

MR. CONINE: Motion to deny the appeal and a second by Mr. Keig. Do I hear any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

DR. MUÑOZ: Oppose.

MR. CONINE: Motion carries -- oops, one oppose.
Motion carries.

MS. MORALES: Okay. The next appeal, 11156,
Montebella, and 11157, Andalusia Pointe, have both withdrawn.

So we will go on to 11169, Merritt Bryan Station Senior
Village. Merritt -- I'm sorry. I was waiting for a cue.

MR. CONINE: Sorry about that. That was my fault.

MS. MORALES: Merritt Bryan Station Senior
Village is an urban Region 8 application in Bryan, Texas.
The applicant is appealing the loss of 14 points for state
representative support.

Representative Fred Brown provided letters of
support for this and other applications submitted during the
2011 competitive cycle. On March 30, two days prior to the
April 1 deadline for support or opposition letters to be
submitted by either a state representative or senator,
Representative Brown's office contacted the Department and
requested that the support letters previously submitted on
his behalf be withdrawn, with the exception of the support
letter for another competing application.

Given that this request was done prior to the June
1 withdrawal deadline provided in the QAP, the Department

complied with Representative Brown's request. The QAP provides a time frame for legislators who have previously submitted a support or opposition letter to withdraw that letter, as long as it is done prior to June 1, bringing the letter -- legislators' opposition on the issue to neutral.

It does not, however, provide for a legislator the opportunity to withdraw a previously withdrawn letter as is the case with this appeal. Staff recommends denial of the appeal.

MR. CONINE: Okay. We've got one, two, three, four -- a bunch of people. Granger MacDonald, Colby Denison is yielding to Cynthia Bast.

MS. BAST: Mr. Conine, would you rather have opposition or support first?

MR. CONINE: I guess -- well, let's hear you first.

MS. BAST: Okay. Cynthia Bast, Locke Lord, counsel for the applicant. This is real simple issue. Representative Brown appeared before you at your last meeting and admitted that his office made a mistake.

He came just a few days before his retirement from office to try to set the record straight, and the question is whether his mistake can impact whether this tax credit

application receives an award.

We know that Representative Brown submitted a letter of support, that it met the QAP requirements and was timely. We know that he withdrew the letter, and again, the withdrawal was timely.

But upon realizing his error, he communicated with TDHCA staff in the email that I provided you as my one-page handout, saying, "We must do whatever is necessary to reinstate our support for the Merritt Bryan Station. I am very sorry for all of the confusion and we have learned a lesson about this process. This absolutely will be the only letter we will be reinstating."

Staff claims that the QAP does not allow a letter that has been withdrawn to be reinstated. What the QAP does is it gives legislators a deadline of April 1 to submit their letters of support or opposition, and then it gives them until June 1 to withdraw those letters. It gives them an opportunity to change their minds.

It used to be that the QAP did not allow a legislator to change his mind. That changed for the 2009 QAP during the drafting and review process. That is when this time frame was implemented to allow a legislator to withdraw a previously letter.

So the point in doing that back in 2009 was to

allow a legislator to change his mind, and that's what Representative Brown did. He did so within the time frame allowed by the QAP. That last communication, a copy of which I have given to you, was made on May 25. And then he followed up with Board attendance at your last meeting to make sure that you heard his intent.

So to say that his wishes cannot be honored because the QAP does not expressly permit reinstatement really doesn't make sense. As a Board you have the ability to make the decision whether Representative Brown's admitted mistake will be allowed to impact this application.

This is not a circumstance of the applicant's doing. But the applicant is standing here in a make or break situation relying on your good judgment. With the granting of this appeal, the application can be the highest scoring in the region and receive a tax credit allocation.

If you do not grant this appeal, then a qualified applicant will not receive an award because of the Representative's mistake. So the applicant and Representative Brown respectfully request your support.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Mr. MacDonald.

MR. MacDONALD: Thank you, Mr. Chairman, members

of the Board. I'm Granger MacDonald of Kerrville, Texas. I'm here today to ask you to support the staff recommendation in the qualified allocation plan that govern this Board in the tax credit allocation process.

I'm not asking you to judge the intent of the QAP, as we've discussed all day today. I'm asking you to judge what it actually says. I'm asking you to deny this appeal and the subsequent appeal from the other Bryan-College Station project with similar facts.

I've passed out to you page 47 of the QAP, and underlined the pertinent section where the staff has used to make its decision. Clearly letters cannot be amended once withdrawn. A new letter may not be submitted after a withdrawal to change or replace the original letter.

In your board package, Exhibit B, Mr. Brown clearly stated, "Dear Mrs. Meyers, I'm respectfully requesting that all other letters be withdrawn. The application that I truly support is Number 11214, Cobblestone Village. Thank you for your time and consideration. Fred Brown, State Representative." This is not Cobblestone Village.

I realize it didn't state -- Representative Brown appeared before you at your last meeting for a brief 30 seconds and said that he had -- that was not his intent. He did not admit to a mistake. And I'm not sure that that matters.

But as a matter of full disclosure, you've already heard Mr. Brown has resigned his post from that region.

Be this as it may, if there was a mistake made, you have the mechanism to correct this mistake without voiding the integrity of the tax credit process by issuing this applicant a forward commitment.

Not only am I asking you follow your own clear and explicit rules, I'm asking you to not create a precedent where as soon as the first scoring log comes out the developers start jockeying around to get the legislative support letters changed, amended, or other applicant's letters withdrawn or thrown out.

I've been a part of this process since 1997, and we do not want to return to the days where tax credit allocations were a political football. This is what will happen if you allow the degradation of these very explicit rules of the QAP. In conclusion, I ask you to support your rules, your staff, good public policy, and the law.

MR. CONINE: Any questions of the witness?

MR. OXER: Mr. Chairman.

MR. CONINE: Yes, Mr. Oxer.

MR. OXER: I have a general question.

MR. CONINE: Sure.

MR. OXER: Why would a legislator withdraw his

support?

MS. MORALES: I don't know that I can answer that. Yes, I don't think I can -- I don't know. I don't know why they decided to withdraw their support for all of their other -- all the other applications except for the one.

MR. CONINE: When the withdrawal happened, did he -- didn't he read of letter of withdrawal or somebody read a letter of withdrawal? Did he sign that letter?

MS. MORALES: It was I think email correspondence --

MR. CONINE: Email --

MS. MORALES: -- between --

MR. CONINE: -- correspondence?

MS. MORALES: Yes.

MR. CONINE: From him or staff?

MS. MORALES: Between Representative -- no, between his staff, his chief of staff I believe, and Department staff.

MR. CONINE: Okay.

MR MacDONALD: Is has his signature, I'm certain or his name on it.

MR. OXER: Well, if it's his chief of staff, it's on his behalf too.

MS. MORALES: Right.

MALE VOICE: The withdrawal or the reinstatement request?

MS. MORALES: The withdrawal. I don't know about --

MALE VOICE: But also the reinstatement. You're saying that they [inaudible]. That was the chief of staff. Right?

MS. MORALES: I'm not sure. Yes, it was. And then -- yes, it was his chief of staff that signed that reinstatement.

DR. MUÑOZ: Did they indicate that maybe it was a clerical error, an administrative error, a staff --

MR. OXER: A political error.

(General laughter.)

MR. CONINE: I think it was a campaign donation here.

MS. MORALES: No. No, not --

DR. MUÑOZ: Administrative error?

MS. MORALES: No. No, they just expressed their wish to withdraw.

MALE VOICE: Just they said, Whoops.

MS. MORALES: Yes.

MR. CONINE: Would you like to speak?

MR. DENISON: Sure.

MR. CONINE: Since I have a witness affirmation form here from you.

MR. DENISON: I'm Colby Denison from Austin, and I just wanted to say I think Representative Brown in his statement to you all at the last Board meeting did say it was an error from his office and his staff. I don't know if we have the transcript, but I believe that's the case.

MR. CONINE: You know, my biggest fear is that we start, you know, start something that I don't want to start, because I came from -- when I first got on this Board, that's what was going on. I certainly don't want to get back to that arena. And we have been fairly transparent and predictable, and I'd like to stay that way if we can.

MR. OXER: Try to keep some hard edges on the rules and the schedules too.

MR. CONINE: Yes.

MR. IRVINE: Mr. Oxer, going back to your question. Also, I think it was staff's intent here, or understanding here that a representative or senator, when they gave their letter and they timely change their mind, they could recalibrate to neutral.

MS. MORALES: Right.

MR. IRVINE: And that was it.

MR. CONINE: A lot of those -- stuff like this

is written in the QAP have been generated from round tables with all these people and, you know, around the room kind of trying to flesh out with staff what the best procedure would be.

And I think what's in the QAP was ultimately agreed on, that we could get there, and we could provide some time frame somebody to change their mind, but not the ability to go back because that connotes the wrong thing I think.

MR. KEIG: Mr. Chairman.

MR. CONINE: Yes, Mr. Keig.

MR. KEIG: Just I'm not saying I disagree with that position, but looking at the QAP, this was not a change or placement, and it was not a new letter. So it doesn't really talk about reinstating a letter that's the same letter.

But I think, given the history that you were referring to, maybe it might not be such a good idea.

MR. CONINE: You got a motion?

MR. OXER: Do we have a --

MR. CONINE: Excuse me?

MR. OXER: One more question.

MR. CONINE: Yes, sir.

MR. OXER: Do we have the QAP we can quote that, or any -- Counsel?

MR. CONINE: It says 49.9(a)(16) in this write

up, but I'm not sure that's the correct spot.

MR. OXER: Well, let's give them credit for taking a look anyway. It's the one we've seen today, Mr. Chairman, the QAP may need a little HTC support for renovation itself.

(General laughter.)

MR. CONINE: Always does.

MR. OXER: All right.

MR. CONINE: Yes, why don't you read it to Mr. Oxer.

MR. OXER: Put it in the record.

MR. IRVINE: Section 49.96, "A state representative or state senator may withdraw in writing, but may not change or replace a letter that is submitted by the April 1 deadline on or before the withdrawal deadline for state senator or representative letters as identified in 49.3 of this chapter, but may not submit a new letter. After the withdrawal deadline, such letters may not be withdrawn. The previously position of support or opposition that is withdrawn will be scored as neutral, zero points."

MR. CONINE: Is there a motion?

MR. GANN: Move staff's recommendation.

MR. CONINE: Motion by --

MR. OXER: Second.

MR. CONINE: -- Mr. Gann, second by Mr. Oxer.

Is there any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

What's next, Ms. Raquel.

MS. MORALES: Well, 11178, Esperanza Cove has been withdrawn. So we will move on to 11195, Stonebridge of Lubbock.

MR. CONINE: Okay. I got Lubbock in my rearview mirror. Go ahead.

(General laughter.)

MS. MORALES: Okay. Stonebridge of Lubbock is an urban Region 1 application located in Lubbock, Texas. This appeal also deals with community revitalization, but it's got a different set of circumstances.

The original application submitted included a copy of plat map and a copy of a drainage analysis report for the community revitalization point item. Staff reviewed the documentation and could not figure how it qualified as a community revitalization plan.

We did issue a deficiency to the applicant requesting clarification how the originally submitted information qualified as a community revitalization plan. In response the applicant provided a certificate of consistency that was signed by the mayor referencing the Lubbock consolidated plan.

Staff did not accept that because that was new information that wasn't originally provided in the application. So they were trying to remain eligible for the points with a new plan that wasn't originally provided.

The applicant is appealing that the plat map was approved by the city and is part of the consolidated plan, as is the drainage analysis report. But in reviewing the consolidated plan, there was no reference to that plat map, there was no reference to the drainage analysis report, and no other evidence was provided to show that the plat map and that other report was approved by the city as its community revitalization plan. So staff recommends denial of the appeal.

MR. CONINE: I do have a witness affirmation form.

Dru Childre.

MR. CHILDRE: Hello. Good afternoon --

MR. CONINE: Good afternoon.

MR. CHILDRE: -- Chairman, Board members. We're

almost out of here. My name is Dru Childre, and I'm representing the applicant of Stonebridge of Lubbock, 11195.

After review of our application, staff determined that we did not meet the requirements to receive the three points for the community revitalization category. Once we received the deficiency notice information to us that what was submitted was not -- will not qualify and would not qualify for the points, we obtained a letter from the city of Lubbock stating that our site is within the boundaries of the city's revitalization plan.

This letter was submitted within our deficiency guideline, allotted guidelines. And after hearing some other applicants this morning in today's meeting, that there have been some applicants that were able to amend their application, and the Board has chosen to approve their amendments after the application submission deadline, and also the deficiency deadline requirements.

And we're here asking again also that if you would please consider accepting the revitalization plan that was executed by the city of Lubbock that you have in your handouts, this to allow us to receive the three points for revitalization plan.

This is an area of the southwest quadrant of Lubbock. There are not tax credits within this area.

There's -- all the tax credits are either on the east side of town, northern side of town or northwest side of town. This is the only family application that is being submitted in the southwest region.

This is a newly growing area, there's a lot of brand new retail going up, brand new elementary schools that's within walking distance of our housing development, our proposed housing development that our students will be able to walk to the elementary school. There's a brand new mall that is just about -- less than a mile north of our site.

And in light of our competition in Region 1 that we're going up against, we would like to just have that same opportunity, that they were able to amend their application here today, and, you know, present this letter and hopefully request that you approve our appeal to be able to use this letter from the city of Lubbock. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Mr. Childre, does the consolidation plan that you presented from Lubbock, does it have targeted areas in it?

MR. CHILDRE: Well, that's kind of a whole other issue that has just come up this morning, since Robbye Meyer has submitted -- you know, within the week, in the Board

meeting -- or in the Board agenda, there was -- have been some challenges for some of the other Lubbock applicants in receiving these points. And Robbye and Raquel and everybody has decided that what they have received is within that revitalization point area. We read it a little bit differently.

We read the consolidated plan, within the consolidated plan there's an action plan, within that action plan there are CDBG targeted areas, and within those targeted areas there are also other 50 percent or greater targeted -- what do they call them -- block grants, or block -- census block.

And, you know, the staff has decided -- you know, has made the determination that this area is within one of those revitalization 30 percent -- or 50 percent or greater low to moderate income areas.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Ms. Morales, have you seen the Lubbock consolidated plan?

MS. MORALES: Yes, sir. And they do have target areas.

MR. CONINE: Is this project within one of those targeted areas?

MS. MORALES: It is. But the issue that's before the Board is that the original information they provided in their application was not the Lubbock consolidated plan, it was another document. And they couldn't prove p that that was a community revitalization plan that met our criteria.

MR. CONINE: Okay. Any other questions of either Ms. Morales or Mr. Childre?

DR. MUÑOZ: Did you have a follow up comment?

MR. CHILDRE: No.

MR. CONINE: Dr. Muñoz? Okay.

DR. MUÑOZ: Now there's -- so you've seen the consolidated plan, and this falls within the target area?

MS. MORALES: It does.

DR. MUÑOZ: And the letter from the mayor was submitted in a timely way?

MS. MORALES: It was submitted after application submission, but in their deficiency response period.

DR. MUÑOZ: In the amount of time?

MS. MORALES: Yes.

MR. OXER: So they essentially cured a insufficiency -- or deficiency.

MS. MORALES: Well, they cured the ineligibility for the points, which we did not accept. There have been other appeals today that tried to do the same thing and use

something that wasn't originally submitted in the application that wasn't ultimately allowed by the Board either.

But, again, the issue is that they are -- they are located in the consolidated -- within the consolidated plan's target areas. I verified that for all of the deals in Lubbock with the consolidated plan. The issue is that what they provided originally was not the Lubbock consolidated plan, and it wasn't a community revitalization plan that met our requirements.

So they're asking to be able to supplement their application after the fact to remain eligible for the points they requested because the information they provided originally didn't get them there.

DR. MUÑOZ: But isn't that the purpose of the cure? You know, something might be submitted that you consider deficient, they -- you --

MS. MORALES: The deficiency just was specific to ask for clarification as to how the information they submitted originally qualified. In did not say, Provide new information or a new plan that will get you there, that will keep you eligible for the points.

So it's the deficiency process is provided to allow somebody to provide that clarification to the Department. If we couldn't connect the dots ourselves, then we go to them

and say, Help us --

DR. MUÑOZ: How the plot map and the --

MS. MORALES: How the plat map and the drainage analysis report met the criteria, the requirements in the QA with respect to community revitalization.

DR. MUÑOZ: Do you have a comment as to why you believe it met the requirements of the consolidated plan?

MR. CHILDRE: Well, in obtaining what we submitted, we were having discussions with the current land owner, and he had been working with the city, and this is what he provided to us. So we felt that that was sufficient.

There was receipts from the city stating that what was submitted was part of the discussion and approval process that the city went through.

And we felt that we needed something a little bit more when they -- when staff submitted our -- their deficiency to us. We felt that we needed something a little bit more so we went and talked with the once again, and obtained this letter that we're presenting today.

MR. OXER: Did the city of Lubbock plan exist before you made your application, and you just brought this in as a consequence of having been informed of a deficiency?

MR. CHILDRE: Correct. The city of Lubbock consolidated plan did exist, yes.

MR. OXER: Okay. Thank you.

MR. CONINE: Any other discussion?

(No response.)

MR. CONINE: If not, I'll entertain a motion.

MR. OXER: Move to grant the appeal.

MR. CONINE: Motion to grant the appeal by Mr. Oxer. Is there a second?

DR. MUÑOZ: Second.

MR. CONINE: Second by Dr. Muñoz. Any other discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MORALES: Okay. The next appeal is Application Number 11214 Cobblestone Village in Bryan, Texas.

MR. CONINE: Got it.

MS. MORALES: Cobblestone Village is an urban Region 8 application in Bryan. This is also an appeal to community revitalization. Originally the applicant provided

a letter from the city of Bryan indicating that the development was located within the boundaries of the tax increment reinvestment zone, known as Number 22, or TIRZ Number 22.

Staff was able to obtain a copy of the ordinance that created these TIRZ to determine if the ordinance met the requirements of the community revitalization plan. What staff was able to confirm is that TIRZ 22 was created for the purpose of financing the installation of public improvements such as roads, water lines, sewer lines and drainage facilities.

The ordinance does not speak specifically to the land area that was designated as part of TIRZ Number 22 as being targeted or created for revitalization and residential development. Therefore staff denied the points and recommends denial of the appeal.

MR. CONINE: Okay. We have one witness affirmation form. Granger MacDonald.

MR. MacDONALD: Pass.

MR. CONINE: He's passing. That concludes the witness affirmation forms.

MS. BINGHAM ESCAREÑO: Move staff's recommendation.

MR. CONINE: Move staff's recommendation by Ms. Bingham. Is there a second.

DR. MUÑOZ: Second.

MR. CONINE: Second by Dr. Muñoz. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MORALES: The next appeal is for Application Number 11216, The Sierra on Pioneer Road in Mesquite. This is an urban Region 3 application, and in this case the appeal is for community revitalization. The applicant utilized the Mesquite comprehensive plan for the community revitalization plan point request.

The key here is that the comprehensive plan does not target specific geographic areas for revitalization and residential development. It describes its existing land use areas within the city, but doesn't discuss these areas with respect to encouragement of a particular type of development or revitalization. So staff denied the points and recommends denial of the appeal.

MR. CONINE: I have one witness affirmation form.

Janine Sisak.

MS. SISAK: Good afternoon, Board, Board Chair, Board members. I'm going to start by saying that we worked really closely with the city of Mesquite in identifying the Mesquite comprehensive plan as it was eligible under the requirements of the QAP.

First, the city of Mesquite comprehensive plan encompasses the city of Mesquite including the site which is in the community business south area. Second the comp plan clearly targets specific geographic areas for development.

In the handouts I provided, you'll see the table of contents from the comprehensive plan, and it's actually divided into specific geographic areas. And in each of those particular areas, there's specific discussion on what types of development are desired in those areas.

This is more than -- the discussions in those areas are more than just general descriptions of existing land use.

It talks about what future land use would be appropriate and desirable in those geographic areas.

I think it's important to note here that this is a comprehensive plan, and not a con plan. Many applications in this scoring round used comprehensive plans for the points and were awarded those points and still have them today.

Most of the appeals that you've heard today are about consolidated plans, and as a planning document, and a consolidated plan is more of a five-year, you know, entitlement plan required for HUD funding. So I want to make that distinction. I think it's really important here.

Recently I learned that the staff was looking for a greater connection between the area that contains our site and the specific targeted development. I think here the plan clearly does that.

In the section of the comp plan that covers our site, again, the community business area, south area, it's in -- it's a little confusing because it's -- the community business south area is part of the community business area.

I think I starred that in the table of contents.

And in the introduction to that section it states, This section sets out guidelines for residential uses located in community areas. Again, more than just a description, it's talking about future appropriate development in those areas.

In this section, the plan recommends placing limitations on sites with general business designations in terms of size and uses so that the impact on adjacent residences is minimized. It goes on to describe an infill residential option for sites that are zoned general retail,

and areas where there is already sufficient retail, and notes that such sites, especially infill sites, may be better suited to accommodate residential development.

This is exactly the type of infill development that we're proposing in this application. Our site is zoned general retail, and the city and the neighbors are in support of our zoning change to I think traditional neighborhood district, or something like that.

In closing, there was some discussion earlier today about the intent behind this section. There was some earlier testimony that suggested that a Q&A from 2006 suggested that the intent of this section be broader than what is being used by staff today.

I also want to note, in some of the discussion about the QAP round tables, last year a lot of the developers asked that this concept be, you know, brought back into the QAP so that I guess the bump for -- I'm sorry for rehabs, they get six points extra.

A lot of people thought that this should be brought back in to kind of level the playing field between new construction and rehabilitation projects. And that to me suggests that maybe the intent wasn't supposed to be as strict as what we discussed earlier today. So thank you for your time.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Questions of Ms. Morales?

Ms. Bingham?

MS. BINGHAM ESCAREÑO: My question, Raquel, would just be did the applicant go over all of that with you and did you continue to have the same concerns?

MS. MORALES: Yes. We did talk about the comprehensive plan and staff concluded the same thing, that it just -- it doesn't target specific areas. It does provide description, like she mentioned.

In this case, the development that they proposing is in the business south section, and to the extent that it identifies that as a target area, it only identifies it with respect to describing the existing land use and what kind of development is, you know, allowed in there.

There were other comprehensive plans that were utilized by other applicants, and this same thing kind of happened in those cases where they divided the city into sections and described, This is what's allowed in this particular section of the city. But we were able to get there on those because they actually went a step further and said, We encourage this type of particular revitalization or residential development.

And so we could connect the dots on those and say, It meets the criteria and the intent. But we didn't get there with this one in particular. It was just a description of what the current land use is.

MR. CONINE: Okay. Any other questions, comments, motion?

MS. BINGHAM ESCAREÑO: Move staff's recommendation.

MR. GANN: Second.

MR. CONINE: Staff recommendation to deny, is there -- there has been a second by Mr. Gann. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MORALES: The next appeal that's in your supplement is 11227, Dolphins Landing. This one will not be here today to my error in compiling the supplement. I inadvertently left off the Board appeal documentation that the applicant had submitted, so they request that hear this

particular appeal at the July 28 meeting so that you guys have the benefit of reviewing the information they've submitted.

So we will move on to 11232, which is River Valley Apartments.

MR. CONINE: Time out. Got it.

MS. MORALES: Okay. River Valley Apartments is an urban Region 11 application located in Harlingen, Texas. The applicants selected one point for third-party funding outside of a qualified census tract pursuant to 49.9(a)(27) of the QAP.

In order to qualify for the point, the applicant must provide documentation of funding that is equal to or greater than 2 percent of the total development cost without rounding. The Department's review of the application revealed that the source of funding utilized amounted to 1.99 percent of the total development cost.

Because the QAP is specific on this particular point item, it does not get rounded. Staff denied the one point. The applicant's appeal does not deny the amount -- that the amount reflected in the application falls just short of the required benchmark, and confirms that the discrepancy occurred when adjustments were made to the applicant's total development costs, and they failed to make

the corresponding adjustment to the third-party loan.

The applicant also appeals to this Board to approve the one-point appeal on the basis that the Department's application template is flawed and reflects a rounded percentage for this point item, when no rounding is allowed.

Therefore resulting in an improperly developed application that led the applicant to believe that the amount of the loan was sufficient.

The Department's application currently embeds several auto fill and auto calculate functions that was requested as, you know, during our conversations during QAP round tables about to make the application more user friendly.

But it's developed with those checks simply as that. It's just a check to help guide the applicant in completing the application.

It was not -- those checks were not included in the template for the sole verification -- as the sole verification mechanism for the applicant to rely on for purposes of making sure they comply with the QAP. The applicant is expected to make those -- you know, check the information that they're providing in the application. Staff recommends denial of the appeal.

MR. CONINE: I have some witness affirmation forms.

Cynthia Bast, she's got all the time in the world yielded to her.

MS. BAST: And now for something new and different. Different topic. Cynthia Bast, Locke Lord, counsel for the applicant.

Ms. Morales stated the situation very succinctly. The applicant did receive a commitment for funding from a third party and requested the one point for that commitment. And the points were not awarded because staff determined that the amount of the funding was 1.99 percent of the total development cost instead of 2 percent of the total development cost. And it is correct that rounding is not permitted by the QAP.

So the funding here was \$1,595 short. So you would ask, How could this happen? How could an applicant invest so much and make this mistake? If you've ever looked at the TDHCA application spreadsheet, it's actually a series of tabbed worksheets, which, as was indicated, have -- are linked by embedded calculations. So theoretically, if you make a change on one worksheet, that can ripple through and effect the numbers on another worksheet.

And that's exactly what happened here. For the worksheet with regard to the third party funding, it's really

very simple. You enter two things. You enter the name of the funder and the proposed amount of the funding. And then the third box is the percentage of total development costs, and that's automatically calculated for you based upon the total development costs that are in the application 62 worksheets previous. It takes a long time on that arrow key to get back to that page.

But that calculation rounds to the nearest whole number. And the QAP says that rounding is not permitted. So the worksheet that was developed by TDHCA does not correctly implement the rules that were developed by TDHCA.

MR. CONINE: Did Tom Gouris develop that worksheet?

MS. BAST: I bet he did.

(General laughter.)

MR. CONINE: Okay.

MS. BAST: Because Tom he's responsible for everything.

(General laughter.)

MS. BAST: So in the process of preparing the application, the applicant was changing numbers. This happens, of course. This is a typical part of the process as you're going through the application process. Numbers do typically change.

But because of that automatic linkage, and the rounding error that was embedded in the worksheet, when they changed the total develop cost number over here, the application didn't change the percentage of total development cost 62 worksheets later on the spreadsheet. So the amount stayed at 2 percent.

If the rounding error had not been present, it would have gone down to 1.99 percent, and the applicant would have had a visual clue that something was wrong. So could they have calculated it by hand as Ms. Morales suggested? Absolutely. Absolutely that is correct. But when given this tool, there is at least some form of reliance there, and that went awry.

Additionally, I want to say that I think this problem really could have been resolved through the administrative deficiency process. The amount of funding was just \$1,595 short, 1.99 percent of the total development cost, and the commitment letter that was provided as evidence for this funding said that the lender would provide \$225,000 or approximately 2 percent of the total development cost. So it's clear what they were trying to do. They were trying to meet this criteria.

Now the QAP says an administrative deficiency is used when needed to clarify or correct inconsistencies in

an application that in the Department's reasonable judgment may be cured by supplemental information. So that's a direct quote from the rule.

So don't you think that 1.99 percent of the development cost versus 2 percent of the total development cost, when the letter indicates and intent to hit that 2 percent threshold constitutes some sort of inconsistency in the application? Staff says there was nothing to be clarified. But I think that that's an inconsistency, and staff never issued an administrative deficiency to question the situation.

So I'll our client has provided evidence that the lender is willing to lend that additional \$1,595 needed to meet the 2 percent threshold, and given all of these circumstances, we think that it would appropriate for the Board to grant this appeal for the River Valley application and this 1 point for funding from a third party. One point can, and does, make a difference in the competitive process, and we appreciate your consideration.

MR. CONINE: Any questions of the witness?

MR. KEIG: I have a question, Mr. Chair.

MR. CONINE: Yes, sir, Mr. Keig.

MR. KEIG: Ms. Bast, would the funding change result in a substantial reassessment or re-evaluation of the

application by staff?

MS. BAST: I don't think it would because we're only talking \$1,595 in the overall sources of uses. Mr. Stewart can address how underwriting would address that, but I don't see that being a substantial change.

MR. KEIG: All right. Thank you for that answer.

Now I want to ask the same question of staff.

MS. MORALES: No, it would not be a material change, if that's your question.

MR. CONINE: Any other discussion?

Mr. Oxer.

MR. OXER: Ms. Morales, what would be -- what's the total price on the project?

MS. MORALES: I don't know that off the top of my head.

MR. OXER: Or, Ms. Bast?

MALE VOICE: Eleven point three million roughly.

MR. OXER: Okay. That's -- so --

MS. MORALES: Yes.

MR. OXER: Okay.

MR. CONINE: Do I have a motion?

MS. MORALES: Sorry about the application. We'll go back to Word-based --

MR. OXER: That's okay. Anybody that's played with a complex Excel spreadsheet thinks he can --

MR. CONINE: I'd blame it on Tom if I were you.

MR. OXER: Yes, he's sitting right there.

(General laughter.)

MS. MORALES: It wasn't his fault. I can't blame it on him. I'll blame him when it's deserved, when it's his fault.

(General laughter.)

MR. CONINE: Do I hear a motion?

MR. GANN: I move that we approve the appeal.

MR. OXER: Second.

MR. CONINE: Motion by Mr. Gann to approve the appeal, there's a second by Mr. Oxer. Do I hear any other discussion?

(No response.)

MR. CONINE: If not, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. OXER: I have a general question, Mr. Chair.

MR. CONINE: Yes, sir, Mr. Oxer.

MR. OXER: Is there anybody out there, apart from staff, that provides a Quicken or Turbo Tax approach to evaluating these? You know what I mean? You know, in Turbo Tax you load all this stuff in there and it says, Ah, you're missing this point, or you're missing this point, or this calculator's wrong.

MS. MORALES: Well, I think that's what the consultants are for. But --

(General laughter.)

MS. MORALES: -- no, I don't think there is, and quite frankly, I mean we used to have a Word-based --

MR. OXER: That's what filters are for, that's fine, but, you know --

MS. MORALES: Right. We used to have --

MR. OXER: -- we can't seem to be doing it.

MS. MORALES: -- a Word-based application form where they actually filled in by writing it in. And so, you know, honestly I tried to make it more user friendly, we got a lot of comments about how they make mistakes when they have to go and repeat the same information throughout the application because they forget or whatever. So that was the intent of moving it over to Excel. But, you know -- we'll just --

MR. OXER: I understand.

MS. MORALES: -- we'll address it for next year.

MR. OXER: Can you change the coding on that one cell, or --

MS. MORALES: I could change a lot of things.

(General laughter.)

MR. CONINE: Okay.

MR. OXER: We're looking at modifying the QAP, so.

MS. MORALES: Yes. Okay. I think we're down to the last appeal. 11241, Park Hudson Senior. This is an urban Region 8 application located in Bryan, Texas. The applicant is appealing the loss of a total of 17 points to the final application score.

I should note that the Board write up in your supplement addresses only the 14-point loss with respect to the state representative support letter, but there was also a three-point loss for community revitalization that we will be addressing right now during the presentation that wasn't included in your board write up.

We'll deal first with the 14 points for state representative support. This is another one of the Representative Fred Brown letters that was submitted originally before the April 1 deadline, and then subsequent to that submission the Representative asked staff to withdraw

his support and bring his position back to neutral.

So the applicant is appealing to reinstate Representative Brown's support, and had indicated in their appeal that he has confirmed and will confirm to the Board his support for this Park Hudson Senior development. However, I don't think that was one of the deals that was mentioned in his testimony at the last Board meeting.

The other item that is being appealed is the three points related to new construction with community revitalization. This applicant provided a letter that referenced a tax increment reinvestment zone. However, this one is TIRZ Number 8, and the ordinance was reviewed for consistency with the requirements of the community revitalization plan requirements in the QAP.

I have a copy of the latest information that applicant also provided, which was Ordinance Number 1197. It appears to be an ordinance supporting the project and financing plan for TIRZ Number 8 in the city of Bryan.

After review of the documentation of the ordinance that created the TIRZ, and this ordinance that is the financing plan, staff was not able to determine that there was any mention, or was not able to find any discussion about revitalization and residential development within that ordinance. Staff recommends denial of the appeal.

MR. CONINE: I have some witness affirmation forms. Kenneth Fambro, and he's got time donated.

MR. FAMBRO: Good afternoon -- or evening. I guess there's a benefit of going last, you guys are sick of hearing --

MR. OXER: [inaudible].

MR. FAMBRO: -- sick of hearing everything. But hopefully I'm able to differentiate these appeals from what you've previously heard.

I'll start with the easier of the two, what I think is the revitalization points. We've gone back, and I guess staff has been diligently trying to get these points straightened out. As you see, it's an issue with everything. But what we have, we have a TIRZ. I mean this is a revitalization area by definition.

MR. CONINE: State your name.

MR. FAMBRO: I'm sorry. Kenneth Fambro.

MR. CONINE: Thank you.

MR. FAMBRO: All right. It's a revitalization area by definition. One of the issues that I thought was in question from hearing -- or reading some of the correspondence from staff is whether or not the particular plan for TIRZ Number 8 included residential as a part of its overall plan, which is required by the QAP.

We contacted -- once we got additional information we contacted the city of Bryan and they provided the additional information, which is more -- another ordinance that further explains the TIRZ Number 8. And there's a map that -- I believe you guys have a copy of all this -- there's a map on the last page and it clearly states office, multifamily, and then down at the bottom, in two spots, single family.

So residential development is a part of this TIRZ Number 8. It's not a part of the other one, as staff pointed out. But we feel that's a key component on what makes this difference. The plan is in place, the plan is approved by the city, and it is a targeted area.

I don't know if you want me to keep going, or you guys want to look at that one particular issue, or do you want me to carry on to the --

MR. CONINE: Just keep going.

MR. FAMBRO: -- Representative Brown's points.

In terms of Representative Brown, this has been mucked up from the beginning. The difference that I would like to point out on our application versus -- I think the one you saw was the Merritt application -- is -- if I could just point out the facts on kind of how we see things.

We went, and one important thing is we actually went and received city council approval. City council in

the city of Bryan has a resolution, and it's in your documents, a resolution supporting this development, as well as Cobblestone. So the city, in fact, supported two developments.

After that meeting, and that was on March 24, after that meeting, what they were supposed to do from the city's perspective, is contact the state representative and state senator who had issued letters of support for other transactions, letting them know that they, in fact, only supported these two developments.

I think you guys asked a question, you kind of wondered what triggered his withdrawal. That kind of spun everything. We submitted actually our letter of supports twice, one on March 30 and one on April 1.

One thing I wanted to point out was at neither point in time did we receive a notification from staff that said Representative Brown had withdrawn his letter of support.

Once we found out -- we actually didn't notice this until we knew that our -- saw that our application had not gone through the underwritten process because we thought we were in very good condition. Once we did find this out, we immediately contacted Representative Brown's office, who that very same day, on May 10, supplied a letter of reinstatement, and that's in your packet as well, a letter

of reinstatement wanting this particular deal.

I don't know what went through his head. I don't know how this got screwed up, how he ended up, you know, withdrawing all but one and then wanting to reinstate a handful. I can't speak for him.

But I do the fact is the city wants two deals. One of them is Cobblestone Village and one of them is Park Hudson. And that was a long process in getting their resolution. In this year's QAP it's not a point issue, but it does speak to the volume and the length that this city does support this particular development through city council resolution.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. I have one more. Granger MacDonald. And he's got time if he needs it.

MR. MacDONALD: I can make it short and just ditto. We're looking at the same situation here, but not as strong of facts. I'm only speaking on the legislative letter and not the community support -- or community redevelopment area.

The city council may want these projects, but that's not what the QAP's talking about. The QAP's talking about a legislative letter. I have no doubt that the city council would love to have five projects, if they could get

away with it.

But we did not follow the established rules in the QAP, which Mr. Irvine read to you earlier. You do not want to -- and there was a published law immediately that we all knew about our legislative letters. And there's no vehicle to fix one of these things.

And I'm just going to ask you to look at the precedent that you took on the Merritt Bryan Senior project, follow your own rules, follow the rules as they're written, and follow good public policy so we don't start a political football game, have everybody going after everybody else's letters all the time. Because if we start this, it's going to be the wild west again, and we don't want that. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. We'll take these two -- take two votes on this appeal. First on the Fred Brown letter, I'll entertain a motion on it first.

DR. MUÑOZ: I move staff recommendation that we deny the appeal of consideration of the letter.

MR. CONINE: Motion by Dr. Muñoz to deny the appeal. Is there a second.

MR. OXER: Second.

MR. CONINE: Second by Mr. Ozer. Any further discussion?

DR. MUÑOZ: I just might add --

MR. CONINE: Dr. Muñoz.

DR. MUÑOZ: -- that, you know, in looking at an earlier email from Representative Brown's staff on May 25, the last statement in that email says, This absolutely will be the only letter we will be reinstating. And --

MR. CONINE: And it sometimes change sometimes.

Motion on the floor. All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. And now we'll deal with the community reinvestment issue letter -- revitalization --

MS. MORALES: Revitalization, yes.

MR. CONINE: -- not reinvestment. Geez. Revitalization. I'll entertain a motion on that portion of the appeal.

MR. OZER: Move staff.

MR. CONINE: Move staff recommendation --

MR. GANN: Second.

MR. CONINE: -- is there a second by Mr. Gann.
Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. MORALES: I'm done.

MR. CONINE: She's done. Yay. Good for you.

All right. Thank you, Raquel. Job well done.

Let me get back to my agenda. It has to be
somewhere around here. 3B. Mr. Irvine. Recap? Anything?

MR. IRVINE: I'm not aware of any.

MR. CONINE: Neighborhood stabilization?
Anything? HOME? Nothing? Underwriting appeals?

MR. IRVINE: That's it.

MALE VOICE: That's it.

MR. CONINE: I haven't gotten to you yet. You
better get that last one done, that forward done.

Anything else, Mr. Irvine, from the Executive
Director's view point?

MR. IRVINE: Nothing else to report, Mr. Chairman.

Just get a lot of rest between now and the 28th.

MR. CONINE: Thank you, Board. This meeting stands adjourned.

(Whereupon, at 4:45 p.m., the meeting concluded.)

CERTIFICATE

IN RE: TDHCA Board Meeting

LOCATION: Austin, Texas

DATE: July 18, 2011

I do hereby certify that the foregoing pages, numbers 1 through 307, 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.

7/25/2011
(Transcriber) (Date)

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