TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

Ric Williamson Hearing Room
Dewitt C. Greer State Highway Building
125 East 11th Street
Austin, Texas

June 16, 2015
9:01 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice-Chair
LESLIE BINGHAM ESCAREÑO, Member
T. TOLBERT CHISUM, Member
TOM H. GANN, Member
J.B. GOODWIN, Member

TIMOTHY K. IRVINE, Executive Director

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CALL TO ORDER | 7
ROLL CALL | 
CERTIFICATION OF QUORUM | 
Recognition of Cameron Dorsey | 8
Adoption of Resolution recognizing June as Homeownership Month. | 13

CONSENT AGENDA

ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS: 16

**EXECUTIVE**

a) Designation of James “Beau” Eccles as secretary

b) Board Meeting Minutes Summaries for March 12, 2015; April 16, 2015; and May 7, 2015

**LEGAL**

c) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Cameron Associates Apartments (HTF 1000752/CMTS 4322)

d) Presentation, Discussion, and Possible Action regarding the adoption of Agreed Final Orders concerning related properties, Mitay Inc. Scattered Sites (HTC 92009, CMTS 1026), 2512 Thorne (HTC 70046, CMTS 2344), 2904 Walnut (HTC, CMTS 2345), and 1213 Pecan (HTC, CMTS 912)

**COMMUNITY AFFAIRS**

e) Presentation, Discussion, and Possible Action proposing new 10 TAC Chapter 5 Community Affairs Programs, Subchapter J, Homeless Housing and Services Program, '5.1009 Shelter and Housing Standards, and directing that it be published for public comment in the Texas Register

f) Presentation, Discussion, and Possible Action proposing amendments to 10 TAC

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Chapter 5 Community Affairs Programs, Subchapter K, Emergency Solutions Grant, '5.2002 Purpose and Use of Funds, and '5.2004 Eligible Applicants and directing that they be published for public comment in the Texas Register

FINANCIAL ADMINISTRATION

g) Presentation, Discussion, and Possible Action regarding Resolution No. 15-018, designating Signature Authority and superseding Resolution No. 15-004

RULES

h) Presentation, Discussion and Possible Action on adoption of new 10 TAC, Chapter 1, Subchapter C- Previous Participation and directing its publication in the Texas Register (DEFERRED)

I) Presentation, Discussion, and Possible Action regarding an order adopting the amendments to 10 TAC Chapter 10, Subchapter F, '10.607(d) concerning Reporting Requirements; '10.622(d) concerning Special Rules Regarding Rents and Rent Limit Violations; and '10.623 concerning Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period and directing its publication in the Texas Register

BOND FINANCE

j) Presentation, Discussion and Possible Action regarding publication of a Request For Proposal (RFP) for a Warehouse Facility for Single Family Programs

HOUSING RESOURCE CENTER

k) Presentation, Discussion, and Possible Action on a Request for Proposal (RFP) for Service-Enriched Housing Training, Technical Assistance, and Evaluation

l) Presentation, Discussion, and Possible Action on a Request for Proposal (RFP) for a Texas Homeless Youth Survey Tool

MULTIFAMILY FINANCE

m) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer

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CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) TDHCA Outreach Activities, May 2015

b) Report on Site Challenges made in Accordance with 10 TAC '11.10 Concerning 2015 Housing Tax Credit Applications

c) Presentation, Discussion and Possible Action related to Application Challenges made in Accordance with 10 TAC '11.10 Concerning 2015 Housing Tax Credit Applications

d) Status Report on Request for Qualifications for Outside Counsel for the Single Family/Multi-Family Bond Counsel, Bond/Securities Disclosure Counsel, Low Income Housing Tax Credit Counsel, and Loan Document Preparation Counsel

ACTION ITEMS

ITEM 3: SINGLE FAMILY OPERATIONS AND SERVICES

Presentation, Discussion, and Possible Action to authorize the Director of Single Family Operations and Services and his/her designees to assign, transfer and/or sell defaulted single family loans to nonprofit organizations and units of local government and through various approaches to otherwise manage, secure, and dispose of TDHCA=s foreclosed single family assets

ITEM 4: COMMUNITY AFFAIRS

a) Presentation, Discussion, and Possible Action on Release of the Draft FFY 2016 Low Income Home Energy Assistance Program (LIHEAP) State Plan for Public Comment, with a link to be published in the Texas Register

b) Presentation, Discussion, and Possible Action on Release of the Draft Federal Fiscal Years 2016-2017 Community Services Block Grant (CSBG) State Plan for Public Comment, with a link

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to be published in the Texas Register

ITEM 5: MULTIFAMILY FINANCE

a) Presentation, Discussion, and Possible Action on Inducement Resolution No. 15-019 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority and Determination regarding Eligibility under 10 TAC '10.101(a)(4) related to Undesirable Neighborhood Characteristics

b) Presentation, Discussion, and Possible Action on a Request for the Reissuance of Competitive (9%) Housing Tax Credits to Royal Gardens Mineral Wells (#12074), including any necessary waivers

c) Presentation, Discussion, and Possible Action on Timely Filed Appeals related to "11.9(c)(6)(A), Development Sites Located in a Colonia

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<th>Site Number</th>
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<td>Plano</td>
<td>15277 The Veranda Apartment Homes</td>
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<tr>
<td>Houston</td>
<td>15310 Terraces at Arboretum</td>
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- **e)** Presentation, Discussion and Possible Action regarding Conditional Modification/Release of LURA for the Oaks at LaSalette

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.

- EXECUTIVE SESSION
- OPEN SESSION
- ADJOURN

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MR. OXER: Good morning, everyone. I'd like to welcome you to the June 16 meeting of the Texas Department of Housing and Community Affairs Governing Board, and we'll begin, as we do, with roll call.

Ms. Bingham is not here today; Mr. Chisum is not here today.

Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin?

MR. GOODWIN: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Present.

MR. OXER: And I am here, that gives us four, we have a quorum, we're in business.

Tim, lead us in the salutes.

(The Pledge of Allegiance and the Texas Allegiance were recited.

MR. OXER: Okay. We have a pretty strong agenda today, so just as a housekeeping item, we're going to keep a fairly close clock. Before we get to consent agenda, there were a couple of things we want to do and then we'll have the folks here from the representative's office to speak.

We have the decidedly mixed emotion for me in
welcoming a new member to the dais up here, our new attorney, Beau Eccles, and saying goodbye to one of our own, Mr. Dorsey. So I'll leave it to Mr. ED to say a few words about one or the other in sequence.

MR. IRVINE: I must say that Cameron Dorsey has been a force of nature. I remember when Cameron was tapped to become the director of multifamily, and Brenda said, You're a risk-taker. And I thought to myself: Why would anybody think that, if they know Cameron Dorsey, they know that I am completely risk-averse.

Cameron is extremely knowledgeable, he's extremely competent, he works hard, he gets it, he has good policy in his heart, Cameron is just a complete player. And when I looked for a chief of staff, I wasn't so much looking for a person with knowledge and breadth and ability as I was looking for a person who was a bridge builder, a uniter, somebody who could really bring folks together to forge quickly clear direction that people understood and bought into, and Cameron did that.

He works tirelessly to communicate. I'm guessing there's not a person in this room who hasn't, at one time or another, had a long heart-to-heart with Cameron in some issue about one of our programs, and found him effective and fair. It's just amazing.

And one of the great things about the ability...
to attract great people is they're multipliers, they make you exponentially better, but also one of the things about attracting great people is you never hang onto them forever, and Cameron has decided that there are new challenges and opportunities on his horizon and he's going to get out there and tackle them with the same gusto that he's tackled things at TDHCA. He's a forever friend.

(Applause.)

MR. OXER: Cameron, we can't let you get away without having a last shot at us, so how about it, Pal.

MR. DORSEY: Cameron Dorsey, chief of staff.

MR. OXER: One last day.

MR. DORSEY: Right. I really appreciate everything Tim said and every opportunity that Tim has provided for me. You know, I started at the Department almost nine years ago to the day -- well, no, it's nine years and a month, I guess -- and I started as an associate underwriter, being gouged in my pay by Tom, who was highly effective at that with me.

(General laughter.)

MR. DORSEY: He knew that I was going to stay around, no matter what, so anyhow.

You know, I never intended to be here nine years. Frankly, I intended to be at the Department no more than two, and then I was kind of worried that if I
stayed too long that government thing would attach to me and I wouldn't be able to do something else. But you know, I found just amazing people. Over the years I've worked with a number of different groups and worked in the HOME Division, worked in REA on two separate occasions, director of Multifamily, and as chief of staff getting involved in the community affairs stuff, working with Michael DeYoung, working with Brooke Boston and Marnie.

And the people ultimately are the majority of what contributes to whether or not your job is enjoyable, whether or not you come to work every day and look forward to what you're going to do, and I think ultimately it was the people who kept me at the Department, you know, consistently always trying to do the right thing, just really wonderful people.

This Board has also been incredibly supportive.

I think I've gotten more than my fair share of accolades associated with the success of the Tax Credit Program and redevelopment of the rules and everything over the past couple of years. I think both Jean and I got a lot of accolades for that, but ultimately our efforts would have been entirely in vain if it hadn't been for a Board who was on the same page with really holding to those rules and the integrity of that process and everything. So I really also appreciate the Board's efforts.
So just wonderful opportunities at the Department. I'm 32 years old and it's been quite a whirlwind of a nine-year run. So really appreciative to everyone, including you all up there and the development community.

Let me say a couple of words about them.

MR. OXER: Say about them this time rather than to them. Right?

MR. DORSEY: The development community takes quite well to getting beat in front of the Board by me. They have been very supportive of me over the years as well, and I've always tried to be fair and everything and I think ultimately those efforts have shown through. I've got a lot of friends in the industry, really good friends, and I'm just always really impressed with the product that we produce. You know, you can complain about the data-driven approach to the opportunity index and some of these things, but the actual developments on the ground that have been constructed over the past several years are just incredible properties that are going to really provide a launch pad for success for low income families in Texas.

You know, any time I have had a little weakness for taking this action versus that action, or just struggled with the daily difficulties of the job and everything, I can't help but just think about the kids.
that are being served in these properties by these programs and everything like that.

Anyway, just really appreciative for what everyone involved in this industry does. Thanks.

MR. OXER: Thanks from us, Cameron.

(Applause.)

MR. OXER: Okay, Mr. ED, let's introduce our new counsel.

MR. IRVINE: Everybody, this is James "Beau" Eccles who has become the Department's new general counsel. He comes over from the Attorney General's Office, chief of general litigation, and you know, the state's best litigator, and I say that as a former client when he was in that capacity. He's incredibly knowledgeable, he's incredibly thoughtful, he's also kind of fun.

So I think you're going to fit right in here, and we are so glad to have you.

MR. ECCLES: Let me say that I'm very excited to be here, and just a few seconds off of what Cameron said, I think that a lot of folks will come into state service and then expect that they'll be there a couple of years until I used to call it for my younger attorneys who would come in as you will hear the whispers, and that is if you don't get out of state service now, you'll be stuck
there. And the truth is that's a fallacy. The good folks who get into state service and stay there do so because they are overwhelmed by a sense of mission and purpose. And Cameron, I know you are one of those guys.

But this agency has a mission that I will say is downright beautiful. It is a noble aim and I could not be more excited than to be part of it. And these guys are fun, it's true. And so I look forward to working with you guys and getting to know you and getting to know this Board, and I'm the new Barbara.

MR. OXER: Welcome aboard, Beau.

(Applause.)

MR. OXER: Well, since it doesn't take much to be above our pay grade on this, we have to take our compensation in entertainment, so that's why we're here.

I understand we have a resolution for June as Homeownership Month. So I'm going to ask Michael Lyttle to read this into the record.

MR. LYTTLE: The following resolution:

"Whereas, June 2015 is Homeownership Month in Texas;

"Whereas, the goal of the Texas Department of Housing and Community Affairs is to ensure that all Texans have access to safe and decent affordable housing;

"Whereas, the Department reaffirms the

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importance of homeownership in the lives of the Texans it serves and in the Texas economy;

"Whereas, it is the policy of the Department to support equal housing opportunity in the administration of its homebuyer and homeownership programs and services;

"Whereas, the Department applauds all those who work to achieve and maintain affordable responsible homeownership and recognizes those who provide services and resources to all homebuyers, regardless of race, color, creed, place of birth, familial status or disability; and

"Whereas, the Department encourages Texans to explore the numerous homeownership resources available during Homeownership Month and throughout the year.

"Therefore, be it resolved that in the pursuit of the goal and responsibility of providing affordable homeownership opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate and join Governor Greg Abbott in proclaiming June 2015 as Homeownership Month in Texas, and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of Homeownership Month."

Signed this 16th day of June 2015.

MR. OXER: So we adopt this as a formal
resolution, as I understand.

MR. IRVINE: Correct.

MR. OXER: As chair I'll move the adoption of the resolution.

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. There is no public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none, and of course, it passes.

With respect to the consent agenda, we're going to hold on the consent agenda here right quick -- no, let's go through the consent agenda because it shouldn't take but a minute.

MR. IRVINE: We have two items to pull from the consent agenda, 2(c) and 1(h).

MR. OXER: 2(c) and 1(h). Does the Board have any comments on the consent agenda?

MR. GANN: I move we adopt the consent agenda.

MR. OXER: Okay. Motion by Mr. Gann to adopt the consent agenda as presented. We're pulling items 1(h) and 2(c). Do I hear a second?

MR. GOODWIN: Second.
MR. OXER: Second by Mr. Goodwin. There's no public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

The first thing we're going to do before we get to this is have -- is your comment, sir, on an item on the consent agenda? It's an action item. Okay. Well, give us just a second to take care of these two and we'll get right to you. Is that okay? Just checking on your clock here to make sure we're all right.

So first thing we're going to do is let's take 1(h).

MR. IRVINE: 1(h) is being deferred until the next meeting, Mr. Chairman. There was a posting issue.

MR. OXER: So it's pulled completely.

Okay. On 2(c), Jean.

MS. LATSHA: Jean Latsha, director of Multifamily Finance.

2(c) is the report on challenges. I just wanted to make a quick clarification to one. I was reading this in some greater detail after we posted it. Application number 15247, City Square Apartment Homes in Garland, we indicated in the report that staff had
completed the review of this application, particularly
with respect to the community revitalization plan. We
haven't yet completed that review, so I'd just like to
point that out in here. There were some other aspects of
that challenge which we did point out we were still
reviewing, but included in that was the community
revitalization plan. Otherwise, we'd present the report
as it was in the Board book.

MR. OXER: So we still consider item 2(c).

MS. LATSHA: Yes, sir. It's simply acceptance
of the challenge report.

MR. OXER: Is that clear to the Board? Any
questions of Jean?

(No response.)

MR. OXER: Motion to consider?

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to approve
item 2(c), as presented by staff. Second?

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. Is there any
public comment? There's none. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none.
Okay. We're going to take a special exception to the sequence here and allow public comment by a representative of a legislator, so you're up. You still represent the legislator, not the representative but a representative of the legislator.

MR. SMITH: Yes, sir. My name is Curtis Smith, and I'm chief of staff for State Representative Terry Canales, and he asked me to come here today to read this letter into the record.

"I write in reference to the 2015 application for 9 Percent Low Income Housing Tax Credits submitted by the DWR Bella Vista, LP, and a decision by the staff of the Texas Department of Housing and Community Affairs to deny two underserved area points for the proposed location of the Bella Vista Apartments in a Colonia.

"It is my understanding that none of the applications claiming underserved area points based upon project location in a Colonia received the requested points in the 2015 9 percent tax credit cycle, and I first want to address that issue. Section 2306.127 of the Texas Government Code instructs that: TDHCA shall give priority, through its housing program scoring criteria, to communities that are wholly or partly in (1) a federally designated urban enterprise community, (2) an urban enhanced enterprise community, or (3) an economically

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distressed area or Colonia.

"Accordingly, as a policy matter it is of significant concern to hear that despite the instruction in 2306.127 to prioritize projects in Colonias, TDHCA has decided that all requests for underserved area points based upon the location of applicants provided in Colonias be denied. This contravenes the intent of the legislature when it passed Section 2306.127. To an extent, TDHCA staff has promulgated Colonia criteria that cannot be met, even by sites widely held to be located in close proximity to Colonias. I ask for TDHCA to clarify how does working to meet the legislative intent behind including Colonias as criteria for low income housing tax credits.

"It is my understanding that in these neighborhoods surrounding the Bella Vista project basic utilities are not universally available. To that point, and most importantly to the argument for reinstatement of the points, Commissioner Joseph Palacios, the Hidalgo County commissioner for Precinct 4, has informed TDHCA that the subject neighborhood is within his precinct and is in an area identified for targeted investment using state and federal Colonia funding sources administered by the county. In this instance the county has determined that the area is a Colonia based on their knowledge of installed infrastructure and the prioritization of the

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expenditure of limited local Colonia funding.

"For this foregoing reason, I support the project and I support the award of two underserved area points to the Bella Vista project because based on the agency's definition, I believe it is situated in a Colonia."

Thank you.

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

(No response.)

MR. OXER: Thank you very much, Curtis. Michael, do you have another letter to read in? We'll get that taken care of on behalf of the legislators at this point.

MR. LYTTLE: Yes, sir.

Curtis, would your county commissioner like to speak now on the issue that you referenced? And then I can read this letter, if that's okay, Mr. Chairman. Curtis had a county commissioner with him that wanted to talk on the issue.

SPEAKER FROM THE AUDIENCE: Chairman and Board, I'll reserve my comments when the item is brought up, if that's okay with the Board.

MR. OXER: That's fine with me.

MR. LYTTLE: Okay. I'll go ahead and read the
other letter that we received, and this is from State Representative Sergio Muñoz, Jr., addressed to the Board on item 15005, Las Palmas on Anaya Apartments in Hidalgo.

"Dear Board Members, I am writing regarding a decision by the staff of the Texas Department of Housing and Community Affairs during the scoring of the 2015 9 Percent Low Income Housing Tax Credit application cycle to deny two underserved area points claimed by TGO Housing Anaya for locating Las Palmas on Anaya Apartments in a Colonia.

"I represent District 36 in the State House of Representatives and the Las Palmas project site is within the boundaries of my district. Based on my familiarity with the subject neighborhood and review of the relevant documentation in connection with the denial of the points, I believe that it is indeed within a defined Colonia as set forth by 11.9(c)(6)(A) of the 2015 Qualified Allocation Plan. Accordingly, I encourage the TDHCA Board to award the Las Palmas project two points related to underserved area for being located in a Colonia.

"First, it is my understanding that none of the applications claiming underserved area points based on location within a Colonia during the 2015 9 percent application cycle have been awarded such points. As a policy matter, this is deeply conceding. Section 2306.127
of the Texas Government Code instructs TDHCA to give priority through its housing program scoring criteria to communities that are located wholly or partly in (1) a federally designated urban enterprise community, (2) an urban enhanced enterprise community, or (3) an economically distressed area or Colonia. By denying the underserved area points to all applicants that claimed such points for having sites located in a Colonia, TDHCA is failing to meet Section 2306.127's directive to prioritize such areas.

"Specifically with respect to the applicant, agency staff cited three reasons for its decision that the project site was not within a Colonia and the resulting denial of the points. One, the lack of an apparent inability in the neighborhood to access basic utilities; two, the appearance that the neighborhood is well developed commercially and residentially; and three, the neighborhood's relatively high median household income and low poverty rate. While these factors are persuasive, they are not dispositive as to whether a neighborhood is considered a Colonia.

"Additionally, as it relates to the Colonia in which the Las Palmas project is located, basic utilities are not universally available. Further, Eddie Cantu, Hidalgo County commission for Precinct 2, who is..."
responsible for the area surrounding and including the Las Palmas project site, and perhaps the elected official most intimately familiar with such area, submitted a letter in support of the Las Palmas project. The commissioner described certain characteristics in the neighborhood in which the Las Palmas project site is located that Hidalgo County is spending Colonia designated funds to improve. He commented that the neighborhood lacks some of the basic utility infrastructure and drainage improvements commonly seen in an urban area. He further stated that: Precinct 2 is focused on improving critical services in these Colonias and has several initiatives underway in targeted parts of my precinct, including your neighborhood.

"Commissioner Cantu has demonstrated two elements that define a Colonia based on your rules. His letter recognizes a geographic area and characteristics of a Colonia based on the county's expenditure of Colonia reserved funds and projects intended to improve the conditions of those living in the subject neighborhood.

"Moreover, it is not just Commissioner Cantu who deems the Las Palmas project neighborhood to be in a Colonia. It seems that both the State of Texas and TDHCA do as well. According to Commissioner Cantu, the Las Palmas project site is located in a census tract eligible under the 2014-2015 Texas Bootstrap Loan Program. This

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loan program is administered by TDHCA and requires agency staff to set aside two-thirds of the loan program funds for building or rehabilitating homes in the most underserved Colonia communities in Hidalgo County.

"According to TDHCA's website, the program is only available to one of two types of groups: Colonia self-help centers and certified nonprofit owner-builder housing providers. And in the Las Palmas project's neighborhood, the loan program is facilitated by the Hidalgo County Colonia self-help center. I am not sure that I understand how a site can be located in a neighborhood that has recognized Colonia characteristics that qualify it to receive loan proceeds administered by TDHCA but does not meet the requirements of the QAP in order to qualify for underserved area points for being located in a Colonia. I urge the Board to rectify this discrepancy.

"For the foregoing reasons, and in recognition of the statutory directive of Section 2306.127 of the Government Code, I support the award of two underserved area points to the Las Palmas on Anaya Apartments because it is situated in a Colonia.

"Very respectfully, State Representative Sergio Muñoz, Jr."

MR. OXER: Thanks, Michael.
With that, I think we'll get into the action items. Homero, I think you're up first.

MR. CABELLO: Good morning.

MR. OXER: Good morning.

MR. CABELLO: I'm Homero Cabello, the director of Single Family Operations and Services. I must also say that my intent was to be at the agency for two years and here I am 22 years later still at the agency.

MR. OXER: Pretty sticky place.

MR. CABELLO: We are seeking authority for the director of Single Family Operations and Services to deal with delinquent loans foreclosed properties. We have a portfolio of first and junior lien single family residential loans of approximately 18,000 loans, of which just under 3,000 are amortizing loans, and these are loans to very low income borrowers that don't qualify through the traditional lending markets, so these are a hard to serve population. And the remaining 15,000 loans are homebuyer assistance which are single pay and we really don't deal with delinquencies on those.

But despite diligent efforts to work with these families, we have foreclosed on some properties. We currently own 15 properties that we would like to have the authorization to secure, manage, maintain and dispose. So we are seeking authorization to take the necessary action
to cure delinquencies which may include written repayment plans, loan modifications, assignments, transfers, sales of defaulted loans to nonprofit organizations or units of local government. In addition, we are seeking authority to take the necessary action to secure, maintain, dispose of single family properties and single family lots that have been acquired through foreclosure.

MR. OXER: These properties, are they occupied?

MR. CABELLO: The delinquent loans, yes.

MR. OXER: The delinquent loans would be, of course. The ones that we're going to foreclose?

MR. CABELLO: We have four properties that are occupied right now.

MR. OXER: Four that are occupied?

MR. CABELLO: And we've got to take action on those properties.

MR. OXER: What's our typical process that we do, or is each one of them sufficiently unique?

MR. CABELLO: They're unique. I mean, obviously, the mission of the agency is to provide affordable housing. These borrowers obtained a loan, they didn't fulfill their obligations. The Department takes extraordinary steps to try to work with the families on a repayment plan, but when they're not acting in good faith or not fulfilling their obligations, the last resort is
for the Department to foreclose. Once we foreclose, the
next step is to evict and then take possession of the
properties.

The other properties, we have four that are
vacant lots and then the remainder are houses. We have
secured them, changed the locks, we maintain them, and so
we're trying to figure out a course of action on how to
dispose of those properties.

MR. OXER: When were most of these -- when was
the loan made on these? How long have they been in
default and how long before that had they been in place?
Are they two years old and they missed it for a year, are
they ten years and they missed it for two years? What's
the general story here?

MR. CABELLO: We have delinquent loans that are
anywhere from 30 days -- we mainly focus on delinquent
loans from 120 days forward. We have some that are
delinquent up to seven years, and so we are trying to get
control of that portfolio and deal with these delinquent
borrowers.

MR. OXER: Seven years delinquency seems we
need to deal with that.

MR. CABELLO: We need to deal with it for
various reasons. One, they're not fulfilling their
obligation under the mortgage, we're paying for the taxes,
and then we're also putting insurance on the properties.

MR. OXER: Which puts us at risk in terms of the management of the property.

MR. CABELLO: To protect our investment.

They're difficult decisions but once we feel that we've done everything that we could to try to make them successful.

MR. OXER: We've had a few difficult decisions here in the last couple of years, if you'll recall.

Any questions of the Board?

MR. GOODWIN: Do I understand you correctly, did you say we have 18,000 total loans and only 15 owned properties?

MR. CABELLO: We have 18,000, but let me just clarify, about 15,000 are homebuyer assistance loans which is down payment, closing cost. A lot of those are in partnership with our bond program. And then some of those, like from our HOME program or our NSP program which are not due and payable until sale or refinance. So we have approximately 3,000 loans that are amortizing, and of those 3,000 we have 15 that we've foreclosed on. Loans that are over 120 days delinquent, we have about 125 out of 3,000.

MR. GOODWIN: And I thought we were in the housing business. How did we end up with lots? You
mentioned we had three lots.

MR. CABELLO: One of the programs that we've done in years past was a contract for deed conversion. When you foreclose, they move the manufactured home off.

MR. IRVINE: And I would like to say that one of the things that we've tasked Homero with is developing some policy-based approaches to bring back to the Board for appropriate consideration so that we can deal effectively with larger bodies of properties and households on a fair and uniform basis.

Really, the fact that someone has not been successful in homeownership does not alter the fact that they still need safe, decent, affordable housing, and we're looking at creative solutions, such as working with local partners, to create appropriate rental structures and things like that. But we want to get away from the situation where the Department is, in effect, subsidizing taxes and insurance and non-repayment.

MR. CABELLO: Correct.

MR. OXER: So the 125 out of 3,000 is about 4 percent, more or less, that we have that are delinquent 120 days, you said, and the 15 out of 3,000 is about a half a percent, more or less. How does that fit within the industry standard, Mr. Goodwin?

MR. GOODWIN: Very normal.
MR. OXER: So we're doing a better than average job and what we're doing is trying to elevate our state of play. Is that right, Homero?

MR. CABELLO: We want to keep loans from being delinquent past 120 days, that's the ultimate goal.

MR. OXER: All right.

MR. IRVINE: We also want to explore the possibility of more of a private sector model of recycling loan proceeds through disposition and acquiring cash that we can put out into new loan activity.

MR. CABELLO: I will say that in this new role overseeing loan servicing, it makes you think about the origination side. For example, if loans are going bad, what do we do on the front-end to tighten up our underwriting standards to make sure that these loans aren't going bad on the back-end. Because we own those loans for 30 years and so if they're going bad within the first five years, we need to tighten up our underwriting on the front-end.

MR. OXER: It's a classic pipeline problem model where the issue with staff can usually be traced back to something you missed in the initial interview. That's going to be part of this effort that you have underway?

MR. CABELLO: Correct.
DR. MUÑOZ: Homero, the only thing I'm just going to mention is I guess as you look at maybe the front-end underwriting, I don't know if it's one or 15 of these particular loans that are seven years in, but that can't be tolerated. It could be one, it could be ten, it could be seven, I don't know, but that's just too long. So when you come back with this policy, we can't be in a situation where we're exposed. That's not 120 days, that's not 365 days, that's a lot of days. I mean, we should probably realize after, I don't know, year four and a half that there's a chance that, you know, payment is not forthcoming. So whatever you look at, there's got to be a better way to more quickly identify that we will have to disabuse ourselves of that situation.

MR. CABELLO: The ultimate goal, hopefully a year from now, we won't have any over 120 days delinquent, we would have addressed them. What we're seeing is a lot of the old, like for example, the old Bootstrap, the self-help construction. Back several years ago we were told that families provide sweat, tears and blood in building their own home and it's highly unlikely that they would default on their loans. Well, that wasn't necessarily the case. So we had to add underwriting criteria, pay off collection accounts, couldn't be late on payments within the last 12 months and things of that nature, because
those loans were going bad. So we've tightened up but we probably need to tighten up a little bit more to ensure that we're making good strong loans.

MR. OXER: I think I can speak for the rest of the members of the Board, even for those that aren't here, to say that even with the ones we tightened up, we wind up where they're no longer in the home, but we always want to make sure that they do have safe, decent and affordable housing available. It is, the best I can characterize it, just a consequence of the context that we're in that owning a home is difficult for some people and is not for everybody, but everybody deserves a shot at it. So once they get the shot, then there are rules, everybody here has rules. We have expectations of ourselves, we have expectations of the development community out here in terms of meeting the rules, and so the homeownership program can't be any different.

Okay. Are there any other questions of the Board?

(No response.)

MR. OXER: Okay. I'll entertain a motion to consider.

MR. GOODWIN: So moved.

MR. GANN: Second.

MR. OXER: Motion by Mr. Goodwin to approve
staff recommendation on item 3, second by Mr. Gann.

There's no public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

MR. CABELLO: Thank you.


MR. DeYOUNG: Good morning. Michael DeYoung, Community Affairs Division director.

Mr. Chairman and members of the Board, item 4(a) is the presentation of the Low Income Home Energy Assistance Program state plan, commonly referred to as LIHEAP. We'll submit that to HHS at the end of the summer.

The recommended action allows staff to publish in the Texas Register and seek public comment, and during that comment period we'll also host a public hearing for the LIHEAP state plan. At the conclusion of that comment period, we'll make any necessary modifications to the plan, and then come back to the Board for approval for submission. We'll also come back with the awards at that time, and those awards will go to what we anticipate is 41 utility assistance providers across the State of Texas, many of them are community action agencies which you've
heard the names before. And then also in the LIHEAP side we also have the Weatherization Assistance Program and that's 24 subrecipients across the state that provide those services.

LIHEAP represents an annual award of about $130 million to TDHCA -- it's a very large, significant program -- and this plan will continue the allocation of 15 percent for weatherization, which we are allowed to do, and then 75 percent of the funding for utility assistance, and then 10 percent for the administration of the program, and we split that with our subrecipients, 6 percent goes to our subrecipients and 4 percent is retained by the state to administer the program across the state.

It's an annual award and staff is asking your approval to go out for public comment.

MR. OXER: Is there anything unusual about this one, Michael, or this is business as usual?

MR. DeYOUNG: The LIHEAP plan, actually there's a model state plan, it's a fairly simple plan the way they've laid it out. LIHEAP gives you broad latitude as a state to design the programs the way the state desires to be most effective to our clients. This one is relatively unchanged.

MR. OXER: Okay. And just to clarify for the edification of those that are new here, how long have we
had a LIHEAP program in place?

MR. DeYOUNG: Oh, LIHEAP, I think started in 1984.

MR. OXER: 19-a long time ago?

MR. DeYOUNG: Yes, 19-a long time ago.

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

(No response.)

MR. OXER: Okay. Motion to consider?

MR. GANN: I'll move staff's recommendation.

MR. OXER: Motion by Mr. Gann to approve staff recommendation on item 4(a). Do I hear a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. No public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

Okay. 4(b), Michael.

MR. DeYOUNG: Item 4(b) is the presentation of the CSBG plan. CSBG is the Community Services Block Grant. The state plan is also submitted to HHS at about the same time.

The recommended action allows staff to again go out for public comment. We publish in the Texas Register,
seek that comment, and during that same period we will host a public hearing. The CSBG plan requires four public hearings, we'll move them around the state to try and get a good broad array of comment. At the conclusion of that comment period we'll make any necessary modifications, we'll come back to this Board in one of the July Board meetings and also bring the awards at the same time, and that will be the recommended awards for, at this point, 42 recipients of the awards, most of them are eligible entities under the Community Services Block Grant. This represents an award of about $32 million annually when we come back to the award, so we can anticipate that that will be level funding for program year 2016.

This plan highlights the steps taken to prepare the Department for the continued implementation of ROMA. ROMA is Results Oriented Management and Accountability. It's a tool that subrecipients use to analyze their effectiveness in delivering services to low income households. It helps them track performance, how have they been doing, are they addressing the issues that are present in their community. It's meant to give feedback to both the board and the executive team at the local level.

And then this plan also goes into what is a new standard that's been developing over the years called the
organizational standards. Mr. Oxer, you attended a session at the TACAA conference about the organizational standards and how they will apply to our Subrecipients. The organizational standards are meant to be a baseline for all recipients of CSBG funding to say at minimum you will meet these standards. We have been working with the Texas Association of Community Action Agencies -- I think Stella Rodriguez is here in the audience -- we've been working together. We have identified trainers all across the state, and we are implementing from the state side some additional standards that we are going to work for the next year to get all agencies across the finish line.

We need to have all this implemented approximately a year and a half from now. We'll be working with the subrecipients on an individual basis. If they have areas where they don't meet the standard, we'll either go out and do a training at their location or we'll regionally address the issue and get everybody, hopefully, across the finish line.

Staff is ready to go out for public comment and we'll come back to you probably, again, at one of the July meetings with any changes, and you'll see this item again before we submit it. We get Mr. Irvine's signature and it goes to the Federal Government before September 1.

MR. OXER: Do these things typically invite or
attract much public comment, or does everybody see what's going on? With the newly escalated standards, the bar seems like it's going up, which is good because we're all going to have to work to a higher standard on all these programs. Do you anticipate attracting a lot of comment?

MR. DeYOUNG: I don't anticipate a lot of comment. The standards have been fairly widely discussed throughout the network and across the nation. There's been a lot of discussion, a lot of public input into the standards before they were ever released. The department that's in charge of all this is the U.S. Department of Health and Human Services, specifically the Administration for Children and Families. It's a wing that is dealing with low income issues and deals with the LIHEAP as well as the CSBG, and has an ear for what is a good process to gain public comment prior to the implementation of these issues. So I think if you would ask most of our subrecipients, they would say we understand these organizational standards.

We're working now to identify where those gaps are and we've had little to no pushback. These standards are fair. They're pretty widely regarded as if everybody does this, we will at least have a baseline. As those standards get modified throughout the years, we may invite more comment, but I think it's fairly clear now to the
subrecipient agencies. They've looked at this, we've looked at it, and as an agency the Department is not adding to these organizational standards at this time. This is merely taking what the Federal Government has passed down to the states and we are saying this is the standard, let's analyze everybody on this standard.

MR. OXER: So consistent with good management, you don't get much pushback as long as you've had a lot of good communication early on.

MR. DeYOUNG: Yes. And we've been working with our partners, especially Ms. Rodriguez at TACAA, to work with our subrecipients and those agencies who maybe aren't members to say: Look, let's identify these issues up front, we've got time to address this over the next 18 months, but let's jump on it early, let's make sure we can actually test it and know before the formal date that it takes effect that across the board 42 agencies have all met the standards.

MR. OXER: You've got enough time?

MR. DeYOUNG: Yes.

MR. OXER: You've got enough staff?

MR. DeYOUNG: Absolutely.

MR. OXER: You've got enough tractor?

MR. DeYOUNG: I have enough tractor and enough --
MR. OXER: Horsepower.

MR. DeYOUNG: Horsepower.

MR. OXER: That's the way you put it down, check the box.

All right. No public comment. Any question?

(No response.)

MR. OXER: Motion to consider 4(b)?

DR. MUÑOZ: So moved.

MR. OXER: Motion by Dr. Muñoz to approve staff recommendation on item 4(b). Do I hear a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. No public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: And there are none. It's unanimous.

MR. DeYOUNG: Thank you.

MR. OXER: Okay. Into the big circus here, Jean.

MR. IRVINE: As Jean comes up and prepares to take the microphone, I'd just like to give you a little bit of context and understanding of the process that we bring to bear on every appeal, every waiver, every challenge, pretty much everything that relates to the
Multifamily programs.

These are very complex rules, they're complex in their number and they're sometimes complex in the way that they interact with each other, but we've really worked hard over the last few years to make them straightforward at the level of each component piece. We've worked through drafting and redrafting and refining provisions, we've worked to educate the development community in workshops and so forth. Then when we identify an appeal or a challenge or a waiver or anything that's out of the ordinary, a lot of things go into action.

Certainly, the Multifamily staff digs in and looks through them in depth, they visit with their lawyers, they visit with me, they visit with others around the agency, especially Tom and the folks in REA who have got a lot of experience with multifamily activities. They go out and make sure that they've got all of the necessary information. They go out and perform site visits, sometimes multiple visits to single sites. They have a back-and-forth with applicants trying to obtain additional information as necessary. They really try to build a very complete record, and then these records go through literally days of scrubbing, vetting and so forth that ultimately reflects itself in things like letters from me,
letters from staff, and sometimes even Board action items.

The Board action items that you see have all been around the table in which every single member of our executive team has sat there, each with their own uniquely colored pen, and make comment. We've had a lot of hands-on input into every single one of these items, and I would say that the typical appeal/challenge/waiver/variance, whatever you want to call it, whatever is at hand, probably reflects a week or more of total staff time that's been put into that individual item.

So these are not things that are just slapped off willy-nilly, there's a huge effort to make sure that we get the right result, something that is consistent with the rule as we drafted it and as we put it out. So enough said.

MR. OXER: Good morning.

MS. LATSHA: Good morning. Jean Latsha, director of Multifamily Finance. He's making my job sound as difficult as it sometimes is.

(General laughter.)

MR. OXER: Well, as they say, grab a stick and get in the fight.

MS. LATSHA: I have to admit I was thinking this morning I was thankful for my kids, and the reason being is that I think I woke up four times last night in a
panic that I was late for this meeting or about how my presentation would go, and luckily I have two small kids so I'm really used to functioning on no sleep, which is what I'm doing now. But I think that's just piggybacking on what Tim is saying, and I think that the development community knows that too, that there is a lot of thought that goes into all of this. So with that said --

MR. OXER: Hold on just for a second, Jean. A housekeeping item here. Peggy can we get the volume turned up here on this just a touch? I want to be able to hear you more clearly. Please continue.

MS. LATSHA: Sure. With that said, item 5(a) is our first probably difficult decision for the Board today. We received a bond pre-application for Gateway on Clarendon, and so they are seeking an inducement resolution so they can proceed with a development that's financed with tax-exempt bonds, our bonds, and 4 percent housing tax credits.

So the rules call for applicants to disclose information about a site if it has certain undesirable neighborhood characteristics. This is in Subchapter B of the rules. This particular site was required to make such a disclosure because it is located in a census tract that has a very high poverty rate, and as well, according to at least one source, very high crime rate.
Some things to point out in the writeup,

Neighborhood Scout -- that's one of the crime statistics that we do use -- indicated a little over 39 violent crimes per thousand people annually. Just to give some perspective on this, this is a census tract that's relatively small for census tracts, it has about 1,100 people in it, so that translates into 34 violent crimes per year, about three a month just in this census tract. This tract has a median family income of only 13,558, and a poverty index of 58.4 percent poverty rate. There is an environmental factor there as well that part of the site is located in a 100-year flood plain, although none of the buildings would be located in that flood plain.

Some other things that aren't necessarily part of the rule but are relevant to staff's assessment of the site, the middle and high school ratings indicate that improvement is required for both of those schools that the students in this development would attend. The elementary school has an index rating of 66, where the state average is 77.

This is one of those applications where we did do actually two site visits. One didn't give us a great feeling about that site, we came back, we reviewed some information, and then went back out again to make sure that that assessment was correct. And there's pictures in

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your Board book that were taken on that second site visit of what I would consider blight in the area.

So obviously, when we take all of these things together, we have a lot of concerns about this site, so we did reach out to the applicant several times after doing a lot of due diligence, the site visits plus a lot of demographic research, and asked the applicant basically to paint a different picture for us.

At least some of the Board members here I know might remember some of the other sites in previous cycles that were in similar situations where we needed a lot of input from the applicant and from city officials to explain to us what was happening in some areas because the demographics were not painting the right picture, but then we found out that there was a huge private and public investment going on here, and so we were all able -- at least this Board and all of us were able to get comfortable with those sites because we felt that it was part of a bigger revitalization plan.

We still haven't gotten there yet, I think, with the applicant, and I believe some folks from the City of Dallas are here to probably talk about some of the things that are going on there. We to date just haven't received enough information to convince us at the staff level that there was enough of an effort going on there to
mitigate all of these negative factors.

So staff's recommendation is to find the site ineligible, and therefore, the application is basically terminated.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Hold on a second. So this is in the competitive round this time?

MS. LATSHA: No, sir. This is a 4 percent, also with our issuance of tax-exempt bonds as well.

MR. OXER: All right. In the event that this is turned down, they'll have an option to come back.

MS. LATSHA: I suppose so, yes.

MR. OXER: If they wanted to, if they could clarify any or all of this. Just clarifying. Just making sure there's nothing limiting on the 4 percent program because there's plenty of capacity in the 4 percent program at this point. Is that right?

MS. LATSHA: That's correct.

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

(No response.)

MR. OXER: Motion to consider?

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to approve
staff recommendation on item 5(a).

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. We have public comment.

Claire, you're up. First thing, we're running a hard clock.

MS. PALMER: I've got it. My name is Claire Palmer and I represent the applicant, Gateway on Clarendon.

In order for this project to reach where we are today, we had to go through a NOFA process with the City of Dallas because for the first time ever the City of Dallas NOFA'd their support and funding for 2015, 4 percent and 9 percent applications. It was a grueling process in December and January. Nineteen applicants submitted to the NOFA, we had to be interviewed by a board made up of both private and city officials. Only six projects received support and only four received funding. We received both. That money is $3 million which makes this 4 percent application work better than anyone I've ever seen because the city is so committed to this project.

The development team is made up of a highly respected nonprofit in Dallas named Family Gateway which has a mission to eradicate family homelessness, and
Matthews Affordable Income Development which is a highly respected developer in Dallas. Two years have gone into the planning, plans are final, the contractor is selected, and there are firm commitments from the equity provider and the construction lender. Hudson Housing Capital has agreed to price this at a $1.03 a credit which makes this project not need nearly as much funding as it otherwise would.

We are nearly complete with the city HOME funding requirements, including all environmental. A portion for the site is in the flood plain, however, during the most recent flooding when most of the city of Dallas flooded, this site did not experience even any flooding. Even so, when complete, the buildings will be completely above the flood zone, and the portion within the flood zone that remains will be a walking trail.

As you can see from your materials, the mayor has provided a personal letter of support to this project. The principal of Townview Magnet School, which is the number one rated high school in the United States and which sits in this census tract, has also provided a letter of support for the project and has explained that a prior elementary school, which used to be open in the census tract and in this school zone will be reopening by the time this project is open and it will be totally

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available to the children who live in this project and
will be run by Townview.

Bernadette Mitchell, the director of the Dallas
Housing Department, has also provided a letter of support,
explaining the four community revitalization initiatives
targeting this area, including the mayor's Grow South
initiative, the Lancaster TOD TIF which has $300 million
in it to provide revitalization around transportation
related projects, and this project is 500 feet from a DART
station.

The poverty rate is 58, however, we believe
it's high because of the public housing project which is
located in the census tract and the small census tract.
I've provided you with a map that shows that every census
tract around us is significantly lower. This one project
will totally change that demographic.

On the crime issue, I ran the City of Dallas
Police Department's crimes within a thousand feet of our
site and in the last two years there have been seven
burglaries, twelve thefts and three assaults. Those are
the only crimes. Neighborhood Scout shows it much higher,
however, there's a tax credit project located 500 feet
from our project, they share a creek border, we can see it
from our site, and Neighborhood Scout shows their crime
rate at 10.9 percent. I ran both sites and their crime

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rates within a thousand feet of each other are almost identical.

I find that to be troublesome about the Neighborhood Scout site that it can show my crime rate as 39.83 percent and 500 feet away an address has a crime rate of 10.9 percent. I believe the City of Dallas Police reports and beat reports are significantly more accurate than the Neighborhood Scout, taking into consideration the area that is actually being involved in this project. As well, there's a police substation directly across the street, there's a DART rail station 500 feet away with DART police at it. This is a very safe site. People can walk to the DART station which is only two stops from downtown.

Finally, if this project does not move forward and begin construction this year -- Jean was talking about can we come back -- that $300 million of HOME funds that we have from the city could be lost because we must be under construction this year. We're going to start running up against hard deadlines which makes that impossible. That money is not going to go to another project, it will be NOFA'd again in 2016.

And finally, Representative Eric Johnson has sent you a letter which was mailed to the Department, and we received an email copy of this morning, where he says:
Gateway on Clarendon is an ambitious project that will be a catalyst for neighborhood transition in southern Dallas. The proponents are committed to fostering community revitalization. Nonprofit Gateway serves thousands of homeless families and Matthews Affordable Income Development is an experienced developer. The project is crucial to support Family Gateway's mission to eradicate childhood homelessness.

MR. OXER: Hold on, Claire.

DR. MUÑOZ: Do we have a copy of what you're reading?

MS. PALMER: It has been sent to you.

MR. OXER: We don't have it now.

MS. PALMER: Tim has it on his email.

MR. OXER: That's not part of the record.

MS. PALMER: Okay. But we have support from the city, the mayor has sent a personal letter, the housing department has sent a letter.

DR. MUÑOZ: Do we have a copy of that personal letter?

MS. PALMER: Those are in your book. The Townview Magnet School principal has sent a letter in support of the application, and we have provided proof that there is significant community revitalization activity and funds being committed by the City of Dallas.

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to this specific area. I think all in all --

MR. OXER: Wrap it up, Claire.

MS. PALMER: Okay -- we have proved that this

is an excellent project.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Jean, just as a clarification, I have a question on this. I know we use the Scout program for doing crime statistics. Do we run into occasions where this is occasionally off by the degree that Claire's numbers suggest that it might be? Or have we had any other experience or encounters with that? Because it does seem a little odd that something 500 feet away is four times the crime.

MS. LATSHA: I don't know if that seems as odd to me as maybe it seems. It doesn't seem odd to me that you would have a census tract --

MR. OXER: For very small numbers that you could have that wild variation in the percentages, of course.

MS. LATSHA: Right, and it doesn't seem odd to me that you would have a census tract that has a pretty high crime rate and a pretty high poverty rate next to another one that doesn't. You know, I think, if anything, that would be a motivation to simply move a little bit.
down the road.

MR. OXER: Put it over there.

MS. LATSHA: Tim and I were talking about this a bit too, and I think anyone who's walked around any especially large urban area can see how quickly a neighborhood can change, and I think that is what we're seeing here. I think this is where the neighborhood does change, and this site is a little bit too far down the road. It's right at the center of that concentrated poverty and crime is what I'm seeing.

MR. OXER: And while it is, taking on its face value the information that Claire provides, there's a lot of redevelopment going on, but there's not a formal redevelopment program that encompasses this site.

MS. LATSHA: So the letter that was submitted on June 10 mentions some of these revitalization plans. The plans themselves weren't included in the letter. I do recall the Grow South plan because I reviewed it with respect to another application like three years ago, so I think it has existed and I'm not quite sure for how long. But staff was not given that information in time to review that in conjunction with this site. That's information that was presented in this letter dated June 10 that mentions that it's part of those plans, but I haven't seen the plan to see that it actually is
addressing the area around this particular site or not.

MR. OXER: Okay.

MR. IRVINE: I would like to just phrase it in
terms that I understand, anyway. Clearly, the site met
the tripwire for some disclosure requirements, and the
applicant fully complied and disclosed everything. And
the purpose of those disclosures is to give you a factual
basis for deciding does this particular application meet
your policy as enunciated in your adopted rules. I
understand that the City of Dallas has had a NOFA and
their NOFA presumably has carried out their policy, which
may or may not align with this Board's policy, and I think
where staff is right now is that we have not got a fully
developed record that clearly supports that it conforms to
our policy.

And I think that where that puts us you could
go ahead and adopt the resolution as under discussion, you
could defer it and give them an opportunity to expand the
record -- and I don't know if that works within their time
frame -- or if you believe that there is enough of a
record based on what you have heard, and only on the
actual record, that supports that this deal comports with
your policy, you can approve it. And those are pretty
much the choices.

MR. OXER: Any thoughts from the Board? I have
a though when we get finished with you guys.

DR. MUÑOZ: I just want to respond to the ED. Presumably at least the staff believes certainly it doesn't comport to our policy.

MR. IRVINE: We believe that we have not been able to put together a record that supports approving it.

MR. OXER: Okay. This is a 4 percent deal, there's plenty of money in the 4 percent program. Okay? We're not under a competitive clock, we're under your clock, Claire, and the City of Dallas's clock to get something going on, which is an entirely different exercise. Okay?

As you probably can recall, we tend to be pretty sticky about rules around here. There's a purpose of maintaining that rule and maintaining the effort, and some of these beating these questions to dust just to make sure we can maintain the integrity of our rules because that provides a degree of transparency to the rest of the community out there, all of you, know how things are going to operate and you know what our expectations are, and when you meet those you have a high probability of degree of success.

So do you have another thought, Jean?

MS. LATSHA: Yes. So these particular site visits -- usually I'm the one that does them and I didn't,
there were some other staff members that went on these two site visits, and Theresa, I wasn't going to put her on the spot but she offered it up, if you have questions about the site visits and what she saw and possibly the difference in those neighborhoods as well, she could speak to that, but I think that they have some more comment too, but obviously at your discretion, but I just wanted to offer that as some additional information.

MR. OXER: In the interest of making sure we get a decision that's fully informed by the facts, as far as we can tell them, at the risk of being presumptuous here, I'm going to offer up, as chairman, it might do us good to defer this one at least till the next meeting, if not until the first meeting in July, to reconsider this, table this one to consider, give you a month to take care of this, meet those deficiencies, come back and then let's talk. That's what I would suggest.

So Mr. Goodwin, if you'd care to withdraw your motion, and Mr. Gann, as a second?

MR. GOODWIN: I withdraw my motion.

MR. GANN: Yes.

MR. OXER: Then as chair I would move to table this item.

MR. GANN: Second.

MR. OXER: And a second by Mr. Gann. Would
that satisfy those of you that want to speak? I gave you another 30 days, and since we're not working on a shot clock here for the 9 percent competitive program, it will give you some more time to flesh out what they're looking for. Can you do that?

MS. PALMER: Yes.

MR. OXER: So you're still welcome to make a comment if you care to. Okay.

Motion by the chair, second by Mr. Gann to defer item 5(a) until the second meeting which will be the first meeting in July which will be 30 days from now on July 16? July 16, that's correct. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: Okay. See you in 30 days.

And as a follow-up comment on this, with all the things that are there, it does certainly seem like this would be one that we'd be just generally inclined to support, particularly with the value there and the resources being put forward to it, but we're trying to protect our rule here, Claire, so just remember that that's a key consideration to what we're doing.

Okay. Jean, go ahead.

MS. LATSHA: All right. Item 5(b), this is an
item that's coming back to you. You might recall Royal Gardens at Mineral Wells. This was a 2012 9 percent award that in the middle of construction was basically destroyed by a fire. So there was some discussion a couple of meetings ago about the application of the force majeure provision of the 2015 QAP, and this Board found that the application of that rule was appropriate should the applicant meet all of the requirements of the rule.

So Brent and his team in the Real Estate Analysis Division worked with the applicant and concluded that this deal is, in fact, financially feasible, and we found that it met the remaining requirements of the rule, so we're suggesting that the tax credits be awarded to Royal Gardens at Mineral Wells. We will assign it a new application number so that it's clear that these credits are out of the 2015 credit ceiling, and therefore, will have a placed in service deadline at the end of 2017 instead of their original character which was a 2012 credit award.

One thing I would note is that -- and I would note it simply because I don't think it came up in the previous discussions -- was that we are conditioning that the award is made to a partnership structure which includes a 51 percent nonprofit GP owner. Part of the reason they got the award in the first place was that they
were in the nonprofit set-aside, so we are stipulating that they remain so.

MR. OXER: You can't get out of those characteristics by simply burning the place down. Right? Is that what you're saying?

MS. LATSHA: Yes, sir.

MR. OXER: I didn't say it was easy, I just said it was simple. Okay?

(General laughter.)

MS. LATSHA: There were some conditions listed in the underwriting report but I don't think there were any questions or concerns about those from the applicant either, and so obviously, the award is conditioned on those items in the report.

I don't know if there's any other comment, but staff would move to award the credits to Royal Gardens at Mineral Wells.

MR. OXER: We hope these continue to be rare in the future. Is this a functional precedent for operation for what TDHCA is going to do here in the future? We had a fairly tight little line we had to map through this to get to the point of being able to reconsider this, did we not?

MS. LATSHA: We did. You know, I think that any decision made by the Board always has potential for
precedent. I think there is an expectation that you're going to have an applicant that's going to appeal some decision at some point and come back and read a transcript and provide that as a reason to get what they want.

MR. OXER: Well, we always have the that was then, this is now argument too, you know.

MS. LATSHA: But at the same time, this is a very specific situation, this is an entire development that burned down to the ground at 50 percent construction completion, so I think if there was going to be an application of the rule, it would be in a situation like this. Is it possible that we'll find an applicant that claims they had a little bit too much rain and can't meet a placed in service deadline? Yes. But do I think that that could necessarily be compared to what happened to this development? I think it would be pretty easy to distinguish those two.

MR. OXER: Well, as we said last -- did you have a comment, Tim?

MR. IRVINE: I would just say precedent is not binding. It's interesting, it's illuminating, but ultimately, each deal is your collective wisdom and judgment applied under the rule to the facts at hand.

MR. OXER: And I think we discussed this at length that there had been relatively few precedents that

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informed that decision, so it's one of those times that I think exercising the judgment of the Board in that made sense.

Okay. Summarize your position, staff recommends approval.

MS. LATSHA: Staff recommends the award of credits in the amount of 697,774 to Royal Gardens at Mineral Wells.

MR. OXER: Okay. Motion to consider staff recommendation?

DR. MUÑOZ: So moved.

MR. OXER: Okay. Motion by Dr. Muñoz. Mr. Gann, would you care to second that?

MR. GANN: I will.

MR. OXER: Okay. Motion by Dr. Muñoz, second by Mr. Gann to approve staff recommendation.

Do you have any comments, Claire? Is this one you're on? For the record, you're getting what you want. Do you really want to talk? You're welcome to come up but you've got three minutes max. Okay?

MR. JOOMA: Noor Jooma. I want to thank Brent and his staff for working very hard in trying to navigate these choppy waters. It's the first time something like this has ever happened in TDHCA's history, and in mine also, so I personally wanted to thank him for taking all
the time to make this work. Thank you.

MR. OXER: Thank you, Mr. Jooma.

Any other comment? Claire, do you have anything on this one?

(No response.)

MR. OXER: All right. Motion by Dr. Muñoz, second by Mr. Gann to approve staff recommendation on item 5(b) to award these credits out of the 2015 allocation.

There's no more public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

Okay. We're at the point of having to get in the big circle here for the circus, so as the chair I'm going to take a quick break. It is now 10:17. Let's be back in our seats at 10:30 even.

(Whereupon, at 10:17, a brief recess was taken.)

MR. OXER: Let's get back to order, let's get to work. Okay, Jean.

MS. LATSHA: Jean Latsha, director of Multifamily Finance.

So item 5(c). This is an appeal of scoring notices. It's separate from the rest of the appeals
because the seven applications that you see listed there
are all in a very similar circumstance. What happened
was, and just to give you a little history of why it was
treated differently, staff looked at the application log
when we first posted it and saw that ten applications
Urban Region 11 were tied for the same number of points.
So we took a look at all of those and saw that a number of
them had claimed points for being in a Colonia and decided
to address that particular scoring issue so that we could
basically move forward with a review process that made
sense. You know, we don't review every single application
on the application log, we review those that appear to be
competitive, so we needed to flesh out who was really
competitive here and who wasn't.
So the first thing we did was go down and
conduct some site visits, and this was very much to just
get a feel for did we think when we went to see these
sites that they were in a Colonia. And I'm going to back
up but I'm going to keep probably going back to this
point, the reason we wanted to do that too was we also
realized that the reason all of these folks were tied is
that every single one of these applications also claimed
points for being in a high opportunity area. So in order
to get points for being in a high opportunity area,
particularly in an urban area, you have to be in a census
tract that has a high income, low poverty rate and in an
attendance zone of quality schools.

MR. OXER: Isn't the high opportunity Colonia
sort of an oxymoron?

MS. LATSHA: Precisely, which is why we went
donw to visit the sites. The criteria for being in a
Colonia is that you have a relatively low income
population. It's not as clearly defined as our first and
second quartile and poverty index that we use on the
opportunity index, but a relatively low income population,
and also no access to utilities. So the other thing that
we observed about all of these sites is that they're all
located within the boundaries of a municipality.

Yes, sir?

DR. MUÑOZ: Jean, is that our definition, the
state's definition, whose definition of those two
characteristics?

MS. LATSHA: Partially it's statutory. We
added some clarifying language to it to basically have the
applicants have a better understanding of what may or may
not qualify for points, but it's based wholly in statute.

And I can read it really quickly. One of the aspects is
that the area has a majority population that is low income
or very low income and meets the qualifications of an
economically distressed area under the Texas Water Code,
or that the area has the physical and economic characteristics of a Colonia.

Now, all of these applicants are claiming that or, that they have the physical and economic characteristics of a Colonia, because they don't have the demographics to support the other part of that definition. So what happened was, I think -- and all of these have unique circumstances around them but the portion of the definition that we added was to say when you're looking at a geographic area, we don't think that that geographic area should be more than about two square miles, so identify your geographic area and then show us how it is that that area has the physical and economic characteristics of a Colonia.

We did not say, and in fact, I went back to our rulemaking and in our reasoned response we particularly did not respond to comment that suggested that just proximity to a Colonia should qualify an applicant for points, we specifically actually said we don't think that simply close to a Colonia should qualify an application for points.

MR. OXER: Then there's what the definition of "is" is or what the definition of "close" is.

MS. LATSHA: Well, I think that in the comments to the rules there were folks that suggested that if you
are within a mile or X number of feet of a Colonia that
you should be eligible for the points, and staff's
response was no, we don't think that that's appropriate,
instead we think it's more appropriate to fine that
geographic area and tell me that that geographic area has
the physical and economic characteristics of a Colonia.

DR. MUÑOZ: Let me interrupt you. In your
summary when you say at length, that you discussed at
length with the development community this specific point,
like what do you mean at length. Because like if you
exhausted this point, then why are visiting this point?

MS. LATSHA: Well, I think we're visiting
because these folks all want their applications to be
competitive. They all know that their competitors were
going to claim those points, there's no point in not
claiming them, you can't have them at all if you don't
claim them, so you might as well give it a shot.

MR. OXER: We're not going to give them to you
unless you ask for them. Right?

MS. LATSHA: Right. I mean, quite frankly,
even after all of those discussions, had I been an
applicant, I might have done the same thing, you know.
These are all directly competing with each other, so it's
one thing to keep in mind too, all of these folks it's in
their best interest that you only find that their
application is eligible for these two points and that nobody else is -- even though I find that they're all in very similar situations. So they were hoping that maybe we would grant the points for maybe just theirs, maybe all of them and they go to a tie-break, but you certainly can't get them if you don't give it a shot.

So what happened here was that applicants chose sites that were in high opportunity areas and in areas that also, by the way, gave them educational excellence points, so they're in quality schools across the board, elementary, middle school, high school, so they all got the seven points, plus the three points over here for being high opportunity areas and having educational excellence. And then what happened was, for the most part, is that they reached out and grabbed a Colonia that was over here. My site is here, I'm going to reach out and grab this Colonia and call this my geographic area, and now I'm eligible for Colonia points as well. The demographics of the census tract simply just don't support that concept.

DR. MUÑOZ: Okay. What is the spirit, what is the goal of the agency in awarding points for Colonias?

MS. LATSHA: So without speaking to legislative intent or anything like that -- and this I put in my writeup too -- we put this scoring item under what we call
the underserved area scoring item. There are a number of ways to get those two points: one is being in a Colonia, one is being in an economically distressed area, one is being in a census tract with no other tax credit developments. What staff felt the spirit of this was a truly difficult to develop area that you wouldn't go to develop otherwise unless you simply wanted those two Colonia points, quite frankly.

There isn't a whole lot of other reason that you would try to develop a site that didn't have access to utilities. I mean, anybody in the real estate world, why would you choose that site when you've got one over here where you've got a waterline and sewer line at the perimeter of your site, why would you do that? The only reason that you would do that is because you wanted to access these points, I suppose, or you really wanted to serve the people that were maybe right over there and wanted to develop that land and bring that piece of land from something that is difficult to develop to something that is not so difficult to develop. But it's a truly underserved area and for that reason very, very difficult to develop here. These sites not difficult to develop.

MR. OXER: So for the most part, the sites that we're talking about have at least some services preexisting.
DR. MUÑOZ: And/or significant services, and/or high opportunity.

MS. LATSHA: Yes. And to go back to that discussion that you were talking about, I used this example in the application workshops when people were asking about what staff was looking for. We weren't sure exactly what we were looking for but we knew kind of what we weren't looking for. And so I used this example in Dallas and Austin and Houston, and I said, So if you have a Colonia over here and your site is over here and there's a Walmart right here, you're unlikely to get points.

So we have some sites that have precisely that situation, actually several of them do. We have sites that are located near regional medical centers, near a Super Walmart, near a big Sam's Club, a McDonald's, have good schools. These are not the kinds of sites that you would, common sense wise, say that's in a Colonia. So we are in a position where these two concepts are really, really difficult to reconcile.

So that being said, I was asked the question can you qualify for both. Right? Is there a magic site out there that would qualify for both? And the rules didn't preclude applicants from claiming points for both. So for example, with community revitalization, if you claim to be in a high opportunity area you can't even...
claim those points. We didn't put that stipulation on here partly because there are other ways to get those points, so you might be in a high opportunity area and, for instance, be in a census tract with no other tax credit developments and be able to get those seven points plus these two. Right? But the concepts of being in a Colonia and in a high opportunity area, like I said, I think pretty difficult to reconcile.

MR. OXER: I have a question. All of these projects, all of these applications, they're competing with each other. What other competition are they up against?

MS. LATSHA: So I believe there are three other applications in the region that were initially tied for this same score. Two of them actually were awarded points under this scoring category. They claimed them, I think they partially thought that they qualified for the points by being in a Colonia as well, but they qualified for those points by being in --

MR. OXER: An underserved area of some variety.

MS. LATSHA: I don't think it was a census tract without, I think it was because they were outside of a municipality.

MR. OXER: ETJ?

MS. LATSHA: That's right, because they were in
a CDP and not in a municipality, and that CDP did not have any other existing tax credit developments, so they qualified for the points. And there is another one that has claimed points for being in an economically distressed area as well as a Colonia, but we haven't finished our review of that application yet, so a slightly different situation because they're claiming the points in a different manner.

There was also an application in El Paso this year but it wasn't competitive. I know that they claimed Colonia points but we didn't review it since it wasn't competitive at all.

MR. OXER: Were the ones listed in today's agenda, let's just say there are some survivors, would they be competing against anybody else in that region?

MS. LATSHA: Yes. Right now the circumstance is -- I'm having to memorize a lot right now -- I believe there are two applications that are scoring higher than these seven, and I think by one point, so if any of these seven were to get their two points.

MR. OXER: Is there enough available so that you'd have more than one award?

MS. LATSHA: I think we're going to award three or four in this region, so one of these is probably going to get to be in the money anyway. Does that make sense?
MR. OXER: I am pondering a larger solution.

MS. LATSHA: I want to go back just for one second to the kind of magic site. Right? I don't want anyone to think that staff was misleading at all with respect to being able to claim those sets of points. You know, I did a little bit of research, I found a site that was actually in a second quartile census tract at least, that was in a second quartile but that had a median household income that was lower than the MSA's and had like a 48 percent poverty rate. Now, that's on the line, right, so you're kind of getting into qualifying for some opportunity index points but when you look at those demographics, it's not the demographics that we're seeing here, it's more akin to a Colonia. Now, that type of demographic wouldn't afford you all seven points on an opportunity index, it would probably be five, so you'd be at five plus two instead of seven plus two, which is why people aren't going to a site like that. Right?

Also, our criteria for rural developments and being in the high opportunity area is different than for urban, so maybe the expectation was more like that, that you might be qualifying somehow for opportunity index under the rural rules and then still maybe be qualifying under Colonia. But that's not what happened here. These are all urban sites, like I said, within municipalities,
very high incomes, low poverty rates and access to utilities.

So everyone here has a slightly different story about their site. We can certainly just continue on.
That was some general comments about all of them that they do have in common.

MR. IRVINE: I wanted to add a very non-technical perspective. When I think of a Colonia, I think of an area that just does not have the infrastructure that you typically associate with developable areas, and I think that when you look at the language of 127 when it talks about prioritizing development in Colonias, in such an area development is virtually impossible. And if you were to look at a traditional Colonia and look at something that would be transformative, clearly putting one of our projects in there would be transformative.

And I think if a Colonia has adjacent areas that have this self same characteristics and you're going to put affordable housing there, that in fact is changing and lifting up the area, as opposed to putting something in a high opportunity area that's nearby that might be an attractive place for people from a Colonia to go and live, it doesn't actually change the Colonia itself, and I think that change is, in my mind, sort of the driver here.

MR. OXER: In the long run we've got to look at

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the policy application of this for the nature of the
communities that we support on this, and while I'm
confident that every one of these projects with their
market research would be confident that they would be
fully subscribed early and soon and completely, not being
in what we formally define as a Colonia doesn't seem to me
to meet the policy expectation that we had in this
particular component of our rule.

Other thoughts from the Board?

DR. MUÑOZ: I concur.

MR. OXER: Thank you, sir.

So I'm wondering how to handle these because if
they're all the same, it's all the same question. All the
tigers out there in the zoo are going to say my stripes
are different, I can tell. We've heard most of you
before.

DR. MUÑOZ: I just want to add, Jean -- and
Homero, I might be getting it wrong, but when I was down
in the Valley a couple of months, six weeks ago down in
Weslaco, I think, I went to a Colonia, your colleague took
me, and I mean, it was awful. I mean, I didn't think
potholes could be 4-1/2 feet deep.

MR. OXER: That's not a pothole, that's a
basement somebody left on the road.

DR. MUÑOZ: And guyenas and pit bulls. So the
spirit of that sort of transformation that the ED is referring to I think everybody is supportive of, but the transformation of something in proximity that is already transformed with the hope that it could have some tangential effect on this Colonia seems optimistic and ambitious, but I don't know if it's realistic and consistent with what these points are supposed to incentivized.

MR. OXER: Okay. Any other thoughts, Jean?

MS. LATSHA: No. I think we could probably go on to the specifics of each application if the Board chooses.

MR. OXER: Okay. We're going to take them one at a time. And for the record, although we line up here in order of how you'd like to speak, what we're going to do is speak on your application number. That should be pretty easy, so we'll take these in order and we'll act on them in order one at a time. Just for the record, the chair is going to have a couple of specific questions on each one of them that will attend to these definitions, and that is do you have water service, do you have sewer service and is there transportation to and from the facility and site.

Okay, Jean, let's take the first one and get on with it, because what I want to do, it's a few minutes
before 11:00 right now and we've got a packed agenda, so
those of you who have come to speak, recognize this is
going to be a hard clock, we're going to cut you off at
three minutes because everybody deserves to speak but
we've got a lot of people that want to.

MR. IRVINE: Will then the Board form a motion
for each one of these before the speakers?

MR. OXER: Yes. So present each case, describe
the characteristics, we'll form a motion, we'll hear
comments and then act on each one of them. Okay?

MS. LATSHA: Yes, sir. First on the list is
Las Palmas on Anaya, number 15005. Representative Muñoz,
Jr., the letter read earlier was with respect to this
development. This development is located in the city of
Hidalgo. I don't know if you're familiar but that's very
close to the border, south of McAllen. So in the original
application submission there was a map with a circle
drawn around the site with a two-mile radius, which, by
the way, equates a little more than 16 square miles, not
two square miles. I think there was some misunderstanding
with respect to how to draw that geographic area and they
were drawn quite frequently that way as a circle with a
two-mile radius instead of two square miles.

Now, that being said, there are a few named
Colonias within a couple of miles of this site. This

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site, however, is the Walmart site, it's right across the street from a school, it has access to utilities, it's in a census tract with a household income of 43,676. Just to give some perspective there, the McAllen MSA household income is 34,146, so it is above what the median household income is for the MSA McAllen, and then a poverty rate of about 17.9 percent which is relatively low. Also, access to the city's eight-inch waterline and twelve-inch sanitary sewer line collection all relatively close to the site. A similar situation as to what I described earlier, but I think that the applicant might have some words, and staff recommends denial of the appeal.

MR. OXER: Okay. Motion by staff on item 5(c) application 15005, staff recommendation to deny the appeal. Is there a motion to consider?

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

We have comments on 15005?

MS. RICKENBACKER: Good morning, Chairman Oxer, Board members, Tim. This is my first opportunity to meet you, Mr. Goodwin. Welcome to the Board and look forward to working with you. My name is Donna Rickenbacker, I'm with Marque Real Estate Consultants. I'm here in actually

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two capacities: one on behalf of Texas Gray Oaks who has
two appeals before you today, and one for myself as a HUB
owner on another appeal.

If you would indulge me, please, Chairman Oxer,
I'd like to make some general comments, if you will, to
the rules, and allow me a few extra minutes to do so.

MR. OXER: We had that discussion. You'll get
five minutes.

MS. RICKENBACKER: Thank you, sir. I think
that will minimize some duplication as others step up to
the mic.

First, I want to recognize that we've done a
lot of work down in the Valley, we've been working down
there since 2007. Texas Gray Oaks was one of the three
applicants in 2014 that was awarded housing tax credits in
Alton, Texas, credits for his development, to a large
extent, because he was awarded points associated with
being recognized as a Colonia. So we are very familiar
with Colonias. Matter of fact, we're bringing utilities
down to this area that service the Colonia in front of the
property and behind the site.

So I guess I first want to point out what is a
Colonia. Colonia is a Spanish word for neighborhood, and
according to the Colonia Initiatives Program that's
overseen by the secretary of state, there are actually
seven definitions of a Colonia. The definitions are used to determine whether these communities qualify for federal and state funding and vary because different agencies consider different characteristics in determining the use of their specific Colonia dollars.

TDHCA defines a Colonia -- and I want to read this directly from the definition because it's a little different than the way it was represented by staff -- it's a geographic area that's located in a county, some part of which is within 150 miles of the international border that consists of eleven or more dwellings and it's located in proximity to each other in an area that may be described as a community or neighborhood, and that either qualifies as an economically distressed area, meaning that has it has a majority population composed of individuals and families of low income or very low income, or has the physical and economic characteristics of a Colonia as determined by the Department.

And the Department this year, 2005, added some factors that they would be considering in connection with determining whether or not it met the physical and economic characteristics, to include, without limitation, access to basic utilities and boundaries that describe a neighborhood. So everybody appealing today has sought the points under subparagraph (b) for having physical and
economic characteristics of a Colonia, including ours today.

I want the Board to understand that I reached out to staff. Not only did I have comments to the QAP to kind of tighten the definition, if you will, recognizing in 2014 we were awarded the points for being in a Colonia and that everybody was going to be looking at our application and presenting the same level of evidentiary information to support their deal and their points. So I reached out to them. I also reached out to them at pre-application and full application, again seeking their guidance on what they were going to be looking for in these areas.

The only guidance, to my understanding, was given to us in the procedural manuals, and that procedural manual that staff released told the applicants that they were to provide --

MR. OXER: One minute, Donna.

MS. RICKENBACKER: Yes, sir. That they were to map Colonias in the area using the Attorney General's website. So that's what everybody did, map those Colonia communities within a defined neighborhood area.

So in this instance, and staff did go down, I echo what Tim was saying about staff's making the effort to go and identify these areas and look at it, but there
is a definition that I feel like we did comply with specifically. There are elements that I don't think there's any disputes on that I hope in connection with the Board's determination today they will look at, which includes three elements of the definition.

First, that the applicant describe a neighborhood. The definition consistently states the geographic area designated by the applicant be in an area that may be described as a community or a neighborhood.

Second, did the applicant provide sufficient evidence that the mapped Colonias within the described neighborhood, and specifically those within the two square miles of the development site are valid Colonia communities, meaning do they consist of eleven dwelling units and is such evidence as to the validity of the Colonia based on something other than the fact that the mapped areas are identified as such on the Attorney General's website. And we'll get into that as to why.

Third, did the applicant describe characteristics within the described neighborhood that define a Colonia.

Those are the elements of the definition that we feel like we did comply with.

So with that said, I'd like to address --

MR. OXER: Your time is up.
MS. RICKENBACKER: -- with respect to the Hidalgo transaction.

MR. OXER: Your time is up.

MS. RICKENBACKER: Okay.

MR. OXER: So any questions of the Board?

DR. MUÑOZ: Just a question for Jean. I mean, you know, the writeup talks about, again, at length and presenting as opposed to a procedural manual. I mean, you talked about in your comments and your examples and the Walmart, et cetera.

MS. LATSHA: So I remember some of these conversations. Of course, I remember talking with Donna about this. What happens a lot of times, as we lead up to March 1 to application submission, for example, I probably got a call that said, If we were to submit a letter from an elected official or from an urban county program, the Hidalgo County Urban County Program -- which a few applicants did -- would that support our position? And I'm sure my answer was it could, right, without knowing exactly what site it is that the applicants are contemplating.

Now, had the question been this is the site I'm contemplating and I dropped my little Google guy down on there and I saw the brand new school and the Walmart and looked at the demographics of the census tract, I probably...
would have said, Despite all the letters from Hidalgo County Urban County Program or whatever, I think I would probably have issue awarding points to this site. But the conversations don't exactly happen that way, they're all very hypothetical.

And so, yes, staff did respond in a way that said present what you think is relevant to qualify for these points. It should tell us that the site does have the physical and economic characteristics of a Colonia. And once again, I wasn't sure exactly what that was going to be. I, like I said, had an idea of what it would not be.

A lot of conversations like that. I'm sure I talked with Donna and Sarah and a lot of folks coming up to application submission in the same way.

MR. OXER: And in the end, the QAP, I think everybody in this room recognizes that there is an extraordinary amount of time that's put in trying to clarify this very specifically so we don't have these gray areas. We've cured most of the quirks in these things over the last couple of years, chasing those down, and the point is does it support, ultimately, the policy of this Board in terms of developing in those areas that need this housing. So yes, there's a definition in there, and the question is is the exercise of the discretion of this
Board appropriate in this case, do we look at this or do we say does it meet what our intent for the performance of this component of the law, does it meet that or are we parsing words trying to figure out what the definition of "is" is.

MS. LATSHA: And one thought I had in the same vein, these appeals, unlike the ones that we'll hear later, this is not about a lack of information from the applicants or a submission requirement that was missed, they did a lot of work to try to make their case. This is more philosophical, if you will. Does this meet the spirit of the rule? And we're having trouble trying to say yes to that question.

MR. OXER: Juan.

DR. MUÑOZ: Yes, I suppose I don't want it to be a philosophical debate. I mean, they adhered to what was required or they didn't to our satisfaction based on our interpretation of the definition that was provided, provided at length by staff. You know, the thing that gets my attention is if we provide a certain direction and people innocently or deliberately attempt to embellish or extend, that's one thing, but if we provided misdirection or misguidance, then I'm inclined to be graceful.

We're hearing we weren't exactly told this, you're saying we did it at length, we were very specific,
and it doesn't comport to this definition. So I want to remove the ambiguity.

MS. LATSHA: Sure. And I would stand by what I said, that there was a lot of discussion, there was the example that I gave at the workshops, there were those conversations that, yes, that may or may not support what you're trying to convey in your application, but without the benefit of knowing exactly what site you're talking about when I'm having those conversations, I can't make a predetermination as to how staff is going to look at the application once it's in house.

DR. MUÑOZ: The points are intended to ameliorate or correct some deficiency in these underserved communities, and these proposed sites, should they enjoy the benefit of those points because those conditions exist in the site that's being proposed. Right?

MS. LATSHA: Right. And I don't think that those conditions exist in the sites being proposed.

MR. OXER: And while I concur with Dr. Munoz's point that we don't want this to be philosophical, the optimum situation is -- we've said this before, we never great the easy stuff, you guys deal with that, we always get the hard stuff, okay, which is because it fell through the cracks, it's one of these quirks, and then it has to rely on the philosophy that we had and the purpose and
intent.

So to the extent that in the evaluation or continuing development of the QAP, which we refine every year and buff and polish it and scrape off these edges and these nicks and burs off of it to the extent that we can do that, this is just one of those places that we need to spend some more time to make sure that that clarification is made. That said, we've got to make a decision now. We think that the information was provided, there was a fair interaction of the definition, even though it may not be clear, there is a philosophical purpose to what we were doing, we have a policy that we're trying to uphold.

So that said, does anybody else have any other? Mr. Goodwin, did you have a question?

MR. GOODWIN: No.

MS. LATSHA: I think there might be someone else on Las Palmas on Anaya.

MR. OXER: 15005, somebody want to speak on that application, somebody else?

FEMALE SPEAKER: (Not at microphone). I'd like to speak in support of staff's recommendation.

MR. OXER: Well, I suspect that every one of you who is not the applicant on this is going to support the staff's recommendation because it's going to knock everybody else out.
FEMALE SPEAKER: (Not at microphone). We also have an application that's in an award position today.

MR. OXER: So you're basically saying you're in the money already.

FEMALE SPEAKER: (Not at microphone). And we also qualify as a project that is a Colonias.

MR. OXER: You're speaking on which direction on 15005?

MR. CANTU: On behalf of the project.

MR. OXER: I would remind everybody who comes to speak, please sign in. Make sure you state who you are and who you're representing, whether you're for or against the project application.

MR. CANTU: I signed in. Thank you for the time, Chairman, and thank you for the time, Board.

MR. OXER: Go ahead. I was going to say the first thing you have to do is tell us who you are and who you represent.

MR. CANTU: My name is Eddie Cantu. I'm a county commissioner in Hidalgo for Precinct Number 2, and this project falls within my precinct.

It is my understanding, obviously, that we've been talking about that the developer of Las Palmas has requested points for having a site located in a Colonia neighborhood but these points were denied. With respect
to Las Palmas, I provided a letter to the developer for inclusion in the application that recognized the neighborhood that included the Las Palmas site and confirmed that the county is using Colonia reserved resources on projects to improve the quality of life and outcome in the described area.

As I understand, based on the site visit TDHCA staff determined that the neighborhood was manufactured and did not have characteristics of a Colonia. Hidalgo County is not in the habit of manufacturing neighborhoods or spending limited Colonia resources in areas that are not in the need of such resources. As a county we continually struggle to find sources of funds to improve Colonia areas, and these decisions are not made based on the area's income or poverty rates or whether the area is within a certain distance of a grocery store or a Walmart.

Finally, as described in my letter, this site is in the census tract that is eligible under the Texas Bootstrap Loan Program. The program is administered by your agency and requires TDHCA to set aside two-thirds of the funds for home development or redevelopment in underserved Colonia communities. I suggest that TDHCA has already determined that the area has characteristics that define a Colonia and it should qualify for points.

I support the proposed Las Palmas development
and stand behind my letter provided to the developer. I believe that this project will be beneficial to the precinct, to the City of Hidalgo, represented here today -- both the city manager and the EDC director are here to support this project -- and we ask the Board to grant these points.

From the precinct level, from the county level, we are partnering with the City of Hidalgo and we have drainage improvements of $1-1/2- to $2 million for this specific area. Drainage has been pretty bad in the area and so we're doing everything possible to send sources of money that way.

MR. OXER: Probably going to be worse tonight.

MR. CANTU: It's been bad. We've had, as Joseph will describe later, probably like a 100-year event here recently. So we're spending as much money as we can in developing those projects. We have park improvement projects it the area of a million dollars, we have street improvement projects that the county and the city is working on in the amount of $15 million, and lastly, one of the things we want to do in the area is a Boys and Girls Club that will cost about half a million dollars. So we're committed to the area.

We have so many Colonias within this area. Within this two-mile radius we have probably eight to ten
Colonias. I don't see how a Walmart is going to change --
what you discussed what you saw in Weslaco, a pothole 4-
1/2 feet deep, I don't see how a Walmart is going to
change that, or whether a new school is located next door.

Luckily, the state has allowed us to build new schools in
the area, we have a lot of beautiful new schools and a
great school district in the area.

So I think that this project is a much needed
project. It will allow people that work and serve that
area and that live in that area a better place to live.

And thank you for the opportunity.

MR. OXER: Thank you, Commissioner. We're glad
to have you here. As a comment to your position or your
statement, we concur that there's an obvious need for
projects and investment in these areas like this, but
owing to the extraordinarily competitive nature of our 9
Percent Tax Credit Program for the low income housing tax
credits which I would tell all of you here -- I don't
think anybody here doesn't know this -- it's considered
perhaps the most competitive program amongst all the
states, and we have competitors here in this program,
don't we, Jean, from Washington and from Florida, from
Pennsylvania to California, so everybody comes here to
compete because they recognize the transparency of this.

And while we're constantly recognizing that
there are more than -- we have more projects than we've
got money, okay, and it would be my extraordinary honor to
be able to provide tax credits to all of those that need
those, and I have yet to see anybody show up and make an
application for tax credits that didn't need them. So we
appreciate that everybody here needs them, and this is a
very difficult time of the year for us in terms of
dividing that.

That said, it is so competitive we go to
extraordinary lengths to make sure, or to try to be sure
that we have a very transparent and very specific, very
sharply defined set of rules in the competition for this
allocation that make up the QAP. And while having a
Walmart or having sewer service doesn't change the fact
that there's a four-foot pothole in there, we had to put
something in it to be able to differentiate one site from
another. So if anything, I hope everybody here will
recognize that if this was easy, anybody would be doing
this. It would be a whole lot more fun for us too.

But it's not easy and we sometimes have to make
some really hard decisions that, simply by virtue of
having to maintain the integrity of our rule, it sometimes
go in opposition to the way that people would prefer,
particularly the applicants. So that said, the good news
is this is not a one-time program and there's more money
coming next year and we'll look for other ways to improve all of this.

With that, do you have anything else to add?

MR. CANTU: Just a last comment. I've been there for four years and I'd appreciate staff calling me next time they're in the area and also reaching out to the city. We have a lot of pertinent information that we can provide. Obviously, this is our job to provide resources to this area, so next time they're making a site visit, we'd appreciate the phone call or the opportunity to speak to them directly.

MR. OXER: I think we could accommodate that request, can't we, Jean, Kathryn? Okay. Got that logged in so we can make sure when somebody is down there.

DR. MUÑOZ: I'll do it.

MR. OXER: Thank you, Commissioner.

DR. MUÑOZ: I just want to thank you, Commissioner, and everyone interested in improving the quality of life for families in the Colonias. I'm not sure how this is going to settle here, but I tell you, I'm prepared to work with the chairman and look at these points and look at the possibility of even maybe augmenting them. I've obviously not disclosed my intention to anybody up on this dais but I am now publicly to maybe get more activity in these areas that are clearly
unambiguously defined as Colonias so that those families
can benefit from some of this development.

So I just want to thank you and your servant
leadership as a commissioner.

MR. CANTU: I'll just make one more comment.

When you look at this area, Las Huipas, which is real
close to this area, northern Hidalgo and Las Huipas,
you're driving south, once you cross the levee you
consider that a Colonia. I live just north of the north
of the levee and when you look at the south side of the
levee, everybody understands it to be a Colonia. It's
still called Las Huipas and northern Hidalgo, it doesn't
even take the name of the city next door. I mean, Las
Huipas is Pharr, this area is Hidalgo, and yet it's still
treated and understood because of the Colonias that it has
as a big Colonia.

DR. MUÑOZ: Part of what we've got to do, Jean,
is try and capture some of that nuance in our
documentation to understand that a street may not
necessarily prescribe the sensibility of la gente en la
Colonia.

The only other question I have for Jean. Just
help me very quickly, maybe other Board members to
understand, you know, if the agency administers the
Bootstrap Program and Bootstrap funding is allocated to

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Colonias, isn't that an a priori recognition of Colonia status.

MR. OXER: Homero, come up here, please.

MS. LATSHA: I probably will defer to Homero.

DR. MUÑOZ: I mean, that's part of what the position of some, I think, would be.

MS. LATSHA: My understanding -- and I'm sure you can elaborate on this a little bit -- is that the Bootstrap Program, while Colonia help centers are eligible to apply for that funding source, so are other nonprofit entities that might be in Dallas or Austin or Houston, so not necessarily. And from a technical aspect, it's not mentioned in the rule at all, a funding source being indicative of a Colonia.

MR. CABELLO: Homero Cabello, director of Single Family Operations and Services.

The Texas Bootstrap Program is not a Colonia program, it's a self-help construction program. Two-thirds of the funds are set aside for census tracts at 75 percent AMFI or below, so it's throughout the whole state of Texas. Now, it's under the Office of Colonia Initiatives because it's a self-help construction program. Think of the Habitat for Humanity, the Bootstrap Program are exclusively Habitat for Humanity. There's only one organization that is currently under the Bootstrap Program.
that is not a Habitat and that's an organization out of El Paso, but because it's located under the Office of Colonia Initiatives, it is not a Colonia program.

MR. OXER: Homero, is that just because it happens to be that there are a lot of applicants and a lot of opportunity there? Mr. ED, can you add any dimension to this? Why is it under that, what is that Bootstrap Program principally under the Office of Colonia Initiatives?

MR. CABELLO: When the program was created, Colonia advocates -- when you go to a Colonia you see families building their houses piece by piece, and so they created a program, the Texas Bootstrap Program, so they can access funding to complete the house. It was intended for Colonias. We've had some nonprofits along the border, we've had a couple of self-help centers access the program, but it's mainly become a program that Habitat for Humanity affiliates utilize. For example, Habitat of Laredo, they are building right behind the Webb County self-help center and it's a brand new subdivision and they're targeting Colonia residents. But the Bootstrap is not a Colonia program.

DR. MUÑOZ: Just to simplify, receiving funds from Bootstrap is not a de facto sort of certification of being a Colonia.
MR. CABELLO: Right. And here's the other issue, in order to participate in the Bootstrap Program you have to be a nonprofit owner housing provider. You must demonstrate self-help construction experience and mortgage lending experience. Or if you're a self-help center, you can participate in the Bootstrap Program without having to go through these qualifications.

MR. OXER: Okay. Thanks, Homero.

Any other questions from the Board?

(No response.)

MR. OXER: Wait a second. Anybody else to speak on application 15005? Make this one really short, let's go three minutes on this one.

MS. BROWN: Very, very short. Thank you for the opportunity. My name is Linda Brown. I am president of Casa Linda Development Corporation, the developer for The Heights, an application in Hidalgo County, and presently in an award position.

While we did not need Colonia points to score competitively, The Heights also received a letter from the Hidalgo County Urban program which also manages the Colonia self-help initiative, and in that letter we also qualified -- the Heights site qualified as a site serving Colonias in Hidalgo County. We believe that we actually are a more economically disadvantaged area of Hidalgo County.
County with our site, as opposed to the following appeals.

I also would like to mention that The Heights and another application that is also in an award position are in Hidalgo County Commissioner Palacios's precinct. We're very proud to be part of and in a position to serve the people of Hidalgo County less fortunate than most of us. I assure you our locations can lead to a more transformative and economic development change than some of these appeals that you'll be hearing today.

We also have an appeal for an application in Brownsville that you will be hearing from us shortly, but we support the staff's recommendation on this appeal. I was born and raised in McAllen and Hidalgo County, not too far from this site. During TDHCA's workshops prior to the start of the round, staff was very specific about how they would evaluate underserved Colonia, and Jean did say and use the example about the Walmart. We knew going in what the staff was going to be looking for in our applications in order to qualify for these points. And then staff traveled to deep South Texas and toured each of the sites, the nearby Colonias, the development site areas to add their experience to their final determination.

So I appreciate the opportunity to make comment with you today. Those are general comments with respect to the following appeals. Thank you.
MR. OXER: Thanks for your comments, Linda.

Any questions from the Board? I take it no?

Are you speaking on this one, Barry?

MR. PALMER: Yes. Barry Palmer with Coats Rose, speaking on behalf of the appeal.

And I think we have to find a way to give meaning to the Colonias points, and the legislature has said we're going to give these points, all of the applications were denied the points, and the idea that these points would only go to an application that's not going to get any other points because it's out in the middle of nowhere or whatever doesn't make any sense because then nobody is going to be able to use the points to get funded. So how can we use these points in a meaningful way to allow projects to get funded and to make a difference in this area?

And the idea that you could have both the points for neighborhood opportunity and Colonias points are not mutually exclusive. Here we have a low income area, so the project may get opportunity points for being in the top quartile in income in that community but it's still substantially below the statewide incomes. So you should be able to get points in both areas and there's nothing in the QAP that says that you can't.

But I think that the important thing to look at
is the local elected officials. Commissioner Cantu has told you that they are putting their Colonias resources into this community. They've made the determination that this community qualifies for Colonias resources. So the state should defer to the local elected officials and take that into account that that is where the local officials are putting their money, so that should be determinative of the issue.

And the fact that it's in the Texas Bootstrap Program, that this census tract qualifies for participation certain lends credence to the idea that this should be considered a Colonias area. We have three Colonias within a short distance from our site and the fact that there may be a Walmart a couple of miles away, as Commissioner Cantu said, that doesn't make a difference as to the need for these Colonias to get support, improved infrastructure and economic activity that this site could bring to that area.

MR. OXER: Any questions of the Board?

(No response.)

MR. OXER: I'd echo a comment, Barry, that Tim has made earlier. While we recognize that all of these -- and again, every one of these communities, every one of these Colonias, every one of these projects and applications are worthy of development. I can't imagine
that somebody would be here and not have one that would not qualify. That said, it meets the local county's definition of their policy, and much like we've just said, the City of Dallas had its own application and policy for where it was going to put its money, that's not the point of the definition or the decision here. The question is whether it meets our definition of the policy that we use to allocate the resources that are available under this program.

Given that those resources are in short supply because we invariably have more projects that we have money -- I've never been in the position to tell the staff: Use all this extra money and spread it out amongst all the projects because we didn't have enough projects. So given that that's the case, we've got to decide whether or not this meets the local definition of what their policy position is but whether it meets our policy position.

MR. PALMER: Right. But if you look at the definition for the points in the QAP, this project meets all of the criteria that are outlined in the QAP. So the fact that it was mentioned at a workshop that if there's a Walmart nearby that you don't qualify, that's not in the QAP. This project meets the definition for the points in the QAP.
MR. OXER: Thanks for your comments.  
Any other thoughts from the Board?  
(No response.)  
MR. OXER: Anything else to add, Jean, on this one?  
MS. LATSHA: No, unless you have additional questions for me.  
MR. OXER: And just as a reminder for everybody that comes up, make sure that you sign in because it's not for us so much as it's for the court recorder to be able to identify you in the transcript and on the audio portion of this that we record.  
With respect to item 5(c) application 15005, there's been a motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation to deny the appeal. We've heard public comment, there's no other public comment. Those in favor?  
(A chorus of ayes.)  
MR. OXER: Those opposed?  
(No response.)  
MR. OXER: There are none. It's unanimous.  
Okay. 15006, Jean.  
MS. LATSHA: All right. Solano Park Apartments, number 15006. Let me get my bearings.  
MR. OXER: Take your time.
MS. LATSHA: That's right, this one is located in Edinburg. I happen to be relatively familiar with all these areas because I did some development down in the Valley before I came onboard here. The one that we were just previously talking about, actually one of the tax credit developments that I worked on was right down the street, Hardenas de la Fuente.

But if you're familiar with Edinburg, you've got 281 that runs north-south, and this site is located just west of 281 and pretty near the main east-west drag which is 107. And there's been a lot of development going on there lately. Recently a new regional medical center built, and this site is very close to that regional medical center. I went on Google and dropped my little guy down and there were some developments that existed when we went on our site visit that weren't even there the last time the Google car went around. So clearly stuff is happening around here. It's kind of a booming little city right now, it's a lot more traffic there than it was five years ago when I used to be down there a lot.

This particular development is in the census tract with a median household income of 74,000-plus and a poverty rate of 15.8 percent. Again, right smack dab in the middle of the city, access to waterlines, sanitary sewer lines right in front of the site. Quite frankly, I
think a really great site, but not having the physical and economic characteristics of a Colonia.

I think with that said that we've exhausted a lot of this conversation, but I'm happy to answer any other questions.

MR. OXER: There's a lot of dust over there where we've beaten these things into power already.

MS. LATSHA: So staff recommends denial of the appeal.

MR. GOODWIN: Motion to approve staff's recommendation.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation on application 15006 on item 5(c). Do I hear a second?

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz.

Anybody here want to speak on 15006?

MS. RICKENBACKER: Donna Rickenbacker with Marque, Solano Park, application 15006.

Staff did cite several reasons for determining that this site did not qualify for the points. With all due respect, we very much disagree with their position on this matter. We submitted two letters in the application to support the Colonia points: one from Diana Serna with Urban County, the one that Linda was speaking to that was
received, she gave it to everybody that were in Hidalgo County. It did map a two-mile radius area and staff pretty much relied on that letter and focused on that letter to determine ineligibility for the points because the neighborhood described was much larger than the two square mile radius that was required. And I would agree with staff if that was the sole letter that we submitted, but we didn't.

We also submitted a letter from Commissioner Palacios, Precinct 4. He's the commissioner whose precinct includes this development site. It did plot the location of legitimate Colonias within two square miles -- actually, one Colonia that's adjacent to the property to the south and it's in the ETJ of the city of Hidalgo. The letter specifically says that the county is spending Colonia reserved dollars in this neighborhood to improve these Colonia communities. That is an element and a requirement of our definition.

I'm sounded frustrated right now because I want this Board to understand that we've been working in the Valley for quite a number of years, we know what Colonias are, we work with the local communities to try to improve those Colonia areas with our developments, and we did reach out to staff on several occasions to determine what they were going to be looking for. So these were done
with great intent to make sure that we complied with the rules as it's defined in the 2015 QAP.

The fact that this proposed development is going to be located three-quarters of a mile from a regional hospital is not a criteria. First of all, the hospital is not in the defined neighborhood that we supported in the application.

And those are all good things. I also want to point out that all the various state agencies that administer funding that's made available to Colonia communities -- and there are several of them -- don't distinguish whether they're going to use those Colonia dollars as to whether it is or is not in a census tract that's high opportunity under our rules.

DR. MUÑOZ: Donna, let me ask a question, because you referred to the letter from Commissioner Palacios as clearly indicating the use of Colonia dollars, but when I read the letter I don't see that language. He talks about Precinct 4 is focused on improving critical services in these Colonias and has several initiatives underway in targeted parts of Hidalgo County in and out of the Colonia. He's not saying Precinct 4 is using Colonia dollars for these improvements in the Colonia. And the letter from Serna says in the second paragraph: This site is not a Colonia itself.
Now, I don't understand the first paragraph refers to this site is located in a Colonias plural area, and in the second paragraph it says it's not in a Colonia. I'm not sure how to interpret that, but I mean, you've got a letter saying the site is not a Colonia.

MS. RICKENBACKER: Let me explain that, the two letters. The one from Diana Serna is the one from Urban County and the one that she says is not in a Colonia, meaning it's not -- it meets the physical and economic characteristics of a Colonia but it's not in a Colonia. She is correct on that. The reason why we reached out for that letter is because that is the identical letter that we received in 2014 that qualified us for the Colonia points. Recognizing that everybody is going to look at our application and seek those letters, we provided that as well.

What differentiates us, if you will, from the other applicants is that we sought a letter from -- we reached out to the county, please help us, here are some areas that we're looking at and we're trying to determine if any of these areas are where you're spending your Colonia dollars.

DR. MUÑOZ: I don't read that. I don't see this letter from the commissioner saying these dollars are earmarked exclusively for the use in an area that we
identify as a Colonia. He goes on to say streetlights in
other parts of Hidalgo County. I presume not all of
Hidalgo County is identified as a Colonia, in which case
the same dollars are being used somewhere other than a
Colonia meaning that they're probably just generic
development dollars.

MS. RICKENBACKER: Well, first of all,
Commissioner Palacios is here and he can address his
letter if you'd like for him to do so. But Colonia
reserved dollars can't be used just on any project in any
areas, they've got to be restricted to uses that benefit
those particular Colonias described. So I don't think the
county or any of these state agencies can designate and
use those dollars just for general improvements around the
county.

DR. MUÑOZ: The letter I'm looking at dated the
19th I don't see -- I mean, it's small print but I don't
see that verbiage "Colonia reserved dollars."

MS. RICKENBACKER: Well, again, he's here, he
can visit with you.

DR. MUÑOZ: All right. Okay.

MS. RICKENBACKER: He can better explain the
letter that he provided for the application.

MR. OXER: Anything else you want to say?

MS. RICKENBACKER: We do feel like that we met
the requirements of the rules. Bringing all of these other -- this is what we thought we should be looking for is really not defined in our rule, and we as applicants went out there, have spent a great deal of dollars to make sure that we complied with the requirements of the rule, and we feel like we did and we feel like we should be granted the points.

MR. OXER: Thanks for your comments, Donna. Kathryn, I have a quick question. Did you handle the statistics on this one, either one, you or Jean? She has the advantage there of being able to look through the numbers, I was going to give her the benefit of the doubt getting to the facts here.

MS. LATSHA: I'll give it a shot.

MR. OXER: The question is how many applicants applied for or made appeals for the Colonia points last year and how many made the same application this year?

MS. LATSHA: So last year the rule was different, and I believe we awarded Colonia points to two applications, but I don't recall how many applications in total actually applied for those points. Those may have been the only two that actually did apply for those points. I think they were probably challenged and so there was some discussion about that point item last year as a result of those challenges. I'm not sure about my memory

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here, I think that's how it happened.

MR. OXER: It's a generic question to get a
sense.

MS. LATSHA: But there was some discussion
about those two applications last year.

MR. OXER: Did you tighten down on this on any
particular location in the rule, any place there's a soft
spot. Obviously, you know, you're smart people, you're
good developers so you're going to try to find those where
you have a competitive advantage, and I expect you to do
that. The bad news is it surfaces those places where we
don't have a sharp edge on our rule and we wind up having
to do this.

DR. MUÑOZ: Jean, and again, you said that the
rules have changed. I'm just curious, do you recall this
letter that seemed to satisfy last year? Is that an
accurate statement that this letter was sufficient last
year? And again, the rule may have changed in which case
the letter is no longer adequate this year.

MS. LATSHA: And if I recall, it was
something -- and it must have been a challenge because it
caused staff to go back and look at these more thoroughly
last year, and I think that's when the letter might have
come in, maybe it was with the original submission. Did
it influence the decision? Yes, I'm sure that it did.
But I think that's exactly why we did change the rule because although it influenced that decision in the application of that 2014 rule, we didn't feel like just grabbing that letter should necessarily equate to points in the future.

You know, this is exactly why I was awake four times last night. Right? I don't usually disagree with this entire group of folks sitting here and so I do feel like I should be taking some responsibility for that, but at the same time I'm up here listening to this -- I mean, I've been in the same spot and I'm going to be in the same spot in the future but it's just greedy. I mean, honestly, this one item does have meaning, it has two points worth of meaning. Now, had you paired that with, say, a community revitalization plan, you know, then maybe then things start to make sense.

But you know, you're talking about applicants who are trying to grab every single point that they could possibly grab, and because they're in Region 11 and we all know that there's Colonias in Region 11, it was let's get seven plus three plus two. And it just doesn't make any sense. And it's not that there was not access to those two points by being in a Colonia, it's just that access to those two points plus the seven plus the three, again, magic site that I don't know where that exists and I don't
think it exists here.

MR. OXER: We can sense your frustration, and I understand that, and I'll speak for myself on this, but I suspect that there's at least some confluence with the other members that there's a certain amount of frustration in this because the rule is, unfortunately, insufficiently clear, perhaps, in places to be able to be able to sharpen this so that there's a sharp edge to it and one side you're in, one side you're out.

That said, I would give credit to every developer out there, the fact that you're going after every point, I recognize that. This is an incredibly political -- competitive, it's not political -- in fact, we do everything we can to take the politics out of it -- this is an incredibly competitive exercise. And that said, you would be remiss in your duty to your client, to the community that you serve not to go after every point you can possibly subscribe to.

That said, we have an obligation to support the policy that we have, the purpose that we have, and whether or not we can define this. The fact that that letter supported the Colonia reference or location last year, we're back to as the QAP evolves over time and gets sharper and clearer and that sort of thing, we're back to that was then, this is now. So our fundamental purpose
here is to determine whether or not these things meet the policy that the Board wants to have to support, and our fundamental feeling is, mine certainly is, is that any of these that are in the locations that have been defined so far, I was not compelled to vote in favor to support the appeal, I'm totally in favor of the denial.

That said, we'll sharpen the rule, we'll make this rule far more clear. When we develop the QAP, we're going to have a whole lot of things to in this new QAP. In fact, after next week, based on the legal implications of next week, this may be the least of the things that we're worried about, we're going to have a whole lot more adventures than these. So with that, Jean, we understand your frustration.

MS. LATSHA: And I apologize for expressing it.

MR. OXER: Absolutely not. I expect you to express it, because passion is one of those things that makes you good at your work and we appreciate that you do it so well. So that said --

DR. MUÑOZ: I concur.

MR. OXER: Or as he says: I, Juan. Me too.

All right. That said?

MS. LATSHA: Staff recommends denial of the appeal.

MR. OXER: Okay. Is there any other public
comment?

MR. PALACIOS: Commissioner Palacios, Hidalgo County commissioner, Precinct 4.

MR. OXER: Three minutes, please.

MR. PALACIOS: Vote in favor of this project.

Chairman, Board members, I appreciate the opportunity to be here.

I understand the difficulty in the process of trying to determine whether or not something was followed or not, trying to identify the ambiguity between all the rules and laws that we're all governed by. We at the county, we're exposed to the same thing. I've been in office for five years now, I've been a public servant for 24 years, I've served federal, state, municipality and county. I've only been in office for five years so I've been more of a worker in the trench, a chief administrator, a city manager and all, I've been there, done that, and I understand the processes to most things.

My argument is obviously the definition of a Colonia. Obviously, there's probably seven or more definitions of a Colonia, and I'll tell you what, I remember the words of Senator Lucio when I first entered office, and he said, County government is the closest government to the people. And I didn't understand what that meant until I actually was there in county office...
because Hidalgo County, our rural population represents about 40 percent of our population. We've got developments going outside of city ETJ. More developments are happening outside of the cities than in the cities. Once the developments happen, cities are obviously expanding their jurisdictional boundaries, bringing them in. They don't do that until they see certain infrastructure in place with the streets, drainage and all.

But in this case I can defend the historical investment that the county has made in Colonias. Back in the day we had Proposition 2 that the state had passed for Colonia funding for roads, drainage, infrastructure. We're currently in those years of utilizing the proposition. This project sits in proximity to one of those projects, and this is earmarked funding for that. And I'm going back to my letter that was referenced. I didn't issue it specifically because I could have given you three or four pages of a letter and I'd rather just generally stated it. I did have every intention to be here to address that issue.

Now, the other issue, we're Colonia advocates because our population is in the rural area. We just passed House Bill 3002 which is going to allow us to bring lighting into Colonias. Obviously, if anybody lives in a
Colonia, probably the kids that reside in those areas are the first picked up on the bus routes, and so we found it was critical that we start partnering and advocating. This is the first time I've ever been exposed to this program and the developers and I had the opportunity to at least address and hear out the petition for letters of support and all. My position is without pride or prejudice, mine is simply objectiveness. The question was asked: Are you investing in these areas? Absolutely, yes, we are investing Colonia earmarked funding in these areas.

Now, obviously, the eyes of the beholder, it just depends. You might have other developers say no, my argument and my project is better. Mine is simply the objective part that we do more in partnerships than anything else. It's been the equation to success. We find it on the state level when we're fighting for state infrastructure dollars for roadways. We're finding that the more we build on partnerships, we're beneficiaries of great developments, great progress, great everything.

And in this case I found myself very objective in my letter and support. I did offer a letter because I felt that because we did, in fact, invest with Proposition 2 dollars that this, in fact, qualified. The other issue is that we were successful in lighting. That's the basic
grounds of my support for this particular project. But I do respect your position and I do respect staff's position in trying to determine whether or not it does or not.

I was available when they did their field visit. I did not get contacted. I hope that will change. I hope to God that in the near future we will be -- we're the local government there and we're there, we're investing dollars. We can quantify, we can defend the investments in the area.

And the other thing is the differences between what is a Colonia, what isn't a Colonia. If you go by the Attorney General's website, I can argue that it's not a current description of our Colonias in our area. Some already have public utilities, some already have all the benefits that would declassify them to be a Colonia. But unless we go to the rigorous process of validating that or not, I think you're left in a very ambiguous position, even at this point even while you're rendering your judgment. You're making positions on things that might not be clear that some of these other projects might be in areas that they're declassified Colonias. Hence, the reason why I believe that the onsite visit should have an element that they sit down with whether it's municipal government, county government, to assure that at the end of the day it's objective and subjective.
And so that's my reason for being here is for that simple argument. We can defend the fact why we believe that some of these projects do, in fact, qualify based on our perspective on how we've allocated certain Colonia Initiatives dollars. But that is my position.

I'm grateful for your time that you're giving. I wish you the best of luck in your judgments and your votes on what you find adequate and look forward to working with you and all the developers. And I'm happy that we're in this position that there is developments coming to our area and that we are beneficiaries, whether or not that's three or four projects, I hope more than less. We are a border county, we have hundreds and hundreds of Colonias. I look forward to working with any developers that end up having successful projects in our area. And thank you for your time.

MR. OXER: Thank you for your comments.

Any questions from the Board?

(No response.)

MR. OXER: Barry, one more comment.

MR. PALMER: Barry Palmer with Coats Rose.

I just wanted to point out it seems as though staff has made the determination to deny the Colonias points to all these applications primarily because the also got points for being in a high opportunity area or
having good schools. But that's not in the QAP. There's no rule that says you can't get a combination of those points. In other areas in the QAP there are provisions saying if you claim these points, you can't claim these points, but we don't have that in this situation. And if people think that's what the rule should be, then let's make that the rule for next year. But that was not the rule this year, that's not the rule these applicants applied under. If they had known that, they might have applied somewhere else. But here you were allowed under this year's QAP to claim high opportunity points, to claim points for the school district, and to claim Colonias points.

Here we have a county commissioner coming and telling you that he's putting funds into this area that are specifically reserved for Colonias. I think that we need to give some deference to the local elected public officials who are charged with investing Colonias dollars in this county. And if we want to make a rule change let's do that next year, but let's not come up with a different rule than what's in the QAP and say that you can't get these points because you also claimed high opportunity points.

MR. OXER: Your point is recognized, Barry, and I, for one, am not founding my judgment or decision on
anything that says those two are mutually exclusive. I don't see that as being the case because some of the best schools I've ever seen are in some of the poorest areas because there was an impassioned leader who was there who was dedicated to the idea that they were going to bring education to those students irrespective of their economic circumstances. That said, my definition of Colonia does' include twelve-inch sewers and a waterline there with streetlights.

And again, to reinforce the point, unfortunately, while I concur that these every one of these sites and every one of these applications is for a project that needs the money, they need this investment, the entire area needs it, the whole state needs this, the issue is we have to make a judgment about some mechanism to separate these things out to make them competitive. I'm not trying to change the rule, I'm trying to apply a rule that we see in some fashion, even if it's somewhat ambiguous and potentially obscure, to be able to make some decision that supports a policy for what would be a fair outcome or as best we can do on this outcome. There are simply projects that are going to fall through these because those are the ones that surface the areas that need to have the work done and clarification on the QAP.

That said, we've got to make a decision and
there's got to be some foundation for it, so the rule that we have is the best we can do right now. We'll sharpen that up and we'll deal with it.

MR. PALMER: And I'm just suggesting that in making that decision, the tough decision as to which of these projects qualify for the points, because in my mind it doesn't make sense to say that none of the projects qualify for the points or that all of them do. You've got to have some criteria for making a differentiation. And here we've got local officials putting in local dollars designated for Colonias improvements into this specific area. That, to me, would be the basis that you make a decision that yes, okay, that sure sounds like a Colonia. And granted, we've got our definition and they've got theirs, but they're so much closer to it, they live there, they live this every day.

You know, we sent down a staff person to look at it one day, and that's great but that's all that you all have time to do at the state level. But the local elected official, he's there and he knows what areas they need to put their funding in and what not, and he's made that decision to invest money, Colonias dollars into this area, and we should respect that.

MR. OXER: Okay. Thanks, Barry.

You had a comment, Tim?
MR. IRVINE: Yes. I just wanted to say as the person who upheld staff's recommendation, I didn't uphold it because these deals qualified for HOA points or educational excellence points, I upheld it because in my belief they did not establish that the proposed sites had the physical and economic characteristics of a Colonia as defined in 19(a), and that's it.

MR. OXER: Okay. Anything else, Juan? Did you have another comment?

DR. MUÑOZ: No.

MR. OXER: With respect to item 5(c), application number 15006 on the Solano project, Solano at the Sports Park, motion by Mr. Goodwin, second by Dr. Muñoz to approve staff recommendation to deny the appeal, those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none.

We're going to have a full boat this afternoon. We're going to take a break for lunch here, that will give you some breathing room. We'll have an executive session. It is 11:59 here, essentially twelve o'clock. We're going to -- sit still for just a second.

MR. IRVINE: Clarifying that that vote was only
on 15006.

MR. OXER: I said that in the motion. What did I say? Oh, I'm sorry. I did say it's 15006, Solano Park Apartments, not Solano at the Sports Park. That's correct.

Everybody just sit still for a second because this has got to go formally into the record. Quiet in the back, please. 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 certain personnel matters under Section 551.074 of the Act, to discuss certain real estate matters under Section 551.072 of the Act, and to discuss issues related to fraud, waste or abuse under Section 2306.039(c) of the Texas Government Code.

The closed session will be held in the room immediately behind us in the small front room, so we request that all members of the public remove themselves from this room -- is lunch going to be here or is it going to be in the very back -- okay, everybody can stay here. The time is 12:01, let's be back in our chairs at 1:15.

(Whereupon, at 12:01 p.m., the meeting was
recessed, to reconvene this same day, Tuesday, June 16, 2015, following conclusion of the executive session.)

MR. OXER: It is 1:16, we're back in order. We met, we had counsel from our General Counsel concerning litigation, no decisions were made and nothing is pending before this Board, it was only informative.

Jean. She'll be right back.

So Kathryn, Jean didn't abandon ship. Right?

You know, you've got to be careful, there's a couple of Navy guys up here driving this boat and when we say 1315 hours, we mean it.


We left off still on item 5(c) regarding the appeals with respect to points for being located in a Colonia, and with number 15031, and I believe it's Solana at the Sports Park, not Solano, as the other one.

So this development site is located in the northern part of Brownsville, right along 79 or 83, I think it's the same highway right there, and across the highway from the Olmito Colonia, however, again, the actual development site is located in a tract with a median household income of almost 50,000 and a poverty rate of just under 26 percent. Also, as with the other
applications that we've discussed, access to a waterline and twelve-inch sewer line directly in front of the property. It is in the city limits of Brownsville, while the Colonia that is across the highway is, I believe, in the ETJ of Brownsville.

I think the argument is similar to some of the other ones that we've heard, that the proximity to this Colonia -- and this is a rather large Colonia -- warrant it the same physical and economic characteristics of a Colonia, and staff again disagrees in general. Staff recommends denial of the appeal, and I know that we have some words from the applicant.

MR. OXER: Okay. With respect to item 5(c), application number 15031, Solana at the Sports Park, I'll have a motion to consider before we hear public comment.

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation to deny the appeal. Is there a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Yes, Linda.

MS. BROWN: Honorable Chairman Oxer and members of the TDHCA Board, my name is Linda Brown and I'm president of Casa Linda Development, the developer and
general partner for Solana at the Sports Park in Brownsville, Cameron County. I was also born and raised in the Rio Grande Valley.

Today's appeals for Colonia points reminds me of the old Sesame Street puzzler: One of these things is not like the other. We are the one appeal that is not like the others. Beginning on page 461 in your Board book is response to the three reasons staff denied our two points for underserved area. Please turn to page 463 and 464. Solana at the Sports Park is located within three-quarter mile from the seventh largest Colonia along the Texas-Mexico border. The Olmito Colonia is approximately 800 acres with a population of 4,044 and is classified as yellow.

Three reasons staff denied our points. First, staff concluded the recently designated Interstate 69, formally Highway 77, is a reasonable boundary separating the two sides of the highway as two distinct communities or neighborhoods. We, of course, disagree. The highway, as the only north-south corridor in and out of Brownsville, is not a barrier, it is a connector. On page 479 is a letter from the City of Brownsville assistant city manager, Ruth Osuna, confirming that the community exists on both sides of the highway. In addition, she adds, two east-west roads directly connect the development.
site and the Olmito Colonia.

The people in this area acknowledge the relationship, by naming the elementary school Olmito, the single family subdivisions are Olmito Estates I and II, and the Olmito Water Support Corporation. All of these places are located east of the highway. Children who reside in the Olmito Colonia will attend the same middle school and high school as the children residing in our development. Staff says we are in two communities because the census uses the highway to create two census tracts, yet the Olmito Colonia is in four census tracts, two on the west and two on the east. Census tracts do not create communities but people do identify their communities by name.

Secondly, staff's second reason is the development site does not have the economic and physical characteristics of the Olmito Colonia. Staff concluded median household incomes for the development site census block group was twice as high as the census block group where staff believes most of the Colonia is located. We engaged the University of Texas Rio Grande Valley, formerly UTPA, economic and development research group to review staff's analysis and perform their own analysis which is reflected beginning on page 469. As a result UTRGV's analysis for the east and the west side of the
highway are virtually the same. See page 471. After a
telephone conference between UTRGV staff, Jean and
ourselves, Jean agreed that the UTRGV analysis was
reasonable and reliable.

Also, the Colonia and the development site are
located in the 2010 state-designated enterprise zone which
is defined as a severely distressed area of the state.
The Attorney General's website says the Olmito Colonia has
access to water, sewer and has paved streets but still
lacks in health clinics and healthcare providers. The
shortage of health-related services is also true for our
development site. Here, too, staff agrees. In staff's
summary of our appeal, staff states: The area lacks in
services such as healthcare providers, grocery stores and
pharmacies. We are the only applicant appealing these
points that has no significant commercial or service
businesses within two miles of the development site and
Olmito Colonia.

The third reason was based on staff's
observations during the staff site visit that concluded
that even though the area lacks in services, there is new
commercial activity and a single family residential
subdivision north of the development site. The new
commercial activity is a Toyota dealership. We submit
this is a real estate improvement and will create job
opportunities. It does little to provide any new retail or services to benefit the Colonia residents or development site directly.

In response to the single family subdivisions north of the site, Osuna's letter confirms the City of Brownsville has invested over $600,000 in HOME funds for housing assistance in Los Pinos and Olmito Estates. The city has also worked with the CDCB and TSAHC to develop 40 single family lots in Olmito Estates. A picture of one of the homes is on page 485. An addition 40 lots in Olmito Estates has a LURA dated 4/20/2011 between TDHCA and TSAHC.

Solana at the Sports Park is uniquely positioned, as staff so perfectly described, as that rare occurrence where one site can possess both sets of physical and economic characteristics of a Colonia. We respectfully urge the Board to recognize our differences and reinstate our two points for Solana at the Sports Park.

MR. OXER: Thanks, Linda.

Any questions of the Board?

(No response.)

MR. OXER: Quick detail, Jean, please. So this one does have, with respect to back to our definition again, it's not a matter of what everybody else's
definition is, it's what our definition is?

MS. LATSHA: Yes, sir. And so I did speak with
Linda and Sarah and the folks at UTRGV about the data
that they presented, and part of that conversation also my
reply was: I understand what you're showing me here is
that you've drawn a neighborhood and let's say we concede
that that's what the neighborhood should be considered,
the Olmito Colonia across the highway plus this community,
and their own data indicates that when you average that
median household income that you're still at around 50
grand which is considerably higher than the Brownsville
MSA which is around 33 grand.

Also, that Colonia, which has been in existence
for a while, does have access to basic utilities, meaning
water and sewer. Now, do they have access to all of those
other amenities? Not necessarily, not as much as some of
the other sites, but that's not what we were focusing on
in the rule. We were pretty well focused in all of these
discussions and we were talking about the physical and
economic characteristics being a relatively low income
population and lack of access to basic utilities which,
once again, even when you take this entire area on both
sides of the highway is not the case for that area.

I would concede that this isn't smack dab in
the middle of Edinburg or smack dab in the middle of

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Brownsville, like the other sites, but outside of that, I wouldn't concede that they actually met the requirement of the rule.

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

(No response.)

MR. OXER: With respect to item 5(c), application number 15031, we have a motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation to deny the appeal. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: It's unanimous.

Okay, 15115, Jean.

MS. LATSHA: 15115 is Bella Vista Apartments. This one is also in Edinburg, also west, although a little bit further west than the previous site we talked about, of 281 and right on that main drag 107. Again, we're talking about a tract with a median household income of 46,000, poverty rate of 31.6, a little bit higher than some of the other sites.

I did look at the block group on this one just because it's a relatively dense area, so sometimes block groups, although they have large margins of error in some
instances, might give you a better picture of what's going on in the immediately surrounding area. The block group household median income was actually $68,000, the block group directly south of the site was at $85,000 annual income. Another situation where we have access to a water main and the sanitary sewer collection right there on the highway because the site is basically located right there on 107.

Again, staff recommends denial of the appeal, but we might have some additional comment.

MR. OXER: Is there anyone here to speak on this item? Okay. Hold on just a second. Any questions of the Board? Motion to consider?

MR. GOODWIN: Motion to consider.

MR. OXER: Motion by Mr. Goodwin.

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz to approve staff recommendation to deny the appeal.

Now public comment. Good morning. How are you, Tamea?

MS. DULA: Good, thank you. Tamea Dula with Coats Rose Law Firm.

MR. OXER: And just as a housekeeping item -- I won't start your clock yet -- I had given Linda an extra two minutes because she was speaking for two other persons

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on her, so I would like you, if you would, please, to keep it to three minutes.

MS. DULA: Actually, I think that the commissioner will be speaking on this and possibly somebody else.

MR. OXER: I mean on yours only.

MS. DULA: Okay. Thank you. I'm here today speaking on behalf of the developer, the applicant for Bella Vista Apartments.

The staff, denying this point request, made a number of unusual operations. One reason for denial was that the area that was defined by the applicant did not follow natural boundaries. There is nothing in the QAP that says natural in connection with boundaries.

Number two, the staff denied the points because at least one Colonia in the area was shown as green on the Attorney General's database of Colonias. It is fairly well accepted that that database has problems. The green Colonia is the Milyca Colonia, an although it's shown as green which is in the AG's database supposed to show that it has all requisite utilities. They have to have a septic field because they have no access to sanitary sewer.

The next item included within that, really, and part of the development in the area that the staff said...
that they noted was the question of whether or not there
is access to the basic utilities. And I point out to you
that you can't develop in an area where you can't find any
basic utilities. Okay? If you're going to build a
development, there has to be some utilities available
elsewhere or you're going to have to drill a well, you're
going to have to buy a generator, this is not the way we
develop affordable housing. The developer in this case is
going to have to spend $200,000 to bring water, sanitary
sewer, drainage and paving to the perimeter of the
property as shown in the application.

The development in the area, staff observed
commercial and residential development in the area but we
point out that that development is south of the West
University Road which is a major highway and it's in a
different census tract and it is not within the
neighborhood defined by the applicant.

Finally, the census block group information
that was cited against this project had to do with it
being within a census block group, which is not something
that we customarily use in the TDHCA application process
for identifying income for a household, but the statement
was made that it was in too high a census tract group and
a census tract group to the south on the other side of the
West University highway and in an area that is not
considered part of the boundaries established by the applicant, that particular census tract group had a median household income of 85,557. Well, this one has a median household income of 46,190 and the poverty rate is 31.6 percent.

This is distinguishable. If you intend to abide by the directive in 2306.127, this is the one to pick because the is the one that most closely comes to your concept of what constitutes a Colonia. A Colonia is a defined area on the AG's database. You can't develop in that, it's already defined, it's already developed, improperly too. But having Colonias in the area that is defined as the neighborhood implies that there is going to be similarities to the Colonias in that neighborhood. Colonias are not built in glass bubbles and they don't not fail to affect the surrounding area. So if you've got a Colonia on the west and the a Colonia on the east and one in the north, it is quite likely that the area in between where this site is located is going to have similar characteristics.

Thank you.

MR. OXER: You're welcome.

Any questions from the Board?

(No response.)

MR. OXER: Any other comments on this item?
MR. PALACIOS: Again, Chairman, Board members, Commissioner Joseph Palacios, Hidalgo County Precinct 4, in favor of this project.

No sense in regurgitating my arguments of earlier, but in this case I'd like to take this project as an individual project to validate the argument about what's on the Attorney General's website on decertifying and certifying what is a Colonia and not a Colonia. We can easily argue that in this case the adjacent Colonia does not have sanitary sewer, valid point.

When you talk about projects like this catalyzing and going back to the statements of change, monumental change, well this in fact will lend itself to that argument, stating the fact that if this project goes through, now we have a cooperative deal on a public-private partnership to pretty much tackle the sanitary sewer argument there.

And I'll give you an example. If you don't understand the topography of South Texas, or even Hidalgo County, we are considered a valley but the truth of it is we're not necessarily a valley, there's pockets of high and low points. Developers in the past on how Colonias were developed, they were looking at cheap land, so hence, they would buy the lowest lying areas, and hence, here comes the subdivision. In this case you could easily see
that on higher ground, which is maybe less than half a
mile or maybe a quarter of a mile you'll find a
development that may have 80,000 income, better home
sites, larger home sites, and then just adjacent to it
you'll find a low-lying area and you'll pop up a
development because they were able to buy it at such a
cheaper price because of being in a low-lying area and the
lack of access to utilities.

And also, just hear this site we had a
cooporative deal with the City of McAllen. Here's another
why I advocate partnerships, whether public-private or
public-public. The worst area in our precinct is
literally no more than a mile from this point. Low-lying
area and the recent rainfalls, it could rain less than an
inch and all their septic systems are backed up, they're
out of their bathrooms, out of their showers and literally
it takes us about a month just to get in there.

It's been a humanitarian project for us to work
with McAllen Public Utility Board just to get them sewer,
and we're not in the sewer business but we're there trying
to be advocates for our Colonia groups. And so in this
case we applied for an EDAP project, got it, successfully
have EDAP funds and the McAllen Public Utility Board gave
us half a million dollars just to be able to improve their
lift station and bring in sewer into this area.
I envision this project as one of those potential chances for us to take a Colonia adjacent to the area that has septic and be able to catapult ourselves to bringing in sanitary sewer into an area that's needed. This area was affected by the recent rainfalls and so when I look at this one project, it kind of lends itself to a good project to change the outcome of the neighboring Colonias within that area.

One of the other things I didn't make in the earlier argument is when we talk about Colonia funds specifically designed to help Colonias, we did pass a recent bond issuance in drainage and drainage is one of the things that's our highest priority down in the Valley. We allocated about $4 million per precinct that goes directly just to Colonias for drainage infrastructure. And so the combination of Prop 2 money and the bond dollars that the county is doing, it has been a goal for us to try to advocate as much as we can to improve infrastructure for Colonias.

We were looking forward for this public-private partnership to be able to see the project come up and hopefully catapult some of the needs that we have in the neighboring Colonia. Thank you very much.

MR. OXER: Thank you, Commissioner.

Any other questions from the Board?
MR. OXER: Jean, summary on 15115. So it didn't meet the physical and economic characteristics is the staff's contention. Correct?

MS. LATSHA: That's correct. I know that Tamea talked about some reasons for denial. I want to be clear that the reason for the denial of the points is that it didn't meet the requirement of the rule which was to exhibit those physical and economic characteristics. Some of the statements that we made regarding the area around there and the fact that some of those Colonias were classified in green was simply our way of explaining what we saw in the area and that it wasn't what met the requirement of the rules, that it did have the physical and economic characteristics of that Colonia.

What was presented in this application initially, and the reason that we brought up the geographic area itself, this was another one of those applications where a big circle was drawn around the site that essentially constitutes 16 square miles, and so we said, well, we don't want to look at that as the geographic area when we're assessing the site because it's too large per our rule. And so we tightened up that geographic area and said, well, what seems reasonable to us, we took a look at that and there's sewer and water
lines all along Highway 107 so seemingly anyone that would develop along 107 about two miles would have access to those very lines.

And that's why we also kind of dialed down to a block group. It's true that that's not a statistic that we typically use but we wanted to see if maybe it was going to give us the opposite result. Right? Maybe we are looking at a census tract that is large with a median income of 50,000 and we dialed down to the block group and it's showing us 30,000, and instead it showed us the opposite which is why we put it in the report. It wasn't the specific reasons for the denial, just support for the ultimate denial of the points.

MR. OXER: Okay.

MS. DULA: Chairman, can I respond to one comment?

MR. OXER: Sixty seconds, please, Tamea.

MS. DULA: Tamea Dula, Coats Rose.

The letter from Urban County Program that had the two-mile radius, that two-mile radius map was provided by Ms. Serna, Diana Serna, on all of the letters that she provided. That was not intended to establish the neighborhood for the applicant. I just want to make that clear. The neighborhood for the applicant is shown on the county commissioner's map.
MR. OXER: Okay. All right. Thanks very much.

Any other questions of the Board? Dr. Muñoz.

DR. MUÑOZ: Hey, Jean, I'm just curious. You know, I get the three sort of criteria, including the physical and economic characteristics of a Colonia. I'm just curious, so many people are referring, and I tried to go on to see the Attorney General's website and to see that sort of definition, sort of like a newsletter. Was there any kind of thought in your office, your staff of kind of looking at that and reconciling some of the language of sort of deprived, underdeveloped, no paved roads are in that Attorney General's website?

MS. LATSHA: Yes. So part of our assessment of each of these areas was to look at that very website and see what they did have to say about some of the neighboring Colonias. It was more just to help us understand what was going on in the area in general. This particular site, the Hacienda del Blanco -- I think it's called -- is the Colonia that's right down the street that is actually on 107, and if I remember correctly -- can't believe I can even remember this -- it was actually not classified, and so we couldn't tell just from our own online research what kind of access or not it had to anything else, but it's relatively small compared to the geographic area that we were assessing. And there was

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another Colonia nearby that was classified as green and
did have access to those utilities and things.

And so we were trying to take a picture of this
entire area, and while it does appear that within that
neighborhood there are a few roads that don't have that --
or at least haven't been able to take advantage of that
access yet. I have to admit I don't really understand
that, they're literally on 107, so they haven't been able
to take advantage of the access to that system. And
that's true, but I don't know that the fact that those few
streets in that Colonia haven't been able to take
advantage of that access is really indicative of the
entire area when you're driving around it.

DR. MUÑOZ: Just something for your team to
think about is several places and several occasions the
sort of Colonias, plural, area versus Colonia singular.
It's located in a Colonias area which sort of intimates it
has some of the possible economic and physical
characteristics of being depressed but it's not an actual
one. As we think about how to improve some of our
language, otherwise people will make this argument we're
in proximity to this sort of lack of services, resources,
infrastucture, and this sort of vague line doesn't
prevent that exposure of that limited sort of service to
this place 15 feet away, just as we think about it.
MS. LATSHA: Yes, sir.

MR. PALACIOS: Chairman, may I add to that, just 60 seconds?

MR. OXER: Please.

MR. PALACIOS: Chairman and Board members, this is specifically why --

MR. OXER: You have to re-identify yourself for the transcript.

MR. PALACIOS: Commissioner Joseph Palacios, Hidalgo County commissioner, Precinct 4.

MR. OXER: Great. Thank you.

MR. PALACIOS: To identify utilities off 107 and there's neighboring Colonias north of that, a Colonia is already a developed subdivision that has a lack of, and in this case there are Colonias in lack of utilities. No one is going to move utility lines up in that area unless there's a reason for it. This development would be a reason and which would signify a monumental change to have the ability to connect sanitary sewer into this area in need. And I just want to clarify that.

Going down to the Attorney General's website still it's not boots on the ground, you're not entrenched into the dire need of the immediate area. And that's the difference, that's the argument I want to make within the application. That is why we're there, we're there to try
to guide in these processes of validating the need, the concern, and so we were hoping to try to make it much easier on you to try to give you good quantitative data, mapping and actual utility lines and showing the difference between one versus the other.

In this case I think this project really lends itself and I think the points should be reinstated for the mere fact that a Colonia is never going -- the residents of that area are never going to pull the utilities in there, it's either going to be the incorporated city or the service city or it's going to be a project that will catalyze the utility into that area. And so that's my argument that's what sets this one apart, and I just hope that you reconsider. Thank you.

MR. OXER: We appreciate your comments, Commissioner.

Did you have a thought, Tim?

MR. IRVINE: No.

MR. OXER: Anything else, Jean?

MS. LATSHA: No, sir.

MR. OXER: Okay. With respect to item 5(c), application 15115, motion by Mr. Goodwin, second by Dr. Muñoz to approve staff recommendation to deny the appeal. Those in favor?

(A chorus of ayes.)
MR. OXER: And those opposed?

(No response.)

MR. OXER: And there are none. It's unanimous.

Okay, 15122.

MS. LATSHA: 15122 is Casa Toscana. This is also in Brownsville. This is located off West Alton Grove Road, and to give you some perspective, there's a map there for you, but again we're looking at 83/79 north-south highway. This is on the west side of the highway, there's a rather large Colonia called Hacienda Gardens on the east side of the highway.

Again, we're looking at a relatively high median household income for the tract, a little over 43,000, a poverty rate of 27.3 percent. But I think what was a little bit more compelling was the actual characteristics of the development around this site. It's a pretty well developed road, new school, and this is all west of the highway, a well developed couple of single family neighborhoods, I think there's a Sam's Club and a McDonald's, and it's a relatively vibrant community.

There's an interesting argument made in this appeal with respect to the off-sites associated with this development, substantial, I think 1,200 feet of sanitary sewer line and 700 feet of sewer, 1,200 feet of sanitary sewer, something like that. Anyway, significant off-sites.
associated with this, but before those numbers sway you
too much, it should be understood what is going on with
this site and the reason for those numbers, so this site
is proposed to be about 600 feet behind proposed retail
that's going to go on the frontage road, and so they chose
to put the site behind the proposed retail, for a good
reason, that's probably going to help them out quite a bit
in the long run. This is an area that is developing.

Again, it was really difficult for staff to
look at this site and determine that it had the physical
and economic characteristics of a Colonia just because of
everything else that was going on around it. Staff
recommends denial of the appeal.

MR. OXER: Okay. Item 5(c), application 15122,
motion to consider?

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to approve
staff recommendation to deny the appeal. Is there a
second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Anyone here wish to speak on this particular
item? Is there any public comment?

(No response.)

MR. OXER: With respect to item 5(c),
application 15122, motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation to deny the appeal.

Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: And there are none. It's unanimous.

Jean.

MS. LATSHA: All right. Am I on 282?

MR. OXER: 249, Anaqua.

MS. LATSHA: Excuse me. Yes. Number 15249, Anaqua. This site is actually located I think about a block and a half from a site that we talked about earlier, Solano Park, just west of 281 in Edinburg, right around the corner from the new regional medical center. Again, census tract with a median household income of almost 75,000, poverty rate of 15.8 percent, and access to waterline that runs along the property line and sewer about 660 feet from the property.

Again, an area that, like I said earlier, there was development that we observed on our site visit that didn't even exist on the Google map yet, so an area that is being developed rapidly right. And staff recommends denial of the appeal.

MR. OXER: Item 5(c), application 15249.
Motion to consider?

DR. MUÑOZ: So moved.

MR. OXER: Motion by Dr. Muñoz to approve staff recommendation to deny the appeal. Is there a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin.

Does anybody care to speak? Is there public comment on this item?

MR. VERMA: Hello. I am Manish Verma with Versa Development.

I think this issue has been discussed in great detail today, I don't have anything to add our appeal request. I think the staff has been very diligent in their analysis on this issue for all the applications, and I appreciate that and I respect that and respect their decision here today and respect the Board's decision as well. And that's all I have to say. Thank you.

MR. OXER: Thank you very much for your comments.

This is a hard time of the year so we like to recognize that the staff is doing a remarkable job trying to put all this together and I know there's been extra time put on this, so our thanks to the staff also.

With respect to item 5(c), application 15249 on Anaqua, motion by Dr. Muñoz, second by Mr. Goodwin. Those
in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: And there are none. It's unanimous.

Last one on item 5(c), Jean.

MS. LATSHA: Yes, sir. Orchard View at Mirabella, number 15282. This development is located at the corner of Trenton Road and Weir Road in McAllen. That's kind of north McAllen; Trenton is a major east-west.

Again, we are in a census tract with median household income of over 70,000 and a poverty rate of 11.4 percent. Water and sanitary sewer provided by the McAllen public utilities and available at the perimeter of the property. Staff's site visit didn't reveal anything about this particular site that would make us think that it had the physical and economic characteristics of a Colonia. Staff recommends denial.

MR. OXER: So it's essentially 1.7 of this whole issue, meaning seventh replication of our same problem.

MS. LATSHA: Yes.

MR. OXER: 7.0, maybe.

MS. LATSHA: Sorry, my brain is a little fried.
Yes, sir.

MR. OXER: That's okay.

Item 5(c), application 15282, motion to consider?

MR. GANN: I so move.

MR. OXER: Motion by Mr. Gann. Is there a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin.

Is there any public comment? You've been very patient sitting there, so we're happy to have you.

MR. FLORES: And I will try to be brief. Mr. Chairman, members, thank you for your time. My name is Henry Flores and I represent this transaction.

Like Mr. Verma, I agree that Jean and especially Mr. Irvine spent a lot of time reviewing this matter. I can't necessarily argue with their logic, but I did want to make a few observations, first by saying that I can't possibly in good faith ask you to approve this appeal. What I would suggest to you is that all seven appeals should have been approved because the rules clearly establish in the procedural manual what tests need to be met. There was no ambiguity, there was no philosophic discussion, the rules were clear. Seven developers, or at least seven groups of developers, all
very qualified individuals, came to the same conclusion. Clearly, if the training was that clear, we would not have had this situation occur.

I understand the Valley. My mom and dad were born and raised in Mercedes, Texas, they were migrant workers. Mercedes is a very small community between McAllen and Harlingen. No one has done more transactions in the Rio Grande Valley than our company. We did the first ones in 1996 in Harlingen, San Benito and Mercedes, my mom and dad's hometown, at a site cater-corner from the cemetery where all my grandparents and three of my great-grandparents are buried. We didn't just arbitrarily choose that site, we went there because we wanted to serve our community. We've done deals in Alton and McAllen, Brownsville, Alamo, Donna, Weslaco. We have a deal under construction in Brownsville, we're about to break ground in Alton. I'm not a novice to this industry, I'm not a novice to that area. We absolutely made the right decisions.

Again, having denied all of them, you have to deny me, that's the only fair thing and I would expect this Board to do the fair thing. I'm an advocate of good government and that's one of the reasons I want to address this. One of the criticisms is the average income of the census tract, what is not taken into account is that the
Rio Grande Valley is the poorest part of the United States, with the exception of the Mississippi Delta. Down there you can be in front of a gated entrance of million dollar houses and drive a mile down the road and there's a Colonia. That is the facts and that's why you have census tracts that have high incomes but they have the presence of Colonias.

In the training, a methodology was established that draw a two-mile square around your site. We did that. There's 13 Colonias within that two square miles, including one that's red and one that's yellow, which means we have no services, we have no medical care. We absolutely met the test.

Again, I cannot ask for you to support us, but I do want to say that it's important for next year that this issue be given some clarity because it's unfair to both the political supporters of these transactions, for developers who have spent time, energy and resources sponsoring applications to find ourselves in this situation.

You know, my parents were very, very poor -- again, they were migrant workers -- but they had great faith in God and a belief in this country, and they insisted that education was the key to our success. Because of them and because of some very good teachers and...
MR. OXER: My knuckles still hurt. Okay?

(General laughter.)

MR. FLORES: Absolutely.

I had the opportunity to go to Yale University for my undergrad degree and Harvard for my master's. My master's is in public administration; I spent 19 years in public service. Transparency and clarity is a key component, and unfortunately, it was missing on this issue.

I appreciate the opportunity to address this Board. I understand this is a difficult discussion, and again, I appreciate Jean and Mr. Irvine giving us the opportunity to discuss this with them. Thank you.

MR. OXER: Good timing, Mr. Flores. I appreciate your thought and comments on that. I think it's apparent we'll deal with this issue and then we'll have some summary comments on the whole item.

Is there any other public comments on item 15282?

(No response.)

MR. OXER: With respect to item 5(c), application 15282, motion by Mr. Gann, second by Mr. Goodwin to approve staff recommendation to deny the appeal. Those in favor?
(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

Okay. I think it's fair to say that we've got a lot of work to do on this item because while the developer community, the development community, the community of developers out there are particularly good at looking for ways to garner an advantage in this competition -- because it is such a competitive allocation, competitive process -- one of the things that your comments do is surface those places where we need to make considerably more effort to clarify what we wanted to have happen, irrespective of what the definitions are. So I will suggest that the QAP development team and revision team is going to spend a lot of time on this one.

Just remember, we're going to rewrite it for you when you come back too, Jean.

(General laughter.)

MR. OXER: Okay. Owing to the fact that we've got a full agenda, let's keep going on item 5(d), get a few of those out of the way, and we'll take a break here at 2:30. So the people can schedule themselves, we'll work on taking a break towards 2:30, but let's get a few out of the way on item 5(d).
MS. LATSHA: Sure. I'm going to let Kathryn give some details with respect to the other appeals, but just as an introduction to them, a lot of these appeals a lot of times the question here winds up being should the applicant have been able to correct the issue via an administrative deficiency. So as we work through them, we'll go over some of the rules with respect to administrative deficiencies and why some things can be cured and some things can't. That rule does allow staff to make some determination as to whether or not items that are missing or needed clarification in an application should be considered administrative and can be corrected that way.

We do treat three parts of the application in a different way and we do that in the rule. There are threshold items which, in a sense, are expected to be needing clarification or there might be some minor omissions that we do allow applicants to correct. I think that, in my estimation, those are all on the same playing field in a way. You have, let's say, 40 exhibits, all of which everybody has to provide in their application submission, so while one person might not have some information regarding the zoning of their development and another person might have inadvertently forgot to submit a title commitment, we kind of treat those things as the
same thing and we do allow for some correction via administrative deficiency.

While on the other hand we have scoring items, and we make this clear in the rule as well, where if you fail to submit documentation with respect to a scoring item, we don't allow that to be cured via administrative deficiency, and the reason for that is that those are items that applicants elect in order to make their applications competitive. Those elections require a lot of work and time and effort on the applicants, and so those who put in that work and time and effort and attention to detail and submit that documentation are awarded those points, while those fail to are not awarded those points. We do look at that differently and we look at that differently in the rule.

Also, we look at third party reports differently. If your third party report is not submitted in its entirety -- and this is in the rule -- then your application is terminated. That is to prevent folks from basically not having their third party reports finished and complete and in reference to the relevant development in time.

So that being said, I'm going to allow Kathryn to present the next couple of details.

MR. OXER: So what you're essentially saying
there, if I can have some clarification for my own edification, some of these that are more the product of defining the nature of the project or the application can be defined through the administrative deficiency process, where those that are in competitive pursuit of the points that are available cannot.

MS. LATSHA: That's correct, and that's actually in the rule.

MR. OXER: Okay.

MR. GOODWIN: And Jean, all nine of these are on scoring points, these are appeals on scoring points?

MS. LATSHA: No, because some of them are related to third party reports which is cause for termination.

And just to give a little bit of perspective too, I know that Beau came on and we were talking about the process and everything, and it sometimes comes to surprise what actually happens in real life when we review these applications. On average, a typical application has about 15, maybe, administrative deficiencies, so without allowing for any correction at all, we wouldn't have any eligible applications.

MR. OXER: Can we put that in the QAP for next year?

(General laughter.)
MS. LATSHA: And so I think it's appropriate that we actually look at some of these issues as correctable and some of them as not, because if we had no leniency at all in that process, we would wind up with 60 million in tax credits at the end of July and nobody to give them to. So I just want to make sure that there's some understanding about the practical implications of that process.

MR. OXER: So the complexity of these applications simply provides that it's extraordinarily difficult to be complete on the first shot through.

MS. LATSHA: It does, and we appreciate that.

MR. OXER: All right. Kathryn, have at it.

MS. SAAR: Good afternoon. Kathryn Saar, 9 Percent Tax Credits.

The first appeal that we're looking at today is on Lometa Pointe. It is the appeal of a scoring notice that was denied the point under 11.9(e)(7) which is related to the funding request amount.

So the QAP has two mechanisms by which we limit the amount of credit that can be awarded to any particular application. The first is 11.4(b) which is related to a cap on the credit per application, and that limits applicants to 150 percent of what's available in a sub-region, or a million and a half for the general 13
regions, or two million for the at-risk set-aside. So it's 150 percent of what's available in the sub-region or the lesser of that, the $1.5- or $2 million cap.

So this particular scoring item was introduced in 2014 and it was actually modified slightly in response to public comment that we received on those rules. It originally had to do with capping the number of units in the development size, and it was restructured during that public comment to its current form which caps a request at 100 percent to get that additional point. That was something I meant to make a little clearer. So the 11.4 is a cap in general that you can't exceed; if you exceed it, we'll cut your request. The 11.9 with 100 percent of what's available is an incentive to reduce your credit request. So if you stay within that 100 percent of what's available, you're eligible for an additional point.

MR. OXER: Why would anybody apply for more than what was available?

MS. SAAR: What's that?

MR. OXER: Why would someone apply for more than what was available?

MS. SAAR: It's possible that your deal wouldn't work. In some of these smaller sub-regions where there's only $500,000 available during the RAF process, a lot of deals might not be feasible with just $500,000 in
credit, and I believe that's probably the case here. The amount available in this particular sub-region in the case of Lometa Pointe was $560,730, so if you were under that amount, you were eligible for the extra point. The cap for that sub-region was about $845,000, something like that. The requested amount in this case was $839,000. So the applicant did not exceed the maximum request and it appears that there was a misunderstanding between those two different categories, the 150 percent actual cap and the 100 percent or less of the available in the sub-region.

The RAF has both limits listed, the Regional Allocation Formula that we publish has columns for both of those amounts, so in Rural Region 8 there was only $560,000 available, but if you went over to the final column where it showed the maximum request which is in relation to that 11.4, it showed the request of 850-, we'll call it, as being the maximum. So it just appears that the applicant looked at the wrong column when sizing the particular deal and claimed the point with that misunderstanding.

MR. IRVINE: But going back to the chairman's question, they would apply for it on the theory that there would be more available in the collapse.

MR. OXER: In the collapse. Okay. So even if it's 560-, 150 percent of that would be 840-, so the whole
point was they could apply for the 840-.

MS. SAAR: Correct, and that's often what happens. If you couldn't make your deal work at that lesser amount, the 100 percent or less, then if you're in first place in the region, the way the funding falls through is we wouldn't award anyone. If the first place applicant is exceeding the amount available, the whole amount available gets put into the pool.

MR. OXER: The statewide collapse.

MS. SAAR: Correct. And then that region would be 100 percent underfunded and would be at the top for the collapse.

MR. OXER: So whatever credits were available out of the collapse, since they were at the top at 100 percent underfunded, they get first shot at the 150 percent.

MS. SAAR: Correct.

MR. OXER: Just wanted that on the record.

MS. SAAR: Thank you for the clarification. So I think that kind of explains maybe how we got here. I'd like to hand it over to the applicant.

Staff recommends denial of the appeal.

MR. OXER: Are there any questions of the Board? We'll have to have a motion to consider to begin.

MR. GOODWIN: So moved.

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MR. OXER: Motion by Mr. Goodwin with respect to staff recommendation to deny the appeal for item 5(d), application 15028. Do I hear a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Do we have public comment? Sarah, nice to see you back.

MS. ANDRE: Thank you. Of course I have some public comment. Hi. My name is Sarah Andre. I'm here on behalf of Whitman Investments, that's the developer for Lometa Pointe, application 15028. I'm here to appeal staff's decision to rescind the point and as Kathryn said, under item (e)(7) of Section 11.9 an applicant may receive one point if you reflect a funding amount that's no more than 100 percent of the amount available within the sub-region or set-aside, as estimated by the Department as of December 1, 2014.

We have heard quite a few discussions today on the efforts that the staff has made to make the rules transparent, straightforward, reduce quirks and ambiguity, and I believe there's been great strides in those areas. Unfortunately, this is not one of them, this is a place where there is still some ambiguity.

This is the attached chart, and it is included in your packet, where it shows the amount available, and
the amount available for Region 8 Rural, if you look over
here, is $841,095. We requested $839,000 which is clearly
less than the amount available.

In the QAP it states: When a term is not
specifically defined, terms are to be read in context and
construed according to common usage. The term "available"
is not defined anywhere in the QAP or in the Multifamily
rules. I used Webster's and Dictionary.com to look up the
common definitions. "Available" means suitable or ready
for use, accessibly. The antonym is "limited".

"Maximum" -- and I'm using "maximum" and "limited" because
that's the column I read from -- "maximum" is the greatest
quantity or amount possible. "Limit" is a prescribed
maximum or minimum amount, quantity or number. So using
these common definitions, a value that falls within the
maximum funding request and the award limit would be an
available value.

When staff presented me with their
determination, first I was shocked, and then I started
researching, and I looked into the QAP, the Multifamily
rules, the Multifamily application training workshop
materials, the Multifamily Program procedures manual, and
the FAQs for this cycle. The term "available" is not
mentioned anywhere in any of those documents, nor is there
any reference to it or any guidance on the scoring item.
The only reference that was made available by the staff is here on this chart down in the sub eight-point font that I have to use a magnifying glass to read, you can't even see it.

MR. OXER: That's why they call it small print.

MS. ANDRE: The note is appreciated but it's not a definition. And we aren't the only people that followed this interpretation. I assessed all of the 2015 full applications in sub-regions where they had more than roughly 1.5 million, since that's the other cap, and in those 20 sub-regions there were 19 applicants who requested funds that would exceed staff's determination of available. Of those 19, eight, or almost half, requested the point the same way that we did in this application.

We don't normally request points for things that aren't available. Some people do that; I'm not one of them and I don't advise my clients to do that. If we had understood the interpretation the way that staff asserts that it is, we would never have applied for that point, and in fact, would have restructured the deal to fit within the 560,000 that they say is available.

I'm only saying that really to show you that this isn't a plea for leniency in something where we maybe didn't follow the rules, it's really a plea for you to find that a strict interpretation of the written rules as
presented by staff should be upheld.

MR. OXER: Thank you.

Any questions of the Board for Sarah?

(No response.)

MR. OXER: Kathryn, any response?

MS. SAAR: Well, I agree with Ms. Andre that a strict interpretation of the rules is absolutely required, and her appeal actually talks about -- she quotes the QAP and says: When a term is not specifically defined, terms are to be read in the context and construed according to common usage. And the context of that chart is spelled out in the footnote. Yes, it is tiny font, but on a computer screen it can be made larger, and that footnote specifically talks about which column to use when determining the amount available in the sub-region, and it reads: The column labeled final funding amount is the column an applicant can reference to determine the amount of credit allocation that is estimated to be available for the 2015 cycle. I mean, the plain language of the footnote indicates which column is to be used.

And one other point is I don't believe that this particular application could have been structured differently given the number of units that is being proposed. I don't think that this particular development would work at a lower credit amount, so it would have...
meant completely resizing the deal and new site plans and whatnot.

    MR. OXER: All right. But that constitutes speculation and we'll leave that for later.

    Any other questions of the Board?

    MR. GOODWIN: Did you say the comment was that half of the other applications got it right and half didn't?

    MS. LATSHA: Jean Latsha, director of Multifamily Finance.

    It does appear that some other folks did make the same mistake this year. I, quite frankly, don't know why. The rule was in place in 2014 and nobody made the same mistake. I'm sure that when we were at the application workshops, since this is something that never came up in the past, we probably said: Hey, everybody, this is the exact same as it was last year; any questions?

    No, let's move on.

    Just really quickly to put this in perspective, you have an award limit, this is for everyone, nobody in that region could possibly be awarded more than 840,000 in credits, that's basically a threshold. There would be no reason for being under 840,000 to afford you a point, you have to be under that 840,000. So in order to be eligible for the point, you'd have to be under a lower threshold.
That makes sense. It's in order to, if you will, not avoid the collapse but to incentivized deals to fit within what is available in their region so that we don't have to go through this rural collapse and statewide collapse. But it would be nonsensical to award points for something that is essentially a threshold item.

MS. SAAR: And then to address the point of other applicants making a similar mistake, I think the applicant's appeal points out that there were eight other applicants. I identified seven and most of those weren't competitive so we haven't even looked at their application. Three of the applicants that we have looked at and assessed, all three had the point denied, and this is one of those three; the other two did not appeal.

MR. OXER: Okay. You have a comment, sir?

MR. RHODES: My name is Dave Rhodes. I'm the developer for Lometa Pointe, and I want to speak in favor of our application.

Like any developer, you do a due diligence in the very beginning and when we did our original due diligence, we sized this deal based on what we thought we could apply for in credits. Had we known that we were being restricted to the $560,000 in credits, because relied on that chart given to us by this agency, we would have restructured our deal in the very beginning in the
pre-application for 54 units rather than 78 units. This senior project is supported by the market study, and therefore, we went ahead and applied for the 78 units.

That, in a nutshell, we would not have applied and it was financially feasible to work at 54 units versus the 78 units, we would have just resized our deal.

MR. OXER: Thank you, Mr. Rhodes.

And the interpretation of that -- stay up here, Kathryn, because you're going to be busy for a while -- the 840,000 was not a restriction on that, you were able to apply up to the 150 percent, it's just that to qualify for the point in the competition, you had to stay under the 100 percent that was made available. The 840,000, with a couple of dollars on that, was simply the total allocation, even removing this application through the process and back into the statewide collapse.

MR. RHODES: I don't believe that was clear in what was made available.

MR. OXER: Was it made clear last year, Kathryn?

MS. SAAR: I looked at 2014 applications and it doesn't appear that anyone claimed the point and that was ineligible for it.

MR. OXER: Okay. Thank you, Mr. Rhodes.

MR. RHODES: Our argument is why did so many
people this year.

MR. OXER: That's a good question.

MS. SAAR: Well, as Jean said, at the workshops we got to the slide, we said this is exactly the same as last year, does anyone have any questions, and we didn't get any comment.

MR. OXER: Okay. Any more questions from the Board?

(No response.)

MR. OXER: With regard to item 5(d), application 15028, motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation to deny the appeal. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. It's unanimous. Okay, 15040.

DR. MUÑOZ: Kathryn, before we come off this subject, I guess in you notes, obviously a number of people --

MS. SAAR: We will definitely make that footnote more visible next year.

DR. MUÑOZ: Yes, that's right. We shouldn't have people coming up with magnifying glasses.
MR. OXER: Larger font.

MR. IRVINE: I would also like to point out that if read the whole QAP under 11.6, subsection (1), it does say we will make available the amount in the sub-regions that's calculated under the RAF. So the words "make available" is used elsewhere in the rule.

MS. SAAR: So the next item on your agenda is the appeal of the termination for the application Leatherwood. This application was terminated because a submission requirement was not met related to a capital needs assessment.

The application submitted the capital needs assessment which is required under the third party reports section of the rule, however, when staff reviewed the application, it was identified that the CNA provided was actually for a different development site. So what we actually received was a cover page that said Leatherwood Apartments, and then behind it there was a twelve-page narrative which was clearly for a different application, different number of units, different location, and then behind that twelve-page narrative were some pictures and charts of an apartment complex and it was not immediately clear if it was the apartment complex for the application or for the other application that the narrative was for.

So an administrative deficiency was issued
asking the question: How does the CNA provided meet the requirements of the rule? The applicant responded with the corrected capital needs assessment with the twelve-page narrative that was for the correct development site. They indicated that the pictures and charts that were included with the original submission were, in fact, for Leatherwood, but without the narrative there's really no meaning to those pictures and charts because there's a level of analysis that the provider does based on those charts, and that is what the narrative is all about, it explains what the charts and pictures mean. So because the entire CNA was not submitted with the application by the delivery deadline, the application was terminated.

So the third party reports require a capital needs assessment and for USDA deals it's actually a capital needs assessment so it's a slightly different report but it's the same idea. We're assessing on a rehabilitation what actually needs to be done. There's a high level of analysis that takes place with the systems that are in place, how much life they have left, what the status of the actual development looks like so that an applicant can determine how much rehab is needed in that development. That's why we have to have a property needs assessment.

So the third party reports section of the rule
talks about how the CNA needs to meet the requirements under 10.306 which is our underwriting rules. Our underwriting rules then reference the USDA guidelines and those USDA guidelines require a narrative, because as I said, there's an analysis done on the development and without that twelve-page narrative, or however many pages it is, there's just no way for staff to determine what they're looking at with those pictures and charts.

So this is one of those unfortunate mistakes that simply can't be corrected because the rules require that third party reports be delivered with the application. I would be no different than if that twelve-page narrative that was for a different development site had been twelve blank pages. The fact that a narrative was submitted that was for a different development doesn't help.

It's similar probably to how we looked at the bookmarks last year. If you have an application process that requires certain things and only one person doesn't comply with those rules, it feels like a simple fix, like we should allow them to correct it, but when you start to apply that to 171 applications, it becomes unmanageable to allow so many things to be corrected after the fact that weren't in place on the date that the application was due.

It would also be a mechanism by which an
unscrupulous applicant could manipulate the system and gain additional time for a report to be completed. If they didn't have their CNA completed by the deadline, they could insert blank pages or insert a narrative for a report that was completed and then try and correct it through an administrative deficiency. I'm in no way suggesting that that's what this applicant is doing, I'm simply showing that that's the reason why we don't allow these types of things to be corrected.

MR. OXER: One of the reasons we have deadlines.

MS. SAAR: Yes.

MR. OXER: It's like being late.

MS. SAAR: Yes.

MR. OXER: Here's a clock, date certain, time certain, this side is good, that side is not.

MS. SAAR: Correct.

MR. OXER: Summary?

MS. SAAR: Staff recommends denial of the appeal.

MR. OXER: Okay, thanks.

Any questions of Kathryn from the Board?

(No response.)

MR. OXER: Motion to consider?

MR. GOODWIN: So moved.
MR. OXER: Motion by Mr. Goodwin to approve staff recommendation on application 15040. Do I hear a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Do we have public comment? Anyone wish to speak?

MS. LINDSEY: Good afternoon. Emily Lindsey with Hamilton Valley Management. I would like to thank you gentlemen on behalf of our firm. We very much appreciate the essence of what you strive to accomplish here today with the Board.

It is not my intent today to convince you that the Leatherwood Terrace application did not contain error, because it did, as have all of the applications that all of the developers here today have submitted. We have yet to acquire completely tax credits without having to resolved some sort of deficiencies along the way. But having been a part of the Tax Credit Program since its inception -- and I'll kind of regurgitate a little bit of what Jean said -- we're well aware of the level of competition and the intensifying scrutiny under which these applications are reviewed in an attempt to delineate between applications with tying scores.

And with so many applications coming in the

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door, we also understand that threshold criteria was created as a means of expediting the review process for staff, so the applications who are missing pertinent items or have problems that would require substantial remediation don't even compete against those applications that met those basic requirements. We understand that.

But the application under review today we feel met those basic requirements. The application was submitted to the Department on time and contained all of the necessary items, and as of yet, nothing has been discovered within the application that does require substantial remediation, causing it to have what is described under 10.379 of the 2015 rules as a material deficiency, which is described as any deficiency in an application or other documentation that exceeds the scope of an administrative deficiency. The Department did send, initially, an administrative deficiency and the corrected CNA was able to be turned in immediately. No substantial remediation was required.

The initial report, just to give you a little bit of backup information for those of you who may be unfamiliar with the CNA, is provided to us from the CNA reporters in an Excel format, and the narrative, the twelve-page narrative that Kathryn described, is a section of that report. And yes, I completely agree with her in
that the report in its entirety is not able to be made sense of without that narrative, completely agree. But those providers submit that report to us and then we in turn have to convert it into the PDF format that is required for application submission, and when that conversion was happening, the wrong narrative was inadvertently inserted into that and submitted. But as was stated before, it was corrected immediately as soon as it was noted by the Department.

Section 10.205 of the Multifamily rules under required third party reports states that the Department may request additional information from the report provider or revisions to the report as needed. As was stated before, these CNAs are allowable to the USDA properties in place of a PCA, property condition assessment, and with that a change and shift in the Department's rules recently has allowed us to utilize these reports but we are also not required to make transfer application with USDA until after we have received our tax credit commitment. And USDA is still the agency who will be approving that report, so it kind of goes without saying when we submit these they're not exactly in their final stages, they're still subject to USDA review, correction and all those sorts of things.

Additionally, if reinstated the application
would qualify for funds in the USDA set-aside and scores at the top of its bracket, having received the most points under opportunity index than any other application with a tying score which has been the Department's and the IRS's focus of allocation for the last several years which is high opportunity areas. We feel the deficiency did not warrant termination and we request that you grant reinstatement. Thank you.

MR. OXER: Thanks for your comments, Emily.

Any more questions from the Board?

(No response.)

MR. OXER: Any response, Kathryn?

MS. SAAR: I would just like to read one section from the rule. 10.204 in the introduction states: If any of the documentation indicated in this section is not resolved through either the original application submission or the administrative deficiency process, the application will be terminated. 10.205 which reads: If the report in its entirety -- this is with relation to third party reports -- if the report in its entirety is not received by the deadline, the application will be terminated.

Staff doesn't feel that there's any room in the rules to grant the appeal.

MR. OXER: Okay. Thanks for your comments.
Claire, if you want to comment.

MS. PALMER: Claire Palmer, representing Hamilton Valley Management.

I just want to make clear a couple of things that maybe get lost in the shuffle. The CNA that's required here is based on a rural development and a USDA rule, and that's who sets the guidelines for this particular report. We actually talked to USDA and asked them what they would do if the summary was not in their report, and they said they would just ask for it. They don't have a rule that says that all the report has to be together at the same time.

The fact is what the rule requires is that there be a CNA. A complete CNA was submitted. Whether you have a summary or not, a complete CNA for the project was, in fact, submitted timely; the only thing that was wrong was that the wrong summary was attached. And if the CNA rule is based on a USDA rule and USDA's rule would allow for change, it seems to me that TDHCA should follow that same process and treat this one as an administrative deficiency. Thank you.

MR. OXER: Thanks for your comments.

And for the record, the CNA rule, while it depends on some of the things that come from the USDA, it's not based on their rule, it's based on our rule about
the information that's provided.

DR. MUÑOZ: Is the narrative necessary?

MS. SAAR: Yes. Under USDA rules there has to be a narrative.

DR. MUÑOZ: So I can't appreciate the earlier statement then. If it's required, then the CNA and the narrative that's required, the associated narrative is part of its entirety and its entirety was deficient.

MR. OXER: Okay. Any other comment? Anything else to fill out, Kathryn? Any other questions of the Board?

(No response.)

MR. OXER: With respect to item 5(d), application 15040, motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation to deny the appeal. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

MS. SAAR: I do have good news for you. Several of the appeals have been withdrawn; 121, 125, 126 and 179 have all been withdrawn.

MR. OXER: And what about 242?

MS. SAAR: 242 will be postponed to the next
meeting.

MR. OXER: That's just delayed.

MS. SAAR: Correct.

MR. OXER: Okay. It is now 2:38. Everybody hold still because we've got something important to note about the weather. Michael, would you jump into this? We're going to take a quick break here and get back into it till we get to the end.

MR. LYTTLE: We've received a note here that a number of agencies locally are shutting down at three o'clock due to the tropical storm conditions rolling into Austin, and that the Austin Police Department and local authorities are basically advising everyone to try to get off the roads as soon as possible because they're expecting some pretty bad weather to move in.

MR. OXER: So that means that anybody that shows up at the Austin City Club is going to pretty much have downtown to ourselves. Right?

Okay. It's 2:39, let's be back in our chairs at 2:50 sharp, two five zero.

(Whereupon, at 2:39 p.m., a brief recess was taken.)

MR. OXER: All right. Let's get after it, let's get back in the business here. There's some fairly inclement weather so we're going to make an effort to get
through our last two items on the agenda and give everybody a shot to drive home through a tropical storm. That should be a thrill a minute.

Let's summarize here. We've dealt with 15028, 15040. 121, 125, 126 and 179 are all pulled; 242 was tabled until next meeting. Is that correct?

MS. LATSHA: That's correct.

MR. OXER: So we're on 277?

MS. LATSHA: Yes, 15277 the Veranda Apartment Homes.

So the situation here is that we received an environmental site assessment -- that's a requirement for all of our applications -- we did receive it timely. It was for about a four-acre site. The problem is the site contemplated throughout the rest of the application was for about five acres. I'm trying to be quick so I don't know if my numbers are exact, but essentially, the ESA submitted did not contemplate the whole site. Again, it's a report that was not submitted in its entirety.

We did deficiency the application in the same manner requesting some clarification, and they basically submitted a new ESA. It had a statement in it from the ESA provider basically stating that they didn't contemplate the whole site the first time around. They submitted new information and it was dated a little bit
later. An ESA will have information that is not just about the site but about various radiiuses, depending on what it is that they're evaluating, and we noticed right off the bat, first off, that there was a significant page difference between these two reports. I think the applicant can provide some sort of explanation as to why there was 94 pages difference between the first report submitted and the second. I think that was our first glaringly obvious this is a new report but then we actually did dig into it a little bit, found that there were additional sites that were included in that radius search that weren't included the first time around.

Now, in this particular case, it didn't really matter, it was a CVS that didn't have an environmental impact on the site, but it's the very reason why we do want to make sure that the entire site is contemplated in the ESA. Had this been something other than a CVS, then it may have triggered disclosure or a number of other factors that could have affected the application.

Because it was a third party report that was not submitted in its entirety, the application was terminated, and the applicant is appealing that termination. Staff recommends denial.

Mr. Goodwin: So moved.

Mr. Oxer: Motion by Mr. Goodwin to approve
staff recommendation. Do I hear a second?

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz.

MS. BROWN: Mr. Goodwin, that was fast.

Good afternoon. My name is Shanette Brown. I'm the community services manager for the City of Plano.

I was sent here on behalf of the city to reinforce the letter that you all received, possibly by email today, that our mayor, Mayor Harry LaRosiliere, sent to you all in support of this project and the need for affordable housing.

The City of Plano, in our 2015-19 consolidated plan, we say that a priority need is affordable housing, focusing on rental at that. When you're looking at our population, our households, we have 12,000 households in Plano that have an annual income of at or below 50 percent of the area median income, and we only have 3,100 units that are affordable to them. That is a huge gap. The positive thing that we need is affordable housing, and this project helps us close in on that gap that we have.

We don't have enough funding. You've heard people talk today about HOME funds to the tune of millions of dollars. We don't get that at the City of Plano. We do not have enough federal funds to even balance a project of this magnitude. So the money that you all give in the
form of tax credits really does help our community, it helps our residents, and we are in dire need. I can't sit here and tell you the need enough, but the data that I just told you speaks to the reason why we're all the way here from Plano.

I'm available to answer any questions. And I do want to add quickly that it's been 22 years since we've had a tax credit project for the general population in Plano. Obviously, we have grown over those 22 years and our need continues to grow. So I'm hoping that you don't go with staff's recommendation and that you allow the applicant to go ahead and further on this process. Thank you so much.

MR. OXER: Thanks for your comments.

Are there any comments from the Board?

(No response.)

MR. OXER: And I would underscore we recognize that you're here representing an area that needs the applications. In fact, I haven't seen anybody show up at the podium yet that didn't need these credits and want to speak, so with that understanding, Bill, you're next.

MR. FISHER: Good afternoon, Board members.

Bill Fisher, Sonoma Housing for Plano Housing Corporation, who is the applicant here.

We are unique, and I know it's been a long day,
but please, this is unique. This is an urban in-fill site and Plano is built out. Ninety-two percent of the land in Plano is already fully developed so there is a very small amount of acreage and so this is a very small site. It's a single family attached development. We originally hoped to put it on five acres. We provided a survey to the ESA guy and he wrote a report that he claims in the letter is a scrivener's error, that he saw the site, and it's attached to it, it's a little flag lot that sticks out on the main four acres that is now already entitled for town home lots and there are 40 of them and there's room for the 43 lots that we originally contemplated.

So we don't disagree that the report submitted said 4.175 acres. The report provider says, look, you can't do a legally compliant, professionally compliant study on this site without covering all the acreage, and he said that and he submitted a correction as part of the review. If we want to get into why there's additional pages, that's really just part of showing the staff that it didn't matter, either way we had a good ESA. I don't believe they disagree that the 4.175 acres submission is complete, professionally compliant, and if we were building on only 4.175 acres, this would not be an issue, so I guess subject to reviewing the study.

So where are we at this point? We have two
arguments. The report provider says it's a scrivener's error. The rules clearly allow for these reports to be corrected. As you may or may not know, the market studies that are submitted routinely go through a thorough review, not only by staff but then later on by underwriting, and they are routinely changed or corrected, primarily to comply with TDHCA's rules, so this is certainly not unprecedented.

Our second argument is, okay, fine, we only did a fully compliant ESA study on four acres, so the only thing in our application, the market study, the number of units, the square footage, the parking spaces, everything else in the application all ties together. So now we have an administrative issue. We've got a 5.4 acre site plan and we've got a four acre ESA. We believe we should simply be allowed to reconcile that difference in the administrative process, and we actually went ahead and submitted a revised site plan that showed all the town homes that we promised in our application, that were covered in the market study on the site that the ESA clearly covers, and our application is viable at that point.

We are in Region 3, we are a general set-aside application, we're unique. We're 50 percent market rate, 50 percent affordable, very unusual. Again, individually
platted lots, single family attached product in an urban in-fill environment. So we are asking you to either accept the scrivener's correction that the ESA provider submitted, or simply make it an administrative issue where we can submit the site plan -- which site plan corrections are not uncommon, I think staff would agree with that -- and simply let us submit the site plan that is on the ESA acreage which, of course, is the bulk of the development.

If you're looking in your book on page 634, you'll see the issue. It's a large rectangular site, that's where all the town homes are going, and there's a little flag lot that allows us to come in and out on the main road. I think it's page 634 in the Board book.

So that's the issue. We need your help here. We got a letter of support from the incredibly conservative representatives. We are in the Frisco Independent School District, they did not object. We got a letter of support from the state representative, as well as the required support resolutions. To get the state rep's resolution, we had to get a support letter from all of the homeowners associations within about a mile and a half radius, there were five of them, and before he would write the letter, he asked us to get the homeowners to buy in.

So I think we are unique, I think we're unique
because of the urban in-fill, I think you have the
authority to do this. We're asking you to do one of those
two things and allow this general population affordable
mixed income development best practices go forward in
Collin County, the richest county in the state. And with
that, I'll answer any questions you might have.

MR. OXER: Thanks, Bill.

Any questions from the Board members?

(No response.)

MR. OXER: Do you have a response, Jean or
Kathryn?

MS. LATSHA: The only thing that I would point
out with respect to the comment of this being a
scrivener's error is we actually did have a very similar
situation with another application in this cycle, a
similar deficiency where we had an ESA that on one or two
pages didn't look like it was quite the right acreage. So
in that instance, same deficiency, they came back and
said, oh, no, that actually was a scrivener's error. Not
another word was changed. Right? This was supposed to
say .3 not .1, and this was also supposed to say .3 not
.1.

MR. OXER: Basically a typo.

MS. LATSHA: So quite frankly, what we were
hoping was going to happen here, which is why we did issue
the deficiency, and instead what we got in return was
clearly an ESA for clearly a different site, so I would
say more than a scrivener's error.

I don't think I have any other comments, unless
there's some questions for me.

MR. OXER: Any questions of the Board?

(No response.)

MR. OXER: Any other public comment?

(No response.)

MR. OXER: Okay. With respect to item 5(d),
application 15277, motion by Mr. Goodwin, second by Dr.
Muñoz to approve staff recommendation to deny the appeal.

Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

We are to the Terraces, the last one.

MS. LATSHA: Terraces at Arboretum. This is
application number 15310.

Let me explain what happened here really
quickly. Two separate scoring items. We have scoring
item over here that is related to a commitment of funding
from a local political subdivision. Separate from that, a
scoring item that is support from the local government.
If you're located in an ETJ, in order to gain maximum points, that's 17 points, you need a resolution from both the city and the county, each worth 8-1/2 points. Those are due on April 1. Over here, due with the application a resolution from the local political subdivision that's providing funding for your application.

So in this case, in order to maximize points on both fronts we need one over here on March 1 from the HFC, Fort Bend Housing Finance Corporation. I'm sorry, I have zero notes in front of me. And then over there, one from Fort Bend County, one from the City of Houston, both due on April 1. So what happened here was on March 1 they turned in the application from the HFC, on April 1 they turned in, instead of these two, the one from Houston and then this one again. So what they're asking is to be able to submit the resolution, that was not submitted on April 1, late and still be afforded those points.

You know, I'm going to go back to what I was talking about at the beginning here, and Kathryn alluded to some of this in one of her previous presentations. In 10.204, this is what is related to threshold items, things like title commitments and zoning letters and what-have-you. 10.204: If any of the documentation indicated in this section is not resolved through either the original application submission or the administrative deficiency
process, the application will be terminated. Clearly we think that those things are going to require some administrative deficiency. 10.205, third party reports, obviously termination if not submitted in their entirety.

11.9, this is related to scoring criteria: Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an administrative deficiency. We clearly look at these three issues very differently in the rule.

I will say this about this one particular situation. One of the many reasons that we are so stringent with respect to scoring items is because it is difficult to know if that documentation that was required to date certain was actually available by date certain. And I know that they're going to argue that, hey, this is a resolution from Fort Bend County, you can look it up on our website, it was clearly available before date certain.

And I would offer up this: in a case, and especially in this program -- which this happens quite often -- where you have two applications that are very similarly situated, they've got tie scores, they might even be within two miles of each other -- we just had ten that were tied in Region 11, right? -- and the only difference between those two applications is that one guy
submitted their resolution on time and one guy didn't, then who do you give the points to. Right?

I think that's where staff has to stand here, and therefore, we recommend denial of the appeal.

MR. OXER: Any questions of the Board?

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation on item 5(d), application 15310. Do I hear a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Is there anyone here who would like to make public comment? Mr. Flores.

MR. FLORES: Mr. Chairman, for the record, my name is Henry Flores, and I represent the development team.

My dear friend, Jean, has provided an assessment of the rule which is a bit too simple for a more complicated issue, and I'm going to rely on an expert on the rules to actually speak to that, but I do clearly think that we will make a compelling argument.

Now, I gave you a bit of my background earlier. I've been a developer for 20 years, we've been involved in 39 transactions, $430 million of transactions. But before that I was actually the first executive director of
this agency. I was appointed by Ann Richards and I ran
the agency for Ann Richards, and then I was reappointed by
George Bush, so I ran the agency for both governors. I
left the governor's staff to work for President Clinton as
chairman of the Federal Home Loan Bank, and then when
Governor Bush became President Bush, I was appointed to
that slot.

And I say that just to explain that I have a
great deal of experience of looking at these issues from
both the private and the public sector, and it's critical
that you have an administrative deficiency process that
allows for the cure of administrative deficiencies within
the rules. And again, Ms. Bast will explain why this is
in within the rules.

Jean talked about how you're not allowed to
correct scoring items if there isn't any documentation,
and again, Cynthia will provide some insight into why we
provide documentation and why we think that suffices to
meet the tests for administrative deficiencies.

You know, early in this meeting, Chairman Oxer
talked about the integrity of the scoring, and this is
where, again, you have rules and the spirit of the rules.
This is a situation where the spirit of the rules clearly
indicates that the administrative deficiency oversight
should allowed to be cured. You know, essentially we
submitted a file, an electronic file that was named Fort Bend County resolution of support. That document was intended to show our overwhelming support, and unfortunately, it had four of the five pages that we intended to submit. We think the fact that there was a placeholder, that there was documentation submitted is why we're allowed to cure this under a very strict interpretation of the rules, and again, taking into consideration the spirit of the rules.

You know, essentially we believe that misinterpretation of the rules is the true issue at hand. Where staff is constrained by the interpretation of the facts or the circumstances, that's why legislation creates governing boards to review these matters. I was going to joke when I first walked up here that obviously you left the best for last because I'm the last presenter, but I do clearly believe and can honestly say that I think we've met the spirit of the rule, that we've complied with the QAP requirements, and that an administrative deficiency should be allowed to be cured.

And with that, I will turn to Cynthia, unless there's any questions.

MR. OXER: Thank you, Mr. Flores.

MR. GOODWIN: I have a question.

MR. FLORES: Yes, sir, of course.
MR. GOODWIN: If you represented the application that is going to get bumped because we approve this, what would your argument be?

MR. FLORES: Good question, Mr. Goodwin. You know, I would suggest that we were correct and walk away. I didn't mean to be a little facetious. You know, I think we meet the spirit of the rule and we can show that we meet the letter of the rule. If I were oppositional to that and trying to make an argument, I would say that failure to provide that one page was sufficient to dismiss the argument. Again, the placeholder in the rules and the rules adopted by this Board through the Qualified Allocation Plan gives a definition of administrative deficiencies, the three types, and explains when those can be cured, and again, I think Ms. Bast will be able to explain why this can be cured.

Thank you, sir. Thank you, everybody.

MR. OXER: Thank you, Mr. Flores.

MS. BAST: Good afternoon. Cynthia Bast from Locke Lord.

MR. OXER: We did, in fact, save the best till last.

MS. BAST: Thank you.

We saw, and Ms. Latsha very clearly identified that there are different ways administrative deficiencies
are handled in scoring situations, in threshold situations and in third party reports. And I really want to focus on what the rule says about how you can address an administrative deficiency in a scoring situation. It says: Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an administrative deficiency.

I think that word "any" is so very important because it is the crux of the situation that we have here. It directly implies that if you provide some documentation then you're allowed to cure this by administrative deficiency. And it makes sense within the overall policy. The policy is that if an applicant submits something, puts TDHCA on notice, puts the other applicants on notice that they're trying to achieve these points, but if they make a mistake or if there's something omitted from what was submitted as their supporting documentation, then the applicant is allowed to make a correction to preserve the integrity of the scoring process.

In this case the applicant did not fail to provide any documentation. As you heard, the applicant filed a PDF file entitled Fort Bend County resolution. That file contained four pages which was the resolution for the Fort Bend County Housing Finance Corporation. It
was a resolution by which the housing finance corporation showed its support for this development financially. We believe that is evidence of supporting documentation. What the applicant failed to do is they failed to also provide the one-page resolution that they had in hand from the Fort Bend County Commission supporting the transaction.

Now, I think you have to remember the Fort Bend County Housing Finance Corporation is an instrumentality of Fort Bend County. It's not like we put something in there from Harris County, it's not like we put something in there from a city, we put in something from an instrumentality of Fort Bend County, and I believe that constitutes some documentation. In fact, in Mr. Irvine's response to our appeal he acknowledged that it would be unlikely for Fort Bend County to not support the development if their HFC was supporting the development financially.

And in their writeup the staff acknowledges that they initially made an error and thought that the resolution that was provided from Fort Bend County Housing Finance Corporation was actually the resolution from Fort Bend County, and they initially awarded the points. So they saw the connection there. There's a real causal link. You just simply cannot say that this applicant did
not provide any documentation for support from the county.

This may seem like one of those optical illusions where one person sees one image and another person sees another image, but here I think you can rely upon what your eyes are telling you and know that we fit firmly within these rules. The dress is blue and black, it is not white and gold. The applicant provided some documentation that Fort Bend County was supporting this application. Therefore, the rule allows for an administrative deficiency to cure the omission.

So we respectfully ask that you reverse your motion and grant the appeal so that the points may be reinstated. And I thank you very much.

MR. OXER: Thanks, Cynthia.

Got a response?

MS. LATSHA: Jean Latsha, director of Multifamily Finance.

I do find it funny that I saw white and gold, I totally did. And Cynthia and I agree on a lot of stuff, but it was white and gold.

MR. OXER: As I would hasten to suggest to everybody, as a Georgia Tech graduate, I saw white and gold.

MS. LATSHA: But that's a longer discussion than this even, as we all know.
MR. OXER: Exactly.

(General laughter.)

MS. LATSHA: You know, I think there probably are two ways to see this. The way that staff sees this scoring item is there are a few other scoring items that are structured in a similar way where you have multiple components within a scoring item. For example, we have a community input scoring item that allows applicants two points per letter for a total of four points. Now, if someone were to submit just one letter of community support, we would only evaluate that one letter as to whether it was worth two points or not, and we wouldn't allow the applicant then to submit another letter so that they could get the four points.

Similarly, with local political subdivision funding, the very resolution that they did submit. So you can have just on your application, hey, I want some money from the HFC and that could get you up to eleven points, but for another one point you have to have that resolution saying not only do I want the money but I already have the commitment for the money. So if you were to submit your application with evidence that you want the money, we'd give you your eleven points, but we wouldn't give you your one point and we wouldn't allow you to bring that resolution in later for that one point either. So we
treat these very, very consistently.

Cynthia and I actually went through this kind of hypothetical with each other when we were talking about this appeal. Let's say let's take it one step further and I had a community letter but all I had also was a placeholder or something, or some evidence that it seemed as though I was going to have another community letter of support, maybe it was some documentation of their nonprofit status or something like that, but still no letter. Still, again, I would argue staff would not accept that letter late.

I appreciate the difficulty in obtaining the resolution that they obtained and it is a truly unfortunate mistake, but I think one that unfortunately does result in our not being able to award those points.

MR. OXER: And the total points that they would lose on this is the 8-1/2 points.

MS. LATSHA: Eight and a half.

MR. OXER: Okay. Any other questions from the Board?

MR. IRVINE: May I offer another comment?

MR. OXER: By all means.

MR. IRVINE: We began item 5 with me talking about the lengths to which we as a team go to vet these issues, and before we finish up on this and move on to
item 5(e), one thing I would say is there are appeals and challenges and waivers and all these things that are just clear and those are easy to write, and there are some that are hard and we go to incredibly lengths. I tried to write this appeal response both as an approval and as a denial, and I just couldn't get there in my capacity writing it as an approval. The standard that I believe staff must operate under is we can do what's clear and unambiguous but where ambiguity creeps into the matter does become matters to be decided in public by our Governing Board.

As a result, my letter was pretty nuanced. It wasn't that I didn't find that there wasn't any information, it was that I could not clearly say that what was provided got me to where I needed to be. So I just say that as a parting shot at how incredibly complicated this is and how much we agonize over it.

MR. OXER: As is consistent with what we've run into in the QAP before, we're constantly parsing words. Any other questions or comments from the Board? (No response.)

MR. OXER: We have a motion by Mr. Goodwin, second by Mr. Gann on item 5(d), application 15310, to support staff recommendation to deny the appeal. Those in favor?
(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

Okay, Tom.

MR. FLORES: Mr. Chairman, members, thank you very much.

MR. OXER: Thank you, Mr. Flores. We appreciate you being here. We hope the decisions we made today won't keep you from coming back.

Tom, let's go.

MR. GOURIS: Last item. I'm Tom Gouris, deputy executive director.

This item is with regard to a Houston Trust Fund LURA that is being asked to be modified so that it can be removed. The company LaSalette, LLC purchased a property called Oaks of LaSalette in October of 2013 after a bank foreclosure. The property was then and has remained in a distressed situation with many down units. Prior to the acquisition, the new owner was made aware of the Housing Trust Fund LURA and indicated that they understood the requirements of that LURA, but upon closing they did not execute or record the agreement to comply with the LURA. The new owner then commissioned an analysis of the cost to rehabilitate or reconstruct the
property and found that the rehabilitation would be economically infeasible.

The Department's Administrative Penalties Committee has met with the owner, as has our Compliance Division, as has executive staff in attempts to obtain compliance. The city has also begun the process of forcing the property to shut down and the property currently is without life safety certificates.

The immediate concern to staff and executive is for the current residents and trying to get them into a place where they can have safe, decent and affordable housing for the remainder of the LURA period. We worked out a solution that we think will address that situation. We're in the final stages of negotiating that solution, and we wanted to get your approval of pursuing that course of action.

MR. OXER: So how much time is left on the LURA?

MR. GOURIS: Five years.

MR. OXER: That's five out of thirty?

MR. GOURIS: Yes.

MR. OXER: So they were pretty close toward the end, anyway.

MR. GOURIS: Yes. It had changed hands many times, but yes, this is the last of it.
MR. OXER: Had it changed hands because of some economic difficulty?

MR. GOURIS: Yes.

MR. OXER: So we're trying to get this rectified and take care of those folks that are currently in the facility. Is that correct?

MR. GOURIS: That's right.

DR. MUÑOZ: You need a motion?

MR. OXER: To modify the LURA.

MR. GOURIS: To modify the LURA.

MR. OXER: So the modification would represent what?

DR. MUÑOZ: For the next five years.

MR. GOURIS: For the next five years the current owner would ensure that the people that are living in the property now are moved, relocated immediately, as soon as possible to a new place or places of their choosing -- there are a couple of options that we're creating for that -- and that they'd ensure that they'd have funding, a rent subsidy that would allow them to stay in their new location based on their current rent versus the new rent.

MR. OXER: Any escalation that they might face by having moved.

MR. GOURIS: That's right. It also allows for
a substitute tenant. If someone leaves or isn't able to move forward, it allows them to either provide a substitute tenant so we get some other affordability or provide the Housing Trust Fund with a lump sum payment equal to the amount close to what the remainder of the value of that subsidy for five years would be.

MR. OXER: So we're essentially giving you authority to negotiate on our behalf.

MR. GOURIS: That's right.

DR. MUÑOZ: So moved.

MR. GOODWIN: Second.

MR. OXER: Motion by Dr. Muñoz, second by Mr. Goodwin to approve staff recommendation on item 5(e). Is there any other comment from the Board? Any public comment?

(No response.)

MR. OXER: With respect to item 5(e), those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: And there are none, of course. --

MR. GOURIS: Thank you.

MR. OXER: Okay. That's it, we're at the end of our formal agenda. We're at the point where we request

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public comment on matters other than those items that were on the agenda. I would advise you that we cannot take action, you can give only comments. We'll take those down to record for development of future agendas, but those who wish to speak, please do so.

MR. KEEN: Thank you, Mr. Chairman. Good afternoon, Board. I'll make this very brief. My name is Breck Keen. I represent Presswick Companies, and we are the development team behind application 15014, the Overlook at Cibolo Park, located in Boerne, Kendall County.

And I want to bring to your attention what I contend is an underwriting error within the underwriting report of application 15281, Cayetano Villas located in La Vernia, Wilson County. Both applications are competing in Region 9 Rural. The error is related to tax exemption and the resulting determination of feasibility.

Application 15281 claimed 100 percent tax exemption at full application. The underwriting staff adjusted the real property taxes to 51 percent within their report that was posted to your website on June 3. I have to assume the justification of that adjustment was that the nonprofit entity owned 51 percent of the general partner entity. Now, based upon my review of the documentation presented in the application and a very
clear reading of Texas Tax Code 11.1825, which is the Tax Code that governs tax exemption, I conclude and contend that both are incorrect, and application 15281 does not and cannot qualify for partial or full tax exemption.

    Now, I'm no expert in ad valorem tax exemptions, so we engaged one that is. We engaged Mr. Michael Eaton of the Eaton Law Firm, to render his opinion on the application and their claim to tax exemption. Mr. Eaton's opinion states that Cayetano Villas of La Vernia, LLC does not and cannot qualify for a property tax exemption pursuant to Texas Tax Code Section 11.1825 or any other provision of the Texas Tax Code.

    The issue at hand, gentlemen, is financial feasibility. The full impact of real estate taxes must be included within the underwriting analysis, and when they are, application 15281 will fail the financial feasibility test outlined in the rules. It fails because the deferred developer fee exceeds 50 percent and cannot be repaid over the 15-year compliance period. If it is financial infeasible, the application must be terminated.

    So I respectfully request the Board to instruct staff to review this matter and confirm application 15281's ineligibility for tax exemption, and if necessary, place on the agenda for future consideration. Thank you.

    MR. OXER: Thanks for your comments, Mr. Keen.
Do we have any other public comment for the creation of our future agendas?

MR. LYTTLE: J. Paul.

MR. OXER: Yes, sir.

MR. LYTTLE: I have a note if there's no other comment.

MR. OXER: Okay. Any other comment from the staff? And by the way, I can speak for the Board, I'm confident that the Board, even for those who are not here, we fully appreciate in ways you cannot measure how much effort you put into doing this. I know there are difficult decisions you have to make and we appreciate that you do those as hard as you can. We're here to make sure that there's a fair process and I'm confident that it has been and we continue to expect high performance from the staff in the future.

Any other comment from the staff? Any comment from anybody on the Board?

(No response.)

MR. OXER: Michael, do you have a comment to make?

MR. LYTTLE: Yes. The folks from TAAHP wanted me to let everyone know that the reception for Cameron Dorsey tonight is going to be moved to another date when there's not a tropical storm and natural disaster.
threatening all of us.

MR. OXER: Wimps.

All right. I get the last word as chairman.

It's a good thing that we do, it's a hard thing that we do. We appreciate the work that everybody does, not only on the staff but in this community, to make affordable housing available to all Texans.

So with that, I'll entertain a motion to adjourn.

DR. MUÑOZ: So moved.

MR. OXER: Motion by Dr. Muñoz to adjourn.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. Those in favor?

(A chorus of ayes.)

MR. OXER: See everybody in three weeks -- or two weeks, it will be two weeks on the 30th.

(Whereupon, at 3:28 p.m., the meeting was concluded.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: June 16, 2015

I do hereby certify that the foregoing pages, numbers 1 through 209, 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.

6/22/2015
(Transcriber) (Date)

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