TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

Capitol Extension Auditorium
1500 North Congress
Austin, Texas

Thursday,
September 12, 2013
9:00 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice Chair (Absent)
LESLIE BINGHAM ESCAREÑO, Member
TOM GANN, Member
ROBERT D. THOMAS, Member
J. MARK McWATTERS, Member

TIMOTHY K. IRVINE, Executive Director

ON THE RECORD REPORTING
(512) 450-0342
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n) Presentation, Discussion, and Possible Action on the proposed repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, '1.22 and proposed new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, '1.22, concerning Providing Contact Information to the Department, and directing their publication for public comment in the Texas Register
o) Presentation, Discussion, and Possible Action on proposed amendments to all sections of 10 TAC Chapter 23, Single Family HOME Program; Subchapter A, General Guidance, Purpose; Subchapter B, Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds; Subchapter C, Homeowner Rehabilitation Assistance; Subchapter D, Homebuyer Assistance Program; Subchapter E,
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p) Presentation, Discussion, and Possible Action on the proposed repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter E, concerning Post Award and Asset Management Requirements, and a proposed new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter E, concerning Post Award and Asset Management Requirements, and directing their publication for public comment in the Texas Register.

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MR. OXER: Good morning everyone. And I can see you are all sitting and quiet already. So that is a good start. You have learned how we do this.

Before we get started this morning, I would like to welcome you all to the September 12 meeting of the Texas Department of Housing and Community Affairs Governing Board. For those of you listening at home, there will be a transcript of this made available in a couple of days after this.

The first thing I would like to do today is to welcome our newest member of the TDHCA Board, Mr. Robert Thomas of Austin, here. He is a very successful attorney and businessman.

We are fortunate and thankful to the Governor's Office to have him to serve with yet another member who has an impressive resume, far in excess of what I could offer up. I am glad to have somebody here who can pedal faster than I can.

Robert has been sworn in and trained. And if he was like me, he got sworn at right after he got here. And he is ready for action. So I would like you all to join us in welcoming Robert to the group.

(Applause.)

MR. OXER: Robert, if you have any comments you
want to make, you are welcome to make them now. And as you will find, this will be a good chance to say anything you want to get off your chest.

MR. THOMAS: No, sir. I am happy to be here today.

MR. OXER: Great. All right. Good to have you on board. At this time, we also want to do something very special, recognize a very special person who has served this board and the agency for a very long time.

And I have to tell you, if it weren't for that we are about to identify and recognize, you know, my life here would have been far more difficult than it has been. Several weeks ago, Michelle Atkins announced that she was going to retire from state service and from TDHCA.

I think everybody in this room knows that she served this Board in a variety of roles, and has really been the glue that holds things together during most of these meetings, including, as I recall, exactly two years ago this month, you know, offering me, what was it, 142 requests for public comment that we had in this building?

I recall -- yes, who was counting at that point? You know, it looked like a phone book. So anyway, we have a proclamation from the Governor, which I would like to have Michael read.
And, Michael, take it away.

MR. LYTTLE: Okay. This is a proclamation dated August 20, 2013. It reads as follows: "Greetings to Michelle Atkins. Congratulations on your well deserved retirement after 25 years of service to the people of Texas. Public service is an honor, for its foundation is in the public trust.

"Daily state employees earn this trust, demonstrating dependability, initiative and wise stewardship of public resources. Their endless dedication highlights that this State's greatest asset lies with the people who call it home.

"First Lady Anita Perry joins me in sending her best wishes for an enjoyable and fulfilling retirement. Sincerely, Rick Perry, Governor, State of Texas."

(Applause.)

MR. OXER: Those of you who don't know Michelle and the work that she does, really don't know why this whole organization runs as smoothly as it has. So, I don't know who is going to take your place. But it may take two or three Micheles' to do that. So at any rate.

Also, we would like to thank Senator Tommy Williams, who is the Chair of the Senate Finance Committee, for making sure that we were able to have the Capitol Extension Auditorium today. Thank you to the
Chairman.

And I think, is Jose Menendez here today? Yes?

He and a representative from Senator Van de Putte's office are here. And I believe -- I think Jose will be here in a bit.

And we would like to -- we have a comment. So do we have Mr. Bill Wilson here? Oh, yes. We have to do that. Oh, we have got to do something official here.

Hang on a second. I am getting far ahead of myself, Bill.

All right. Now that we have the amenities out of the way, we will go through the formal and official start, which is essentially the roll call. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Gann.

MR. GANN: Here.

MR. OXER: Professor McWatters.

MR. McWATTERS: Here.

MR. OXER: Dr. Munoz is not here. I am here.

And Robert Thomas, our newest member is here. We have five present. That gives us a quorum. We can conduct business. So with that, let's stand and salute the flags.

Tim.

(Whereupon, the Pledge of Allegiance was recited.)

(Whereupon, the Texas Pledge of Allegiance was recited.)
recited.)

MR. OXER: Okay. We are formally in session now.

So Mr. Wilson. Now, please.

MR. WILSON: Good morning, Mr. Chairman, Committee members. I appreciate this chance to address the Commission, the Board, and read into the record this letter sent just a few days ago by my boss, Senator Leticia Van de Putte. And for the record, my name is Bill Wilson, and I work for Senator Van de Putte.

"Dear Chairman and Board members, I am respectfully asking the Texas Department of Housing and Community Affairs to consider not awarding any additional housing credits in 2013 cycle until after current commitments have been met. This will provide time to fully assess the impact of the tax credit cycle on Urban Region 9, and Senate District 26.

"I recently learned that Urban Region 9 may be considerably underfunded by nearly 45 percent this cycle. I also understand tax credits that could potentially support housing needs for the City of San Antonio may be reallocated for use in other areas of the State, when there are regional eligible applicants that should be considered.

"In 1999, as a member of the Texas House of
Representatives, I collaborated with fellow legislators to enact the Regional Allocation Formula to provide an equitable distribution of tax credits. Because there was a great concern that the City of San Antonio have been significantly and traditionally overlooked in Texas' allocation of Housing Tax Credits. And it became imperative to find a way of allocating valuable housing resources outside the scope of Dallas, Houston and Austin. I am respectfully asking the State to see if commitments are returned, and then assessed, how each of the uniform state service region is allocated. They are over- or underfunded, so that the tax credit cycle could be fully evaluated with regard to regional allocation. Should the TDHCA award additional tax credits before commitments are returned, our concern is, Urban Region 9 will be adversely affected for the coming year. Thank you for your consideration. Signed, Senator Van de Putte."

MR. OXER: Thank you, Mr. Wilson. Any questions from the Board?

(No response.)

MR. OXER: Great.

MR. WILSON: Thank you for your time.

MR. OXER: Please give our regards to the Senator. Okay. Is Jose here? Okay. In that case, I think we have someone that wanted to speak on the Consent
Item 1 zero, or 1(o).

MR. SISCO: Good morning. My name is Robin Sisco. And I represent Grantworks, Incorporated, and we do extensive work with TDHCA's HOME program.

I am here today to let the Board know how supportive we are of the proposed changes in the HOME rules. The changes proposed will make this program less burdensome for homeowners assisted with HOME funds, and for the cities and counties that administer these projects.

We are especially appreciative to Jennifer Molinari and the HOME staff for the rules changes they proposed, and for all the hard work they do each and every day to keep this much-needed program running well. Just wanted to let you know that.

MR. OXER: So you are saying good things about the staff, and giving compliments to the Agency?

MR. SISCO: Absolutely.

MR. OXER: You come to speak any time you would like to.

MR. SISCO: Okay.

MR. OXER: Thank you very much.

MR. SISCO: Thank you.

MR. IRVINE: Any other staff clarifications regarding the consent agenda?
MR. GOURIS: Tom Gouris, Deputy Executive Director for Assets Analysis and Management. I have two clarifications on Item 1(j), the consent agenda.

It is for number 100-14, Artisan at Port Isabel. We accidently identified it as being in the City of Mesquite. And it should be listed as in the City of Port Isabel. The agenda is correct. It is just one of the references that says Mesquite. I want to make sure there was no confusion on that.

And the second item is item 1(t) on the consent agenda. It is regarding the repeal and proposed replacement of 10 TAC, Chapter 10, Uniform Multifamily Rules, Subchapter D, concerning the underwriting policy. The attachment there to the Board writeup has language in it which --

MR. OXER: Hold on a second. Which, was it P or T?

MR. GOURIS: D. I'm sorry, Item 1(t).

MR. OXER: T.

MR. GOURIS: It is Subchapter D of the rules.

MR. OXER: Okay.

MR. GOURIS: It is the underwriting rules. And in the attachment, we had included the report language that we used last year. And it incorrectly identified what we were repealing. The language in the body and the
reference in the report writeup is correct.

But in the attachment, we had included the wrong repeal language. So we are in fact repealing the existing Subchapter D and replacing it with the new Subchapter D, not repealing a chapter that doesn't exist any longer.

(Pause.)

MR. OXER: All right. Is there anything that we need to -- does anything need to be read into the record for that, Tom? Or can we --

MR. GOURIS: No. I don't think so.

MR. OXER: Move by reference.

MR. GOURIS: I just wanted to make sure it was clear, and that we were going to -- that the attachment would be corrected when we submit it to the Texas Register.

MR. OXER: Okay. Good. Thanks. Peggy, you have some more corrections to make? Okay.

MS. HENDERSON: Peggy Henderson, TDHCA.

Registering comment/opinion for Lucilla Torrez, for Agenda Item 1(j), project number 100-14, Artesian at Port Isabel for staff's recommendation. And the second item is for Edgar Sandoval, again, Agenda Item 1(j), project 100-14, for staff's recommendation.

MR. OXER: Okay. Any questions from the Board?
(No response.)

MR. OXER: Okay. Thank you.

MS. DEANE: I have one clarification on 1(e), the presentation, discussion and possible action on the 2014 audit work plan. And Sandy or the Audit Committee members, be sure to chime in if I say this wrong.

The Audit Committee members on that one had asked during the Audit Committee meeting that because the plan, as it is presented right now, the scope of it, and by scope, I mean the items that are determined to be placed in the audit. Exactly what the scope of the audit will be. Not just in terms of time, but in terms of subject matter and so forth, what will be audited.

It is impossible to determine and to put in the plan at this point in time. But it will be forthcoming. And so the Audit Committee members asked that they be provided with that information from the internal auditor so that they would have an opportunity to look at that.

It is possible that they might ask that it be put on a future agenda. But at this point in time they are looking for information on that. And so the approval of the audit, the 2014 audit work plan is subject to that proviso.

MR. OXER: Does anybody have any contributions or any comments?
MS. BINGHAM ESCAREÑO: I was looking over at Sandy also. But I think that accurately represents the Committee's recommendations.

MR. OXER: Okay. Good. That is the modification in the consent agenda as shown. Is that correct, Counselor?

MS. DEANE: Yes. That is correct.


MR. PIKE: Eric Pike, Director of the Homeownership Division. I had a clarification on one of the report items. I actually have two report items today, which typically are taken up with consent.

The first report item is for our Master Servicer Contract for our mortgage loan portfolio. That contract is being, or has been awarded to U.S. Bank, who is our current servicer. We also have a second report item, which is the award for our program administrator.

When the Board book was published, the master servicer item was posted twice, and the program administrator item was omitted. And so what we have done is, each Board member was provided a copy of the writeup for the program administrator. And there were copies provided to the general public out front.

For the record, the program administrator award has been made to Housing Development Services, Inc. And
they are our current program administrator, and have been since 2011. So I just wanted to bring those two items to your attention.

   MR. OXER: Good. Thank you.
   MR. PIKE: Thank you.
   MR. OXER: We had a little turbulence in the consent agenda in the last week. Okay. Anything else? Anybody else?

   (No response.)

   MR. OXER: In that case, I would entertain a motion to consider the consent agenda.

   MS. BINGHAM ESCAREÑO: Mr. Chair, I will move to approve the consent agenda with clarification for items 1(t), 1(j), 1(e), and the third item A and B as recommended by the staff.

   MR. OXER: Does that include everything?

   MS. BINGHAM ESCAREÑO: Yes.

   MR. OXER: Okay. All right. There is no other public comment required or requested?

   (No response.)

   MR. OXER: Okay. Motion by Ms. Bingham. Is there a second?

   MR. McWATTERS: Second.

   MR. OXER: Second by Professor McWatters.

   There is no public comment. Is there any other questions
from the Board?

(No response.)

MR. OXER: All in favor of the motion as memorialized by Ms. Bingham?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It is unanimous.

Good. Thanks. Okay. Let's jump right into it and be about our work, here. I think we are going to do -- we are going to -- we can do one or two items. (Perusing document.) Hang on just a second.

(Pause.)

MR. OXER: All right. We are going to -- I get to exercise the Chair's prerogative and reorder the sequence here. We are going to take up 5(f) and 5(g) here, Pecan Grove in Mission, Del Rio. Teresa, I think you are leading the fray on this one.

MS. MORALES: Chairman Oxer and members of the Board. Teresa Morales, Manager of Multifamily Finance. Items 5(f) and (g) represent the remaining multifamily bonds restructuring transactions with Centerline Capital Group, who represents the investor limited partner. You may recall late last year that staff brought a series of these Centerline restructuring transactions before you.
Homes at Pine Grove in Mission Del Rio are the remaining properties in the portfolio and are requesting the Department's consent regarding changes to some of the terms identified in the original bond documents.

The first one, Item 5(f), Homes at Pecan Grove, was originally issued multifamily bonds by the Department in December of 2005. The owner is requesting the Department's approval for modifications to existing bond covenants. Specifically these modifications include changes to the redemption provisions, stabilization requirements, and the final maturity date. Essentially, these changes will improve the overall financial strength of the property, the reduction in the principal balance of $250,000 of the bonds will decrease debt service and reduce the properties' ongoing operating deficit. Staff recommends approval of resolution 14-001.

MR. OXER: Okay. We'll take these one at a time here. Okay. All right. Are there any questions from the Board?

(No response.)

MR. OXER: Do I hear a motion to consider?

MR. GANN: I so move.

MR. OXER: Okay. Motion by Mr. Gann.

MS. BINGHAM ESCAREÑO: I will second.

MR. OXER: A second by Ms. Bingham. Is there
any request for comment?

(No response.)

MR. OXER: No request for public comment.

Okay. All in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. Thank you. Five G.

MS. MORALES: Next item, Item 5(g) again, is a multifamily bond transaction that was originally issued bonds in 2005. The owner is requesting similar modifications to that of Pecan Grove that include redemption provisions, stabilization requirements and the final maturity date.

However, where this transaction differs from Pecan Grove is that the original development plan called for the construction of 240 units. However, only 180 units were ultimately built.

This development is located along the San Antonio River, about a mile and a half south of downtown. The reduction in the amendments is the result of a condemnation of approximately two acres of the site by the San Antonio River Authority who had plans to use this land to restore the San Antonio River.

The ongoing litigation over this specific
parcel resulted in a delay of the commencement of construction. This delay and ultimate condemnation of a portion of the site created changes in the site configuration, the building and unit count, and created additional site work. The additional costs were the result of the new requirements at the time from the City of San Antonio and prompted Centerline to contribute approximately 3.5 million in order to complete construction.

The proposed principal reduction of approximately 2 million includes the condemnation proceeds. It will reduce the property's ongoing operating deficit and will alleviate Centerline's obligation to continuously fund deficits. Staff recommends approval of Resolution 14-004.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Okay. A motion to consider.

MS. BINGHAM ESCAREÑO: Move to approve staff recommendation.

MR. OXER: Motion by Ms. Bingham to approve staff recommendation.

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters.

There appears to be no request for public comment. All in
favor of the motion?

    (A chorus of ayes.)

MR. OXER:  Opposed?

    (No response.)

MR. OXER:  There are none. It is unanimous.

Thank you, Teresa.

    MS. MORALES:  Thank you.

MR. OXER:  Just as a point of housekeeping, we will keep our first row up here available for those who would like to speak. We have got a pretty busy agenda today, once we get into this. Really, and grinding.

    So for items where there are a number of people who want to speak, we are going to have to run a clock, just so we can -- we are going to have a three-minute limit on speaking. So when it comes your time to speak, then you can come up here, and we will start the clock on you back here.

    So all right. Let's go to the first item.

Okay. Straight into the action agenda. Sandy. There have been some modifications as identified.

    MS. DONOHO:  Okay. Good morning, Chairman Oxer, Board members. For the record, I am Sandy Donoho, Director of Internal Audit.

    We had an Audit Committee meeting this morning.

    We talked about and approved the fiscal year 2014
Internal Audit work plan. You also just approved that plan on the consent agenda.

As Barbara mentioned, the Audit Committee asked for a little additional information, which I have provided in the past. And then we kind of stopped doing, because there wasn't a lot of interest in it. So now I am happy to do that again.

At the end of the planning period for every audit, we provide management with -- we have a meeting, and we provide management with some information which we also follow up and give them in writing, which is, here is the objectives we have identified for this audit. Here is the work that we are going to do. Here is the time period we are going to look at.

And you know, here is when we expect to have the report. And more details about what we are going to do, and how we are going to do it.

And then, sometimes management will come back and say, you know, I am not really sure that that is going to be feasible, and here is why. And then we kind of go back to the drawing board and rewrite the objective, or change our testing plan.

We used to, on the front end, on the audit plan, just say, here is what we are going to audit. But then, because TDHCA is sort of a living being in some
regards, it was like hitting a moving target.

We are going to audit this section of this division, and then it would move. Or their functions would change, or something like that. And then we would have to go back to the Board and say, well, okay, now we can't audit that. We need to do it this way, or we need to do this.

So we decided that it was easier just to say, okay. We are going to audit the HOME Division. And we have an idea of what we are going to audit HOME. But then we will do a risk assessment once we have gained an understanding, and decide what we think are the highest risk areas, and then that is what we will audit.

So what the Audit Committee asked, and I am happy to do, is to provide them with that end of planning information of here is, you know, our objectives. Here is what we are going to do. And then if any of the Board members would like for us to put it on the agenda for the Board to discuss further, or have some input in that, I am happy to do that as well.

MR. OXER: Okay.

MS. DONOHO: So the annual plan is required by the Texas Internal Auditing Act, which is the statute that governs our audit functions. The plan outlines what we are going to do to take in the coming year. We do this
based on a complex and lengthy agency-wide risk assessment that is not always apparent on your end. It includes surveys of pretty much all of the directors and managers in the Agency. Interviews of executive staff. Research into statutes, federal regulations, any changes. Detailed reviews of program information. Reviews of statistics and you know, numbers.

We also considered input from the Executive Director. So I sit down with Tim, and we talk about what he thinks is important. That is factored in. And then, it goes to the Board to look at. And I send out an email to the Board saying, here's some areas; you know, what would you like for us to audit?

And the Board, I think, is kind of the check on that process. Because ultimately, you are the most accountable for what happens in the Agency. So your decision on what you think we should audit overrules everybody else's, including mine and Tim's.

For this year, we have six audits on the plan. Four of these, which are HOME, manufactured housing, titling, LIHEAP and financial administration are bigger audits. We have two smaller audits, in specific areas, ethics and the Annie Young program.

In addition to our planned audits, we set aside 10 percent of our available hours, in case we have a
special request from the Board or from executive management. We haven't had very many of those. So this year, we are allocating a tentative audit of performance measures to those hours. So what we will do is, at the end of the year, if we haven't had any special requests, we will go ahead and do performance measures.

Our plan is somewhat aggressive. And it will have a carry over project, which is a project that carries over into the next fiscal year. The reason we do this is so that today, September 12th, we are approving a plan.

If we finish the plan at the end of 2013, my staff would be sitting around for a couple of weeks until the next plan is approved. So having a carryover project or two gives us an insurance that we have some work to do until the plan is approved.

Another question someone asked, is the timing of this. We have a statutory requirement that we produce an annual report that goes to the Governor's Office, the LBB, Sunset and State Auditor's Office every year on November 1st. That requirement includes the next year's plan.

So if we don't have our plan approved by November 1, then we have to let those folks know that the plan will be coming later. So it is easier to get the plan approved, so that we can meet our deadline for
getting that report in.

We have an audit for manufactured housing on the plan. And I am sure many of you know, because it is a time commitment. They have a separate board. So when we do an audit in manufactured housing, we report the results of that audit to their board. But because it is a time commitment, they provide funding for one of -- part of one of my staff.

We put that on our plan, so that you guys know how we are spending that time. We also have some special projects and other tasks that are required by state law, or by our auditing standards. And those also go on our plan every year.

On 2013, we had six audits on that plan as well. We reported on four of those. We have one that we talked about this morning, which was compliance monitoring.

We also have completed the field work on our final audit, which is loan processing. And we are in the process of writing that report. So the Audit Committee will hear about that at the next Audit Committee meeting.

We had ten external audits or monitoring reports last year, which is slightly less than average. In 2012, there were 14, for example. This time, we talked about two external auditor monitoring reports that we
received.

One was a DOE onsite monitoring in the Weatherization Assistance Program. And they had no findings or concerns on that audit.

There was also a Workforce Commission Civil Rights Division review of our personnel policies and procedures. It was a compliance review, to determine if we were in compliance with the Human Rights Act. And the Department was certified as compliant.

We talked about the 29 prior audit issues that we were tracking; 23 were recently reported as implemented, and we are working on closing those. Fifteen of them, we are holding, because they are NSP. Just to wait until that program closes out. There are six that are pending, and we are researching those right now, so we can hopefully close those.

We talked about Fraud, Waste and Abuse complaints. In 2013, we received 79 complaints. In 2012, it was 80. So that is pretty consistent. Fifty-three of the 79 complaints we received were not under the Department's jurisdiction.

And the 26 complaints that we did receive, ten were closed. Nine were unsubstantiated. Seven were referred to the State Auditor's Office, or other oversight agencies. And we had no pending fraud complaints. Are
there any questions regarding the Audit Committee meeting?

MR. OXER: Questions from the Board?

(No response.)

MR. OXER: Ms. Bingham, as the Chair, is there any comments you would like to make?

MS. BINGHAM ESCAREÑO: I think Sandy summarized the priorities.

MR. OXER: Good. Thanks. Okay. This is a report. Essentially, there is no action required.

MS. DONOHO: Yes. No. Yes. You already approved the plan on consent.

MR. OXER: Good. Thanks.

MS. DONOHO: Thank you.

MR. OXER: Okay. Just for the record, you folks in the back here, for this microphone, is this up loud enough?

(No response.)

MR. OXER: Okay. All right. Item 3. Brooke, I think you are up.

MS. BOSTON: Hi. Brooke Boston. I am one of our Deputy Executive Directors. I am actually here today to kick off the new monthly item we are going to be having.

You consistently get to hear certain activities of the Department through the off comments and on issues
and challenges of policy considerations. Envision Cameron and Jean and Carrie before you. However, as you can imagine, as a significant body, work at the Agency that never really rises to the level of requiring Board action. Or if you do see it, it may often be a specific contract extension or award.

I think I see that our infrequency of needing to come for a lot of these programs is a good indicator that we are doing a great job. So I don't necessarily want to have to come back more.

But I do think an unfortunate consequence of that is that we don't necessarily get to share with you some of the great things that are going on. So on behalf of my management team, I wanted to try each month to share a few of those with you.

So for today, the brags to the Board are, in our Housing Trust Fund, in the Office of Colonia Initiatives area, we have released an additional $500,000 of Indian burial removal funds. That was already authorized under our trust fund plan, to do that, if we had excess funds come available.

And the entire amount was reserved in 90 seconds. Which means, our subrecipients were totally ready, lined up with their setups. Hit a button, and it was gone. So that is something internally we are just
thrilled about.

MR. OXER: The dashboard process is working, then. Right?

MS. BOSTON: Yes. And it shows that our reservation system is really working.

MR. OXER: Really.

MS. BOSTON: And it is, you know, I think it is a program that, they had a little bit of a rocky start. But it is one that we created ourselves. It is not a federal passthrough. And so it has turned into a resounding success.

MR. OXER: I will, let the record reflect that I had the opportunity to pass and didn't make any comments about federal rocky programs, rocky federal programs. So please continue.

MS. BOSTON: All right. For our HOME program, a federal program, we are in one of the best positions we have been in, in years. I have been here twelve years, and I have never seen us in such a good position.

You will hear more about this, at the October meeting. We are going to do a HOME-specific presentation. But a couple of things that have just gone amazingly well in the last few months.

We have exceeded our federally required commitment deadline by more than $3 million. That is a
deadline that we historically just scrape by, by the skin of our teeth. So that was huge.

We have already served 730 households this year, for where we are in our year to date. We have committed funds in excess of our annual allocation from HUD, which was done through the obligation of funds from prior years. So that puts us in a position for one of the first times in years, of actually having sufficient demand for the program for us to keep needing to release more money.

And HOME is one of those funds that we were always like, take it. Take it. So we are in a very unique position. And we are really excited about that, and very grateful for our subrecipients. Because obviously, they are doing the work in the communities.

As some of you may know, we have a requirement, legislatively, to work on our contract for deed conversions. That was something that was in our Sunset report. So we have made a lot of efforts to try and work on that.

Finally, in a joint effort between the Housing Trust Fund and the HOME program, we have found a way to leverage the funds from the HOME program by adding a little bit of trust fund money. Not much. But that helps the administrator be in a position to spend the extra time...
that is required to actually make these conversions occur. So we historically have done maybe one a year. We were lucky if we could spend $100,000. Last year, that is what we had hit. And this year already, we have hit $631,000 and finally have some subrecipients who are in a great place, and trained to be able to keep doing more. So that is wonderful.

In our Texas Homeownership Program, occasionally you will hear some resolutions that occur on the MCC program; our mortgage credit certificate program. And I just wanted to mention, that program switched from MIDAS, which is kind of -- or a legacy program, to E-Housing in July.

And that required really extensive training for our lenders and staff. We had to create new program guidelines. All new program documents. But that has gone through and is in effect.

And our MCC program is one of the largest in the country. Through the third quarter of 2013, we have done 2,265 loans through the MCC program. So big kudos to Eric, Cathy, Dean and Schwab for their work on that.

And last but not least, and this is more of an internal thing, which you hear even less about, are the support areas of the Agency. And one of the areas I oversee is our Information Systems. Go figure.
But I wanted to point out that in our Information Systems area, the support team is kind of the unsung heroes that keep all of the rest of us in a position to be able to do what we do. And just from September of '12 until probably even just a day ago, they have completed over 9,500 work orders.

And every one of those work orders could be anyway from a 15-minute request to a 49 hour-request from staff. So it could be, hey, my printer doesn't work, all the way up to, hey, can you make some tweaks in the system. So those are vast.

And they just go through that. And in the meantime, we are still doing all of their other system and network requirements. And in the midst of that, they dealt with it, in air conditioning being broken in our server room.

So I just wanted to tell you guys some of those positive things. And I am hoping to do that with you each month. And if you ever are interested in hearing about specific programs, we can do it that way, too. But everybody is doing a wonderful job at the Agency.

MR. OXER: Don't go away yet. Owing to the fact that we are typically dealing with issues that fall between the cracks, and we are always dealing with -- I mean, if it was already clear, it is like I told Cameron.
If he already knew what to do, he wouldn't have to come ask us what to do, when we come down to it.

So we are always happy. And I think I can speak for the rest of the Board. We are always happy to hear good news. Things are going well, going smoothly.

Congratulations to the staff for all of those, and actually to the Executive Director for the efforts during the last session to make sure that we got through the Sunset, and now have another twelve years to exercise these programs. It sounds like you have done a great job in creating and structuring an opportunity.

Structuring a program and then marketing that program to the community action agencies. And then training them to be able to implement those efficiently and expeditiously.

As Tom Gouris would love to hear me say, yes. That one is improving, too. Okay. It is a tractor thing. Okay. So those of you who have been here before would recognize that.

So, all right. Any questions from the Board? Any comments from the Board?

(No response.)

MR. OXER: I think kudos go to the staff.

Thanks very much, Brooke.

MS. BOSTON: Okay.
MR. OXER:  Good.

MS. BOSTON:  I think I'm next up.

MR. IRVINE:  Yes.  I would especially like to say that the kudos should go largely to Brooke as well, just because she is such an incomparable planner and organizer, and she brings her teammates together so effectively.

And she is just always focused on -- this isn't about signing contracts and you know, putting things in the system.  This is about moving money to serve people.  And you guys really do it well.

MR. THOMAS:  Mr. Chairman?

MR. OXER:  Indeed.  Mr. Thomas.

MR. THOMAS:  Is there an opportunity to get -- well, first a question.  You have indicated that there had been a marked improvement in the awards under the HOME program.  Did I understand that correctly?

MS. BOSTON:  Not necessarily in the number of awards.  The number I had referenced was the number of households being served so far this year.  Which was 730, I think is what I had said.  And then, we also have increased how much we are committing.

MR. THOMAS:  And I think I am referencing, you said that before you had to be encouraging people to apply.
MS. BOSTON: Yes. Yes.

MR. THOMAS: And I was wondering, what is the distinction? What did you change that allowed that to see such a marked difference?

MS. BOSTON: Yes. I think a variety of things. I think, over the last few years, there has been a lot of good collaboration between the Agency and consultants and administrators trying to really home in on what is problematic, and trying to work through those issues, balancing that with what is ultimately in the benefit of the tenant at the end, the tenant or homeowner.

I think also, we switched to a reservation system, which is where it is first come, first served. We say, here is an amount of money that is available for XYZ activity.

You come in first served, and they don't come in and kind of put their hold aside money in the system, until the household is ready. And then they only have a limited time to actually move that money. And if they can't do it, then it frees it up, and it can go to someone else.

So it is very much a first come, first served, do it as you have it. And so that has been a big help. I think also, we have been marketing certain aspects of it.
For instance, in our tenant-based rental assistance activity of HOME, we have worked more closely with entities who serve people with disabilities. Trying -- that is a good program for that. So it is kind of a little bit of everything.

And then, I think also freeing up older contracts that had balances has helped. Because we are trying to clear out the old stuff. And if a provider, for instance, from a prior year, hasn't finished something, instead of dragging that out, and tying up the money and never being sure if we will get those units, we just kind of put it behind us.

Told them they could still access the reservation program. So we aren't cutting them off from the program. We just kind of move them into kind of a more modern way of doing it.

MR. THOMAS: Right. Thank you.

MR. OXER: In the reservation system, Brooke, when you said that you had, what was it, $500,000 that you essentially cleared or reserved in 90 seconds.

MS. BOSTON: Uh-huh.

MR. OXER: Were you able to watch the ticker change?

MS. BOSTON: A little bit. It was so fast that it was more like --
MR. OXER: Preserve 500.

MS. BOSTON: Yes. I mean, it was so fast, we couldn't even tell. Like, literally the moment that we checked, in the system, there were people who at two minutes were denied. So the system keeps up with that fast. But we aren't visually watching it.

MR. OXER: Yes. I was just curious. It would be interesting to watch that.

MS. BOSTON: Yes.

MR. OXER: It sounds like you have a good program going. Everybody up here appreciates the efforts that you make on that.

MS. BOSTON: Yes.

MR. OXER: And I think it is fair to say that the budget expectations and agency operations and budget expectations of the future are probably not going to be going up aggressively. So, to the extent that we can figure how to do things more efficiently, and expeditiously, it is always going to be to our collective benefit. So thanks from me.

MS. BOSTON: Definitely.

MR. OXER: Okay. I think -- did you want to take Item 4 also?

MS. BOSTON: Sure. This item relates to our Section 8 housing choice voucher program. As you may
know, TDHCA is actually a public housing authority. And as such, we administer, we don't do public housing. But we do do the Section 8 housing choice voucher program.

And in a nutshell, what that is, is we get authority to give funds to, or commit funds to a household, so that they can go find a unit of their own choice. And then we make payments to the landlord for that household. Our relationship is both with the tenant and the landlord.

We have about 870 of those vouchers right now, with about a roughly annual allocation of 5.6 million. This was a very meaty writeup. It is very rare that we bring Section 8 issues to the Board. It is historically, it has been a program that kind of moves along.

We have made a lot of policy and procedural changes internally that have helped to make it far more efficient. But we are kind of on the cusp with the way HUD instituted sequestration, with this position of needing to just kind of make a general policy decision about where do we want to see this program going?

I can go through some of the writeup if you like. But I know it is very meaty. And I actually wanted to talk about a clarification or two.

MR. OXER: Get the clarification first.

MS. BOSTON: Okay. First is just a simple
clarification, which, in the writeup, I had indicated that future conversations with HUD regarding absorption of some of the smaller PHA vouchers, the conversation would be with the Fort Worth HUD office. I want to clarify that we actually would be having those conversations with not only the Fort Worth HUD office, but also the San Antonio and Houston HUD office. Each of those three offices oversees a kind of a portfolio of public housing. And so we would be wanting to talk to all three.

We do have our first conversation set up with the Fort Worth office on the 17th. But, and this clarification doesn't require a change to the resolution.

I just wanted to make sure we were clear about that.

I also have a suggested revision to the resolution section. And this is a little meatier. We are actually suggesting that you remove or delete the second paragraph of the resolution, which is the paragraph relating to Navasota vouchers.

We have gotten some newer information that we think that makes the recommendation to the Board no longer the best thing to do right now. On Tuesday of this week, we were able to speak to some more senior folks at HUD and got some different information than what we had, at the time we wrote this up.

And so what we would like to do. First of all,
I apologize to the extent that there was miscommunication between us and HUD, you know. Definitely, I hate to pass that kind of misinformation along. So this is to clarify that and make sure that we are only having you guys look at something that is fully informed.

A couple of the things that came up, so you know why the staff recommendation changed. Is first, a big part of what we had recommended to you guys for the Navasota transfer was that they had told us there were going to be 50 vouchers and 15 of those were occupied. And the remaining 35, we would be able to use the funding associated with those vouchers to pull into our program. And thereby, because we have a preference for Project Access, which we had talked about in the writeup, we would essentially be able to put about 35 units' worth of money into the Project Access vouchers. And that is something we really were attracted to.

What has come to be more clear is that HUD will only be giving payments associated with the 15 occupied vouchers, and not the excess for the 35. So that -- the reason HUD had referenced 50 units is, there is a contract each year, that each PHA executes with HUD.

And in that agreement, it alludes to kind of a maximum you can do. It is theoretical. They don't necessarily give you the money to do that. So in this
case, Navasota had the ability or permission to go up to 50 but did not have the money to do that.

MR. OXER: So it is essentially an IDIQ cap.
Indefinite delivery, indefinite quantity cap for federal contracting.

MS. BOSTON: Yes.

MR. OXER: Trust me. That is what it is.

MS. BOSTON: Yes. Okay. It is aspirational.

MR. OXER: A much better term.

MS. BOSTON: So in fact what would be happening is, we would be taking on administration of the 15 vouchers. And the only way Project Access would ultimately benefit is, as one of those vouchers vacated, we would then be able to reprocess it, not into Navasota but into our preference in our plan, which would be Project Access, and that is a HUD-approved preference.

So that, as you can imagine, made it a little less attractive. HUD also in our call had mentioned that they suggested that we perform an audit of the PHAs programs and vouchers before we accept.

And we said well, what are you aware of? And they didn't divulge much. But they were pretty firm that they thought we should do an audit. We asked if they would pay for the audit. And they said no. And so this is a program already, you can tell from the writeup, that
just barely operates on its own. And so having to absorb the cost of an audit, to take on vouchers that are already occupied is, again, less effective.

One other thing that really raised another concern for us is, after further discussion with them, we are worried that the fair market rents and utility allowances that were used by Navasota to calculate the payments the households are making right now, and the amounts that are going to the landlords were not used appropriately.

And so I think what we would need to do is go in and research that. And to the extent that any of the fair market rents or utility allowances were incorrect, we would need to make an adjustment.

That adjustment could either hit TDHCA by putting us in a deficit position with our housing assistance payments from HUD. Or potentially it could be a hardship on a household. Neither of which are attractive options.

All that said, I also don't want to walk away from doing it categorically. That is also in a very negative -- but you know, there is something to be said for having the goodwill relationship with HUD. And there is also something to be said for getting those project access vouchers even far more incrementally instead of in
a big push.

So what we would like to do is strike the resolution for this month, and let staff do quite a bit more research and try and see what we can find through the reports and audits that have been done in the past for that housing authority. Try to figure out if we actually think the FMRs and utility allowances were correct. And we will come back, if indeed, it looks like that is something that we would like, we would suggest that the Board do.

MR. OXER: Essentially, we are going to table this item and come back.

MS. BOSTON: Just the paragraph. I would still like you all to act on paragraph 1 and 3 of the resolution section.

MR. THOMAS: Mr. Chairman. For clarification, was that item -- under the "resolved" section, paragraph 1 and then paragraph 3, "further resolved"?

MR. OXER: We're only reading just the first "resolved."

MS. BOSTON: Correct.

MR. OXER: All right. Anything else from the Board. Does the Board have any further -- do you have any questions for Brooke?

(No response.)
MR. OXER: Okay.

MS. BINGHAM ESCAREÑO: I'll move to approve staff recommendation for the resolution as clarified by the removal of the second paragraph until there can be further research and brought back to the Board next meeting.

MR. OXER: Okay. Motion by Ms. Bingham to approve staff recommendation as modified. Is there a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. Public comment.

MR. HENNEBERGER: Good morning. My name is John Henneberger. I am the codirector of the Texas Low Income Housing Information Service. We are an organization, a nonprofit organization that works on the behalf of extremely low income Texans and their need for housing.

I am here today to support whatever part of this that the Board sees fit to pass, and to make the comment that I believe that this is one of the most critical unaddressed issues facing the Board, is the future of its role as a public housing authority: your annual plans, your state low income housing plan and your reports to HUD constantly identify the population between zero and 30 percent of median family income as the most
underserved by many factors of the populations that are present in the state.

The Section 8 program is the program which is designed to address these needs. The Legislature many years ago designated the Texas Department of Housing and Community Affairs the ability to serve as a statewide housing authority.

I would ask that the Board consider directing staff to examine the appropriate role of the State of Texas and the TDHCA in regard to the continuing reductions in funding that are going on in the Section 8 program across the state.

There are hundreds -- several hundred local public housing authorities, many of which are in the same position that the Navasota Housing Authority are in. If they do not renew their Section 8 certificates, if they are not able to issue those certificates, they will be lost to the citizens of Texas, and people in those communities will not have access. The poorest people in those communities will not have affordable housing.

I recognize this is a business decision as well as a mission-driven decision, and it must work economically for this Department. And in a state the size of Texas, managing scatter public Section 8 units is an extremely daunting task. So I understand the need not to
go into this blindly.

But I also understand that the Legislature had decided that this Department would play the role of the backup to the local housing authorities. And when they can administer this program, they absolutely should administer it, at a local level. So this is an extremely important issue from the standpoint of the poor. It needs to -- the Department, I think, is very wise to take this issue up. And I just urge you to look at it very comprehensively. Thank you very much.

MR. OXER: All right. Mr. Henneberger, I have another comment or question here. So your position is that you are advocating on behalf of the citizens who would benefit from this program, rather than it being a critique of what the Agency is doing? -- because we are trying to look at ways to provide this efficiently. There are a number -- and as the Board liaison for the strategic planning, as we modified our Committee structure, I had this conversation with the staff.

And one of the questions I had was, for something like this, is there a way to more efficiently provide this service to the community that needs to be served through a way that engages some of the larger PHAs? I know there is another very long conversation we could all have about ways to get these PHAs together to make it
efficient, provide those services efficiently and not just on the surface of things. It is an obligation that we have as an Agency to provide this service.

But if we have 870 of these vouchers scattered across the state, that amount to 5.6 million, it just seems on the surface that we ought to be able to figure out a way to provide them more efficiently. So my comment about the cost of services and the funding that is available and such, tapering off in the future, applies to all of this.

We are trying to figure out how to make this, how to provide this in a much broader, more efficient way so that you get more of that money going into the services for the individuals that need it, rather than the program administration. So I hope I echo your comment and sentiments. We agree that that needs to be provided to those communities, or those members of the community that are in need of it. We are trying to figure out a way to do that without having HUD take all the money away because they don't like the way we are doing things. So does any member of the Board have a question of Mr. Henneberger?

(No response.)


MR. THOMAS: I have a quick question. Of the 870 vouchers that TDHCA handles, what percentage of the
total vouchers would that be?

MR. OXER: Of the total vouchers of the State.

MR. THOMAS: Of the State.

MR. OXER: The total vouchers. Do we have anybody --

MR. THOMAS: I mean is -- I assume it is a --

MR. HENNEBERGER: I assume it is three per county. We have 254 counties -- 870 would be 3.6 per.

MS. BOSTON: I wanted to introduce you guys anyway. I meant to do this at the beginning. We have a new Section 8 manager, very new for the month, last month. Andre Adams. And we are thrilled to have him. And I know he is doing his research still.

MR. OXER: Welcome aboard, Andre.

MR. ADAMS: Thank you. Could I have your question one more time?

MR. THOMAS: Yes. Of the 870 vouchers that TDHCA handles for Section 8 purposes, what percentage of that is for the total Section 8 vouchers in the State of Texas?

MR. ADAMS: It is only about 5.4 percent.

MR. THOMAS: Okay. So it is a small number, right.

MR. ADAMS: As far as the State of Texas, only 5.4 percent.
MR. THOMAS: Okay.

MR. ADAMS: And it is only in 21 counties.

MR. THOMAS: Okay.

MR. OXER: We actually, we are squeezing to get this, to offer this service to a little tiny sliver. And there is a lot of other folks that are providing these for that other 97 or 95 percent that are out there.

MR. ADAMS: That is correct. That is correct.

MR. OXER: Okay.

MR. ADAMS: There are some areas that do not have a PHA. And there is no housing assistance is those areas as well.

MR. OXER: Okay. Well, obviously, this is going to be an issue we are going to have some more conversations and discussion on. Okay. Is there any more questions for --

MR. McWATTERS: One more.

MR. OXER: Go ahead, Professor.

MS. BOSTON: Luckily, one of our audience members -- because there's roughly 100,000 more vouchers in the State, and we have less than 1,000, it is less than 1 percent.

MR. McWATTERS: Okay. Well.

MS. SYLVESTER: We will make the clarification.

The difference in numbers is also the difference
between -- Megan Sylvester, Legal Services, the difference between project-based vouchers and tenant-based vouchers, which is TDHCA administers.

MS. BOSTON: So they are both right.

MR. McWATTERS: Okay. But is it fair to say that what TDHCA does is a small percentage?

MS. BOSTON: Yes. Definitely.

MR. McWATTERS: That is my point.

MS. BOSTON: Yes.

MR. McWATTERS: Now what follows from that is in the question. And I don't expect this to be answered right now. But if TDHCA is doing such a small percentage of it, is TDHCA the best group to be doing this now?

MS. BOSTON: That is a good question. The way the PHAs are set up, and this is more just in my conversations with HUD, and there may be other people in the room who know this in far more detail than I do. Each PHA has a jurisdiction.

So there are parts of the state who don't have coverage at all, or there are some PHAs who are very small. So 870 is small. There are some who have 15 or 30.

So HUD's thought for combining them is to add their jurisdictions that are very small into our kind of balance of state type jurisdiction. We do only --
MR. OXER: We get the "and everybody else" part.

MS. BOSTON: Yes. So I think it is a great question. I think because of where some of these smaller PHAs are, there is not necessarily an adjacent PHA who would be in a position to absorb them.

Which is kind of exactly what Mr. Henneberger is talking about. Because if in fact, they decided not to continue those vouchers through attrition and did not replace them in that community, they get rolled back up into like a federal number, and then would be reallocated wherever they see the most demand. And if that greatest demand is somewhere else nationally, that is how they make their decision.

MR. OXER: Use it or lose it, in this particular case.

MS. BOSTON: Correct. And I actually had asked the HUD office for Navasota, or the HUD office who we spoke with regarding Navasota what would happen to those vouchers if we did not step up.

Because I did not want to see them lost. And in that case, they did say they thought they would be able to find an adjacent provider.

MS. SYLVESTER: Yes.

MR. McWATTERS: Okay. Well, my comments are
driven by efficiency standards and not duplicating administrative costs. So if there is a way to do this more efficiently, it would be great.

MS. BOSTON: Definitely. I am with you.

MR. OXER: Okay. Back to our -- back to the item at hand.

MS. BOSTON: Okay.

MR. OXER: We have a motion to consider by Ms. Bingham. Staff recommendation as modified. Second by Professor McWatters. No other public comment on this item?

(No response.)

MR. OXER: Okay. All in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. Good. All right. I get to exercise the prerogative of the Chair and welcome Representative Jose Menendez. He is one of the guys that we hope folks to give us money every year, we let him talk early.

MR. MENENDEZ: Thank you.

MR. OXER: Good morning, sir.

MR. MENENDEZ: Thank you. Good morning,

Chairman Oxer and members of the Board and Tim. Good
morning. Thank you for your service to the State of Texas.

And you know, driving into Austin today, it was nice to be able to say I have been gone for a while. And I am sure that many people in the room can --

MR. OXER: Understand. We confirmed that. We were glad you were gone for a while, too.

MR. MENENDEZ: Yes. That is where I was going. You just beat me to the punch. I am sure that a lot of people in this room that feel the same way.

I have a letter that I would like to read into the record. And then a few comments. And so this letter begins, "Dear Chairman Oxer. I am very disturbed to learn that the Board is considering Agenda Item 5, a presentation, discussion and possible action on the awards of competitive 9 percent low income tax credits from the waiting list of the 2013 Housing Tax Credit application round for application number 13-109, Homestead Apartments, Austin Region."

And let me say that I have nothing against this application. I really know nothing about that particular application. But my reason for my concern is that it is being considered ahead of any other region, particularly regions that have been known and had a history to have tax credits being returned, and qualified projects that are
waiting to be funded in that region.

"I fail to understand what would prompt the
staff to make such a recommendation for Board
consideration. And I ask that they be directed to provide
formal justification of why the statutory and or current
Department rules that allow for this apparently
unprecedented action.

"My concerns are exacerbated by the fact that
the award of these credits will seriously risk further
degrading regions, which have historically been
significantly underserved by the tax credit allocation
formula used by the Department. Over the past decade at
least and through several legislative sessions, reforms
for the formulary have been discussed and legislation
considered.

"I see this as an example of situations that
members from underserved regions, including El Paso, San
Antonio and the Valley have brought to this Board's
attention in the past. And it is also why some continue
to give serious consideration to statutory procedures to
remedy the endless rule challenging or changing that has
such a serious impact on some of the neediest parts of our
state.

"I would like to strongly recommend to the
Board that you may table this item and reconsider the
award of the return tax credits to qualified projects in all of the respective regions before using those credits for other areas that may be better served in the state. I further recommend that a serious consideration be given to the total amount of credits originally allocated to each region, including and especially any residual amounts that were redirected in the initial awards, and if any of the redirected amount and the return amount would fund the next qualified project in that region, the award should be made to that application.

"I appreciate the many challenges presented by the tax credits housing program presents to this Board and to the staff. But it is situations such as this that give me pause and concern for the transparency and the fairness of the whole process."

And this is no indictment on you or the staff, but it is a situation that needs to be resolved, whether it is the legislation's ambiguity or the QAPs. We have to address this.

"Unfortunately, it is these problems, much like the seemingly ever changing rules of the application process that make it difficult to not consider simply legislating the program and making federally necessary confirming adjustments every two years during session."

That was a strong direction we were going at
one time, before we decided that the Board was doing such
a good job that we could give you guys the necessary
latitude to make the adjustments. I hope we don't have to
go that route.

And at this time, I would like to answer any
questions. And I have copied on this letter, the Speaker
of the House and my Senator, and the Honorable Ken
Armbrister in the Governor's Office.

I also want to say that it has come to my
attention that some people say well, there is a
possibility that the application that has originally given
the awards could receive the zoning change. Well, I have
a copy here of the official action by the City of San
Antonio on September 5th, where there was a motion made to
deny zoning in San Antonio for the case where the credits
are being considered to take away.

And they say, they still have the credits until
the 15th of September. Well, the councilman for that
district made the motion. He received unanimous support
to deny the zoning. And City rules state that you cannot
reapply for twelve months.

So it confuses me to think that there is any
possibility that they could somehow come back and still
use the credits. So I don't understand if the credits
were meant for Region 9, why they should be leaving the
region to go to a different place. I think there are other applicants that are in the region that could use them. And I think we should move forward in that direction.

I think the leadership of this Board has -- and I know that this Board will consider that every region should be treated fairly. And those allocations for those regions are theirs.

And so even if a request for an extension was made to this Board for an October meeting, even if technically that could be the case, there is no way the applicant can obtain the zoning. Therefore the argument will stand that there would be no waiting list. The awards can be made until and after that time. Certainly not using those credits as a source of funds for an early award.

So allowing the use of those funds now or at a later date in a different region -- San Antonio added nearly 45 percent margin underserved. Far behind the level of Austin's region, even before the waiting list.

You know, you are the Board. You are the policy makers. You are the people who need to decide how we are going to treat these credits, and how they are going to treat the whole state. And it is my opinion that you have done a very good job of wanting to treat the
state, the entire state fairly.

And so this happens to be the region where I serve. I would hope that any Representative or Senator would be here speaking if their region were losing their credits as well, and they were going somewhere else when there were eligible applications waiting in the wings. And it is a clear cut case.

There is no way that the applicant that received the awards could use them. It is clear cut. So, I don't know what else to say. I will answer questions.

I think the newest Board members have every right to deny, to do what you need to do to make sure that the Legislature and the Governor's Office can make sure that they feel that all of this is being done in such a way where the whole state is being treated fairly, which is why we have the regional allocations to begin with. And I will answer any questions, if I can.

MR. OXER: Thank you, Representative Menendez, Jose.

MR. MENENDEZ: Absolutely.

MR. OXER: I will first say that I appreciate you coming here and making your comments known. So are there any questions from the other Board members?

(No response.)

MR. OXER: I think I understand the sensitivity
to what you are saying. But then, Cameron, do you have a
comment that you could -- we are going to get into this
item. This is 5(a), which I think is next, anyway; it's
just appropriate timing.

MR. DORSEY: Should we go ahead and move right
now --

MR. OXER: We are at it, anyway.

MS. LATSHA: Jean Latsha, Housing Tax Credit
program manager. And I was just about to present this
item anyway. So I can explain a little bit about what is
going on. So this recommendation and this Board item is
for an award of 1.252 million in tax credits to Homestead
Apartments.

That is located here in Austin, in Region 7.

You heard the previous comment. And we will hear
additional comment, because another application in Region
9 in San Antonio was unable to get zoning approval last
week.

So staff is asked to assume that there will be
a credit return in Region 9. And when taking that current
remaining balance without the Homestead Award, and the
future return into account, that has not happened yet,
that Region 9 would then be the most underserved region;
approximately 45 percent underserved.

So their argument is that at the end of the
day, at the end of cycle that this is not the outcome that we want. That we don't want a subregion that is 45 percent underserved. However, this is not an atypical result.

For example, in 2011, there were four subregions that were over 45 percent underfunded. I know we all remember 2012, where there were some regions that were 100 percent underfunded.

So I just want to get that clear to that -- it is very possible that whether it is this region or another region that -- at the end of the day, on December 31, we could very well be in that position where we have a subregion that is as much as 45 percent underfunded. That is just the way the wrap works.

So I want to read the rule that is the basis for this recommendation for this award; 11.64 reads, "The applications that do not receive an award by July 31st and remain active and eligible will be recommended for placement on the waiting list. Applications on the waiting list are selected for an award" -- this is the key part -- "when the remaining balance of tax credits is sufficient to award the next application on the waiting list."

Now on July 25, we came to you. And we had estimated we had 1.24 million left in credit. About
10,000 credits short of this recommendation.

On let's see -- at that same time, actually, there was an underwriting report for another application that included a $25,000 credit cut. But that application had appeal rights.

And so we were not comfortable assuming that that applicant was not going to appeal that underwriting report. And we were not comfortable assuming that we were going to have that 25,000 in credit to allocate to the next application. So we didn't.

But on July 29th, those appeal rights expired.

We did have that credit available. And so staff made the recommendation for the award to Homestead Apartments. We issued this letter on July 29th to them. I will skip part of it. But basically, staff -- let's see.

"Awards are going to those applications on the waiting list when the amount of remaining credit not previously awarded reaches a level sufficient to fully fund the next eligible application on the waiting list. The application to receive an award from the waiting list is selected in accordance with the allocation process reflected in Section 11.6 of the QAP.

"Staff has confirmed receipt of sufficient Housing Tax Credits to select a 65th application for an award. Homestead Apartments, number 13-109 was determined
by staff to be the next eligible application located in
the next most underserved subregion in the state, and is
therefore eligible to receive an award.

"The application reflects a credit request of
1.252 million. Please accept this letter as confirmation
that Homestead Apartments will be placed on the next
available Board meeting agenda." And it goes on from
there.

But again, this recommendation was based on
credits that were available on July 29th. So it has been
suggested that we award, that we not go through with this
award right now. That we wait until after commitments.
But we wait until when?

Cameron could come and tap me on the back right
now, and tell me that we just got credits returned. Or I
could sit down and check my email on my phone and get a
credit return.

So is it now? Is it in five minutes? Is it
tomorrow? Is it after Monday? Is it after we have
reviewed a couple of commitment packages? Because that
takes some time as well.

No. The rule states, it is when the credit is
available. And it was available on the 29th to award
Homestead Apartments. And the fact is, as much as I know
that Cameron would love to speak, he is not tapping me on
the shoulder with a credit return.

We don't have one. And there are rights to the other applicant in Region 9. The commitment expiration date is Monday. We do not have a return of credit in house. And that applicant also has the right to an extension.

And I understand the comments that we heard about the zoning process. But despite those comments, the fact is, city councils change their minds. Developers often find ways to work through restrictions placed on them by local governments.

And most importantly again, this applicant's right to request an extension has not expired. So I could answer to a couple of comments, I guess, what would prompt this recommendation would be the award.

But I also want to make clear that we are not left to using credits from Region 9 to award the Homestead application. Again, I don't have those credits from Region 9 that are supposedly coming my way Monday, Tuesday, in a month. I am not sure.

These credits were made available through our initial exercise, as running through the regional allocation formula and awarding according to the rules. And so if you all have any other questions for me, I am happy to answer them.
MR. OXER: Are there any other questions of Jean?

(No response.)

MR. OXER: It all seems enormously complex.

MR. MENENDEZ: Mr. Chairman?

MR. OXER: Yes, sir.

MR. MENENDEZ: I would just like to rebut a few points. The issue at hand here is not extensions versus award now. Those, in my opinion, apples and oranges.

The issue is, for you the Board members, the policy makers, whether or not credits should be used first in the regions through the application cycle. If not, maybe we need to come back and address that.

But the issue is for us, that the regional application, the regional formula was made so that regions could each be assured. Whether or not regions in the past have been so severely underfunded through the previous formula, then the formula needs to be adjusted going forward.

We have, you have -- it is kind of like being aware of a problem. You are aware of a problem. You are also aware that the City Council, through its own ordinance may not go back and revisit this matter for twelve months. It is stated clearly in their code, and if you would like a copy of it, we can get you a copy of the
Unified Development Code of the City of San Antonio.

It is done. Twelve months. So knowing that there is no way that those credits can be used by that applicant that received them, to me, it seems that now that we have put you in a position to know what the facts are, that you can act on those.

There is no nebulous nature as to whether or not you are going to receive them, or when you are going to get them back. And I guess, they could apply for the extension, but to what end? Just to keep them from someone else using them?

And see, that is where I think the rules really -- you know, sometimes the question is between doing what is right versus doing what is technically correct. And I think that is why we have a Board.

Because if we didn't have, if we didn't need to know people to say yes, I understand this was what the rule says. But now, here is a situation where we understand, they were denied, and the clock is ticking. And that region is going to lose those credits if we don't reapply them.

So to me, it just makes -- I understand and I appreciate the fact that staff has to read the rules and say things are what the rules are, and I don't fight them for that. But that is why we have the Board, a policy
making Board. It has oversight that can see extenuating circumstances.

And it has been done many times over and over, where a recommendation has been asked to be tabled. And then you can come back and move forward in doing the right thing. Because you know that they are not going to be able to use the credits. There is no way. It is twelve months. It is a hard black line.

There is no reconsideration process on behalf of the City. This is not the zoning commission making a pay recommendation. This is the city council making -- and the city councilman has verbally committed, said to me, there is no way, that he is -- the petition was done to recall him over this issue.

And so there is no way that he is going to change his mind on that. And so I understand. I think we should stick to what the rules say, and what the facts are. There are extenuating circumstances outside.

And I think you as policy makers are put in a position to weigh those, and say what is best for the whole State of Texas. And I think that you would believe that the best thing is that every region feel that it has access to the allocation of the credits that it deserves.

That is has been awarded through the formula.

Because if not, the Legislature has to come
back and say well, the Board wouldn't step up. We will have to step in. And it is not a threat. I mean, it is just what would happen.

And many of you know that there are many of my colleagues who rather not even see the program around. And I have fought them off for years. And I see myself as an ally of this Agency and of this Board.

And so I just want to see what's done correctly for the region that I represent. And so if there are not any questions, I will sit down. Thank you.

MS. LATSHA: I would just like to clarify one point very quickly. Even if we did have that credit return at hand, our recommendation would be the same.

And for this reason. Because it is the timing of when those credits were available. And the fact is, we have credit available on July 29th to make this recommendation.

Now if it is later on September 5th, today, I find out I have additional credit available, then I look at that scenario again. I am not quite sure how else to explain just -- not only do we not have the credit, but even if that credit return had happened, it happened after the other credit was available.

MR. OXER: So it is a sequencing problem, is your position.
MS. LATSHA: Yes. And there is a reason for that. The timing is important. If we were to continually go through this process, then we would get to the end of the year and we would not have allocated all of our tax credits.

MR. OXER: Cameron.

MR. DORSEY: Barbara asked if I would just explain. Cameron Dorsey, Director of Multifamily Finance. Just explain a little bit about the operation of the RAF and the timing issues.

Last year, when we did the allocation process, I did that presentation. We didn't go into a lot of detail about exactly what happens with the waiting list. And what happens after post late-July Board meeting, when those major awards are made.

So let me talk through a couple of examples, and talk through kind of why that timing is important. I think Jean alluded to some key issues. But one of the key things I want to address is the 1.252 million that is being recommended for Homestead, and Jean did mention this, but it does not include any of the funding that is contemplated to be returned at a future date from this other transaction in San Antonio.

When that credit is returned, it will go back to that region. Now, the next deal in line, the applicant
for the next deal in line has looked at that, and recognizes that the amount returned is slightly less than what they need for their deal.

So what they are asking for is, and what they see is, that if we did not award Homestead, then what would happen is, those credits, after, on the date of commitment for example, assuming that we get this credit back from San Antonio, that we will be able to combine it into the pot, because we have the credits go back to San Antonio first.

We don't have enough to do the next in line. But it would flow through to the statewide collapse. And then in the statewide collapse, we would say, all right. Which region is the most underserved.

And they are anticipating that the answer would be, if we didn't do this, San Antonio would be the most underserved. I actually don't know what that answer would be. I could have returns from four other regions, that may make those credits go to other regions that are more than 45 percent or so underfunded.

I could have any number of scenarios play out. I could have that at commitment. I could also have that happen after November 1st as a result of carryover.

So the question I think is, is it appropriate to make determinations with regard to the waiting list
applications when the credit is returned and the amount is sufficient to allocate, based on at that point in time, which is the next most underserved region. Also, just to let you know, Austin is about 37 percent underserved before the Homestead transaction would be allocated.

Folks are anticipating that San Antonio will be more underserved. But like I said, I could have something November 1 that is 80 percent underserved. The reason we allocate as the credit is returned and becomes sufficient to do the next underwriting risk is, we would have kind of a never ending process. And we would all kind of be bunch all of the waiting list awards up in December, right at the end of the year. Which would be quite problematic for I think, just the development process, and for the carryover process, which is how we ensure that we are meeting our federal obligations to allocate these credits before the end of the year. So you know, the other thing I think that is important to talk about is, why does credit ever flow from one region to another region? It doesn't so much flow from one region to another region. It flows from regions to a statewide pot which then allocated to the most, the next most underserved subregion.

That is key. It is never we take money and just allocate it to a different region, or something like
that. It is a process by which we take the residual amounts that are insufficient to utilize to fully fund the next deal in every subregion, and we collapse those into a pot.

And the reason we collapse them is because, like I said, if for example, the next deal in line is a $500,000 request, and we only get $100,000 in credit available in that region left to fund that application, we can't fund it.

That would, number one, likely be an infeasible transaction. And it requires a bunch of changes to the application to make it fit within $100,000 allocation. It would require a whole host of activities that we have crafted an allocation process that utilizes this most underserved methodology to accommodate the fact that the amounts we make available don't line up perfectly with the amounts that are requested for specific applications. So those are some of the dynamics that we have to deal with.

MR. OXER: So part of what is making this apparently problematic is that, in your example you used, there was 100,000 extra available, and it was a $500,000 deal. In this particular one, there was $1.24 million that were returned. And it is a $1.252 million deal. So just a fraction under 1 percent differential that just
barely didn't fit.

MR. DORSEY: And in some cases, we have large amounts where we could fund probably almost 100 percent of the allocation. But not quite there.

The allocation process provides that those funds would go down to the statewide collapse and then be allocated to the next most underserved subregion. The other thing I did want to just briefly note is --

MR. OXER: Underserved-ness is defined.

MR. DORSEY: As a percentage of what was originally made available to that region in the first place. So we don't do it by dollar amount, to make sure that we are not inadvertently giving greater weight to larger regions or those types of things.

We do it on a percentage basis to make sure that it is fair and transparent. If we did allow things like adjustments to credit amounts within the region and these types of things, there would be a whole lot of discretion that would be exercised in that process.

We would have to address questions like, can an application be amended to fit the amount remaining in the -- remaining available within that region, and a whole bunch of issues like this. So we have created a process by which we select the most underserved subregion. And we do so as we have sufficient credit available to fund that
next deal in line.

And that kind of protects the -- it protects both the development community and the Department and the objectivity of the allocation process, and the certainty involved with it. These guys, after the end of July, have to decide whether or not they are going to maintain site control.

They have to decide whether or not they are going to put down additional earnest money. They have to make a whole bunch of financial decisions. And so having the process, it is really objective and fair and transparent, is quite important for all involved.

So that is -- you know, our recommendation today is, you know, firmly grounded within the statute and the rules that we have for administering and regionally allocating these funds. Any questions?

MR. OXER: Are there questions from the Board?

(No response.)

MR. OXER: From a process, timing standpoint, and I understand this may have an impact on the way some costs, is there anything that would prevent us from putting this off until October, so we can get a good handle. I want a better handle on the sequence and timing on the dates on this.

MR. DORSEY: That would be a question for the
applicant. The recommendation today is simply --

MR. OXER: It would be -- is there anything
from a procedural standpoint, in the process of the
allocation and the process that we are going through, that
keeps us from doing that?

MR. DORSEY: Technically, no. I think that the
timing of bringing this to this meeting is, the first
Board meeting after the amount is sufficient to award the
next application, which I think, us voluntarily, staff
voluntarily choosing to delay it to a future meeting would
not probably be fair for an applicant in line that is
relying on us to administer the rules appropriately. You
all would have the discretion, if you wanted to table it,
to do that. But again, I would defer on -- you know, to
the applicant as well.

MR. OXER: Okay. So the procedure would be --
Jose, I understand you have a rebuttal to that. So I
would be happy to hear from you right now, if you like.

MR. MENENDEZ: Here is the question that I have
for the Board. I still haven't heard the real reason or
the rationale for the urgency of the matter. I think the
question was to your staff, is there anything that could
impede this from going forward, whether it is today or a
month from now? I didn't hear a no. I heard a
technically, it could be fine.
Well, fine. You are the Board. You are the Board that approves the rules, that changes the rules, oversees the rules. You are the policymakers for the Agency. Is that correct? I believe that is correct. Is that not still the case? The Board members oversee the Agency. Correct. So the question is -- my understanding, and this question hasn't been asked yet, is the $300,000 of credits came out of our region, Region 9. And usually in residuals; $300,000 that have already come out that haven't been brought back. They were dropped in because of the -- after the awards were made. So we have already kind of put in some credits into the game, in my opinion. So now, I think that we should put it off for the 30 days for your next meeting to see when their credits are returned, what else you can fund in our region. And that is why. And I think the $300,000, I don't see the rationale for having to rush through to do this. Because I think things may shake out differently in Region 9 with our credits. And so there is no need to get in a rush to do this. I understand there is a desire to do this, based on rules that the staff has presented, and you have adopted. But those are the same rules that you can change and amend, because you are the policy makers. And so I don't see the harm in a small delay. And if things are still playing out as well as they have been presented to
you, then you can adopt them at that time.

MR. OXER: Thanks, Jose.

MR. MENENDEZ: Thank you.

MR. OXER: Any questions?

MR. THOMAS: For Representative Menendez?

MR. MENENDEZ: Yes.

MR. THOMAS: Just for clarification, you don't dispute that the rules as defined by staff are clear and unequivocal. Is that right?

MR. MENENDEZ: I don't understand them. My understanding is that, I was having difficulty understanding why this particular item, the Austin item was more important than any other item on the waiting list. Why did it have to come up today, ahead of, to me, it seemed ahead of other items.

Now what I heard presented by staff is that they feel that the reason it should happen is because the rules that they have explained to us, is that it should be allocated at the time that those credits were available. Is that not correct, what we heard? I think that is what we heard.

I wish I had a few minutes to go and review. Not that I dispute what they are saying. But I think we can all sometimes read things differently, and interpret things differently.
My first and foremost priority here is that Region 9 not be underserved any more than it has been. Mr. Thomas, I have been in the Lege now, this is my 13th year. And when I got here, Region 9, or before we had -- San Antonio has been traditionally underserved.

We are behind other regions. And I am still playing catch up. And so what I am doing here is coming to you, the Board and saying give us a little time and make sure that we don't get underserved again, when we have the facts in front of us, that this one is not going to be able to move forward. We know it.

So why present this -- whether or not this Austin award, the one that you have on your agenda today, does not impact Region 9, then what is the problem? Why not wait?

MR. THOMAS: I guess my question --

MR. MENENDEZ: I have not read the rules, so I cannot tell you without a doubt, unequivocally, that I believe they are exactly as they are represented.

MR. THOMAS: You understand what I am saying. If the rules are clear and unequivocal, then it becomes a fairness issue. And there is multiple readings of that. Then there is an absolutely different issues that needs to be involved.

Are you, as our representative, who is
fundamentally aware of these issues, are you asking the
Board then to use its -- to disregard the rule. I was
trying to understand where you needed us to be.

MR. MENENDEZ: I would like for you to look at
the facts, and say, there is a dispute. There is a
question here. And if the applicant in Region 9 had been
able to get its zoning, we wouldn't be having this
conversation. But they are not. And so we know for a
fact that the credits are coming back.

So then, what other applicants in Region 9 can
use them? And my concern is that today's waiting list
item, on number 5, the agenda item that you have can
somehow impact my region. And that is the reason that I
am here.

I understand that there was some residual
already taken from Region 9, that helped to make them
available. I don't have a spreadsheet in front of me that
says yea or no to that fact. I just am going to come here
and draw a line, and say, I want to make sure it doesn't.

And so I am asking you to step in and say, as
the judge, why don't we just take it back, take a moment
and look at everything, and make sure that no one is being
treated unfairly. No region of the state. Because you
oversee the whole state. That is where I am.
MR. OXER: Thank you.

MR. MENENDEZ: Thank you.

MR. OXER: Thanks, Jose.

MR. MENENDEZ: Thank you, Chairman.

MR. OXER: Are there any questions for the Representative?

MR. THOMAS: Would it be an appropriate time to --

MR. OXER: That would be a motion to table?

That would be a motion to table until October.

(Simultaneous discussion.)

MR. OXER: Everybody calm down. Take a deep breath. We will all be okay. Okay. So your point? Did you have a question for Jean?

MR. GANN: I think the --

MR. OXER: You are offering representative Menendez the courtesy as a legislator to speak at his discretion for public comment. You make -- staff makes the presentation. And the motion. And then there is public comment. So Jean, would you like to address anything that Representative Menendez brought up?

MS. LATSHA: No.

MR. OXER: That was a good answer to that, by the way.

MS. LATSHA: The only clarification I would
make is that yes, this recommendation is based, firmly
grounded in the rules. This is a tricky timing issue. We
had these credits available on July 29th, which is why we
made this recommendation.

As of right now, we still don't have those
credits available. I am not willing to concede that
point.

But even if I were to concede the point that
there was an additional return made available, as of
today, the recommendation according to the rules would
still be the same. So staff's recommendation is an award
to the Homestead Apartments.

MR. OXER: Thanks.

MR. GANN: You are saying it would be the same
now as it would be next month?

MS. LATSHA: Not necessarily.

MR. OXER: This is an important issue. And I
think we need to take a deep breath and think. At least,
I want to spend some more time and go through this.

MR. GANN: I'll move, make a motion to table.

MR. OXER: Okay. Motion by Mr. Gann to table
this until the October meeting. Is there a second?

MR. McWATTERS: Yes. I will second.

MR. OXER: Okay. Second by Professor
McWatters. Now you get to speak.
Walter, do you want to be first?

MR. MOREAU: Walter Moreau, Director of Foundation Communities. I appreciate the chance to speak. I didn't know this was going to be an issue at all until this morning. I don't have my State Representative here to argue our case.

I think this is really simple. Please just follow your rules. Not just in the QAP, 11.64, but you adopted wait list rules at the last meeting on how the process should work.

We were $10,000 in credits short of an award at the last meeting, even though we knew there were going to be credits coming back from underwriting. Not a week later, those credits were available. The rule says, applications on the wait list are selected for an award when the remaining balance of tax credits is sufficient to award the next application on the wait list.

We got a letter from staff. It said, Congratulations, there's enough credits now available to make your award. We will bring it to the next Board meeting for your approval. We moved ahead and spent over $4 million to buy the land. We closed our City of Austin bond for $2-1/4 million.

I know we took some risk because we are still waiting on Board action. But this Board has always
consistently proven itself to be fair and followed clear and consistent rules.

   Many awards remained at the end of last month. San Antonio was over 90 percent funded and Austin was only 60 percent something funded. That is why we are next on the wait list.

   For whatever reason, the City Council in San Antonio turned down the zoning on their project. So now, they are only maybe going to be 45 percent funded. And they want to argue they should get the next project.

   There is no provision in your rules to hold back and wait and see what plays out in some other region, to then adjust the results to help another project get funded. So I guess I am in shock. I am surprised.

   We moved in good faith. Homestead is going to be 140 apartments, 14 for families that have been homeless. We have a 6,000-square-foot learning center. It is a 29-acre piece of land with 500 oak trees. It is in a very high opportunity area near Bowie High School in Austin.

   We are super-excited about the project. We have moved ahead in good faith to follow exactly what the rules are. Tabling this will then bring it back to the next meeting. Where you will get strong lobbying that you should, contrary to your rules, jump our project, seeing
no credits were available to us on July 29th.

And today, your rules are, if credits are available, then the next project on the wait list is awarded. And that is the status today. That was the status on July 29th.

Who knows what the status will be in a week or a month. I would be happy to answer any questions. It is just me this morning. I don't have any lawyers. I don't have any representatives. I just have the rule book and the rules you approved at your last meeting.

MR. OXER: I know, Scott. We understand that.

I am trying to make sure that we are -- I have to admit, frankly, I am trying to make sure that I get the timing and the sequence and the rule and the interpretation down and correct too, myself.

So, Jean.

MS. LATSHA: Yes. Walter touched on one thing that I would like to point out about tabling this item. Is that come October, whatever the meeting date is, it is very possible that we would be in a very similar situation where another applicant maybe down the road, it looks like they might be returning credits, but they haven't yet.

And we could be having this very same discussion, which is precisely why we recommend those awards exactly when those credits become available. I am
not sure. And if we don't do it that way, then I think we would have to have some other firm date to look at, to make those recommendations. Or we would end up in a situation where we are constantly changing those recommendations.

MR. OXER: Mr. Thomas.

MR. THOMAS: I'm sorry, sir. Your name again?

MR. MOREAU: Walter Moreau.

MR. THOMAS: Mr. Moreau, is there any risk to your project if it is tabled today? If we table this award today?

MR. MOREAU: The biggest risk is that you will make a different choice next time, and pick the other project, or some other combination of projects, contrary to your rules. And then we could be out $4 million on purchasing the land and all the due diligence and work that we have done.

We are trying to get our site plan submitted October 1st, so that we can get through the City of Austin permit process, which is notoriously long. Yes, there is.

MR. THOMAS: Is there any other interest rate risk or any other potential risk of losing funding if this is tabled today.

MR. MOREAU: Rates are rising. So the sooner
we get our project underway, the better. We are reviewing equity and debt proposals now, trying to make those final decisions. We have pending grant requests, we are funding these communities as a charitable nonprofit.

So we have grants, both pending and ready to go in the hopper. It is completely unfair to me that you would break your own rules to delay what really is kind of a pro forma thing.

And in the past sometimes, it has never even come back to the Board. It is just, the rules say, the staff had the authority to go ahead. And credits are available. They pick the next project off the wait list.

MR. THOMAS: Who is your state representative, Mr. Moreau?

MR. MOREAU: We have communities throughout Austin, so the whole Austin --

MR. THOMAS: Okay.

MR. MOREAU: For this project, I believe it is --

MR. THOMAS: Donna Howard?

MR. MOREAU: Donna Howard. Yes.

MR. THOMAS: Thank you.

MR. McWATTERS: Let me ask you a question, sir. Did you say you had already closed the purchase of the land?
MR. MOREAU: We did not have many options to extend. Yes, sir.

MR. McWATTERS: When did you close that?

MR. MOREAU: Officially, it funded on Tuesday.

MR. McWATTERS: Is that before or after you received the correspondence from staff.

MR. MOREAU: Substantially after we received staff correspondence on July 29th.

MR. McWATTERS: And that correspondence said you would be awarded? You would receive an award?

MR. MOREAU: Yes.

MR. McWATTERS: And then after --

MR. MOREAU: There were some caveats, that it still had to come back for approval by the Board.

MR. McWATTERS: Okay. But you received correspondence from the staff saying that you would receive the awards subject to conditions subsequent?

MR. MOREAU: Correct. According to the wait list rules, chapter and verse: Congratulations. We are pleased to tell you that you are next on the list. Jean has the letter.

MR. OXER: Close enough. That is the date we were concerned about.

MR. McWATTERS: So for clarity in the record, you acted in reliance on the letter and proceeded to
close, or would you have closed regardless?

MR. MOREAU: We would not have closed without knowing that we had gotten this letter. I think we closed on the confidence of, not just this letter, but the rules in the QAP, the wait list rules that were adopted by the Board at the end of July, and this Board's consistent and careful fair reading of those rules.

It would be the first time that I can recall in a year or more beyond that this Board somehow went against the very rules that you have adopted. The rules are so refined when it comes to the regional allocation and the wait list, to precisely make sure that every region is treated fairly.

So, I understand Representative Menendez is fighting for his district and his region. The rules in place are so calibrated to make sure all the regions are treated the right way.

MR. OXER: Okay. Thanks, Walter.

MR. McWATTERS: May I ask -- Jean, may I ask you a question?

MS. LATSHA: Sure.

MR. McWATTERS: Is there any interpretation of the rules, a fair reading, an objective reading of the rules that would lead to an arguable claim for an outcome other than what you have recommended to the Board?
MS. LATSHA: I can't read it any other way.

MR. McWATTERS: Yes, sir. Please.

MR. PALMER: Barry Palmer with Coats Rose on behalf of the next applicant in line in San Antonio, Region 9. There has been a lot of talk about the rules. But there hasn't been much talk about the statutory provisions that you are required to follow.

And the statutory provisions require that you allocate the credits on a regional basis and stick to that regional allocation as close as you can. Here, we have a situation where we know that San Antonio is going to be under-allocated by 45 percent.

And what that means is, there was roughly $4 million allocated to San Antonio. And instead, they are only going to get a little bit over $2 million. So that is the statutory requirement is that you try to make that not happen.

Now, we heard Jean earlier say, well, we have done worse than that in the past. The regions in the past have been more than 45 percent underallocated. I don't think any of us think that that is acceptable.

And in fact, this Board changed the QAP in a number of ways this past session to try to make that not happen; to try to reduce situations where some regions got way more than their share, and other regions got way less
than their share. So what we are asking you to do today, is to try to follow the statutory requirements, that you allocate these credits as best you can on a regional basis.

Now, you allocated 64 deals in July. The first big deadline is coming up on Monday, September 16th, when the credit people have to show zoning. They have to show that they have got their local political subdivision funding. So there are going to be some credits coming back.

So all we are asking is that you table this until next month, and take a new look for next month's Board meeting as to who is the most underallocated. And to try to follow the statutory provisions by allocating the credits so that no region ends up 45 percent underallocated.

MR. THOMAS: Chairman?

MR. OXER: Yes, sir.

MR. THOMAS: Mr. Palmer, I have got 11.64 of the QAP. Can you give the cite for the statutory provisions you just referenced?

MR. PALMER: I don't have the cite here. But, yes.

MR. THOMAS: 2306(k). I mean, what?

MR. OXER: 1-11.
MR. THOMAS: 1-11.

MR. DORSEY: And I think 2306.1-114 might also have some information.

MR. OXER: All right. We need to do some research on this. And it is getting into the middle of the day. And we have been sitting here for a couple of hours. This is all going to go better if we stand up and get a little blood in our heads.

MR. PALMER: Mr. Chairman, we have one more speaker on the issue.

MR. OXER: I am getting there.

MR. PALMER: Okay.

MR. OXER: But thanks for letting me know, Barry. Let's come up.

MS. GUERRERO: Chairman Oxer and Board members, my name is Deborah Guerrero, and I am with the NRP Group out of San Antonio, Texas. And again, we are not here to speak specifically for or against one project.

I am just here to ask you to just table this item, because of the statutory requirements. The Regional Allocation Formula back in 1999, as Senator Van de Putte and Representative Menendez and others have stated, is that it really was about equitably distributing tax credits. When you start talking about the rules and implementing the statute, you all do.
This is a bigger policy issue. And ultimately, at the end of this cycle, you do not want to have any region underfunded, subregion underfunded. And actually, Cameron made our case, in that they will -- there may be others that are even more underfunded than the Austin region now, the San Antonio region as we now see it. There could be other subregions.

So why not take 30 days. Why not take the opportunity, like you took last year to look at your rules, to determine whether it is in the best interest of making sure the tax credits are equitably funded across the State of Texas. That is all we are asking you to do today, as policy makers, is to really take a step back.

Let's see how everything shakes out, just days from now. So that at the end of this year, at the end of this cycle, you will have that opportunity to make sure that no region is drastically underfunded. Thank you.

MR. OXER: Yes. Thanks. Is there any questions for Debbie?

(No response.)

MR. OXER: Okay. We need some more thought on this. I would like to ask Mr. Gann if he would consider amending his motion to table this until after lunch.

I would like to go into Executive Session for a couple of other reasons. We have some other things to
talk about. But this is something I want some counsel
with Counsel.

    MR. GANN: I so move.

    MR. OXER: Okay. So I assume your second still
applies, Professor McWatters?

    MR. McWATTERS: Yes. It still applies, but
with the caveat that this is not intended to be any
indication that we are not following the rules carefully.
    I don't want to leave that impression.
    Nor do I want to leave the impression that the
rules that we do have are not a good faith, best effort to
follow the statute. So with that, the second stands.

    MR. OXER: Okay. All right. It is just a
little afternoon. We are actually going to go -- if we
have our Assistant Attorney General is here. I want
everybody to sit still and be quiet. Sit still and be
quiet please. Please. I have to read this into the
record, and everybody to be able to hear, so don't make
any noise, okay.

    The Governing Board of the Texas Department of
Housing and Community Affairs will go into closed session
at this time, pursuant to the Texas Open Meetings Act to
discuss pending litigation with its attorney under Section
551.071 of the Act, to receive legal advice from its
attorney under Section 551.071 of the Act. To discuss personnel matters under Section 551.074 of the Act. To discuss certain real estate matters under 551.072 of the Act. And to discuss issues related to fraud, waste or abuse under Section 2306.039(c) of the Texas Government Code. Closed session will be held in the Banquet Room in the Cafeteria. Today is September 12, and the time at this moment is 12:02. Let be back here at 1:30, back in our chairs.

MR. MENENDEZ: Mr. Chairman, I have to run to San Antonio. The one last thing I want to say is the rules -- the last allocation formula identified that the San Antonio region was underfunded.

The irony is that potentially the way the rules have been presented, it could cause us to be underfunded once again, even after the credits you have allocated to the region. So that is where the dilemma occurs, in my mind. Thanks.

MR. OXER: Thanks, Jose. All right. See everybody at 1:30.

(Whereupon, the Board recessed into Executive Session at 12:02.)

MR. OXER: All right. Good afternoon again, ladies and gentlemen. The Board is now reconvened in open session at 1:36. We had Executive Session. No decisions
were made.

We received counsel, legal advice from our General Counsel. Those of you who know what we have going on here, we are -- we have several legal issues boiling. So with that, we will -- let's get back to the item we are on here, number 5(a). Barbara, would you like to -- can we get a summary, or is it the appropriate time for a request of summary of discussions on the rule on that?

MS. DEANE: I could not give a summary of discussions that we had. If you were asking me what I would say in terms of the application of the rule, and our statute, and some issues that were brought up earlier.

In my opinion, staff is applying the rule as it was written. And also, in light of the resolution that the Board passed at its last meeting, guiding staff in terms of how they would -- I was at the last meeting -- about the resolution they passed, about how to apply to the waiting list.

And of course, our rule was duly adopted by the Board. It is in accordance with statute, and is a reasonable interpretation and implementation of the statute as it is written in the Regional Allocation Formula.

And so I believe that staff is following what the Board has indicated they need to do. And they are
following our rule, and they are following our statute, in
terms of how they are applying the allocation formula and
the collapse and so forth to the Homestead project.

MR. OXER: Okay. We began with staff
presentation. Come up, come on, Jean. We began with
staff presentation on this. We had at that time, a motion
to table.

There has been public comment. So far. We
will have additional comment here in a minute. So we are
still technically under the public comment period.

So do you have anything else to add to it,
while we are at it, Jean, or would you like to summarize?

MS. LATSHA: I would have to summarize it, if
you would like to invite me to. I think one thing I would
like to say is that we personally and that staff also has
a great amount of respect for Representative Menendez's
office, although had a little bit of a disagreement on how
to apply the rules. That is certainly no reflection on
the Representative's office.

MR. OXER: Reasonable people can still
disagree.

MS. LATSHA: Yes, sir. To summarize really, it
is as simple as that: We are recommending Homestead
Apartments for an award of $1.25 million in tax credits
based on 11.06 of the --
MR. OXER: Okay. Thank you. I understand we have Representative Howard.

Would you like to make a comment? We would be delighted to hear from you.

MS. HOWARD: Thank you very much. I appreciate the opportunity to come before you. This was just brought to my attention, and so I quickly pulled a page together. Thank you.

MR. OXER: I'm sorry to interrupt you right now, Representative, to do a housekeeping check here. We had some issues with the mics not being loud enough.


MS. HOWARD: Thank you very much. I am actually very pleased to be able to be here on behalf of my district, and the Austin area. Walter Moreau and Foundations Communities is an integral part of the fabric of our community and a very well respected group that has done very much to improve the affordable housing situation in our community, and we were all very excited about the awarding of the Homestead project.

So my understanding is that there was some confusion today about what might happen and how this might proceed. And I am here, I guess, I would say specifically
to testify on behalf of supporting the staff recommendations and against the motion to table.

I do understand that this Board has been very diligent about following the rules and making sure that things are done according to what the rules and the statute says. And you ought to be commended for that. And I appreciate that that is how you are doing it.

Obviously, we need to have a very fair process in place, so that the entire State of Texas benefits from the decisions that are made. My understanding is, and what I just heard from your attorney, I believe is that the staff has been applying the rules, as they are written.

And based on last month's waiting list resolution, that their recommendation is in line with that, which from my vantage point means that there does not appear to be a reason to delay. That delaying would actually hurt the Foundation's community project, and most importantly, the people that this project will serve.

I understand that my colleague and good friend Representative Menendez is representing his area, and wanting to make sure that they are served. And I totally understand that. That is what we are elected to do.

But certainly, asking the Homestead project, which is already being awarded to wait for some other
things to occur after the fact, after they have already
gotten the congratulatory letter, congratulations, you
have been awarded this, to me is not in the best interest
of my district. And so as I believe Representative
Menendez would do for his district, I am here to stand in
support of mine.

You know, I could probably say a few more other
things. You all know a whole lot more about what is going
on here, than I do, in terms of the specifics. But, and I
can talk about whatever you would like. And I can try to
answer any questions.

But the main thing that I really do want to say
is that it does appear that the rules are being followed.
That this is something that should be moved forward with.
That it would be setting an unnecessary precedent to have
a delay like this, when you have been so good about
following the rules that you have established.

So really, that is the main thing I want to say. I would like for you to consider not tabling this,
and moving forward with the staff recommendations, which
are based on how you have been applying your rules. And I
am happy to answer any questions.

MR. OXER: Good. Thank you. Are there any
questions of Representative Howard from the Board?

(No response.)
MR. OXER: Okay. Thank you very much for coming to see us.

MS. HOWARD: Thank you very much.

MR. OXER: Okay.

MR. IRVINE: May I make a comment?

MR. OXER: I believe you could, Mr. E.D.

MR. IRVINE: I would just like to comment that, Representative, you didn't have the benefit of hearing Representative Menendez's remarks. I think that the true spirit of them goes to that there is a policy, and it is enunciated in statute.

And it says, that we will use the Regional Allocation Formula. We will make sure that the regions receive their proportional share of this incredible resource. And reality is, although it might theoretically be possible, it likely will never occur that we will have applicants apply for deals that line up exactly with the way that that formula would allocate the funds.

Therefore, there will always be a difference in the regions, between what we have available to allocate and what people seek. And what we have done, I believe, in this current year's rule is to put forward a very well developed, well thought out, rational methodology for how we deal with that difference.

And I think that what Representative Menendez
was speaking to was, perhaps food for thought, as we
develop the policy in subsequent QAP. And whether that is
the best way to allocate.

But for right now, as our General Counsel said,
you know, it was a properly adopted rule. It was crafted
specifically to carry out this legislative mandate for
regional allocation. And staff is committed to following
its rules.

MR. OXER: Good. Thanks, Tim.

MR. GANN: Mr. Chairman. If there is no
further public comment, I would like to withdraw my motion
to table.

MR. OXER: Professor McWatters, did you care to
withdraw your second?

MR. McWATTERS: I will. I will on the basis
that this discussion has been helpful to me, to listen to
both sides, then to reflect upon the fact of our mission
here is to have transparent, well vetted rules that are
consistently applied.

And I have heard nothing from either side that
tells me that we have something to the contrary. So
accordingly, I withdraw the second.

MR. OXER: Mr. Gann, I think it is now your--
now.

MR. GANN: Now what?
MR. OXER: Now you get to withdraw the motion, after the withdrawn second.

MR. GANN: Okay. I will withdraw the motion to table.

MR. OXER: Okay.

MR. THOMAS: Mr. Chair?

MR. OXER: Mr. Thomas.

MR. THOMAS: I would move to approve the staff recommendation on this particular item.

MR. OXER: Okay. Motion by Mr. Thomas to approve staff recommendation. Do I hear a second?

MR. McWATTERS: Second.

MR. OXER: Okay. Now is there any other public comment?

(No response.)

MR. OXER: Very well. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Breathe, Walter. (Simultaneous discussion.)

MR. OXER: Well, let's see. There was lunch in there, somewhere, I think. Are we done with that. We are done with that one. Item 5(b).

MR. IRVINE: Mr. Chairman, if I might present
Item 5(b) instead of the multifamily staff, because I actually have some background on Item 5(b). This is the Galveston housing initiative item.

This is a matter that involves the development of public housing to replace housing that was destroyed by Hurricane Ike. And it is funded with a combination, or proposed to be funded with a combination of CDBG, disaster recovery funds and other funds, including assistance that we would make available in the form of 4 percent tax credits.

I would recall that there is a lot of history about how we got to this point. And that history involves among other things, there was a Fair Housing complaint made against the State of Texas with regard to the disaster recovery funds. And that complaint was made by Texas Low Income Housing Information Service and by Texas Appleseed.

And we, the State, represented by people from this agency, represented by the Texas Department of Rural Affairs, which was helping to administer the disaster recovery and, with other advisors and high-level policy participants, entered into good faith conciliation negotiations. And that resulted in May 2010 of a conciliation agreement that we entered into. And it was approved by HUD.
Since that time, responsibility for administrating the disaster recovery program has been transferred to the General Land Office. So TDRA which no longer exists is not involved in this. And the Department of Housing is now reinvolved in this, because of the issue regarding the 4 percent credits.

So the history of how we got here is, we entered into a conciliation agreement. And as we have excerpted in your Board materials, that agreement did provide among other things, the one for one replacement of public housing units that were destroyed in Galveston.

We have not been participatory in the processes that have gotten this particular deal to this current configuration. But I believe that this particular proposal is very clearly tied to that conciliation agreement requirement.

There are a lot of people who are genuinely engaged and interested in this process. Folk from Galveston have got concerns. I think that John Henneberger and Maddie Sloan are here; they can certainly voice their opinions.

This is a contentious issue. There is no way around it. And we have in good faith tried to put everything we could out there. There was information coming in very late. So we did supplemental postings and
included what we could in the supplemental postings.

There was a letter from the Complainant's
counsel, Michael Allen of the law firm, Relman, Dane,
Colfax, I believe that was not done in time to make it
into the supplemental. But we thought it was sufficiently
germane that we made copies. All of you have received
copies of that. The public attending the meeting has
access to copies.

And we are not really making a recommendation
at this point, because frankly, there are things that we
do in our orderly processes that have not yet been done.
We have not completed our customary real estate analysis.

There are a couple of necessary waiver issues
under our Qualified Allocation Plan. One relating to
floodplain elevations and the way that it impacts the
parking in this development. One relating to the fall
zone of, I believe, an electrical wire.

Anyway, we just wanted to position this, so
that there could be a good opportunity for the public to
provide their views and thoughts and weigh in on this.
Help formulate the basis for the best possible decision.

MR. OXER: Okay. Given that preface, Cameron,
I have a question on this one. Is there an action item on
this, or is this informational?
MR. IRVINE: He's just walking to the microphone. It is posted, so that you legally could take action if you decided to, but there is none proposed and none specifically needed at this particular meeting.

MR. OXER: Okay.

MR. DORSEY: What Tim said.

MR. OXER: Yes. First you say and then some, right. All right. Well, it is an issue that has more than modest relevance to what we are doing.

So I would like to open it up for public comment on this. Owing to the fact that we are not required to take action today, and that there is no resolution recommended, or action recommended by the Board, we will not require a Board motion before we receive public comment.

So with that, I will take public comment.

Antoinette, you get to be first.

MS. JACKSON: My name is Antoinette Jackson, Coats Rose. I am just here to actually just kind of set out what we are doing as Mr. Irvine had said. We are actually just here to provide some comments to you in preparation of hopefully next month's recommendation to the Board for our item.

We have a couple of waivers that we want to explain to the Board because we have come before this
Board before, and they are complicated issues. So McCormack Baron Salazar, our developer, is going to bring forth information regarding that.

You are also going to hear from the Executive Director for the Galveston Housing Authority simply again, asking for your support. And then I am here in the event that you have any questions regarding some of the issues that Mr. Irvine has very nicely laid out for you.

But we do also have other supporters here from the Galveston community and from Lone Star Legal and low income housing advocates. So I just wanted to set that out for you. Thank you.

MR. OXER: Great. Thanks, Tony. Okay. Now for the record, when you guys get down here, you know the rules here. Left to right, so that we can -- it is fine. I am happy to see you there. But those who want to speak, get in order from left to right in front of me here. Okay.

MS. MANLEY: Good morning. Thank you all for this chance to be before you today.

MR. OXER: Good morning

MS. MANLEY: My name is Meg Manley. I am the Senior Vice President with McCormack, Baron, Salazar. We are the developer of these potential sites here, Terrace, the one we are speaking of today, the one that will be
coming on a little bit later. Magnolia the development, that is a couple of more meetings down the road.

    Yes. This has been a very long process to get here. I would say that perhaps this project has more stakeholders than any project that I have ever had the good fortune of working on to date, in my history.

    I have been a houser, a developer of affordable housing for about 17 years. And with McCormack, Baron, Salazar, we have developed 16,000 units in 35 cities in 14 states. We are very adept at dealing with public housing. It is one of our specialties. Not everybody combines public housing with tax credits.

    So this has been a very long process. Among the stakeholders, our partners at the Housing Authority, GLO, McCormack, Baron, HUD, the City of Galveston, the TBRB and hopefully soon, TDHCA, should we be able to get awarded these credits.

    This has been probably one of the more difficult processes to get through. But one of the things that is at our core and our foundation of our company, the reason that we were founded, almost 40 years ago, was a motto of no return to the past.

    So we have tried very hard to listen to that message that we have heard from the community in Galveston to make something completely different. To do a mixed
income development here that will be 49 percent market
rate and 51 percent public housing replacement units.

I am sure you all are very familiar with the
deal. It is 122 units. And so I am trying to stay within
my three minutes, I think I will just summarize the
waivers for you real quickly.

MR. OXER: Please continue.

MS. MANLEY: Okay.

MR. OXER: Thank you for recognizing that.

MS. MANLEY: The one is very -- the flood
elevation issue is actually relatively simple. The entire
island is only about six feet above the floodplain. And
the base flood elevation is at twelve feet. We will be
constructing all of our units at that twelve-foot level.

So we will be raised up on a podium, so all
living space will be twelve feet off the ground. Your
Board packet mentions that the parking will be twelve feet
below the base flood elevation. It will actually only be
six. So the items that -- the waiver is not for the units
themselves, but simply for the parking that will be below
the floodplain.

MR. OXER: I think the intent on that one was,
it wasn't going to be twelve feet below the flood line,
but twelve inches. It may have been a typo.

MS. MANLEY: Yes. That may have been a typo.
Yes. I thought it said -- it says here that parking will be twelve feet below the flood line. So I think it was supposed to be six.

MR. OXER: You all parking submarines over there these days.

MS. MANLEY: Yes. That would be a little expensive. So at any rate, we are only seeking the waiver for the parking. It would be virtually impossible to create ramps and take parking up six feet.

We would never meet existing grades. You would have lifts or ramps. And there wouldn't be enough room. So that is what that waiver is. And we see that one as being relatively simple.

The second waiver, Sara, if you could just point to these four poles. There are four transmission poles on this site. They are actually in the right-of-way offsite. There are no easements that run across our site.

The Board packet mentioned that the easements --

MR. OXER: Let me ask you this right quick. Was this information available outside to everyone?

MS. MANLEY: No. We were told that if we put it on boards, we could show those in the room. No?

MR. OXER: Yes. I am just making sure of that when Sara gets to showing it.

MS. MANLEY: Yes. Show it to the room. Yes.
So there is four poles that impact the site. They are not -- there are no easements for these poles on the site. The poles are located in the public right-of-way just outside of our property line.

So Mike, if you could just turn that site plan around perhaps. So there is two. There is one here, up in the right-of-way. One here, and then one here.

What I would say about this condition on this site is, the rules speak to the fact that if there is a site that has ongoing public assistance from HUD or the U.S. Government, and the redevelopment of that site is exempt from the undesirable site characteristics, the language and requirements. There seems to be an implication there to me that you understand that there are certain restrictions that we have with these public sites that have government assistance.

So for example, as a developer, we didn't have the liberty of choosing these sites to conform with the rules. These sites had public assistance before the hurricane. And they will continue to have public assistance after the hurricane.

We have sealed it. It puts them relatively within the spirit of the exception from the undesirable site characteristics. But at the very least --

MR. OXER: But the exceptions were -- as I
understand it, were intended to apply to greenfield projects.

MS. MANLEY: It is in 10.101 of your rules provide that rehabilitation developments that have ongoing and existing federal assistance from HUD or USDA can be redeveloped, irrespective of the presence of undesirable site features. So we feel that while these units were demolished, we very much fit in that profile of a site that had ongoing federal assistance, and will continue to have such once the site is redeveloped.

I am going to reiterate, the Board packet mentioned there were easements that run across the site there, are in fact not. Again, these poles are in the public right-of-way outside the property lines.

MR. OXER: And those easements were preexisting. The right-of-ways were pre-existing.

MS. MANLEY: That is correct. That is correct. That is Church Street, and Ball Street. And Sarah has pictures showing that the power lines, that is the power lines running along the site when the former public housing was there. Just demonstrating that the condition that existed prior to the hurricane, and not a terrible amount that we can do with it.

And as you so adeptly pointed out, Mr. Irvine, we are in a unique situation by virtue of the conciliation
agreement. There is a lot of masters that we are serving here in an attempt to redevelop these sites pursuant to that agreement.

MR. OXER: There is a lot of stakeholders in this. And we feel like half of them are trying to put them through our hearts, is the problem.

MS. MANLEY: I understand. I understand. So I don't want to belabor this. We think it is relatively simple. I would say that while I appreciate there is no staff recommendation right now for approval of this project, and allocation of credits, we would very much appreciate approval of the waivers today, if that were possible.

MR. OXER: If there -- please remain for a moment. Are there any questions from the Board?

(No response.)

MR. OXER: With respect to the parking level being below the flood grade, we have taken this up before. Specifically, on this project. And a question that I would like to have answered is, what signage, training, exposition, notification will be made to the residents that the parking level is underneath this flood grade?

MS. MANLEY: There will be --

MR. OXER: What I am trying to do is get to the point that we are avoiding somebody saying, I went down to
get my car, and somebody drowned trying to help me. You
know, we didn't know it would be underwater.

MS. MANLEY: Absolutely. It will be part of
our standard lease packet with every resident, that we
will have a firm explanation of this condition on site.
We will also have a firm and very well laid out evacuation
plan with instructions of what we do. There will be
further instructions to residents that they shouldn't be
storing down in these garages anything other than outside
items, bicycles, lawn chairs, things of that nature. That
this is not an area to store items that could be damaged
in any way. So there will be -- every tenant will be
walked through the requirements, the conditions, why
Galveston is unique. Why this parking is below grade.
That will all be part of their -- sort of their education
as they come into the community.

MR. OXER: And there will be some signature
required on their part.

MS. MANLEY: Yes. There will be.

MR. OXER: Certification that they received
that instruction?

MS. MANLEY: Yes. There will be, Mr. Chairman.

MR. OXER: Okay. With respect to the waivers
for today. Since we have -- there is no staff
recommendation, the staff has not yet completed, as I
understand it, has not completed the underwriting. Is that correct? Okay. They haven't completed the underwriting. It would be inappropriate to offer the waivers right this very minute. Not to say that won't eventually happen. But right this second, with underwriting incomplete and no recommendation for a resolution from the staff, we won't do that today.

MS. MANLEY: Okay.

MR. OXER: Okay. But we would like to continue to hear from everyone.

MS. MANLEY: Okay.

MR. OXER: Is there any other questions from the Board?

(No response.)

MR. OXER: Do you have anything else?

MS. MANLEY: One other thing I would just add is that we -- our philosophy as a company is, we spend a lot of time on the front end with the various stakeholders in any community. So this project started with a very elaborate process, where we invited all of the local stakeholders, community groups, human rights groups, everyone who wanted to participate in the planning process was welcome in an open door.

And that went all the way up to the police department, government. So I just, I want to make that
very clear, that this process, we never walk into a
community and say, this is what we think we should build.
This is what we think is good for you.

We find that to be a very inappropriate
approach. So I wanted to also make that point. That this
was a very collaborative process from its inception with
the community in Galveston.

MR. OXER: Good. Thanks for your comments.
Who is next?

MS. PURGASON: My name is Mona Purgason. I am
the interim Executive Director of the Galveston Housing
Authority. I appreciate the opportunity to speak to you
today.

I am here to read a statement into the record
on behalf of the waiver requests for application 13-418 --

MR. OXER: Can you hold -- can you bring the
microphone a little closer to you so the folks in back can
hear you?

MS. PURGASON: Absolutely. I am here to speak
on behalf of the waiver requests for application 13-418,
Galveston Initiative II, in Galveston, Texas.

According to the rules regarding the request of
a waiver found in 5016 of the 2012 Qualified Allocation
Plan, the Board in its discretion may waive any one or
more of the rules if the Board finds that a waiver is
necessary to fulfill the purposes or policies of Chapter 2306 of the Texas Government Code. The Galveston Housing Authority and its partner, McCormack, Baron, Salazar believe that GHA's development plan is in line with the purpose and policy of Chapter 2306 to provide for the housing needs of low, very low and extremely low income families while redeveloping neighborhoods and communities.

As you know, actually tomorrow is the five0year anniversary of Hurricane Ike, which struck Galveston Island, leaving more than 75 percent of the cities homes damaged or destroyed, including many of GHA's public housing units. The development plan calls for the redevelopment of 529 public housing units as a result of a conciliation agreement between the State, housing advocates, and HUD, which stipulates a one-for-one replacement requirement of the units that were lost as a result of the hurricane.

To that end, GHA and the State had entered into a subrecipient agreement for the replacement of 282 units within mixed income developments. The need for quality affordable housing is great on the Island.

Employment opportunities are largely tourism based and typically do not offer high wages. An analysis of data reveals that in Galveston, 35 percent of the total number of households earn less than $19,999 annually.
As of August 2013, Galveston Housing Authority had 1,222 families on its public housing waiting list and 2,334 families on its closed HCV or Section 8 housing waiting list. This translates into 3,556 households in Galveston who are awaiting housing assistance. CDM, the formal contractor with the City, of the City reported in a 2010 housing study that there are 12,074 renter-occupied units in the City. Approximately 5,800 of these households paid more than 30 percent of their income towards rent.

The study indicated that 50 percent of all renters were burdened by housing costs, and average rents have continued to increase, post Hurricane Ike. It should also be noted that the study reported 44 percent of the City's housing stock was built before 1960, and only 10 percent has been built since 1990. Galveston Initiative II --

MR. OXER: Continue.

MS. PURGASON: Okay. I am almost finished. Is the first phase of GHA's replacement housing plan. The site at 2914 Ball, formerly known as Cedar Terrace, will be a 122-unit development of which 62 will be affordable and 60 will be market rate units.

This site was devastated by Hurricane Ike and
was subsequently deemed uninhabitable and dangerous which led to the City's requirement that the site be demolished. Single family type dwellings that surrounded the site were also heavily impacted.

So this Initiative II will help to redevelopment the entire neighborhood. It will spur private investment, replace government assisted housing occupied by individuals and families of very low and extremely low income. Galveston Initiative II will advance the Legislature's policy to provide safe, decent and affordable housing in this neighborhood.

By granting this waiver, the Board would be working with GHA to achieve common goals of the State and of HUD. GHA will be able to provide desperately needed affordable housing to the low income families in the City of Galveston.

MR. OXER: You are in favor of granting all waivers required for the project?

MS. PURGASON: Yes, I am.

MR. OXER: Good. All right. Any questions from the Board?

(No response.)

MR. OXER: Everybody don't forget to sign in when you are up there. Very well. Anything else. Terry, do you want to ask anything?
MS. PURGASON: Thank you very much.

MR. OXER: Okay.

MS. JOHNSON: I just came back to sign my name.

MR. OXER: All right. I think that is -- is there any other public comment? Mr. Henneberger. Nice to have you, sir.

MR. HENNEBERGER: Good afternoon. My name is John Henneberger. I am the codirector of the Texas Low Income Housing Information Service.

Five years ago, Hurricane Ike devastated Galveston Island. By requirement of the City Council, the Housing Authority demolished every single public housing unit that was available for families on the Island. The elderly units were not demolished.

The Housing Authority entered into a voluntary agreement with the legal representatives of the tenants, the public housing tenants who lived in the demolished units to rebuild all of the family units one for one. Subsequent to that, my organization and Texas Appleseed entered into a conciliation agreement with this Department and the State of Texas requiring the one-for-one reconstruction of public housing in Galveston.

The requirement here, and the proposal here, through this request, and through subsequent requests would be only to do that. To rebuild what the Government
tore down. Not to build one additional unit beyond that. It is one for one replacement. It is not additional units.

Under the Fair Housing Act, HUD is charged with enforcement of the Fair Housing Act and with the implementation of the Presidential Order requiring that activities undertaken by HUD subrecipients "affirmatively further Fair Housing."

HUD is the entity which is charged under both the Presidential Order and under the law with making those interpretations. We worked closely with HUD to craft an agreement. The City Council one year ago approved the agreement to reconstruct these units, of which this application is part.

The Housing Authority one year ago approved the activity which is before you for consideration. The conciliation agreement requires that the public housing be rebuilt within 24 months of the date that funds are available under the Round II program.

That date is rapidly approaching. And we ask your consideration in complying with the conciliation agreement. Thank you very much.

MR. OXER: I have a question. That means that the construction is to begin as opposed to completed by the 24 months. Is that correct?
MR. HENNEBERGER: I believe so. Yes, sir.

MR. OXER: Okay. Right. Is there any questions from the Board?

MR. IRVINE: Do you know exactly when that date is?

MR. HENNEBERGER: There are people from GLO here. They would have to -- I wouldn't want to give you the wrong exact day. But it is important that we move forward.

I would also point out that it has been five years since the public housing, since any family in Galveston has been able to occupy public housing. 569 units were torn down. Five years. Thank you.

MR. OXER: Thank you, John. Okay. Any comments from the Board on this issue, or this item?

(No response.)

MR. OXER: Okay. As I said, we have taken public comment. We have more. Oh, a whole row of them over there. Well, okay.

MS. SLOAN: Good afternoon. My name is Maddie Sloan. I am a staff attorney with Texas Appleseed. As John said, we have worked together on disaster recovery, in fact, since Hurricane Rita, and particularly on Hurricanes Ike and Dolly.

You have the letter from our attorney, so I
will spare you reading that into the record. I just wanted to reiterate a couple of points really fast.

You know, one, there is a comprehensive plan to rebuild all of these units on Galveston. It has been approved by HUD, by the General Land Office. By the City Council. By the Housing Authority. It has support from local community groups. It has support from John and I.

And it is -- and everyone has approved this as consistent with the City's obligations to affirmatively further Fair Housing. The letters in opposition based on the supplement in the Board book present the same arguments we have seen at every decision point on this for five years.

There is nothing new here. And they present no alternative to rebuilding this housing. They simply seek to prevent rebuilding and to prevent the return of these families, that as John said, have been displaced for five years.

Appleseed and Texas Low Income Housing consider any actions by the State that would prevent the rebuilding of public housing on Galveston to be a breach of the conciliation agreement. But that said, we are fully confident that the staff and Board of TDHCA deal with these issues all of the time, and that you will analyze this application on the merits and act in a manner
consistent with your own Fair Housing obligations. Thank you.

MR. OXER: Great. Thank you. Any questions from the Board?

(No response.)

MR. OXER: Okay. Gentlemen, who is next?

MR. DENSON: My name is Richard Denson, and I am from Galveston. You all were all provided one of those packets. And I would ask that if you all could get them out for a second, so I could go through some of this with you real quickly. On the front page, it says Carrington Courtyard Apartments. They actually had sent this letter in, and it was sent back, returned to sender. And so she really begged me to get this to you all, so that you all could see this. So it was very important to her, because she doesn't keep up with technology to let you all know this. And this is, this letter was from her. So I have done that part.

The second letter in the packet is from the Galveston County Apartment Association.

MS. DEANE: Mr. Chair, could I ask a question real quick?

MR. OXER:Indeed.

MS. DEANE: This packet, is it as part of the Board posting?
MR. DENSON: Yes, ma'am.

MS. DEANE: All right. Thank you.

MR. OXER: I do know that.

MR. DENSON: One hundred forty, I think it was, copies for outside. Yes, ma'am. The Galveston County Apartment Association wrote a letter. They represent 135 communities, 16,823 units.

And they are asking you all, over 6,000 in Galveston. They are asking you to not grant any more Housing Tax Credits on Galveston Island, because you all have given an inordinate amount of tax credits over the last five years on Galveston, and it has suppressed our rents greatly.

The next two letters, we can just go by. There are other people who are opposed to this development.

On page 5 of the handout, you are going to see photographs. I want you to look at these photographs. It is very important that you see where you are asking them to build this. On the western side of this plat is a water treatment plant that takes up the entire western side of the border of this development.

If you look down below that, you will see blighted structures that take the south and east portions of this development. On page 2, you will additional pictures of blighted structures. These structures are
mainly used by drug dealers and prostitutes at the current moment to provide services.

And if you will look at the bottom two pictures on page 2, you will see that the northern part of this development borders the Port of Galveston, and Port Industrial Highway, which is a five lane highway, which traffics container in and out of that port. It is loud all day, all night. Has very bright lights for when they are unloading cargo, et cetera.

The next page after that, you will see an analysis done by Dr. Kirk McClure, who is a professor of urban planning at the University of Kansas. He is called on quite often by the federal courts around the country to testify and prepare reports as an expert witness in Fair Housing cases.

He laughingly says, when he is not working with HUD, he is usually testifying against HUD. And beating them, because they are constantly saying that their places are in the area that will affirmatively further Fair Housing when the courts find that they are not.

If you go to page 2 of his report, it says, the research question, where should 529 housing units be located in order to affirmatively further Fair Housing? Well, since I am very limited on time, I will go to the end of this report.
In conclusion, what he gives as an expert witness in this is, given the availability of high opportunity neighborhoods in Galveston County, there appears to be no other locations for assisted households that is found with the location for proposed project generally known as Cedar Terrace and Magnolia Homes. Now that is a man who does this all of the time for a living. I trust his analysis, because he is one of a handful of people the courts call on to ask their testimony.

Now as far as the conciliation agreement goes, Mr. Irvine brought up the point, it sounded like the conciliation agreement is demanding this being rebuilt on these sites. There is no place in the conciliation agreement that says you have to rebuild on these sites. There is no place in the conciliation agreement that says you have to provide any tax credits. There is no place in the conciliation agreement that says there has to be market rate units included.

It simply says you have to replace 569 units. Forty have been replaced. There are now 529 units that have to be replaced. It is important to understand that the conciliation agreement does not in any way endorse, mandate or demand that you provide tax credits to this development. That is very important for you to understand.
Just recently, the GLO here and the Jay Patterson did an RFP, a Request for Proposal for 390 units, starter site units to be built around Galveston. They have been awarded. Do you know, if you simply asked for another 139 or so units, that would fulfill the conciliation agreement requirement. And more importantly, the scattered sites integrate people into the community, and they don't segregate people from the community. You are being asked to give tax credits to a census tract that is the poorest census tract in all of Galveston County, not just the Island, the entire county. It is 61 percent impoverished census tract. Look at those pictures I gave you. You wouldn't let your dog live there. You are asking people to live there. The poorest people. Where there are no services. There are no jobs. There is nothing there except horrible elements. Why would you ask that to happen. You are going to guarantee generational poverty on these people, and you are going to put them in an area of hopelessness and despair. And when they act out, I have trouble blaming them. I blame you for putting them in that situation.

MR. OXER: I am going to have to ask you to recognize the measure of decorum that we ask for in this.

MR. DENSON: All right. There are three reasons that you all say you deny the 4 percent tax
credits. One is the financial feasibility. Well, you are not sure what the financial feasibility is, because we don't know what the remediation costs are going to be on the incredibly bad soil contents that came back of arsenic, lead, mercury, poly, aromatic, hydrocarbon, other stuff, I can't even pronounce.

But the SEI Engineering said, soil samples collected from this site exceed the regulatory threshold for residential developments. And they say, you could take twelve inches off and cap that with fresh soil, and then build. But they are not sure.

They haven't gotten any kind of comfort letter from the TECQ on it, nor have they done detailed studies on it, to be able to say whether it is even safe for children to be raised in. They don't know. So if the remediation costs $6 million, does that affect the financial feasibility of the project? My banker would say yes.

The demographics of the area, well, they speak for themselves. They fail miserably. The census tract of the proposed area speaks for itself. It fails miserably.

You know, I go to a lumber store in Galveston quite often. And it has a great sign behind it. It says poor planning on your part does not constitute an
emergency on my part.

We have had a very long time to prepare all of these waivers they are asking you for, to do these samples. To get the TCEQ down there to be able to do a proper analysis. And they haven't.

And now they are trying to get to you rush through something that is a very poor plan. We can obey the conciliation agreement but there is nothing in that says we have to do it in this way.

I am a resident of Galveston. I have been there 15 years. I own property there. And I pay lots of property taxes. And I am a member of the community.

And I do not wish to see the Galveston Housing Authority put the poorest people in the poorest section of town and warehouse them, and say good luck. You are not building the safety net that you and I -- I know we agree on that. I believe in helping people. I believe in the safety net.

But when you build a spider web, and you trap them like in South Chicago and other areas, where there is just in an area of hopeless despair, that is just wrong. It is morally, it is ethically wrong, and we shouldn't treat people that way. We just shouldn't. Thank you.

MR. OXER: Any questions from the Board? Any other comments?
MR. IRVINE: Richard, you need to sign in.

MR. MCINTRYE: My name is Steve McIntyre. I live in Galveston also. I am a volunteer with Gulf Coast Interfaith.

Well, first off, I want to support the waivers being granted today if you can do it. And certainly support the granting of the tax credits, whenever you get around to it. I don't know whether or not I try to respond to Richard or something else.

MR. OXER: You can do whatever you want, but you have got three minutes.

MR. MCINTRYE: Right. On August 28th, the country celebrated the 50th Anniversary of the March on Washington. In Galveston, we celebrated the day after, on August 29th. We celebrated by meeting at Ashton Villa, where on June 19, 1965, the Emancipation Proclamation was finally read in Texas.

About 200 people marched from there over to Avenue L, Missionary Baptist Church, the oldest African American church in Texas. And those 200 people were met by a couple of hundred more, I guess. Because when we went inside that church, it was packed. There was nowhere left to sit.
We had people standing in the back. We had people up in the balcony. And it started with a prayer. And after the prayer, Council member Cornelia Banks, a long supporter, a strong supporter for public housing on the City Council, went up the front to read a proclamation from the City Council.

And Council member Terrilyn Tarlton was sitting off to the right, because she is the next speaker up. The Mayor was standing in the back, because there was no room to sit. I believe Council member Marie Wall was standing beside him.

So we had a majority of the City Council there. And Cornelia, Council member Banks read a proclamation. I am going to read a couple of little paragraphs out of it to you.

Whereas, Galveston civil rights, faith-based and minority community organizations joined by people of all races and ethnicities and backed by the federal and state government have demanded for five years the rebuilding of all the homes that were destroyed by Hurricane Ike, and whereas all members of the Galveston City Council support the Fair Housing laws of Texas and the United States, and the obligation of the City of Galveston to affirmatively further Fair Housing.

And the City Council now supports the
rebuilding of mixed income and scattered site housing as
set forth in the September 28, 2012 plan submitted to the
Texas General Land Office, and whereas the work to rebuild
Galveston for all our people, regardless of their race,
national origin or income is a continuation of the
struggle for freedom and civil rights and that Galveston's
commitment to the dream is to rebuild it for all.

And there are some more whereases. And then it
says, we pick up, August 29th, as Galveston and the State
celebrate the March on Washington. Going back to one of
those whereases. We now support the rebuilding of mixed
income.

The mixed income plan that was submitted was
hammered out through negotiations for days, and finally
submitted to the City Council on September 28th. It was
approved in the afternoon.

It was emailed to the GLO immediately. And
that was done. That mixed income plan is Cedar Terrace
and Magnolia Homes. Cedar Terrace is in front of you
today. You can listen to Mr. Denson, or you can listen to
the City Council.

And the City Council voted back on September
28th to approve that plan with mixed income, and
everything that is needed to get it, which is low income
tax credits, which is those waivers that we need to get.
And this City Council is sitting inside that church just
two weeks ago, where all these whereases were read, still
backing mixed income.

I would encourage you all to not pay attention
to all of the negative comments that has been submitted to
you in the Board packet. I would encourage you all to
grant those waivers today, if you can.

And I would encourage you all to grant these,
or award these tax credits to these folks so they can get
on to building. Thank you.

MR. OXER: Thank you.

MR. CAMPION: Good afternoon. My name is Joe
Campion. I am a leader with Gulf Coast Interfaith. I was
born on the Island. And I still have family members and
property there on the Island. I am much involved.

I wanted to -- I love the passion of Mr.
Denson. He is always a person who stands up. As there
was a comment previously made, reasonable people can
disagree.

And that is where we are at here. And I
respect him for his positions. But I do have a short
story to tell. He talks about -- and every time I hear
it, it gets me going.

But for circumstances, my mother and father
would have been living in Magnolia Homes. When my father
relocated from Fort Bend County to Galveston as a young carpenter, joining the Union, there was no place else to go. Ultimately, a family member was able to locate a garage apartment not far from Magnolia Home where they ultimately lived, and where ultimately, after I was born, that is where we lived there.

But yet, one block from Cedar Terrace, this particular tax credit development that you are considering today, my great uncle lived there, lived in a home that he bought after he relocated there to work for the railroads. And in that home of his, he raised six young men and women there. And all of them successfully, ultimately. Well, half of them dead now.

But all successfully developed their own family lives, in what was considered the poor part of Galveston. It was in effect that other side of the railroad.

From Magnolia Homes, from Cedar Terrace, there are many examples of successful individuals. Former Senator Gonzalo Barrientos, a product of Galveston, a product of the public housing. Former State District Judge Lupe Salinas, a product of public housing.

Other individuals going on to become lawyers and doctors in our community. There is a way to provide for an individual to better their lives, as long as there are affordable housing opportunities.
So I urge this Board to ultimately approve the waivers of the developer, and then next month, to approve the tax credits that are being asked by NBS. And thank you for your time.

MR. OXER: Thank you, Mr. Campion. Are there any questions from the Board?

(No response.)

MR. OXER: Okay. Is there any other public comment? The real estate analysis and underwriting is incomplete at this point. Do I understand that correctly, Cameron?

MR. DORSEY: Yes. That is right. It is not complete yet. But it most certainly will take into account things like the soil conditions. We require a Phase One environmental site assessment and you know, we are completing all of that due diligence and ensuring that it meets all of the Department's standards.

MR. OXER: What is the -- hang on a second. Let me find something right quick. What is the probability that is going to be complete by next meeting, the next Board meeting? Is it likely to come up in October?

MR. DORSEY: Brent just gave me a thumbs up. I was going to say I'd bind Brent --

MR. OXER: Try answering that.
MR. DORSEY: All right. There is a good, a very good likelihood. I think we have been working with them on some construction cost issues -- not so much issues, just, it is a unique construction style and it requires a lot more communication than a more conventional type transaction.

MR. OXER: Okay. But this is a full-extent deal, so it is -- the scheduling is not as critical as it was when we were --

MR. DORSEY: It is pretty critical for these guys. I can let them speak to that. I know that we have heard from both them and we heard from GLO that there is definitely some urgency behind this.

I don't think that it is an enormous insurmountable issue if the award recommendation, whether it be positive or negative, goes to the next meeting. But I think further delays may create some insurmountable issues.

MR. OXER: Right. Okay. Well, we have a process for evaluating these sorts of things, and that is underway. It is midway. You know, I don't think anybody in here wants to short circuit that or get ahead of the process and do something that can't be sustained or supported by what we find.

MR. DORSEY: To be fair, I think Mike may have
wanted to say something a little bit more on the subject. Did you?

MR. OXER: Mike. Yes.

MR. DUFFY: Since I enjoyed the floodplain waiver discussion last year, I let Meg do it this year. I appreciate that -- just to talk about findings. Mike Duffy, Senior Vice President of McCormack, Baron, Salazar. I'm the finance guy.

Specifically with respect to Cedar Terrace, we do have a bond into Texas, a bond inducement. And there is a 150-day closing time frame. That would be December 19th. And so, no, it would be perfectly fine to have the credits awarded at the October meeting, and won't affect the critical path, as we say, to get to closing.

MR. OXER: Okay. Good. All right. Any questions from --

(No response.)

MR. OXER: All right. Good to see you back again.

MR. DUFFY: Thank you.

MR. OXER: There was no action required on this item as I recall. Okay. This is information to get us ready to get into this, so we can preface it for the next meeting. Is that right, Cameron?

MR. DORSEY: [inaudible].
MR. OXER: Okay. Anything else, Mr. E.D., on that one?

MR. IRVINE: [inaudible].

MR. OXER: Okay. Right. We will take up Item 5(c). Cameron gets another one. And in the meanwhile, those of you that have been here Mike Sugrue -- is Mike here today? I thought he was here. He skipped out on us here.

As I recall, he had invited you to be a member of the Brotherhood of Facial Hair last time we were here, Cameron. That was a couple of months ago.

MR. DORSEY: That is correct. I am actually --

MR. OXER: I noticed you are somewhat different from what you were yesterday, or the day before yesterday when we met.

MR. DORSEY: Well, you know --

MR. OXER: Does that stuff get hot in the summer or what?

MR. DORSEY: I kind of caved. I just, you know, recognized that I was inevitably either going to look like Woody, or I was going to look like Tom Hanks from --

MR. OXER: Castaway.

MR. DORSEY: From Castaway. So you know, I am
just a Tom Hanks parody. He did the voice of Woody.

MR. OXER: Those of you who didn't get a good look at you the day before, I will suggest that he was getting ready for a Duck Dynasty cameo, okay.

(Simultaneous discussion.)

MR. DORSEY: I am going to --

MR. OXER: Before you start, I have got something to say about you, okay. Don't worry. It is good. I always like to say good things about the staff when they have achievements.

So Cameron has been named one of the seven awardees nationwide of the Affordable Housing Finance 2013 Young Leaders Award. And it is a trade publication that many of you here I am sure, know. Because it is in this industry, so he gets the award in November. And is that here, or do you go someplace to get that?

MR. DORSEY: It is in Chicago. But I will not be using TDHCA funds to go there.

MR. OXER: You would have needed that here.

MR. DORSEY: I am using my personal money if I want to go.

MR. OXER: All right.

(Applause.)

MR. DORSEY: I really appreciate the support.

If there is anyone I owe most at the Department, it would
be Tom Gouris. He has been my mentor.

He hired me into the Department and he taught me probably too well, because now I can beat him in arguments periodically. Which he may or may not regret. But anyhow, thank you, Tom for being my mentor.

MR. OXER: Congratulations from all.

MR. DORSEY: I am going to defer to Teresa on the next few items, and I am going to get up here on the rules. We kind of took a divide and conquer, as there is quite a bit of multifamily stuff at this meeting. So a divide and conquer approach will make for more informed presentations.

MR. OXER: Okay. Thanks.

MR. IRVINE: Divide and address.

MS. MORALES: Next on the Board agenda is Item 5(c). Item 5(c) relates to a 4 percent Housing Tax Credit application with bonds being issued by the Port Arthur Housing Opportunity Corporation.

The development, Park Central, is to be located in Port Arthur and proposes the new construction of 184 units serving the general population. Staff recommends approval of $656,590 in housing tax credits subject to the conditions as noted in the real estate report on the website.

MR. OXER: Are there any questions from the
MR. OXER: Okay. Motion to consider?

MR. GANN: I so move.

MR. OXER: Okay. Motion by Mr. Gann to move staff recommendation. Do I hear a second.

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters. Is there any public comment?

(No response.)

MR. OXER: There appears to be none. All in favor of the motion as made by Mr. Gann?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none.

MS. MORALES: Okay. Item 5(d) represents bond preapplications that were submitted to the Department, approval of inducement resolution number 14-002, will allow these applicants the ability to proceed with the submission of a full application to the Department for housing tax credits and private activity bonds.

Once staff has performed its more detailed evaluation and due diligence associated with these applications, they will be brought back before the Board.
for consideration for the 4 percent housing tax credits and bonds. These applications include Peoples El-Shaddai, and St. James Manor.

These two are proposed rehab properties in Dallas. And Decatur Angle Apartments is a proposed new construction development in Fort Worth. Staff recommends approval.

MR. OXER: This is a question of the Chair. Is this is single resolution for all three at once?

MS. MORALES: Yes. That is correct.

MR. OXER: Is that correct? Okay. Any questions?

(No response.)

MR. OXER: Motion to consider? You can't make Tom do all the work, you know.

MR. THOMAS: So moved.

MR. McWATTERS: Second.

MR. OXER: Okay. Motion by Mr. Thomas and second by Professor McWatters.

You weren't fast enough, Tom.

Okay. Any public comment?

(No response.)

MR. OXER: There is none. All in favor of the motion by Professor McWatters?

(A chorus of ayes.)
MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Next.

MS. MORALES: Okay. The next one, Item 5(e) involves an amendment to a bond preapplication that was previously induced by this Board last September. However, due to changes in the financial structure, they were unable to move forward at that time.

Resolution 14-003 simply amends the previously approved resolution to allow a little bit more flexibility in the submission of that application to the Bond Review Board for a volume cap. Staff recommends approval.

MR. OXER: I have a question.

MS. MORALES: Yes.

MR. OXER: What is the flexibility that we are asking for?

MS. MORALES: We are asking to amend the prior resolution to allow us to submit the application to the Bond Review Board later this year, in the 2013 program year or the 2014.

MR. OXER: The latitude is in the time line.

MS. MORALES: Either year. Yes.

MR. OXER: Okay. Give us either year to come into it.

MS. MORALES: Correct.
MR. OXER: Okay. Any questions?

MR. THOMAS: Yes.

MR. OXER: Okay. Mr. Thomas.

MR. THOMAS: The resolution is limited to --

MR. OXER: Do you care to modify the --

MS. MORALES: In the resolution, the beginning paragraph, it is amended with that additional language to allow flexibility. It doesn't specifically say the 2014 program year.

MR. OXER: Wait a minute.

MS. DEANE: Is the bond counsel here?

MR. IRVINE: She left.

MS. MORALES: She was here earlier for single family but Elizabeth must have left. The original resolution is still intact.

There is just an amendment to one of the sections in that resolution that allows us the ability to submit the application in either program year. It doesn't specifically say 2013 or 2014.

MR. OXER: Okay. I want to make sure we got the resolution correct. Is that correct, Tim?

MR. IRVINE: Yes. Under 1.1 of the resolution, it is not limited as to year.

MR. OXER: Okay.

MS. MORALES: The prior resolution that this
Board adopted in 2012 was specific to that program year, which is why we are offering an amendment to that resolution, to allow us to move forward.

MR. OXER: So it is an amendment to the former resolution.

MS. MORALES: To the former resolution. Correct.

MR. OXER: Does that satisfy your question, Mr. Thomas?

MR. THOMAS: Yes, sir. Thanks.

MR. OXER: Great. No public comment, or there seems to be none. All in favor? Is there a motion to consider?

MR. McWATTERS: So moved.

MR. OXER: Motion by Professor McWatters.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. No public comment. All in favor of the motion by Professor McWatters and second by Mr. Gann to approve staff recommendation?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Thank you. So you divided them, and she got the easy ones, and you got the
rest of them, Cameron? Is that what it was?

MR. DORSEY: Well, there is one more item here
related to the HOME NOFA. And then, I am doing the
multifamily rules. So yes, after the compliance ones, as
Patricia reminded me and for the fourth time.

MR. OXER: There is a reason we call her Chief.
You know that, don't you?

MR. DORSEY: All right. So Item 5(h) is the
presentation, discussion and possible action concerning a
2013 HOME multifamily development program Notice of
Funding Availability.

This NOFA has some unique aspects to it. I am
going to lay out some of the basic information and then
kind of remind you of some history that precedes this
NOFA, but affects the drafting of this particular NOFA.

First is the funding that is reserved for this
NOFA. We have -- are recommending the programming of
$15.7 million in our general set-aside. That is distinct
and separate from what we call the CHDO set-aside which is
reserved for transactions with a sponsor that qualifies as
a Community Housing Development Organization. That is
CHDO.

CHDO is short for Community Housing Development
Organization. The amount in the CHDO set-aside we are
recommending is $6 million. These amounts include funding
that was unused from our previous 2012 Notice of Funding Availability.

It was a fairly small amount, so we chose not to come out with a new NOFA early in the year with that very small amount, at least in the general set-aside. It also includes funds from our 2013 allocation of HOME funds which we just very recently got.

And which normally, we would approve this type of NOFA much earlier in the year. And typically, we receive our HUD grant agreements earlier in the year. This year, it took quite a bit longer.

So we are bringing this -- this is the first meeting subsequent to the execution of that grant agreement which included about $24 million or so in it. The funds here, like I said, are part of the 24, as well as older funding.

The 2013 funding was divided up between single family activities and multifamily activities. That is done through our one-year action plan which was previously already approved and laid out, what money would be designated for single family versus multifamily activities. So that is the funds that will be in this NOFA.

This NOFA already has effectively pending applications under it. Let me kind of explain how that
works. Because that is kind of unusual.

We, back in December of 2012, we recognized kind of proactively that we were very unlikely to be able to release the NOFA prior to the March 1 deadline for the 2013 9 percent tax credit cycle. And in recognizing that, we decided that it made a lot of sense to bring to the Board a policy with an attached resolution that would allow 2013 tax credit applicants, 9 percent applicants specifically, to go ahead and apply for HOME money at their own risk, to the extent that it might become available in the future and be programmed in a NOFA.

And so that process occurred. We received 24 applications back in late February of last year. For the HOME money, again, those were in conjunction with 9 percent Housing Tax Credit requests. Those 24 applications requested somewhere north of $18 million.

And we currently have remaining pending about 23 of those applications. One you have awarded. The bulk of our 9 percent housing tax credits. We weren't at the July meeting able to award the HOME money because we hadn't gone through the process of putting it out in a NOFA and all of that kind of good stuff. So it is a little unusual in that way.

In that policy that was adopted back in late 2012, we also included an intent to, if possible, program
specifically $5 million and make that available for 4 percent tax credit applications that may need gap funding. And so this NOFA also does that.

About 5 million of the 15.7 of the general set-aside will be reserved for 4 percent applications. For a period of time. It is laid out in the NOFA.

So that is kind of in a nutshell what this NOFA does. I think in all likelihood, you know, a much smaller number of 9 percent applications that had HOME requests in will ultimately receive HOME awards. And that relates to the fact that the 9 percent cycle is technically still ongoing. We didn't award all of those 9 percent applications that requested HOME funds.

Currently, if we were to take a snapshot today, about $8 million of the 15.7 could be recommended for those 9 percent applications, except that we didn't have a NOFA at that time, et cetera. So that is subject to change as we enter into the commitment phase of the tax credit process, et cetera.

That is in a nutshell kind of what the NOFA does. And I will take questions if you all have any.

MR. OXER: Thanks, Cameron. Any questions?

(No response.)

MR. OXER: Okay. So the recommendation, the resolution is --
MR. DORSEY: Staff recommends approval as laid out in the Board materials.

MR. OXER: Okay. Motion to consider?

MR. THOMAS: So moved.

MR. OXER: Okay. Motion by Mr. Thomas to move staff recommendation as listed. Second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. There appears to be no public comment requests. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Okay. That was the last one under action item 5. Is that correct, Cameron?

MR. DORSEY: That is correct.

MR. OXER: Okay. All right. We have got some substantial rules to get to. Patricia, let's take the first one. I am heading towards taking a break right around 3:00, so we -- okay.

MS. MURPHY: Right. Patricia Murphy, Chief of Compliance. Item 6(a) is the compliance rules. These represent a pretty comprehensive rewrite of the existing rules that we have in effect right now.

They take into consideration a lot of public input that we have received. We had online discussion
forums and round tables and conference calls and there is
quite a few new concepts in here.

One is the concept of a Compliance Committee.

We all joke around about Patricia says no, and my big red
No stamp. And this does provide owners some options to
have issues vetted with some different ways to have their
options looked at, including the creation of a Compliance
Committee, where they can go and have issues discussed.

It also changes the requirements about a form
that is used to collect demographic data that we report to
HUD. It changes the timing of the Fair Housing disclosure
notice, and provides options for correction.

It incorporates changes to the federal HOME
rule. And it formalizes the process for an owner to
request an adjustment to the uniform physical conditions
standards inspection score. Staff is recommending
approval as presented in your Board book with one
recommended change.

That change would be in 10.613 about lease
requirements. And I am going to read in what we recommend
in subparagraph J.

"It is a development owner's responsibility at
all times to know what it has agreed to provide by way of
home amenities, unit amenities and services. A
development owner shall at the time of execution of an
initial lease, and whenever there is a subsequent change in common amenities, unit amenities, or required services provide each household a written notice describing those amenities and services.

"The notice required must also contain the following; the Texas Department of Housing and Community Affairs Department is responsible for monitoring this development for compliance with any land use restriction agreement setting forth the required common amenities, unit amenities or services in connection with the programs administered by the Department. The Department may be reached at the Texas Department of Housing and Community Affairs, P. O. Box 13941, Austin, Texas 78711-3941, and have a reference to our website."

In addition, we are recommending a little change in the chart. The events of non-compliance on page 40 of 43. That would change to include reference to this, to say that, it would be non-compliance with lease.

And we would insert the words, and notice requirements described in Subsection 10.613 of this subchapter. And if any of you guys have any questions, I would be happy to answer them. It looks like we have some public comment.

MR. OXER: Okay. Are there questions from the Board?
(No response.)

MR. OXER: Okay. Just remind me one more time here. We were basically holding some of this noncompliance issues being held in abeyance until we get some rulemaking in place.

MS. MURPHY: There is two things right now. There is the Fair Housing disclosure notice, and that is a form that is required through the remedial plan, the SEP remedial plan. And so we are monitoring for the requirements as they are outlined in our current rule. But we will find properties in or out of compliance based on final adoption of these rules.

MR. OXER: Right.

MS. MURPHY: So right now, the rule requires that that form be presented to households no more than 30 and no less than three days before they move in. And this rule would change it to they are presented the form any time, 120 days prior to move in.

MR. OXER: Okay.

MS. MURPHY: And the other one is that form that you used to collect the demographic data. We said that you have to use the specific agency form. And this new rule would say that owners have options of a number of different forms they could use to collect the data.

MR. OXER: So ostensibly, this provides some
more latitude to owners?

MS. MURPHY: It does.

MR. OXER: Okay. Any questions of the Board?

(No response.)

MR. OXER: Okay. Motion to consider?

MR. McWATTERS: Move staff's recommendation.

MR. OXER: Okay. Professor McWatters moves staff recommendation to approve. Is there a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Barry, would you like to say something about this?

MR. KAHN: Good afternoon. Barry Kahn, developer in Houston. First of all, I would like to thank the staff for all the work they did, getting people together, getting more public comment.

We got rid of -- or they helped get rid of the point system, which I think will be helpful for everyone in the industry. There is a couple of other things that are still open and I think if the Board could possibly do a little bit of encouraging to bend some rules in this case, you would make the development community a lot happier.

MR. OXER: There are a lot of people who would be a lot happier if we would bend some rules. Okay. And
I hope that you will recognize that some of those that work in this building would have been happier too, but we didn't bend those, either.

MR. KAHN: At any rate, it really stems around tenant housekeeping. And it is something beyond the landlord's control, yet the landlord is responsible. And it is punitive to the landlord, because the landlord has to expend funds the landlord needs for general operation and maintenance of the property.

The purpose of our program is to create safe, decent, habitable affordable housing. It is not to be the residents' maids. And in effect, with these inspections, it is almost what we feel like at times.

And I have met with staff extensively. And they feel that they have a requirement under the Internal Revenue Code to strictly enforce everything. Well, the Internal Revenue Code -- and the reason they feel that is because there is a guide called the 8823.

And it is a guide. It is not a law. They are being told to comply with the guide. I am not trying to get them in any trouble with the IRS or create any issues with the program.

At the same time, the program has never said, except reiterate, we have a requirement for tenant housekeeping. So recently, we have started inquiring with
other states on what they are doing. And I am just going
to make some comments.

And I don't want to pick on any state, because
a couple of them have provided this information saying,
they don't want to be the target of an IRS investigation
or anything. But at the same time, they are sensitive to
this situation. And what I am really trying to do is seek
some sensitivity while providing safe, decent habitable
housing.

Like, one state says, if it becomes serious,
like a severe health and safety issue, then yes, tenant
habitation issues, or tenant housekeeping issues are
significant. Others look for habitability, proper working
conditions of the unit, like appliances, HVAC, other items
in good working condition. You know, ceilings being whole
and that sort of thing.

I mean, little pencil marks that kids do,
making holes in the wall, you know, fingerprints on the
walls, I mean, it is an unnecessary burden on a landlord
to have to incur the expense to take care of that. You
know, another state says --

MR. OXER: I have a question, Barry. And these
would be occurrences that were during occupation, not
between transitions of occupation?

MR. KAHN: Correct.
MR. OXER: I can see how it would be a substantial issue to leave those sorts of things untended when the unit is vacated.

MR. KAHN: Oh, absolutely. And that is not even part of the discussion.

MR. OXER: Point of clarification.

MR. KAHN: And let's face it, if we don't have the units in decent condition when people want to move in, they aren't going to move in. People are pretty sensitive to these types of things, and raise hell when they can.

Another publishes in its unit inspection guide that inspectors are not to evaluate housekeeping or discuss other resident issues. Another defines, creates what they call a maintenance list. A deferred maintenance list.

In other words, items that are of a housekeeping nature, that is tenant created. It doesn't affect the habitability of the unit. They make note of it, and deliver that to the landlord. But they do not report it to the IRS, and they don't take any other further enforcement action.

So yes, it is noted. Yes, it is something that the landlord should address in due course. Yes, the landlord needs to address it, as you noted Mr. Oxer, when the resident moves out. But again, it is not a matter of
record, of permanent record.

And the thing is, with a lot of this, if it isn't corrected, if it is not correctable, and some issues aren't correctable because the Department might define some items the tenant owns. Unfortunately, we went through this experience recently, with a piece of broken mirror.

It was important to the tenant, wherever he got the mirror. It wasn't from the unit. But he used it for shaving every day. And you know, we got noticed.

How can we force somebody to get rid of something that they feel is important? I mean, if they have a loaded AK-47 on their coffee table, we can't make them get rid of it. That is definitely more dangerous.

The point is, there is only so much we can do as a landlord. We should not be penalized in any way. It goes on our record if we aren't able to correct something. And let's work on trying to do what we are supposed to do in a more partnership type basis.

And I am hoping the Board can offer staff a little more flexibility around some of these issues, or try to find some other solution than what we are otherwise facing.

MR. OXER: Good.

MR. KAHN: And I would be happy to answer any
questions.

MR. OXER: Okay. Any questions of the Board?

(Pause.)

MR. OXER: Mr. Thomas.

MR. THOMAS: Have you made a suggestion, a written recommendation or a suggestion to staff to consider the exact items you are talking about?

MR. KAHN: Well, we have made a variety of requests. And the response has basically been, we have got to comply with IRS requirements.

MR. IRVINE: If I might interject, Patricia knows way more about this than I do. And she is probably an even better person to fill this out.

We have been through the Uniform Physical Conditions Standard, which is a HUD-adopted protocol. And we follow it down the line. We have specific on point written direction from the Internal Revenue Service saying, if you identify anything in accordance with UPCS standards, we want you to report it to us, period. No exceptions.

We report matters to HUD. And to the best of my knowledge, nobody has had HUD come back and say, gee, we want to reclaim credits or whatever because you know, there was a tenant issue within a particular unit or
whatever.

On the side of the world where it impacts funding decisions or award decisions, I can understand completely why Barry has got some real sensitivity to this. Because I think historically, the point structure that we had said that if you crossed one of these magic thresholds, you are deemed to be in material non-compliance, and you are simply ineligible for funding.

Now, we have frankly a much more, I think, difficult, but ultimately I hope, better process, where what we are going to do is have our Executive Award Review Advisory Committee, EARAC, get the compliance histories of potential applicants, and they are going to assess this, and they are going to make a documented recommendation to you regarding funding allocation decisions.

And I sit on EARAC. I even get to chair it sometimes. And frankly, I would be pretty astounded if EARAC couldn't find its way to say, Gee, this is a matter that needs to be addressed, but it is not of the dignity that it should require a recommendation not to fund somebody.

So I am completely sensitive to the issues you are raising. And I am hopeful that in this new process, there will be a lot more deliberative approach to these kinds of issues and common sense will prevail on at least
the avenue of making funding allocation recommendations.

MR. KAHN: And I agree with you to a large degree. The question that is going to start getting raised though, at the EARAC and above level, is someone has 15, 18, 20 tax credits allocations in the past, and you know, a small one is here. A small one is there. All of a sudden, all those add up. And over time, the small becomes large.

And I have no doubts that you know, it is a small item or two, it is going to be overlooked. But it stays on the record. It never goes away. So as I say, over time, you know, as people have more and more properties, it can become a larger and larger compliance issue.

MR. OXER: So you are asking to have a cure period or a cure capacity in these?

MR. KAHN: Or a limit where it does go away perhaps. You know, if it goes away after a couple of years.

MR. OXER: Okay. Mr. Thomas?

MR. THOMAS: I was going to say, I didn't get to finish my question. But I think what I would like to say is, that I am very sympathetic to what you are saying. And I know our staff, just because of the amazing training that they have given me, are very passionate
about making sure that they can work with all of our constituencies.

But I am very concerned about the idea of regulation tail wagging the objective dog. So in that context, I would like to understand better, maybe it could be delivered through our staff appropriately, the kinds of issues you are specifically talking about, so that our Chair and our Board can understand whether or not there is a way for us to work with our staff to help you.

MR. KAHN: Well, thank you. One of the things is, there is different ratings on certain violations. And one of the things with one state is, they take everything that is like an L-1, and certain few other items. And they deem those as not to really rise as the level of L-1. A lot of this is a matter of definition.

HUD, on its website for USPC shows pictures. I mean, the pictures aren't anything like what staff is dealing with in most of our properties. I can't say all, because I have no idea.

But they show like, on blocked egress, windows being boarded, not just a piece of furniture in front of the window. They show a hole in the wall. Not a pencil hole, but a six-by-eight section of sheetrock missing. I mean, what they show on their website clearly is a violation. What we are trying to get around are the
minor issues. And I appreciate your comments.

MR. THOMAS: I think it is the slippery slope. And like I said, I don't think it is potential to address all of the issues here. But as part of my steep learning curve on these nuanced issues, I would love some support from our constituents and our staff.

MR. KAHN: And there is something I would like to add that ties to all of this. Something that I found out this summer going to the Census Bureau, is we have seen over the past ten years our rents barely go up 1 percent a year. Underwriting is based on 2 percent a year increases. And that is a risk we take as a developer. I mean, I am willing to accept that.

The thing is though, is part of the reason we have only seen this 1 percent increase is the way the census bureau and HUD is getting the demographic information. Area median income as we use in our profession for rent increases is tied to families.

Well, let's get into the definition of families. That excludes young couples living together, who have some of the highest income growth in the population. It excludes gay couples because they aren't deemed families. Yet, a retired couple whose income generally drops is often, is more often than not, a family.
So those incomes are dropping. People where incomes are increasing aren't being included. In fact, there was an article that just came out in the paper. I would be happy to make it available to anyone, that says basically, less than 50 percent of the families in this country are being included for income purposes.

So we are facing the dilemma, particularly with older properties of having the shrinking income level with our expenses going up faster than our income. And that is in large part why I keep harping. Because I know everybody has heard me, except for you, Mr. Thomas, on this issue, of getting around the, you know, tenant habitation issues when it comes to housekeeping.

MR. OXER: I have to ask you to close it up here, Barry. Sum it up. We are looking at the UPCS aspects of it.

MR. KAHN: Okay.

MR. OXER: Anything else you would like to say on it?

MR. KAHN: If anybody has any more questions.

MR. OXER: Okay. I am sure we will have.

Granger.

MR. IRVINE: And for the benefit of the general public --

MR. KAHN: And again, I would like to thank
MR. IRVINE: For the benefit of our new member, I want to point out although we have had a tremendous amount of activity with regard to the development of this rule, it is actually upon Board action that we formally begin the process. Because this rule will be going out for public comment and everybody's comments are welcome. And we have to make reasoned responses to those public comments. So to the extent that people can focus on these issues and offer constructive suggestions on ways to improve language, it is always welcome.

MR. OXER: Good. Granger.

MR. MCDONALD: Granger McDonald, Kerrville, Texas. Three quick things. One of which is, I would like to make sure that the point scoring or whatever the EARAC uses arbitrarily, if you say you have 50 more items, you get the hook.

Well, if you have got 5,000 or 6,000 units like we do, you can get 50 pretty quick. And if you have got two projects and you have 50, well, that is pretty egregious. So there needs to be some ratio, some balanced based on the size of your portfolio.

Second of all, within the Sunset legislation as well as individual legislation this last year, the right to cure was passed. Thirty days on documentation, 90 days
on other items, except for health safety violations.

And I would like to make sure that we keep that in the forefront. I think that everybody that is a good developer wants to fix what is wrong. And if they don't, they need to get the hook, and that is fine. But we need to make sure we keep the right to cure up front and in the middle of the procedure.

And finally, I think we also ought to realize that the tenant has rights. They have the right to peaceful enjoyment of their property that they have leased. And we shouldn't be doing anything more to a tenant in a tax credit property that we would in a conventional property.

We have both conventional and tax credit properties. And I am telling you, we become sheriffs on our tax credit properties and make people do things, knowing about the inspection process that we don't do on our market rate properties.

And I have a little bit of a problem with that. I think we are almost penalizing people because they are in affordable housing. And I think that could be a real issue that we need to be careful of. Thank you.

MR. OXER: Thanks, Granger. Any comment on that item, or a thought on that? The monitoring requirements are there, as best as I understand, to make
sure that these units are available and maintained in good order.

So that is a responsibility of the tax equity investor on these to see that these are maintained in good order, so that they continue to have the revenue generated for more attractive properties. So with that, Patricia?

MS. MURPHY: Yes. Like Tim said, Patricia Murphy, Chief of Compliance, we monitor for compliance with the Uniform Physical Condition Standards.

And Mr. Thomas, to your suggestion. There have been some UPCS workgroups that have been formed. And some of those workgroups did try to come up with a list of specific UPCS deficiencies that they believed were entirely a deficiency caused by the tenant. And TDHCA doesn't create the UPCS protocol that, like the Treasury regulation refers to in the HOME final rule refers to.

We don't create it. So perhaps if the industry or one of these workgroups came up with a list of deficiencies then perhaps we could forward that to the Real Estate Assessment Center, part of HUD to say, you know that these are some things that members in Texas believe should be, you know, re-looked at or reconsidered.

I am not sure I would agree with the list that they come up with. And I think that part of the
preservation of housing is that we are on these tenant
issues. And it is these little small things that all add
up.

And, you know, I would really appreciate Mr. Kahn's concern with his resident that had that broken
mirror in their unit. And you really looked at the new
rule and saw this kind of an issue, how would this work
with the new rule?

And I gave him the long explanation about the
options and where they could go with that. So I think
this new rule really provide a lot of other ways to look
at this issue.

And, you know, we could ask the IRS, you know,
do you think it is a sufficient correction for the owner
of the property to say, hey. You shouldn't have this
broken mirror in your unit. Would that satisfy you as far
as correction, IRS kind of thing. So just some comments
on comments.

MR. OXER: Good. Thanks, Patricia. We have
one more comment?

MS. JOYCE: Hi. Jen Joyce with Capstone
Management. We are a third-party management company. And
I was a part of the Committee that Patricia is speaking
about. We went through the entire UPCS protocol.

We spent a full day in Houston, Texas, doing
that, going line item by line item and trying to come up
with what we identified as tenant issues, primarily
tenant-caused issues, things that we would like to see
taken out of what was the material non-compliance score.

So I was just going to mention that we would be
happy to provide that list again. But I would make the
recommendation that that list could somehow be made public
before other people to comment on. Just because it was
used.

We came up with it, with the intent of
commenting on material non-compliance which is no longer
applies. So maybe the list could be considered a
preliminary recommendation for what not to be required to
for owners to pay for during a UPCS inspection. So then
it wouldn't be then carried on in the 8823 process.

And while I am up here, I just wanted to also
say that I thank you, Patricia, staff and everybody on
staff so very much for allowing us to be involved in the
compliance rules. We have had many day-long sessions
where staff showed up, that were, you know, at TAAP and
then also sessions that they formally gave us an
opportunity to participate in.

So while not everything that I particularly, I
know the group wanted is not necessarily in the rule, they
certainly made an attempt to put it in the rule, and we
appreciate that we have further opportunity to comment later on. And that openness has also kind of transcended on how they do their day-to-day activities there in the compliance department. I work with a lot of states, and I really appreciate their openness on a general basis.

MR. OXER: We appreciate that compliment to the staff. So Patricia, one more quick shot and we will get a resolution on this. We are initiating this rule process, or is this a rule that is going to go into effect?

MS. MURPHY: It is just going out for public comment.

MR. OXER: Right. Going out for public comment.

MS. MURPHY: Right.

MR. OXER: So that means that everybody that spoke here will have another opportunity to make all of these things known, and the previous speaker will be able to add those comments into the record at that time, also. Is that correct?

MS. MURPHY: Correct.

MR. OXER: Okay. All right. There is no more public comment. Let's see. There was a motion by Professor McWatters and a second by Mr. Gann to approve staff recommendation as listed in the Board book. All in favor?
MR. IRVINE: As modified by Patricia.

MR. OXER: As modified by Patricia as defined in the transcript. Is that clear enough? Okay. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Okay. It is a quarter after 3:00. We have been here an hour and 45 minutes. We are going to take a 15-minute break and be back in your seats at 3:30. We will get the rest of the rules taken care of after that. See you in 15 minutes.

(Whereupon, a short recess was taken.)

MR. OXER: Okay.

MS. MURPHY: Yes. Patricia Murphy, Chief of Compliance. The next rule is the previous participation rule. This rule also reflects a pretty substantial rewrite of our existing rule. And it takes into consideration some recent legislative changes.

One thing that has not changed is our enabling legislation requires a compliance assessment before a project is approved by our Board. And I put 2306.057 in your Board writeup. The difficult, the really difficult part to get over is, Subparagraph C, which says the Board shall fully document and disclose any instances in which
the Board approves a project application despite any non-compliance associated with the project, applicant or affiliate, which is a pretty high bar, if there is any non-compliance.

So ten years ago, we created this material noncompliance methodology that you have heard some people talk about, where there were points, where we literally valued some events of noncompliance more than others. We have used that system for ten years.

And we have come to the conclusion that another approach is needed to evaluate compliance and to ensure compliance. And it takes into consideration these recent changes to our legislation which instruct the staff to not consider events of noncompliance that are corrected during the corrective action period.

So there has always been a corrective action period. But now it is in 2306, that it is 90 days for -- actually, it is file or physical condition violation. And it is 30 days for failure to turn in your annual owners compliance report.

So whether you have a file review or a physical inspection, there is now a 90-day corrective action period. Not three months which we learned in our internal audit. So we will be sure it is the full 90 days.

And what the person's, applicants' compliance
history now will be is events of noncompliance that are
not corrected, and things that were not corrected within
the corrective action period. And Barry mentioned that at
some point, those things need to drop off. And in the
proposed rule, they do.

So in the proposed rule, we are suggesting that
three years after something has been corrected, that it
will no longer be reported to EARAC. So the new concept
is, we are done with material noncompliance, which was a
pretty black and white pass or fail.

And we are turning to a report to EARAC, that
executive award review advisory committee that is
referenced in 2306. And it will provide information about
uncorrected events of noncompliance, things that weren't
corrected within the corrective action period.

It will report about any financial
delinquencies with the Department. If you owe us any
fees, if you are past due on loan payments, things like
that. And there would be a report from our asset
management section that would have any workout deals or
troubled kinds of projects that you are affiliated with.

And this report would go to EARAC, who would
then make a recommendation to the Board as part of the
projects approval. And we recommend staff approval.

MR. OXER: And for the benefit of the record,
describe and define EARAC.

MS. MURPHY: Okay. EARAC is shoot -- it is --

MR. IRVINE: It is created by statute and it
involves me, the head of Compliance, the head of our
multifamily --

MS. MURPHY: Multifamily.

MR. IRVINE: Housing finance-type programs,
head of real estate analysis. We have our lawyer there,
his advisors. It is a pretty high level cross cutting
group of management.

MR. OXER: Okay.

MS. MURPHY: So before a project is brought to
this Board or gets on the agenda, EARAC meets and looks at
the underwriting and any issues associated with the
project. And the applicants' compliance history is also
going to be reported to EARAC now, as part of that project
approval.

MR. OXER: Okay. All right. Any questions?
(No response.)

MR. OXER: Motion to consider.
(No response.)

MR. OXER: I can't make it, guys.

MR. GANN: I don't want make the motion,
because she's written too many letters.
(Simultaneous discussion.)
MR. GANN: I will make the motion.

MR. OXER: He is trying to make up. You understand that, don't you?

(Simultaneous discussion.)

MR. OXER: You know Patricia, what goes around, comes around here. So you have got to be careful. All right. There is a motion by Mr. Gann to support staff recommendation on this item. Do I hear a second?

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters.

There appears to be no public comment. All in favor of the motion by Mr. Gann and second by Professor McWatters in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Good job. Long memories. Long memories up here, okay.

(Pause.)

MR. DORSEY: All right. Cameron Dorsey, Director of Multifamily Finance. The next item on the agenda is the draft Qualified Allocation Plan. That would be for the perfected 2014 tax credit cycle.

MR. OXER: Michael.

MR. DORSEY: Some provisions also in the QAP
also apply to 4 percent tax credit deals. They have a less defined cycle. But first off, I just really want to thank Teresa Morales in particular.

Teresa stood up on the 4 percent item. I expected this to happen here, with people gathering. Come on. Teresa is critical, is a critical person in the development of our rules. It is a big tough thing to manage. And she is incredibly organized.

Jean and I are not near as organized. And so Teresa has to deal with Jean and I running around like crazy people. And she does a phenomenal job of it. Every year, she says, I am not doing that again. But she still does it, and thank God. Because she is brilliant at doing it.

MR. OXER: Actually I said that after my first meeting as the Chair too, but I got roped back into it. Okay.

MR. DORSEY: I also just wanted to mention, one of my staff, one of my multifamily staff is leaving to actually go work for DMA, Diana McIver. And his name is Valentin DeLeon. And Val is a great staff person until Monday, when he goes over there, then you know. He did some really great stuff in the last year or so.

He created the application, basically from scratch. The application that we used this last year. It
had a phenomenal effect on the number of administrative
deficiencies that on average that an application in the
2013 cycle had.

And he has been a -- he is a great philosopher
and thinker. And comes up with phenomenal ideas to
improve things. And he is moving on. And I am really
excited for him. He is going to learn some great stuff
working with DMA.

And anyhow, so I just wanted to just recognize
him real quick. Because he won't be here on Monday, and
he will be my mortal enemy. Just kidding. That is a
joke. That is a real joke.

All right. The process. So to date, we have
gone through several kind of iterations already. We start
effectively real quick.

The reason I got that big beard is, I was in
the QAP cave. Where we were writing, you know. I didn't
even have time to shave. And, you know, so on August
20th, we released a staff draft of the QAP.

We like to release a staff draft, because it
helps give the development community an idea of where
staff is thinking about, you know, how staff is thinking
about things. Where things could end up going. And so we
can get a good amount of comment prior to the Board
approving the draft. And that is phenomenally valuable
Because what is in the Board approved draft matters a whole lot. Because it determines what can ultimately be in the final version that is ultimately approved.

For example, if we don't include a -- if we wanted to in November, wanted to include some major concept, and it wasn't a logical outgrowth of something that was already imbedded in the Board approved draft, then we wouldn't be able to accomplish that. And given the time frames we all know we have on the QAP, we have got to get the QAP approved by the Board by November 15th. And then ultimately signed by the Governor by December 1st.

So it is just really critical that we start interfacing with the development community and stakeholders very early on, even before the draft that is posted in your Board book now. So on August 20th, we released that draft. We also made active an online forum for comments.

The forum hasn't been quite as active this year. I think it is because we approached it a little bit different. But we have done some comment on the forum. And we have gotten a whole lot of comment in writing already as well. And we have kind of prioritized
that comment, making sure that we address major items that
really we would probably need to address in this draft,
such that they could be part of the final version if we
ultimately decided, if the Board ultimately decided that
they wanted it to be part of that final version.

We held a round table on August 26th. We had
at least 120 folks in attendance. Probably closer to 150
or more. We had to even switch rooms in the middle of the
round table to go get a bigger room. I think it was a
really great productive round table. We got a lot of good
feedback.

And on September 5th, when we posted the Board
book, we obviously posted the draft QAP that is part of
the Board book that you have in front of you. And it is
informed, like I said, by the staff drafts that originally
we made available for the public and the changes we were
able to process and digest prior to the Board posting.

Just to make clear, the public comment that we
have received thus far is not part of the official record
of the rule approval process. That official, in order for
the public to make sure their comments are part of that
official record and they are able to get a reasoned
response to each of the comments that they make, they
would need to comment during the official public comment
period that let's see, it is October 21st.
When does it start, Teresa? September 27th. I left off the two, and I knew seven was wrong. September 27th to October 21st is the official public comment period. And hopefully, we would then bring back a final version at the November Board meeting.

Data availability, I want everyone to -- the QAP keys off of a lot of data. The American Community survey provides a whole lot of the data we use for things like the opportunity index, and economically distressed area, and all kinds of elements that are really important for the public to digest these rules. We are going to try and make sure we release a draft based on the Board approved version, hopefully that we get today, in the next week or so.

I didn't want to release it before the Board's approval, because I was worried that that we would just have too many versions kind of floating around out there, and confuse folks. So we do intend to try and make that available for everyone to kind of see how everything functionally, you know, works, that is approved.

We are going to run through a couple of acronyms that we might hear today. HOA, high opportunity area, that we use sometimes interchangeably with the opportunity index. EDA, economically distressed area. That is a term that is used in the statute. And we have a
scoring item related to location in an economically
distressed area. So EDA.

LPS is local political subdivision. That is
one of the top ten scoring criteria. It is actually the
fifth highest scoring criteria is a commitment of
development funding by local political subdivision.

UGLG or U-G-L-G is unit of general local
government. That is a term that no longer appears in the
QAP. It was in previous versions. And that concept in
its most used form relates, was replaced with LPS or local
government subdivision.

And CDBG DR, you already have heard plenty of
discussion about CDBG DR funds. But those are Community
Development Block Grant disaster recovery funds. So those
are just a few acronyms I thought I wanted to throw out
there before hear all of the public comment and the three
letter acronyms start flying.

So I am going to walk through some of the major
changes that we have this year from last year. And as we
all know, we have concluded the 83rd Legislative Session,
and our Sunset Bill was passed. House Bill 3361 and the
Sunset Bill included a number of statutory changes as well
as a couple of other bills.

There was House Bill 429 and House Bill 1888.
And I am going to talk through that. But I am going to
run through the remedial plan and the TDHCA annual plan
that we have to submit to the court, and some of the
changes that might necessitate a court approval. And then
I will run through some other key changes before I kind of
lay out the recommendation and then we can let the public
comment fly.

So statutory changes. The first thing we will
talk about is the definition of at risk. This is House
Bill 1888. It expanded the list of at risk qualifying
subsidies.

Just to remind you all, the definition of at
risk is very important and relevant for 9 percent tax
credit applicants because 15 percent of our annual
allocation is reserved for the at risk set-aside. And you
must qualify as an at risk development in order to
participate in that set-aside.

So funds administered under Section 9 of the
Housing Act of 1937 were added. It is a little bit more
complex. Because it contemplates the potential for
various scenarios where Section 9 funding is utilized.
But a real key -- and that definition is in 2306.6702.
The tax credit specific subchapter of our statute.

That definition, definitional change is really
important for public housing authorities. There are a
number of public housing authority representatives in the
audience today. And there is another critical kind of piece of the change that was made to the definition. And that is in 6714.

And that piece of the definition effectively says that in order for a Section 9 qualifying subsidy to allow a development to qualify as an at risk development, that subsidy must be retained. I'm sorry. A public housing operating subsidy must be retained and some portion of the public housing units must be retained on a going forward, meaning that they were previously and presumably continued to be there after the allocation of credits. And for the benefit of those tenants.

That, there is some concern in the industry and among public housing authorities because HUD has created a relatively new program. It is sort of a demonstration program. It is called RAD. It is short, another acronym that is used to describe that program.

And the RAD program converts Section 9 subsidy over to Section 8 subsidy. And it keys off of elements of the Section 9 subsidy calculations. But it is fundamentally, we are worried about it being a different subsidy. And there is some concern about whether or not it would qualify as at risk.

We have not drafted the QAP to specifically preclude RAD from counting. But we do have a concern that
RAD may not qualify under the statutory changes that were made. We are still doing some investigation into whether or not that can count.

We have a call scheduled with a HUD representative to talk about this issue, et cetera. But you will hear from the public on that issue. So that is one statutory change that is being implemented in the QAP. And a concern with respect to that change.

The definition of a rural area is slightly different. In the previous definition, we had a component, I call them prongs. There are kind of three prongs to it.

If you are outside an MSA, then you are rural. But if you are in an MSA, then you kind of have a -- you had a two factor test. One was, are you in a place that has under 25,000 in population and not adjacent to another rural or not adjacent to another urban area.

And the other prong was, if it is an area eligible for USDA funding. That provision caused a little bit of heartburn for a number of folks. One, because USDA doesn't have -- doesn't just fund in rural areas. And so you ended up with USDA can technically fund in the middle of McAllen and larger cities in a lot of cases. And so that caused some concern.

So that third prong was removed, and replaced
with a provision that simply allows existing USDA
properties to effectively be kind of grandfathered, and
participate as rural developments in the USDA set-aside.
And so that was a change made through House Bill 429.

In our Sunset Bill, we had a few key changes.
The Sunset Bill, House Bill 3361. Added 2306.67071. And
this was a notice of public hearing and local resolution
requirements as a threshold requirement for 4 percent tax
credits applications.

That, the implementation of that in our rules
is technically in Subchapter C of Chapter 10 which is the
subsequent item on the agenda. But I felt that it was
appropriate to mention it now as it was part of the Sunset
Bill changes.

And we have provisions in that subchapter to
implement that portion of this statute. In 2306.6710, we
had a couple of changes. This has long been known as the
top ten.

It is the statutorily designated top ten
scoring items that must remain the highest weighted
scoring items in that order, from one to ten. It is now,
and from now will be referred to as the top eleven.

So there was an addition of one item that was
not previously in there, in really, any form. And that is
input, the second spot, which used to be input from
neighborhood organizations moved down to the tenth spot. And it was replaced with a new item. It is input from a local government.

So it is similar to the threshold requirement for 4 percent deals. This would allow scoring for local resolutions of support or no opposition to tax credit applications to score quite high, as it is the second highest scoring item of all the scoring items now. As I mentioned --

MR. OXER: Question, Cameron.

MR. DORSEY: Yes.

MR. OXER: Does that require a local resolution in support, or just the absence of opposition?

MR. DORSEY: It -- the statute I think doesn't specifically read to require support. I think it is an input from local -- I have got it here.

The no opposition was added. I will tell you that. The idea of the no opposition was one Tim had to just provide an alternative option if they didn't feel that support was something that they could offer.

MR. THOMAS: Right here are 17 points for a resolution, the resolution be voted on and adopted by the body, it looks it is encouraging a vote and over that comment.

MR. DORSEY: Yes. Definitely. So in the rule,
the implementation of the statutory requirement has points associated with support, a resolution of support and a slightly lower threshold of points for a resolution of no opposition to the tax credit application. However statute says quantifiable community participation with respect to the development evaluated on the basis of a resolution concerning the development that is voted on and adopted by the following as applicable. And it lays out the different bodies. But it is just -- it's quantifiable community participation. And so we have implemented that to --

MR. OXER: Quantifiable participation by an entity that represents an elected council of some variety on behalf of the community?

MR. DORSEY: That is right. It would be either the City Council or the County Commissioner's Court or both.

MR. THOMAS: Just a point of order real quick. I just wanted -- I just pointed that out so that you wouldn't think maybe I wasn't paying attention.

(General laughter.)

MR. OXER: That would have done that.

MR. DORSEY: Okay. So there were those couple of changes. Okay. So there are those couple of changes. The previously second highest item is now the tenth item.
And we have got that new resolution of support item from local government, and it is the new second highest scoring item.

The sixth spot, which was previously input from a State Representative or a State Senator has moved down to the number eleven spot, which is the last in that new top eleven. And it also eliminates any points associated with a letter from a State Senator.

And this was very deliberate product of the legislative process. The Senate effectively decided that they didn't as a whole want to weigh in on the process. But there were State Representatives who would want to continue to weigh in. And so that change is reflected in here as well.

So those are the key changes resulting from the 83rd Legislative Session. In addition, we have got, we are under a court order in a five-county area up in Region 3, which is the Dallas-Fort Worth area, as you all know. And we have a remedial plan that was approved by the court for the 2013 cycle.

And at the end of each cycle, the court requires that we provide a report, an annual report that effectively assesses the performance in achieving the court's order of basically trying to balance our portfolio and have more transactions in high opportunity areas and

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the like. We have to submit that annual report to the court on November 22nd.

And the timing is interesting, because the Board will have probably taken action, hopefully taken action on the final QAP prior to that. Now, it is still prior to the Governor either making changes or rejecting it or approving it by December 1. But it is quite late in the process.

And so we have been very careful. We first of all think our performance has been phenomenal in the 2013 cycle in achieving the goals. And we are being very measured and careful about requesting too many changes that might cause uncertainty if the court ultimately determines that other remedies are necessary or simply doesn't like the changes that we are requesting.

I think we can't provide -- I know the development community would love to have some definitive feedback on exactly how that would occur, if the court ended up wanting to go in a different direction or ordering us to go in a different direction. And I have talked to Barbara some about it. And it ultimately would come down to literally the wording of whatever documents that the court put out.

So it is really difficult to really assess at this point in time what that might look like in the
future. But we are very cautious in understanding that changes, you know, if the court came out with changes, that were necessary in January, that could be pretty tough for folks that were out finding sites and had already submitted preapplications.

So we are sensitive, and we are trying to be very deliberate and measured in requesting changes. However, we will, we have, we are recommending changes to a couple of specific items that will require the court's approval. And I want to just note those right now.

The school ratings that we will be using to determine if an application scores on the opportunity index and in the educational excellence scoring item are -- we feel that staff, we are recommending that we update to the new school rating system and the previous rating system was 2011. We are quite a ways down the road now, and entering into 2014. And there were no ratings in 2012.

So we have got the '11, or we have got the 2013 new rating system utilized. And we think we have got a really good approach to utilizing the 2013 ratings to continue to accomplish the court's objectives.

Other key changes, the program calendar has changed some. Specifically for 9 percent deals, we moved the preapplication acceptance date to January 16th. It
provides effectively another week in early January.

We felt like it would be quite helpful to a lot of folks to finish some end negotiations on site control or what have you with enough kind of buffer from the holiday season. We originally thought the 23rd might make some sense, because we were able to put out application logs very quickly.

Now, part of the development community felt kind of as a whole, and as a product of the round table, we pared it back to the 16th. So it provides a little bit more time, but not so much, not so much more time that they are really kind of running into needing to pay for third-party reports to get done for the full application, that is going to be due February 28th.

So that is one key change there. Market studies is one element of the program calendar, the change when the due date for market studies is. We had kind of ratcheted that back from April 1, up to when the application is due on February 28th. There are a number of reasons that we are recommending that.

One is that we would like, and it became evident from this legislative session that elected officials would really like to have access to information where they can really sift through and give their kind of final best judgment on whether a proposal makes sense to
support. That is not just State Representatives but that
is also local governments that may want to do more robust
underwriting this year.

We talked to the City of Houston for example,
and they would like to be able to do a little bit more
underwriting of these applications before they provide a
resolution for support, for example, for points. And that
support resolution is due April 1. So that market study
being due late February aligns with that to some extent.

Sure.

Again, we did move that date for a local
resolution out. In our original proposal we had that due
February 28th. But we aligned that with when the State
Representative support letters are due because it makes
good sense to allow those folks to have access to some of
the application materials and ask staff questions if they
have questions, which we do get questions sometimes.

We also have a limitation on the development of
properties that are restricted to that have age
restrictions for qualified elderly properties,
effectively. This was a very -- we did a lot of kind of
research on this issue.

It is kind of a hot button topic. You know, it
doesn't elicit the greatest responses all of the time.
But I want to be clear. What we are recommending is that
we place limitations on developing deals that will have age restrictions.

It does not mean that folks that would qualify for an elderly property wouldn't have access to a general property or a unit in a general population property. And the methodology behind the limitation is, we look at two levels. We look at the county level and we look at a regional level. And what we are looking for is areas where our existing units serving elderly versus those serving the population at large is not in alignment with the demographics of the area. For so example, if there was a county and 55 percent of the households in that county would qualify to live in an elderly property, and our portfolio showed that 70 percent, and I don't think that this is the case anywhere, this is an example, 70 percent of our units in that county had age restrictions for elderly households, then we would ratchet back and say all right.

We would really like to incentivize development of general population deals without age restrictions. There is a lot of background for why this is the case. The Fair Housing Act has protections for families, and protects the ability for families to have access to housing. The Fair Housing Act has an allowance for age
restrictions under specific parameters. But it does not have a specific age protection. So we have to make sure that we are proactively looking at our portfolio and the distributions and insuring that the units on the ground are there to serve folks that are protected by the Fair Housing Act.

MR. OXER: So this becomes a midcourse correction in the long-term trend, just to make sure they balance out, so everybody --

MR. DORSEY: That is right. We looked at both a five-year trending and we looked at the portfolio as a whole for the area. And I could give you a quick example. Last year we had, I think, five out of seven of the applications approved in Region Six were elderly transactions. And that trend can be -- you can see that kind of trend developing over time. And so we are taking steps to address that developing trend proactively.

There are several counties in several regions that would not be eligible for qualified elderly development next year under this threshold provision. And there are three regions that would not be eligible for qualified elderly developments next year.

And we would reassess after next year, look in the portfolio alignment with the inclusion of all of the units that are approved next year, and kind of do that
test again. And we might be in a different spot. So that
is that provision.

Portability and the at-risk set-aside is
another key change that we made. I think that I still
absolutely want some feedback. It wasn't part of the
original staff draft. It was something that developed out
of comment from public housing authorities and others.
And so we might need to do some adjustment there.

And so I am definitely looking for some
feedback from the community on that portability of those
vouchers or those subsidies. That is going to be really,
I think, a good change for the at-risk set-aside.

Historically, you have had to redevelop units
on the same site. This would provide the ability to
participate in the at-risk set-aside and move that subsidy
to an alternative site, hopefully in a better location, to
the extent that the current one is not a great location.

A couple of other changes real quick. The
local political subdivision funding item, we note a change
from the unit of general local government funding item.
They are both the same thing.

If you hear people talking about them
interchangeably, they are effectively the same thing. We
just wanted to go back to using our statutory, the
statutory term. It is not defined, but the statutory term
is local political subdivision.

We got an AG opinion. There was a request for an AG opinion on this year's, the 2013 rule. The 2013 rule related to development funding from a local political subdivision.

And the ultimate result of that opinion is that -- it was very supportive of the authority staff had and the Board had to draft the item in the manner it did and, you know, kind of codified the idea that there is some discretion that the Department has in developing the parameters surrounding the implementation of those top ten items.

That was very supportive of the previous conception of the development funding from local political subdivisions. But I think you may hear some comment on that item.

Development costs per square foot was almost a complete rewrite. Jean worked really hard on this item. We are still doing some research into effectively, you get points for having a cost per square foot that is relative to some other figure.

In the previous year, we used this kind of idea of deviation from the mean. So if your application proposed a deal that was X dollars per square foot and the mean was X plus 15 percent, then you may not get points.
But if it was X plus 8 percent you would qualify for points. And that was kind of the concept last year.

This year, we have kind of reintroduced the idea we had a couple of years ago and it has been more consistently, the drafting of this item over a number of years. And that is to have basically kind of threshold caps. If you are under a certain cost per foot, depending on what type of property you are, et cetera, then you would qualify for points.

Like I said, we are still looking at what those levels are. We are doing some research, looking at cost certifications that are coming in to make sure that we are coming up with levels that are reasonable and what have you.

Section 811 funding is kind of a whole concept in and of itself. We received an award of funding from HUD. It is called the Section 811 program. And HUD has kind of -- it is a demonstration program.

We are running it as a demonstration program. It is only going to be available for folks in certain MSAs of the state. But we have incorporated a scoring item that incentivizes an applicant to participate in that 811 program.

The 811 program is kind of an interesting concept that was adapted from some programs in North
Carolina and some other states. And it provides project-based rental assistance for properties and specifically units that serve persons with special needs. And it is much more detailed than that.

And there is a lot of stuff we still have to learn. The development community has some concern about kind of the stage we are at in developing the 811 program and whether it is appropriate to incorporate it as a scoring item in this year's QAP.

We are very aware of those concerns, and we have some similar concerns and we are working through those. And still kind of digesting the feedback we are getting on the development on this item and whether or not it is a good idea to have it in this QAP or perhaps implement it in a subsequent year or what have you.

We also have a new introduction of a scoring item for location outside of areas considered food deserts. Those are food desert -- we use the definition that the USDA has defined. They have a very easy to use and accessible map on line.

And the idea there, is looks at access to a vehicle. At census tract level, it looks at percentage of households that have access to vehicles, how far a drive it is to the closest grocery store, and some factors like that. It was developed relatively late.
We introduced it as a one point item. And we would love to have some feedback on it. We are still doing some research on that ourselves. And we would love to hear from the development community on that.

And lastly, I will touch on the definition of economically distressed area. The folks that were -- the Board members who were here during this year's cycle probably remember some of the discussions surrounding the economically distressed area. We had a whole lot of appeals related to it.

And we weren't in sync with the Texas Water Development Board. We have developed a different definition. We have talked to the Texas Water Development Board.

They like the concept, and we don't expect to have any issues this year in the implementation of the newly conceptualized item. So do you all have any questions before I read the recommendation and then we do public comment?

MR. THOMAS: On the scoring --

MR. OXER: Mr. Thomas.

MR. THOMAS: I'm sorry. Thank you. Is there a distinction between the top eleven and the bottom eleven, where they both have a -- the bottom eleven opportunity index starts with number eleven as well? In other words,
is that just a typo, or do you merge those two together? How does that work?

MR. DORSEY: It might be a typo. Let me look.

MR. OXER: While you are looking for that, Cameron, that gets to the point -- midway in the formal process, we are taking public comment on this. This is not anywhere near being finalized.

And there will be many more opportunities to take. Because I think last year, we went through seven or eight iterations, at least six.

MR. DORSEY: It feels like we go through that many every year. Yes.

MR. OXER: I just would hasten to point out to everyone that this is not the last opportunity to make comment.

MR. IRVINE: Well, that is true. But legally, it is becoming much more constrained. We are beginning the formal rulemaking process, putting this out for comment. And what that means is, that whatever the Board approves today sets the parameters, the boundaries of what can be introduced.

New concepts cannot come in after today. There is the ability to take things out. There is the ability to make some modification to the items that are included.
But it has got to be a logical outgrowth, something
that -- we can't put new issues in play, things that
affect new parties and so forth.

MS. DEANE: Right. You know, let me just say
that you know, we got with the proposed rule. And
normally, under most normal rulemaking situations, if you
put a proposed rule out there, and some new concept came
in that you decided that the public didn't have sufficient
notice of, and of course, that is the whole thing, is
making sure that everyone has notice of what you are going
to do in your rule, what you are going to adopt in your
rule. The normal route would be to republish it, and
start your comment period all over again, and so you could
go through several different processes, several different
versions of your QAP. The big problem we have here is the
statutory deadline that we need to finish within. So you
know, I would reurge kind of what Cameron mentioned when
he first started speaking. That is, to try to go out
broadly with this proposal. If there is concepts that
might be included, go ahead and put them in. It is easier
to pull something back that you have put in, that to try
to introduce a new concept. Because if it is too new, or
it affects new people it didn't affect before, it affects
them in a whole new way than what it affected them before,
you could find yourself in a situation of having to go out
for publication again. And we just don't -- we are probably not going to have time.

MR. OXER: The schedule doesn't accommodate the time for that.

MS. DEANE: The schedule is not going to accommodate that.

MR. OXER: Okay.

MS. DEANE: So if you hear concepts today that you want to put in, think broadly and err on the side of loading in the concept and pulling it out later. Because you are not going to be able to put it in later unless -- because of the time constraints.

MR. OXER: Okay. Cameron?

MR. IRVINE: And if I might just offer a practical example of the concept. It was in there, but we want to change it.

We talked about the submission of market studies. And everybody knows that the issue of market studies is an issue that would be involved in the proposal.

But it is possible that when you go through final adoption, you could say that based on all the comment we have received, we want to move the market study submission date to something other than what was in the proposal. That is possible.
MR. DORSEY: And the answer is yes. It was just an error. It should start at those below the item quote unquote scoring items should start at twelve now.

MR. OXER: Okay. Any other questions of the Board?

(No response.)

MR. DORSEY: I will give a recommendation. I have a slight amendment to what appears in our staff recommended amendment to what appears in our Board book. So I will go ahead and read that in.

And I will kind of take notes as we are going through public comment as well, where there is reasonable changes that we can make now or larger concepts that you all may want to incorporate as well. So here goes.

Staff recommends approval of the QAP as presented in the Board materials with the following, and as outlined in the resolution with the ability to make minor changes, with the following amendment. Occurrence, each occurrence of the phrase, and has achieved at least 95 percent on the total system safeguard in Sections 11.9(c)(4) and 11.9(c)(5) of the QAP is hereby amended, is amended to read, and has achieved a 77 or greater on Index 1 of the performance index related to academic achievement.

Okay. Now that is the recommendation. That
sounds like a different language for some folks. This is within the opportunity index scoring item.

There is a phrase, and it relates to the metric used to determine if the school in which the development sites attendance zone, where the development site is located in the school's zone, whether that school would qualify, help the development qualify for opportunity index points. We have kind of gone back and forth and tried.

We read a whole lot of data on this. And we simply couldn't get it in the draft for the Board posting.

MS. DEANE: Let me add to what Cameron just mentioned as the staff recommendation; and the repeal of the old one.

MR. DORSEY: Yes.

MS. DEANE: It is in your resolution.

MR. OXER: So it is and the repeal of the old one.

MS. DEANE: And the repeal of the old one.

MR. OXER: Okay.

MS. DEANE: We have to publish that as a rulemaking as well.

MR. OXER: Okay. Yes. Okay. Do I hear a motion to consider?

MR. GANN: I'll make the motion to consider
staff recommendation with the correction or amendment.

    MR. OXER: Modification.

    MR. GANN: Modification.

    MR. OXER: Okay. Motion by Mr. Gann to consider staff recommendation as modified by Cameron.

    MR. McWATTERS: Second.

    MR. OXER: Second by Professor McWatters.

    MR. IRVINE: Excuse me. It is not just considering. It is approving us going forward with publishing this to the Texas Register for public comment.

    MR. OXER: Well, it is not to consider, it is a motion to consider, which is in the resolution is to approve this documentation. So that is -- all right. We have apparently abundant public input.

    Owing to the hour and to the magnitude of the contribution that everybody -- the number of people we have to make comment, and the fact that this is not a last chance, okay. I am going to ask everybody, because we are looking at 15 to 18 people here on this item alone. So I am going to ask you to please respect our three-minute drill here.

    If you have got things to add to this, throw it out there. And put it into it. And we'll take it, as Tim said, we will add things to it. But we are going to try.
I want to make sure that everybody gets heard, and we have another fairly contentious item to bring up, or a detailed item to bring up after this. So the first thing I want to do is have Michael read in a couple of letters from the Legislature. Michael.

MR. LYTTLE: Okay. We have two letters received from state elected officials. The first is from State Senator Judith Zaffirini, District 21.

"Dear Chair Oxer and Board members, Thank you for your leadership and addressing the housing needs of all Texans. This is to respectfully request that the Board revise the 2014 draft qualified allocation plan, as it relates to Section 11.9 competitive HTC selection criteria funding by local political subdivision to redesignate public housing authorities as local political subdivisions that are authorized to provide funding for which points are awarded and to remove references to related party from the same section.

"The Laredo Housing Authority has issues regarding rule changes that impact negatively their services to low income families in the City of Laredo, my home town. Until 2013, PHAs were considered LPS by TDHCA.

"This designation authorized PHAs to make funding available for the development of low to moderate income housing. In the 2013 QAP however, TDHCA removed
PHAs designation as LPS, preventing them from making use of this important funding mechanism.

"The Laredo Housing Authority is an essential housing resource for South Texas, providing quality housing opportunities and related services for those in need. As Chair of the Senate Committee on Government Organization, I would appreciate your Agency's taking this action to ensure that PHAs throughout Texas have the competitive advantages they need to support Texas with limited incomes.

"May God bless you and inspire you to agree with my perspective. Very truly yours, Judith Zaffirini."

MR. OXER: It sounds very legislative.

MR. LYTTLE: I wish I would have written that.

Okay. The other letter comes from State Representative Richard Raymond from District 42, addressed to Tim.

"Dear Mr. Irvine, I am writing a comment to the 2014 draft Qualified Allocation Plan as it relates to Section 11.9, Competitive HTC selection criteria, funding by local political subdivision, and the removal of the related party language in this section. Through 2012, TDHCA included a public housing authority as an LPS, that could provide funding and the related application would be awarded points by an LPS.

"In the 2013 QAP, TDHCA excluded funding by
PHAs as funding by an LPS. TDHCA removed the ability for
PHAs to contribute funding to transactions in which they
were involved using the justification that it was 'self-
dealing.'

"PHAs are public entities and have unique
resources that can only be provided by them. These
resources are regulated by HUD, are restricted to
affordable housing use by both HUD and Texas law. And I
can assure you that self dealing by a PHA is prohibited by
HUD. PHA resources are specific for the purpose of
building and operating low to moderate income housing.

"PHA funding is also limited to transactions
where the PHA participates. This use of funds allows the
PHA to meet its public mission of providing low to
moderate income housing.

"When a PHA participates in a transaction, it
procures the services of a private for profit development
and forms a public-private partnership. The other
participating entities include the general contractor,
architects, engineers, market study analyst, appraisers,
material suppliers, subcontractors, environmental
specialists, lenders and the private investors who provide
the funding to finance the development.

"In accordance with federal and state
procurement laws, PHA procurement is publicly advertised,
providing an open and equal opportunity for any developer wishing to participate in the transaction. Funding provided by PHAs in the form of a loan repayable by the tax credits entity to the PHA.

"I am not aware of any statutory provisions, of any statutory provisions or recent changes that prohibit PHAs from providing funding as an LPS. I noticed in the draft 2014 QAP that should the LPS, i.e., city or county borrow funds in order to commit funding to the development, the applicant or related party to the applicant; e.g., a private developer can provide collateral or guarantees for the loan.

"The LPS assures repayment of its funds to the guarantees made by private developers. Why does TDHCA make this exception. I ask that you reconsider your decision to exclude PHAs from designation as local political subdivisions, in the proposed draft Qualified Allocation Plan. Sincerely, Richard Pena Raymond."

MR. OXER: Thanks, Mike.

Okay. Public comment. And I will run the clock on everybody. So listen to the beep.

MR. DIETRICH: Good afternoon, Mr. Chairman, ladies and gentlemen. My name is Steve Dietrich. I am the Director of the Mainstreet program and the Heritage Preservation Officer for the City of Corsicana.
And I come before you to speak in favor of a modification to the Qualified Allocation Plan that would level the playing field for redevelopment of historic properties. Low income housing tax credits are vital to these projects, which often must also layer tax credits, EPA brown fields, clean up grants and local financing, just to be feasible.

Mr. Dorsey made reference to the remedial plan which favors the high opportunity areas, basically provides for more favorable scoring of projects located in higher income areas, and areas of higher performing school districts. This places the redevelopment of projects within central business districts at a distinct disadvantage.

Historic downtown properties in need of redevelopment are often surrounded by lower income neighborhoods and lower performing schools. The scoring criteria as established in the current QAP make a winning application highly unlikely for these type of redevelopment projects. This is about more than housing.

There are noble ancillary benefits to redeveloping neglected historic properties. Currently, many of these buildings are publicly owned. The sale to a private developer will add millions of dollars to the
appraisal districts tax rolls, once development is complete, which can have a considerable impact in rural communities like Corsicana.

Furthermore, rehabilitation of historical properties can be seen as the greenest of construction methods. The reuse of existing infrastructure, and the harnessing of the embodied energy that went into the building of this construction a century or more ago simply makes sense, both from an economic and an environment standpoint.

I see a successful tax credit redevelopment project. It can be a springboard for sustainable economic development activity in the downtown area, as developers seek economies of scale with complimentary market rate historic rebuilding projects.

I ask you to look favorably on proposed revisions to the Qualified Allocation Plan, which will once again make historic redevelopment projects competitive in the allocation competition. Thank you.

MR. OXER: Good. Thank you. Any questions of the Board for Mr. Dietrich?

(No response.)

MR. OXER: Okay. Don't forget to sign in. Everybody, first thing up, sign in, please.

MR. LINDHOLM: Chairman, Board. My name is
Craig Lindholm. I am the Executive Director of Community Redevelopment Grants for the City of Texarkana, Texas.

I too am here to speak on behalf of leveling the playing field for historic adaptive reuse projects. Currently the problem with the QAP as we deem it, is that because of income, school based criteria that has been asserted over the last couple of cycles, it makes these programs competitive.

We also feel that the QAP does not sufficiently address the amount of equity that tax credit projects can actually bring, thus reducing the overall debt and actually extending or allowing the agency to spread their tax credits over a greater portion of time or over a greater area of the state. With the passage of House Bill 500 by the Texas Legislature, Texas adopted a 25 percent historic tax credit.

This combined with the federal tax credit of 20 percent after the sale of those tax credits, we could be looking at an additional 35 to 40 percent equity into these deals. That is 30 to 45 percent savings that could be counted against expenditure, low income housing tax credits.

We spent this morning discussing. We spent a lot of time this morning discussing how the allocation of tax credits as they come back occur. Well, we feel that
consideration of these changes to the QAP could actually give the Agency additional tax credits to spread throughout the state, to be able to fund more projects, and thus maybe avoid what we -- our discussion that we had this morning.

We specifically see three areas of the QAP that could possibly be changed, could be amended to address this. One has to do with the cost per square foot development.

We would recommend that the value of any federal or Texas historic tax credit equity be deducted from the total development costs prior to the calculation of these square foot of the development. Meaning that instead of counting the square foot development costs just solely on the basis of low income housing tax credits, we deduct that. If we deduct the historic tax credit, that equity that brings, that would reduce the burden on the low income housing tax credits and increase the points for developers that want to address these historical revitalization projects.

The second area that we see that the points could possibly be altered has to do with leveraging private state and federal resources. And we would only suggest here that in addition to the items that the staff has included in that, that perhaps they could also include
an addition of any federal or state historic tax credit equity to the eligible line items and possibly even give them more points.

If we are going to bring 40 percent equity into a deal, we feel like we could have maybe five points. Because we would only -- the total development of costs, or the amount of low income housing tax credits we would need would be reduced below 5 percent.

The third thing has to do with the provision that is currently in there for extended affordability or historic preservation. Currently, the QAP draft provides two points for a historic preservation project.

We would recommend that that be increased to ten points, to make these projects more competitive. The reason for this, as Mr. Dietrich said, is that most of these developments are in the central business districts. The central business districts in many more rural Texas cities are low income areas.

We do not have the high performing school. We do not have the high income. We do not have the availability. All we want here is something to level the playing field. Thank you for your time. One more point.

MR. OXER: All right.

MR. LINDHOLM: This is the last point. Again, all we are trying to do here is to level the playing
field. Three takeaways.

By the addition of the change in the QAP to be able to add the tax credit equity, thus reduce the dependency on the low income housing tax credits add that historic equity, 35 to 45 percent, three things could happen. You could extend the spread of the low income housing tax credits throughout the state to be able to fund more projects.

Number two, you would be able to provide more affordable housing in the State of Texas. And number three, you are going to help to meet local community development needs. Thank you for your time.

MR. OXER: Good. Thanks for your comments. Any questions from the Board?

(No response.)

MR. OXER: Okay. Michelle, let's get the sign-in sheet where they can get signed in so we are not losing much time between speakers if we can, please.

MR. ARECHIGA: Hi. My name is Jason Arechiga, and I represent the NRP Group. Specifically, my comments today would be a little bit more on the 4 percent bond developments as opposed to the 9 percent and regarding the QAP.

I would like to address Sections 11.3, housing deconcentration factors and propose a change to 11.4 tax
credit requests and award limits. Specifically, Section 11.3, section D, subsection 2, where the governing body of an appropriate municipality may by resolution allow new construction in an area that has more than 20 percent Housing Tax Credit units per household in a census tract.

The 20 percent is a reduction from 30 percent from last year's QAP. We prefer the 30 percent but we do not oppose this reduction.

However, Section 11.4, Section C, subsection 1 eliminates an increase in the eligible basis otherwise known as a 30 percent boost in these census tracts that exceed 20 percent Housing Tax Credit units per household. This is despite the governing body having allowed the new construction in these areas.

We request that the governing body of the affected census tract have the ability by resolution or by vote to allow the increase in the eligible basis as well. This would allow new construction in areas targeted for revitalization such as the southwest side of San Antonio, San Juan III is one of the projects there. West Dallas, where the City is currently revitalizing, but the census tract is over 30 percent at the moment. And East Houston, as without the boost a bond development becomes financially unfeasible.
Additionally, census tracts that are predominantly composed of retail, commercial and light industrial but with few total households, and in some cases, just one Housing Tax Credit development would be ineligible for future construction because they will not be able to get the boost. A resolution would allow new construction in these areas that cities have targeted for redevelopment to include residential uses. Thank you very much.

MR. OXER: Thanks. Any questions?

(No response.)

MR. OXER: Good. Thanks, Jason. As we are doing this, let's have the next speaker sitting behind him, ready to go, if we can do that. I tell you, we have got to run a hot clock here today, folks. We have got a lot to get through.

MR. JACK: I guess I won't get to go through all this.

MR. OXER: Go on. Leave it with us.

MR. JACK: Thank you Mr. Chair and members. My name is Gerald Jack, and my firm is Apartment Market Data. We do a significant number of market studies around the state both for market rate projects, and the affordable projects concerned with this program.

As Cameron said, the draft QAP contains
language that changes the market study due date from April 1st to February 28th. This same change has been introduced by staff at least three times in prior years. The last time in the 2011 draft QAP, and each time, it was determined that it was not necessary to have the market study delivered with the application to effect efficient processing of the applications.

Additionally, the April 1st deadline has worked for both staff and the market study community for more than a decade. Keep in mind, most importantly, there is no statutory requirement that the market and study be delivered at the same time that the applications are due.

If the Legislature -- if legislators had actually wanted the market study due at the same time, they could have written this into the Sunset Bill this year, to accomplish what staff has introduced as their perception of the legislative intent. There are several reasons why this is bad policy for the State. And I am going to touch on just a few, because of time.

First and foremost, the accuracy of the report diminishes greatly when the market study is required to be delivered with the application. The reason for this is that developers continue to refine and change their unit mixes and rents up until the time that the applications are due and delivered to the Department. This additional
30 days typically gives us the opportunity to work with the developers' final numbers and without this additional time, we would have to deliver reports that are inconsistent with the developers' final application, and then revise the report through the deficiency process.

Time is money, and we are all talking about making the process more efficient. This actually makes it less efficient because we are going to have to deal with the Underwriting Department through deficiencies and add to the work load, because they are going to be responding to us, as to why it doesn't match up.

And then, we have to go back and rewrite it and deliver more information to them. Right now, they get the information, hopefully, in one complete package.

Second, the additional 30 days allows the market analysts to work with the developer to understand the rents. I am going to skip, because I am running out of time.

We have heard that the reason for this change in the deadline is to make the market study available to the state reps when, should they request the market study prior to determining their support for the project. I am unaware in all my ten-plus years of doing market studies and the thousands that I have delivered to the Department of any time that a representative has asked for the report.
to determine their support.

If this -- second of all, the demand has little
to do with the support letters. If that were true, most
of the legislators would support these projects, and we
would never hear from the NIMBYs. It is also unlikely
that a state rep is going to take the time to read a 250
page report to get to the crux of what the project is
about.

In conclusion, cities already have the
authority to set their own deadlines and requirements for
resolutions. The Department doesn't need to undertake
that responsibility on behalf of individual cities. We
need additional time, and I plead with you, that you will
allow us that time to make the process more efficient, not
less.

MR. OXER: Good. Thank you. Who is next?

There is a list that went around.

MR. LANG: I have got it.

MR. OXER: Okay.

MR. LANG: Tim Lang, Tejas Housing Group.

MR. OXER: Time out.

MR. THOMAS: No. I am here. I am just
stretching.

MR. OXER: You have to stay within view.

MR. THOMAS: If I don't move, I won't be able
MR. OXER: I will offer up, if any member of the Board wants to stand up, we can stand up. Put some blood in a different position in our bodies, so we can hear.

MR. LANG: Okay. Chairman Oxer, members of the Board. I would like to thank you for the time to speak. Excuse me. I meant to speak on the cost per square foot issue. Cameron has already address that, and mentioned that staff is going to do an analysis.

What we are seeing now is we are losing a bunch of construction labor to the oil fields, and seeing huge increases in our construction prices due to that, couple with the rising costs of construction materials as well. It is making it very challenging to construct buildings as they are now.

Conditions, with further reducing the price that we are allowed per square foot I think would make it even more challenging, and a pretty daunting task to get done. Excuse me. The other thing I want to mention was the possible expiration of the 9 percentage on tax credits.

If that does not get extended past this year, it further complicates the feasibility of our developments. And to illustrate to what extent that could
happen, excuse me, on an 80-unit tax credit property that received about $1,275,000 in tax credits, at the 9 percent tax rate, we would receive about $12,000,614 in equity.

If the applicable percentage went back to where it is today, we would be looking at about $10 million in equity to build that development. So come December 31st, if that is not extended, we could be looking at approximately a $2 million decrease in funds to build the same unit that we would have been able to do this year, with the $12 million in tax credit equity.

So that I think that needs to be part of the conversation going forward in looking how we craft the QAP, the things that we add to alleviate any kind of complications that we could see should the 9 percent credit not get extended. That is all I have for right now. And I appreciate your time.

MR. OXER: Good. Thanks for your comment. Who is next on the list, Michelle.

MS. BROWN: I will go. Good afternoon, Honorable Chairman Oxer and members of the TDHCA Board. My name is Linda Brown. And I am an active participant of the housing tax credit development and consulting business.

I have just a few brief comments to make regarding the proposed 2014 draft of the Qualified
Allocation Plan for your consideration prior to any final action. First the proposed program calendar requires the submission of the market study by application deadline, February 28th.

Last year, unless you were asking for home funds, market studies were due on April 1st requiring this study by February 28th will force developers to engage a TDHCA-approved market study consultant of which there are a few, by if not before the preapplications are due on January 16th. This early engagement undermines the purpose for the preapplication phase which as described in the QAP is a process allowing applicants interested in pursuing an application to assess potential competition across the 13 state service regions.

Market study consultants need ample time to complete the study for applications. Assuming the preapplication log is released three days after submission and a minimum of five days for applicants to assess potential competition, market study consultants will only have four weeks to complete studies, including applicant review before final submission of the full application on February 28th.

This simply isn't enough reasonable time. We respectfully request the Department keep the April 1st deadline for market studies as in the past, getting the
study one month earlier will not result in any added
benefit.

Secondly, educational excellence. I apologize
for talking so fast, but in the sake of time. In the
draft 2014 QAP, three points are awarded for a project
site served by a high performing elementary school, middle
and high school or one point for an elementary school and
middle or an elementary school and high school.

Why not award one point for each level of
school, elementary, junior high and high school. That
meets the required performance criteria. By scoring one
point for each achieving school, the incentive of the
point is appropriately proportioned to each of the
performing schools.

Third, underserved area and tie breaker rules.
An underserved area in an urban area is a place with no
existing tax credit projects. Or a census tract in a
rural area with no existing tax credit projects.

Existing housing tax credit projects with very
few tax credit units ten or less are located in or
adjacent to first quartile census tracts. Many of these
small unit number deals were awarded credits more than 20
years ago.

The existence of these very small deals deter
applicants from considering the census tract because of
underserved and tie breaker criteria. Tie breaker rules say that a proposed development site nearest to an existing tax credit project loses to an application located further away.

Like underserved areas, the tie break rule gives no consideration to the number of tax credit units in the closest tax credit project. I guess my time is up.

I have two more points. Thank you for your attention.

MR. OXER: Great. Thanks for your comments.

Was there any questions?

(No response.)


MS. MCIVER: Chair, Board, Diana McIver, DMA Development Company. And I have got a couple of points to make. One is, I support your right to have a moratorium on certain counties, certain regions, as it relates to new development of senior housing. As long as that methodology is sound and factors in growth, I am fine with that.

I am a little puzzled by some of the counties mentioned, because Central Texas for instance, has the highest fastest growing population of seniors in the entire country. So -- but that said, what I disagree with is the continued unleveling of the playing field as it relates to senior housing.
And so I would ask that you restore points in a couple of categories, so that those of us proposing senior housing don't have a six-point advantage. And the two areas, one is, under underserved. There is two points allowed for general and supportive housing, but nothing for senior housing.

And then, when you get to high opportunity where the scores are seven, five, three, one, the highest a senior development can score is three. And I would ask that senior developments be able to play on a level playing field and be allowed to achieve that seven points. Last year at a minimum, they could achieve at least the five points. This year, it would be three.

I understand the argument that people who are over the age of 55 can also live in general population developments. But I will tell you that what we design for seniors is different. It is different in terms of designs. And it is different in terms of services and management.

So you know, even though a person can technically live there, they may not be able to climb the stairs on that three-story walkup. And the services may not be appropriate.

It is really no different than a supportive housing which is a separate category, whereby a person who
is eligible for supportive housing is also eligible for general population housing. So I really would like you to factor in what we do within senior housing.

Another category that I want to comment on, is the rural high opportunity, which is a new definition of high opportunity for rural areas. First up, I absolutely agree with staff in adding some new categories of one mile linear to a grocery store to an elementary school. I would actually ask that that be expanded.

One is that one of those is for one mile to a whatever the category is going to be for a good elementary school. I think that needs to be expanded to high schools and to middle schools. And why do I say that?

One of the biggest things we see with our residents in family housing is they have hourly jobs. And you know, that nurses' assistant, that person at the grocery store, they cannot get off during the day to pick up their kids at school after school activities. So why not, if we keep that at a mile, which I think we should, then those kids from middle school and high school can actually walk home after band, after football, after cheerleading, whatever.

So I think that is a good policy. So what I would recommend within that category is that you include middle and high schools within that first category, maybe
it is two of the three. Add two categories for senior housing, one located within one mile of the senior center, to for two points, located within one mile of health-related services such as clinic, hospital, doctors offices for two points.

Then make the categories for schools and after school programs and day care -- make those exclusive to family housing and supportive housing and then have the two new senior categories. And then those that are criteria for census tract, income and grocery store points apply to both populations.

So I think that I am asking that those, that whole section be tweaked a little bit. But I really do support the new look at high opportunity and rural areas.

And my last point is just simply last year, we tried something new, some points for leveraging. And it was a seven, eight, nine category. Projects are probably a little tight. And I would just ask that maybe we go to eight, nine, ten this year, and give us a little leeway on that.

But overall, I would like to say that I think staff did a really good job in making some modifications to the QAP. Thank you.

MR. OXER: Okay. Thanks, Diana.
Granger.

MR. MCDONALD: Granger McDonald, Kerrville.

Mr. Thomas, as they always say, I wish you had been here last meeting. It was only an hour long.

MR. OXER: We are averaging out, eventually.

You know that, don't you.

MR. MCDONALD: I too want to complain about the issues over seniors housing. First of all, I think that any time we have a rehab of seniors housing they should be exempt from these requirements. If we have the opportunity to fix something up, it is old dilapidated, it should be taken in consideration.

Second of all, I think that seniors housing needs to be looked at differently. I know that in reality, a senior can live in the family project. But most of our family projects are two- and three-story walkups. That forecloses a senior from being able to use all but maybe a third of the units.

So there is a huge problem there. I would offer that perchance that we make this a situation where we look at communities under 200,000 being exempted from this. Our smaller communities are where the seniors really need the housing.

One of the counties you are throwing out is Kendall County, Texas. There is 298 senior units there.
I own all of them. We have 100 percent occupancy, with a seven-year waiting list. Most of the people on that wait list will pass away before they have the opportunity to move in.

So I am telling you that just because it looks like there is an oversupply, frankly, there is not. In Kendall County, Texas, you would think I would be for stopping anybody else from building there. Because it would stop my competition. And you know, maybe I should be. But I don't think it is right.

And I think you need to look at these smaller Texas communities, especially where people have been pushed out in the oil booms. The seniors have been pushed out of housing into more expensive housing. It is really a huge problem.

Also, seniors don't want the same supportive services. They need medical services. They need attention. They need care. They need units that are all handicapped adaptable. They don't need family units.

Additionally to that, I would like to point out that I think the RAF, you saw the problem with the RAF this morning, the situation over at San Antonio versus Austin. I think we have an issue that we need to discuss about how a particular region could get blanked. If you
ask for more than 100 percent of the allocation for a region, for example Midland, this last year, where I participated.

You could be in a situation where you have to ask for just 100 percent. You are very low on credits. If you ask for up to 150 percent which you are allowed to do, you would have been thrown into the statewide collapse. And with a low scoring area like in West Texas, it would have been 136, 138 score, you would have never gotten credits.

You would have had an entire region sink. And I think we need to make some allowances that we serve every region at least with one property. Thank you.

MR. OXER: Okay. Thanks, Granger. All right. Hang on, Tara. I get to exercise some discretion of the chair.

We are going to take a five-minute break, stand up and walk around, get some blood in your heels. We will be back here, 5:00 straight up.

(Whereupon, a short recess was taken.)

MR. OXER: Go for it. They are here. We are listening.

MS. REIDY: Good afternoon, Chairman Oxer and members of the TDHCA Board. My name is Sara Reidy, and I have been working in the tax credit community since 1998.
And I have a great deal of experience in the financial success of developments.

So I have a few brief comments to make regarding the proposed financing structure behind the 2014 draft of the Qualified Allocation Plan for your consideration prior to any final action. Commitment of development funding by local political subdivision.

Currently the maximum points awarded to applicants are based on the ability to receive the lesser of $15,000 or 15 percent of the population for tax credit unit. This equates to $1.5 million for 100 housing tax credit units from local government with a population of 100,000. For a place that has a population of 75,000, the commitment for maximum points would be 1.125 million.

With the reduction in federal government funding to local jurisdictions, and the decrease in tax base due to the recession, most political subdivisions do not have this level of funding available. We recommend the amount committed by local government entities for maximum points below $5,000 or 5 percent times the population per low income unit. This would equate to 500,000 and 375,000, using the previous example.

This lower level still requires the local political subdivision to have significant skin in the game while respecting the budget constraints of this coming
year. Cost of development per square foot, the draft QAP differentiates two types of developments. High cost and non high cost.

To be in a high cost category, you must be in an urban area and in the first or second quartile, supportive housing or 75 percent single family design. All other developments fit into the non high cost development category.

Per the draft QAP, high cost developments receive an additional $5 cost per square foot. Sixty-five, versus 60 for building costs, and 85 versus 80 for hard costs.

We have prepared an analysis of the construction costs for all awarded projects based on the 2013 TDHCA underwriting reports, and submit it to staff on September 3rd. We used only the construction numbers TDHCA provided and not the applicants'.

Based on the analysis, only three of 19 non high cost developments meet the building costs of $60 per square foot and one of 19 meet the hard cost of $80 per square foot. In our analysis, we found the average building cost per square foot was 66.56 for high cost developments and $64.89 for non high cost developments.

We also found the average hard costs per square foot was $92 and $94.96 respectively. Based on this
analysis, the cost of construction whether in a high or non high cost development is basically the same.

Therefore, we request the costs of development per square foot be the same whether you are in an high or non high cost area. And I will finish on that point. Thank you very much for your time.

MR. OXER: Good timing. Okay. So, thank you.

MS. RICKENBACKER: Donna Rickenbacker with Marquee. And welcome Mr. Thomas. I look forward to working with you. I am not going to repeat a couple of comments that have been made.

I do want to go on record though, in support of the comments made by Linda Brown with respect to educational excellence, and underserved area points. We do recognize that more likely than not, any changes to those scoring categories will probably have to go back for approval by the court. But we do think that some of these changes will enhance those scoring categories and clearly meet the objectives of the remedial plan.

I wanted to point out to the Board that this year, based on the current draft of the QAP, under declared disaster area, which is a ten point scoring category, we have effectively changed that scoring category such that anybody that self-scores will qualify
for those points. That is a big point category. I am really hoping that there is a way to make some adjustments where there, if there has been a defined, localized, not county wide but localized disaster that those, that there be some point differential within that scoring category to provide a higher score to those applications.

Input from community organizations, this is a scoring category where you don't have a neighborhood association, you can maximize your points in the scoring categories if you get letters of support from a civic or community organization. It used to be two letters you could maximize your point.

Now it is one-point letters, effectively four letters that you have got to be able to prove up in a lot of urban areas even. Certainly the urban areas, it is very difficult to find eligible community or civic organizations that you can provide those letters.

I am hoping that we can go back to last year's QAP, and be able to maximize those points with two letters instead of four. Please recognize that the intent of the scoring category is to ascertain if there is community support.

Clearly this year, we have to get support resolutions from the municipality. Those are the elected bodies of the cities and the counties. I would think that
that should -- you know, we should be able to prove up
that you have got the local support that you are looking
for under that scoring category.

Development size, last year, under development
size you could score one point if you, I think it was
$500,000. You were trying to get $500,000 in tax credits
and no more than 50 units. This is, in my opinion, a
disaster scoring category. And I think we should
eliminate it all together.

If not, I would like to suggest that we adjust
to providing the points that the applicant request no more
than the amount allocated to the subregion. Up to,
obviously, the $1.5 million of this, the per project
maximum. That is it. Thank you very much.

MR. OXER: Thanks, Donna. Who is next?

MS. MEYER: Robbye Meyer. I just have a couple
of comments. I would like to echo Darrel Jack with the
market study, moving the date back to April 1st. And also
Linda Brown's comments for the same. Also, I would like
to echo Diana McIver on the senior housing, and Granger
McDonald's comments on senior housing as well.

I will make my comments very short. The
opportunity index, I would like to add, the essential
community assets and agree with Diana, adding those
medical facilities, with general practice, or emergency
care facility and community centers, either or a family center or a community center.

Underserved areas for 11.9(c)(6), underserved areas see a place, never received an allocation serving the same population as the proposed development or has not received an allocation in the past ten years. And for D, for rural areas only, it is a census tract that has no more than 50 housing tax credit units instead of not having received an allocation at all. Thank you.

MR. OXER: Thanks, Robbye.

Barry.

MR. KAHN: Barry Kahn, I am head of Kahn Development. A couple of things real quickly. One on the prohibition on seniors. I have spoken with the City of Houston, Harris County, Harris County Housing Authority, and the City of Houston Housing Authority.

They are against prohibiting any client, any certain class of type of housing. The suggestion that has come up is there be a max of the percentage of the allocation, particularly like with respect to Region Six, which is a large region. Where maybe it is up to 75 percent or 60 percent.

You know, it could only be seniors and the rest would have to be family housing or some other alternative.

But at least that way, you do have some avenue for
expanding the seniors population of housing. But you also
keep the avenue open for family housing.

We have got a demographic makeup in Harris
County, and it is such that it is a lot more challenging
to get family deals. And in respect to that, I would like
to request that the revitalization boost be added back as
it had been in prior years.

In lieu, this year, the Department has informed
me they took that out and instead, put an additional 10
percent for 30s, where you can get the 30 percent boost.
But it has been noted, one loses 16 to 17 percent of the
amount of equity you had in this past year, if the flat
nine goes away.

So if we want to get family deals in a city
like Houston, it is going to have to probably be in more
of a revitalization area under the City's makeup. And in
order to make the property economically viable, to force
too many 30s on it, it just won't work.

If you lose about 30-to $50,000 worth of debt
per unit when you drop from a 60- or 50- to a 30-.
And with the loss of equity on the flat nine, it is just going
to be hard to make the deals feasible. So what I would
strongly recommend, and I have got strong support from the
municipalities is that the 30 percent boost for
revitalization areas be added back in.
On leveraging, as had been noted with the loss of equity, I would like to suggest maybe eight, 8-1/2 and nine, rather seven, eight and nine, as a suggestion. Again, making up the 17 percent loss of equity.

And on government approvals, I want to thank Cameron for moving from March 28th to the April 1 date. But again, at the request of the two large horses in Region Six, they would like that moved to May 1, because they need 60 days to process, given the number of applications that are processed in that region.

They are required now to properly vet and underwrite all their deals for their respective city council or County Commissioners' Court. And they just need time to do it.

Otherwise they are going to push the burden back on the developers and make the developers have an application even sooner than required for TDHCA, which may be challenging and not really get the results we want with the best quality deals. And I am happy to answer any questions.

MR. OXER: Any questions for Barry?

MR. OXER: You make a strong argument for a two year QAP in places, isn't it? Okay. Cameron, are you caught up? Do you need any more detail? Are you all right?
MR. DORSEY: I'm good.

MR. OXER: Okay. Tony?

MS. JACKSON: Good afternoon, again. I am going to ask some of --

MR. OXER: Identify yourself again.

MS. JACKSON: I'm sorry. Toni Jackson, Coats Rose.

MR. OXER: We know, but you have got to tell them.

MS. JACKSON: I have got to tell them. I am going to ask a number of the housing authorities and developers that I am standing here representing to stand up while I am speaking. We lost some of the crowd. But so that you know that I am staying in time with what I am doing. I am representing a number of housing authorities, in fact, over 30 housing authorities in Texas. Three --

MR. OXER: Let them sit down now.

MS. JACKSON: Three state agencies and a number of developers who are supporting some consensus comments that we were able to put before the staff on last week. And we want to thank the staff for having that meeting with us. And as a result of it, we have seen some movement already made and we appreciate that, Cameron.

As the staff mentioned to you in Cameron's
remarks, the support of our biggest concerns, which is the inclusion of RAD and the set-aside as well as the funding. But I'm sorry, they didn't support them. But these are our two biggest priorities, RAD being included in the set-aside and then the funding being added back to the LPS.

Since we have had two letters from legislators read into the record on the funding, I am going to speak to that one second, in the interest of time. But I would like to speak very specifically to RAD. Because the staff asked us very specifically if we could give them legal reasons for RAD to be added.

They would be interested in hearing those. As indicated, the rental assistance demonstration program was enacted by HR 2112, specifically to improve and preserve public housing. According to the statute, funding for RAD is transferred from the public housing capital fund and public housing operating fund to cover the costs of operating units.

The rental adjustments of the units are determined by using the public housing operating costs factor and may only be equal to the amount transferred from the capital fund and operating fund. Again, which is the Section 9 funding. And so again, it can only be equal to that amount from the Section 9 funding.

Secondly, the RAD act indicates that the
tenants of the properties converted under Section 9 shall maintain the same rights under the conversion, and the public housing authorities must offer the units to those same tenants. And so again, this is for those public housing tenants, and it is intended to recapitalize and operate public housing properties by leveraging additional sources to fund the properties.

Thirdly, HUD requires that the ownership must be maintained by the housing authority or nonprofit entity except for when using tax credits. And if tax credits are used a for profit entity may be the only if the public housing authority preserves its interest in the property in a manner approved by HUD.

So again, I am providing three reasons, statutory reasons to continue to include RAD. The funding, the ownership and the tenant base. And then we have provided support letters as it relates to using public housing funding in the LPS. Thank you.

MR. OXER: Thanks, Toni.

Any questions for Tony?

(No response.)

MR. OXER: Okay. Next?

Welcome back, Mike.

MR. GERBER: Good evening. I am Mike Gerber.

I am the president of the Austin Housing Authority. And
it's good to see everyone. I would just like to echo what Toni said.

RAD is just a critically important tool to public housing authorities. And as you all know, public housing authorities are a unit of local government, of the Texas Government Code. And we serve the lowest income residents, those at 30 percent and below.

The Austin Housing Authority serves more than 19,000 people every day, about 7,300 families. And the average income for a family in our program is less than 14,000.

We operate 18 properties, about 1,850 units. And we depend heavily on federal funding for the U.S. Department of Housing and Urban Development.

Some of our properties were built in 1939, and are some of the oldest in the country. And most of our units lack central air conditioning, washers and dryers, dishwashers and other modern amenities. Most need electrical and pretty significant plumbing improvements. Some have asbestos.

Our backlog of physical needs exceed $25 million and nationwide, the backlog of needs, physical needs for the nation's 4,000 public housing authorities exceeds $25 billion. HUD and PHAs know that Congress will never appropriate adequate funds to address that backlog.
And that is why they have created a number of programs over the years, including HOPE 6 and Choice Neighborhoods. Some of CDBG, the Capitol Fund Financing Program. And TDHCA has always allowed PHAs to use those HUD programs in conjunction with tax credits as part of the set-aside. Again, when we are talking here about the set-aside that is reserved in no small part for public housing authorities and nonprofits and others.

RAD is really the latest tool to address that backlog of repairs and neglect from Washington. It is a demonstration, as Cameron referred to earlier. It has a limit to it, of 60,000 available units.

The Austin Housing Authority is one of the few, one the housing authorities that has received a demonstration award. But if we cannot access 9 percent tax credits, we will not be able to make that transaction, that deal which is about three miles from here work. There were 90 units on the ground before.

If we couple RAD with 9 percent tax credits, there will be 90 units of again, public housing like property there. There is a conversion. Something definitely happens. But essentially, the subsidy remains intact.

Let me also just mention on the -- with respect to the local political subdivision. Well, we say,
everything that we do as a public housing authority, we also do in conjunction with developers.

We don't build anything ourselves. For purposes of that, due to the transaction, we are going to be working with DMA, you know, which is very active in the tax credit space in a development here in Austin. And so it is something that we do in partnership again, with the development community.

PHAs, because we are units of local government, I don't believe can be self-dealing. And to the extent that there were problems with that in the past, I think HUD has addressed that.

We have to do everything through procurements. We went through a rigorous procurement process to secure DMA for our Rio Lado deal. We have done one just recently to secure a development partner for our Choice Neighborhoods project.

And so I think it is important to make that distinction that again, we are a unit of local government, subject to the same rules of transparency. And we would hope that that related party language would come out of the LPS part of the rule. Thank you again.

MR. OXER: I complement you on your timing.

MR. CICHAN: Good afternoon. Gerald Cichan, CEO Housing Authority City of El Paso. We would like to
say that in front of you, you have over 100,000 families
that are represented by the housing authorities that are
sitting here.

El Paso alone has 40,000 residents or 6 percent
of the total population. Of that population, about 50
percent of them are at minimum rents, which are $25. We
are not equal to other developers, for the fact that we
actually handle a population that cannot be handled by tax
credits.

Public housing handles a population of people
that are elderly and disabled that have virtually no
income. We are that safety net. And as Granger said it
best, he said, if you have the units already in place, why
don't you fix them? Well, we have 6,500 public housing
units that will go through a RAD conversion.

As of right now, if we are not considered units
of local government, the chances of us getting the 9
percent tax credits are decreased significantly. If that
happens, the ability for us to convert out and to preserve
over $600 million just in El Paso alone, of infrastructure
is decreased.

When you look at that, for the fact that we
cannot self-deal. Look at it this way. Any monies that
we make go back to the public. We were built on taxpayer
money.
If we turn around and have tax credits and monies have then come back, they go back into the public good. That was the reason why we received additional points for being a unit of local government in the first place.

And the mission of TDHCA is the same mission that we have in housing. It is basically, that is to house the very low income and to take care of those that can't take care of themselves. And that is what we do.

That being said, when you look at overall the fact that the RAD conversion will end up transforming what public housing is, public housing we know is probably going to cease to exist in the next ten years. The funding that is currently coming in is insufficient to maintain it. As you are seeing it right now, it is Section 8. Section 8 you are considering, do you get rid of it all together?

We are funding it with monies that we are creating on the outside to take care of those 5,500 vouchers that we currently maintain. If we didn't do that, who would? You would lose those vouchers. That is the reason why we are not considered, and we don't consider ourselves equal to other developers.

Because one, we are for the public. If we turn around and make money, does it go in my pocket? No. I
don't go out and buy a Ferrari. I don't go out and change what I drive. Because it goes back to the public. It goes back to the infrastructure that is considered public housing.

Now, if you look at what the overall goal is, it is the same as yours. But if you turn around and you change this definition, this definition has been there for over 15 years; since the existence of TDHCA.

You then take away that which allows us to truly be government and support what is the overall policy that we both serve. And so I would ask that one, we do not make this change. And if you do make the change, really ask why are we doing this.

It was good enough for the first 15 years of TDHCA. Why do you want to change it now? Now, when we are really converting out what public housing is. You will be changing something that can be sustainable. Thank you.

MR. OXER: Thanks, Gerald. Appreciate your respecting our clock here.

MS. VILLALOBOS: Good afternoon. I am Melanie Villalobos. I am with the San Antonio Housing Authority. In San Antonio, we serve 70,000 low income children, adults, seniors, disabled individuals and veterans. But we are all here today representing the more than 400
housing authorities across the state that serve 200,000 households, most of which are at the extremely low income level of 30 percent of AMI and below.

We support the comments made by our colleagues regarding RAD. But I will be speaking primarily to the Section 11.9 references the commitment of funding by local political subdivisions. It is important to remember that it is housing authorities, whose primary mission is to serve Texans at 30 percent of AMI and below that with the HUD subsidy and through private-public partnerships are generally able to serve more of our state's extremely low income population. However, many of our public housing communities are 50 to 75 years old, and in desperate need of redevelopment that would require the use of 9 percent tax credits.

In San Antonio alone, our backlog needs are over $300 million for our public housing portfolio. With this in mind, we are very troubled by the related party funding language that was added last year. To preserve these communities that serve the poorest Texans, we strongly recommend the removal of the related party language, and again allow housing authority monies as a leveraged source of funds.

This current language denies the fundamental fact that housing authorities are public entities and
units of local government with no potential financial gain and no opportunity for self-dealing. Our developments house the hardest to serve. Maintain long term affordability and rebuild projects into sustainable mixed income communities.

And we urge you to reverse the recent addition of the related party language and return to language that recognizes the role of housing authorities in our communities and throughout the state. Thank you.

MR. OXER: Thank you.

MR. VAUGHN: Good afternoon. I am Robert Vaughn with the Hunt Companies out of El Paso. I am here today to stand in support of the two issues that are concerning the public housing authorities.

The Hunt Company is a development and finance organization that is involved in housing throughout all aspects. We do development construction, property management. Tax credit syndication, actives, general partners, limited partners.

So we have vast exposure to programs, not only affordable housing but housing programs all over the country. And I can tell you from personal experience from working at public private ventures that there is no entity better equipped to serve the lowest, the most neediest citizens than public housing authorities.
And in particular, with speaking to the issue of RAD, in its inclusion in scoring for tax credits, I would call your attention to the 2306.01, the purpose of this Department. It is to contribute to the preservation and development, redevelopment of neighborhoods and communities, including cooperation in the preservation of government assisted housing occupied by individuals and families of very low income and extremely low income.

That sounds like what RAD is. RAD is going to address the preservation of government-assisted housing of families of very low income. And that is -- I will conclude my remarks with that. Thank you very much.

MR. OXER: Thanks very much, Robert.

Okay. Is there anybody else on this item, 6(c)? Okay. We have got a count. Is there any more? One more. Are you going to speak? Do you have a letter to read? Okay. All right. Go ahead.

MS. LLANES: Good afternoon, Chairman, Board members, and staff. Laura Llanes from the Laredo Housing Authority. And yes, we got a support letter from Senator Zaffirini and Representative Richard Raymond. But we were also strongly supported by Texas NAHRO, which you have already heard has over 400 housing authorities.

I am up here to talk about asking you to remove the decision about excluding PHAs from designation as LPS
in the proposed draft QAP plan. This is not a new concept. Up until 2012, PHAs were always included as LPSs that could provide funding and the related application would be awarded points.

It wasn't until 2013 that TDHCA excluded the funding by PHAs as funded by LPS. Justifying it by calling it self-dealing. And you have already heard that that is strictly prohibited by HUD.

And I know it is an interesting question that was posed. First, Representative Richard Raymond said, he is not aware, and neither am I of any statutory provisions or changes that prohibit PHAs from providing funding as an LPS.

But his question that stuck with me is, why is it that in the draft that an LPS, for example, several counties, can borrow funds in order to commit them into the development. The applicant or related party to the applicant, for example, private developers can provide collateral or guarantees for the loan.

The LPS assures repayment of its funds through the guarantees made by private developers. Why is CA making this exception. Thank you?

MR. OXER: All right. Thank you. Peggy?

MS. HENDERSON: Peggy Henderson, TDHCA, registering opinion for Edgar Sandoval from the San
Antonio Housing Authority, on agenda item 6(c). He is against staff recommendation. And also registering opinion for Lucilla Torrez, also from the San Antonio Housing Authority on agenda item 6(c). She is against staff recommendation.

MR. OXER: Good. Thank you. Okay. Is there any other comment on Item 6(c)?

(No response.)

MR. OXER: Are you in a summary position here? Cameron?

MR. DORSEY: We can approach this in a couple of different ways. I have got notes on the issues that were discussed. Pretty much every issue discussed at least the main core issue of each commenters, of each of the commenters.

I can run through every one of them. I can take input from you all, and only provide some feedback on the issue you all want to hear about. We can do it either way. I can talk about only those issues that we would really have to include in this QAP in order to include it in the final version.

So I can do a couple of different things. Historically, I have always just run through every one but I wanted to provide the alternative in case there were issues that maybe weren't as high on your list.
MR. OXER: Okay. Mr. Thomas?

MR. THOMAS: I would be inclined to hear the ones that have to be in, so that we make sure we have a chance to ask the questions we need to.

MR. OXER: Yes. I want to take a look at it. Yes. And I want to make sure we get all of the items that have demonstrated interest here. Make sure we got them on the table to consider. The idea that not all of them may necessarily survive. That is the way that is going to work out. Right?

MR. DORSEY: Okay. So for example, on the local political subdivision funding issue that we have heard quite a bit about, that would be removal of provisions that are already included in the language there, which we could do in the final version. So I would just run through and mention that that is the case with that particular item and go on to the next issue that was mentioned.

MR. OXER: Right.

MR. DORSEY: I wouldn't provide a more reasoned response, a longer response to why it is the way it is.

MR. OXER: This is not the point in time for a reasoned response. This is the time to make sure we have got everything on the list to be considered.

MR. DORSEY: Great.
MR. OXER: Is that correct, Counsel?

MR. THOMAS: Approximately.

MR. OXER: Good.

MR. DORSEY: Okay. So historic rehab deals. This was one of the big issues that came up early in the meeting. We had representatives from Corsicana and Texarkana commenting on that. There were kind of three main mechanisms they mentioned to potentially incentivize historic rehab-type transaction.

One was related to changes to the cost per foot item. One was related to adding to the leveraging item, something about uses of state or historical credits. And the final one was, the ability to modify the existing incentive two-point item for historic rehab deals.

The first two would require a major conceptual change. Actually it is a major -- it would probably be difficult for me to come up with that full option here. Historic rehab credits are not a simple tool.

But, I do think we could accomplish the main goals through the existing item in the QAP, and very small changes to it with respect to, for example, changing it from two points to four points or those types of things. Ten points is a violation of our statute.

We can't go higher than the lowest top eleven scoring item. And ten points would be above that level.
But we can make changes to the points associated with that scoring item, such that we might be able to accomplish a pathway for transactions like they were talking about.

So we can do that within the current framework.

I think it is just the first two cost per foot leveraging changes would need much more language changes now. On the 4 percent tax credit transaction and the 30 percent boost, and the fact that they want a resolution is an exception to the 20 percent, we would need to add that possibility in now.

Because it doesn't exist at all in the current drafting. If we wanted to even consider it at the end of the day.

MR. OXER: Is this something we ought to add, to keep in our arsenal to be able to offer some latitude for these?

MR. DORSEY: It is certainly up to you all. We can do that, to preserve your ability to include it in the final version. If you want to include it, if you want to even think about including it in the final version, we need it in now. Okay.

The restoration of the elderly points, there were a number of points about that. The addition of senior center and other health related type facilities or services within one mile of the property would be specific
to the rural opportunity index, and that change would
likely need to be made now, in order to consider it at the
next meeting.

So that would be on the list. And the 30
percent boost for transactions located in a target area,
the community revitalization plan. That was a 30 percent
boost item from last year. We would need to go ahead and
add that back in as well, if we wanted to consider that at
the November meeting.

MR. OXER: Why was it taken out?

MR. DORSEY: It was taken out because it was
a -- the 30 percent boost makes a transaction eligible for
additional credit. And therefore, is very key in the
financial viability of the deal.

But it was attached to whether you got an
approved community revitalization plan through the point
item. So if you lost the points, you lost the boost.
Which caused your whole transaction to be up in the air.
And then you have lots of questions.

For example, what exhibits can be changed based
on the loss of points to effectuate that necessary change
in the rest of the exhibits in the application. We
actually had an instance this year where someone had to
withdraw because they lost points because the point loss
in community revitalization plan caused their whole
transaction to be financially infeasible. We had another item that just frankly caused a whole lot of confusion exactly what exhibits needed to get changed, and whether they can make those changes.

MR. IRVINE: But on that issue of linking boosts to revitalization plans, we were in a transitional first year under the remedial order, where the whole concept of a revitalization plan was not as robustly developed. And you could go into a deal not really knowing if you had a qualifying revitalization plan. Whereas, I think going forward, it is going to be much more black and white; do you meet the criteria or don't you.

MR. OXER: So essentially, we are saying, we basically kept it like that last year, because we didn't know exactly what the rule was going to say. And this year, we know, the revitalization plans are going to be much more discretely defined.

MR. DORSEY: Barry advocated for it last year. We felt like it was a reasonable change. We looked at the issues surrounding it.

We didn't feel like that it would adversely affect our ability to accomplish what was in the remedial plan, despite the fact that it is incentivizing additional credits in areas that are not high opportunity areas. And
some stuff like that. So we looked at it last year, and
felt like we could still accomplish the goals of the
remedial plan with that particular boost item.

We can certainly look, include it now and then
look at those same issues again. And then come back with
a solid recommendation in November. Okay. Those were the
issues. They are pretty limited, because most of the
other issues, we -- yes, Tim.

MR. IRVINE: The only other item that I heard
that I thought we might consider some sort of an
additional placeholder was on the issue about disaster
points.

MR. OXER: That was quite contentious last
year, if I recall.

MR. IRVINE: Yes. And one, you know, mess it
up sort of thought for you is whether it would be
appropriate to have out there as a place holder that there
would be some differentiation for whether you are in a
disaster-declared county or whether you are in a disaster-
declared county where actual displacement of the affected
population did occur. There was actual housing loss to
extremely low, very low and low income persons or
households.

MR. DORSEY: We can include it in the draft. I
have a whole lot, I have a list of about 15 concerns. But
we can include it in the draft, certainly.

MR. OXER: Yes.

MR. IRVINE: Just so we can have discussion and comment on the concept.

MR. DORSEY: I am just not sure that we can address all of my concerns here today, so inclusion of it in the draft might preclude us from -- yes.

MR. IRVINE: I said I was watching it.

MR. OXER: This is a placeholder to address the issue.

MR. DORSEY: Yes, today.

MR. OXER: Today. Let's don't throw anything substantive out. Let's keep those open for discussion. Particularly on, because I recall being intimately involved in this discussion on the disaster response is that part of the problem we ran into was the Governor's Office declaring a predisaster, basically to get resources staged, and then not following through. So leave it in there.

MR. DORSEY: Okay.

MR. OXER: Thank you.

MR. DORSEY: That is the list. I think in order to help you all craft a recommendation on what a modified staff recommendation would be to include these concepts in there, if we could take five, so that I could
talk to Barbara and Tim and make sure that we are doing it in a form that actually accomplishes what we are trying to accomplish. That would be great.

MR. OXER: I think that is a good idea. And while we are doing that, while we are doing that, I would like anybody who wants to speak on the last item to sign up with Michelle now, so we have got that lined up and ready when you come back.

Okay. Take five. Literally five. We will come back here. It is 5:43 now. Let's be back in five minutes. Don't go away.

(Whereupon, a short recess was taken.)

MR. OXER: Cameron, what did you come up with?

MR. DORSEY: Okay. So I wanted to do --

MR. OXER: Your resignation is not accepted.

MR. DORSEY: I wouldn't offer it to you. I know you wouldn't accept it. I would sneak it into Tim and run away.

MR. OXER: I will just cinch down on that ankle chain I have got for you.

MR. DORSEY: All right. So there were a couple of clarifications I want to make. We had a brief discussion about the declared disaster area. And I think we wouldn't recommend adding that to the staff recommendations, because of some of the dynamics of.
If you did a replacement unit type thing, then let's say 40 units were destroyed in a particular community in a particular county, one is, we would have difficulty. Well, the big thing is, we would have difficulty.

If we had 20 units destroyed and we had two tax credit applications proposing 80-unit deals, it is not -- you know, you can both get approved. You are adding 160 units where 20 units were destroyed. There would be a whole host of kind of issues there.

We couldn't assign points to only the top scoring, or only the otherwise top scoring item and then not assign points to the other 80-unit deal. So you end up with kind of some problems there.

The individual who spoke, Donna Rickenbacker, had mentioned the idea of honing it in on a smaller area within a county, which would also be difficult, because the disaster declarations are by county.

And the disaster declaration statutory item specifically speaks to disaster declarations under a specific section of state statute that the Governor's Office utilizes. And they only define full counties as disaster areas. They don't home in smaller areas.

MR. OXER: They can't declare disasters in census tracts, which is the next step down in the
essential -- they don't. It's only by county.

MR. DORSEY: They maybe could, but that is not
the normal course of business.

MR. OXER: Right.

MR. DORSEY: The only other one I wanted to
mention, because I am not sure if I was clear or not, on
the historic rehab issue, I think while we wouldn't be
accomplishing it in the way put forth by one of the
individuals up here, or in two of the ways put forth by
that individual, that one of the options can be
accomplished within the framework of the QAP as drafted
and as presented to you all.

And because we could accomplish what they are
requesting within that item, that is already existing, we
would recommend trying to craft into the cost per foot
item some allowance for historic rehab deals. I can go
into a little bit more detail if you are curious. It is,
historic rehab credits can reduce the amount of credits
that are requested. But they don't always reduce the
amount of credits requested. There are complicated legal
structures that have been created in the past that allowed
folks to preserve their full eligible basis for tax credit
requests and preserve the full basis used to calculate
the historic credits. And it doesn't necessarily -- so
you would have to get to some other changes there that are
really would require a lot more brainstorming. But I do think we could accomplish what they were requesting within. We have a historic rehab item. It is currently two points. Increasing the points is certainly within the Board's discretion at the November meeting, or if staff determines that it makes sense in the meantime, we can accomplish what their goal is through that existing item.

Does that make sense?

MR. OXER: Yes.

MR. DORSEY: Okay. So I am going to lay out. We already have one amendment that I put forth and it is part of the motion. I am going to lay out a series of new ones.

So first new addition to staff recommendation, in 11.4(c) which is related to 30 percent boost, staff recommends the addition of a community revitalization 30 percent boost provision in the same format as provided for in the 2013 QAP. Staff further recommends that Section 11.4(c), still, we are on the boost item, that we add to the QCT, the qualified census tract boost option the same resolution exception as provided for in 11.3(d), related to developments located in certain census tracts.

Further, staff recommends that Section 11.9(c)(4)(B) be modified to add a two-point item specific for qualified elderly developments if located within one
mile of a senior center. And a two point item for qualified elderly developments if located within one mile of other health facilities, which we can further define. Later.

Staff further recommends that 11.2, this was discussed related to the market study date. We thought of a kind of compromise, 11.2, we would, just the permanent calendar. We would add that a market study summary is due by February 28th with the full market study due April 1.

And that change would preserve the ability to kind of receive some information at application but have a later date for the full market study. And those would conclude the additional staff recommendations on this item.

MR. OXER: Good. Okay. Any member of the Board have any additions, or comments or suggestions? Thoughts? Ruminations.

(No response.)

MR. OXER: Okay. Now I need a motion to -- we have a motion to consider. You have amended that. Do we need to amend the motion? Okay. We need an amendment to the motion to approve staff recommendation --

MR. IRVINE: As modified.

MR. OXER: As modified. Can I do that? It is one of the few things the Chair gets to do, I think. Let
me make the motion. Gee. So moved by the Chair. Do I hear a second?

MR. THOMAS: Second.

MR. OXER: Second by Mr. Thomas. Nobody else say anything. We have had all of the public comment we want. Sorry. That is not true. But I assume everybody has made the comments that they like. Okay. All in favor of the motion as stated as amended recently?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. Okay.

MR. DORSEY: All right. The next item is a recommendation to repeal the current Subchapters A, B, C and G of Chapter 10 and a recommendation to approve the draft Subchapters A, B, C and G of Subchapter 10 as presented in your Board materials and as amended by what Barbara is about to say.

MR. OXER: So you got thrown on the spikes. Right?

MS. DEANE: You are talking about amendments. And it is set up as a repeal in new. Right?

MR. DORSEY: I'm sorry. You were saying it was an amendment to what is in the Board book. An amendment to staff recommendation.
MR. OXER: It is a modification to the --

MS. DEANE: Okay.

MR. OXER: It is a modification or is it an amendment.

MR. DORSEY: She is about to modify her recommendation. The recommendation however, is to repeal and replace entirely Subchapters A, B, C and G of Chapter 10.

MR. OXER: Good. That has got to be clearly stated on the record. That is why we asked. Madam Counsel?

MS. DEANE: Okay. When you use the word "amend," I get kind of -- amend. Yes. And I have one possible change or addition that Patricia brought to my attention. And I don't know if you want me to mention that now, or --

MR. DORSEY: Yes.

MS. DEANE: Okay. Patricia made a good point. And that is, when she was doing the compliance rules, we added a provision in there that said, you have a responsibility to inform tenants of required amenities, and put that in the compliance rule. She said, you know, when people go to propose these developments, put these developments together, they are going to go over to these other rules.
And they are going to be looking at what they are going to be required to do. And so probably if not moving it, because it is already in the compliance rule, to at least put a statement in here. In 10.101(b)(4) about mandatory development amenities where it says, new construction, reconstruction or adaptive reissuances must contain all of the amenities in Subparagraphs A through this paragraph.

Rehabilitation excluding reconstruction must provide -- wait a minute. Let me change this real quick. At the end of that paragraph on mandatory development, we should add a sentence that says, because I was putting it in the wrong place, that says tenants must be provided written notice of the required amenities.

We will just add that on the end instead of where I was originally thinking about putting amenities in, amenities and services. So they will know that here. They won't get blindsided by a compliance rule.

And then on number 5, same thing. 10.101(b)(5) common amenities, we would add, tenants must be provided written notice of the required amenities. So they will know this up front. They don't have to go digging around later in the compliance rules and try to figure out what they are supposed to be doing.

MR. IRVINE: In other words, we will place in
the QAP provisions that tenants will have to be notified of these matters. And that way, somebody who is new to the program and hasn't been through all of this and doesn't know what we have got in the compliance rules will understand full well that they are taking on that requirement.

MS. DEANE: Right. It provides better notice.

MR. OXER: Good.

MR. DORSEY: If you wouldn't mind, we added, services to an amenity section. And those are different sections. So I am going to write this down real quick, and kind of restate it.

MS. DEANE: Yes. I am looking at the amenities part. If there is a services part where it should be as well, then I would suggest that you put that in there as well.

Just so folks know up front what they might be required to do. And then if they have an issue with it, here again, we are putting it out for comment and they can comment on that.

MR. DORSEY: Okay. So staff recommends the repeal of Subchapters A, B, C, and G of Chapter 10 and the adoption of a new draft proposal.

MS. DEANE: Proposal.

MR. DORSEY: Proposed draft. Subchapters A, B,
C, and G of Subchapter 10 as presented in your Board materials with the following amended amendment. Sections 10.01(B)(4), (5).

MS. DEANE: 10.101.

MR. DORSEY: Right. 10.101(b)(4), (5) and (7) shall be amended to include a statement which requires that tenants be notified of the elections made by the development owner.

MS. DEANE: Right.

MR. DORSEY: Okay. So that is staff's recommendation. I am going to talk just briefly. This portion of our rule is referred to as the Uniform Multifamily Rule. It is three or it is four of those subchapters.

The compliance rules constitute a subchapter of this chapter as well. The REA rules do as well. Those were approved on the consent agenda earlier in the day. The changes that we made from last year to this year in this portion of the rule are much less dramatic than some of what we discussed with respect to the QAP.

And the reasons are several fold. One are, scoring items are -- naturally elicit more comment and desired changes and those types of things. And statutory changes were not made to many of the areas, except as I referenced previously in the QAP item about the threshold
resolution, notice, hearing and resolution requirement specific for 4 percent applications.

One of the other types of changes we made, just to streamline things was the requirement that we have had for years and years to provide or to request a list of neighborhood organizations from the local elected officials. We removed, It is the applicants' responsibility to become informed through whatever means necessary of the neighborhood organizations that exist within the area, where they are proposing a development.

And to the extent that they don't successfully identify the appropriate neighborhood organizations to notify, then we would take adverse action. But we are not going to tell them exactly what to do to figure out what neighborhood organizations are there.

It has historically not been highly effective anyway as they either don't have a list or the list is provided on the website and the applicant already knew that. They just had to send a request in. It wasn't really effective or useful exercise.

So we made that type of change. We made a whole lot of clerical changes as well, to just streamline things, make things a little bit clearer. And those types of changes.

So as I have mentioned before, staff's
recommendation is to approve with the amendment I have previously stated. And I will leave it at that, unless you all have questions.

MR. OXER: Okay. Any other questions of the Board?

(No response.)

MR. OXER: Okay. Now we do need to have a motion to accept staff recommendation.

MR. GANN: I so move.

MR. DORSEY: You could deny it, too.

MR. OXER: Okay. Motion by Mr. Gann. I believe there is a second.

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters.

Robbye, would you like to say something?

MS. MEYER: I only have one. You have to bear with me. I have had my handcuffs on for two years, and I haven't been able to talk. It is good to have them off. So not that I like being here in front of you, believe me.

But I have one comment on Section 10.4. It has to do with program dates. And it has to do with the extension of deadlines. And I ask that that extension be removed, remove that extension language and let's go back to having a deadline is a deadline.

Although that wouldn't have kind of helped the
discussion this morning on the commitment being able to extend that deadline. It is not under this program date right now.

But I would like to see us go back to having a deadline is a deadline and not being able to extend a deadline, once we have a deadline. So that is my comment. Thank you.

MR. OXER: You are saying that a deadline is a drop-dead line.

MS. MEYER: A deadline is a deadline, and we don't extend it. So anyway, thank you.

MR. OXER: Okay. We got your message. Thanks.

MR. DORSEY: I think the best thing to do with respect to that type of comment, because it is a removal of language, including it in here so that we can choose to either remove it or leave it in when we come to the November meeting, might be the most appropriate way to handle that. If you all would like to go ahead and remove it, we can do that as well.

MR. OXER: Leave it in. Preserve our latitude.

MR. DORSEY: It preserves the ability to make that decision at the November meeting after we have run through a full reasoned response to all of these types of comments and everything.

MR. OXER: So there is no change in your motion
as amended as discussed at this point.

MR. DORSEY: That is correct.

MR. OXER: Okay. All right. There is no other public comment. Okay. There has been a motion by Mr. Gann. Second by Professor McWatters. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Thank you, Cameron.

All right. Just before everybody gets ready to run away, we are at the point in the meeting where we accept public input on any item, public comment on any item that has not been hereto addressed in the agenda, or has not been addressed on this agenda.

This is our purpose, is to set up for the agenda for successive meetings? Is there any public comment?

(No response.)

MR. OXER: All right. Next point, is there any staff that would like to have -- staff to the audience up here. Staff? Have anything?

(Simultaneous discussion.)

MR. OXER: Anybody else like to say anything?

(No response.)

MR. OXER: All right. Mr. Executive Director,
you have got something you would like to say.

MR. IRVINE: I would like all Board members who had birthdays this weekend to be recognized.

MR. OXER: This weekend? I think that would be --

MR. IRVINE: Happy birthday.

(Applause.)

MR. OXER: Thank you very much for that. I told several people that I celebrate every one of my birthdays, all of the ones that I know, my friends and my colleagues. But truth be told, I am pretty happy every morning I wake up, because it could have been different.

All right. Any Board member have any comment to make?

(No response.)

MR. OXER: All right. As usual, I get the last word. It is a good thing that we do. We work hard at this. I would like to reaffirm my welcome to our newest Board member, Mr. Thomas. This is some hard work.

We do detailed work. We grind these issues pretty fine to make sure we are doing the best thing for the people of this state that we serve.

I appreciate the efforts of everybody in the staff, everybody on this dais, and everybody out there. Because I know we all have the best interests of the
people in the community that we serve at heart. With that, I will entertain a motion to adjourn.

MR. THOMAS: So moved.

MR. OXER: Motion by Mr. Thomas to adjourn.

Second by --

MR. McWATTERS: Second.

MR. OXER: Professor McWatters. There is no requirement for public comment. All in favor?

(A chorus of ayes.)

MR. OXER: There are none opposed. See you next month, folks.

(Whereupon, at 6:15 p.m., the meeting was concluded.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: September 12, 2013

I do hereby certify that the foregoing pages, numbers 1 through 281, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Leslie Berridge before the Texas Department of Housing and Community Affairs.

09/20/2013
(Transcriber) (Date)

On the Record Reporting
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