TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF TRUSTEES MEETING

Capitol Extension Auditorium
1500 North Congress Avenue
Austin, Texas

Thursday,
October 10, 2013
9:00 a.m.

BOARD MEMBERS:

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

TIMOTHY K. IRVINE, Executive Director

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(512) 450-0342
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Revenue Bonds and an Authorization for Filing Applications for Private Activity Bond Authority for the 2013 Waiting List

13609 Terrace View Grand Prairie

HOME DIVISION:
h) Presentation, Discussion, and Possible Action on a proposed Substantial Amendment to the 2013 State of Texas Consolidated Plan: One-Year Action Plan

RULES:
I) Presentation, Discussion, and Possible Action on proposed amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.21, concerning Action by Department if Outstanding Balances Exist

j) Presentation, Discussion, and Possible Action on proposed amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, concerning Delinquent Audits and Related Issues

k) Presentation, Discussion, and Possible Action on proposed new 10 TAC Chapter 1, Administration, Subchapter B, §§1.201 - 1.202 concerning Accessibility Requirements and directing its publication for public comment in the Texas Register

l) Presentation, Discussion, and Possible Action regarding a proposed repeal of 10 TAC Chapter 1, §1.19 regarding Deobligated Funds and proposal of a new 10 TAC Chapter 1, §1.19 concerning the Policy for the Reallocation of Financial Assistance for public comment and publication in the Texas Register

m) Presentation, Discussion, and Possible Action on proposed new 10 TAC Chapter 21 concerning the Minimum Energy Efficiency Requirements for Single Family Construction Activities and directing its publication for public comment in the Texas Register

n) Presentation, Discussion, and Possible Action on a proposed amendment to 10 TAC Chapter 5, Community Affairs Programs, Subchapter H, Section 8 Housing Choice Voucher Program, §5.801, concerning the Project Access Initiative, and directing its
publication for public comment in the Texas Register

o) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, §§5.2, 5.3, 5.8, 5.10, 5.12, 5.13, 5.17, 5.19, and 5.20, concerning Community Affairs General Provisions, and directing its publication in the Texas Register

p) Presentation, Discussion, and Possible Action on orders adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter B, §'5.202, 5.210, 5.212, and 5.217, concerning Community Services Block Grant Program; the repeal of §5.209, concerning State Application and Plan; and the re-adoption of 10 TAC Chapter 5, Community Affairs Programs, Subchapter B, Community Services Block Grant Program, §5.208, concerning Designation and Re-designation of Eligible Entities in Unserved Areas, pursuant to Texas Government Code, §2001.039, and directing their publication in the Texas Register

q) Presentation, Discussion, and Possible Action on an order adopting the repeal of 10 TAC Chapter 5, Community Affairs Programs, Subchapter C, §§5.301 B 5.311, concerning Emergency Shelter Grants Program (ESGP), and directing its publication in the Texas Register

r) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter D, §§5.403, 5.407, 5.423 and 5.424, concerning Comprehensive Energy Assistance Program, and directing its publication in the Texas Register

s) Presentation, Discussion, and Possible Action on orders adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter E, §§5.502, 5.503, 5.507 and 5.524, concerning Weatherization Assistance Program General; and the re-adoption of 10 TAC Chapter 5, Community Affairs Programs, Subchapter E, Weatherization Assistance Program General, §§5.501 and 5.528, concerning Background

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Present, Discussion, and Possible Action on orders adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter F, §§5.602 and 5.603, concerning Weatherization Assistance Program Department of Energy; and the re-adoption of 10 TAC Chapter 5, Community Affairs Programs, Subchapter F, Weatherization Assistance Program Department of Energy, §§5.607 B 5.609, concerning Space Heater Requirements, Vehicle Procurement Procedures, and Grant Guidance on Leasing of Vehicles, pursuant to Texas Government Code §2001.039; and directing their publication in the Texas Register.

Present, Discussion, and Possible Action on an order adopting amendment to 10 TAC Chapter 5, Community Affairs Programs, Subchapter G, Weatherization Assistance Program Low-Income Home Energy Assistance Program, §5.701, concerning Allowable Expenditure per Dwelling Unit, and directing its publication in the Texas Register.

Present, Discussion, and Possible Action on orders adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter J, §§5.1003, 5.1004, and 5.1006 concerning Homeless Housing and Services Program; and new §§5.1007 and 5.1008, concerning Subrecipient Reporting Requirements and Subrecipient Data Collection, and directing their publication in the Texas Register.


REPORT ITEMS:
The Board accepts the following reports:

TDHCA Outreach Activities, September 2013

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ACTION ITEMS:

ITEM 2: HOME DIVISION:
Report from the HOME Program Director

ITEM 3: MULTIFAMILY FINANCE DIVISION:

a) Presentation, Discussion, and Possible Action on Requested Waivers and Consideration of Determination Notices for Housing Tax Credits with other Issuers, if all required waivers, if Any, have been granted:

13412 Cypress Creek at Ledge Stone, 22
   Dripping Springs 132
13413 Edison Square 144
   Port Arthur
13416 Wilmington House (pulled) 21
   Houston
13418 Cedar Terrace 151
   Galveston

b) Presentation, Discussion and Possible Action on Extension Request relating to Commitment Notices Issued under the 2013 State Housing Tax Credit ceiling

c) Presentation, Discussion, and Possible Action on Awards of Competitive 9% Low Income Housing Tax Credits from the 2013 State Housing Tax Credit ceiling from the Waiting List for the 2013 Housing Tax Credit Application Round

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS. PUBLIC COMMENT MAY INCLUDE REQUESTS THAT THE BOARD PLACE SPECIFIC MATTERS ON FUTURE AGENDAS FOR CONSIDERATION.

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OPEN SESSION 131

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MR. OXER: Good morning, everyone. I don't have to call you to order, everyone is nicely here. I apologize for the late start. We were getting some input on a couple of items here before we get started.

We'll start as we do by taking roll.

Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Professor McWatters?

MR. McWATTERS: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Present.

MR. OXER: I am here. We're expecting Robert but he's not here yet, so we'll wait for him. We have a quorum and business. So we'll start by saluting the flags.

(Whereupon, the Pledge of Allegiance and the Texas Allegiance were recited.)

MR. OXER: Michael, do we have any guests here today?

MR. LYTTLE: Other than the good folks here, no special guests that I'm aware of, sir.

MR. OXER: Great. Always happy to have
everybody here, but we always like to recognize any legislators and their staff that are here.

With that, we'll move to the consent agenda. Any Board member have any item that they would like to pull from the consent agenda? We have a lot of rules that are being published, and if I interpret this correctly, Tim, much of this is to say simply that we're posting those rules for publication in the Texas Register.

MR. IRVINE: Starting the public input process.

MR. OXER: Okay. So this is by no means the end of the development of these rules, it's actually the end of the beginning.

MS. DEANE: Mr. Chairman, some are being adopted, there are some adoptions on the consent agenda today.

MR. OXER: And those would be number 1(I) and (j). Is that correct?

MS. DEANE: Let's see, (o) is an adoption, (p) is an adoption, (q) is an adoption. There's several on here that are actual adoptions. And we have one minor addition to one of the rules that is being proposed that Patricia Murphy will offer you in just a minute.

MR. OXER: Do we need to hear that first or do we have a motion to proceed?

MS. DEANE: I think that you could hear that
first so that your motion would include that.

MR. OXER: Patricia, good morning.

MS. MURPHY: Good morning. Patricia Murphy, chief of Compliance.

Item 1(I) regarding the proposed rule at 10 TAC, Section 121, concerning action by the Department if outstanding balances exist, we want to make one other clarification. On page 4 of your write-up in Section (c), we would like to add an exception to the statement around modifications if a request for a modification relates to an interim construction loan. This ensures that the Department will have the ability to remedy delays on interim construction loans by allowing extensions as needed in a single family context.

So instead of reading as reflected in your Board book, the sentence at Section (c) should read:
Except in the case of interim construction loans, the Department will not issue Forms 8609, amend applications, LURAs or contracts, extend or renew contracts or modify loan documents if fees or loan payments are past due to the Department related to the subject of the request.

Any questions, concerns, comments about that?

MR. OXER: Are there any questions from the Board?

What's the effective impact of this?
MS. MURPHY: So if you have an interim construction loan and the due date has passed and you want to pay the loan off, you need to modify the interim construction loan to change the due date so you have to modify the loan. But it's a circular thing if you don't put the sentence in there, you can't modify the interim construction loan in order to change the due date because it's past due.

MR. OXER: So you're giving them an option to go back and straighten out the contract and get the payment made. This is procedural, more or less.

MS. MURPHY: Correct.

MR. OXER: All right. Motion to consider?

DR. MUÑOZ: Just this one or the entire consent?

MR. OXER: Are there others? Tom, do you have a question?

MR. GANN: If we make a motion to accept the consent agenda with the modification to 1(I) on the modification change in Section (c), as presented, I so move.

DR. MUÑOZ: Second.

MR. OXER: Motion by Mr. Gann to accept staff recommendation on the consent agenda and including part (I), second by Dr. Muñoz. Is there any public comment?
Apparently not. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed, there are none.

DR. MUÑOZ: Mr. Chairman, just a followup point to one of the consent agenda items (f), not to pull it, but I did speak to the executive director about the appointment of a Colonia Residents Advisory Committee and their responsibility to help inform the decisions of the Board, and I understand from the executive director that it would be prohibitively expensive for some of the members to come here once a year to speak to us, and so I would just like to introduce the possibility, and I've already mentioned it to Tim, of maybe a subset or a number of us occasionally, once a year, going down there and hearing directly from this particular advisory committee.

This is a topic, it's not the high dollar, 4 percent, downtown Dallas/Austin sort of deal, but these Colonias affect a great many lives, we're all concerned with that, but I think just substantively, but also symbolically to occasionally go down there and hear directly from some of these appointed members appointed by us, apparently, might be a thoughtful consideration.

MR. OXER: Good point, and that's consistent with our outreach process that Michael Lyttle has been so good about organizing and arranging when we get scheduled.

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So duly noted, Dr. Muñoz.

 Anything else, Tim?

 MR. IRVINE: No, sir.

 MR. OXER: Okay. Let's go right into the fun then.

 MR. IRVINE: The first one actually is kind of fun. Come on up, Jennifer.

 MS. MOLINARI: Good morning, Chairman and Board members. Jennifer Molinari, HOME Program director.

 Item 2 is a report item only which is advising the Board of the current status of our HOME single family activities. Home single family activities that the department administers include homeowner assistance, homebuyer assistance, homeowner rehabilitation and reconstruction, and tenant-based rental assistance, HOME Program funds administrators, who, in turn, have direct relationships with the clients.

 I want to walk you through some of the HOME funding history right now, which is from 2000 to 2011, the annual HOME allocation was approximately $40 million. In 2012, the allocation was reduced by 38 percent to about $24 million, and we received approximately the same amount in 2013. That $24 million funds HOME single family and multifamily activities, as well as some other set-asides and administrative expenses of the Department.
Traditionally, HOME single family funds have gone through a competitive award cycle, similar to our HOME multifamily funds. In 2010 we introduced a new model known as the reservation model which funds each administrator on a household-by-household basis instead of making large contract awards to administrators. This model makes sure that HOME funds are tied up only for individual activities rather than in large contract awards. It also promotes the development of new administrators who may not have the capacity to take on a contract but are interested in trying out the program on a household-by-household level.

At this point I'd like to take you through the write-up in your Board book under tab 2, and on page 1 you will see a summary of the current status of the HOME Program and on page 2 you will see some charts. The charts are intended to demonstrate to you the progress that we've been making and the increased production that we've been experiencing on a month-by-month basis over the past five years. It also shows you the difference between a contract model and a reservation model in terms of when we switched from contract to reservation.

There are three lines on each chart: the dotted line represents the monthly activities under contract awards, the log dashed is going to represent your

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reservation activities, and then the solid line is a combination of both activity types. Prior to January of 2011, the only activity was contract-based, so that solid line is only going to reflect contract activities until about 2012.

Again, this is a monthly snapshot, it is not cumulative numbers over a period of time. That first chart that you're looking at shows you the funds that we have drawn from treasury for single family activities on a monthly basis, the second chart is the number of households we've approved on a monthly basis over that same time frame, and the third chart is going to show you the dollar value associated with the households that were approved in the second chart.

The charts will show you that the HOME activities hit their highest levels ever during 2013 and in June of 2013 we had more production in the HOME Single Family Division than we've ever experienced in the history of our program, and that's quite a significant accomplishment that I'd like to point out.

I'd also like to note that with this reservation system we're seeing a greater geographic dispersion of activities that are occurring because instead of concentrating funds under large contract awards in specific areas of the state, our funds are able to go
in a more holistic manner across the state. And right now we're serving just under 200 counties across the state, and quite a few of those remaining counties are actually covered by participating jurisdictions, so we've got a large coverage at this point.

So as you can see, our reservation system is doing very, very well. A large part of the success during 2013 was the availability of deobligated funds from previous contract awards, and this allowed for an ongoing pool of available funds that we were able to rely on during 2013. This will not be the case in 2014 because all available contract funds have now been deobligated and reallocated to our reservation system.

One of the issues that this has posed for us is that right at the time that HOME funds are contracting at the federal level, we also have less availability of funds, so taken together, this means that staff is projecting in 2014 that we will have less than half of the funding available for single family activities that we had this year. In general, this is a very good problem to have because it means that our HOME funds will move more quickly and get into the hands of the folks that need it the most as expeditiously as possible. And we are also committing and expending our funds at a faster rate than we have in previous years which demonstrates a need for
the funds, particularly in our rural areas.

So I wanted to share this information with you so that you have an awareness of the success of the program and so that you can also know of the anticipated demand and kind of what we're look forward in 2014 to seeing, and of course, I also wanted to highlight the success of the HOME Division, thanks in large part to the tremendous efforts of a great staff.

So with that, I will answer any questions that you have.

MR. OXER: Great. Thank you. Let the record reflect that Mr. Thomas is here with us now. Good morning, sir.

MR. THOMAS: Good morning, sir.

MR. OXER: Are there questions from the Board? I have a couple, Jennifer. So you're using funds, if I recall, Tim the conversation you and I've had before, some of these funds have been left unused at the end of the year.

MS. MOLINARI: So what happens is that with a contract award, and they were typically about $500,000, we would have benchmarks in the contracts whereby an administrator was to identify a set number of households one year into the contract. If they were not able to identify those households by that point, we have the
ability to remove those funds from that contract award and
place them into the reservation system, and this was what
we did to a tune of about $10 million during 2013.

Many of those administrators, it's very
important to note, did not lose the ability to assist
their households, they simply went from the contract model
to the reservation model so that they could continue to
fund the households in their community.

MR. OXER: Has there been any reluctance on the
administrators' part to switch over to this model?

MS. MOLINARI: For large part, no. In the
beginning, I think that there was a lot of skepticism on
how the reservation system would work, but I think 2013
demonstrates that everybody is pretty much full onboard
with this model.

MR. OXER: It's easier to get the funds out but
the administrative costs per unit dollar put into the
program, does that go up or down with the reservation
program? Does it cost you more to administer each million
dollars worth of funds?

MS. MOLINARI: It does not. We perform the
same activities whether an activity is under contract or
reservation.

MR. IRVINE: And I would say that when there
were contracts where we were looking to take back the
contract funds and make available the reservation system, there was certainly concern, and I think a big component of the key to this success has been the intensive outreach by Jennifer and her team at the local level to give people the technical assistance to help them really understand how the reservation system works, and it's just been tremendously beneficial and it's just taking off like crazy.

MR. OXER: What were the nature of their concerns?

MS. MOLINARI: Initially it was the availability of funds, so the reservation system is first come, first served; as long as there is funding available, you're able to fund households. I think administrators were concerned that if they didn't have a contract award when they identified a household, whether or not there would be the funds available for that household.

MR. OXER: So was there any gaming of the system before where they would reserve a block of funds under the contract and then peel those away as they did it, or essentially you're moving the bulk of the funds back to TDHCA making them peel one house at a time, as opposed to getting a block and then they do their own peel.

MS. MOLINARI: Exactly.
MR. OXER: So you're making them compete amongst each other.

MS. MOLINARI: Yes.

MR. OXER: That's good for the breed.

MS. MOLINARI: I think so.

MR. OXER: I like that.

MS. MOLINARI: I also like the fact, in particular, that there is a greater geographic dispersion of activities that are happening now. Two hundred counties, right under 200 counties is pretty significant. And that's for single family all types of activities, of course, rental assistance, down payment assistance, homeowner rehab, in that nature.

MR. OXER: So how many counties were served before, ballpark?

MS. MOLINARI: I do not have that number in front of me.

MR. OXER: Maybe 120, 150?

MS. MOLINARI: I don't have that number in front of me. I can get that for you, though.

MR. OXER: It's just a point of curiosity. If it's for geographic dispersion, we want to make sure that the services and the opportunities that are provided by the agency are available to every county, everybody, every Texan out there.
Any other questions from the Board?

DR. MUÑOZ: Jennifer, how much less is it going to be in 2014?

MS. MOLINARI: At this point it's a little bit difficult to say. We are able to put $5 million into our general set-aside bucket and then there's another $1.2 million available for persons with disabilities, and we also have a contract for deed set-aside. Those are the starting gate numbers that we have. Throughout the year there will be some deobligated funds, some program income that can come in and the Department will determine at that time how to kind of reallocate those resources. So it really is a little bit difficult to say exactly how much less we'll receive.

DR. MUÑOZ: You had $28 million for '13. Right? Where do you think you'll be in '14?

MS. MOLINARI: In 2014?

DR. MUÑOZ: Half.

MS. MOLINARI: I would think actually a little bit less than half; I don't know that we would have access to more than about $10 million or so.

DR. MUÑOZ: All right.

MR. OXER: And you expect all of that to be used up?

MS. MOLINARI: Oh, yes.
MR. OXER: On reserves and exercised.

MS. MOLINARI: Yes.

MR. OXER: It would be nice to make sure that our discussion in the Colonias included the contract for deed discussion as well.

DR. MUÑOZ: I like where your head is at, Mr. Chair.

MR. OXER: I get it right every once in a while.

Sounds like you've been doing a spectacular job, Jennifer. We appreciate that. I think I can speak for all of us. Thanks.

Any other questions.

(No response.)

MR. OXER: Thank you. Good report.

MS. MOLINARI: Thanks.

MR. OXER: Go ahead, Cameron.

MR. DORSEY: I was just going to sit there for as long as possible. To start, Michael Lyttle, you're not allowed to call me Big Dog in your tweets today, unless, of course, you guys want to add it to my official title.

(General talking and laughter.)

MR. DORSEY: All right. Item 3A is a series of 4 percent tax credit awards. Wilmington House, the third one reflected on the agenda, has been pulled from the
agenda. We're probably going to hear about that one at a future Board meeting.

The first transaction up is Cypress Creek at Ledge Stone. This is a transaction, it's a new construction development that would serve the general population, 244 units serving 50 percent of AMI and 60 percent of AMI households. It's a development that would be located on the north side of Highway 290 West between Austin and Dripping Springs in Hays County, and the financing principally includes $22 million in tax-exempt private activity bonds that would be issued by the Capital Area Housing Finance Corporation, and about $9.5 million in tax credit equity that would be generated from the staff-recommended credit amount of $1,033,723 in tax credits, and approximately 90 percent of the developer fee is deferred in the applicant's model to round out the sources of funds.

Staff, as I mentioned, is recommending that previously stated credit amount, but we're also recommending a condition that closing occur with 150 days of the Board meeting and that the financing terms and structure not change prior to closing. This is a condition that would bring some consistency to this transaction with other bond transactions that have a slightly more typical type of bond reservation. This has
a little bit more of a unique reservation, it's carry-forward, and they have a much longer -- well, there's not a specific statutory constraint for 150 days like with other bond issuances, and so this would bring some consistency there in staff's estimation.

There has been a significant amount of public comment which is included in the Board book. There's support for the development, as well as opposition for the development which I'm sure you will hear from folks on both sides in a moment.

So once again, staff recommends $1,033,723 in annual 4 percent housing tax credits and with the previously stated condition that closing occur within 150 days of the Board meeting and that the financing terms and structure not change prior to closing, which is as reflected in the Board materials.

MR. OXER: Are there any questions from the Board?

MS. BINGHAM ESCAREÑO: Cameron, who have you and your staff been in discussion with over this project?

MR. DORSEY: The applicant representatives, Stuart Shaw and Casey Bump are the primary representatives for the applicant that we've been in discussions with. Representative Jason Isaac's office has also been in discussions with staff through Michael Lyttle and Tim, and
a host of others that have local concerns, including the county judge and other county officials.

DR. MUÑOZ: Cameron, I'm thinking specifically the one in Dripping Springs, in our packet there were quite a few letters in support and opposed.

MR. DORSEY: That's right.

DR. MUÑOZ: They talked a lot about the density, the impact to schools, school enrollment. I thought one letter referenced, or one email specifically they don't have the money to purchase a fire engine that could reach the heights of at least this development. I don't recall that many for or opposed with that kind of specifics usually.

MR. DORSEY: Yes. You know, we recently had a TDHCA bond issuance, The Waters at Willow Run up in the Wells Branch area, that had some very specific concerns like that, and in that particular instance, the Board found that it made sense to place some very specific conditions that allowed the applicant a little time to document affirmatively that EMS service would be available, fire service would be available, those types of things. That's certainly an option for the Board. Typically those types of things are handled through permitting processes and these types of things, and typically they're more local concerns that are dealt with
through the building process, development process.

MR. OXER: So with respect to the change in the structure which now you're requiring that the structure remain fixed, the financial structure remain fixed between the Board meeting and the time it closes within five months, basically. Were that to occur, how does that contrast with what we do now? If the financial structure changes, is there an obligation for them to return to have that considered by you or by the Board?

MR. DORSEY: Sure. In instances in which the reservation is more of a typical reservation and has 150 days to close, that 150 days runs from the point at which they get the reservation which is typically before you all hear the issue. So this would be a little bit more time, but we're using a date that makes sense to us.

In terms of the financing structure, not being able to change, that is consistent with how other issuances are treated. We have specific provisions that deal with any change in terms, could cause them to have to reapply if they don't close within that time frame. Also, the underwriting report typically includes very similar conditions concerning changes in terms that may affect the financial viability that might warrant a reevaluation.

Specifically, whenever there is public opposition to a transaction -- well, there's kind of an
abbreviated process that many folks with 150-day deadline kind of reservations go through and that is they don't close within 150 days but their financing terms have not changed and there's no public opposition that we've received, then they can certify to the fact that nothing has changed and what-have-you, get a new reservation instead of going back through the full application process.

MR. OXER: So there's no statute of limitations on what they're doing if they just say it hasn't really changed, basically we're giving them an extension.

MR. DORSEY: Right. The statute of limitations would be the same program year. We can do that within the same program year, but once we convert to a new program year, new rules, that type of thing, we don't allow continued certification under rules that were in place.

MR. OXER: There is a statute of limitations ultimately.

MR. DORSEY: There's always a statute of limitations. Right.

MR. IRVINE: And one thing I think is critical to the understanding of this particular transaction -- well, several things -- the application came in before the effective date of legislation sponsored by Representative Isaac that creates a threshold requirement on 4 percent
credits that are paired with private activity bonds that there be a local resolution as to the acceptability of the development moving forward, and because the application was in before that, that provision did not apply, and I think that there is simply an awareness of that and a desire that to the extent that the transaction changes, then if it changes and requires a new application, that implicates the new statutory requirements.

MR. DORSEY: One of the big reasons we have this kind of idea that you need to at some point come back and let us know if anything has changed in these types of things is once we approve a development, those units get included in the market studies for any other applications that come in and can affect our ability to move forward with other transactions, and so to have kind of this perpetually valid determination notice out there for an extended period of time can adversely affect other activities that might be going on in near proximity, close proximity to whatever transaction.

MR. OXER: So what we're essentially saying is if you're going to do it, do it, and if you're not, we're going to cut you off the list.

MR. DORSEY: Yes, and you can come back and apply and everything, but you know, we've gone back through.
MR. OXER: If you can't do it, you can start over.

MR. DORSEY: Right.

MR. OXER: Mr. Thomas.

MR. THOMAS: Good morning, sir. Good morning, Board.

Cameron, help me, as the new guy, what is the appropriate difference? I got the issues of fire and policing, whatever, that those are issues that are processed outside of our Board's jurisdiction, but what does the staff look at when it comes to the issues that have been raised in these letters and how does that impact the staff's evaluation on whether or not to make the recommendation to the Board one way or the other?

MR. DORSEY: When we receive comment where there's support that we can evaluate for the assertions made, we will evaluate that and consider that in the recommendation, and we might even have staff-recommended conditions. The problem is we don't have rules specific to these issues because they typically are dealt with through the local processes of getting permits in place and those types of things. And we frequently receive vast, vast amounts of public comment and it would be impossible to go through -- where there's not specific support provided for the assertions made, it would be
very, very difficult to go through and evaluate the validity of each individual comment.

MR. THOMAS: Would that be true also about economic viability issues of the project? So to the extent that we're fiduciaries and stewards of these dollars, if a question is raised about whether the community can actually financially support that project, is that something that we should be concerned about, or is that something that the staff evaluates in helping us understand how we should proceed?

MR. DORSEY: Any time there's any type of extraneous issue that could affect the financial viability of the transaction over the long term, our underwriting group will absolutely go into more detail in evaluating whatever that particular issue is. I think in this particular instance they didn't identify some specific external kind of factor outside of the specific financing structure for this transaction that would cause a need to evaluate.

MR. THOMAS: So the idea behind providing affordable housing is the assumption that there are people in the community and there is a sufficient number of those people in a community who would meet the need. So where we have specific questions that are raised in the letters about the number of actual employers, the number of job
opportunities that exist, as well as the specific breakdown of what levels of subsidization there is, how did you evaluate that? It seems to me that that would be something I want to understand a lot better from the staff and would love to make sure that the staff has looked at that so that I can vote appropriately.

MR. DORSEY: Definitely. I can give you a little bit more detail on those issues specifically. We require a third-party market study be submitted with every one of these transactions. We have a robust set of rules and requirements related to how that market study is developed and how the demand calculations are performed. So we get that market study in. Each market analyst that provides that has to be on a list of approved market analysts. We have an open, effectively, RFQ to ensure that anyone performing market studies meets a basic set of requirements and understands the rules and constraints the Department has in place for market studies.

In addition to that, we purchase independent data, that is a cross-section of different tables that the Census Bureau provides, specifically to help us evaluate whether or not there's demand in that market, independent of even the third-party market study, to ensure that we actually can confirm the conclusions of that third-party market study.
MR. THOMAS: Thank you.

MR. OXER: Is there a qualification process on the third-party market evaluation provider?

MR. DORSEY: I'm sorry?

MR. OXER: Is there a qualification process?

MR. DORSEY: Yes. Before they're actually approved to perform a market study, they have to actually submit a market study that they believe would be compliant. We go through a process of reviewing that, I believe we also review some other elements such as their resume and those types of things to make sure they have appropriate experience.

MR. OXER: Okay. Are there any of the questions from the Board? I think we're going to take these one at a time so we don't confuse each of the issues here.

MS. BINGHAM ESCAREÑO: Mr. Chair, are you looking for a motion?

MR. OXER: I believe so.

MS. BINGHAM ESCAREÑO: On the item Cypress Creek at Ledge Stone, I move staff's recommendation.

MR. OXER: Great. Motion by Ms. Bingham.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Is there any public comment? Yes? Just making
sure you know, you guys are probably new at this, we try
to keep the front couple of rows here for people that want
to say something about each one of these, so we typically
start from the left and go this way, an since you're in
the front and on the far left, you get to go first.

And for the record, so that everybody here
knows, when you get up there sign your name in and state
it clearly so that she can hear who it is.

MS. ROBERTS: Hello, members of the Board.
Thank you for letting me speak. My name is Melissa
Roberts, and I'm a resident of Dripping Springs, and I
know that there's land inside of Dripping Springs city
limits that has sewer and water accessible to it and is
ready for apartments. The city would prefer apartments be
there.

MR. OXER: Can I ask you a question? Can you
speak on behalf of the city or are you speaking as a
citizen?

MS. ROBERTS: No, I cannot speak on behalf of
the city, but I do talk to John Thompson, the city
planner.

When I asked Stuart Shaw why he would not build
directly in the city to truly help Dripping Springs and
the jobs around it, and I also asked Jim Shaw with Capital
Area Housing, they said that they could not get investors
to back the bonds inside the city limits. Well, then I asked why. It's because there's lack of jobs, there's no transportation, there's not enough development for these apartments. There is space, though, for apartments.

Stuart Shaw, you cannot build in Travis County. Correct? That's correct. So why did you pick our spot? Because we're right across the line into Hays County. The investors are only backing this location, in my opinion, because the jobs and the development are towards Travis County which are in Austin, so Sunset Valley will definitely be favorable for these apartments, they will bring employees. And people shop near the areas they work, we all know that, so that's going to help the taxes there, not in our locations.

So again, he says it's here to help Dripping. Well, it's very clear to me, without any doubt, that it's not here to help Dripping Springs, it's only to overcrowd our already overcrowded schools, which we have no more money in our account to build more schools at this time.

Thank you so much.

MR. OXER: Thanks, Ms. Roberts.

Any questions from the Board?

(No response.)

MR. OXER: Thank you. Next.

MS. BATTE: My name is Michelle Batte. Thank
you for the opportunity to speak. I'm also a resident of Dripping Springs and I live in the ETJ, the extraterritorial jurisdiction there.

I've been following this particular development for over a year and a half. My background is as a social worker and my concerns come, one, as a resident, how is this going to impact my community, but my questions began early on when I didn't understand and couldn't see how this location made sense for the folks that it was intended to serve. So I will be brief and I'm going to leave it as a broad statement that I care very much about the Dripping Springs community.

I think a healthy community does have a variety of housing options and we need that, we need to plan, structure our city so that we have housing that everyone can afford, but it needs to be in a location that makes sense, and this location doesn't make sense to me in terms of access to jobs, access to transportation, access to schools, affordable childcare, emergency response.

There are so many items that over the past year and a half I've tried to search for answers and I'm still not convinced that these things have been resolved or addressed, so I, at this time, am still opposed to this development in this location.

Thank you.
MR. OXER: Thank you, Ms. Batte. Any questions?

DR. MUÑOZ: I have a question, Ms. Batte. Have you had a chance to see some of the letters of support for this project? It includes bankers, educators, church elders, competing apartment facilities like the Sleep Inn manager. You know, I presume that these are people that also live in the area, that also are familiar with the schools, that also have an investment at least equal to yours, that seem supportive, that seem not concerned with some of the issues you raise.

MS. BATTE: I'm very aware that it's not 100 percent opposition, there's some support.

DR. MUÑOZ: There's considerable support.

MS. BATTE: Primarily it sounds like the letters you're noting are from business owners, people who have a business investment in the community. I don't know where they live, I don't know where their kids go to school. And I haven't read the specific letters, I haven't seen those letters. I've heard voices in support at meetings like this, but more local community meetings that are planning and zoning committee, city meetings in that setting. And I hear the argument and I definitely believe that people feel there's potential and I think that bringing affordable housing into Dripping is needed.
and it's important, but this particular location where it's at, all the way as far out to the edge of the ETJ as possible, doesn't make sense for the folks who are going to live there.

I've also seen some rents, what rent would be, and these were Stuart Shaw's list that he did supply to us, and they weren't that different from the apartment complexes that are going to be built or have been built that do pay taxes.

DR. MUÑOZ: One of the letters is from the mayor, one of them is from the elder at the Hill Country Bible Church. I presume that these are people very familiar with the geography, with the social services, with the educational resources.

MS. BATTE: I haven't read those letters so I guess I can't speak to what their points are.

DR. MUÑOZ: They're essentially supportive of the development. When you're here, you're trying to figure out what's sort of in the best interest of the area. You have this significant representation by apparently knowledgeable people in support, and then there are your comments that are no less sincere and authentic, it makes for a difficult sort of decision.

MS. BATTE: Yes. You guys have a challenge ahead of you today, I believe.
DR. MUÑOZ: The one fellow from the church says: May God give you discernment. I hope He does.

MR. OXER: I hope he gives me Tylenol, frankly.

(General laughter.)

MS. BATTE: Plenty of that along the way. It's caused a lot of turmoil. On the positive side, it's engaged folks in our community. When I moved here to Dripping Springs from out of state, I did not know what an ETJ was. I sure do now, I know what the benefits and limitations are, and a lot of us have been educated along the way in this experience. But at this point, I still am not convinced that the location for this very large apartment complex would benefit, and again, this is coming from my background as a social worker working in various communities, from Minneapolis to Washington State to New Mexico to here. I see severe limitations for the folks who would live there.

Any other questions?

MR. OXER: Great. Thank you.

(General talking and laughter.)

MR. SCOTT: Thank you, Chairman and Board to allow us to have an opportunity for making public comment. My name is Russell Scott. Right now I live in the Ledge Stone neighborhood that's being affected, or may be affected by this issue.

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For the past 30 years I have spent the vast majority of my life in Texas. During this time I have learned that Texans are good people, they want to help others, and especially those in need which is what we're talking about right now. And I personally try to help other people. I've learned that we need to stick up for ourselves, though, when someone tries to take advantage of us. Personally, my family donates both time and money to help those money in need.

Over the past couple of years it has become more and more clear to me that the proposed Cypress Creek at Ledge Stone apartments would not really help the people that they purport to help. As an average person that has had times in my life when I could use affordable housing, I've become convinced that Cypress would not help. In fact, I think they may even violate the FHA. As you know, the Fair Housing Act requires that rental housing not discriminate against a number of different classes of people. Because I'm disabled, I happen to fall into one of those protected classes.

The FHA requires that rental housing, especially multifamily rental housing, provide accessible housing for people like me. Among other things, the FHA defines accessible housing to include access to public transportation. Since living in Ledge Stone, I've tried
to find public transportation to get me to doctor appointments. There's in city transportation in the area, so I've looked into non-profits that offer help for disabled people and their transportation needs. None of the non-profits that I contacted offer transportation as far away from the City of Austin as we live, and we live closer to Austin than the Cypress location.

If I had not been so closely involved in this issue and say I became divorced and didn't have my wife to rely on to drive me everywhere I need to go anymore -- I can't drive anymore, or I shouldn't drive. I only drive through parking lots. I do have a license but it's my last license that I'm going to have. Anyway, side note there.

(General laughter.)

MR. SCOTT: Say my wife and I became divorced, if I could qualify for the Cypress Creek apartments, I'd probably go there. I live right in that area, I like that area, we are comfortable in that area, so I would probably rent from Cypress, I'd probably look into there and say there's a spot for me to live, I might be able to qualify, I'm not sure if I could. But unexpectedly, in less than a month, I would discover that Cypress was not properly serving me as required by the FHA, the Fair Housing Act, because I would find that I would be unable to find public

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transportation to get me to my regular doctor appointments. For these and numerous other reasons, I respectfully request that TDHCA deny funding for such a housing project in this location.

The only support that I've seen for this -- and one of those is that letter that you were talking about from the elder at the Baptist Church, I'd be interested to know where he lives, and if he lives in the area and how he came up with his conclusion to support it. The other people I've seen that support it in the past have been Rex Baker and Patrick Rose, and it's interesting that Rex Baker, as I understand it, is an attorney that has helped Mr. Shaw and Bonner Carrington to establish -- he's been their legal representative, as far as I know, but you may need to check on that. And another supporter has been Patrick Rose. I cannot figure out why he would support it because he doesn't live in the area either, as far as I understand it.

And one other point that in our dealings with Mr. Shaw, he specifically said: I will not build if there is opposition. This came up in a public hearing, I don't remember when it was, but I brought that point out that he said that multiple times and he stood up -- I guess it was County Judge Cobb's office when I made that comment -- and he objected to that, but then he actually admitted that,
hey, I have said that at least once. And so Mr. Shaw himself has said he wouldn't do it if there's opposition, and I think that tells a lot.

Thank you.

MR. OXER: Thank you, Mr. Scott.

Any questions from the Board?

(No response.)

MR. OXER: Good. Thanks. Need a hand getting saddled back up over there?

MR. SCOTT: If I just fall backwards, I'm probably okay.

MR. OXER: That's what we sit up here for, that's why we're on the deck on this.

(General laughter.)

MR. OXER: Just so that you know, you won't be able to distribute those unless there's enough for everybody in the audience. It's a protocol thing that we're required to abide by.

MR. ROSE: Totally understand. Let me sign in.

MR. OXER: Fair enough.

I think what we're going to do down there, let's make sure we've got a sign-in sheet because it looks like you're going to be busy signing folks in, let's get them signed in so that they're ready to speak when the next one is ready.
Good morning.

MR. ROSE: Good morning, Mr. Chairman and commissioners. Let me first say I appreciate everybody who is here for and against the issue. There's a lot of people in our community who are invested there, people get to different conclusions on issues of concern to them, each of them reach those destinations in a legitimate and honest and worthwhile way, and I respect everyone's opinion.

Because Mr. Scott, who I've not met -- but it's nice to be with you -- was asking, I'm the Patrick Rose he referred to -- why I'm involved in the issue. My parents moved to Dripping Springs in 1977, I was born in '78, raised in the public schools there, and I own a company that employs eleven people in Hays County, seven of whom reside in Dripping Springs and work in Dripping Springs. I also chair the city's economic development committee. That's a group of eight local leaders who the city has empowered to evaluate issues like this, occasionally take positions on them when they are in the best or not in the best interests of the community. That is what brings me here.

And as a business owner in Dripping Springs, and someone who's had more than my fair share of experience with our great community, I'll say this: we
have a distinct need for affordable housing in our community. That need has been identified numerous ways, but including and recently in the comprehensive plan. Our committee unanimously supports this project because we need places for the people who work in our fine community to live.

DR. MUÑOZ: Let me ask a quick question. Sorry for the interruption.

MR. ROSE: Yes, sir.

DR. MUÑOZ: Of those eight people, how many of them live in Dripping Springs?

MR. ROSE: Seven, and the other is in Hays County in Kyle.

It's a tough issue, where do you put the housing, and there may not be any perfect answer to that, but our committee reaches this conclusion because we strongly believe there's a need and we also strongly believe in the developer who has brought the project. He is more or less local, he's in the Austin region. I do reside in Hays County but in San Marcos, very close to another one of his projects called Mariposa, very familiar with it, and I've watched and seen other of his projects across the region and believe in its quality, as does our committee. So that's why, respectfully, we come to present our unanimous support of this project, and will be
glad to answer any questions if you have them.

MR. OXER: Are there questions from the Board?

Robert.

MR. THOMAS: Patrick, Representative, good to see you this morning.

MR. ROSE: Good to be here.

MR. THOMAS: Talk to me about it a little bit, help me understand, you heard my earlier question concerning economic viability, and where you're coming from, talk to me about the economic viability of this project from economic growth in the community. How can this project support growth in the community, economic growth and build more jobs. Obviously, if it's not going to be on the tax rolls, we've got to have another way that it adds to this particular community.

MR. ROSE: Sure. Two things. First, the current employment base in our community has many people, includes many people who would qualify for this project, and we need that housing option today for the existing employment base that we have in our community. That's why our economic development community supports the project. Second reason is that our community is a growing community. I hope that more and more people -- I mean, Dripping is a great place to live, to raise your family, to go to church, it's a great community to live.
Increasingly, it will become a great community to work in, as well, and particularly as we grow in that way, I think there's a need for this housing. So not only do I believe we have a demand for it today, but I also believe we have a distinct need for it tomorrow.

MR. OXER: Patrick, do you have an answer to the question of transportation, public transportation?

MR. ROSE: It's an enormous problem, no matter where you live in Dripping Springs. If this were to be in downtown Dripping Springs, you'd still have a transportation problem. CARTS does a noble job of serving rural needs, particularly for folks going to medical treatment, but it isn't Portland, Oregon out there.

MR. OXER: There's a transportation problem in Houston too but generally because there's too much of it down there.

MR. ROSE: Right.

MR. OXER: Okay. Any other questions from the Board? Tom, did you have a question?

MR. GANN: He answered it.

MR. OXER: Okay.

MR. ROSE: Appreciate your consideration.

MR. OXER: Thank you.

MR. BAKER: Good morning. My name is Rex Baker. I'm the other guy that Mr. Scott referred to.
I've lived in Dripping Springs for about 25 years, I live in the ETJ, I'm a businessman, I've had my business there for all the time I've been there. We definitely have a need for this project. As far as location is concerned, the current location has sewer, it has water, so it's not septic, it's not well. The problem with the City of Dripping Springs proper is it just got sewer three years ago. That's kind of hard to believe but it's the truth. And unfortunately, the sewer system does not have the capacity to handle a project this size, so even if it wanted to be in there, it couldn't unless it wanted to go under septic.

From a location standpoint, most of the people -- and I say that anecdotally -- a lot of the people that are here complaining is because it's in their backyard. And I can understand that. I'm from Houston originally. We don't have zoning so you're always looking over your shoulder what's in your backyard, but you pay your money and you take your chances.

I too serve on the economic development committee but I've abstained from any votes there because I was involved representing the developer. At this point I do not represent the developer. I've also worn a bunch of hats while in Dripping: I've been city attorney, I've been the JP, I've done my stint in community service, and
I can tell you categorically the city desperately needs this project.

We went around -- I say we -- Mr. Shaw's group went around, and they may refer to it later, I think there's 200-some-odd units available in this project and we have 600 or 700 people who would qualify for this that currently work in Dripping, people who work at Home Depot, people that work at H.E.B., people that work at Trudy's, people that work for the school district. They commute because there's no place to live in Dripping. Dripping is a very expensive place, if you aren't aware of that. I think the median price of a house is over $200,000.

So for someone who's got an income of less than $50,000, there's no place, there are no apartments in Dripping Springs to speak of. There's a Section 8 facility on the east side of town, but we don't have the housing that's needed for right now, as Patrick said, not to mention what's going to be happening in the future.

Thank you for your time.

MR. OXER: Are there any questions for Mr. Baker?

(No response.)

MR. OXER: Thank you.

Okay. We have the second row there. Anybody else on this one? Is anybody over here? Who's next?
the record, we're going from that way across there. Make sure by the time you get up here you've been signed in so we keep it as efficient as possible.

MR. NUTT: Thank you, Mr. Chairman and the Board for your time today. My name is Steve Nutt. I am a resident of Heritage Oaks which is immediately next door to the Cypress Creek project.

I served three years on the Heritage Oaks Landowner Association board, and I can tell you there is overwhelming opposition in our neighborhood to this project. There's significant objection to this project and one thing that is extremely frustrating for me as a citizen, and for residents of our community, is we are in the ETJ and we are impacted by these developments but we have no voice.

You have a letter from the mayor of Dripping Springs. I don't get to vote for the mayor of Dripping Springs but I certainly get to be impacted by this type of project and these decisions, and there is a tremendous amount of frustration of the people in the ETJ that we don't have a voice other than taking our voice in a public forum such as this. There are many people in the ETJ that are opposed to this, there are many letters of other significant community members who are also opposed for a variety of reasons.
My objection to this is really based on the location being inappropriate. This is still a semi rural area. One of my big concerns is 290 and the traffic impacts on 290. This is a 65 mile an hour speed limit to the exit of this complex, and there are no plans that I have seen to put any kind of traffic lights in. There is no traffic light departing this development. The closest light is down at my residence at Heritage Oaks, and prior to the lights going in at Heritage Oaks, my next door neighbor was involved in a very serious car accident which hospitalized her and injured her children.

I have two other neighbors in the Heritage Oaks development that have been in car accidents on 290. In September there was a fatal, four fatality accident at the light at 290. Once again, there is no light coming out of this project, and I can tell you, from direct experience, turning left which is the direction to Austin, is a harrowing experience for anybody. As the father of a recent Dripping Springs High School grad, it was always a concern that my son was driving on 290 with him and his friends.

The nearest grocery store to this development is either in Dripping Springs or at the Y at Oak Hill and it's seven miles away. The schools, there's no proximity to the schools, there are no sidewalks or bike paths along

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290. There are few parks and no schools, and there is no plan for these kids to be able to safely cross 290. And the estimates I've seen is we're looking at 200 to 300 children coming into this development.

The schools being a long ways away and no public transportation to them is an impact, and as a parent of a school child, I understand how important it was to be involved in school and to be able to participate in school events.

The work opportunities I don't believe are as prevalent in Dripping Springs as they will be in Austin and that means the traffic direction is going to be going to the Y in Oak Hill, which is notorious in and of itself.

For sake of time I'll limit my comments to these particular concerns, but I'm sure you'll hear many other concerns articulated today. I believe strongly that affordable housing is vital to both the individuals and to the communities that it serves, but I would encourage this Board to invest your limited resources to locations and projects that make sense to both the new residents that will be in these communities, as well as the existing communities.

Please deny the application for Cypress Creek at Ledge Stone project. Thank you.

MR. OXER: Thank you for your comments, Mr.
Are there any questions from the Board?
(No response.)
MR. OXER: Thank you. Who's next?
MR. O'BRIEN: Mr. Chairman, members of the Board. My name is Dan O'Brien. I am a local business owner, I have a business which would be located approximately an eighth of a mile away from the site. I'm a nearby resident, I live in the Belterra community which is across the street from 290. I serve on the board of directors for that homeowners association. I'm an attorney and I have a background in economics.

I'm concerned with the discussion as being framed as this is beneficial for Dripping Springs, it is or it isn't. The site is but more than a way point between Austin and Dripping Springs. It's located in theextraterritorial jurisdiction, we know that, but it's even miles from Dripping Springs downtown, it's as close to really the last major intersection in southwest Austin which is the Y at Oak Hill, 290 and the intersection of Highway 71.

Surrounding my fellow business members are a handful of other solo practitioners, local law practice, a plant nursery, a couple of restaurants, a liquor store and a couple of gas stations. This is not the economic basis...
which could absorb a labor force. Practically speaking, we're talking about the individuals either going back into Austin, but if the idea of the project is to support Dripping Springs, then we're looking at a seven-mile trek into that area where there is no public transportation available.

We've heard other comments about Dripping Springs and their ability to provide different services. If Dripping Springs is three years out from installing an actual sewer system, I think it's fair to say there aren't any immediate plans to have public transportation go into place. And so we're looking at people that will have either limited transportation opportunities to be able to access a market which may or may not come into existence.

The nearby residents, I believe, don't feel that there will be an economic benefit. As a business owner in close proximity to it, I don't see an immediate economic need. And if Dripping Springs desires to have the development, it seems more appropriate for the mayor to make plans to put that development in his city limits and not six to seven miles out of his borders.

I strongly encourage the Board to reject the application. I don't think it services the community and I don't think it services the residents that would otherwise or could potentially benefit from a project. It

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doesn't help to provide low income housing if it's not in the right place, and I don't think there is a reasonable expectation of employment nearby, there's not an opportunity for transportation, and I think ultimately what we'll do is create a situation where we have a housing community that is under served and ultimately will struggle. The Department will create a problem which it was intended actually to solve.

MR. OXER: Thank you.

Are there any questions for Mr. O'Brien?

(No response.)

MR. SONE: Good morning, Mr. Chair and Board. I'm John Sone. I'm a resident of the Belterra neighborhood. That's a master planned community. I believe it was in the news yesterday as a very lucrative and well thought through community. I moved to that from my final assignment in the Army, I was a soldier for 30 years, because it was a master planned community. It included multifamily housing which I think probably fits into most of our definitions of affordable housing.

I'm a planner at heart. I was recalled from retirement to serve as a strategic planner at headquarters Department of the Army, so I recognize planning when it's happened and when it hasn't happened. As a city manager and recent graduate of Texas State with a master in public
administration, I can tell you that a lot of planning hasn't happened.

I'm a staunch supporter of smart growth, however, this is not smart growth that we're seeing right now, there is no master planning involved. This hasn't been accounted for in regional transportation planning, in the county's transportation plan, it really hasn't been accounted for in the municipal comprehensive plan, and if they would publish an annexation plan in Dripping Springs, I'm sure that perhaps there would be some thought given to it, but that is not done.

So also, as Mr. Nutt, a father of a recent graduate of Dripping Springs High School, I'm very concerned about the extremely inadequate transportation planning, not just the paucity of public transportation but the paucity of planning for public transportation, and I strongly urge you to share the misgivings that I have, that my state representative has, that my county judge and my county commissioner have in rejecting this application.

MR. OXER: Thank you, Mr. Sone.

Any questions?

(No response.)

MR. OXER: Okay. Thank you.

MR. SIKORA: Good morning, Mr. Chairman and other members of the Board. My name is Vincent Sikora. I
live at 198 Bradshaw in Belterra subdivision, a community that's part of the Dripping Springs ETJ that comprise about 1,200 homes. I am the president of the Belterra Neighborhood Association. The Belterra Neighborhood Association is a non-profit organization incorporated in the State of Texas. Our purpose is to maintain liaison with local governments and associations and to inform the residents and the workers of the Belterra residential and commercial districts of significant community developments.

I apologize for being more redundant here than I intended to but I would like to restate some of the points that have been previously stated. I understand that the TDHCA mission in part is to provide affordable housing to those who can benefit from it. It has provided the means for many needed projects and one of the determining factors for getting the support of this organization is that these locations and particular projects will benefit the people they are designed to help. This is a necessary and admirable use of our taxpayer monies.

This particular project under review, Cypress Creek at Ledge Stone, would not necessarily help those income families that this type of funding is meant to promote. The accessibility of daycare, the proximity to
municipal services, public schools, shopping and doctors is poor. The convenience of transportation is poor or nonexistent. There are multiple safety issues associated with this project, including very limited sidewalks and bike paths to walk or bike to work or other areas, poor access roads and heavy traffic congestion with limited traffic lights and pedestrian crossings. In short, those living on a tight fixed income will find this location a very difficult functional living arrangement.

This project sits seven miles from downtown Dripping Springs and seven miles from the Y at 290 and 71. Both of these areas contain the elements of what affordable housing should have easy access to.

I would like to bring to your attention that recently Judge Cobb of Hays County and Commissioner Ray Whisenant have recently withdrawn their support of this project.

Again, if TDHCA wants to make sure that the projects they help fund and utilize their taxpayer dollars for will actually benefit those that they're intended for, the preceding outlined factors must be taken into consideration.

Thank you for the opportunity to speak, and I would like to oppose this project.

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

(No response.)

MR. OXER: Okay.

MR. GRAD: Good morning. My name is Owen Grad and my wife and I live in the Ledge Stone community.

The Ledge Stone community is served by one entrance and one exit passing through a roundabout on Ledge Stone Drive and onto Highway 290. Entering Highway 290 is at best hazardous and at worst death defying, especially heading eastbound. At this time there are no traffic lights at this intersection. I would also like to point out again that there is no mass transit serving our community, for that matter, the City of Dripping Springs.

The Ledge Stone community now has 209 homes completed, with a planned final buildout of 234 homes. The residents in our community have to pass through the Ledge Stone roundabout to enter 290 east or west in order to exit our community. The Ledge Stone roundabout must handle all the vehicles from the existing homes and future planned homes. In addition, school buses from the Dripping Springs ISD enter and exit our community numerous times during the day.

The proposed Cypress Creek apartments at Ledge Stone would use the same roundabout in front of our community to enter and exit Highway 290 or use Four Star...
Boulevard which also has no traffic lights to enter Highway 290. At this time it would be hard to approximate how many additional vehicles will eventually have to enter and exit Highway 290 from this apartment complex, but it's safe to say that with 244 apartment units and no mass transit in our area, the number of cars entering and exiting through the roundabout at Ledge Stone Drive or through Four Star Boulevard would be considerable. With the volume and high rate of speed on Highway 20, both eastbound and westbound, it would be exceptionally hazardous to add additional vehicles into this mix.

For this reason I am asking you to add this information in your deliberations concerning this project. Thank you.

MR. OXER: Thank you, Mr. Grad.

Any questions from the Board?

(No response.)

MR. OXER: Good. Next.

MS. SCOTT: Hi. I am Theresa Scott. I am the chauffeur of Russell Scott. He does not and will not be driving. You are safe in the parking lot even.

(General laughter.)

MR. OXER: That takes all the fun out of it.

MS. SCOTT: Commissioner Whisenant's office had let me know that there was 101 opposition to this project.
From day one, the City of Dripping Springs and the Chamber of Commerce told me and told many of us that this project was needed and necessary because of two main reasons. The two main reasons that they always put out to us were that businesses will not come into the area without affordable housing. According to them, in order to have growth, we need an affordable housing complex. Well, it's my understanding that TDHCA was not created to build cities or to bring businesses into cities, but rather to deliver local housing and assistance to Texans in need.

It seems to me the age-old statement don't put the cart before the horse is pertinent in this situation. Which needs to happen first: affordable housing or a strong job market? Common sense to me is that Texans on a fixed budget need to live in an area that currently offer jobs, public transportation, shopping conveniences, and in close proximity to everyday needs. This location at this time offers little to no infrastructure to support and assist those on a tight budget.

I have been on that tight budget. I have four children and when you drive 40 to 100 miles a day to go to the schools every day to pick up and drop off kids for extracurricular activities, the before school practices, the after school practices, and all the shows and the in-
between, 40 to 100 miles a day takes a big chunk out of your fixed budget.

If your child misses the bus either in the morning or after school, there is no way they can walk to school, there is no way they can ride a bike to school. In fact, I don't know if you heard on the news recently of a child that was bullied in Dripping Springs just this week, the kid left school, walked six miles home on the highway. It outraged the parents and the community because there is no safe way for a child to get to and from school if their parent cannot drive them.

The grocery store is a place we cannot avoid. It seems to me that is my second home. The closest grocery store in either direction, towards Austin or to Dripping Springs, is seven miles. It's really frustrating when you get home and you realize you forgot an item. To either have to go back and get something, or get in your car, drive across 290 to the closest gas station and pay twice the cost is not a nice alternative.

This complex site that we've mentioned is on a very busy and dangerous highway. Accidents, many fatal, seem to happen on a regular basis. I myself had never been in a car accident until we moved out to Ledge Stone. I have had three on 290 -- granted, none of them were my fault, but nonetheless, three accidents in the seven years
I've lived there. It is a very dangerous, dangerous highway.

There are, as was mentioned, no neighborhoods to cut through, there are no sidewalks or bike paths, no traffic signals, just you and lots of vehicles traveling over 60 miles an hour. This apartment complex will be situated just off 290. There will be no place for mothers to walk strollers, for people to walk their dogs unless they want to go around and around the complex.

The Dripping Springs Chamber of Commerce feels like the need for affordable housing is now. I disagree. How can you put hundreds of people on a fixed income into an area where the cost of living is so high and the infrastructure to assist their needs does not exist. Let's get the sidewalks, the bike lanes, traffic lights and other supporting businesses into the area first. It can be done and it has been done time and time again. Affordable housing can and should be a blessing to both the community and those who need affordable housing, the key being that it needs to be a blessing to both parties and not just to one.

The second reason the city and chamber have told us they support this complex is because the current businesses cannot maintain employees because of the long commute. Well, did you know that our sister community,
Lake Travis, was once a small town like Dripping Springs. In ten short years it has transformed into a booming metropolis, and two interesting facts stand out: one, there is not a single affordable housing complex in the boundaries of Lake Travis or the Eanes School District, and I am a realtor and I can tell you the housing market in those areas is more expensive than in Dripping Springs, yet they have businesses and they have employees. How are they able to maintain the growth and maintain the employees if an affordable complex is necessary?

To determine the amount of employers seeking employees I purchased two local papers this week in downtown Dripping Springs. There were a total of three jobs offered in the help wanted for Dripping Springs. I drove around town, I saw very few help wanted signs. Those I did see were for fast food restaurants, McDonald's, Dairy Queen, which are likely to hire at a minimum wage, not enough income to qualify to live in these apartments. I searched craigslist and found five jobs offered for Dripping Springs since October 1. I looked at the Chamber of Commerce's website for their job postings and saw there were 22 for local jobs, but some of those have been filled and are duplicates of what I found in the paper or on craigslist.

I've spoken with three women this week who have
been trying to find jobs in the Dripping Springs area who are local, and they all stressed the same concerns: there was nothing available that they could take that would service their family and provide the income that they needed. If employees are scarce and they're having a hard time keeping employees, well, where is the advertising for employees coming from?

The location of Cypress Creek is on the Hays- Travis county line. It seems apparent that this complex would serve Travis County and Austin businesses far more than it will currently support or build up Dripping Springs. Living there, I can attest that the business traffic is not going into Dripping Springs in the mornings or in the evenings, it's going into Austin. If Dripping Springs wants the benefit of this complex, it needs to be located within their city boundaries -- which, on their comprehensive plan, it does ask for affordable housing and they have planned for affordable housing within their limits, but because of their own planning, their own doing, they can't support it at this time.

How can we rationalize our Hays County dollars being spent on a complex that will seemingly benefit Travis County? There is an affordable housing complex in the municipality of Dripping Springs. I have called multiple times over the years and found that they have
vacancies every time I have called. There is also another
affordable housing complex located at the Y in Oak Hill
that, too, has vacancies every time I have called. There
are options for Texans on a fixed income currently in
place. The commute can either be a five-minute commute or
a 15- to 20-minute commute.

If anything, at this time we need a complex
where all are able to reside if they choose. We do not
have a single market rent apartment complex in the
Dripping Springs area. We have firefighters, police
officers, school teachers, managers, new business owners
and divorcees that do not meet the income guidelines to
live in Cypress Creek apartments. They are the ones
without any options.

Affordable housing is a necessary element to a
healthy community. I am not opposed to what your purpose
is. However, if my tax dollars are being used to fund
this complex, then it needs to support those it is
intended to support. It seems backwards to bring a
complex in before the jobs and the support system. Let's
not experiment with those on a fixed income, they can't
afford it and neither can we.

Thank you.

MR. OXER: Thank you, Ms. Scott.

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

MR. PETERSON: I'm Norman Peterson and I live in the Heritage Oaks area right near this development. I just wanted to show my opposition to the project. I think the people that have spoken before me have expressed it better than I could, and in the interest of time, I just wanted to step up and show my opposition.

MR. OXER: Good. Thank you very much.

MR. SHIVELEY: Good morning. I didn't believe we were going to be underground. My name is Dick Shively. I live in Ledge Stone. My background is not all that great. I spent 27 years as a police officer in the area of Seattle in a small town called Auburn. I moved down here to Texas seven years ago and moved into Ledge Stone six years ago.

I keep hearing that people want this development built, but I keep hearing they or them but I never heard any specifics. I wish you, Mr. Mendez -- excuse me, I'm going to mess your name up -- could have been in attendance at a meeting that we had in City Council of Dripping Springs about a year ago. You said you've got six letters opposing it. At that meeting there were over 205 people there opposing it, all ready to speak but we didn't have time. There were two people in favor.
of it, one was Mr. Shaw, the other one was a deputy who resides in one of his apartments in north Travis County.

Then we had a planning meeting because they wanted a cut and fill variance. Over 200 people showed up opposing it. We were voted down seven to one; they didn't think it was a good idea for us to oppose it.

You said there was market study done of businesses. Well, I'm not a market study analyst, but Tuesday I had lunch with a gentleman and we asked the waitress and the manager how many people here do you have employed, and they said twenty. How many live in affordable housing? Well, they don't need to, most of them live with their parents. Well, could they live in an apartment if they were working here? No, they don't make enough money.

So on the way home I stopped at my bank and asked them the same questions. We really don't need it, we all live in our own homes. Then I stopped at Sonic, talked to the manager, I went across the street, talked to McDonald's, talked to the manager, same thing. Both have about twenty employees, they don't have problems filling open vacancies. They put the word out and they have numerous applications. The problem is most of them are young people that don't have a place to stay other than at home and they won't make enough to afford an apartment.
I'm a taxpayer, you folks are going to be spending my tax money. I just hope you do well with it and consider all the possibilities. Thank you.

MR. OXER: Thank you, Mr. Shively.

Are there any questions from the Board?

(No response.)

MR. OXER: Okay. One more?

MR. HINES: Hello, Mr. Chairman and directors.

Thank you for allowing me to speak today. My name is Jonathan Hines. I've been a resident of Dripping Springs for the past nine years. I've attended Dripping Springs schools since the second grade.

A lot of what I came to talk about today has been covered, so I'm going to try and be brief about it. In no way do I intend to be condescending and negative, I am simply stating my position.

I've been hearing we need the project, we desperately need it, we don't have the housing for our residents. I strongly believe in affordable housing for those that need it until the point where it puts a burden and a strain on the community.

I have a close personal friend, his name is Marco Arredondo Ramirez. His family, along with several other families, whose names I've been asked not to disclose, all live in one housing complex. The fathers of
these children all stand by the gas station on the way towards the school, they are day laborers, they wait for a rancher or someone to come pick them up and give them work. These men have adapted to the sense that work is so rare and so they're encouraged to wait out by the gas station, and that have not been able to find work in quite some time.

I've also heard that between 200 and 300 children will be incoming to Dripping Springs School District. This is the first year we have not faced a budget cut but we are still in a budget deficit as we are recovering from recent years of budget cuts. We as a school have received numerous grants to fund projects such as the football program, the debate program, band and other extracurricular activities, however, the money we have is quickly being exhausted recovering from recent years and funding the few projects we have. We've tried numerous fund raisers to try and come up with other means of funding for these programs, however, with these new children coming in, we will have to find more ways to fund and support them in the district.

It is for these reasons that I'm in opposition, and I strongly encourage the Board to please deny this grant. Thank you.

MR. OXER: Jonathan, hold on a second.
Any questions from the Board?

(No response.)

MR. OXER: Just a quick comment from me. Based on the strength of your presentation, you've got a future in public service, Sport.

MR. HINES: Thank you.

MR. OXER: I think Representative Isaac has just stepped in to join us.

MR. ISAAC: I'll wait till the end.

MR. OXER: And yes, we'll have some more public speaking. It's a courtesy we offer to representatives. Ultimately, what we really want is for you to get back to work so we can solve some of the budget problems we have. If you want to hear some more of what the folks have to say, then we'll call you later. Thanks very much.

Okay. Who's next? Don't be shy because you've eventually got to stand up there and say it anyway.

MS. STEWART: My name is Brandy Stewart. I live in the Ledge Stone community, and I'm just showing my support of opposition for this deal. Everything has been said, and I agree, there isn't enough transportation or public help for what will be needed there. Thank you.

MR. OXER: Thank you, Ms. Stewart.

And just for the record, you've got to sign in, and that includes our representatives when they show up...
too. We have to make you leave tracks so we can identify them for the recorder here. Okay.

MS. PARKS: Good morning. My name is Sherrie Parks. I'm the executive director of the Dripping Springs Chamber of Commerce. Representing nearly 400 business members in our area, the Dripping Springs Chamber is here in support of the Cypress Creek project.

Just within the last month, local employers in the auto mechanic, restaurant, healthcare and childcare industries have shared with our board members the difficult they continue to experience finding and keeping employees. The Chamber recently received an email from a local small business owner who stated:

"It's been, and will continue to be, a huge struggle for me to find reliable adult employees who can afford to live in the area if they're interested in working for $11 to $14 an hour plus tips. As I'm seeing other new businesses open up, I definitely wonder how we're going to be able to staff them all. My three strongest employees live in Manor, a 45-minute drive away, Wimberly and Dripping Springs. The Dripping Springs resident lives in a home that was her grandmother's so she's able to rent it for a very, very low amount from her family."

In fact, I asked that small business owner to
come this morning and she is understaffed so could not afford to leave her business.

In addition to the employment struggles of current business owners, the Chamber has found that the lack of affordable housing is making it difficult to recruit new businesses to our area. Within the last two years we have seen, firsthand, businesses wishing to relocate or open a store in our area, remove Dripping Springs from their consideration simply because we do not have affordable housing for their workers.

There are concrete numbers to show the high growth our area is experiencing. The Dripping Springs School District superbly handled a student population increase of 6.6 percent this school year, close to 2 percent over the growth rate that was projected. With increased population comes a growth in business. The city recently approved a new hotel to be built and another hotel has filed a letter of interest. We have an H.E.B., Home Depot, over 30 restaurants, childcare facilities, and 20 wedding and event venues in our area, all these businesses looking for employees in the low to middle income range. As our retail and service sector grows, even more employees will be needed for these jobs.

Within the mission statement of the Dripping Springs Chamber of Commerce are the words: to provide for
the continuous improvement of the business environment. The City of Dripping Springs comprehensive plan includes recommendations for developing a viable economy through recruiting appropriate primary employers. To succeed in improving our business environment and developing a viable economy Dripping Springs needs the ability to create opportunities for persons of all income levels to live in Dripping Springs. The Cypress Creek at Ledge Stone apartments can create that opportunity.

The Chamber encourages the TDHCA to support and fund this project. Thank you.

MR. OXER: Thank you, Ms. Parks.

Any questions from the Board? Good timing, by the way.

Dr. Muñoz.

DR. MUÑOZ: Ms. Parks, I suspect you've heard some of the other observations from members of that general community, both apparently researched and some anecdotal about businesses and their demand for employees that seems to contradict what you are representing on behalf of apparently 400 other businesses.

MS. PARKS: As far as job listings, we have a lack of opportunity for businesses to list jobs. The page on our Chamber site is relatively new. I am listing one to two to three jobs a week for employers as they become

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aware that our site is there for them to use.

    DR. MUÑOZ: Well, I just make the point because
fundamentally the project is predicated on demand.
Earlier -- his name escapes me -- indicated that there
might be up to 600 people that would take advantage of
this kind of housing and its price range. So there's a
presumption that there will be those to reside in this
facility, and that they would be middle income sort of
employees at the places you've enumerated. But then there
are those others here that suggest that there won't be
that demand.

    MS. PARKS: Well, and Dripping Springs is in
that time period of what the Chamber is seeing and in the
studies that we've done recently, we're entering a high
growth phase, not only residential but business as well.
I believe there's no less than five subdivisions that are
going to be going in in the next couple of years, all high
income housing. We have one Section 8 housing complex, we
have nothing in between. I've got many single parent
friends that they struggle to find something they can
lease in the area to be able to keep their kids in our
fine school districts.

    And to answer your question on the pastor, he
lives in Ledge Stone, the pastor of Hill Country Bible
Church.
Yes, sir?

MR. THOMAS: I'm sorry. I need to be recognized by our chair.

MS. PARKS: Yes, sir, I realize. Thank you.

MR. THOMAS: Thank you so much for your presentation. So the market analysis, that I don't know that you've had a chance to see, indicates that in this particular area, and I'm not sure how tight it is to the development, but there are almost 3,000, 2,997 people who would fit the demand or would fit the need to be able to have this, but we've had other testimony today, including elicited by my colleague, that indicate that that may not be -- there may not be a direct correlation there. Can you help me understand where this demand is coming from and why this project specifically in its location would meet that need?

MS. PARKS: Our retail trade area in our ETJ is very large. Ledge Stone itself is seven miles out from Dripping Springs, Belterra is seven miles out, we go, I think, even nine miles out down 290 towards Austin. So I think the location was the pick of the developer and what he could find. I agree with, I believe it was Mr. Baker, who said that our wastewater system is already maxed out. It's three years old and we're really close to maxing it out. The city is now taking on that job of increasing it.
but from a developer's point of view, I would think they
would need to locate where they know they have that
infrastructure.

MR. THOMAS: Thank you. Another question is I
think you said $14 per hour.

MS. PARKS: That's what this small business
owner looked at.

MR. THOMAS: So the adjusted rents or the rents
available for this project would fall in the 50 to 60
percent adjusted income, and at $14 an hour that would be
$28,000 a year. Now, I understand that would be just be
one earner. But that is from a low, assuming a four-
person family, from $32,000 to a high of $43,000. Does
this community support income in those ranges to be able
to afford these units?

MS. PARKS: I believe it does. I mean, we've
listed several jobs recently that are in the $25 an hour
range.

MR. THOMAS: For 244 units?

MS. PARKS: I haven't done studies and I
haven't seen your studies on that, so I'm hesitant to
speak.

MR. THOMAS: Fair enough. Thank you.

MS. PARKS: Thank you.

MR. THOMAS: Thank you, Mr. Chair.
MR. OXER: Ms. Parks, I have a quick question.

MS. PARKS: Yes, sir.

MR. OXER: Quite a number of the respondents have indicated there's an issue with traffic on 290. As it turns out, I live in Sugar Land, I live three-eighths of a mile from US 90 which has its own set of traffic adventures on it every day too.

MS. PARKS: I'm sure it does.

MR. OXER: Do you have any thoughts on that? Can you give us any insight on what the Chamber of Commerce has in terms of the traffic pattern?

MS. PARKS: The traffic is increasing on 290, there's no doubt about it. The studies TxDOT did from 2012 just came out and they've increased. I don't have a percentage on that. 290 is a problem for all of us. My kids have to leave my subdivision which is two miles east of the city limits, and I just pray over them every day that when they're turning left out of that subdivision that they take their time. It is a problem.

MR. OXER: That being a federal highway, we don't have any influence over when that gets done. If it was a state highway, we'd be able to call our friends on another committee that deals with this, we could seek some input from them, but since it's a federal highway, they have to see the traffic build before we can expect any
motion from them. So I just wanted to get a sense from
you on the record what the Chamber of Commerce sees as a
resolution to those traffic issues.

MS. PARKS: Someone referred to the chicken and
the egg analogy, and it applies here.

MR. OXER: Our problem is we make omelets
around here.

(General laughter.)

MS. PARKS: Here and mix them all together.

Transportation, I believe, will come and it is
in the city's comprehensive plan, but it will come when
the need is there. Until the need is there, it's not
going to come.

MR. OXER: You don't build a school and fill it
up, you wait for the demand and then you build the school.

MS. PARKS: Exactly.

MR. OXER: Any other questions from the Board?

MR. McWATTERS: I have one.

MR. OXER: Okay. Professor McWatters.

MR. McWATTERS: Are there any other sites for
this project? I've heard it's seven miles from Dripping
Springs, it's by a tough road, a tough road for all, but
nonetheless, a tough road, absence of sidewalks, absence
of stores and the like. Is there a place that would
negate a lot of those concerns?
MS. PARKS: At this point, I don't believe so. The city is just now redoing their downtown street to include sidewalks. We just received a nice grant to be able to begin that process. The desire is there to put sidewalks in, but even down Ranch Road 12, any of our main arterial roads that come into Drip, there's no sidewalks, and basically, you're a suicide jockey if you ride a bike. Pie in the sky, yes, we would love to have the roads and the sidewalks and be able to walk to school, but that is not what our community has right now.

MR. McWATTERS: When you say our community, what does that entail? I mean, if this project was located closer to Dripping Springs itself, are there sidewalks?

MS. PARKS: There are not, not at this moment. Like I said, the main downtown street, Mercer, which comes off of 290, they're just now moving to put sidewalks on it, and there's really very little housing around it right now.

MR. McWATTERS: Okay. If anyone else can address my question, I would appreciate it. Thank you.

MR. OXER: Good. Other questions from the Board?

(No response.)

MR. OXER: Thank you, Ms. Parks.
Is there anybody else here in the second row? Representative Isaac gets to go last. To answer your question, yes, everybody has to sign in, and yes, you get three minutes to start.

MS. KINNEY: My name is Linda Kinney, and for full disclosure, I'll tell you I'm the executive director for Hays County Commissioner Ray Whisenant, although I'm not here speaking for Commissioner Whisenant, I'm speaking for myself.

I have lived in Dripping Springs for going on 29 years now. I raised both my daughters in the Dripping Springs public schools, and have watched it grow from the sleepy little town that it was when I moved there to pretty much still the sleepy little town that it is now. A lot of the growth that we've seen has come with the need for people to move out of the cities to look for a nice place to live. We've had growth coming from out of state. The growth of the Texas economy is one that is bringing people here, so we're growing.

I live about three miles from where this development is going to be. My children went to school in Dripping Springs and I watched them learn to drive and worried every day when they got on Highway 290, and even back then when they were driving it, it was still a really, really small town. Even being considered a small
town now, the traffic on 290 is horrendous, and the
thought of adding this many more units and this many more
people with potentially young drivers is really
frightening to me. It is seven miles from Dripping
Springs, and as you've heard, transportation is a problem.

I would like to set the record straight on one
thing, though. Someone mentioned earlier that
Commissioner Whisenant had pulled his support, but
Commissioner Whisenant has never supported this project.

I sit on a state board myself and I understand
that you listen to your staff recommendations and you put
your trust in your staff that the things that they are
telling you are just and that they're correct, and you
want to honor their value in making their recommendation,
but there are times when they're wrong, and there are
times when sitting on my board that I have voted against
staff recommendation after hearing all of the reasons and
the just reasons why their recommendation doesn't really
fit at that time.

And that's the case I think we have today is
where, yes, there may be a need for affordable housing,
this is not the place because it won't support,
transportation-wise, people who are going to live there.
So I would hope that you would vote against this today.
Thank you.
MR. OXER: Thank you, Ms. Kinney.

Any questions from the Board?

(No response.)

MR. OXER: All right. I'm going to do a little housekeeping item here just for purposes. How many more people want to speak to this item? Raise your hands, let's get them up and count them. How many more want to speak on this item? Not the ones following.

Stuart, I know you want to speak. I appreciate you getting your hand up.

So it looks like we've got at least ten or so which is going to take quite a while to get through.

Representative Isaac, if you could indulge us, we're going to take a short break here. We'd be happy to have you speak, if you'd like, to finish up and wait till after that, but otherwise, we're going to take a ten-minute break and come back. They think better when they're not squirming in their chairs.

All right. We're going to take a ten-minute break. Let's be back at five after the hour by that clock.

(Whereupon, at 10:56 a.m., a brief recess was taken.)

MR. OXER: We're going to have to give the executive director a minute to recover from the heart
attack he just had. I grew up on a ranch building fence, so I know how to use a hammer.

(General laughter.)

MR. OXER: Okay. We have a number of people who would like to continue the commentary on this, so who's next? Have you signed in?

MR. STOUT: Yes, sir. My name is Steve Stout and I'm a real estate investor and I have provided housing for Section 8 people in the past. And the issue on this seems to be not that affordable housing is needed, it's the location, and in my mind, the location for this project is inadequate. There's no place for the children to play. For a mother staying at home, if she wanted to buy a gallon of milk, she would either have to cross 290 and risk the 60-mile-an-hour traffic, with her children, or she would have to walk a mile down towards Dripping Springs to go to the CVS Pharmacy there and buy a gallon of milk there or a loaf of bread, whatever she needed.

But there are no other resources and there are no parks, no diversions for the kids. You get a kid out there with a bicycle that's not paying attention to traffic, and you're asking for an accident, and it probably will happen.

So that's my take on the situation and I appreciate your time.
MR. OXER: Thank you.

Are there any questions from the Board?

(No response.)

MR. OXER: Okay. Don't be shy.

MS. NIKARA: Hello. My name is Tasha Nikara, and I haven't been following this for the entire time, so I'm recently moved to Dripping Springs from Los Angeles, California.

MR. OXER: We're glad to have you. Bring some more out of California.

(General laughter.)

MS. NIKARA: My background is actually in psychology. I work specifically with at-risk youth and child development out there, so I've worked with a lot of families that it sounds like this complex is bringing in.

And I don't doubt that affordable housing is definitely beneficial, especially coming from LA, we have lots of them out there, we have lots of group homes, we have a lot of that type of environment that is able to sustain the type of housing that I hear is being described.

My biggest concern and opposition to this is not only the location, just from what I've seen. I have a seven-month-old daughter, I live about seven miles north of downtown Dripping Springs, I can't walk her anywhere, I
can't push her in her stroller, there are no parks even in that area. I have to get in my car to drive her anywhere, and it's usually a good 15 to 20 minutes outside of that area.

But my other concern is that the area, I've looked into like Medicaid and Medi-Cal, which for these families, I assume most of them are going to be on, and there are two pediatricians in the Dripping Springs area, one of which will not take Medicare, is not open to it anymore, and the other one that only takes a specific type which is CHIP which requires co-pays and things like that. The next closest pediatrician is seven miles away down past where you guys are talking about building this facility.

And with everything that's coming up with the transportation, I'm wondering how a stay-at-home mom or a family with one car, when you have a screaming kid who needs to get to the emergency room, is going to have the ability to get their child there. I'm wondering where they're going to go, how they're going to get there, what doctors are going to be afforded to these children. That's my biggest concern.

My next is that when you get the teenagers and there's no parks and there's no ability for them to ride their bikes or to get to places where they need to go.
This complex is going to be their home, their environment, their playground. What's going to happen to them if the complex doesn't provide something for them to do? I mean, teenagers are energetic and expressive and daring and they get into a lot of things. So I'm wondering what's going to become of them and how their lives are going to be benefit from being moved out here to where there's really nothing for them to access.

So that would be my questions. And I think it's great if we find a place that can accommodate them and that is going to give them the benefits. I totally support affordable housing, but just from my perspective, not in this area, not for the kids and not for the families. So thank you.

MR. OXER: Thank you, Ms. Nikara.

Any questions from the Board?

(No response.)

MR. OXER: Anyone else? We've got one more there.

MR. JOHNS: Good morning, ladies and gentlemen of the Board, Mr. Chairman. I'd like to thank you for allowing me to speak today.

MR. OXER: For the record you have to identify yourself.

MR. JOHNS: Yes. I'm William Johns. I'm a
resident at 112 Terrace Court in Ledge Stone. I'm currently a police officer with the City of Austin. I work patrol and traffic enforcement.

I just wanted to come up and express my opposition and support of opposition to this proposal. I don't have a background in economics or psychology, like some of the other folks here. Simply looking at the increase in traffic from a law enforcement perspective, the area, especially which I leave from Ledge Stone going onto 290 eastbound about four to five times a week to go to work, is the epitome of an intersection that we, as law enforcement officers, really kind of hate to work. It's kind of turning into one of those intersections where it's a constant area for collisions, and I would assume with the increased traffic and lack of viable traffic either signs or signs, will most likely become an area for increased traffic fatalities.

We have intersections in the City of Austin, such as Ed Bluestein and Loyola, other areas such as Ed Bluestein and Manor, where even at those intersections where we have traffic enforcement, either through signal lights or so forth, we still see an abnormal amount of traffic collisions due to the high volume of traffic coming through there.

With the increased traffic of this project and
the lack of traffic signals, I'm not sure how the City of Dripping Springs plans to ferry 300-plus people through that area increased on a daily basis without any repercussions.

I know the lady from the Chamber of Commerce had made a comment about there being no viable options for public transportation or sidewalks, even in the heart of Dripping Springs, and it seemed to me that her demeanor was one of it kind of not being a viable option to place this project in the heart of Dripping Springs because of the lack of sidewalks and public transportation. If it's not a viable option for us to place that in the heart of Dripping Springs, I'm not sure where the sense comes from to think that that would be a viable option to place that project seven miles outside of the heart of the city.

Another thing that was made was her talking about the jobs. I believe she said they post one to two jobs per day. That's, you know, what, ten jobs a week on a website and they're supposed to have 300-plus people coming into this apartment complex. If they're not producing that volume now, I'm not sure when the idea was going to be put into place to produce that volume or greater for posting jobs in the future.

But thank you very much, ladies and gentlemen. I appreciate your time.
MR. OXER: Glad to have you here, Mr. Johns.

Any questions from the Board?

(No response.)

MR. OXER: Okay. Can you go fast or last? You get either one of those at your choice. Next. If you're not up here where I can see you, it's hard for me to tell out there.

MS. STRONG: Evelyn Strong. I've been a Dripping Springs resident or almost 20 years. I'm a realtor with a rather large company in Dripping Springs, so I've seen a lot of the growth that's happened, and for all of the reasons that the other speakers have said, transportation and remoteness of the location, I don't see that as a good location for an apartment complex at this time.

It is eight miles, approximately, from the nearest emergency medical services or any types of services. Daycare, my brother graduated from Dripping Springs, he's a firefighter out there, and he can't afford daycare on a firefighter's salary. However, on a firefighter's salary, he would be above the income cap to be able to live in these apartments. So I see there's a gap there with the people that would be a certain segment of the population excluded, and there's a middle ground of people who would be restricted from being able to live in
these apartments because they would make too much but they wouldn't be able to afford to buy a house. And daycare is roughly $800 a month at the closest place to where these apartments would be.

So I just don't think it's the right time or place. I think more in the heart of Dripping Springs would be better suited for it. And that's what I have to say. Thank you.

MR. OXER: We're glad to have you, Ms. Strong.

MR. MADDOX: Good morning. My name is David Maddox and I am a resident of Ledge Stone. No expert, just a guy, and all of the great points that have been brought up, I wanted to just make sure we're all in clarification.

I moved here from Houston where I fought the traffic out on 290, ironically, to the Galleria, every day, day after day, year after year. When I came to Austin, I had the opportunity to work at home, so you look around and say where am I going to live, and Dripping Springs comes up. Because why? Because it's in the beautiful Texas Hill Country, it's got highly recognized schools, and there's new neighborhoods that are being built where you're still close to Austin. That's where we all are, that's what we wanted: upscale communities close to what draws us, which is Austin, and good school
districts, beautiful country. None of us came to Dripping Springs so that we could go to a shop in Dripping Springs or to a restaurant in Dripping Springs, or anything like that. If it comes, we'll be happy.

When we moved to Ledge Stone, what was on the way? A brand new elementary school for our kids in Belterra. Growth, planned, everybody knew this was going to be great, great selling point. My kids went to that school for one year before we were forced out for overgrowth. The school was one year old when they realized they didn't build it properly for the growth that was happening. Now we go to an elementary school nine miles away, one way. So in the mornings, when my wife is taking my daughter to band practice at the high school nine miles away, I'm waiting for my son to get on the bus to go nine miles away. It will be the same bus stop that this development will be, they'll get on the same bus.

Someone mentioned that if they miss the bus, what do you do. We're in a position to where I can take him, so while my wife is coming back on her 20-mile commute, I'll start a 20-mile commute, or if something else is going on, we'll take him. If the nurse, who roams the schools because we don't have enough funding for individual nurses, calls me, we have to drop everything and go the 20-mile commute to get him, and that's okay.
because we live in an upscale community of upscale people fortunate enough to do that. Is that okay for working class people or people that need to be subsidized? I don't know, maybe.

Where are they working? You talk about the need for these people. Where are these people coming from? They're not in the Dripping Springs community because we already know they can't afford it, so they're living in Austin, I assume, and we want to build a place for them so that they can stop living wherever they happen to be, five, six, seven, eight miles away, and go about halfway to their desired destination -- which I assume is the H.E.B. and the Home Depot or engineering firms, I don't know -- I don't know where the Chamber of Commerce wants them, but now we're going to get them about halfway so that they then continue to go into Dripping Springs.

Some of the problems that we might see with that is are they going to do it, or are they going to find a new place and then continue to do their business in Austin? That's a great location for Austin. That's why we're all here, all of us are here because we're tied to Austin in one way or another. That's the beauty of this location. The developer found this location because it is a black hole for him. Why doesn't he do it in Dripping Springs? Because he can't get the tax credits or the
state can't help him. I don't know specifics, but I've certainly been told there is no place in Dripping Springs because he doesn't get the benefits to him.

Why does the mayor of Dripping Springs want this? Why wouldn't he want it? If it bonds, what does he care? There's going to be some benefit, surely. If it's one person that gets a job, then he wins, if it's a hundred people, he wins. Of course he wants it.

Why would a pastor be for it? The question, of course, is why would a pastor be against it, why would any pastor not want people, souls to save. And I know the pastor, I don't doubt his meaning at all, great on him.

The Chamber of Commerce of Dripping Springs, Texas, of course they would want it. There's no loss for them.

We're residents of the Dripping Springs ISD, just like Dripping Springs town is, they're no different than us. The ISD has their reasons for wanting it. We could argue about that a lot, that's not this argument.

The other point that Theresa brought up, a great point, Lake Travis, seven miles from the Oak Hill Y. We're seven miles from the Y at Oak Hill. Is anybody arguing that Lake Travis needed to build this kind of housing to do what they've done? Lake Travis is awesome, lots of businesses, amazing stuff. No different than us.
They did it in the right order. I don't know about the chicken and the egg, the cart and the horse, they did it in their order and it's worked out great.

The people of Dripping Springs that are in charge of development and better business, I know which way they want it. One way or another, it's going to work out great for them, they're in a great location and great people.

So that's why I'm here speaking against this for the very sheer fact is it makes zero sense where it is in that location. It doesn't seem to benefit anybody, that we can tell.

MR. OXER: Thank you, Mr. Maddox.

Any questions?

MR. THOMAS: Mr. Maddox, I'm just a little confused. Are you saying that there's literally zero location in Dripping Springs where this project would make sense, or is it just not in my backyard?

MR. MADDOX: No. I'm saying, the question had come up, I guess Mr. McWatters had mentioned where the lady from the Better Business Bureau said there was no alternative location in Dripping Springs, and we've had plenty of people who have said Dripping Springs wants it, they need it, but they're not getting it because the tax implications, he can't build it in the township, from my
understanding, so he's not even looking, no one is looking. So we're saying if they need it in Dripping Springs, then that's their job to find a way to get it, and they can't so they're not even trying.

MR. THOMAS: Would there be a situation or circumstance in which affordable housing could or should be built in your area?

MR. MADDOX: Absolutely. On Ranch Road 12, a nice rural road, going both directions, there's so much land, so much space, so close to downtown, no traffic problems, all kinds of infrastructure ready for it. Or 290 going westbound, just farmers' fields. But 290 going eastbound towards Austin, with all that traffic, everybody going towards Austin, all the doctors, all the hospitals, the restaurants, all the entertainment. There's no entertainment here. People go in to get weird in Austin.

MR. OXER: So that what happens, all you people from Dripping Springs are coming here.

MR. MADDOX: All the normal Dripping people.

MR. THOMAS: I was going to say that's why it's weird, Dripping Springs comes to Austin.

MR. OXER: Now we can place it.

MR. THOMAS: I think we have our own weird here in Austin. Thank you, sir.

(General laughter.)
MR. OXER: Thank you, Mr. Maddox.

Okay. Is there anybody else aside from Mr. Shaw and Representative Isaac? Anybody else? Okay, Ryan, come on up.

MR. COMBS: I am Ryan Combs. I work for the developer. Thank you for allowing me to address you this morning. I work for the developer, and equally as impactful for me, I live in Belterra across the street from where this proposed community would be, and so I personally am invested in what's going on here and what goes on in my community, what impacts my schools, my kids will go to these same schools, and all.

We heard some of these concerns, and this has been going on for a while, but we heard some of these concerns and so a few of us, on our team in our office, decided we would just hit the streets and go find out what jobs currently exist in Dripping Springs, who is there right now currently that would and can qualify to live in our community. And Rex, I think he was referring to this, however, he shot low, I think he was trying to be safe. But we found, and we didn't canvas every single business in the community but we just went to all the ones that we could in about a week's time, and we found well over 800 current jobs that are already in Dripping Springs that income qualify to live in these communities.
We heard all kinds of stories. We heard stories of employers sending vans into South Austin and commuting people out as an incentive to try to draw new workers to their business. I sat down with one of the daycare owners in town and she told me how a couple of daycare workers were having to live at her home, and she just lost one at the time because that daycare worker could not find a place to live, and so she had to move off into another community. These jobs currently exist there, this is the need that we propose to address.

I live in the neighborhood, I'm very excited about the future of Dripping Springs, that's why I moved out there. Just like these guys, it's Hill Country, the schools are fantastic, it's a beautiful place to be, and the community is a vibrant growing community.

Also, the second page of this, our residents are employees, they work just like me and many other people in the room, they have jobs. The second page of this shows, we went and just looked at our sister community, and this is an existing community of ours, Cypress Creek Lakeline Boulevard in Cedar Park, and looked at what are the jobs that some of our residents have, and they work as educators, entrepreneurs, they work in the medical industry, retail, they work in banks, they hold jobs. And people who hold jobs have to get to jobs,
they're going to have cars.

There's a CVS just down the street. I would assume that when one of our residents needs a gallon of milk, they're going to go to the same place I do, they're going to get in their car and go to CVS down the street, just like I do. These are residents that serve an incredible need in Dripping Springs.

So I want to thank you for your time. If you have any questions.

MR. OXER: Thanks, Ryan.

Any questions from the Board?

MR. THOMAS: Yes, I actually do.

MR. OXER: Robert.

MR. THOMAS: Thank you. This is exactly the kind of information that I need to help me understand the need. But I'm having a real question, so on the first page you've got a nail shop that is going to employ three people that are going to pay them between $23,000 on the low end and $47,000 on the high end.

MR. COMBS: If that's what our range is, I don't remember exactly, but yes, we showed the ranges to these business owners and said, How many employees do you have, and by the way, where do they live and where are they coming from? And we heard all these stories. These are the numbers that they gave us, the business owners
gave us and said these are the numbers of employees that we have that fit within your limits that would qualify to be able to live at your community.

MR. THOMAS: So Taco Bell is going to pay 14 people, Sonic is going to pay 26, Pizza Hut is going to pay 18, Dominoes is going to pay 10, Burger King is going to pay 20, at the very minimum, $23,520?

MR. COMBS: I don't know about minimum, it was just maximum, they would not go over the maximum.

MR. THOMAS: Right. I'm sorry. I'm looking at the analysis that this is a household of one person, minimum to qualify for one of these apartments would have to be a minimum income of $23,520, to a maximum of six people household would be $51-. I'm assuming if we stayed safe at the four people in a household, that would be $43,920. So I'm just trying to understand, based upon assuming that these are the ranges of where those numbers with the income for those size families would have to fall, that's what this is. You're intending to say that if those are the qualification ranges for their income, that businesses would pay somewhere in those ranges.

MR. COMBS: Right.

MR. OXER: Hold on just a second. Do it, Cameron.

MR. DORSEY: Let me help out, yes. Mr. Thomas
is looking specifically in the underwriting report, I believe where we don't want to assume that someone is going to spend 100 percent of their income on rent, obviously, so the market analysis requirements have basically a maximum rent burden for general population transactions of, I believe, 35 percent of their income spent on housing. I think if you were to look at trends across our portfolio, you would find that folks are willing to spend well above that, however, we don't want to base the --

MR. THOMAS: I'm sorry to interrupt. I'm really focusing on eligible household by income, I'm looking at a very specific.

MR. DORSEY: Yes.

MR. THOMAS: So I need some real clear focus, Cameron, on that issue. If this is the ranges that staff are telling us that will comply, I need to understand, based upon the testimony, so please answer that question.

MR. DORSEY: Okay, sure. The maximum is the program limit, meaning you cannot rent to someone who makes above that level. The minimum is based on the idea that we don't want to put a property on the ground whose demand is based on someone that's well over rent burdened based on their income, so we cap it basically that they would be spending 35 percent of their income on rent, so
it's that kind of band that we look at for demand purposes.

MR. THOMAS: Cameron, have you worked for Taco Bell?

MR. DORSEY: Nope.

MR. THOMAS: Okay. I'm asking a real specific question, and I appreciate that, but I need all this background, but I need to understand for purposes of the issues that have been raised and the ability of this community to support this project so we can know how to vote, I need to know if, in fact, these types of businesses are going to be able to support the income ranges that you guys have set.

MR. DORSEY: Right. I think these folks are answering based on a survey where they probably didn't consider an income minimum, where there was kind of we don't want to rent burden folks too much, so it probably includes incomes well below that kind of 35 percent rent burden that's in the market study.

MR. THOMAS: Okay. Thank you, Cameron.

MR. COMBS: Yes, sir, he's right. This was what the maximum is, but what is not represented here, and we don't have it, is that if that person that works at Taco Bell has a spouse that's working somewhere else and you have combined incomes and so those are the types of

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things that are not in this, but those are the types of
real-life situations that happen, for sure.

DR. MUÑOZ: But what you did was go to these
places and you asked, in a number of cases, these
managers, and you said, Here's the range. I suspect that
they didn't sit down with their HR people and very
meticulous examine all of their employees' benefits,
secondary income. You said, Hey, at Home Depot, you're
the manager, who do you think would fall within this range
of income that would be at least interested in this living
option. And this is what they, to the best of their
knowledge, provided you.

MR. COMBS: That's exactly right.

MR. OXER: Good. Professor McWatters.

MR. McWATTERS: Yes. The location of this
project has been presented, I think, by a number of people
as an unattractive area, unattractive for an affordable
housing area. That point has been made by so many people,
it strikes me as almost a moonscape, as a place where
people would not want to live. Is that true? Describe to
me other developments in the area, or are developers just
shunning this area? Is the market voting and saying we're
not going to go there for all the reasons which have been
articulated, or is this area under active development, and
if so, by whom?
MR. COMBS: It is under active development. It is a beautiful area. It's driving out 290 towards Dripping Springs, you get into the Hill Country, and there's a reason that all of us choose to live out there. You get a piece of the Hill Country, you've got a great school district, it's a beautiful community. Sherrie represented that there's a number of businesses that are trying to move out that direction, and one of the things that she told us and she spoke about --

MR. OXER: She just needs to make them live out west of Dripping Springs so they go the other direction in the morning?

MR. COMBS: To move out west of Dripping Springs? Well, there's certainly a need there, and so it really is not a moonscape at all, it is a beautiful place. There's a number of active developers that she spoke about, hotels and I know there's some other commercial development that's trying to work on -- the entrance to Belterra, there's some commercial, and I don't know what the progress of all that is, but I know there's a lot of interested people moving that direction because it is such a beautiful community and it's got a healthy sense of growth right now.

MR. McWATTERS: Are these other communities what you would describe as low income communities?
MR. COMBS: These other communities?

MR. McWATTERS: Yes, around this project site.

If I was to drive out there and look at the housing, would I say this is low income housing or would I say this is upscale housing.

MR. COMBS: Yes.

MR. McWATTERS: So the project is being proposed in an area of upscale housing that is increasing to develop with more upscale housing. Is that a fair statement?

MR. COMBS: I think, and I don't want to represent Sherrie or I sure don't want to represent the city, but I believe that what they would like to do is -- there's a few master planned communities, Belterra is a very large one, there's Ledge Stone, High Point, a few, most of those communities, I think the average she said was about $200,000 for homes in there -- I believe that what the Chamber is trying to do, and this is just me, so again, I don't want to speak on her behalf, I believe that they're trying to bring affordable all the way through upscale because that's what a healthy community needs to be able to survive.

I don't know specific plans of what all the rest of the community is doing, or what the city is doing and what the Chamber of Commerce is doing to attract that
type of development, but I know it's on people's lips and people are talking about it.

MR. McWATTERS: Okay. Well, my point is simple, it's that if people are choosing to live in this neighborhood and they're people of some means, then I'm having a hard time understanding why people of lesser means may not find the same neighborhood attractive. So that's my point.

MR. OXER: And I might offer up one comment. Having had, in the last two years, a number of opportunities to visit these developments, I would be hard pressed to tell you driving by and look at one of these versus anything else which one, quote, looked like a low income housing unit, because due to the services of Chief Murphy over here, they all stay in pretty good shape for quite a while, and if you don't, we put the chief on you. I just bring that out, it's not a matter of appearances on these things, it's only, as Professor McWatters pointed out, having an opportunity for those of lesser means to be able to live in a similar community.

MR. COMBS: That's right.

MR. OXER: Okay. Thanks, Ryan.

MR. COMBS: Thank you.

MR. OXER: Stuart.

MR. SHAW: Would you like for me to defer to
the representative?

MR. OXER: He wants to run sweep on this.

MR. SHAW: Fair enough, fair enough.

Stuart Shaw, president of Bonner Carrington.

Mr. Chair, Board members and staff.

I just want to take a minute and try to clarify some things. About four or five years ago, colleagues of ours were invited to Dripping Springs because of the need that they saw. That need has since been expressed real clearly and articulately in what is the Dripping Springs comprehensive plan. And communities do the best they can with what they have at their disposal, and so they have a comprehensive plan, there was a lot of input, as you can imagine. So the people who are community leaders, business leaders, political leaders and otherwise asked some folks who asked us, and that's when we started looking.

Another thing to understand is that Dripping Springs is a big area, it's a rural area that is right in the path of growth, as are a lot of areas around Austin, and so it's right in the path of growth, and that's our job is to go find those areas where you're in the path of growth and try to serve those communities, and so we're just doing what we do. We didn't mean to go make people unhappy, and we don't mean to. We try to do a good job

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with what we do, and there's a lot of proof in the pudding all over the State of Texas to that effect. There's plenty of people who will tell you that about what we do. One of them close by is in San Marco where we have just excellent relations and reputation with what we've done there.

But back to this point, this area of Dripping Springs is a long area and it's along Highway 290 and everybody has the same problem. Highway 290 is a mess, and it's being enlarged right now by whoever, TxDOT or federal government, right outside of Austin. There's work that's been going on for a year and it will continue to be. As we all know, you have the need first and then people who have that oversight address things like highways.

So it's a long area, and when you say Dripping Springs, we've come to understand Dripping Springs not so much as the small city of Dripping Springs, because many of the people here do not live in Dripping Springs, they live in the ETJ. And what it is, more or less, in my opinion, is that Dripping Springs Independent School District, which is about 20,000 people covering a massive area of part of Hays County, western Hays County.

Anyway, that whole area is characterized by what you've heard: small communities, insular, getting on
that highway or other big highways. And so all the things
that you're hearing, there's no place to do this or do
that -- well, that's actually not true -- but it's the
same condition for everybody around there. It's not like
going to the Memorial area of Houston or Tarrytown in
Austin, or something, and having places to walk and go
across the street and go to Starbucks. Everybody is going
to be dealing with the same situation. Whether you live
in our Cypress Creek community or you live in a $200,000
or a $500,000 home, you're going to have to get in your
car to go somewhere, unless you go see your neighbor.

We have a ton of amenities in every Cypress
Creek apartment home, and we've shown that to folks. The
residents who live with us are going to have a lot of
amenities, a lot of sidewalks, a lot of beautiful terrain,
a couple of acres in the middle -- may I go on?

MR. OXER: Please.

MR. SHAW: Thank you -- that is just going to
be left native. I mean, it's a gorgeous site, with a ton
of amenities for small children, teenagers, adults,
everybody. We spend a lot more money on sidewalks and
things that we are not required to do in order to make
these communities viable and sustainable for people to
live in community, that's why we call them apartment
homes. We're not building a project, we're building an
apartment home community and we make a big deal out of it.

So we started on this and we've really tried to do our best. We feel like we've followed it by the book, and then some; we feel like we've gone way beyond what is even expected of us. As we got into this, a number of local folks around us really, you know, objected, and you've heard them today, and I respect them. I'm a homeowner and I live in a neighborhood. I have an affordable community not too far from me. I'm okay with it because I understand it. There's a lot of misunderstanding about it.

And just to share a couple, you know, we've been told: Well, gee, if you could just do this, we would be able to support you or not be against you. And the first was traffic -- and I won't bore you with the whole thing but I've got a whole file on all this stuff, we spent a lot of time researching this -- the entry and roundabout into Ledge Stone were designed to meet Hays County standards as a minor arterial to support up to 15,000 vehicle trips per day.

The land we're looking at right next to the community of Ledge Stone has been for sale for eight years. It went into sort of the icebox with the 2008 economic downturn, land just didn't sell, it's had a for sale sign on it for eight years, it's been planned for
eight years by the county and by everybody else. And so, you know, somebody is going to do something there; given the rules, you could do just about anything there.

We're proposing to build a very upscale, nice apartment home community for general population, for single people, for families, for young families starting out, for people who have gone through the horror of a divorce and have to do this, have to live near their child. We're proposing to do that. We've done it in communities as nice as this in Cedar Park, Texas. That's our first one ever. It's a Class A location right next to Class A pedigreed, institutionally owned apartment home communities, and we get along with everybody beautifully and we don't have problems.

So really, the public transportation, in terms of the trips per day, has been documented, I can show it to you, it's not an issue. I know you all probably know and I know staff knows, but the people who we rent to, we don't rent to people who are without a car, we rent to people who have jobs, and when they need to go to the grocery store, they're going to go get in their car, put the key in the ignition, just like everybody else, and they're going to go to the grocery store. And that's what everybody out there does. You have to travel if you live in this area because it's a rural in the path of growth,
becoming suburban.

The reason that we found this site is -- and I do want to clarify this, there is not a site in Dripping Springs, Texas that will work for us, period. It has nothing to do with this program or anything else, it does not work. There is a profound lack of water in Hays County. Many, many people -- Jerry Wright, who many of you all know, is a banker around affordable housing, he has to use rainwater collection. A lot of people in multi-million dollar homes use rainwater because their wells have gone dry. There's a profound lack of water out there, so you've got to have a nexus of water and wastewater and a piece of land that has some zoning or something like that. There is none, period, in Dripping Springs, and we did look extensively. Now, there's a small piece of land but it wasn't big enough for what we wanted to do.

We're aware of three sites: two of them are at Ledge Stone, and one of them is across the street in Belterra. There is a proposed apartment community in Belterra that's market rate. I think it has not gone forward but it may be, I hope it does. Their rents, just to set this record straight, have been published to be -- this is their published rents and they will usually go higher, we can't go higher, as you know -- anywhere from

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$73 to as high as $537 a month higher than our rents, $73
to $537 a month higher. Apples to apples, that's their
rents versus ours.

And so we're proposing to offer a real value to
people who, as Ryan pointed out, let's just say that
number of 800 is in half, let's say take 25 percent of it,
okay, call it 200 people out there who could use a place
to live. They're out there already. Their kids, if they
have them, and some of them do, are already in that school
district. So it's not really accurate to say that this is
going to bring 100 percent new children or 100 percent new
people, it's a dynamic. I have yet to eat in Trudy's
Restaurant one time, and I ask my wait person every time,
I have yet to find one who lives in Dripping Springs or in
that area. They live in Austin and commute in, or they
live in San Marcos, or they live in Blanco and they're
commuting.

And so the issue about traffic is actually a
reverse issue in some cases because there's a lot of
people who are having to go back and forth to Austin or
other communities, driving in, who would be closer. And
if they're seven miles away, they're still closer, that's
closer than San Marcos, it's closer than southwest Austin.

So the public transportation issue is one that
was brought up. We've really answered it a number of
times, we've gone through and met with constituents here, as well as many other constituents from the county, the fire department, the city, even Dripping Springs Independent School District. I was not aware of what Sherrie said, I wasn't aware of that precipitous growth that DSISD has had this year, but that wasn't us, they're just having growth. That's what happens. School districts, as they have said, are there to address growth and to educate our children. We're not going to be the biggest part of that growth, we'll just be some of it and some of those people are already going to be in that school district.

The next one was home values, there was a big allegation that this would reduce home values. And a simple internet search will indicate to you otherwise, there's no evidence, and all the evidence we could find says there's no impact. We went and did our own research and we checked for the last ten years in Cedar Park, and there is no diminution of value, period. Cannot see it. In fact, all you see is that the values of the homes right next door to us are riding up in value just as the ones in the rest of Cedar Park. You get to 2008, everybody's values go flat citywide, with the depression, and then they rise back up. So again, that was not an issue.

The first one was are we going to pay taxes,
because as you know, sometimes communities like this get
tax exemptions, and we worked out a way where we didn't
have to ask for a tax exemption, so we said, No, we're
going to pay 100 percent taxes. Well, that wasn't okay, a
lot of people said, Well, then we won't be against you.
Well, they're still against us. And then they said,
You're not paying enough taxes. Well, all we can pay is
what the tax assessor appraises, and so that's what we
have offered to pay.

There's an allegation that we'll have multiple families in one unit. And I'm so glad that you pointed
out Chief Murphy here, who does a good job. It is
impossible, almost, for me to explain to people how
regulated we are, and how from the syndicator to the
lender to TDHCA, and we have two bodies ourselves. We
don't have to hire, we do it to make sure that we can live
within these rules, to make sure that we're always
compliant.

We can't do this, but yet people continue to allege that we're going to have three -- and it's always
Hispanic -- families, three Hispanic families per two-
bedroom unit with twelve people in a unit. And I hope you
all know that that doesn't happen. You would catch it, we
would catch it, it's against our lease.

MR. OXER: And then we would all catch hell
too.

MR. SHAW: We'd all catch hell. People don't understand this, and then pretty soon I start to lose credibility because they don't believe me, but that's true.

And one more issue, and then there's crime. People say you're going to bring a lot of crime and your kids are going to be going out trying to get into our amenities. Truth is that our amenities are going to be as nice -- I mean, we've shown them to everyone, most of the people here -- our amenities are actually going to be significantly nicer than Ledge Stone's. And I'm sorry about that, but that's what we do. In fact, in Cedar Park our problem has been the kids from the neighborhood jumping the fence, that's an eight-foot fence, to come in and use our pool, and you know, we just have to deal with it. But no, it's not a problem of our kids going out and causing crime.

In fact, we've done studies and the studies have shown that there's not a causal relationship between affordable housing and crime. Now, maybe if you're in Houston and you're around Hobby Airport and there's a bunch of Grade F apartments, there's going to be crime. These are not Grade F apartments, and I think you all know, these are Class A apartments with unbelievable

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management oversight because we do a good job, but we do it to live within our rules, our rules. And so no, it's not going to be a crime issue.

MR. SHAW: Impact on schools.

MR. OXER: You need to sum it up, Stuart, please.

MR. SHAW: Fire safety, Chief Marcum has said numerous times, we've got it in writing, that this is not a problem, we have a couple of three-story locations, we can deal with that, we have one four-story that they can deal with from either side. Not an issue.

We really have tried to do our best, you all. This has been so frustrating, it's been very hurtful personally to my team and to me. It's gotten very personal in terms of attacks, and we're not going to attack. I'm just telling you we've done the best we can, we've done way beyond, we've met with people many, many times, we've addressed this, talked about it. I'm trying to figure out what the real issue is, and I don't see here or anything today what the real issue is, and I would just ask you maybe to ask that question.

I'm done, and thank you for listening. We would appreciate your support. Can I answer any questions for anyone?

MR. OXER: Robert.
MR. THOMAS: And I'm sorry about the hurt. There's obviously a lot of emotion around this issue. One of my colleagues helped me know that not all of these are this long or this contentious, so I guess there's hope for us.

But what I clearly care about are the economic issues, and I care very, very much about making sure that these are going to be successful. And there's some interesting pros and cons, or strengths and weaknesses that our staff have provided us in the marketing analysis, but let me just make sure I'm really clear. This is going to be a net positive financial positive impact to the community because you are not seeking any tax exemptions. Did I understand that correctly?

MR. SHAW: That is 100 percent correct, sir.

None.

MR. THOMAS: Thank you.

MR. SHAW: May I address your other question about economics, please, about growth?

MR. THOMAS: Sure.

MR. SHAW: We've met extensively with the people who did the plan, the comprehensive plan, not just for Dripping Springs, but we've been doing this with communities for years. It's a big deal, especially if you're in a smaller community and you see growth just
staring you right in the face and it's coming and you've
get limited resources to plan. There is no question that
every community needs to have housing for the CEO, let's
say, down to housing for the person who is going to work
as the bank teller.

And you all have talked a lot today about the
people at the fast food restaurants. Well, let me just
add, a prominent bank right there in Dripping Springs said
four or five of our people would income qualify, and oh,
by the way, we have a hard time hiring -- and these are
bank tellers -- we have a hard time hiring bank tellers
because there's no place here for them to live so they
have to commute from Austin. Traffic, commute, it's hard
to hire and keep good employees.

So it's an economic benefit, at a minimum, for
a community, like Cedar Park in the day, which is probably
10 years ago, 15 years ago when they were then carrying
out their plan, now Dripping Springs. To be able to have
your Chamber of Commerce greet an employer and say here's
where everybody is going to live, here's some places for
the CEO and middle management, and here's worker bees,
here's some places for people to live, and so that's a big
one.

And that last thing is that there's a dynamic
about this whole income qualification. You'll see on that
list we have people, we have wonderful people, look at the
professions that people do. These are not people who
don't have a car.

MR. THOMAS: You're referring to the second
page?

MR. SHAW: Yes, sir, I am. We went to a lot of
trouble to do that. That's a direct abstract off of our
leases, and that is absolutely accurate about a year ago.

MR. OXER: Sum it up, Stuart.

MR. SHAW: Those people have to have a place to
live, and so when an employer comes to town, if there's no
place for folks to live, they make other choices, and
we've been told that, and that's what Sherrie said, we've
been told that a lot and we see it a lot.

Thank you for your time.

MR. OXER: Indeed. I take it there's no more
questions from the Board.

Representative Isaac, at long last, it appears,
and we're happy to have you.

MR. ISAAC: Thank you, Mr. Chairman, members,
staff. My name is Jason Isaac. I'm the state
representative for Blanco and Hays counties, and I
appreciate your time and your service.

MR. OXER: Representative, you've spent a lot
of time in this particular room but in this chair.
MR. ISAAC: Yes. I'm usually back there sitting in either an economic and Small Business Development hearing or Environmental Regulation, the committees I served on during this session. I'll tell you, most of my interaction with you has been just in the form of writing; I've written many support letters throughout Blanco and Hays counties for other projects that have been considered. And I'm here today in opposition to one particular project, and this is the first project that I have opposed in the district.

And Mr. McWatters, to answer some of the questions you had earlier about is this a moonscape. It's not a moonscape, it is a very nice area, but I think some of the biggest concerns are regarding density and location of this particular planned project and access to transportation, public transportation and other concerns, but I just think the density is the big concern, and I just wanted to mention that.

I also think this is a good list here, but raises many questions more than there are answers. I know a lot of these business, I have a district office in one of these businesses, and I have not heard from a single business on here that is in support of this project. And I know many employees that work at these businesses. They are high school students that work part-time. I know many
of them are college students. I've coached them in high school and their youth sports and now they're taking classes at ACC or Texas State in San Marco, and work at these businesses part-time. I know there are many semi-retired people that live in the community that work at these businesses.

So again, those are just more questions that I got when I saw this list, but I think it is important to know that I have not heard from a single one, and like I said, I have a district office in one of them, I coach people's kids that own other businesses, and this has come up before and I haven't heard that.

So I would ask you today to please consider the concerns of my bosses, the constituents that I work for in House District 45, who, for the most part, overwhelmingly oppose consideration of this project and are here today and have no financial interest in this project. They're here taking time out of their lives and off work, such as I am today.

I worked hard this session regarding some of these issues. In fact, I filed five bills with Chairman Dunton's committee, and we had hearings on those and was fortunate and able to get one piece of legislation passed that would allow for more community impact, and I did that because it would allow us to have a voice, those of us
that live in the ETJ of Dripping Springs, the people that I work for.

For those of you that don't know, Dripping Springs has the largest ETJ in the state. Some people say we live eight miles from the city limits and there's only 1,400 people that live in the city limits, but there's 25,000 people that live in the ETJ. My colleagues are shocked and they say how did that happen and when did that happen, and that happened well before my time in the legislature.

But we do, we have the largest ETJ in the state, and there are people that are in these surrounding communities that feel like they didn't have a voice because they don't get a vote when it comes to people on the city council, they don't get a voice when it comes to appointing people to planning and zoning commission. And so I filed legislation and was successful in getting that legislation put into effect that took effect September 1, but because this application was started before that, it doesn't apply in this particular case. But I wanted to make sure that my constituents had a voice, and up until today, I haven't seen that thus far in the process.

Earlier this week, Hays County Judge Bert Cobb withdrew and rescinded his support of this project and the TEFRA. That happened on Monday, and it's my
understanding, based on this information -- and I just received confirmation from Hays County Commissioner Ray Whisenant -- the Capital Area Housing Finance Corporation will not be issuing bonds for this project based on, I guess, the removal and withdrawal of support of that TEFRA from Hays County Judge Bert Cobb.

And so with all that information that you've heard from the people that I work for today and that information from the judge and County Commissioner Ray Whisenant, I ask that you deny this project at this point in time.

MR. OXER: Thank you for your comments, and thank you for coming and being with us today.

MR. ISAAC: Thank you, Chairman.

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

MS. BINGHAM ESCAREÑO: Mr. Chair, would Cameron be able to comment on any new news that the representative just shared in terms of how a decision of information on financing might affect the application.

DR. MUÑOZ: The issuance of bonds.

MR. OXER: We can address the issue of how a change might address.

MS. BINGHAM ESCAREÑO: That's all, the application or the project.
MR. OXER: Right. And we'll have some more
discussion on this too. Do you want to ask that question
of Cameron at this point?

MS. BINGHAM ESCAREÑO: If it's appropriate,
sir.

MR. OXER: Can you answer that, Cameron?

MR. DORSEY: In order to --

DR. MUÑOZ: What would this do to your
underwriting, Cameron? You'd have to reassess?

MR. DORSEY: Well, if this carried through and
was confirmed and everything -- and we haven't gotten
anything in writing at this point in time -- then it would
make them ineligible for tax credits altogether under this
specific bond reservation. The 4 percent credits, they're
eligible for 4 percent credits because of the bond
issuance that is expected to occur. To the extent that
that doesn't happen, then they could go find another
issuer or something like that, but they would have to come
back through the process entirely in order to accomplish
that.

MR. OXER: And in doing that, in the recycling
or the restart of this process, then they would be under
the legislation that Representative Isaac generated this
past session that came into effect on September 1. Is
that correct?
MR. ISAAC: Yes.

MR. DORSEY: Yes.

MR. OXER: Okay. That's a point of clarification.

Dr. Muñoz, do you have another question?

DR. MUÑOZ: That as my question. I mean, I appreciate that you probably don't have anything in hand to sort of verify this, although I just personally don't question the veracity of what's being represented.

MR. DORSEY: Sure.

DR. MUÑOZ: But that could have fairly profound implications for whatever it is we were to decide to do.

MR. IRVINE: And the staff recommendation is specific to this structure with this issuer and the 150-day closing. So if that did not occur, which obviously could not occur without a TEFRA certification, then the approval would be a nullity.

MR. THOMAS: Mr. Chair, clarification?

MR. OXER: Yes, sir.

MR. THOMAS: Maybe we can ask Mr. Shaw, if he's still here, if he's aware of any of this, if that's appropriate. But more appropriately, legally, how do we proceed?

MR. OXER: Here's how we're going to proceed -- because I get to have a little say on that one -- we're
about to break for an executive session, we're going to suspend the discussion on this, we'll do a formal vote on it when we return. I want to make sure we've got general counsel, and you're going to be in on it too, Cameron, on this discussion. Okay? But to that end --

MR. DORSEY: I can answer legal questions if Barbara lets me.

MR. OXER: Exactly. She has the leash.

MS. DEANE: Right, this will be a legal advice on pending legislation executive session, but if there is a question that from a legal standpoint needs to be answered, I can get the information.

MR. OXER: Okay. Then you'll be available to that.

Hold on a second, sir. That's all right, don't worry, you'll get your shot.

MR. SHAW: I wanted Barry Palmer to get a shot.

MR. OXER: We appreciate your input, and if any of these are easy, we don't get to see them. Cameron only brings us the really tough ones, for some reason, they get all the easy ones. But you don't know anything about that from the legislative standpoint. Right?

MR. ISAAC: I just write letters in support of those.

MR. OXER: Right. We very much appreciate you
being here.

MR. ISAAC: Thank you, Mr. Chairman. Members, thank you. And with that, I close, as they say in the House.

MR. OXER: As they say in the House.

Okay, Barry, one more shot.

MR. PALMER: Barry Palmer with Coats Rose, legal counsel for the developer.

On the issue of the TEFRA, the TEFRA is a requirement of the Internal Revenue Code that you have a TEFRA and that you get approval of that TEFRA by the highest ranking officer of the jurisdiction. We received that approval.

MR. OXER: And that officer would be whom?

MR. PALMER: In this case, the judge, the county judge.

MR. OXER: Judge Cobb? Do I recall it correctly?

MR. PALMER: Yes. It's our understanding that he is withdrawing that approval. We do not -- it's not clear that once you get a TEFRA approval, from our perspective, that there's any procedure for withdrawing that approval. The approval has been given. It's really going to be a question for the bond issuer as to whether they're able to issue the bonds, and their bond counsel
will sign off on that. We have not been notified by the
bond issuer that they will not issue the bonds.

That issue is not really before you today,
that's a decision for the bond issuer to make. The
question before you today is just on the allocation of the
tax credits.

MR. OXER: All right. Point noted.

Dr. Muñoz.

DR. MUÑOZ: Barry, perhaps I have a different
sort of interpretation. I mean, you know, part of why
we've been listening for three hours is for additional
information, and this is pertinent and relevant additional
information. If it turns out to be accurate, it has
substantive consequences for whatever it is that is decided here. I don't know what kind of procedural,
statutory process to rescind or withdraw your support as
the judge, but I suspect that the judge will just say I
withdraw it. I don't understand how the bond issuer could
not be sensitive to that new position, and that new
position not have implications for this proposal.

MR. PALMER: That's an issue for them to
consider. It's considered an issue by a lot of bodies.
You, for example, have seen that same issue come before
you where you've received state representative letters in
support of a transaction and you've moved forward based on
those letters, and then a state representative would withdraw that letter after the fact, and in fact, you've adopted a rule that does not allow that anymore. So it would be up to this bond issuer to determine what their procedure is on that. And historically, these deals go back to the bond issuer for final resolution and closing after all the other approvals have been given, like the tax credit resolution.

DR. MUÑOZ: But I understood from Cameron a minute ago that if the TEFRA isn't provided, if it's somehow withdrawn and the bonds not be issued, then that the entire project becomes sort of ineligible.

MR. PALMER: If the bond issuer is not prepared to issue the bonds, the project would not be eligible without another bond issuer. So under the terms of the resolution that you have before you, if there were another bond issuer substituted, then that would have to come back to you for a subsequent approval.

MS. DEANE: Mr. Chair, do you mind if I ask a real quick question?

MR. OXER: I will gladly allow that.

MS. DEANE: In terms of timing for the project and the bond reservation and so forth, what would be the effect, if any, of tabling it to see about the resolution of some of these issues and bringing it back, say next
month or in December? Would that cause any detriment to the bond reservation and so forth?

    MR. PALMER: Well, it's not a typical 150-day reservation, we have the three-year carry-forward reservation, so the reservation is not going to expire, but it would mean coming back here again next month and sitting through three more hours of testimony on this issue.

    MR. OXER: Not necessarily. I get some say in that.

    (General laughter.)

    MR. PALMER: So I think we've all heard all of the arguments on both sides of the issue. Although one thing that hasn't been brought up is the Fair Housing issue. We've had a lot of issues on the Fair Housing side with advocates complaining that the Department is allocating too many tax credits in high poverty or high minority concentrated areas, and so that's been an issue, and part of the Department's response has been: Well, we allocate credits where people bring us applications to go, and a lot of developers bring applications to go into qualified census tracts.

Here, a developer is bringing you an application in a high income area, and perhaps this is a lesson on why we don't see more developers bringing
applications in high income areas because there is a tremendous outcry from the community that it's a nice enough area to live in if you've got a single family house, but it's not a nice enough area to live in if you're going to be living in an apartment.

So that's the issue, really. We've got a developer who has taken the chance and fought the battle to try to bring affordable housing into a high income, desirable area, and so the question is will the Department support those efforts.

MR. OXER: Okay. We're going to suspend discussion. I want everybody to sit still for a second because I've got to say this because it's got to be on the record and she's got to be able to hear it.

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 real estate matters under Section 551.072 of the act, to discuss certain personnel matters under Section 551.074 of the Act, and to discuss issues related to fraud, waste and abuse under Section 2306.039(c) of the Texas Government Code.
The closed session will be held in the cafeteria banquet room. The date is October 10, 2013, it is now 12:21. So with that, we'll see everybody back here at 1:30 by that clock.

(Whereupon, at 12:21 p.m., the meeting was recessed to meet in closed session.)

(Whereupon, at 1:43 p.m., the meeting resumed in open session.)

MR. OXER: The Board is now reconvened in open session, and it is 1:43.

We met with our general counsel in executive session for legal advice. No decisions were made, and discussion was limited to the items on our specific agenda.

MS. BINGHAM ESCAREÑO: Mr. Chair.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: With regard to pending litigation discussed in executive session, I move we proceed in accordance with the advice of legal counsel.

MR. OXER: Thank you.

MR. THOMAS: Second.

MR. OXER: Second by Mr. Thomas. Public comment is not required.

So a motion by Ms. Bingham, second by Mr. Thomas, regarding pending litigation.

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Say it again, Leslie.

MS. BINGHAM ESCAREÑO: That with regard to the litigation discussed in executive session, I move we pursue as directed by legal counsel.

MR. OXER: Okay. Second by Mr. Thomas. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

Okay. Second item -- there wasn't a second item. Actually, we have to continue on item 3(a), on development number 13412, Cypress Creek at Ledge Stone.

This is a refresher here, Tim. We've heard commentary and public comment for and against this one. Cameron, I need you to restate this so we're clear on the record, because as it turns out, we have to deal with information that's available to us today. Is that correct, Executive Director?

MR. IRVINE: Well, if you're going to take action. We've got a motion on the table to proceed with staff recommendation to issue the determination notice.

MR. OXER: Stand by a second. Since there is the issue of the TEFRA, and this is a 4 percent deal. Is that correct, Cameron?
MR. DORSEY: Yes.

MR. OXER: Ledge Stone is a 4 percent deal -- sorry -- Cypress Creek is a 4 percent deal. And were there to be a delay in pursuing this, to see what the issue is associated with this TEFRA, we could take this up in the next meeting. We have the possibility of tabling it now to see what the result of this TEFRA discussion is and then take it up at the next meeting, if I'm clear.

MR. DORSEY: That would be an option available to you, yes.

MR. OXER: An option to make sure that this works out.

MR. DORSEY: That's an option, yes.

DR. MUÑOZ: And there wouldn't necessarily be any adverse effect to the applicant in terms of a time line or deadline.

MR. DORSEY: Not from a regulatory standpoint.

MR. IRVINE: They'd still be within their bond reservation.

MR. OXER: And their bond reservation is for considerably more than a few months, it's like three years?

MR. DORSEY: I think it ends at the end of 2014, December 2014. They've had it for a while already. It ends at the end of December 2014.
MR. OXER: Can somebody confirm that? Is there anybody here that can confirm that one way or the other?

MR. DORSEY: It's confirmed.

MR. OXER: So the bond reservation, even if we delayed this to get this TEFRA issue sorted out and answered, there would still be plenty of time for them to execute within their bond reservation period.

MR. DORSEY: That's correct.

MR. OXER: Okay. Owing to the fact that we sat there and listened to three hours worth of discussion before this ever came up, which seems to have a material impact on what the decision would have been, I'd like to get that answered. So Mr. Gann, you were the second, Ms. Bingham, you made the motion. Would you consider tabling, or could we table the motion or move to table?

MS. BINGHAM ESCAREÑO: Maybe, Mr. Chair, I can withdraw my motion, and then that will leave the table, if Mr. Gann is okay with that.

MR. GANN: I'll concur with that.

MR. OXER: I think we need that sorted out. That's such a critical issue on this, and yes, there are legal issues associated with it that they need to get sorted out. So if it works, it works, if it doesn't, it doesn't, and we'll know by the next meeting.

So it gives you 30 days to figure it out, sort
this issue.

    DR. MUÑOZ: Well, we need a motion.

    MR. OXER: Hold on a second. You're right.

    And I know the clock is running, I know the
    clock is running.

    MR. SHAW: We set a TEFRA that expires at the
    end of January.

    MR. OXER: That's why I asked that question, Cameron.

    MR. DORSEY: The reservation expires at the end
    of December. I'm not sure I understand about the
    expiration of the TEFRA.

    MR. OXER: Right. So what it comes down to on
    the TEFRA, the TEFRA has to be -- come up here, Stuart --
    the TEFRA has to be in place for you to close. Assuming
    you've got one now, it would be there. Okay? If there's
    some legal discussion about whether that is in place or
    not at this point, you would have to get another one if it
    is not.

    MR. SHAW: That's the intent here.

    MR. OXER: Well, it's --

    MR. SHAW: Not your intent, their intent.

    MR. OXER: Well, our intent is to answer the
    questions that are material to the project.

    MR. SHAW: Mr. Chair, just that the time is
ticking on that and we're aware that our bond reservation goes on. The TEFRA, which we think that's intact, we don't think you can revoke it, but that's going to be decided by somebody. But at any rate, it's a one-year TEFRA, it expires for sure the end of January, which we're running out of time.

MR. OXER: Dr. Muñoz, do you have any, just a thought?

DR. MUÑOZ: Well, I don't have a thought. Given that the first motion has been withdrawn, I'm inclined to table this for the next meeting and to further examine whether this TEFRA is still in place and active, given its material relevance to our decision, before we make a decision.

MR. OXER: Is that even in bounds, Counsel?

MS. DEANE: Yes. If you wanted to table it, you could table it and bring it up at the next meeting.

MR. OXER: I want the answer on this.

MS. DEANE: See if we can get additional information on what the status is.

DR. MUÑOZ: For no longer than the next meeting, which what's the date?

MR. OXER: November 7.

DR. MUÑOZ: That is my motion.

MR. OXER: Barry.
MR. PALMER: Barry Palmer. It has never been a policy or a requirement of the Department that you even have your TEFRA hearing before you get your tax credit reservation, so this would seem to imply that you're required to have your TEFRA in place and approved -- which we have done -- but that's never been a requirement to get your tax credit commitment approved is that the TEFRA be approved.

MR. IRVINE: I would respectfully disagree that that's not the proposition. The proposition is that allegedly the person who is required to issue the TEFRA certification have said that they have revoked their certification. There is not clarity as to what has actually occurred, there is not clarity as to what the actual legal effect is, and I think the Board simply wants to address that uncertainty.

MS. DEANE: Well, I think there was also an issue raised about the financing, and I haven't heard anything, we still have no clarity about that either, so if we could get some information on that. They linked, apparently -- one of the commenters linked the financing with the TEFRA, and we just don't know the status of any of that yet.

MR. PALMER: I don't know what the question is about the financing.
MR. SHAW: Let me repeat to everyone, we don't think that this can be revoked, and probably sort this out, that's something we'll have to sort out. We don't think it can be revoked. Nobody I know in the business has ever seen one revoked, never heard of one, and there doesn't appear to be a way to do that. Just because somebody did something doesn't mean it's revoked. And whether or not Capital Area can go forward with this is an issue that we're working on right now, but we're working against the clock, and it's a very concerted effort for us to fail -- not here but elsewhere, and that's what we're working against.

If we go forward with our tax credits, and you've done that before where there's no TEFRA in place --

MR. OXER: I see where you're going with this. I don't mean to interrupt, Stuart, but in the interest of expedience -- which is never our interest when it comes to making sure that all parties are heard on this, I think the Board has a couple of options available to them. We can approve the staff recommendation which under 2306.6731 on allocation decisions, the Board may not make, without good cause, an allocation decision that conflicts with the recommendation of the staff. So essentially, the staff has recommended in favor. We can't oppose that unless there is good cause that we find to do so.
The question about the TEFRA would be answered later on, either you have it or you don't, and we can either say yes now and by the next meeting you'll either have it or you won't, it will go up or down. That just keeps us from having to come back to it, because if it goes down and you don't have the financing, we don't have to talk to you again on this one.

MR. SHAW: It would be a moot point.

MR. OXER: Right. And the point of all this is this keeps us within our rules, keeps us within the bounds of 2306 that we have to necessarily stay and observe. And for the record, we didn't vote, so your motion and your second are still intact.

MS. DEANE: It was withdrawn.

MR. OXER: Did you formally?

MS. BINGHAM ESCAREÑO: I friendly withdrew it.

MR. OXER: Okay. Then we have to have a motion to consider on this, with one of the options being either table it and get the answer, or we say yes now, which is the option, and they'll either have the TEFRA and their financing or they won't.

DR. MUÑOZ: Mr. Chair, I believe my motion was made and seconded. It would have to be withdrawn in order to make the new motion.

MR. OXER: That's right, and that's where I'm
headed trying to get to this point on the point of order.

DR. MUÑOZ: I withdraw my motion.

MR. THOMAS: Which withdraws my second.

MR. OXER: Mr. Thomas and Dr. Muñoz withdraw their actions. So now we're at a clean slate. So here are our options: we can vote for it and have them proceed with the understanding that Barry and Stuart have to sort out this issue with the TEFRA and the financing. That is an option.

MR. IRVINE: An option. The staff recommendation was to issue the determination notice and place a 150-day closing requirement on it, so those things would have to come together.

MR. OXER: Those have to be in place by the end at the close. That was the original motion.

MS. BINGHAM ESCAREÑO: Mr. Chair, I move that the Board approve staff's recommendation.

MR. GANN: Second.

MR. OXER: Great. Motion by Ms. Bingham, second by Mr. Gann to approve staff recommendation. We've had, as I recall, three hours of public comments, so we don't come do any more. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

DR. MUÑOZ: Aye.
MR. THOMAS: Aye.

MR. OXER: Okay.

MS. DEANE: Can we clarify that?

MR. OXER: Yes, we're going to clarify that.

Those were affirmative votes by Mr. Gann, Ms. Bingham, myself and Mr. McWatters. Mr. Thomas and Dr. Muñoz have voted opposed.

MS. BINGHAM ESCAREÑO: Mr. Chair, can I make a couple of general comments, or is this an appropriate time?

MR. OXER: It's an appropriate time.

MS. BINGHAM ESCAREÑO: So my first comment would just be, for those of you that are still here that watched this slow motion cliffhanger and stayed for after lunch, that that's probably the longest public comment that I've ever endured on one issue, and everybody was so professional. It was the most professional, appropriate exchange, and so I speak for myself in that we're very grateful and we took all comments very seriously.

There was a public commenter, I believe named Ms. Kinney -- in the back of the room, maybe, in the pretty teal dress -- that mentioned something about staff recommendation, and I just wanted to say -- and I know she spoke from experience because she sits on a board too -- we do hold staff's recommendation in extremely high
esteeem. They are far more great experts on the subject matter than we will ever be, and do it 365 days a year, where we do it once a month for most months. But that being said, we take staff's recommendation very seriously and it's very important to us to listen to comment and weigh those comments.

I like Dripping Springs a lot. I actually lost part of my foot in Dripping Springs earlier this spring in a Tough Mudder that I should have never done, and it's beautiful there. And Dripping Springs obviously has its challenges, and it sounds like it has its challenges regardless of if you live in an upscale community or if you aspire to live in an affordable community, and I hope you continue to seek the support of your elected officials to get your issues taken care of. This is a beautiful area and it is going to continue to grow.

We've had the honor of placing many affordable communities throughout the state, including some of Mr. Shaw's, and my sincere hope is that the residents of Dripping Springs and the nearby communities will be very, very happy with any affordable community or initiative that goes there in the near future. But I just want to express my gratitude and wish the community the best.

MR. OXER: Thanks for that, Leslie.

And I appreciate everybody's indulgence,
because our fundamental position here, in terms right out of my Governance 101 handbook, is everybody gets a shot to be heard. You can't take all day but you get at least one shot at it.

With that adventure now closed, we have another one, Cameron.

MR. DORSEY: We do have another one, two more of these.

So we have another 4 percent determination notice. Let me clarify, when we're talking about 4 percent, quote-unquote, awards, what we're really talking about is the approval to issue a determination notice, and then at the end of the day, once the property is built, that's the point at which the allocation actually occurs.

This is a process that helps provide some level of certainty for folks that when they come back in, if they do X, Y and Z, as they laid out in their application and that was approved by the Board, that there would some certainty that that credit is, in fact, allocated. But it's not an approval of an actual specific allocation, there are a number of steps that have to occur for them to actually claim that credit at the end of the day.

MR. OXER: Cameron, hold on just for a second.

MR. DORSEY: Yes.

MR. OXER: I made a minor logistical error.
here. We have a couple of things that need to be read into the record on that last item, and in deference to the public interest.

MS. HENDERSON: Peggy Henderson, TDHCA staff.

Registering public opinion for Meredith Gomez for item 3(a) Cypress Creek at Ledge Stone, against staff's recommendation. Also registering Maria Victoria Hines, realtor with Keller Williams on agenda item 3(a), project number 13412, against staff recommendations. And finally, Diane Davidson, registering opinion on agenda item 3(a), project 13412, lack of public transportation, lack of jobs nearby, increased traffic, and busy and dangerous intersection, against staff recommendation.

MR. OXER: Thank you, Peggy.

Okay. Thanks, Cameron.

MR. DORSEY: All right. Anyhow, back to what I was talking about before, I just wanted to clarify that when you all approve a, quote-unquote, 4 percent award, it's really to issue a determination notice, and then they have to do a series of steps to ensure that they are ultimately eligible to claim that credit at the end of the day.

MR. OXER: It's not the end, it's just the end of the beginning.

MR. DORSEY: That's right.
Edison Square is the next 4 percent transaction on the agenda. This is a new construction development that would serve the senior population, I believe 62 and over. There are proposed to be a total of 128 units, five are market rate units with the other units supported with a public housing operating subsidy and project-based Section 8 vouchers. The site is located in Port Arthur, just off Sabine Lake, just kind of northwest of Sabine Lake a bit.

The financing includes a bond issuance of around $7.8 million in tax-exempt private activity bonds, and the plan is to redeem a large portion of that at conversion to permanent, leaving an outstanding of $1.6 million that would be supported and paid off through the cash flow of the property over time. Just under $9 million in CDBG and other funds from the Port Arthur Housing Authority have been pledged to the transaction, and the tax credits, staff is recommending $589,952 in tax credits which would generate $5.3 million in equity to round out the financing for the transaction.

There was some opposition received, primarily related to procedure irregularities in the re-zoning of the property. We did, during the public comment that occurred on the last transaction, we received, hand-delivered, a copy of a temporary restraining order that
was filed against the City of Port Arthur related to that re-zoning. I'll turn it over to Barbara to let you all know if there are any legal constraints that that causes for any possible action today.

MS. DEANE: Right. We have a temporary restraining order that was signed this morning at 8:45 by Judge Donald Floyd in Jefferson County. The defendant in this instance is the City of Port Arthur, it's not TDHCA, it's not the State, it is the City of Port Arthur. It relates to a zoning classification and it basically enjoins the City of Port Arthur, its agents, employees, assigns and so forth from allowing the zoning change found in Ordinance 1338 which relates, apparently, to multifamily zoning, to be applied to the property, or granting any person or entity a permit of any kind, including a building permit or a certificate of occupancy that would result in the property being used for a purpose allowed under a multifamily zoning classification that is not allowed on a 2-F -- I don't know what 2-F -- 2F zoning classification. And there's a hearing set for the temporary injunction hearing.

As I said, the State is not a party to this. The State itself is not enjoined, TDHCA is not enjoined, and in fact, it's my understanding -- Cameron can correct me if I'm wrong -- a vote today would basically be

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contingent on and conditioned on getting that zoning. They have to have that zoning in place before they could proceed anyway, so it's basically a condition of whatever vote the Board would be taking today anyway. So it doesn't particularly affect what we are doing here today, other than it's informational, additional information as to what is going on with regard to the zoning as background information.

MR. DORSEY: That's right. And just being more specific, to the extent that the ability to issue a determination notice is approved, the determination notice would lay out that proving up appropriate zoning within 30 days of receipt of that determination notice is the requirement. That's based in our rule, and so we basically would issue that determination notice and they have to sign it and return it within 30 days with evidence of that final zoning that will allow the proposed development to be constructed.

MR. OXER: So essentially, what the determination notice is, the development, the actual structure and the population it will serve meets the requirements of the Department, so it will say here, you get to go but you've got to do all these other things, these other gates to get through before you can capture those tax credits.
MR. DORSEY: Right.

MR. OXER: So they've got 30 days to get the zoning notice straightened out. Is that 30 days extended by any of this temporary restraining order, the period of the TRO?

MR. DORSEY: There wouldn't be any specific extension. I think the applicant could come back probably before the Board if they felt like the 30 days didn't end up being sufficient time to get the issue resolved or that type of thing, but the rule is very specific that it's 30 days, and I don't think I have any specific authority to extend that 30-day period.

MR. OXER: Had they not received the zoning or the zoning certification or the zoning notice or the rezoning by now, would you have recommended that we proceed and make this allocation?

MR. DORSEY: Yes, I would have.

MR. OXER: Okay. So conceptually, they would then have 30 days to get that zoning taken care of. It has to be done within 30 days after they're given the allocation, more or less.

MR. DORSEY: Determination notice. More or less, yes.

MR. OXER: So if they go ten days into that and they get a temporary restraining order, that puts them
beyond that 30 days, what's their relief, Counselor?

MS. DEANE: Well, as I said, the hearing on the temporary injunction is scheduled for October 24, so they should know something here pretty soon. But obviously, if the litigation that is going on in Jefferson County causes the zoning issue to be dragged out, they would have to either come back and ask for an extension from the Board or they would miss their deadline.

MR. DORSEY: They could, obviously, come back through the process and everything. If it got resolved through a much longer extended kind of litigation concerning the zoning, they could wait till the end and come back through.

MR. OXER: Nothing that stops them from circling back and starting over, it's not like they have to have it done by the end of the year or middle of next year.

MR. DORSEY: Not from our standpoint. There are obviously all kinds of other constraints. But yes.

MR. OXER: All with respect to what we can control in the process.

MR. DORSEY: That's right.

MR. OXER: Okay. Well, then we'll have to have a motion to consider what to do on this. Would anybody like to make one?
MR. THOMAS: Move to approve staff recommendation.

MR. OXER: Motion by Mr. Thomas to approve staff recommendation.

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: Second by Ms. Bingham. She gets to be the assistant bad guy this time.

Is there any public comment?

MR. AKBARI: Good afternoon. My name is Ike Akbari. I am the developer.

MR. OXER: Ike, this is going in the right direction. Are you sure you want to talk now?

MR. AKBARI: Well, yes, just for the purpose of general knowledge, I wanted to make sure to mention this. The zoning has already been -- actually, we do have the zoning approved, four to three, and I think it is just a matter of somebody who voted no does not like it and proposing this. Other than that, I was not even aware until today. I just wanted to mention that.

MR. OXER: Okay, fair enough.

MR. AKBARI: Thank you.

MR. OXER: Okay. Motion to approve staff recommendation by Mr. Thomas, second by Ms. Bingham. No other public comment. All in favor?

(A chorus of ayes.)

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MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

You said Wilmington House was removed?

MR. DORSEY: Yes. It's withdrawn from today's meeting and I expect to hear it at a future meeting.

MR. OXER: Okay.

MR. DORSEY: All right. The next transaction is Cedar Terrace, it's also sometimes referred to as Galveston Initiative I. This is a new construction development, technically speaking. I think that they will talk about the fact that it's about redevelopment of units that were destroyed, but it is technically new construction which will serve the general population.

We're talking about 122 units, 22 of which would be rent-restricted, 60 market rate. The restricted units would be supported by a combination of public housing operating subsidy, as well as project-based Section 8 vouchers. It's obviously on Galveston Island. You all know quite a bit about this.

I have kind of a longer set of speaking notes. I ask you to bear with me for a moment. Some of this isn't firsthand for me, quite like the QAP is, so I'm going to read a little bit, but I want to make sure you all have a full picture before we proceed to public
comment.

The first thing are two corrections. One is that I think there's a reference to the development being located in Urban Region 3, in the write-up it's Urban Region 6. That is a simple error. A more important error to note is the fact that it talks about a waiver of the flood plain requirements having previously been approved when this transaction came through back in 2012. That was the sister transaction that the Board approved a waiver of the flood plain on. The elevation challenges are virtually identical in terms of how many feet below the flood plain the parking would have been, the design is also extremely similar, and we tend to talk about them interchangeably and made that error. So apologize for that.

This transaction involves many unique aspects, some of which are also a little bit unusual. First of all, it's on Galveston Island which, as is well known, was severely impacted by Hurricane Ike. A key piece of the financial assistance on this transaction is CDBG Disaster Recovery funding administered by the General Land Office. The specifically appropriated DR, Disaster Recovery, funds came to Texas under a congressional appropriate and were awarded through HUD in two phases or rounds. The aggregate amount of DR assistance for Texas was roughly
$3.1 billion. Of the Round 2 funds, $969 million was distributed to the area overseen by the Houston-Galveston Area Council of Governments.

It is an important piece of history that prior to the State of Texas moving ahead with the Round 2 funding, a fair housing complaint was filed against the State by the Texas Low Income Housing Information Service and Texas Appleseed. The complaint was ultimately resolved through a conciliation agreement in which HUD was very much involved, and it addressed, among other things, the one-for-one replacement of 529 destroyed units of public housing in Galveston.

Some key dates include: September 2009, Ike struck; February (sic) 2009, HUD published the notice for the availability of Round 1 funds; in December 2009, the complaint was made; in May of 2010 the conciliation agreement was approved by all parties and HUD; in November of 2011 the Houston-Galveston Area Council of Governments' method of distribution was adopted; in July 2013 -- you can see there's quite an extended time frame here -- an application was made for 4 percent credits for Cedar Terrace by a partnership structure involving entities related to the Galveston Public Housing Authority and their developer, McCormack Baron Salazar. I might refer to them as MBS, and they're here to speak, I believe, as
well.

The application presents the issues to be addressed here today. With the Board's granting of two waivers, the application is not eligible. One waiver relates to the flood plain elevation for the parking of the development as designed. I believe at the last meeting we mentioned twelve feet below the flood plain, the parking is actually twelve feet below the finished floor elevation of the living units, but about six feet below the flood plain, so that's a little clarification there.

MR. GANN: Six feet?
MR. DORSEY: Six feet below the flood plain.
Right.

MR. OXER: The flood level.
MR. DORSEY: Right.

The second waiver relates to the closeness of poles for energy transmission, it's high voltage power lines. Those power lines are located adjacent to the site but not on the site. The buildings would not be constructed in the easement, and I've asked for some type of affirmative statement from an engineer to support the waiver request that it is, in fact, in the engineered fall distance. There's a bit of a problem in that regard because in order to have an engineer assess definitively
that the buildings are, in fact, within the engineered
fall distance, they would have to understand the
structure, how the poles were built and everything, and
power companies aren't too forthcoming with such
information, and so that creates some difficulty. But
when I asked for this, the applicant basically said,
They're right there, they're clearly in the fall zone. So
think they pretty much acknowledge that they're there.

It is our understanding that the GLO, the
General Land Office, has provided roughly $50 million for
the replacement of public housing and that this
transaction will receive a grant, or effectively a loan --
has to technically be a loan for tax credit purposes -- of
$15.7 million in CDBG DR funds and this would go to the
replacement of 62 public housing units. As I said, the
whole development is 122; we're talking about 62 public
housing units, however, a combination of public housing
and Section 8.

At virtually every step of the way, HUD and the
complainants have been aware of the process and the point
at which we find this proposed development is that MBS,
GLO and the complainants are saying that the waivers and
the 4 percent credits are necessary for this development
to move forward.

Locally, there has been a great deal of

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contentiousness over the development, and as the Board has
been previously advised, a lawyer by the name of Sherry
Goldsberry has directly threatened litigation if the
applicant is awarded 4 percent credits for the development
on this site. Conversely, the complainants have contended
that a failure to award the credits, and therefore, move
ahead with the development, will cause a breach of the
conciliation agreement.

Staff has reviewed the background and the
correspondence on this complex matter, and it is our
assessment that HUD's position in approving the
conciliation agreement and the methods of distribution
fall short of specifically addressing the core issues as
they relate to this specific development:

Is this site acceptable?

Will development of public housing on this site
comply with fair housing laws?

Is the development on this site in this manner
necessary for the State of Texas to be in compliance with
the conciliation agreement?

Is the development on this site in this manner
necessary for the State of Texas to meet its obligation to
affirmatively further fair housing?

Is the use of 4 percent credits a necessary and
essential component of this financing structure, without
which the development cannot occur?

Are there other compliant measures that the State of Texas could take to address its obligations under the conciliation agreement and affirmatively further fair housing, such as other sites or more scattered site development or a combination thereof, or a use of additional CDBG funds?

Are there other ways this development can complete its financing besides the pursuit of 4 percent credits under an application that is not eligible without granting waivers, such as a combination of conventional financing with the use of CDBG funds?

And what HUD's specific opinion is with regard to these issues, I think, is still a question and something staff hasn't gotten an entirely clear picture on. So those are some of the issues.

At our EARAC meeting, which is our Executive Award Review and Advisory Committee, they make the formal recommendation that appears for awards for tax credit deals and other Department awards, and EARAC voted to not recommend the waivers. However, if you look at kind of the way the Board write-up is structured, it provides you all certainly some options to go in several different directions, such as addressing those questions by placing conditions in the award or that kind of thing.
So I'll stop there, and if you all have any questions, I'd be happy to answer them.

MR. OXER: Boy, do we. Who wants to be first?

All right. With respect to the conciliation agreement, which tends to be at the heart of most of this, there is an obligation to support to rebuild one-for-one in Galveston. Is that correct?

MR. DORSEY: I'm going to let these guys take that, I'm not the CDBG expert.

MR. IRVINE: Yes, that's correct, the conciliation agreement requires the one-for-one replacement of the destroyed, I believe, 529 units of public housing in Galveston.

MR. OXER: So this represents around 10-1/2 percent of that total, so you've got 62 out of the 529, that's a requirement to rebuild one-for-one but not necessarily one-at-one, it doesn't have to be in exactly the same site.

MS. DEANE: That's correct.

MR. OXER: So I'm adding some color commentary into this so we've got some points that we're working from.

If this was a brand new site and we were going back to this on a tax credit deal, any tax credit deal, the two waivers that would be required, it's obvious that
the developer admits it's in the fall line for the high
tension wires. It looks like a 236 kva line that they're
running right down the side of the site.

MR. DORSEY: If you say so.

(General laughter.)

MR. OXER: Trust me, that's my department.

So it would require two waivers, one of which
would be definitely not even in question because of the
high tension wire fall zone, and then the other one, since
the entire island is basically in a flood zone, were it to
be a hurricane, most of the whole island would be under
water anyway. So that one, you can work around that so
you could conceivably provide a waiver on that, based on
the construction where you have the parking underneath
where it's not habitated.

MR. DORSEY: That's correct. I believe the
only thing that would be located within the flood plain or
flood zone would be the parking and then a storage unit,
and I believe the applicant testified the last time that
they'd obviously advise folks not set that up as a bedroom
or something.

MR. OXER: Yes, and I specifically asked to
make sure that there was some requirement for training on
that to make sure that whoever came in there recognized
that if it was built, somebody had to recognize and state
that they recognize that this was in a flood-prone zone
and not to go down there and try and get in their car
while it's flooding.

Okay. So given that that's the case, absent
the conciliation agreement, this thing would have problems
anyway, it seems.

MR. DORSEY: Well, right. I mean, it needs the
waivers regardless. The issue of the waivers is really
one of accessing the 4 percent tax credits. They would be
necessary regardless of any of the other financing
involved or the one-for-one replacement of the public
housing.

MR. OXER: Since this is a HUD -- I guess GLO
is a party to all of that, did we give it back to them?
It's a HUD-TDHCA conciliation agreement. Is that right?
Or HUD-State of Texas.

MR. IRVINE: HUD-State of Texas, and the State
of Texas executed it through TDHCA and the Texas
Department of Rural Affairs, which no longer exists.

MR. OXER: Which is now part of the Department
of Agriculture.

Okay. So even if we were to get through this,
HUD, the many-headed hydra HUD, of whom we have such high
regard here, would have to sign off on several components
of that. Can we get any input into what those
requirements would be?

MS. JACKSON: (Speaking from audience.) Chair,
I plan to speak to that.

MR. OXER: Okay. What I'm trying to get to on
this, Toni, is our process, we have to have a motion to
proceed. There are a lot of questions on this one that we
need to air out some things on this.

Counsel?

MS. DEANE: I was going to say we also have --
I believe she's still here -- the attorney at TDHCA who
handles fair housing issues, so she might be able to
answer some questions after Toni has spoken.

MR. OXER: This is a point of order for me.
May we suspend this process? I think there's enough at
issue here about how to proceed on this, and we need to
get some input on what HUD is going to require before we
have the motion because I think that information is going
to be material to the decision.

MR. THOMAS: That was my request.

MR. OXER: I think I have discretion as chair
to exercise that, or do I?

MS. DEANE: Well, it's kind of odd in that the
requirement to get a vote before public comment is taken
is in the statute.

MR. OXER: A motion.
MS. DEANE: I'm sorry. A motion.

MR. OXER: So don't necessarily have that one.

MS. DEANE: Yeah.

MR. OXER: All right. I'm getting yanked.

MS. BINGHAM ESCAREÑO: Mr. Chair. Excuse me, Counsel. It is process that if the Board has questions of staff in order to make an appropriate motion, we can ask questions of staff. Correct?

MR. OXER: Correct.

MS. BINGHAM ESCAREÑO: Is Megan staff?

MS. DEANE: Yes.

MR. OXER: Megan is staff.

MS. BINGHAM ESCAREÑO: We have questions for Megan.

MR. OXER: Okay. We have questions for Megan, and then I'm sure Toni is going to give us some more questions that we're going to ask Megan again, but let's have those questions.

MS. DEANE: That will work.

MR. OXER: Megan, come on.

MS. SYLVESTER: Hi. Megan Sylvester, TDHCA Legal Services. How can I help you today?

(General laughter.)

MR. OXER: Well, you could ask HUD what they think about this project.
MS. SYLVESTER: I don't think anybody is asking HUD much of anything these days, at least not getting a response.

(General laughter.)

MR. OXER: Hold on just a second.

MR. IRVINE: You could just have a motion to table and then discuss it.

MR. OXER: Motion to table? Well, there's no motion on the floor.

MR. IRVINE: I know, but you can discuss the motion to table based on public input, if you wanted.

MR. OXER: We try to be good about the rules here and we try not to break them, even when it's us that needs to every once in a while.

MS. SYLVESTER: I think he's got a good idea.

MR. OXER: Okay. Do it, Robert.

MR. THOMAS: Mr. Chair, I move to table this item.

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: Motion by Mr. Thomas to table this item for discussion later, and second by Ms. Bingham. Now, given that?

MS. SYLVESTER: Given that, I think Toni can probably give a good presentation.

MR. OXER: Do we have to vote on this?
MR. IRVINE: No, you don't.

MS. DEANE: That satisfies the requirement for a motion.

MR. OXER: So now we're hearing comment on this. We're still learning too.

Hi, Toni.

MS. JACKSON: Good afternoon, everyone. Toni Jackson, Coats Rose.

I was going to start actually talking about our support, but would you like me to start on the fair housing piece and the HUD piece?

MR. OXER: You start with what you wanted to, and we'll eventually get to the HUD part, I'm sure.

MS. JACKSON: Okay. Well, first of all, I wanted to reiterate the fact that we have a lot of support here. As Cameron mentioned, Hurricane Ike happened five years ago and the City of Galveston has been waiting a long time to get these units rebuilt. But starting off, we did have a lot of opposition and a lot of discussion had to take place to get us to this place, however, we are now very much on the same page.

We have the City of Galveston and the Galveston Housing Authority entered into a redevelopment plan last September 28, 2012. That plan set out the plans for Cedar Terrace and Magnolia, as well as the scattered sites, and
basically, that plan included mixed finance and mixed income developments for Cedar Terrace and Magnolia. Cameron mentioned our sister project which is Magnolia, which we hope to have in front of you in the next two months.

So we have that support and the city and the housing authority are working hand-in-hand. Additionally, we have the support of the housing advocates, who you heard at the last meeting and some of them are here to talk to you again today, John is here. GLO is supporting us and HUD is supporting us.

Now, in this process -- and it's something I've had to explain a lot to the Galveston Housing Authority Board -- is that we do have a lot of approvals that have to come from HUD as a result of this development, and we are working with several parts of HUD: HUD Fair Housing, HUD Public Housing and HUD CPD. CPD is overseeing the disaster dollars, Public Housing oversees all of the public housing rebuilding of those units, and then we have the fair housing piece that actually is intertwined on both sides of the table.

We currently have our disposition approval in HUD which they are looking at -- or they were before lights shut down for them.

MR. OXER: They've got to turn the lights back
on.

MS. JACKSON: We're hoping soon, real soon. But that disposition approval, as far as we had our status before the shutdown, was going well and was in order. That disposition approval requires HUD to say that this is HUD land and we have the ability to dispose of it to put it into this partnership because we have to have HUD's permission from Public Housing and from what they call the Special Application Center to do so.

In doing that disposition approval, they do a Part 58 approval, which all of you have probably heard of, that's any time that federal dollars are going to be expended, that Part 58 is a type of environmental approval. There's a fair housing component that is looked at for the disposition approval, and then there are other aspects of the approval that they look at on the disposition as it relates to the financing structure that we're going to be looking at. So that's one approval that has already been submitted.

Our next approval, which we are in the process of putting together, is our mixed finance approval. That approval is basically HUD's underwriting, and that entails us submitting all our loan documents, our investor documents and bond documents, and that approval will include Fair Housing doing their site and neighborhood
standards review on the fair housing side, an underwriting from the Public Housing side, as well as them making determination and approval as it relates to our not exceeding total development costs and being in line with all of our public housing requirements.

We also have, at every step of the way, approvals from the CPD side. We entered into a subrecipient agreement for the CDBG DR funds and HUD actually reviewed that subrecipient agreement that was entered into between the Galveston Housing Authority and GLO, so CPD has done an initial approval of that. At every step of the way, as we seek reimbursement for any expenditures that are being done, that is, again, being reviewed by GLO and GrantWorks with a ultimate sign-off by HUD CPD. So every step of the way, everything that we do, there are approvals that are being done and HUD is overseeing each aspect of this.

We provided supplemental materials, that were put outside and should be in front of each of you, that also speak to the fact that HUD actually met with the City of Galveston and the Galveston Housing Authority and indicated that you must rebuild, and it was the intent that they rebuild on these two sites. There were several other sites that were actually destroyed during the hurricane. One of those sites has been pulled off the
table for the moment, and then the fourth site actually
has had some rebuilding already taking place on that site.

MR. THOMAS: Quick clarification.

MS. JACKSON: Certainly.

MR. THOMAS: Did you say that HUD said that the
construction had to take place at this site?

MS. JACKSON: Right.

MR. THOMAS: Is that in writing?

MS. JACKSON: Secretary Donovan actually met
with members of the city and the Galveston Housing
Authority in person, and there was actually a letter
followed up, and what we have put in front of you is
also -- I'm sorry -- we're going to have read into the
record for you, a City of Galveston letter from the city
manager that speaks to the fact that he was in that
meeting and that was instructed to them.

MR. OXER: But here's what we're looking for, I
want a letter on HUD letterhead that says it has to be
done there.

MS. JACKSON: We don't have -- what we will
have is our mixed finance approval. Our mixed finance
approval will set out those things that you're asking as
it relates to this site has been vetted and reviewed,
you're doing XYZ, fair housing has been reviewed, all of
these things, and we now approve you to do your building

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at this site. And we won't have that until -- that's
something that doesn't come until time for closing.

MR. OXER: I know. And where we're headed with
this, Toni, is under the conciliation agreement it says
Galveston has to rebuild one-for-one.

MS. JACKSON: That's correct.

MR. OXER: And that's fine, understood that.

But is it one-at-one, meaning it has to be exactly at that
site?

MS. JACKSON: No, sir, because the replacement
plan that I spoke of that was passed last September, that
plan actually indicates the two sites, Cedar Terrace and
Magnolia. Like I said, Oleander is not being rebuilt on
at this time and it now has a scattered site component, so
300-plus units are actually going to actually be scattered
sites across the island, and that is something that has
been agreed upon by all the parties. And the housing
advocates, who have been watching this all along and were
also setting forth what they wanted to see as it related
to that one-for-one replacement, have agreed to that as
well.

So no, all of the units will not be put on
those two sites, but it was determined by the island that
they wanted mixed finance as opposed to all straight
public housing.
MR. OXER: And I understand that, but where I'm headed with that is, or I'm trying to get to with that, if they say it's okay to put it there, that's not the same as they mandate to put it there.

MS. JACKSON: Correct, but going back to your other question where you asked -- well, I think one of Cameron's questions is if the tax credits are not used, would you be able to build. What we would be able to build or the only thing we could build would be straight public housing, and the City of Galveston has said they do not want straight public housing. The Galveston Housing Authority only has those two sites, they don't have the funding to go find other land, and frankly, there is not much other land on the island.

When we're looking at a change of property, as I've always explained to clients, HUD looks for same place, same space, basically, similar acreage, similar appraisal amount, approximately, and there just isn't that availability on the island.

MR. OXER: We're fighting through this conflict where the people want to build 62 units on this particular site.

MS. JACKSON: Right.

MR. OXER: It's right into a place where if there were not a conciliation agreement, we'd have trouble
with it. Okay?

    MS. JACKSON: Correct.

    MR. OXER: So if that's the case, does HUD say you've got to build it there, or no, you don't have to build it there but you have to build it somewhere, is there anyplace else. If these are the only two sites that Galveston Housing Authority has, there's a constraint.

    MS. JACKSON: No question. And this is something that I've been in front of this Board to discuss before, and this is the reality with public housing is that when we're looking at utilizing the sites that we already have, because we don't have any other option, then there are going to be those instances that we are dealing with what we show in the QAP as undesirable site features because we don't have any say into that land. And the reality of it is that historically that's where public housing was put.

    MR. OXER: It's where public housing was put but it wasn't where we put public housing.

    MS. JACKSON: No, it wasn't.

    MR. OXER: And that's the constraints that we have to work under because we have a set of rules over here.

    MS. JACKSON: I understand. And the reality is also, though -- and this is something I struggle with all
the time and I talk to people all the time about it -- I fully recognize the issues that we come across when we want to build in high opportunity or we want to change location and those kinds of things, but the flip of it is that we have tenants who say I want to come back to where I live, I want to come back to where I was displaced from, and this is my home. And although you and I can't always see it and appreciate it, this is what we're hearing. We've had tenants that have been displaced for the last five years who are still saying: Very much so we want to return and we very much want to still be in our community, we want to be where we were.

MR. OXER: And I understand the displacement issue, and whatever the circumstances, you go home to where home is. But that said, I'm trying to figure out the path which is going to be tortuous, and we're going to be caught in the crossfire here one direction or the other because that's the only place you've got to build and somebody is going to shoot us for helping you build there.

MS. JACKSON: I understand. But again, we do have undesirable site features, there's no way around it.

MR. OXER: That's a given.

MS. JACKSON: But it is the property that we have to build on.

MR. OXER: And what would help us out on this,
in terms of sorting through some of those policy issues, we understand and recognize that you have HUD endorsements, verbal if not documented, and you have somebody from the housing authority that was there in the meeting, but that still constitutes secondhand information, and so what I'm looking for is --

MS. JACKSON: Now, we did put in front of you the letter to Joe Jaworski, dated July 2011, speaking to the one-for-one replacement, and then the letter to Mayor Rosen, dated July 2012.

MR. THOMAS: Is that in today's packet?

MS. JACKSON: That is in today's package.

MR. THOMAS: The one that looks like this?

MS. JACKSON: No, sir. It has McCormack Baron on the front.

MR. OXER: Well, if it was easy, anybody could do this. Right? I'm sure glad this job pays so well to make it worthwhile.

(General laughter.)

MS. JACKSON: I just noticed that --

MR. THOMAS: Can we take a second to read it real quick?

MS. JACKSON: Oh, certainly.

(Pause.)

MR. OXER: So essentially what this is saying,
particularly the one to Mayor Jaworski, is saying if they
don't build it on the sites that they have available, then
it puts the rest of their CDBG funds at risk.

    MS. JACKSON: That is correct.

    MR. OXER: And they have only these two sites.

    MS. JACKSON: That is correct.

    MR. OXER: Gee, and I thought we were between a
rock and a hard place.

    MS. JACKSON: And to further clarify that,
that's not just putting the housing authority CDBG dollars
at risk, that's putting the city's CDBG dollars at risk.

There is a signature, we noticed, that is missing.

    MR. OXER: Did you hear the click when they
cocked the hammer back on that pistol?

    (General laughter.)

    MS. JACKSON: You're missing that, it's barely
a paragraph on that 2012 letter.

    MR. THOMAS: Can you read that paragraph?

    MS. JACKSON: Certainly. I'm going to start
from the first page so I can say a complete sentence.

    "Please be aware that city actions that impede
or limit the rebuilding of 569 replacement units will
likely lead to adverse consequences for CDBG, HOME and
Disaster Recovery funding. Actions or inactions that
violate Civil Rights or fair housing laws may also result
in further legal or administrative action by HUD or other federal or state government agencies.

"Again, we look forward to working with you in your efforts to rebuild and revitalize Galveston. A representative of the department will be in contact with you soon to follow up on these matters.

"Sincerely, Sandra Enriquez, Assistant Secretary for Public and Indian Housing; Mark Johnston, Acting Assistant Secretary for Community Planning and Development; and John Trasviña, Assistant Secretary for Fair Housing and Equal Opportunity."

MR. THOMAS: Has this been provided before? It's dated July 1, 2012. Has this letter been provided before to us?

MS. JACKSON: No. You had not asked us ever before to see any letters that we had, so we just provided them.

MR. OXER: Mr. Thomas.

MR. THOMAS: Thank you, Mr. Chair.

Forgive me, I'm going to ask you to please just go back for me one more time. What are the specific end final approvals that you have to have -- I think you mentioned three -- from HUD in order to know that you are approved through HUD to move through this program?

MS. JACKSON: Our disposition application
approval, and that disposition approval provides for us to
dispose of the property from the Galveston Housing
Authority into the partnership that is going to actually
receive the tax credits.

MR. THOMAS: That's one.

MS. JACKSON: The second one is our mixed
finance approval, and our mixed finance approval approves
the public housing and the financing for the mixed income,
allowing the Galveston Housing Authority to put public
housing and its operating subsidy into the mixed income.

MR. THOMAS: And three?

MS. JACKSON: And the third is all approvals
for the release of the CDBG dollars are approved by GLO
and GrantWorks and the reimbursements are signed off by
HUD.

MR. GANN: Was one of those a HUD site that had
review problems?

MS. JACKSON: The site and neighborhood review
is done in conjunction with our mixed finance approval,
and that is done by Fair Housing and Public Housing.

MR. GANN: Is that an on-site review?

MS. JACKSON: There are certain statutory
requirements that go in a site and neighborhood review and
they look to see, again, how many units are we putting
back, what is the neighborhood, are we in a qualified
census tract, is it an impacted neighborhood, they look at
the Part 58 which is a part of the environmental, and so
it's a statutory review.

MR. GANN: What about the power lines?

MS. JACKSON: They do look at that and they
determine if there is anything that has to be mitigated as
it relates to that.

MR. GANN: Is it possible that they could move
that line back, maybe, some to be more protective of the
neighborhood?

MS. JACKSON: That's not something HUD would
do. And if that was a requirement, but because it's not
on our site, the power lines are actually across the
street, and so ordinarily in something like that, they
would only ask for a mitigating something from us, as
opposed to a movement, because the lines are not actually
on our property. They generally do not give directive
when it's not something that's on your actual property.

MR. THOMAS: What is the time frame to get the
disposition application approval?

MS. JACKSON: Our bond reservation actually
expires December 19, but as each of you know, the
government is currently shut down and so we are getting a
little nervous as to what that means for us, actually.

MR. OXER: You too, huh?
MS. JACKSON: Yes.

MR. OXER: Professor McWatters.

MR. McWATTERS: Let me ask you this. There's a letter here from McCormack Baron Salazar, dated October 8, 2013. On page 3 under (d), the last sentence of that paragraph beginning with the word "Attached" and it says:

While these letters do not specifically address items (a) through (d) -- which are the staff's recommendations, or proposed recommendations -- they clearly show the cooperation of the three divisions of HUD mentioned above.

There's a big difference between, I think, satisfying (a) through (d) above and letters that purport to show general cooperation.

MS. JACKSON: Well, Mr. McWatters, the thing is we got the staff recommendation or saw the Board package on Monday, HUD was closed down, so we can't even converse with them, consult with them to see if this is something we can, in fact, even get. We wanted to at least come before this Board and show you and at least demonstrate to you what has already taken place to this point, and particularly as it relates to the cooperation within HUD because many of you probably have at least enough experience to know that that's not something that always comes easily.

MR. McWATTERS: No. I appreciate that very
MS. JACKSON: But it was simply us trying to very quickly respond to what we had already seen in terms of staff, the recommended conditions that staff was placing, because we don't have ability to talk to HUD, and unfortunately, where our timing is, we need to continue to move forward so that when they are reopen, we're ready to go. But this was the best we could provide you at this time, given the shutdown.

MR. McWATTERS: This is very helpful, but it sounds like satisfying (a) through (d), you don't see that as a problem once you can actually get on the phone and talk to someone and get their letter-writing process underway.

MS. JACKSON: I will be very frank. I don't want to stand here and make representations of exactly what I can get from HUD. This is definitely a unique situation and we do have three areas of HUD that have been working together and working from the top together, and so as I indicated earlier, this is something that is very much on the secretary's radar. The secretary himself called a meeting with the city and the housing authority, so it's very much on his radar. We feel confident that we should be able to get something, but I just would not like to make a representation given them being shutdown because
we haven't been able to confer with anyone.

MR. McWATTERS: I fully understand that. But it sounds like with your connections, we're not dealing with the general bureaucratic maze here, that you can go directly to the secretary, discuss this, and, I would think, get a positive response in a relatively short period of time. And if you can't, well, you know, that tells us something too.

MS. JACKSON: Right. I think that we can get something that is close to what you want, I just would not want your conditions to be so narrow that if the wording is not just as exactly as you want it, because HUD is no different from TDHCA and is going to -- you know, they have their guidelines --

MR. OXER: Don't be casting aspersions.

(General talking and laughter.)

MS. JACKSON: But I don't want to make exact promises, but again, we feel confident that we can continue to demonstrate to you that all three aspects of HUD are working together and working with us, as well as giving us direction.

MR. McWATTERS: I once wrote something that had a split infinitive and the executive director brought it to my attention, so we will not hold you to that standard.

MS. JACKSON: No, Tim, you would not do that.
MR. IRVINE: I would.

MR. OXER: Yes, he would. Trust me.

MR. THOMAS: I'm not even sure what that is, so I think I'm going to find out.

(General laughter.)

MR. OXER: So your bond reservation expires December 19 this year, so you've got ten weeks, more or less.

MS. JACKSON: More or less, correct.

MR. OXER: Maybe nine. And that bond reservation started out how long, three years?

MS. JACKSON: No. Bond reservations are 150 days, sir.

MR. OXER: Okay. That's basically what we were talking about earlier.

MS. JACKSON: Exactly.

MR. OXER: So we're 60 percent through the bond reservation period.

MS. JACKSON: Right, but everything else is on track but for a government shutdown.

MR. GANN: I have just a general question.

MR. OXER: Please.

MR. GANN: My own problem is the power lines, that's just my problem, but it's a safety issue for me, no matter who lives there.
MS. JACKSON: Right. I understand.

MR. GANN: And those houses are in that fall line, well within that fall line of the poles, from what I've ready, anyway.

MS. JACKSON: Mr. Gann, almost every street on the grid of Galveston is in a fall line under that scenario. I mean, I don't know the last time you've been to the city of Galveston, but I mean, literally almost every street grid is in a fall line based on that scenario. And the reality is that Galveston is an island and it is an island that has been hit by hurricanes, and what we have been provided, information from CenterPoint is that those poles can withstand 135 mile per hour winds, but again, the reality is there is very few pieces of land around there that is not going to be in a fall line.

MR. GANN: And there's no way to move those houses back off of the curb?

MR. OXER: There's not enough room.

MS. JACKSON: No, there's not enough room.

MR. OXER: To answer your question about the last time he was down there, I was there Tuesday. I wasn't at the beach, I've got to say.

MS. JACKSON: Except for sitting at the beach.

MR. GANN: I'm an old Houston guy myself, I go down there all the time.
MR. OXER: The problem is a large part of Galveston is over on the other side of the bay now after Hurricane Ike.

Okay. Let's do this. We appreciate your testimony, of course. We'll have more questions. I want to finish up with the folks that are here who want to speak and address this issue, and if you've got some more.

MR. LYTTLE: I have some letters to read into the record. Do you want me to read those first?

MR. OXER: Let's get those out of the way here.

MR. McWATTERS: Mr. Chairman, may I make a point here as we proceed? In the staff's recommendation on fair housing, there is a number (a) that has to do with disparate impact on Urban Region 3.

MR. IRVINE: Corrected to Urban Region 6.

MR. McWATTERS: So it should be Urban Region 6.

Thank you.

MR. OXER: Because 3 is actually Dallas, isn't it?

Okay, Michael.

MR. LYTTLE: Michael Lyttle, TDHCA staff.

I have two letters to read into the record that we've been requested to read now. The first is from State Representative Craig Eiland. It reads as follows:

"Please accept this letter as support for the
reconstruction and recovery of Galveston and for TDHCA to
support the City of Galveston's September 28, 2012 plan.
I support the city and housing authority in their efforts.

"Further, I am not aware of any opposition from
HUD to the September 28, 2012 plan approved by the
Galveston City Council and submitted to the GLO. I do not
believe there is any documented record of any HUD
objection to the September 28 plan. It is my
understanding that these entities support the action
before you today.

"I believe that it is time to move forward
rebuilding Galveston for all of our citizens. While I
feel that this is primarily a local city issue, I submit
this as their state representative, understanding that it
is what my local council is supporting.

"I hope my comments have been useful and I urge
that action be taken today without further delay.

"Sincerely, Craig Eiland, State Representative,
District 23."

The other letter is from the City of Galveston,
Office of City Manager. It reads as follows:

"Please accept this letter as support for
moving forward with the reconstruction of Cedar Terrace
and Magnolia Homes in the City of Galveston.

"The Galveston City Council has approved the
site plans and the concept of rebuilding these units in a mixed income setting. The tax credits to be awarded by TDHCA are a critical component of this private-public venture.

"Concerning HUD's role in this rebuilding, I was personally told by Secretary Donovan that Cedar Terrace and Magnolia Homes must be rebuilt. This condition is a key component in the city receiving recovery funding from HUD of the approximate value of $200 million.

"Sincerely, Michael Kovacs, City Manager."

MR. OXER: So his assertion is that they have to be built in location, one-for-one and one-at-one.

MR. IRVINE: I don't believe that's what the letter says.

MR. LYTTLE: It just says they have to be rebuilt, period.

MS. JACKSON: I'm going to just read one paragraph from the redevelopment plan that I indicated that the city and the housing authority entered into, and HUD has approved this plan. Again, this plan was adopted on September 28, 2012, it's called The Plan for Galveston Public Housing Reconstruction.

"Article 1, Mixed income housing on former public housing sites. Under the agreement between MBS and
GHA's developer will begin construction of mixed income developments at Magnolia Homes and Cedar Terrace as follows..."

And it says: "The developer will break ground at Cedar Terrace in six months and complete construction of all units 14 months thereafter. The developer will break ground at Magnolia Homes in eight months and complete construction of all units 16 months later. And subject to HUD's approval, if the Oleander site is sold, the proceeds of the sale shall be used to fund the development if mixed income developments at Cedar Terrace and Magnolia Homes."

So they have consistently throughout this plan indicated that we are building on site.

MR. OXER: And to the point that somebody made that there has been no record of opposition, no opposition doesn't constitute specific approval. We're trying to get to rather than somebody saying well, we didn't oppose it, yes, but did you approve it, did you encourage it. Frankly, that's what I'm looking for. I want a letter from HUD that says go for it on this site. And that's what you're saying you could get.

MS. JACKSON: Again, that's our mixed finance approval and that's in its way because we're in the process of working on that piece now. Yes, sir.
MS. MANLEY: Hello, Mr. Chairman and Board members. My name is Meg Manley. I am a senior vice president with McCormack Baron development.

This whole process, I've been working on this project for about 18 months, this has been a tremendous exercise in trying to respect multiple contexts, context of the conciliation agreement, context of the residents of Galveston, contexts of the city council, of GHA, of TDHCA, of GLO, multiple, multiple viewpoints and desires with respect to the rebuilding of this housing.

I come to you to really stress to you what we have done for the last 40 years in 35 cities, 14 states, with 16,000 units is rebuild and reposition neighborhoods such as these that were discussed, public housing sites that have become problematic for neighborhoods. We have been tremendously successful. We have worked on a model over the last 40 years that works.

Instead of walking away and walking away from this real estate, we've worked in a way to develop a method for redeveloping and reinvigorating these sites so that the real estate continues to have value, the values of the real estate and the neighborhoods around these sites continues to rise, and we improve these neighborhoods. We have made our way by saying we will not return to the past, that we will systematically make an
attempt to reverse the damage done by public housing across this country.

There are neighborhoods still that don't have the attention, that may never have the attention to begin to reverse this trend, but this is something that we do, we do on a regular basis, and we're incredibly devoted to.

We find that we have a tremendous partnership with GHA. There are certain constraints that we face here that we've honestly just had to figure out how to make as many people satisfied in this process as humanly possible.

One additional piece of information, after struggling with CenterPoint energy for a very long time, it's very hard to get information. They've been fine, Homeland Security issues, believe it or not, it's not easy to get design criteria out of them. They have confirmed for us that in Hurricane Ike they lost less than 1 percent of their poles, and across the entire stretch of Galveston County, they lose only four transmission poles. These are designed to withstand 135 mile per hour winds and there were no homes damaged on the former Cedar Terrace site during Hurricane Ike. So that is what we've been able to obtain at this point.

Concerns about the flood plain. I want to point out that, unfortunately, as Toni mentioned, almost this entire site is in the flood plain, the entire island.

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is in the flood plain. So everybody on the island is
parking in the flood plain, pretty much, unless there's
some elevated parking structure that we really haven't
found yet. But we have provided in the packet to you
today -- and we have some supplemental information, we
didn't want to overwhelm you -- we thoroughly educate our
residents on evacuation procedures. We have a formal
notice procedure that you'll see in your packet there that
we provided. We educate our residents.

We do inspections in the beginning of hurricane
season and reeducation at the beginning of hurricane
season. We also do notification and inspections of the
units and any area where you might store outdoor goods.
If there is an impending storm, not right in your path but
when there's a warning out there, we deal with that. So
we're very, very adept. We've done this in New Orleans
and other places where we work very, very hard to make
sure people know what the proper evacuation procedures
are.

One of the things I wanted to hit on is
something that Cameron mentioned earlier, and that is that
these determinations are given to give the developer some
element of certainty. We have been working, there are
scores of people working diligently on these transactions,
putting in tons of time. We have architects, we have
engineers, we have attorneys. We are marching forward with closing documents on five layers of financing. We have three weekly standing calls.

And we do need some level of certainty today, as we stand here before you, before we spend another 30 days of spending a lot of money on these projects at the direction of the conciliation agreement and HUD and all of the various stakeholders. We want to make sure that we have certainty of execution that we can deliver to all of these stakeholders that we're dealing with. There are so many stakeholders in this room, and trying to serve that many masters is incredibly difficult, and we've tried to be as artful with that as we could, and I think that we've done a very good job.

What you'll find when these sites are redeveloped is architecture that is thoughtful, that it reflects the surrounding community, a mix of Victorian. We don't do a cookie-cutter product, there are multiple building types that will comprise these sites when they're finally developed, and then we will look down the road at what can we do to bring more investment into those communities and continue to better them. We make long-term investments in our communities and our residents. We will do so with our partners at GHA.

Unfortunately, we are the only project before
you today that's under a conciliation agreement which makes the dynamics a little bit different. To try to rebuild these 569 units on Galveston without re-block-busting poverty is going to be a challenge, but they have succeeded in taking over 300 of those and dispersing them. These two sites were the best real estate that's available to GHA to rebuild these units, so we're looking for that certainty today.

And I just wanted to address one more thing, and then I want to introduce a couple of friends behind me. There has been a lot of discussion about the environmental conditions on this site. I want to assure this Board that if this site were going to be redeveloped for commercial or retail purposes, it could be developed as is. When you take a site and you raise it to meet residential standards, that is a slightly different standard, it's a higher standard. Around the country we voluntarily enroll in these programs to be absolutely sure that our residents and children will be safe.

What is on these sites is not highly toxic, it is not highly dangerous. A lot of it is anthropogenic which means it's stuff that just comes from combustion and other activities over time. This is probably one of the cleaner sites we've dealt with in redeveloping public housing. So I don't want folks to think that we don't
care or that this Board doesn't care, we are very
responsible in diligently dealing with the low-level
contaminants that we have found on sites. I really want
to dispel that we would ever endanger anybody in the work
that we do. It runs completely counter to why we were
founded, what our principles are and what we're about.

I would like to introduce -- not all of us are
going to speak, but I wanted to let you folks know that I
have two senior executives here today with us, Bob Von
Hoene from U.S. Bank, and Aron Weisner from Enterprise
Community Foundation. They are a lender and investor,
they've worked with us all over the country and have
invested and they've seen us go into neighborhoods where
people say this will never work or how could you put these
people here or why are you putting these people here, and
they've seen it work over and over. So they just stand
with us today, they don't need to say a lot but they
wanted to be here to show you they believe in these
developments.

So that's really all I have.

MR. OXER: Thanks, Meg.

Any questions from the Board? Tom, did you
have anything on the power poles?

MR. GANN: No.

MR. OXER: Okay. Well, let's see, where are we
here? John, come up.

MR. HENNEBERGER: Mr. Chairman, Board members, good afternoon. I'm John Henneberger, Texas Low Income Housing Information Service. I want to try to speak to the concerns about the fair housing aspects of this and about the uncertainty with HUD.

As your general counsel and your executive director can attest, the conciliation agreement and the negotiations were complex but we came to an agreement. The agreement is clear, the 569 units have to be rebuilt back in Galveston.

We missed the opportunity to work with the Board and the staff of TDHCA in trying to craft the fair housing settlement in order to operationalize that requirement because the responsibilities were transferred to the General Land Office. I think you should every day be grateful that the governor transferred those responsibilities to the General Land Office.

MR. OXER: For the record, Gary Haygood hates me right now.

MR. HENNEBERGER: Well, as you can imagine, you and me, both.

(General laughter.)

MR. HENNEBERGER: We, at the request of GLO, and in cooperation with HUD and the NAACP and LULAC, the
City of Galveston, the Galveston Housing Authority have engaged in more than a hundred hours of direct negotiation to construct a fair housing agreement which complies with the law and is satisfactory to all the parties. It is satisfactory to the City of Galveston, it's satisfactory to the housing authority, it's satisfactory to the GLO, it's satisfactory to the complainants, it's satisfactory to the NAACP, it's satisfactory to the League of United Latin American Citizens, it's satisfactory to Gulf Coast Interfaith, it's satisfactory to the legal representatives of the public housing residents who were living in the units at the time the units were demolished, Lone Star Legal Aid. We're all parties to that agreement.

What you have before you is a piece of that agreement. Unfortunately, it's only a small piece, there's more to come. But this is a -- we have worked consistently with HUD, directly with HUD, with FHEO, with CPD and PIH. We have had meetings, face-to-face meetings here at this Capitol, we've had countless telephone calls, we've had direct negotiations in Galveston. There have been direct negotiations which we have not been party between the secretary of HUD and Galveston officials and the housing authority officials at which the results were those which Toni read you, which is a clear directive do this. HUD froze the money for the disaster recovery
program for the City of Galveston and said: Until you do this deal, you don't get any more money.

This is not like voting rights, this is fair housing, it's still Civil Rights Act but it's a different Civil Rights Act. There is no pre-clearance process in fair housing, there is no opportunity to go to HUD -- of course, there is no pre-clearance process in voting rights anymore either, but there used to be, and it used to be that the state could say is this okay, is this doing to work, give me a letter, show me that this passes the standards of the Civil Rights Act. Fair housing does not work that way.

And I admire Toni for attempting to get a letter from HUD that says we pre-clear your fair housing agreement, and maybe that's going to be possible, but the Fair Housing Act transfers the responsibility to you to make a decision about what affirmatively furthering fair housing constitutes. And I would suggest to you that the State of Texas, through the General Land Office, has made that decision that this agreement constitutes affirmatively furthering fair housing and constitutes compliance with the Fair Housing Act. They have done that based on the assurances that have taken place in hundreds of hours of negotiation.

I wish I could feel like we could snap our
fingers and we could get HUD to send us a letter and say
if you just do this, everything is okay. Maybe they can
do that, maybe they can't. If they can't, the
responsibility still lies here. You certify, the governor
certifies that the State of Texas will affirmatively
further fair housing every time he submits an application
for grant assistance from HUD. And HUD delegates that
responsibility in a form of government devolution to this
state to make that decision, and ultimately you're going
to have to make it.

   I hope that HUD would give you a letter. I'm
here to tell you, I'm here to assure you that every
conversation we've had with every level of HUD has been
you must do this. This is an extremely complicated fair
housing agreement, it's also an extremely good fair
housing agreement. In all my years of doing this work, I
have never seen an agreement which has had more public
input, and I say this with all sincerity, this is not just
gratisitously saying that compromise gets to the best
thing, but where we started out and where the city started
out and where the housing authority started out, any one
of those programs implemented individually as a fair
housing solution is worse than the composite of this
project, the Magnolia project and 388 scattered site units
   I've done this for a long time.
I will tell you that, as somebody whose whole life is about fair housing and equal treatment of the poor, that this agreement is the best fair housing settlement I have ever seen anywhere in the United States, and I believe that with all my heart. And I think if you want to roll up your sleeves and sit down with us, I'll show it to you, I'll show you how it works, I think you can see it. There's no precedent for the type of mixed income development that's going to be built at Cedar Terrace here.

Understand, you hear a lot about mixed income units. Well, mixed income units is okay, we'll have some 60 percent of MFI units, but wink-wink, nod-nod, you can put Section 8, Section 8 tenants can come in and occupy all those units and you can have a 100 percent subsidized development. Well, what the negotiations led to was McCormack Baron being willing to do a deal that says no more than 51 percent of the units in this development will be occupied by a person who has any form of government housing subsidy. I don't know of any other agreement that comes to that level of standard. This is going to be probably the first truly mixed income development ever undertaken.

In addition to that, it cuts the number of units enormously from the number of units that used to be
there an puts people into apartments that are -- you hear a lot about Class A, well, my complaint with my friends with McCormack Baron here is their costs are so high, they are building stuff that is really unprecedented in terms of costs, and part of the reason is they're storm-proofing these things. The doors, the windows, the parking podiums, all those type of things, are hugely expensive in this development.

So add on top of that the next piece that you're going to have to confront which is 388 scattered site units, and that will be extremely controversial. You're going to hear Magnolia after this, I presume, if we're allowed to go forward and implement this, and then there will be 388 scattered site units, and the General Land Office itself is undertaking the identification of sites for those 388 units and the direct contracting for the reconstruction of those units. The state is doing that part, and that will be very controversial because we're talking about putting public housing in high opportunity, higher income neighborhoods. There's going to be lots of opposition to that.

But all in total, this is a model for a fair housing agreement, and despite the protestations of those who really don't want to see low income housing back on Galveston Island, I'm here to tell you today that this is
what the Fair Housing Act was designed to achieve, and I believe it is in all our interests, the residents, the state, the citizens of Galveston, to move forward with this and to move forward with it quickly.

MR. OXER: Any questions of John? I have a couple. How many units were there before the hurricane?

MR. HENNEBERGER: Oh, gosh. Now, see, I will get the number wrong.

MR. OXER: Was it 90 or was it 900?

VOICE FROM AUDIENCE: 569.

MR. OXER: In that one site? We're talking about one site next to a power line. How many were there?

MR. HENNEBERGER: There were three developments originally.

MS. JACKSON: Actually, four developments. Palm Terrace also.

MR. HENNEBERGER: On Cedar Terrace, how many units?

MS. JACKSON: On Cedar Terrace.

VOICE FROM AUDIENCE: I believe it was around 130.

MR. OXER: So basically half the number of units which will be more or less twice the size that they were. Is that fair?

MR. HENNEBERGER: No. They're going to be less
units in reconstruction than there were before, and of those units that are rebuilt, only 51 percent of them are going to be in public housing as opposed to 100 percent of them. So you're going from like 130 down to 62 public housing units. Now, there will be market rate unit on the site and they will be guaranteed to be full unsubsidized market rate units.

MR. OXER: So this one site next to this power corridor here has all 569 units and there are going to be 62?

MR. HENNEBERGER: No.

MR. OXER: That's what I'm asking. How many were there before on this site that we're considering now.

MS. JACKSON: On this site there were 131 units.

MR. OXER: Okay. Now there's going to be 62.

MS. JACKSON: No, sir. There were 131 public housing units on this site. We are rebuilding back 122 units but 62 of those are going to be public housing.

MR. OXER: So it's a fraction of these in a larger development.

MS. JACKSON: Correct.

MR. OXER: That's the part that wasn't clear.

MS. JACKSON: Right. So the balance will be market rate.
MR. OXER: So once we get past the HUD issue on this and their approval -- which I'll assume, for purposes of discussion, under the agreement that you've mentioned, John, and I'm sure it's taken the time to go through all this -- I, frankly, am happy that I wasn't a party to the wrangling on it. Okay? We make enough omelets in here every time we meet anyway. But once you get past that and assuming that HUD has said go on this and the financing works, you're betting on or assuming that the mixed income, the truly mixed income where you have above the 60 percent AMI and below the 60 percent, where no more than these 62 units are able to be public housing -- supported by public housing financing. Is that correct?

MS. JACKSON: Public housing and project-based Section 8, the combination.

MR. OXER: Any sort of state-based housing support, no more than the 62 units. And the question I have, and I can hear it echoing, resonating two seats down from me, does this constitute a way to mitigate the impact where you're concentrating poverty?

MS. JACKSON: Yes, sir.

MR. OXER: John, say it in the record.

MS. JACKSON: I'm sorry.

MR. OXER: I want you to say it too.

MR. HENNEBERGER: Yes.
MR. OXER: Good.

MR. HENNEBERGER: It represents, in my opinion, one of the few real commitments to deconcentrate poverty. Again, when you hear mixed income in the context of a normal tax credit deal, we all know the law normally requires Section 8 units -- people with a Section 8 voucher can come in and occupy the units. That's not going to happen here.

MR. IRVINE: If all 62 public housing units are occupied and there is an open market rate unit and a household comes and says I would like to rent that market rate unit, I have a voucher, you must say no.

Mr. HENNEBERGER: Yes.

MS. JACKSON: I knew you were going to ask that question. The Galveston Housing Authority actually revised their administrative plan, and what that administrative plan now says is that no mixed income development that is developed by the Galveston Housing Authority will have more than 51 percent of subsidy in that property, nor can a tenant -- because ordinarily, the way vouchers work, ordinarily a tenant can actually pay a portion of their subsidy. Say, for instance, just to use easy math, if they can pay up to $50 of subsidy and they have a $100 voucher and the unit is $150, they can pay the $50 difference. The administrative plan further states

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that in a mixed income development, a tenant is not
allowed to actually make a contribution, therefore, that
51 percent cannot be exceeded.

(General talking and laughter.)

MR. IRVINE: So my question --

MR. OXER: Go ahead.

MR. IRVINE: Well, my question is probably
something that needs to happen offline with lawyers.

MS. JACKSON: It's been vetted.

MS. BINGHAM ESCAREÑO: Is there one more public
speaker?

MR. OXER: Do we have another public speaker?

Okay, Meg, sure, come on.

Don't go away, John.

MS. MANLEY: I see a lot of confused looks, so
I want to be perfectly clear about this. This is
something housing authorities have done around the
country. We, as a private developer, cannot turn away
vouchers nor can we make that decision to restrict 51
percent of the units. Perfectly clear about that. A
housing authority has absolutely the discretion to say
here's what we want to happen with the subsidy that's
coming through us and we don't want more than 51 percent
subsidy at either of these houses. Then we, as
developers, have to abide by their administrative plan,
but as a private developer, no. For the confusion I saw, we cannot make that commitment. We commit to follow their plan which has been amended to restrict subsidy at these two sites.

Does that help?

MR. OXER: Yes.

MS. JACKSON: And actually, just to follow that up, to speak of HUD approval, any time a housing authority does a revision to its administrative plan, we have to make that revision, make that revision public, leave it out to the public for 45 days of public comment, then we submit it to HUD and HUD approves it. So this revision has been approved by HUD.

MS. BINGHAM ESCAREÑO: I have a question for John.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: Was the Galveston Housing Authority's revised plan an expectation of the overall plan to restore all those units to Galveston? In other words, did the bigger think tank require the housing authority to make those revisions so that no more than 51 percent were subsidized?

MR. HENNEBERGER: It was a very interesting process. The housing authority board chair and vice-chair and another board member, who were part of the negotiating
team, said, We know what this is going to be in the end, you say it's going to be half public housing and half other thing, well, it will be nicest housing in Galveston so everybody who got a Section 8 voucher is going to go there because they can't be turned away. And we scratched our head. I'm an advocate for poor people. Right? You know, normally I'd be like going: No, you've got to let them in.

But this is a fair housing agreement and this is a very hard-fought and very carefully structured fair housing agreement. And the best thinking in this country about how do you fix public housing is you do it through mixed income housing, that you don't over-concentrate poor people. So we found ourselves, Texas Appleseed and my organization, found ourselves on the side of the housing authority, and looking at McCormack Baron and looking the GLO, and looking at HUD, frankly, and convincing them that, yes, that makes sense to us, if we say it's mixed income, let's make it mixed income.

And in this case, because this is so important, there's never been a fair housing issue in Texas, even with Young v. Kemp and the Dallas ICP case, and all these other things, there's never been one that's been vetted at the level that this one has been vetted. I mean, there are people on the street in Galveston who will talk to you
about the details of this and about the failures of public housing, and they're right, and this fixes it, in my opinion.

MR. IRVINE: Has this structure been vetted with the Service, with the IRS?

MR. HENNEBERGER: The service plan?

MR. IRVINE: No. The IRS, whether the building is eligible to claim credits.

MS. MANLEY: No, we've not done that, but the LURA will run with the tax credit units, so we're deed restricting the 62 units, so those units are eligible for tax credits. We won't have that deed restriction on the other units so they don't have to follow the Section 42. And actually, Section 42, they really delegate this issue of vouchers to the state level, and then that's further delegated, and if a housing authority amends their administrative plan, that's where you get this kind of flexibility. This has been done in Atlanta and several other large areas very successfully when facing this issue of re-concentrating and how to prevent that from block-busting over again.

MS. JACKSON: And that's no different than other developments that we've done where all of the units did not claim tax credits.

MR. IRVINE: Yes, but in those other units, if
someone came to an open unit and said I want to rent the
unit, you could not turn them away because they happen to
have a voucher.

MS. JACKSON: Again, because the housing
authority has the ability to set out specific parameters
for their subsidy, and that is allowable by HUD, and
again, that has been vetted through HUD.

MR. IRVINE: I understand it's been vetted
through HUD, so you state, I'm just asking if the Internal
Revenue Service says yes, we're cool with that.

MS. JACKSON: We did not, to be perfectly
honest, as it relates to that piece of it, consider
vetting it through the Internal Revenue because it was a
fair housing piece in the public housing subsidy.

MR. DUFFY: Mr. Irvine, Mike Duffy, McCormack
Baron.

I just wanted to clarify a couple of things.
The entire development will be subject to the LURA. The
LURA will specifically state that at any given time the
development must have at least so many units, the greater
of units of square footage as tax credit units. The
market rate or mixed income units will be spread and
dispersed throughout. I believe we have 20 or so
buildings that comprise this development. The units will
be all integrated, all the buildings will be subject to
the next available unit rule.

This whole issue with the authority deciding at no time do they want more than 51 percent of this site to be subsidized, to have operating subsidy with it, does not in any way our responsibilities and obligations under Section 42 to have a tax credit project that complies with all of those rules.

MR. OXER: So you're confident this will satisfy the rules of the IRS under Section 42.

MR. DUFFY: Absolutely.

MR. OXER: And where I was going -- we're getting there, Toni -- granted it satisfies the issue about de-concentrating poverty because we don't want to do that. I want to make sure that the LURA doesn't restrict two buildings that would be under this. So whatever the next housing unit comes up, when the next unit comes up, whatever it is, if you're at 61 units on public support for housing and somebody has a voucher, they can get it. Right?

MS. JACKSON: That's correct.

MR. OXER: If you have 62, then it's the 63rd unit, then they can't rent that one, even if it's an available unit.

MR. DUFFY: They could rent it if they wanted to, they just wouldn't be able to use the assistance of
the voucher. The way, practically, the owner and the
management agent deals with circumstances such as this,
because as an owner and subject to what's called a
regulatory and operating agreement that we have with the
housing authority that is providing the subsidy to us, we
have to abide both by the Section 42 restrictions, we also
have to abide by the rules set forth by the authority for
their operating subsidy programs.

And so what we have to do is we have to accept
every tenant that walks in the door and wants to rent a
unit, and to the extent it is a tenant that is seeking
assistance in a unit that's being provided operating
assistance from the authority, we have to take in all
their information, take their application and send them
over to the authority to meet with the authority's staff
that processes and operates their public housing and
Section 8 programs to make sure they will be eligible.

MR. OXER: So you're not going to be the one
that's required to walk this narrow path between these two
tall tectonic plates that will eventually squash you if
you get in the wrong place on them.

MR. DUFFY: You got it.

MR. OXER: The operational side of it is
something that I don't think you want.

MR. DUFFY: In what respect?
MR. OXER: In deciding who does and doesn't get it.

MS. JACKSON: Well, he has it from the management side, but the operating subsidy still remains with the housing authority.

MR. DUFFY: As an owner/property manager, we will evaluate each individual tenant based on the merits and whether or not they meet our leasing criteria, without regard to whether or not they're going to be a person that will live in a unit that has operating subsidy or not. We'll evaluate their income, we'll evaluate their past tenancy, we'll do site visits, so we will evaluate everyone that walks in the door.

MR. OXER: Okay. Let's get to a summary on this because we're going to beat this senseless, I'm sure. You, Mr. Duffy, are satisfied this will meet the IRS Section 42 requirements.

MR. DUFFY: Absolutely.

MR. OXER: Toni, you're satisfied that they'll meet the three components of HUD.

MS. JACKSON: Yes, sir, I am.

MR. OXER: And John, you're satisfied it will meet the conciliation requirements.

MR. HENNEBERGER: This meets the conciliation agreement requirements.
MR. OXER: Let's go for it.

MR. McWATTERS: I have a couple of questions for the three of you. The first one is that will any of the market rate units be built with Section 42 credits, the funds?

MR. DUFFY: No.

MR. OXER: How will they be differentiated if they're scattered throughout the site.

MR. DUFFY: Well, that's sort of the beauty of the model. The way the model works is no one knows whether your neighbor is a public housing resident or a Section 8 resident or someone paying full rent.

MR. McWATTERS: No, I'm not talking about that. I'm talking about money coming from the United States taxpayers that someone could argue is used to build a market rate unit. I mean, you're telling me that's not going to happen.

MR. DUFFY: Correct. The credits are generated off of those units that are income and rent restricted.

MR. OXER: Now, are those identified specifically? Are they specific units or are they the next units available?

MS. JACKSON: No, they're not specific units, but the debt is carried on the market rate units.

MR. OXER: So what you're actually saying is
for the income that's going to support that debt, there's a varying location of that pool of units that actually supports that debt.

MR. DUFFY: Correct. And each year we will present to the state, who does the compliance on this, which units in that particular year are the tax credit units. I think all the state is going to particularly care about, the housing finance agency, is which are tax credit and which are not. And they will also have to meet certain restrictions that I believe, when you approve this deal, there are so many one-bedrooms that have to be tax credit, there are so many two-bedrooms that have to be tax credits, so many three. So in any given year, we will be telling you which unit is a tax credit unit and which unit is not. But yes, they float among the entire complex, so at any given time, a one-bedroom in building 1 could be a tax credit unit, the next year it could be a market rate unit, and then back to a tax credit the year after that.

MR. OXER: So is Patricia going to establish somebody to just have an office for them to sit there and manage all this for you.

MR. DUFFY: I don't know who Patricia is.

MR. OXER: Patricia Murphy, chief of Compliance.

For those of you following at home and can't
see this, that little red dot on his forehead.

(General talking and laughter.)

MR. DUFFY: I actually have full faith and confidence that the State of Texas housing finance agency has this already.

MR. McWATTERS: I have one more question.

MR. OXER: Professor McWatters.

MR. McWATTERS: I've heard some talk over the last couple of minutes about this project being bifurcated between affordable and market rate units, and that that somehow solves the fair housing issue. I'm thinking maybe it solves the fair housing issue with respect to those units, but I'm more concerned from a fair housing perspective about the larger community, specifically this part of Galveston, which my understanding it's a heavily poverty area, limited opportunity, limited jobs, limited public services and the like. Please explain to me how having 62 market rate units in one complex somehow solves that fair housing problem.

MR. HENNEBERGER: Yes. And you've hit the nub of what has to be achieved under the fair housing requirements. There are 388 units to be built on a scattered site basis in high opportunity, low poverty, and low minority concentrated areas in addition to these units. Originally 569 units were all located, except
Magnolia Homes which was sort of located north of Broadway -- the pre-Ike units were all in what would be considered higher poverty, higher minority -- minority was marginal, but lower opportunity areas.

This takes 569 units in those impacted neighborhoods and reduces them to 62 and Cedar Terrace, and 148 total. It goes from 569 in those neighborhoods to 148. The other units are all being located in areas where public housing has never been, family public housing has never been located.

MR. OXER: I'm sorry to interrupt about this, John, but there's a question that I think Mark is trying to get to, and that is this particular project -- Toni, jump in here -- this particular project that we've got 62 of these public housing units and the balance of the 122 constitute market rate, if somebody comes to us and make the accusation that we're still concentrating poverty in there because all of these are back in this low opportunity area, what I'm trying to get to is to make sure that when we consider this we're looking at all 569 units as a unit and this is just a component of it, this piece of it so that nobody can say yes, you put them all back where they were, you screwed up because you've reconcentrated the poverty.

MS. JACKSON: And that is correct because you
only put in a portion of what was originally there at those two sites and the rest of them will be scattered. But as it relates to those two sites specifically, the site and neighborhood standards review which is done by Fair Housing, does allow for an exception as it relates to when you are building back on the same property if you are building back 50 percent of the units, and that is what we're doing here, we're building less than the number of public housing units that were originally there.

MR. McWATTERS: It would have been helpful to have heard this story earlier. Okay? It would have been helpful to hear a systemic plan: 569 units before, where they were located, 569 after, where they're located, and give us some metrics on those neighborhoods. But instead, you're putting us in an awkward situation. The first rattle out of the box is approve something in a really low opportunity area, with the promise or expectation, pie in the sky, blue sky, whatever you want to call it, that maybe in the future more units will be built in high opportunity areas to balance it out. But sitting where I'm sitting, I don't know if those future high opportunity units are coming or if it's feasible.

MR. HENNEBERGER: They are required under the conciliation agreement, and there is a written agreement that has been signed and approved and voted on by the City.
of Galveston, the Galveston Housing Authority Board of Commissioners, the General Land Office has accepted it, and we as complainants have accepted it.

The agreement that we've signed as the conciliation agreement says 569 units have to be rebuilt in Galveston in a manner that affirmatively furthers fair housing, and we are using the leverage that we have -- you know, we would not approve this but for the decision to drastically reduce the number of units in the areas north of Broadway which are the historical low income areas. There are people who disagree with that decision, but that is the required fair housing outcome. We have drastically reduced it.

We as complainants can't control the staging of this but we have an agreement and we will enforce our agreement with the GLO, who is out for bids now on real estate acquisition on the 388. And I guess I want to warn you, you know, there may be phase two and three of this that comes before you. It may come before you, but it is required that it will happen.

MS. JACKSON: But right now there's a high likelihood that it won't come before you because currently the 388 are scattered sites and it would only come before you if it is using some type of funding from TDHCA, tax credits or something like that. They will be using
project-based vouchers but that comes through HUD, so currently, as it is set out right now, the only thing that will come before this Board is Cedar Terrace and Magnolia because of the tax credits but the full plan won't be coming before this Board.

MR. OXER: Okay. So the summary on this is this is a component of a much larger plan, the conciliation agreement. I'm trying to look out for the interests of those people, the low income folks down there that need the housing, John. I know how much it's needed. I was down there Tuesday, as I said. But I'm also trying to look out for the best interests of the Department that we don't set ourselves up and get shot in the head, like we've done before, because of something we were trying to do the right thing and somebody says we don't like that because you concentrated them all right back where they were. That's what I don't want to have happen.

MR. HENNEBERGER: And you clearly have not. You have radically deconcentrated public housing from where it was previously in a manner that virtually has no precedent for Hope VI type of development in Texas, that I know of, at his level of deconcentration.

MR. McWATTERS: If the contract is fulfilled, all the conditions precedent to building all those other units come to pass. I mean, for example, let's say you
had just completed, just cut the ribbon on the 400th unit and then you came to us with this project, well, it would be an entirely different fair housing analysis than this being the first rattle out of the box and then looking to the future.

MR. HENNEBERGER: Well, I wish it all could come together at the same time, but that's not kind of how development seems to work. I mean, I'm as frustrated as anybody in this room that I'm standing here in October of 2013 talking about rebuilding public housing under an agreement that I thought we'd settled in May of 2010. But here's where you and the complainants can be on the same page, you know, if you want to say that this needs to move forward, all these activities, let's not stop this one deal, this deal has to go, but let's agree, TDHCA and the complainants, that this has got to go the way it's been outlined. We are going to insist that this affirmatively further fair housing per our agreement.

MR. OXER: All right. And to answer your question, Mark, my interpretation on this is the deconcentration on the poverty that John is referring to is the fact that they're building 122 units in this area and only 62 of them would be, the other 60 which are going to be a quantifiable market rate units, but chief over here is going to be able to characterize that they are,
and so that helps to ameliorate some of that or mitigate some of that concern. That, in itself, should be enough, I think, that we could show the dispersal of this poverty to re-engage it in the larger population.

MS. DEANE: Mr. Chair, if I could just say something from a legal standpoint. Ms. Jackson earlier said, circling back around to some affirmation or letter from HUD, Ms. Jackson has already said she thinks that she can get that from HUD. I understand Mr. Henneberger is saying that normally HUD doesn't weigh in ahead of time and give fair housing determinations, but apparently from everything I'm hearing, they already have, they have verbally supposedly told everybody the kinds of information that we're looking for. So in essence, all we'd really be asking them to do is will you commit to writing what we understand you have already verbally represented.

MR. OXER: Would you ask them to tell us what they told you.

MS. DEANE: Can we circle back around and get that letter?

MS. JACKSON: When they reopen.

MR. OXER: Well, great. You know, there's some advantages to them not being open.

(General laughter.)
MS. DEANE: Apparently, they've already said these things, they've already made these representations, but it's all verbal and it's all secondhand.

MR. THOMAS: Can we move in the direction of affirmatively asking that we get that, as staff has asked, and that I think we desperately need to be able to get some clarity here and move forward?

MS. DEANE: Can HUD commit to writing what they have apparently already represented.

MS. JACKSON: I would ask that you consider our tax credits with that and not hold us up.

MR. OXER: I understand your point. You've got your tax credits, you've got to worry about the December 19 deadline that's looming large. I'm convinced that after the degree of discussion and negotiation that John and all the components of the discussion that each of you represented that this is going to work with respect to each one of you. I'm okay with that. My own sense of this is I'd like to move forward with this, but I also would like to make sure that you know we really do want some documentation of that. If we vote to approve this and move forward, the number one --

MS. JACKSON: I will continue to stay in touch with Tim, Barbara and Cameron.

MR. OXER: And I want you to continue to stay
in touch with Secretary Donovan.

MS. JACKSON: Well, as soon as he returns to work. Well, actually, he is at work. He is at work.

MR. OXER: He's got a cell phone, the cabinet is in business.

MS. JACKSON: He's at work.

MS. DEANE: My legal recommendation actually would be that any vote today would be conditioned upon getting that written affirmation from HUD.

MR. OXER: She's the counselor, what can I say?

MS. JACKSON: And as I indicated before, and Barbara, I would ask that we be allowed to work with you as it relates to what HUD is, in fact, willing to give us.

MS. DEANE: Absolutely, absolutely.

MR. OXER: John, did you have something else?

MR. HENNEBERGER: We believe their responsibility to make the determining regarding affirmatively furthering lies with the state, and if HUD does not choose to provide this information, we still have a conciliation agreement which requires that 569 units be rebuilt in a manner that affirmatively furthers fair housing. We've done our best to get there. If for whatever reason HUD does things, doesn't deem it appropriate to write the letter the way you want it written, I would urge you to consider a conversation with
HUD, between the top level of HUD and your Board chair, or something like that.

I just have not seen HUD doing pre-clearance on fair housing stuff. I know from an attorney's standpoint you're trying to get safe harbor from a lawsuit from somebody else, but HUD doesn't pre-clear fair housing stuff, they wait until somebody files a complaint, which we did.

MS. DEANE: But apparently in this situation they have already made those statements, and so we're not asking them to do any more pre-clearance.

MR. HENNEBERGER: You're just asking them to put it in writing.

MS. DEANE: Put it in writing what apparently they've already said.

MR. THOMAS: With all due respect, Mr. Chair, we're beating the absolute bejeezus out of this horse.

(General laughter.)

MR. OXER: And the respective bejeezii that we have beaten today, it's getting pretty tiring too.

MR. THOMAS: Thank you.

MR. OXER: Okay. Let's do this. I tell you what, hold on. We've been at this for a couple of hours, they're getting itchy. We're going to take a ten-minute break. Okay? Everybody go get a glass of water, take a
deep breath, walk around a little bit, and we'll be back in here ten minutes till on that clock and then we'll finish this up.

(Whereupon, at 3:43 p.m., a brief recess was taken.)

MR. OXER: All right. It's five minutes of. We have one more public comment on this item

MR. DENSON: Thank you very much, Mr. Chairman, for letting me speak. I've been here all day, came from Galveston, and I appreciate it. I know it's been a long day for everybody, I really do. I've been here through all of it with you.

I wanted to bring up a couple of points. One, John did say, and it's very important that John said, the conciliation --

MR. OXER: Who are you?

MR. DENSON: Oh, I'm sorry. I'm Richard Denson and I'm from Galveston, Texas.

John did say that the conciliation agreement says you must rebuild its 569 units and they must affirmatively further fair housing. It's very important for you to know that it says 569 units to affirmatively further fair housing, it doesn't say minus 42, minus 68 or minus 75, it says 569 units. So it's not an either/or, it says they all must affirmatively further fair housing, and
I couldn't agree more with that. Now, Ms. Manley from MBS brought up a very important point on these developments, and that was that the rules that they're going to be managed by MBS are brought forth by the Galveston Housing Authority, they're just implementing them. Well, if they go back to the housing authority and say: Hey, we can't fill these market rate units because of the location, we're about to be bankrupt, what do we do? Well, how about if we just change the rules. They have that authority, and all of a sudden you have all Section 8 in public housing units.

You're in a 60 percent impoverished census tract in Cedar Terrace. If everything went perfect with their market rate units, you're at a 56 percent impoverished census tract. If everything failed and they had to do all the Section 8 vouchers, you're at a 64 percent impoverished census tract. Do you really see a lot of movement there? You're really not doing a whole lot of anything and you're not affirmatively furthering fair housing on those units.

Another thing is that MBS, the last time I was here, seemed to really give a consensus that the City of Galveston is behind this. I think John was saying that Galveston Housing Authority is behind this. I helped this mayor get elected and Mayor Rosen and I are very good
friends -- he's not a good golfer but we're good friends anyway -- and this last election that we had was a sweeping one issue election on public housing. Six out of seven people elected opposed the rebuilding of public housing on these sites. That's the only reason they were elected.

After that, the mayor did get a letter, and it's in here, it was the one from the Galveston Housing Authority. He took it and threw it aside, didn't pay attention to it, and he was writing letters in the newspaper saying we should continue with the voucher program because it gives people freedom of choice to live where they feel it's best for their lives. Then he got summoned to Washington, D.C. and he got taken into Secretary Donovan's office, where he leaned across the table and said to him and Buddy Hertz, the chairman of the Galveston Housing Authority: If you do not give MBS this contract and you do not build these sites on that location, you will not receive one penny of infrastructure funding, not one dime.

He said -- and you nailed it, Mr. Chairman -- he said it was like having a gun put to my head. And he said, What did you expect me to do, Rich? And I said, You know, Mr. Mayor, I'm not going to hold it against, you did what you said you were going to do, and if they're
going to try to bankrupt our city, I know you don't have an option. And they didn't, so they voted to continue letting the money flow, because Jerry Patterson was cutting it off, and he did and he didn't think twice about it.

So that's really the rest of the story about how this evolved. The only time you've ever heard from the people of Galveston was during that election and they spoke loud and clear about rebuilding on these footprints. Since then you haven't heard a word from them. All you've heard is threats and intimidations. Just read the letters, they're nothing but threats and intimidation. They're threats to tell them that if they don't do this, they don't get any money.

And you've got to remember, we went from 58,000 to 47,000 people. At the same time, the real estate market tanked in 2008. At the same time, our property taxes were down, the city was getting less revenue. We were devastated and we had great infrastructure needs, we needed the money and we still do. So what do you expect them to do? They honestly had no idea, so they continued with it.

I want you to think about this. The census tract you're being asked to build in is a 90 percent minority census tract, 60 percent impoverished census
tract, it's the poorest census tract in the entire Galveston County. There are no stores, services, there are empty blighted buildings. It looks like Beirut bombed out area, it really does. It is devastatingly sad. I hope you drove by it when you were there, I really do. It is a very high crime rate, and it's just really sad, and it really tears me up in my heart to think anybody would want to put someone there, because there are better sites.

And Mr. Chairman, everybody that keeps saying Galveston is all a flood plain is wrong. It's not. Do you know the seawall is not in the flood plain? Do you know three blocks behind the seawall is not in the flood plain? I own houses all along Galveston behind the seawall within two to three blocks, I'm not even required to have flood insurance for the bank loan.

Are there sites available? Yes. 6.5 acres for sale, been for sale for years, on the seawall. Down at 77th Street another site on the seawall where there was 170 apartment units that were mowed down after Ike. Right over behind the Randall's there's a five-acre site surrounded by two Class A apartment complexes, two hotels across the street and a Walmart within walking distance. There are sites available that affirmatively further fair housing; these two are not the sites.

I'm not sitting her telling you don't rebuild
public housing in Galveston, I'm telling you don't build them there. And personally, I would have thought Ms. Manley would have gone to those sites and gone straight to the housing authority and told Buddy Hertz: Hey, it's a good idea to build mixed income down here but not there, let's find someplace else, put those for sale, transfer the revenue, let's buy something.

Plus, from what I understand, the Galveston Housing Authority has $17 million still left over in insurance proceeds, so they've got money to buy something with. I think good land that would affirmatively further fair housing should be what they'd want and should be what they should do. It's a lot better than not doing that.

In the fair housing material that you had here, you really hit the question here: the specific proposed transaction complies fully with the Fair Housing Act and does not create disparate impact in Urban Region 6. It actually does create disparate impact, according to Dr. McClure. Dr. McClure, the last time I spoke to you, I gave you a study, a 65-page study that he did. He's an expert in urban studies, he's a professor at the University of Kansas.

He was hired by the City of Galveston to do an in-depth study. They gave him, I think it was, $20,000 to do an in-depth study, and he did it, and he answered two
weeks ago in front of the Galveston City Council that this
does not affirmatively further fair housing at Magnolia or
at Cedar Terrace, neither one. He's an expert in this
field. He laughingly says when he's not working for HUD
as a contractor, he's usually in court testifying against
them because they violate the Fair Housing Act all the
time.

So unless you have somebody that can refute Dr. McClure's study, or MBS or somebody has something that
says we have expert opinions that say this does
affirmatively further fair housing, besides somebody's
word or a phone call from someone at HUD, then I think you
need to take Dr. McClure's report to heart. It's a 65-
page report that just simply says here are all the reasons
you shouldn't build here, and he's an expert witness in
court cases all over the country, and he will be in the
court case that we'll file.

I'm not a plaintiff in the case, the public
housing residents that used to live there are. They're
the ones saying don't you dare put us back over there.
They're the ones saying why are you taking away my freedom
of choice. They're the ones saying, you know what, I
would rather live within a community like I can right now
than be segregated from a community in an area that floods
and is blighted.
28th Street, which you saw, Mr. Chairman, down in Galveston where that Cedar Terrace site is, I used to own a home at 15th and Mechanic and that home is roughly six feet off the ground. It flooded with three feet of water. That was nine feet of water. And I keep reading you are worried about six inches for parking. That isn't going to do anything.

MR. OXER: I think it was six feet.

MR. DENSON: Six feet. Well, that might help, but still nine feet of water is a lot of water to go against. The properties that I have by the seawall didn't flood at all, didn't have a problem, and there are sites there. There are better sites than this and I think the people deserve better, myself.

The conciliation agreement --

MR. OXER: Mr. Denson, I'm going to have to ask you to sum it up. We're running on a clock, we're about to lose our quorum here.

MR. DENSON: Okay. I'm sorry. The conciliation agreement does not state that public housing has to include mixed income, it does not say anything about tax credit or market rates, it does say you have to affirmatively further fair housing, and it does not endorse, mandate or demand that you provide tax credits for this development.
Thank you very much for your time.

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

MS. BINGHAM ESCAREÑO: I have two quick questions.

MR. OXER: Let's hear them.

MS. BINGHAM ESCAREÑO: I'm not sure they're for the current speaker, they're trivia questions. One is Magnolia, does it have the same power line issue or will it?

(Reply from audience.)

MR. OXER: I'm sorry, you can't do it from over there, you've got to get to the mike.

MS. JACKSON: No, it does not. I'm sorry. Toni Jackson, Coats Rose.

MR. OXER: Thank you.

MS. BINGHAM ESCAREÑO: And does anybody know why Oleander isn't getting rebuilt?

MS. JACKSON: Because there was more controversy about the location of Oleander, and so it was finally determined, as John mentioned, all of the discussions that have taken place, took Oleander off the table for the moment.

MR. HENNEBERGER: John Henneberger.

It was a matter of great importance to us that
there were a large number of units in Oleander and it was
too many units north of Broadway, and we insisted that
that property be not developed and sold.

MS. BINGHAM ESCAREÑO: So then like we would
conclude that HUD didn't require that all the units go
back to where they had been previously.

MR. HENNEBERGER: Oh, explicitly HUD said on
many occasions that were not happy with any program that
would rebuild back on Oleander or all of the -- rebuild
all the housing back on the existing sites.

MS. BINGHAM ESCAREÑO: Okay. Thank you.

MR. OXER: With that said, John and Toni, that
they were not happy with rebuilding all those sites,
reconcentrating all of those locations --

MS. JACKSON: Because, again, remember it was
four locations, and so we're building back -- there were
40 units of senior housing built on the first location and
then these next two, so that's why Oleander, as the
largest of all the sites, was taken off the table.

MR. OXER: Okay. So they didn't want you to
build them all back and they asked you not to do that, so
you're doing a dispersal, but the housing authority has
only these -- Galveston GHA has only got these two sites?

MS. JACKSON: That is correct. These are the
only sites that the Galveston Housing Authority has, so
the scattered sites, that program actually is going to be carried out by GLO to actually identify the sites and to actually build on the sites.

MR. HENNEBERGER: John Henneberger.

Technically, Galveston Housing Authority, I believe, still owns Oleander.

MR. OXER: What's the intended disposition with Oleander?

MS. JACKSON: We're actually looking for options. The board, in fact, spoke of an option this past week. Unfortunately, I can't speak about that.

MR. OXER: No. I'm just saying they can either sell it for commercial or industrial or something, but they intend to dispose of the property out of the portfolio.

MS. JACKSON: Right. But even whatever we do with it, we'll still have to get HUD approval on that.

MR. OXER: Okay. Anything else, Leslie?

MS. BINGHAM ESCAREÑO: No, sir.

MR. OXER: Sign in, say who you are.

MR. McIntyre: I'm Steven McIntyre. I'm the other person from Galveston that's here to testify today.

Just three quick points. Mr. Denson doesn't speak for all of Galveston, obviously. On September 28, 2012, that negotiated deal, that plan that was sent to GLO
that was worked out between the housing authority, the local advocates, the advocates in Austin, Lone Star Legal Aid and the City of Galveston officials, they represent more of Galveston than Mr. Denson and his friends.

On August 28, just a month or two ago, the mayor and the city council sent a proclamation to the Martin Luther King celebration supporting mixed income housing once again.

Gosh, it was three weeks ago, perhaps, the McClure report was presented to the city council, that Mr. Denson reported to you all just a moment ago about how wonderful it was and how you ought to rely upon it. The city council considered it, they paid for it, and they voted six to one to not take any legal action on it. Then they voted five to two not to even do any legal research based upon it, to basically drop the subject. That's how much they thought about the McClure report.

And then finally, today you received a letter from the city manager once again pointing out that we need to have the Cedar Terrace and Magnolia Homes rebuilt. I think the city manager, under the direction of the city council, speaks more for the City of Galveston than Mr. Denson and his friends.

Second, there was two documents presented to you at the last meeting last month about this. It was a
letter from a group called the collaborating organizations that supported your action on the waivers, and it was NAACP, LULAC, the Galveston County Coalition for Justice, Gulf Coast Interfaith and Northside Task Force. That letter was not in the packet because it was too late to get to you, but it wasn't included in the packet today either. I sent an email to Cameron. I think if he can update your packet, it will be in there.

And then likewise, there was a three or four page letter from Michael Allen, an attorney in Washington, D.C., who some consider the premier fair housing lawyer in the country, and I think he pretty much addresses the fair housing arguments that Mr. Denson tries to bring up today, and does not think very much of them. That letter also was not in your packet, and I would encourage staff to get that in your packet so that you all can read it.

That's all. Thank you.

MR. OXER: Thank you. Any questions of Mr. McIntyre?

(No response.)

MR. OXER: Good. We had tabled this item to consider the discussion before we made this motion. We are now to the point of having an open item, we need now a Board motion to consider.

MR. THOMAS: I would need to withdraw my motion
to table, I guess, if we want to proceed with considering it.

MR. OXER: We're un-tabling this.

MR. THOMAS: I withdraw my motion to table.

MS. BINGHAM ESCAREÑO: I think I seconded and I'm fine.

MR. OXER: I think so too. That was last October, wasn't it?

(General laughter.)

MR. THOMAS: I do have a question around these transmission lines, Mr. Chair. A representation was made, I believe by Ms. Manley, that these transmission lines are all over -- the implication was that they were on every block, and I want to make sure we're making a clear distinction. I think we're not talking about regular power lines, we're talking about heavy duty transmission lines.

MR. OXER: High voltage transmission lines.

MR. THOMAS: High voltage. So that would probably have been an overstatement or a misstatement. Correct? Cameron, are you aware?

MR. OXER: I can tell you there are not high voltage transmission lines all over. There's a backbone that runs down through this particular area and there are substations, and it drops off and it goes into a network
into this.

MR. THOMAS: I still have very, very serious concerns about those transmission lines. This is a safety issue that gives me great pause and concern if something were to happen.

MR. OXER: Meg, you've also -- I don't mean to interrupt there, Robert -- you've also indicated this letter indicates that these transmission poles were reinforced?

MS. MANLEY: Meg Manley, McCormack Baron. They're built to withstand 135 mile per hour hurricane force sustained winds, and they have been rebuilt since the last hurricane, Ike.

MR. DUFFY: Meg, sorry. I want to make a clarification. They withstood the last hurricane, they did not fall. All 130 units of public housing that were there on the site before did not have one pole fall on them.

MR. THOMAS: I understand. I guess my question -- and I appreciate you bringing everything out, and unless there's going to be new information, I'd like to keep moving forward -- I guess my concern is, Mr. Chair, that, with all due respect, that withstanding 135 mile per hour winds, having been reinforced after Hurricane Ike will be little consolation. I promise you,
this Board will hear if something happens. So I have some
concerns, and I believe that it would be appropriate for
us to seek some additional support or guidance on what
might potentially be done with those transmission lines.

I guess you need it in the form of a motion,
don't you?

MR. OXER: No.

MR. THOMAS: No? Okay. I was trying to read
your face.

MR. OXER: That's right. I don't play poker
well either.

With respect to these transmission lines, I
know the type of poles. If they've been reinforced, I
mean, I'm to the point now that I'm satisfied that if
CenterPoint is satisfied with those, then I don't have any
issue with those, not to mention the fact that HUD says
they want to put these back here and have done an
evaluation of the site for some environmental consequences
or aspects, then that has to have been taken into account
also.

I know the issue in moving forward with this,
but at some point we're asking for letters from HUD or
some sort of -- come on, Megan, get up here.

MR. IRVINE: While Megan is coming up, I think
that he issue really is one of granularity. I mean, we
are talking about a specific site with specific
requirements for waivers, and the standards set out in our
rules is that waivers are only granted where it's
established that there is a policy or a requirement in
Chapter 2306 that otherwise would not be met, that they
are necessary to meet those requirements. So it really is
a very fact-specific issue which, to me, has to be made in
the context of the conciliation agreement, not in the
context of the Galveston housing plan, it's in the context
of this particular deal.

MS. SYLVESTER: I just wanted to clarify a
point. Megan Sylvester, Legal Services.

Toni spoke of a couple of different reviews HUD
is going to do, and one of the reviews that HUD is going
to do is what's commonly termed a site and neighborhood
standard review, and we're very familiar with this because
that's the kind of review we do on our HOME multifamily
properties. However, on our HOME multifamily properties
we only do that for new construction and it's a much
higher standard that one has to meet.

This property, and I confirmed with Toni, is
having a different level of site and neighborhood standard
that is a less stringent standard because it's being
treated as if it were rehabilitation of units and not a
new construction. So while something like the poles might
have been considered in that kind of review if it was a new construction, I don't want to speak for HUD but I do not believe that is something that they would consider in the level of review that they are doing.

They're also doing what is called a Part 58 environmental review and that's a result of the CDBG Disaster Recovery funds that are going into that, and that is going to be a full review. I am not sure if the high voltage poles are something that would be considered in that review, but in any case, we do not have that review back from HUD at this time.

And that's all.

MR. OXER: So essentially what you're saying, the real differentiation on this, and I'm trying to find a path through what Tim said, absent a conciliation agreement -- which, while I appreciate John Henneberger's contribution and the effort that's been made to make all this work for the Fair Housing Act -- absent a conciliation agreement, were this site to be considered for new construction under the Tax Credit Program, it would not be able to proceed without waivers on the transmission lines and the flood zone.

MS. SYLVESTER: That is correct.

MR. OXER: Well, let's focus on the transmission lines. So if that's the case, then it has to
be considered now as reconstruction or rehabilitation of an existing site.

MR. DORSEY: We just don't have definitions that line up perfectly. We're considering this new construction under our statutory requirements, and under our QAP it is considered new construction.

MR. OXER: Okay. That's where I was headed trying to figure that out.

MS. JACKSON: It's not apples to apples.

MS. DEANE: And let me just mention, as well, that Megan had indicated to me also that the types of approvals and review that HUD will be doing will not address the specific fair housing concerns that we have and that we definitely do need to get the letter from HUD.

MS. JACKSON: Toni Jackson, Coats Rose.

I went back to my notes and HUD did begin their Fair Housing site and neighborhood standards review and had a meeting with us on July 18 of this year, and they did not have any questions or concerns raised as it related to the electrical poles, and we have responded to most of the information that they asked for additional information on.

MR. OXER: So essentially, and I understand their point, okay, but we have 2306 and our QAP that we have to deal with. Right?
MR. DORSEY: Correct.

MR. GANN: I have one general question that I just didn't get to ask. May I ask that?

MR. OXER: Please, Mr. Gann.

MR. GANN: Why wouldn't this site chosen second and that other site was chosen first? What was the reason for choosing this site over the other site?

MS. JACKSON: You mean Oleander that we're not building back on, or Magnolia?

MR. OXER: Magnolia.

MR. GANN: Magnolia is being used, isn't it?

MS. JACKSON: Magnolia is next up in line, yes.

MR. GANN: Oleander, why didn't you chose Oleander instead of this site?

MS. JACKSON: Oleander, there were some other issues about the location of that and what was surrounding it as well, and based on all the parties coming together, there was a preference because of the historic neighborhood of Cedar Terrace versus Oleander, it was a more commercial area, and so there was more of a desire to stay in the neighborhood and be back towards the Strand. But it was a number of things that came in all the conversations as to all of the sites.

MR. THOMAS: I think I'm ready to try to craft a motion.
MR. OXER: Okay. Just a second. Meg has got another comment.

MS. MANLEY: Yes. I want to point out that part of the request in this waiver specifically was Subchapter B, Section 10.101(a)(3) of your rules provide that rehab developments that have ongoing and existing federal assistance from HUD can be redeveloped irrespective of the presence of undesirable site features. And our interpretation, with this site, again, it goes back to not quite fitting in a box, it is a redevelopment of a site that would have had continual housing assistance and subsidy had the hurricane not taken the housing down, so the subsidy will be immediately reapplied once the housing is built.

And so we feel that this site, with the restrictions it has for being a public housing site, falls within the spirit of that portion of the rule, and that was a specific issue that we pointed out when we made this request. It's not simply like let's ignore, we said we feel like we line up better with the spirit of this regulation that recognizes that certain of these public housing and assisted sites have constraints on them.

MR. OXER: Because the power lines were there before the houses were knocked over.

MS. MANLEY: Right. It's not like a developer
who gets to choose a site comes in and says, Hey, I read your rules but I want to ignore them. So we just literally are in a bit of a box there.

MR. OXER: Okay. Any other comments from the Board?

(No response.)

MR. OXER: Cameron, do you have anything else to add?

MR. DORSEY: No, not unless you have a question.

MR. OXER: I don't think I do.

Robert, would you like to take a shot at it?

MR. THOMAS: Yes, sir. I was trying to craft it. I would like to move that the Board issue conditional approval of this project subject to the following: number one, that the staff receive and negotiate a HUD letter addressing the concerns of the Board; two, that there be an engineering report regarding the option to either relocate the high voltage transmission lines or confirming their safety, given the very sensitive nature of this housing project -- and three -- well, I guess we've got maybe enough comfort on the water.

MR. OXER: On the flood? Yes.

MR. THOMAS: On the flood. So it would just be subject to those two conditions then.
MR. OXER: Hold on just for a second. Toni, you said that CenterPoint has been very reluctant to give you much more information?


MR. OXER: CenterPoint things we're all terrorists.

MR. THOMAS: That's why I said an engineering report. If they can't get it, that's fine, from CenterPoint.

MS. JACKSON: Right. And we are getting a release tomorrow.

MS. MANLEY: We're sending in a form tomorrow to try to get more information..

MS. JACKSON: Yes. We're still trying to get information. And then on the first one --

MR. THOMAS: Wait, wait, wait. We don't even have a second on my motion.

MS. JACKSON: I'm sorry.

MR. OXER: I'm clarifying some things.

MS. JACKSON: And I was just trying to clarify also before a second. You wording that staff receive and negotiate a HUD letter.

MR. OXER: We can't do that.

MR. THOMAS: I'm sorry. Clarification. Staff communicating, because obviously the Board can't continue
to speak to you. You said you didn't want to have your hands tied, so you're speaking to HUD but you need to speak to somebody on our behalf.

MS. JACKSON: That's what I was clarifying, because like I said, I wrote down that you said staff receive and negotiate. But you want us to get the letter but we can continue to work with staff in terms of the work.

MR. THOMAS: To confirm that it meets the concerns of the Board.

MR. McWATTERS: And bring it back to the Board. And also, I would suggest that this be condition precedent. Instead of approving it and then going, I would say don't approve anything, let's get this stuff and review it and go from there.

MR. THOMAS: Good point.

MR. McWATTERS: But I'm not sure how.

MR. THOMAS: So there would be a condition precedent to approving that we receive a HUD letter that is negotiated by the constituents, whoever you all are visiting with HUD, and that it be confirmed to meet the concerns raised by the Board, by the staff and brought back to the Board, number one. And number two, that the development provide an engineering report confirming the option to either move these specific transmission lines or
to confirm the safety of these specific poles and
transmission lines in light of the sensitive nature of
this development.

MS. JACKSON: And I'm sorry, I recognize I'm
speaking before you have a second.

MR. OXER: That's all right. Go ahead.

MS. JACKSON: I would just like to reiterate to
the Board it's very similar to the earlier situation in
terms of the TEFRA hearing. I mean, the notice would have
conditions that we would meet and have to provide to the
staff. Do we really have to come back to the Board for
this?

MR. THOMAS: Yes.

MS. JACKSON: Because we have a real timing
issue here.

MR. THOMAS: I gotcha. For my vote, yes.

MR. OXER: I recognize your point, Mr. Thomas,
that that's the issues you need to have resolved, but we
can delegate to the executive director to receive that
information and be satisfied for that. Recognizing that
the timing for the end of the bond reservation period,
December 19, as I recall, so you've got to be moving
forward on this with the assumption that those are going
to work.

MS. JACKSON: Right.
MR. OXER: I can tell you from the engineering side on the transmission poles, you can't afford to move them, they're going to tell you how much they can withstand and whether or not the failure is going to be lateral or linear, with every expectation that it's going to be linear.

MS. DEANE: Mr. Chair, if I could mention, the last time there were conditions imposed and it was -- I won't use the word delegated to staff, but it was determined that the executive director could decide if the conditions had been met, we had issues with, for example, the Bond Review Board on that, that they felt like it had to come back to the Board. So I would suggest that to avoid running into those types of issues again that it should come back to the Board.

MR. OXER: Okay. Well, there's the point on that. And with respect to the timing, I'm trying to be sensitive to your bond reservation period, so our next Board meeting is November 7. Does that give you time after that?

MS. JACKSON: I guess only to the extent that the first requirement has us working with HUD, so I'm being very optimistic that they'll be open again next week and we will get back on this.

MR. OXER: Well, if, as was presented to us,
that they said you don't get any of this other money unless you do this, they would at least give some deference to our request for some documentation that they said this needs to get done, so what we're asking is for them to document that. I should think you'd be able to get a letter like that out. And I understand your point, Toni, that you can't speak on behalf.

MS. JACKSON: Again, exactly. I mean, I will work diligently with Tim and Barbara to work out what we can get.

MR. OXER: Okay. All right. We've been in the process of structuring a motion here by Mr. Thomas. Robert, would you like to restate that again?

MR. THOMAS: I will try, sir.

I move that the Board -- help me with the language about the condition precedent.

MR. McWATTERS: That as a condition precedent to the approval or denial of the two waivers.

MR. THOMAS: Receive -- what Mark just said -- receive from the developer the letter from HUD addressing the concerns raised by the Board, and that will be provided to the Board, and then two, receiving the engineering report regarding the option to either move the lines or to confirm the safety of the lines, of the poles in regards to this sensitive project, that if there's a
failure, how are they likely to fail and which direction.

MR. OXER: Just as a clarification to that, as
a point say that it doesn't say no, they won't fail, but
if they fail, what would they be and in which direction.
I've broken enough things and mashed up a few things in
our development lab that everything will break, the
question is what does it take to break it.

MR. GANN: Are you ready for a second?

MR. OXER: I believe we are.

MR. GANN: I'll second the motion.

MR. OXER: Okay. Motion by Mr. Thomas, second
by Mr. Gann to do what he just said. Meg has got some
more comment.

MS. MANLEY: We are very concerned about the
timing on this. We are going to march into the 30 days
toward the closing with a structure that's being
documented in scores of legal documents and scores of
legal time being spent so that we can meet our November 15
deadline without any certainty of this reservation. I
would submit to you today that Mr. Henneberger and all the
testimony you've heard, we've been in this process of
confirming with HUD for a very long time, I would request
that we follow up the testimony with a confirmatory
letter.

I think that the evidence that has been
presented today through testimony is very compelling that HUD has been very much an integral part of this from step one and there's not some surprise lingering out there that they're not supporting what's going on and we're very concerned about the number of people, from government folks, to GHA folks, to all of the attorneys and the architects who are drawing on both sites, to have no certainty today that our structure is going to work. Because if we go 30 days and for some reason that letter from HUD isn't exactly what you want it to be, we're in a whole other pickle in 30 days. We need to know that we can march forward and close this deal. There are so many people working on this. I'm very, very concerned.

MR. THOMAS: So you'll work closely then with staff.

MS. MANLEY: Absolutely.

MR. THOMAS: We've heard your comments loud and clear, very articulate. Your presentation is amazing, and we understand your issues, and I'm sorry that I'm only two months into this, I wish we had this discussion a year ago, but that having been said, I think that the good faith that you all clearly show with our staff will show that our staff has good faith and will work with you.

MR. OXER: And essentially, to your point, Meg, if I read this correctly or listen to this correctly,
we're saying approve the bond reservation --

MR. THOMAS: Well, a condition precedent is getting these things, and then if we get these things, then we can come back.

MR. OXER: Mark, this is differentiated from the earlier one that we gave them theirs with the expectation that if it didn't work, their deal would collapse. What they're asking for is a reservation of the 4 percent credits, and we're asking to back this up with these things. What his motion says is they don't get the reservation until they deliver that documentation to us, and that's going to take another month. Is that correct?

MR. McWATTERS: I think it would be a good idea to hear from our counsel about the viability or feasibility, the appropriateness of the condition precedent versus a condition subsequent here.

MS. DEANE: Well, obviously, I understand their concerns, so I'm speaking strictly in terms of representing the Board and the interests of the Board. My recommendation would be that it be a condition precedent. What you don't want to get into is a dispute after the fact as to whether or not they have their waivers in their hand because they at least believe in their minds that they have met the conditions, and therefore, I've got my waiver and I'm out of here.
It's a lot cleaner to have more certainty as to when you actually satisfy the conditions and get your waivers, because the Board would be voting and saying today you get your waivers. So to me, the condition precedent representing the Board's interests would be a preference from my standpoint.

And considering the issues that we had last time with the Bond Review Board over trying to do some kind of conditions after the fact, I think that to avoid those issues as well. If we can have everything taken care of before the vote is taken, it will resolve -- we will not have any of the same issues we had last time with the Bond Review Board.

MS. JACKSON: And that's why I just didn't understand what's the difference in the one earlier, because, again, you gave them a condition, and as long as it's met, but you approved their tax credits, and that's all we're asking is for that same consideration that you approve our tax credit determination today, and then on that tax credit determination, as is the case with all of us when we've gotten these, is that if you have conditions, they are set out, and as Cameron stated earlier, the 30 days in which we have to return it signed, we have those conditions met.

MS. DEANE: Specifically where there are

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conditions that would require any kind of staff input or staff approval, those were a huge problem.

MR. DORSEY: Correct. Because I saw Cynthia and Meg talking just briefly and I know exactly what they were talking about, that was a TDHCA bond issue that has to go back through BRB, this is a local issue that doesn't go through the same process so they may not run into the same issues. Just as clarification, but not to take away from any of the other points.

MS. DEANE: I understand that completely. My point is more that if the issue was raised there, it could be raised elsewhere, and especially bond issues, we want them to be very clean. And whether it goes back through the Bond Review Board or not, the issue could still be raised by someone, it's still out there. And particularly, we don't want to have a situation where it could be alleged as delegating to staff to do some kind of approval. It really has to come back to the Board.

MR. IRVINE: Can I step out for just a second?

MR. OXER: Yes. All right. Everybody take a time out. We're losing our attorneys here, and I think we're about to lose our quorum. We've got enough for a quorum, as long as you can stay, Leslie. We'll have to wait and hear back from them here in a minute.

(Off the record at 4:37 p.m. and back on the
record at 4:38 p.m.)

MR. OXER: Okay. Any words of wisdom, Counsels?

MR. IRVINE: I was just going to say that under the Board's own rule with regard to the granting of waivers, you need to make a finding about the necessity of the waivers, and I believe that really the HUD response is sort of the predicate to making that finding. So that's why I believe as an operational matter it really does need to come back to the Board.

MR. OXER: Let's be clear on that. I know you were clear on that, but that's from a legal standpoint. I'm a simple engineer, tell me what you just said.

MR. IRVINE: Basically something that's specific to the Board's concerns on this site from HUD forms the necessary reason for the granting of the waivers. It is established as their necessity.

MS. JACKSON: So Tim, technically then the vote today would not really mean anything because you have to come back next month for a vote.

MR. OXER: So in this case, do we defer action till next time or vote on it now with conditions precedent?

MR. IRVINE: Unless the Board believes that the other testimony that's been provided establishes the
necessary predicate.

MR. OXER: Well, my own belief in this, and
I'll speak for myself on this only, my own belief is, I
trust the integrity of those that have commented today,
and I know that there was a lot of discussion and there's
been a lot of wrangling and a lot of wailing and moaning
and gnashing of teeth on this one, so I frankly don't want
to see this deal unravel because of a quirk. I
personally, this is my interpretation, I personally
believe that the condition precedent or that the need to
apply to grant this waiver has been established by what
the commenters have made, the information they've
presented. So given that, I would be inclined to vote for
the waiver to keep the deal moving so that they didn't
miss that deadline.

The real problem is it's October, we should
have been talking about this in line, you know, April, but
that's what it took. Like I said, if it was easy, anybody
could do it. That's why we've got us here. I'm putting
in for a raise, though, for the record.

(General laughter.)

MR. OXER: With that, I believe the conditions
have been satisfied to meet the requirement dealing with
the issue associated dealing with HUD in putting this
project in place have been met. Does anybody care to
make that? As chair I don't make the motion.

MR. THOMAS: Well, I've already made a motion and it's been seconded.

MR. OXER: Who seconded it?

MR. GANN: I did.

MR. OXER: All right. So the motion is to do this as a condition precedent.

MR. THOMAS: Correct, which would require them to come back with the information so that we can confirm that if a failure of the electrical lines takes place, that it's not going to create danger for the residents of this. Because we still have two waivers that we'd have to give, we'd have to give the water waiver, which it sounds like, just from hearing people's comments from the Board is not really going to be something that would cause us concern, but I've got no comfort level about the electrical waiver. And quite frankly, I've got no real comfort, with all due respect, no real comfort about, particularly with the competing testimony, giving it equal weight because I don't have any reason not to, I have real concerns about what is going to actually come from HUD, given what I understand is the -- what do we call it, the multi-headed animal?

MR. OXER: The hydra, the HUD hydra, the HUDra, is that right? It's getting late, folks.
(General laughter.)

MR. THOMAS: So we can vote on that, Mr. Chair, and if the vote is no, then we'll proceed, but I think that's an important thing for us to consider.

MR. OXER: So the point is, and Counsel, Barbara, you were saying that having the information in hand gives us more satisfaction that the documentation required for the waiver.

MS. DEANE: Well, I think the issue -- it's six of one, half a dozen of the other, I mean, you're going to make it a condition precedent and it's going to have to come back to the Board, you're going to make it a condition after the fact, it's still got to come back to the Board. The timing either way is going to be the same thing because you can't delegate to staff to approve it.

MR. OXER: So conditions subsequent or conditions precedent, either one, they have to come back to the Board with the documentation.

MS. DEANE: Right. In order to see if the conditions have been satisfied, it's still got to come back to the Board. Again, my preference, just thinking solely in terms of the Board and the interests of the Board, would be to make it a condition precedent so it's very clean. But either way, like I said, it's going to be coming back to the Board, so I'm not sure that there's a
tremendous advantage to be gained in making a condition subsequent because it's still got to come back to the Board.

MS. BINGHAM ESCAREÑO: I have a question of clarification. If we were to grant the waivers and we have to articulate for the record the rationale for why the waiver satisfies some other element, then how would we articulate that for the record? I mean, in the past when we've granted a waiver, we have to say for the record why the waiver is necessary to satisfy some other aspect.

MS. DEANE: Right. This is the rule. It says:

A requested waiver must establish how the waiver is necessary to address circumstances beyond the applicant's control, and how, if the waiver is not granted, the Department will not fulfill some specific requirement of law or purpose or policy set forth in Texas Government Code, Chapter 2306.

MR. OXER: Now, does 2306 include a component that says we have to deal with HUD regulations?

MS. BINGHAM ESCAREÑO: Yes, that's my question.

MR. OXER: And that's the linkage to it because it's a HUD conciliation agreement. Is that correct? Does that seem correct?

MS. DEANE: It is a HUD conciliation agreement. I would have to look to find a specific statement that
would link that in. I feel that probably there is some
way -- there's possibly some way to articulate that. I
think probably that's something that the applicant is
supposed to articulate as part of their waiver request as
to how they believe it ties in, but that is something
that's supposed to be stated on the record before a waiver
is granted.

MS. JACKSON: It is a conciliation agreement of
which TDHCA is a party.

MR. OXER: So it's essentially a contractual
obligation we have. Okay, John, we're getting there.

MS. BINGHAM ESCAREÑO: Are you going to take a
vote on the current one?

MR. OXER: So what you're talking about is the
one that's the condition precedent?

MR. THOMAS: Yes.

MR. OXER: All right. There was a motion by
Mr. Thomas, second by Mr. Gann. Would you like to read it
one more time so we've got it clear?

MR. THOMAS: Only if it could be read back from
the record since I change it every time.

MR. OXER: Okay. Well, essentially it's to
provide the waiver given the condition precedent that it
satisfy the Board's inquiry with regarding the HUD --

MS. DEANE: Do you want me to further
complicate things just a little bit? The Board could appoint a committee to determine if the conditions have been met. I'm just going to throw that out there. And the committee could meet between now and the next Board meeting.

MR. OXER: That's a good one to hear.

MS. DEANE: I'll just throw that out there.

MS. BINGHAM ESCAREÑO: As opposed to delegate it to the executive director.

MS. DEANE: You can't delegate it to staff.

MR. OXER: And we're trying to be sensitive to the bond reservation deadline. I think that's a great solution.

MR. THOMAS: So I would like to amend my motion, Mr. Gann, if you'll accept it, that we do all the things we already said, but that we ask the chair to appoint a subcommittee responsible for confirming that the conditions precedent have been met.

MR. OXER: As soon as possible.

MR. THOMAS: As soon as possible.

MR. GANN: I agree.

MR. OXER: Okay. Motion made by Mr. Thomas, as modified, second by Mr. Gann, as modified. Question by Ms. Bingham?

MS. BINGHAM ESCAREÑO: One more question. So
then that would not require them to come back to the Board. In other words, if the committee is satisfied, the Board is delegating the authority to be satisfied to the committee of the Board, and then they don't have to wait the whole month to come back.

MR. OXER: Correct. What it does is it behooves you to get out there and get your engineering on this and take care of it as soon as possible, and then get it to us.

Okay. Elegant solution once we finally got there.

Is there any other public comment? And the right answer is no.

(General laughter.)

MR. OXER: Motion by Mr. Thomas and second by Mr. Gann to what they just said. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

The committee is going to be made up of myself, Mr. Thomas and Mr. Gann.

Cameron, do you have anything else?

MR. DORSEY: Jean has two, hopefully, quick ones.
MS. LATSHA: Jean Latsha, Housing Tax Credit Program manager. And yes, I'll be quick.

Item 3(b) is a request for an extension of commitment expiration date. Staff issued a commitment to Villas of West Mountain about a month ago. The short story is the applicant as not able to obtain funding to achieve a certain number of points that were originally awarded on that application, so staff essentially was recommending that the extension be denied and their Housing Tax Credit award rescinded. The applicant has since withdrawn his request but staff would appreciate it if the Board would take action on the rescission of the tax credits.

MR. GANN: I'll move staff's recommendation.

MR. OXER: Motion by Mr. Gann to approve 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: Very well. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous.
amongst the now four of us. We do maintain our quorum.

Next item, Jean.

MS. LATSHA: Very quickly, item 3(c). This item is four subsequent tax credit awards that were made off the waiting list. This recommendation was contingent upon the denial of the extension request which has been withdrawn. So I am happy to answer any questions. There's a time line on page 4 of the write-up that lays out how tax credits were returned to the Department and how staff determined the next eligible application on the waiting list. I'm happy to answer any questions about it, but if you don't have any, we could just make those four awards.

MR. THOMAS: Mr. Chairman, move to adopt staff's recommendation.

MR. OXER: Motion by Mr. Thomas to approve staff recommendation. Is there a second?

MR. McWATTERS: Second.

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

(No response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

MR. OXER: There are none.
Okay. We seem to be at the end of the stated agenda and now we're at the point in our agenda where we have the opportunity for public comment on matters other than items for which there were posted agenda components. Do we have any public comment?

MR. KAHN: Barry Kahn, developer from Houston.

MR. OXER: Three minutes.

MR. KAHN: There was a packet given out. I've got three things and I think other people gave me time based on this.

There was a packet that was handed out to the Board that looks like this which the first page shows what the rents have been the past ten years in Houston. Basically we've had 1 percent rent increase. The second page is taking a typical tax credit application and the way it's underwritten on a 1.2 to 1 debt service coverage, and you can see it gets past ten years. The third page is if you go back to an income growth assumption of 1 percent instead of 2 percent, which is the underwriting standard -- and I'm not suggesting going back to 2 percent, I'm going somewhere with this on compliance -- you will see with only a 1 percent increase you don't even get to year ten.

So at the last Board meeting I brought up a request to exclude housekeeping issues. The fourth and
fifth pages in this is a list of housekeeping issues that the industry has come up with, and you know, basically it's all housekeeping type issues. There is one issue on the second page talking about overgrown vegetation where it occurs by a neighbor. In other words, if a neighbor has growth next to a fence, like a chainlink fence next to your property and his trees grow over and vines go through, it gets to be questionable whether we have the right to go in and cut the neighbor's property, particularly if it doesn't affect any of our common elements.

Some of these things that we get gigger on, we're not sure we have the right to even correct. Like if there is a cable connected to a computer across the floor of a room, do we even really have a right to remove the tenant's cable. Do we have a right to remove a tenant's furniture.

The next four pages are pictures from the HUD website and the HUD website is referred to on these two pages previously. The first shows a picture of a hole. We're asking that a hole two inches or smaller not be included and be housekeeping and not something rising to a Level 1 under the Department's inspection standards. As you will see, this is a huge hole which HUD, from its website, is using as an example of a hole.
The next page shows mildew covering more than four square feet, and what we're trying to get out of is cleaning a tenant's mildew on their window sills and in their bathtubs, but we get gigged for that now and we have to clean it and it goes on one's permanent record now.

The third page from the HUD website shows blocked egress. We aren't talking about a movable piece of furniture, we're talking about boards being nailed on a wall on the exterior of the unit. And again, this is a HUD standard that they're putting out as an example.

And then the fourth page where they talk about overgrown vegetation, it has to do with a common area of the property, and trees, as you can see, they're up against the building -- or maybe this picture isn't as good -- but it's not an adjoining property's overgrowth, it's the property's overgrowth which is something an owner does have control over.

But again, I'm trying to expand the issue of what should a developer be responsible for and what shouldn't a developer be responsible for.

Then after the first three pages -- and the reason for the first three pages is just to show we're being pressed financially, we don't need any other financial pressures, in particular with older properties.

But there's a suggestion in Section 1.5(c)(2) of the

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previous participation rules be modified where if you
can't correct an issue, like there's a fair housing form
and it's not filled out and somebody moves out, you can't
make that prior tenant sign the form. The way the rules
are written right now it permanently stays on your record,
it continues to go up to EARAC, and so what we're
suggesting if something can't be corrected but the
procedure has been corrected, that it's not an issue that
goes to EARAC.

And the other thing that I'm suggesting is that
there be some sort of way for somebody who has many
properties to be not unfairly penalized because they have
a lot of properties compared to somebody who has one
property. For instance, if somebody has 20 properties and
they have eight items, let's say, that float their way up
to EARAC, it's not the same as somebody having one
property and having two or three items by way of
percentage. So I'm suggesting when EARAC does review
stuff that they take into consideration maybe divide by
the number of properties somebody has to factor how they
determine whether or not somebody passes or doesn't pass
the EARAC standard.

My second group of comments is a personal one,
and thirdly, I've got some TAAHP comments with the QAP.
But on revitalization zones, the definition was changed
this year, and last year revitalization area had been vetted or had been approved by everyone in the City of Houston. That standard has been made tougher this year. Houston cannot meet the standard.

So what I am suggesting is that there be an alternative -- and I know the city is going to say let's focus it a little tighter -- that for regions other than Region 3 -- and I realize the rule was tightened for Region 3 to meet certain court standards, and I'm not objecting to what's being obligated for Region 3 -- but the Department is trying to protect themselves by applying the general theory statewide, but that for other regions that one can use the revitalization plan terms that were agreed upon last year.

Secondly, for DR zones that they don't have to have a commitment by application for DR funds, and this is what the City of Houston is going to go along with, is that anything that's in a DR determined area, that that qualify as revitalization.

So I'm asking that both the DR zones as well as the broader revitalization zones that have been previously approved by the Department qualify as an alternative on the Region 3 revitalization zones as far as what qualifies for revitalization.

Next there's a handout that was given to you
that was put together by TAAHP. Normally we wait till the last meeting to present this, however, we like to get it in front of the Board for their consideration so they can be thinking about it. When you get the information at the final meeting, everything gets rushed, as we see today, things can take a long period of time, and then fair consideration is not able to be given to the matter, so we are trying to get the issues out in front of the Board.

A couple of things I'd like to point out is one has to do with seniors. Seniors are being excluded from certain regions and certain sub-regions. The suggestion is that not more than 65 percent of the tax credits can be allocated in that region. And I'm going to use Region 6 which I know very well, and this ties to the revitalization reason. If you exclude seniors, in the west half of Houston you aren't going to get neighborhood support for families, it's just not going to happen. I mean, I've been caught in lynch groups and a lot of other people can testify to the same.

You've seen all sorts of objections in the past, for those who have been on the Board, as far as stuff in Fort Bend, as far as stuff in Katy, as far as stuff in northwest Houston. So then you're left to the east side of town and those aren't necessarily high opportunity areas, so if they aren't revitalization areas,
you can't get the boost. Well, things have to be feasible, we're going to lose the 9 percent flat rate, more than likely, which means every development is going to lose about 17 percent in credits.

The City of Houston is going to focus all their soft money to homeless, so if you aren't doing a homeless component, it probably doesn't work for a tax credit deal. Unless it's all homeless and you have the service function, there's going to be no soft money. I mean, deals are going to have to be feasible, otherwise, we're going to have a region like Region 6 that may not even be able to fulfill its $9- or $10 million allotment, and the region is desperate for housing.

So I'm asking personally for the revitalization, but two, TAAHP is asking that 65 percent of the credits in a sub-region can go to senior developments, and where there's only one tax credit allocation in a sub-region, that that can be seniors because there's some sub-regions that are totally excluded from seniors where there's only going to be one deal.

MR. OXER: You need to wrap it up, Barry.

We're running late.

MR. KAHN: Yes. Then as far as underserved areas, the request from membership is that there be one point for a qualified elderly development.
On the 811 issue, it's pretty much mandated, like for Region 6 and certain regions to qualify have to follow 811. You've heard before these rules are unclear. We'd just like it to be drafted in a way that people have the option to go with 811, they don't have to. Because if you don't know what the rules are, it's pretty hard to follow it and we all know how difficult it is working in this program when you're following the rules, much less when you don't even know what the rules are.

And the last thing, again, it ties to making deals feasible from a financial standpoint, recommendation number 18, with the leveraging of private, state and federal resources, that the numbers be moved from 7, 8 and 9 percent to 8, 9 and 10 percent, again, to make deals feasible.

And I believe Audrey Martin is going to finish up on a couple of other TAAHP comments, and others have some other comments. Thank you.

MR. OXER: Good. Thanks.

MS. MARTIN: Good afternoon, Board members.

I'm Audrey Martin and I am here today on behalf of TAAHP. I'm going to point out three other items from the TAAHP letter that you all have in front of you. There are 22 recommendations on that letter. We want to just highlight seven today. Barry has covered four, I'm going
to cover three more. And all of these comments were achieved through a TAAHP QAP and Multifamily rule meeting and they were developed as consensus items, so individual members will also present their own comments that weren't a consensus of the membership. So what you see before you are just those comments that the group was able to reach consensus on.

First, recommendation number 11 is related to the commitment of development funding by local political subdivisions. This section of the QAP provides scoring incentives for developers to seek funding from cities, counties and governmental instrumentalities for their developments, and it outlines different scoring levels based on different levels of funding. These levels are based on the population of a place where a development is located, as well as incorporating a per-unit funding level cap as well.

So TAAHP membership has observed that there are decreasing pots of funds available to these local jurisdictions and based on that observation, TAAHP membership is recommending a reduction to the amount of funds required to achieve the different scoring levels under the local political subdivision funding QAP item.

Additionally, in 2013 the QAP allowed for a lesser level of points for those applications located in
jurisdictions where the local jurisdiction provided a support resolution and basically said we would provide funding to your development but we don't have funding available. And so the 2014 QAP draft does not have that provision, and TAAHP is recommending that that provision be incorporated back into the 2014 QAP as it was in the 2013 QAP.

The next recommendation I want to talk about is recommendation number 14 which is related to community revitalization plan scoring item for rural areas specifically. The 2014 draft QAP, like the 2013, offers options for developers in rural areas to achieve points under the CRP scoring item by being located in areas that show growth and expansion indicators which the QAP measures as close proximity to new or planned infrastructure improvements, meaning road improvements, water improvements, and sewer improvements.

The radius for measurement that's in the QAP is a quarter mile. This was the same radius that was used in 2013. The experience of TAAHP membership in 2013 was that the quarter mile radius was very limiting in allowing us to be able to find good real estate based on visibility, access, different things. There could be a site just outside of a quarter mile that was more favorable than the site within a quarter mile.
So anyway, TAAHP members are recommending that
the radius be increased from a quarter mile to one mile.
TAAHP feels that this change would allow more latitude to
choose quality real estate, while still locating in areas
where growth and expansion indicators are present.

Finally, I want to comment quickly on cost of
the development per square foot. That's recommendation
number 16. This scoring item within the QAP provides
incentives for developers to keep their construction costs
below certain ceilings, essentially based on the type of
the development, as well as location. TAAHP supports this
methodology. We just feel that kind of based on what
we're seeing in construction pricing that the dollar
figures outlined in the QAP are just a little bit too low.
What we're seeing is that dollar figures approximately
$10 per square foot higher pretty much for every scoring
level are more in line with what we're seeing in
construction pricing. So TAAHP is recommending a $10 per
square foot increase for each level outlined.

And also on the cost per foot scoring item,
there is one point provided for applications that present
a cost per square foot figure that is within 5 percent of
the mean cost per square foot for all like applications in
the current scoring round. So TAAHP is recommending a
deletion of that provision because it rewards luck rather

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than merit.

So that concludes my comments. Thank you so much.

MR. OXER: Thanks, Audrey.

Cynthia.

MS. BAST: Good afternoon. Cynthia Bast of Locke Lord. Thank you very much, Board, for your perseverance.

I am here today representing Granger MacDonald and his companies. He is out of state today and he asked me to provide you with just a couple of comments with regard to the draft rule that are out for public comment and that will be adopted at the upcoming Board meeting.

First, with regard to the compliance rules, he asked me to say ditto Barry Kahn. That's probably enough, but let me just say what's important to him is that the committee consider the size of a developer's portfolio. He has been in this business for a very long time and owns numerous properties, and so that perspective needs to be maintained.

He, like many of the developers out there, is also very concerned about the housekeeping issues. I think what you heard from Mr. Kahn is that there seems to be some difference between maybe what HUD puts out there as here's an interior unit issue and perhaps what the
actual owners are finding in their inspections. But what I think Mr. Kahn did not say is that these particular issues are very, very costly and time-consuming for the property owners. I've had multiple property owners tell me that preparing for an inspection because of these housekeeping concerns can take hundreds of man hours that cost them a whole lot of money. Moreover, the tenants themselves do have rights. So I think everyone seeks to find some sort of solution on that issue.

The second issue relates to the QAP. Again, touched on by Mr. Kahn but I'll provide a little bit more detail, and that has to do with certain counties not being eligible for qualified elderly developments. This is new this year and it is a huge concern. For instance, one of the counties is Kendall County and Mr. MacDonald asserts that he owns the 298 units of elderly housing in Kendall County and he has a multi-year waiting list. So why would Kendall County be cut off when he has a multi-year waiting list, why would they be cut off from additional elderly development.

I don't think that there has been an adequate vetting of the data that has been utilized to analyze this and determine which counties should be excluded here. Moreover, besides what the developers think, what do the cities and counties think about that kind of
ineligibility. It's a very significant change, and if this is something that TDHCA believes is important because there's an overabundance of elderly developments or a glut, that's fine, but I think this is the kind of thing where it needs more time to be presented and vetted with regard to the numbers and what are we including, what are we excluding for perhaps the 2015 QAP.

So those are the conclusion of the comments and I do appreciate your time. Thank you.

MR. OXER: Thanks, Cynthia.

MS. CHAPA-JONES: Hi. I'm Veronica Chapa-Jones. I'm the deputy director for grants management and compliance with the City of Houston Housing and Community Development Department.

Everyone looks really tired, so I'm just going to crystallize the mission-critical issues for the City of Houston regarding this year's Qualified Allocation Plan and we'll provide additional detail in the written comments we provide to staff.

So most importantly, we want to echo the comments that have been made about qualified elderly developments. It's a concern for us, the data and methodology wasn't published, because we simply don't understand why we would want to restrict elderly housing, what the numbers and the figures were to make that
restriction, and so we would advocate for a more graduated approach with a clear understanding of the data so that we can partner in that decision-making if we really need to decrease the amount of elderly development in the City of Houston.

The second issue that I want to talk about is the idea of supportive housing which was peppered throughout the QAP with different scoring mechanisms. One of the things where I have failed to communicate to you is a permanent supportive housing initiative that we have with the City of Houston that would dovetail very nicely with some of the supportive housing initiatives that TDHCA is doing today.

Some details about that particular program. The initiative is projected to end chronic homelessness by 2016. We actually quantified how many units would be necessary to end chronic homelessness, the services that would need to be provided. We've put $20 million dollars of housing and homeless bond funds to a vote. We have authorization to use $12 million as additional gap financing over the next two years. We have a homeless czarina out of the mayor's office that is bringing all the departments together, including the Houston Housing Authority to give vouchers which I think will be really critical when we're talking about doing permanent
supportive housing that is meaningful for the residents and that provides the services that we know they need for permanent transition.

So interestingly, when you're going through the QAP, what we'll be arguing for is to allow for parity for scoring where a location jurisdiction that has done tremendous planning like the City of Houston -- I'm not doing it justice, lots of work has gone into that -- it would make us stand out as partners very, very well, so we're going to make recommendations where we can make ourselves shine together in that particular area in the scoring mechanism.

And the third issue that I want to talk specifically about is the idea of the revitalization plan. I don't know if John Henneberger is still here -- he is, and Mattie. We collaborated on the disaster recovery areas in the City of Houston on putting together a really comprehensive planning process. It took a year, it included Texas Low Income Housing Information Service, Appleseed, the Texas Organizing Project, hundreds of folks in public meetings, with Shirretts, a national planning firm helping us develop a 900-page document, a lot of tremendous work. HUD headquarters has asked us to write this up as a concept for a national model.

Interestingly, I do not believe personally that
we could meet the criteria established in the QAP for a revitalization plan because they're so prescriptive and they have a very particular mission. So the idea that what we're doing in the disaster areas isn't revitalization, clearly, if you've been part of the process, you can see that is what we're committed to doing, in addition to infrastructure, housing dollars and other local resources.

So what we'll be asking for is the consideration to look at that and partner in looking with Tim and Cameron, and of course, Barbara, on how we can meet the goals of the revitalization plans that the state wants to have as a part of its scoring mechanism and meet it with this disaster recovery activity that has been tremendous, another national case study, and an opportunity for us to shine together.

So you'll get more details in writing and I'm happy to answer questions next time.

MS. McGUIRE: Good afternoon, Chairman and members of the Board. My name is Ginger McGuire and I'm speaking on behalf of the Rural Rental Housing Association. I also have notes from Dennis Hoover who had to leave. He was also speaking on behalf of the Rural Rental Housing Association. I will do my best to say twice as much in half the time and follow it up with
written comments.

Rural Rental Housing is an association made up of members, 715 project members, who have projects built with 515 financing. I'm happy to explain what the 515 financing is to you all whenever you want to know more about that, but it's housing that was financed by USDA, much of it built 35 to 50 years ago. The average income of our residents is $10,800 overall, and these projects are all rural and they're very much in need of rehabilitation. They rely almost exclusively, at this point, on low income housing tax credits to accomplish that goal.

Our first recommendation -- and I have three things in this category -- has to do with the opportunity index. First of all, thank you very much for your addition last Board meeting of the two elderly amenity additions. We think that's very important. Fifty-six percent of the residents in these 515 apartments are elderly and we think this recognizes their need for services, and we appreciate your addition of that and support it.

Secondly, items 1 through 4 and items 6 through 7 deal with the mileage that was mentioned earlier by TAAHP. The rural areas are not built on a density, they're very spread out. A community of 3,000 residents...
can go for miles in all directions, so a quarter of a mile is really not applicable in a rural area. These communities have very little money for infrastructure and rehabilitation and anything else that goes on, so a mile in this category is, we feel, too short, two miles is better. If there's anything in that community that serves the needs of those residents, then it serves the whole community.

And the third thing I want to say about this particular category is item number 5 which talks about the quartiles, first and second quartiles, it's the same issue. Excuse me, I'm going to go to Dennis's notes here. The smaller the town, the more likely it is to be covered by only one census tract, so either all of the town is in the tract or all of the town is out of the tract, and so what we're doing is selecting towns. It really does not fulfill TDHCA's efforts with the conciliation agreement because we're selecting one town or the other since there's one census tract within the whole community. We'd like to see that disappear, the first and second quartile in the rural areas.

Next recommendation, we would like to see at-risk exempted from the opportunity index altogether. We feel that these developments are desperately in need of rehab. Our owners are going halfway, three-fourths of the
way down sometimes their list of properties that
desperately need rehab and they are picking them on what
scores well as opposed to which developments really need
the rehabilitation. That's happening over and over again,
and we feel like this is contributing to the further
decline of these older properties in particular.

I'll try and speed this up. Recommendation
number three, the distances again from the community in
the community revitalization projects where it mentions a
quarter mile, and TAAHP spoke to that. Again, we'd like
to say we think two miles is more appropriate in rural
communities.

Recommendation number 4 is the construction
cost per square foot, and we did some data analysis on
that. These costs are not really -- they can't be
pinpointed on one basis, they're regional in nature.
Larger developments have a cost benefit to the larger
development. Smaller developments are less cost-effective
to build, their costs are higher many times. In the
Panhandle right now, it is very hard to find labor,
you're all going to the oilfields, same with West Texas,
same with South Texas. Labor is all over the place.

We did an analysis of five different properties
getting a geographical dispersed representation, and the
site work plus the bricks and sticks, just the basic cost
of construction, ranged from $87.62 to $113.24. Average cost of, again, site work, bricks and sticks, was $86.78. If you add the 6 percent general requirements to that and 2 percent of the overhead, you come up with a $93.72 per square foot cost. We would like to see and respectfully request that those costs be raised at least $15.

I'll put the rest of it in writing. Thank you very much.

MR. OXER: Good. Thank you.

MR. DIETRICH: Good evening, Mr. Chairman, ladies and gentlemen. I'm Steve Dietrich, downtown development director for the City of Corsicana.

I came before you last month and gave some comments on the proposed QAP, and you may recall at the time I spoke rather generally about the need to level the playing field for adaptive reuse projects which tend to be in central business districts or other areas that are lower income and which puts them at a competitive disadvantage to the project in high opportunity areas.

Further, I believe I commented that doing such a rules change would not only help to achieve affordable housing objectives but it will also bolster historic preservation efforts and economic revitalization in rural areas, such as Corsicana.

Since the last meeting, our team has been in
contact with TDHCA staff and we are prepared at this point to present some specific language that we would respectfully request that you consider adding as an augmentation to the QAP, and if you don't mind, I'll just read these. This has to do with Chapter 11.9, Section 5 of the QAP, Extended Affordability or Historic Preservation.

Paragraph (a): In accordance with the Code, each development is required to maintain its affordability for a 15-year compliance period, and subject to certain exceptions, and additional 15-year extended use period. Development owners that agree to extend the affordability period for a development of 35 years total may receive one point.

Or paragraph (b): An application proposing the use of historic rehabilitation tax credits for at least 80 percent of the development project, calculated as the lesser of the square footage or the unit count, and providing a letter from the Texas Historical Commission determining preliminary eligibility for said credits may qualify to receive eight points.

The addition of these points will counteract the unintended bias, we believe, of the opportunity index, further development of affordable housing for Texans, spread the availability of low income housing tax credits,
help communities achieve their community development and
historic preservation needs, and provide for the highest
possible reuse of existing municipal infrastructure and
other resources.

Thank you for your consideration of this
request.

MR. OXER: Thank you, Mr. Dietrich.

MR. SERRAN: Jim Serran, developer, Serran
Company Landmark Group.

Just to reiterate, that's the point I'm on, I'm
working with about eight towns in Texas, Corsicana,
Texarkana, I think you've heard from several of them, and
the biggest point, House Bill 500 just passed the state
tax credit worth 25 percent in the state, and I work in
about twelve states, and that's unheard of that a non
income tax state has a state historic tax credit. And
what they're saying is, I think, to me, we want to save
some old properties, and I've got a lot of communities
that I'm working with that want to do exactly that.

And I think that the nut of it is we can do the
things that he's talking out, putting the vacant buildings
back on the tax rolls, reusing existing infrastructure,
blah-blah-blah, all that smart growth, and I can do it for
about a third less. And when I use the federal historic
and a state historic, I've got 40 percent equity not
coming from you.

So my major point is I don't think you've had
time as a staff, they just passed that law, they're still
writing how they're going to distribute that law, the
House bill for state credit, but there are buyers, the
banks, the insurance companies for that credit, it's worth
85 to 88 cents is what I'm hearing. And if you would
allow that to be included as a layering stack in your
pile, we can do a lot more with less and it does five
things instead of one thing. Even if there's a cap on it
in a waterfall system, you're still going to get more bang
for your buck, a third more. My guess is instead of using
$10,000 a unit low income credit, I'll use $7,000 because
I've got other layers.

So we're going to put all this in writing. I
think you're getting some letters from Texas Downtown
Association, Texas Historical, there's a lot of people
behind it and you're going to be hearing about it, but
just wanted to follow up. It's numbers to me and they
make sense to you guys.

Thank you.

MR. OXER: Great. Thanks, Jim.

Bobby.

MR. BOLLING: Bobby Bolling, developer from El
Paso, for the record.
Welcome, Mr. Thomas, to the Board.

MR. THOMAS: Thank you.

MR. BOLLING: I didn't want to speak but last Board meeting that you met I left early and I read the transcript and watched the video and you had several public housing authorities come talk to you about the same issue regarding points given to themselves with their own funds that you heard hours of testimony on last year. You did the right thing last year at the end, you voted unanimously to make a level playing field between private developers and PHAs. I assume that they're going to now, since they came at the last meeting, at the November meeting come and use everything they have to try to make you change your mind and go back on what you did last year.

I want to tell you that nothing has changed, there's no new information that would make their case more plausible or better than it was last year. One thing did change, though, is the state attorney of the State of Texas reaffirmed what you did last year was legal, even with a request from a legislator who was favorable to the PHA side of that issue.

I don't want to get into the details of it at this point, I know you're not considering voting on the QAP. I think there's probably some letters you're getting
from some legislators, but I do want to advise you on that, that a lot of those legislators are just getting one side of the story. We just had a session that ended, there was no bill that addressed this that told you what you were doing was wrong and that you should do it a different way. If they thought that this was that strong of an issue, 31 of them in the Senate and 149 of them in the House could have authored a bill, none of them did.

I would submit to you that if they hear the other side of the story from the private developers instead of just what they're getting from the PHAs and valued it and weighed it carefully, like you did last year, they would probably arrive at the same conclusion you arrived at last year.

So I'll come with more information. I guess we're going to have this knock-down drag-out fight again this year. There are no new issues.

Mr. Thomas, I'd love to spend some time with you and maybe talk to you about what the issue is in further detail. I know you guys are tired at this point. We went through this for hours last year at the podium, and again, I applaud what you did last year, you made a level playing field, and I just want to encourage you to keep the playing field level. There shouldn't be a preference for the type of developer that applies for a
tax credit. And that's the crux of the issue, Mr. Thomas, is the public housing authorities, the PHAs, want to have a point item whereby because they're a local political subdivision, their own funds count for points when they are the applicant.

MR. THOMAS: I understood the distinction.

Thank you.

MR. BOLLING: Okay. Thank you. And so no new issue, just want to reiterate that this is still Texas and private developers still should have the same rights when they compete with their government. So thank you.

MR. OXER: Okay. Is there any other public comment?

(No response.)

MR. OXER: Any comment from staff? We're going to step this down, everybody gets a chance to speak. Any comment from staff? Any comment from staff on the dais?

MR. IRVINE: No.

MR. OXER: Any comment from any of the Board members?

(No response.)

MR. OXER: Okay. I get the last word as chairman. Thank you everybody for your persistence.

(Timer beeped; general laughter.)

MR. OXER: All right. With that, I'll
entertain a motion to adjourn.

    MR. GANN: So moved.

    MR. THOMAS: Second.

    MR. OXER: Motion by Mr. Gann, seconded by Mr. Thomas. All in favor?

    (A chorus of ayes.)

    MR. OXER: Opposed?

    (No response.)

    MR. OXER: There are none. We'll see you on November 7.

    (Whereupon, at 5:30 p.m., the meeting was concluded.)
CERTIFICATE

MEETING OF: TDHCA Board of Trustees
LOCATION: Austin, Texas
DATE: October 10, 2013

I do hereby certify that the foregoing pages, numbers 1 through 293, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

10/17/2013
(Transcriber) (Date)

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