TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

John H. Reagan Building
Room JHR 140
105 W. 15th Street
Austin, Texas

September 3, 2015
9:36 a.m.

BOARD 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

ON THE RECORD REPORTING
(512) 450-0342
## AGENDA ITEM

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

### EXECUTIVE

a) Board Meeting Minutes Summaries for June 16, 2015; June 30, 2015; July 16, 2015; and July 30, 2015

### LEGAL

b) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Van Apartments (HTC 92181 / CMTS 1091)

c) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Villa Elaina (HTF 85338 / CMTS 4210)

### HOME PROGRAM

d) Presentation, Discussion, and Possible Action to authorize the issuance of the 2015 HOME Investment Partnerships Program ("HOME") Single Family Programs Competitive Award and Reservation System Notices of Funding Availability ("NOFAs") for Single Family Non-Development Programs, and the publication of the NOFAs in the Texas Register

e) Presentation, Discussion, and Possible Action on amendments to two HOME Homeowner Rehabilitation Assistance Household Commitment Contracts issued under Reservation Agreement 2012-0800 for the reconstruction of two single family homes by WREM Literacy Group, Inc. under the Disaster set-aside 1002069

### COMMUNITY AFFAIRS

f) Presentation, Discussion, and Possible Action on Corrections to Previous Program
ON THE RECORD REPORTING
(512) 450-0342

Year 2015 Emergency Solutions Grants Program Awards and the Associated Award of a Contract under the Program Year 2014 Emergency Solutions Grants Program

g) Presentation, Discussion and Possible Action on State Fiscal Year 2016 Homeless Housing and Services Program Awards

h) Presentation, Discussion, and Possible Action Authorizing Staff to Identify an Eligible Entity, through release and subsequent award of a Request for Applications (“RFA”) to Permanently administer the Community Services Block Grant in Delta, Franklin, Hopkins, Lamar, Rains, Red River, and Titus counties

TEXAS HOMEOWNERSHIP PROGRAM

i) Presentation, Discussion, and Possible Action on the Single Family Mortgage Loan and Mortgage Credit Certificate (MCC) Programs Participating Lender List

HOUSING RESOURCE CENTER

j) Presentation, Discussion, and Possible Action on the 2016 Regional Allocation Formula Methodology

ASSET MANAGEMENT

k) Presentation, Discussion and Possible Action regarding Housing Tax Credit Application Amendments

14051 Churchill at Champions Circle
Fort Worth

14155 Cypress Place Apartments
Beaumont

14291 Cypress Creek at Wayside
Houston

14292 Cypress Creek at Parker Creek North
Royse City

BOND FINANCE

MULTIFAMILY FINANCE

m) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer
15405 Sagetree Terrace Houston
15407 Reserve at Quebec Fort Worth
15412 Timbers Apartments Austin
15413 Martha’s Vineyard Dallas

n) Presentation, Discussion, and Possible Action on Inducement Resolution No. 16-002 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2015 Waiting List for Williamsburg Apartments

o) Presentation, Discussion, and Possible Action Authorizing and Directing the Executive Director to Approve Modifications to the Organizational Structure Relating to Darson Marie Terrace (#15404) Prior to Bond Closing

RULES

p) Presentation, Discussion, and Possible Action on an order adopting new 10 TAC Chapter 5, Community Affairs Programs, Subchapter J, Homeless Housing and Services Program, §5.1009 Shelter and Housing Standards, and directing its publication in the Texas Register

q) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter K, Emergency Solutions Grants (“ESG”), §5.2002 Purpose and Use of Funds, and §5.2004 Eligible Applicants, and directing its publication in the Texas Register

r) Presentation, Discussion, and Possible Action proposing the repeal of 10 TAC Chapter 20 Single Family Umbrella Rule,

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) TDHCA Outreach Activities, July-Aug 2015

b) Report Regarding a Request for Proposal ("RFP") for Master Servicer for the Texas First Time Homebuyer Program and the My First Texas Home Program issued by the Texas Department of Housing and Community Affairs (the “Department”)

ON THE RECORD REPORTING
(512) 450-0342
c) Report Regarding a Request for Proposal ("RFP") for TBA Program Administrator issued by the Texas Department of Housing and Community Affairs (the “Department”)

d) Report Regarding the Awards of HOME and TCAP funds from the 2015-1 Multifamily Development Program Notice of Funding Availability

ACTION ITEMS

ITEM 3: MULTIFAMILY FINANCE

a) Presentation, Discussion, and Possible Action on Inducement Resolution No. 16-003 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2015 Waiting List for Cheyenne Village Apartments and Chisolm Trace Apartments and Determination regarding Eligibility under 10 TAC §10.101(a)(4) related to Undesirable Neighborhood Characteristics

b) Report and Discussion regarding the need to clarify 10 TAC §10.3(a) definition of “Qualified Elderly Development” in light of recent HUD guidance on age-restricted developments

ITEM 4: ASSET MANAGEMENT

Presentation, Discussion and Possible Action regarding Amendments to HOME Direct Loan Terms for Allegre Point (HTC # 11123, HOME # 1001576)

ITEM 5: REAL ESTATE ANALYSIS

a) Presentation, Discussion, and Possible Action on appeal of the recommended HOME loan terms in connection with the application under the Multifamily Development Program 2015-1 Notice of Funding Availability ("NOFA") for West Ridge Villas, #15502, McKinney

b) Presentation, Discussion, and Possible Action on appeal of the recommended HOME loan terms in connection with the application under the Multifamily

ON THE RECORD REPORTING
(512) 450-0342
Development Program 2015-1 Notice of Funding Availability (“NOFA”) for Merritt Hill Country, #15273, Dripping Springs

ITEM 6: RULES

NOTE: The following items were tabled (see page 109) to be taken up at a special Board meeting to be held on September 11, 2015


b) Presentation, Discussion, and Possible Action on the proposed repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and a proposed new 10 TAC Chapter 11, concerning the Housing Tax Credit Program Qualified Allocation Plan, and directing its publication for public comment in the Texas Register.

c) Presentation, Discussion, and Possible Action on the proposed repeal of 10 TAC Chapter 10 Subchapter D concerning Underwriting and Loan Policy and a proposed new 10 TAC Chapter 10 Subchapter D and directing their publication for public comment in the Texas Register.
d) Presentation, Discussion and Possible action on the proposed repeal of 10 TAC Chapter 10 Subchapter E concerning Post Award and Asset Management Requirements and a proposed new 10 TAC Chapter 10 Subchapter E and directing their publication for public comment in the Texas Register

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

EXECUTIVE SESSION

OPEN SESSION

ADJOURN
MR. OXER: Good morning, everyone. I'd like to welcome you to the September 3 meeting of the Texas Department of Housing and Community Affairs Governing Board.

We'll begin with roll call. Hope everybody had a nice summer. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum?

MR. CHISUM: Present.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin is not with us today.

Dr. Muñoz?

DR. MUÑOZ: Here.

MR. OXER: And I'm here, we have five present, that gives us a quorum, so we're in business.

Tim, lead us in the pledges.

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

MR. OXER: Good to see everybody back. Let's get to work here. Do we have any special items to take a look at this morning?

MR. IRVINE: Yes. Mr. Chairman, if we might remove item 1(l) from the consent agenda.
MR. OXER: Is that being pulled or reconsidered?

MR. IRVINE: It's going to be considered as an action item. And also, I believe staff has some clarifications to read into the record before you approve the consent agenda, and those would be under item 1(m), as in Mike, and 1(f) also.

MR. OXER: Okay. Hold on a second, Michael. Bobby Wilkinson from the Governor's Office, there he is. Welcome back. Good to see you made it over the summer. And Ms. Pedraza from the Urban Affairs Committee, there she is back in the back. Happy to see everybody here. We appreciate the interest that the Governor's Office and the legislature takes in what we're doing.

That said, with respect to the consent agenda, we need to hear the correction first, so Michael, let's take yours.

MR. DeYOUNG: Michael DeYoung, Community Affairs director.

Item 1(f), in the weeks following the July 16 meeting of the Governing Board of TDHCA, staff was contacted by the Coalition of the Homeless for Houston/Harris County relating to the local competition that they had done. In the past, I think you will remember, that we have encouraged the local COCs to begin controlling part
of this process and making decisions for funding in an
effort to give more local control to where these ESG
dollars are put into force. Their award recommendations
to the Department were based on a competition and had
included awards that were joint collaborations, something
the Department is trying to encourage, and they requested
the awards previously approved by the Board be modified
slightly. So the item that you see before you is we're
requesting this verbal correction.

The COC board chose to apportion the award
previously approved for the Coalition for the Homeless of
Houston/Harris County such that Catholic Charities, the
Archdiocese of Galveston-Houston now also receives some
funding from that award. Further, the COC informed the
Department that a previous internal reapportioning of
funds between the Coalition for the Homeless of Houston/
Harris County and the Bridge Over Troubled Waters failed
to move administrative funds along with the program.

So what we're requesting is that the award for
Coalition for the Homeless of Houston/Harris County be
reduced from $691,836 to $128,750, also, that the award
for Bridge Over Troubled Waters be increased from $411,469
to $416,951, and finally, an award for Catholic Charities,
Archdiocese of Galveston-Houston of approximately $553,765
is now approved.
So they've had some time to go through their competition and realized they need to make some adjustments within their competition, and we're in favor and in support of those adjustments that they're wanting to make in their Houston COC competition.

MR. OXER: So this is essentially repairing or modifying or cleaning up something inside money that we've already given them to start with.

MR. DeYOUNG: Yes. We awarded funds to the COC. We did it with two COCs this year, we awarded them directly and let them run the competition, and upon further review they decided they want to include a different decision, and we support that decision. They have a board that works together, a committee that works together on their process, and this is their request to TDHCA and subsequently would change what you see in your Board book as presented.

MR. OXER: It changes but is it considered a material change?

MR. DeYOUNG: Enough because there's a new entity within that recommendation that we need to read it into the record.

MR. OXER: But just to read it into the record. Correct?

MR. DeYOUNG: Correct. I'm not an attorney but
I play one on Governing Board days.

MR. OXER: Right. Wait till you see what I play on Governing Board days.

(General laughter.)

MR. OXER: Is there anything else in that, Michael?

MR. DeYOUNG: No.

MR. OXER: And we're pulling item 1(l), is that correct, to be considered as an action item?

MR. IRVINE: Correct.

MR. OXER: We're just going to take that up later, Monica? Okay.

And on 1(m), Teresa, did you have a change you wanted to make on that?

MS. TERESA MORALES: Teresa Morales, acting director of Multifamily Finance.

With respect to 1(m), it relates to 4 percent housing tax credit transactions and the issuance of determination notices. The one clarification relates to 15475 Sage Tree Terrace. The underwriting report for this particular transaction was posted after the Board writeup was, so there's a slight change to the credit amount that's reflected in your Board writeup. Instead of the $280,152, the revised credit amount should be $278,948, and that is consistent with underwriting.
MR. OXER: So we're just changing basically 1,800 bucks in that one item.

MS. TERESA MORALES: That's correct.

MR. OXER: All right. Appreciate the attention to detail.

Given that, is there any item that any Board member wishes to pull from the consent agenda?

(No response.)

MR. OXER: Apart from modifications on 1(f) and 1(m) and we're going to pull item 1(l) for consideration as an action item.

Peggy, let's hear that before we get started.

MS. HENDERSON: Peggy Henderson, TDHCA, registering public opinion for Jolene Sanders from Easter Seals Central Texas in support for staff recommendation of item 1(d).

MR. OXER: Okay. We'll take that.

Given that, I'll entertain a motion to consider for the consent agenda.

MS. BINGHAM ESCAREÑO: Mr. Chair, I move to approve the consent agenda with the modifications made on 1(f) and 1(m), and pulling 1(l) to the action agenda.

MR. OXER: Motion by Ms. Bingham. Do I hear a second?

MR. CHISUM: Second.
MR. OXER:  Second by Mr. Chisum.

Is there any other consideration, any other public comment?

(No response.)

MR. OXER:  There is none.  Motion by Ms. Bingham, second by Mr. Chisum to approve the consent agenda with the exception of modifications on item 1(f) and 1(m) and pulling 1(l) for later consideration.  Those in favor?

(A chorus of ayes.)

MR. OXER:  And opposed?

(No response.)

MR. OXER:  There are none.

Before we consider item 1(l), I want to take an opportunity to accept one public comment at the chair's discretion here because we have some logistics issues to deal with.  Jaime, if you'd like to come to the front and make a point.

MR. LONGORIA:  Good morning.  First of all, I'd like to thank you for having me here today, Chairman Oxer and distinguished members of the Board.

MR. OXER:  And I'll have to ask you first, Jaime, you have to give your name, tell us who you are and who you represent.

MR. LONGORIA:  Right.  My name is Jaime
Longoria, and I'm the executive director of the Community Service Agency of Hidalgo County. I'm here today representing County Judge Ramon Garcia and the entire Commissioners Court of Hidalgo County.

As you're probably aware, our agency underwent a rapid change in leadership back in March of this past year. The top three administrators resigned en masse and the Commissioners Court, in their wisdom, chose me to be the interim executive director -- and I say wisdom facetiously.

MR. OXER: In their wisdom but not yours. Right?

MR. LONGORIA: That's right.

I was appointed the interim director on March 17 of 2015. I must tell you those first few days were rather challenging, to say the least. Probably the smartest thing I did during the first few days of my very new tenure there was I returned a phone call to Mr. Michael DeYoung, the director of Community Affairs for TDHCA.

Over the next few months, TDHCA staff made themselves available to our program and visited our program, actually in the building, five or six times. Those were all very pleasant visits and very good visits. You know, generally when the state shows up, agencies are
not real excited, but under these particular circumstances we welcomed them with open arms and we were very grateful to see them. They also provided training and technical assistance that resulted in uninterrupted service, and most importantly, improved customer service for the residents of Hidalgo County. Specifically, Executive Director Tim Irvine and Deputy Director Brooke Boston dispatched Community Services Director Michael DeYoung, Cathy Collingsworth, and Laura Saintey to our facility. I cannot emphasize to you enough how reassuring it was for me and for the rest of our staff to have the state in our corner every step of the way.

Because of this, Judge Garcia and the rest of the Commissioners Court wanted me to come here today and express their gratitude for your staff's work over the past six months. The people of Hidalgo County are forever grateful for their efforts. To express this sentiment, at the September 1 meeting of the Commissioners Court, they passed this resolution of appreciation, and with your permission, Mr. Chair, I would like to read this into the record.

MR. OXER: Please.

MR. LONGORIA: It's a Resolution of Appreciation to the Texas Department of Housing and Community Affairs.
"Whereas, the Texas Department of Housing and Community Affairs provided staff to assist in the transition of Hidalgo County's community service agency after the agency experienced a quick turnover in leadership during the month of March, 2015; and,

"Whereas, members of the Community Affairs Division reached out to the community service agency and began the process of evaluating all aspects of the department's operations, with the goal of providing the best to the residents in need; and,

"Whereas, the Community Affairs Division team provided invaluable assistance to newly appointed Executive Director Jaime Longoria and his staff which resulted in providing uninterrupted and markedly improved services to the residents of Hidalgo County; and,

"Whereas, Executive Director Tim Irvine and Community Affairs Division Deputy Executive Director Brooke Boston dispatched Director of Community Affairs Michael DeYoung, Manager of Community Affairs Cathy Collingsworth, and Project Manager Laura Saintey to Hidalgo County and they spent countless hours over the last six months providing technical assistance to county personnel; and,

"Whereas, because of their efforts the community service agency clients reaped the benefits of
improved service, shorter wait times for benefits, and a client-friendly atmosphere. The advice and recommendations have resulted in the community service agency serving more people in six months as were served in all of 2014. The community service agency will reach full expenditure of funds by the end of the program year rather than sending money designated for Hidalgo County residents back to the state and the program has transitioned eleven people out of poverty this program year with more to come.

"Now, therefore, be it resolved that Hidalgo County Commissioners Court hereby gratefully acknowledges the fine work of the Texas Department of Housing and Community Affairs and the leadership of its Governing Board for creating an atmosphere of collaboration and assistance that allowed staff to assist in turning around the community service agency in four months.

"Dated this 1st day of September 2015."

And it's signed: Ramon Garcia, County Judge; A.C. Cuellar, County Commissioner Precinct 1; Eduardo "Eddie" Cantu, County Commissioner Precinct 2; Joe Flores, County Commissioner Precinct 3; and Joseph Palacios, County Commissioner Precinct 4. And it's attested by Arturo Guajardo, County Clerk.

So thank you, ladies and gentlemen. I certainly appreciate all the work that your staff has done.
MR. OXER: Well, we appreciate your comments, and I hope you'll give our best to Judge Garcia. We're always happy to hear that we got it right and somebody else recognized all the work that the staff puts in, actually got it right occasionally. So thanks very much again.

That will be something we can put on the proud wall.

MR. IRVINE: Thank you so much.

MR. LONGORIA: I certainly appreciate it.

Thank you so much for having me.

MR. OXER: We know you have some logistics issues, so thanks again.

DR. MUÑOZ: Safe travels.

MR. OXER: Okay. Back to the action agenda.

Monica, I believe you're first here since we pulled your item.

MS. GALUSKI: Good morning. I'm Monica Galuski, your director of Bond Finance.

With this item, staff is seeking final approval for the issuance of the 2015A and 2015B bonds. The 2015A bonds will be fixed rate taxable bonds that will refund the Department's 2006 Series H bond issue and pay related costs of issuance. The par amount of 2015A bonds will not be $34,740,000. Refunding the 2006H bonds reduces the
outstanding variable debt of the Department and allows for
termination on full of the 2016 swap, it allows the
Department to cancel the 2006H liquidity facility with the
Comptroller, and it removes potential future tax liability
associated with the 2006H variable rate bonds.

The 2015B bonds will be fixed rate tax-exempt
bonds, the proceeds of which will be used to purchase
mortgage-backed securities backed by loans originated
through TMP 79, the Department's TBA program, and to pay
related costs of issuance. The par amount of 2015B bonds
will not exceed $35 million and is expected to be closer
to $25 million.

This issue is a step toward rebuilding the
asset base of the single family indenture and it provides
a long-term strategy for a sustainable program. As the
structure evolves and efficiencies are achieved, we hope
to provide even greater benefits to first-time homebuyers
in the State of Texas. It's our intent to continue to
originate bond-eligible loans through TMP 79, allowing the
Department to determine best execution, TBA or bonds,
meaning that there may or may not be a new money bond
issue before you in the near future. Staff would seek
Board approval for any future bond issuance.

This issue is expected to price October 14 and
to close October 29. The maximum contribution by the
Department is a not to exceed $4 million, which is expected to be closer to $3 million. This amount includes approximately $1.5 million in down payment assistance, the 2006H swap termination fee, costs of issuance for both series, lender compensation and capitalized interest. The overall economic benefit to the Department, which is difficult to calculate given the variable nature of the 2006H bond issue, but even with conservative estimates, it's in the neighborhood of a million dollars on a present value basis.

Staff recommends approval of Resolution 16-001.

MR. OXER: Good. Any questions? Mr. Chisum, from a bank standpoint are you satisfied?

MR. CHISUM: Very comfortable.

MR. GANN: I'm very comfortable too. In fact, I'd like to make a motion when you get ready.

MR. OXER: Happy to see that happen.

So it reduces our liquidity exposure with the Comptroller's Office, it takes down our variable rate debt, both of which were target goals that we had identified several years ago. With this, what would be the current exposure that we have on variable rate debt and our liquidity facility? Don't get it down to the tenth of a dollar.

MS. GALUSKI: About $155 million, I believe.
MR. OXER: That's down from $325- when we started this little adventure.

MS. GALUSKI: Right.

MR. OXER: I'll take that as a plus.

Okay. Any other questions? Mr. Gann, would you kindly grace us with a motion?

MR. GANN: I'd like to make a motion that as presented by staff to approve.

MR. CHISUM: And I second.

MR. OXER: Motion by Mr. Gann, second by Mr. Chisum to approve staff recommendation on item 1(l). Is there any public comment?

(No response.)

MR. OXER: There appears to be none. Motion by Mr. Gann, second by Mr. Chisum to approve staff recommendation on item 1(l). Those in favor?

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: And there are none. Good.

Thanks, Monica.

MS. GALUSKI: Thank you.

MR. OXER: I'm really happy to see this variable rate debt going away as quickly as possible because I think we can fairly say that's part of what was
getting us in trouble some time ago.

MR. CHISUM: I concur.

MR. OXER: Thanks again.

All right. The first of the action items on item 3 on Multifamily Finance. Teresa, I think you're up again.

MS. TERESA MORALES: Teresa Morales, acting director of Multifamily Finance.

Item 3(a) involves a determination of site eligibility relating to undesirable neighborhood characteristics and adoption of an inducement resolution for bond volume cap. There are aspects of this discussion that may sound familiar, as it resembles a previous transaction, Gateway on Clarendon, that was presented before you in July. This item involves two existing properties in San Antonio, Cheyenne Village and Chisolm Trace, that are proposed to be rehabbed with 4 percent credits and bonds. After submission of the bond pre-application, the applicant disclosed the presence of undesirable neighborhood characteristics that affected each of the sites.

With respect to Chisolm Trace, the undesirable neighborhood characteristic involves the presence of an RCRA facility associated with the treatment, storage and disposal of hazardous wastes on the site adjacent to this
property. An environmental site assessment was completed and indicated that the separation distance was well outside of the ASTM required search distances. Staff visited the site and noticed the facility in question, and when observed in the context of the environmental site assessment, did not have any concerns.

Staff did, however, observe the presence of high voltage transmission lines in proximity to one of the residential buildings which is considered an undesirable site feature. The way the rule is written, upon disclosure of undesirable neighborhood characteristics, staff is to perform an assessment of any undesirable site feature if it's observed. The concern here was whether the buildings were located within the easement of the transmission lines. Documentation from the applicant confirmed that the buildings were not located within that easement.

Based on the acceptable distance of the RCRA facility and the determination of the transmission lines, staff recommends that this site be found eligible.

Cheyenne Village, the other transaction, is an existing development that's also located in San Antonio. The undesirable neighborhood characteristic associated with this site includes a poverty rate of 64.8 percent which exceeds the threshold in the rule of 40 percent.
Staff visited this site and found the neighborhood to be older and more established with several small businesses throughout. With the median household income for the San Antonio-New Braunfels MSA of approximately $52,000, the percentage of households in the census tract with incomes greater than this more than doubled from 5 percent in 2010 to 14 percent in 2013.

Following our requirements outlined in the rules, staff inquired regarding any revitalization efforts that are occurring within this neighborhood. The efforts involved proceeds derived from local bonds and resulted in improvements to lakes, parks and sidewalks that are within walking distance to this particular site, with the majority of those improvements having already occurred. There has also been the reutilization of the former Kelly Air Force Base which is located less than two miles from this site to Port San Antonio which is responsible for various infrastructure improvements. That has been generating economic activity within this neighborhood over the past few years.

For a site to be found eligible, the site must be consistent with achieving at least one of three goals outlined in the Subchapter B rule. The goal applicable to this site is the fact that it involves the preservation of existing occupied affordable housing units that are
subject to existing federal grant or income restrictions, that will not result in a further concentration of poverty, and the application must also include a letter from the Fair Housing or Civil Rights office of the existing federal oversight entity indicating that the rehabilitation of the units is consistent with the Fair Housing Act. The first part of this goal has been met.

Regarding the letter indicating consistency with the Fair Housing Act, the Department has been told on prior 9 percent applications that HUD will not issue such letter. The applicant, however, has reached out to HUD in an effort to obtain this letter but has been unsuccessful.

At the time that this language was placed in the rule last year, it was not staff's intention for it to be a hindrance in having a development move forward. It is worth noting that this particular transaction involves an FHA loan, and therefore, will require some level of due diligence by HUD with respect to site and neighborhood standards.

Staff recommends that the sites for Cheyenne Village and Chisolm Trace under this item be found acceptable and also recommends the approval of Inducement Resolution 16-003 which allows the applications to move forward into the full application phase. Staff notes that these sites were reviewed for eligibility based on the
current 2015 rules. While it is anticipated that the full applications for these will be submitted in a few months, should they not be submitted until 2016, along with the corresponding 2016 bond reservation, the sites will need to be reevaluated based on the criteria in the 2016 rules and will possibly need to be presented before the Board again.

MR. OXER: Staff recommends approval of the two sites?

MS. TERESA MORALES: Yes. Staff recommends approval with respect to the site eligibility and the inducement resolution.

MR. OXER: Site eligibility. All right. Do we anticipate that there will be any changes in the rules that you foresee coming between the 2015 and 2016 rules that would have an impact on these?

MS. TERESA MORALES: We are certainly going to get to that a little bit later on the agenda. The undesirable neighborhood characteristic with respect to one of them, the RCRA facility, that is not anticipated to change, and then with respect to the poverty rate, that's remaining at 40 percent.

MR. OXER: So currently we would be able to find these sites eligible for these programs.

MS. TERESA MORALES:: I believe so, yes.
MR. OXER: Any questions from any members of the Board?

(No response.)

MR. OXER: Motion to consider.

MS. BINGHAM ESCAREÑO: So moved.

MR. OXER: Motion by Ms. Bingham to approve staff recommendation on item 3(a). Do I hear a second?

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. Is there any public comment? There appears to be none.

Motion by Ms. Bingham to approve staff recommendation on item 3(a), second by Dr. Muñoz. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

And we assume that you'll be in this rulemaking potential for these changing characteristics. Right? All right. We'll hear about that in a bit.

Tom, good morning.

MR. CHISUM: Good morning. Tom Gouris, deputy executive director.

Item 3(b) is a brief report regarding recent guidance from HUD on age-restricted properties. HUD has
recently released guidance related to the Multifamily Processing Guide, otherwise known as their MAP guide for FHA financing. What they've clarified for us is a way we need to look at and define elderly properties, specifically several of their programs, as well as potentially a couple of other federal housing programs, are not eligible for the Housing for Older Persons Act, or HOPA, exemption to the Fair Housing Act. The HOPA exemption allows an elderly limitation development to primarily or exclusively serve elderly households in lieu of serving families.

The new guidance clarifies that in certain federal programs the exception is replaced with an elderly preference, but this preference does not operate the same way as the HOPA exemption. Among other things, these elderly preference properties are not allowed to turn away families when they have available units. So in a nutshell, these elderly preference properties do not operate in accordance with our current definition of qualified elderly developments in our existing Multifamily rules.

We have proposed a rule change for you that you'll consider in the draft rules later today which adds a new definition for elderly development that breaks down into elderly limitation developments and elderly
preference developments. We also believe that there could be some existing TDHCA developments that were considered qualified elderly developments or HOPA eligible at the time they were awarded, but because of additional specific federal financing are really only an elderly preference development.

We expect over the coming weeks and months there will be much discussion about this, and we will be researching and surveying the owners of developments existing in our portfolio of elderly restricted properties to determine if there are any elderly preference developments that are mislabeled or even not recognized as such by their owner and also provide assistance in modifying land use restriction agreements where necessary to mitigate any potential conflicts.

Again, this is a report item at this time. The rule change that will be coming up later essentially adds flexibility in our rules to consider the concept of an elderly preference as an elderly development. We may also come back to you, probably will come back to you with additional information as we gather it and report back to you on that.

Staff and I would be glad to answer any questions you might have about this at this time.

MR. OXER: Any questions from members of the
So what we're really doing is clarifying this so that it's a preference -- just for putting it clearly on the record, for a deal like this where there's an elderly preference versus an elderly only, what would the process be for accepting tenants?

MR. GOURIS: So essentially we're right now looking at them as an elderly development and just expanding our understanding of what an elderly development is to include elderly preference deals. An elderly preference deal would be one with particular financing that doesn't allow it to be what we used to call, what we traditionally a HOPA eligible or now being called an elderly limitation development.

MR. OXER: So we're expanding the options, essentially.

MR. GOURIS: We're expanding our ability to categorize these transactions so that they can be properly characterized.

MR. IRVINE: I don't really think we're expanding anything. I think that we have given developers some latitude in putting together their financing sources and in some instances developers have self-selected to access particular HUD programs that by those programs' terms do not allow these properties to be treated as HOPA
exempt properties. They have an elderly preference but
they must manage their wait list, and as Tom indicated, if
there's an available unit and a household that is not
elderly wants that unit, they must lease to them,
including households with children.

MR. OXER: So this is only a clarification so
if there's two households, one is elderly and one is not,
the elderly gets the preference in this particular case,
but if there's not somebody on that list, they must lease
to anybody on the list.

MR. GOURIS: That's correct.

MR. OXER: Is that correct?

MR. IRVINE: Close.

MR. OXER: Megan, come straighten this out.

MS. SYLVESTER: Megan Sylvester, Legal
Division.

Some of the elderly preference properties work
the way that Tim said. Other ones have an age restriction
for the entire property but they are required to accept
eligible households with children if one of the head of
household members, or in some cases any member of the
household, is of the appropriate age restriction. So it
is not like the Housing for Older Persons exemption where
you can exclude children from your property as an
exemption to discriminating on the basis of familial
status. The elderly preference properties may not discriminate on the basis of familial status.

MR. IRVINE: So my point would be that by selecting the particular funding array, a developer has already subjected themselves to these criteria and we want to work with them to identify with clarity what their playing rules are, and as necessary, conform their LURAs and also conform our monitoring to monitoring what they truly are.

MR. OXER: So rather than a financing, there's money available and the LURA that establishes this, this is more or less an operating rule as opposed to a financing rule.

MR. IRVINE: It has operating implications, absolutely.

MR. OXER: Okay. Tom, anything else to say?

MR. GOURIS: We're just recognizing what is going on.

MR. OXER: Obviously there is some need for clarification.

MR. GOURIS: That's right.

MR. OXER: Just a report item?

MR. GOURIS: Yes.

MR. OXER: Great. All right. Thanks for that. Any questions of the Board?

MS. RAQUEL MORALES: Good morning.

Item 4 is a request to modify the existing HOME loan terms for Allegre Point. Allegre Point was submitted during the 2011 competitive round and was awarded an allocation of 9 percent tax credits, as well as an award of TDHCA HOME funds in the amount of $2 million, to construct 184 units here in Austin. The HOME funds are structured as a hard debt second lien loan at a zero percent interest rate with a 30-year term and amortization. The owner is now seeking to refinance its first lien debt with a 223(f) FHA loan in order to take advantage of more favorable financing which would reduce the interest rate on the first lien from 6.3 percent to 3.45 percent, and amortized and payable over 35 years.

The new loan amount exceeds the amount of permanent financing that was recently demonstrated at the cost certification stage earlier this year, placing an additional $493,000 in front of the Department's HOME funds, most of which, according to the owner, will be applied to loan closing costs and HUD fees. However, in order to qualify for this more favorable financing through HUD, any subordinate debt, including our HOME funds, must
be structured as payable only out of surplus cash.

The owner has proposed that the Department's
HOME loan be restructured so as to be paid from 25 percent
of surplus cash, not to exceed $100,000 annually. Staff's
initial review and analysis of the owner's proposed
changes noted an increased debt coverage ratio of 1.83
which would exceed the level permitted under Subchapter D,
Section 10.302(d)(4) at the recent cost certification
stages. Subchapter D relates to the Department's
underwriting rules and the direct loan requirements in
Subchapter D generally allow for a cash flow structure,
such as what is being proposed, in cases where the first
lien is going to be an FHA or a HUD insured loan as long
as the DCR inclusive of the HOME loan is still within the
DCR requirements in Subchapter D. The owner has
acknowledged that the DCR would exceed the maximum and has
also requested that the Department waive the maximum DCR
of 135 established by Subchapter D.

In discussions with the owner, and in efforts
to help the owner take advantage of this favorable
financing, staff has further proposed that the interest
rate on the HOME loan could be increased in order to bring
the development back into compliance with Subchapter D
rules without necessitating a waiver. Increasing the
interest rate would bring the development into compliance
with the newly amended and approved Subchapter D rules which allow the DCR cap to raise to a 1.5 at cost certification. Staff discussed this proposal with the owner and he was amenable to making such changes. So staff recommends approval to modify the existing TDHCA HOME loan terms and offer the development owner new terms of a surplus cash note at a 3-1/2 percent interest rate, amortized over 30 years with a 35-year term to match the FHA term. This structure would correct any potential over-sourcing of the development by reducing its anticipated DCR to the maximum 1.5 which is allowed under the recently amended Subchapter D rules. We did also have some confirmation from the proposed HUD lender to make sure that the proposed structure would meet HUD requirements and received confirmation that that is the case, so staff recommends approval of the request.

MR. OXER: Any questions from the Board? So this is good for them, good for us, lines it all up, we pour money back into the coffers.

MS. RAQUEL MORALES: Yes, sir.

MR. OXER: So where's the broken glass in the mashed potatoes here?

MS. RAQUEL MORALES: There isn't any.

(General laughter.)

MR. OXER: Good. That's the kind of thing
we're looking for.

Any questions from the Board? Motion to consider?

MS. BINGHAM ESCAREÑO: So moved.

MR. OXER: Motion by Ms. Bingham to approve staff recommendation on item 4.

MR. GANN: Second.

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

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

Good job, Raquel.

MR. STEWART: Good morning. Brent Stewart, Real Estate Analysis.

I am here regarding two appeals, items 5(a) and 5(b). Both of these appeals are similar in that they relate to loan terms that REA recommended under the 2015 Multifamily Development Program.

MR. OXER: To clarify, Brent, we're going to take them one at a time, though. Right?

MR. STEWART: We will. I would like to be able to cover some similarities to save you some time on each one.
MR. OXER: Okay.

MR. STEWART: Basically what's happened is each applicant under the NOFA applied for loan terms zero percent interest rate and a 40-year amortization. The NOFA states that recommendations will be made using a 3 percent interest rate and a 30-year amortization. Both applicants, as a reason for that and why they did that point to some lack of clarity in the materials that the Department provided about the NOFA and how the loans would be approved. So I wanted to briefly go through some of that because it relates to both deals.

So Section 4(a) of the NOFA states that funds are going to be structured in accordance with the direct loan requirements that are in the REA rules, and the direct loan requirements do allow for a zero percent interest rate but the direct loan requirements say you still have to meet all the program requirements. Well the program requirements, which is the NOFA, says that we're going to underwrite them at a 3 percent interest and a 30-year amortization. So in this case the program requirements, in essence, trump what 10.307 says in the rule about being able to go to a zero percent interest rate. So the rules in the NOFA are working together and they're not inconsistent but they do work together in terms of how we are supposed to make loans and make
recommendations.

MR. OXER: They're not inconsistent but one has primacy.

MR. STEWART: That's right.

In other words, there could be other NOFAs and other loan programs that would allow for a zero percent interest rate, therefore, the REA rules try to be consistent with any possible NOFA that comes out.

There's also an FAQ out there that says, yes, you can apply for an interest rate that's lower than 3 percent and an amortization that's longer than 30 years. And I'll come back to that in just a second. But the FAQ itself is also consistent with the NOFA that it says that the HOME/TCAP loans will be under it at the 3 percent interest rate and 30-year amortization.

There's another document that they point to with respect to this lack of clarity which is an exhibit to the application itself that has a sentence in it that says: If you provide 5 percent HOME match, you get a zero percent interest rate. The exhibit is silent on amortization. And both of these applicants provided a 5 percent match. That sentence refers to a rule that was in place in 2013 that said if you provide a 5 percent match, you can get a zero percent interest rate. The rule itself -- it was the 2013 rule -- the 2014 rule changed
that such that all applications for HOME/TCAP funds
required the 5 percent match. So that exhibit does need
to be changed to reflect the current rule, that sentence
needs to be changed to reflect the current rule.

So why did we allow applicants to apply for an
interest rate lower than 3 percent and an amortization
greater than 30 years if we were going to be underwriting
at 3 percent and 30 years? The reason is we knew up front
that there were going to be transactions that just would
not work at the 3 percent, 30 years after they had gone
through the REA process; after they had been underwritten
there would be things that happened during underwriting
such that the feasibility would not work at 3 percent and
30 years.

So having that flexibility allowed REA to make
adjustments to that loan such that the deal would not be
deemed infeasible, that in most cases would allow the tax
credit award to be deemed feasible and the project go
forward. So that flexibility didn't allow REA to make
adjustments to the interest rate or the amortization for
the purposes of maximizing the loan amount or for purposes
of making the HOME loan consistent with other aspects of
the capital structure. In one of the deals that's the
case.

So having said all that, the first appeal is
for West Ridge Villas in Dallas -- or McKinney, actually. And this appeal is really based on kind of a similar thing you just heard, this transaction applied for a $4 million HOME loan, zero percent interest rate, 40-year amortization. It is a HOME only deal, there are no tax credits associated with this deal. It's essentially half of the units are market rate, pretty high end deal, high end rents, very high end rents in McKinney, and essentially the $4 million represents the equity of the deal. There's some deferred fee but there's no third party equity in the deal, so there's FHA debt, our debt, some deferred fee.

So the appeal is about interest rate and amortization, primarily amortization because of the perception that FHA will not allow for an amortization to be less than what their amortization is, and we just heard on the prior deal that that's not the case, FHA/HUD does allow that, and so that would be consistent with staff's recommendation that would allow for a 30-year amortization instead of the 40-year amortization which is on the FHA loan.

There's other aspects of the appeal relating to the surplus cash provisions of the loan. Our HOME debt is generally surplus cash that meets HUD/FHA requirements. We have an MOU with HUD relating to those documents that
subordinate our debt to them, and so with respect to the subordination issue, the surplus cash issue, I don't think there's disagreement really on what that is. The underwriting report is silent on those issues and we could certainly start putting that type of requirement in the underwriting report, I guess it was just always assumed that those were surplus cash loans.

So here's a situation where the transaction is feasible using the terms that we have recommended and the subordination works with FHA loan and so we recommend denial of the appeal.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Okay. With respect to this item, I need a motion to consider.

MR. CHISUM: So moved.

MR. OXER: Motion by Mr. Chisum to approve staff recommendation to deny the appeal on item 5(a). Is that correct, Brent, we're talking about 5(a) to begin with only?

MR. STEWART: 5(a), yes, sir.

MR. OXER: Motion by Mr. Chisum.

MR. STEWART: I would clarify that we are recommending a 30-year amortization, consistent with the NOFA, a 40-year term consistent with HUD.
MR. OXER: So it works under your underwriting.

MR. STEWART: Based on the amount of payment of a 30-year amortization, the feasibility works. To be consistent with HUD on term, we're going to recommend a 40-year term.

MS. BINGHAM ESCAREÑO: Do you need a second?

MR. OXER: We need a second.

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: Second by Ms. Bingham.

It looks like we've got somebody that wants to speak. Good morning and welcome back.

MS. ANDERSON: Good morning. Thank you.

Chairman Oxer, Board members and Mr. Irvine, I am Terri Anderson, president of Anderson Development and Construction. Thank you for the opportunity to speak with you this morning.

I won't read my full speech because you've already heard what the actual rules from item 4, as well as Mr. Stewart did just indicate that we now are looking at a 40-year term because the underwriting recommendations were actually a 30-year term, a 30-year amortization and a 3 percent interest rate.

The one item that I would strictly like to point out to the Board, and yes, there was confusion on the FAQs, on the guidance, on a lot of things that you...
heard from us at the last Board meeting about, but I just wanted to point out the difference in West Ridge Villas and item 4 that you just heard, as well as item 5(b). As Mr. Stewart indicated, the property does not have housing tax credits. The $4 million HOME loan that is being provided by TDHCA is generating 56 affordable units which would otherwise not be created. That is a ratio of 42 percent of the total property while using 21 percent of the total capital structure, which is effectively unprecedented and has not been done that I can tell, without any other resources including tax credits or otherwise. So that to me is an amazing component.

But the other difference is that West Ridge Villas is actually under-sourced by $900,000. You heard that the reason the term was provided for Allegre Point, I believe, was in order to bring the debt service coverage ratio down from 1.86 times to 1.50 times. The current underwriting has increased our proposed debt service which would have been $100,000 to over $203,000 which drops our 1.26 times debt service coverage down to a 1.18 times debt service coverage ratio, so what that effectively does is prevents us from getting additional loan proceeds to bridge the gap. Any adjustments in interest rates on a loan that has not been rate locked yet or any increases in construction costs, et cetera are taking away the ability
of the developer to actually have a cushion between our
debt service coverage requirements for debt service
purposes and where we stand today.

So in a perfect world, if the interest rate on
the loan proposed back in March remained until we closed,
which we're not closing until the following March, then
that's great, but we don't have that luxury and those
things are outside of our control. So what I would
respectfully request is that the Board actually -- and I
have this part written down and won't go off the cuff for
that -- at the last Board meeting actually Mr. Gouris did
indicate, he said, "I think we want to create a structure
that allows the ability for the Board and the Department
to approve something that might provide a zero percent,
40-year loan, but we certainly don't want everyone to say,
well, that minimum is our maximum and that's all we are
going to ask for, so we attempted to do this by putting
something in the NOFA." I'll end his quote there. But
essentially, Mr. Gouris agrees.

And as I said, this is an extremely efficient
use of the Department's resources without any other
subsidy to create 42 percent affordability at a property
that would not otherwise be able to achieve that, and I
would respectfully request that we're able to underwrite
or actually have the loan terms at a 40-year amortization
and a zero percent interest rate to prevent any re-underwriting down the line when we're ready to close outside of any over-sourcing, meaning such that the development would not be over funded. As I mentioned, we have a $900,000 gap right now and this takes away our ability to try to close that gap.

So the request -- and my time is up -- the request truly is to underwrite and have an amortization at 40 years on the total development with a zero percent interest rate, because I believe this is one of those special instances where we're efficiently and effectively using the Department's resources.

MR. OXER: Thanks for your comments, Teresa.

MS. ANDERSON: Terri.

MR. OXER: Terri, Teresa.

MS. ANDERSON: Terri Anderson. Thank you, sir.

MR. BACHMAN: Good morning, folks.

MR. OXER: Good morning.

MR. BACHMAN: I'm a rookie at this so please treat me kindly, as I'm sure you will. Mr. Chairman, Board members, my name is Mike Bachman. I'm vice president with Mason Joelson Multifamily Finance. I'd like to thank all of you for your continued support you've expressed for the West Ridge Villas project as affordable housing in a high opportunity area, and thank you for
consideration of the appeal submitted by Terri on behalf of this project.

I have worked with Terri and the center for housing resources for approximately six months to structure the first lien FHA 221(d)(4) mortgage that you've all heard so much about. By reference, for whatever it's worth, I was the former regional director for FHA and that is my background, so some of the many questions that you deal with used to come through my desk.

MR. OXER: That may or may not be to your credit, you understand that?

(General laughter.)

MR. BACHMAN: Most of the times it's not.

So the mortgage we look to put forward would allow construction of this project in, as I mentioned, a high opportunity community with 56 units of affordable housing structured at 60 percent AMI. I don't think that can be ignored in any way.

During this time I visited the site on multiple occasions, I've reviewed rent and demand analysis for the project, met with all members of the development team, had multiple conversations with FHA staff and regional leadership, and am aware of their interest in seeing this project move forward.

My prepared remarks have changed slightly in
that it appears the staff now agrees with the idea of a
40-year term, so I'll simply say thank you for that. That
is consistent, I think, with TDHCA policy and the
preference of FHA. I will say that the point considered
in the last agenda item with the difference in
amortization schedule and maturity and term, while
possible as discussed in item 4, is generally not the
preference, I think, of any lender to have those staggered
terms with amortization coming inside the term of the
loan.

I'd like to simply say on the last point, a 30-
year amortization at a 3 percent interest rate, as
currently proposed, creates financial pressures on this
project that may jeopardize repayment of the HOME loan, so
something you should consider, should some of those
variables that Terri mentioned occur. Today we do not
have a locked interest rate on the first lien loan.
Through the FHA process that will probably be not locked
until February of next year. Even a slight increase, 15
or 20 basis points, would have a significant impact on
cash flow for the project and could, in fact, impair or
change the current debt service consideration that you
have for the combined loan.

As such, I'm requesting that you grant not only
the 40-year term, the 40-year amortization at the zero
percent interest rate. I think this supports the mission of both TDHCA in creating affordable housing in high opportunity areas, as well as, from personal conversations I've had and my past experience, the mission and purpose of FHA as a partner in this transaction. Thank you very much.

MR. OXER: Thank you for your comments.

Tom, did you want to add anything to this since you're getting words put into your mouth? You're being quoted here. We have you on record somewhere, or Nancy has got you, so just checking.

MR. GOURIS: Tom Gouris, deputy executive director.

Yes, I agree that I said that, and I agree with what I said before which is it does provide the flexibility for you all to make a decision on does this deal merit that kind of structure. The NOFA was specific in what staff would do to recommend and how underwriting would look at it, and staff believes, and there's no reason not to believe that the structure that we've provided is one that's feasible, is one that actually protects the Department because it accelerates, if you will, the repayment of our debt and it provides us with a cushion so that something down the road happening that might not be a good thing might give us some latitude to
deal with the potential liability to repay HUD at some
future point, so the cushion in interest rate is what that
provides. Plus, it gives us the ability to then recycle
funds and all the things we talked about earlier this
morning about how we've been trying to build for that
case. So it gives you the latitude but we did what we
said we were going to do in recommending a deal that's
feasible under the terms that were described in the NOFA.

MR. OXER: Did you have a thought, Tim?

MR. IRVINE: Yes. It's just that staff kind of
operates on the premise that we have very little latitude,
and obviously, the Board in a public setting has the
ability to use discretion when it feels compelled.

MR. OXER: Thanks, Tom.

We have a motion by Mr. Chisum and a second by
Ms. Bingham, so do either of the two of you have a comment
with respect to this? If we continue to act as a bank,
Mr. Chisum, you have the most banking experience of all of
us. Any comments? None is okay.

MR. CHISUM: My motion holds.

MR. OXER: Okay. Cynthia, did you have a
comment you wanted to make on this?

MS. BAST: (Speaking from audience.) On 5(b).

MR. OXER: Okay. Did you have a comment, Ms.

Bingham?
MS. BINGHAM ESCAREÑO: I was just wondering if it's completely out of order if there are relevant comments in 5(b) if we could possibly hear them.

MR. OXER: We could hold this motion in abeyance at the moment until we hear 5(b).

MR. CHISUM: I feel good about that.

MR. OXER: In an effort to make sure that these are consistent, I think that makes good sense to do that. Good recommendation. All right. That's an open motion on the table, we're going to hold it in abeyance and it will remain open, which I think under Robert's Rules we're able to do that, are we not, Counselor?

MR. ECCLES: Yes.

MR. OXER: Okay. Brent, let's have 5(b).

MR. STEWART: Sure. 5(b) relates to an appeal on number 15273 Merritt Hill Country which is in Dripping Springs. This is a tax credit deal, a 9 percent tax credit deal, and the applicant requested a $2 million HOME loan with an interest rate of zero percent and an amortization of 40 years.

The similar aspects of this appeal are the stated lack of clarity in the documentation the Department put forward, and therefore, that led the Applicant to apply for the zero percent and the 40-year amortization. That's about where the similarities stop. This
transaction is not financed with a HUD loan, it is financed with conventional debt. What happened in this case is by using the 3 percent interest rate and the 30-year amortization, it cut the HOME loan of $450,000 back to a million five fifty. It's a DCR constrained sizing, take the applicant's net operating income which was used for underwriting, you take a loan at 3 percent 30 years and the maximum it can serve is a million five fifty, and so that's what Real Estate Analysis recommended.

So I'll stop there, that's the issue here on this one.

MR. OXER: Okay. Any questions on item 5(b)?

(No response.)

MR. OXER: I tell you what we're going to do, we need some thoughts on this, we're going to hold this open here. We're due for a little break so we're going to take a short break, just a quick timeout. It's 10:37 now, let's be back in our chairs at ten minutes until 11:00, that's at 10:50. We will not be considering it as we're in open session and then we'll take the final discussion and the vote up at 10:50.

(Whereupon, at 10:37 a.m., a brief recess was taken.)

MR. OXER: We'll be back in session, please.

All right, with regards to item 5(a) and 5(b),
currently we have a motion on the table by Mr. Chisum and second by Ms. Bingham to consider 5(a) and we're in the process of hearing on 5(b) but we have not received a motion yet. So we have a motion on item 5(a) on the table and pending in abeyance at this point, and item 5(b) we've heard but we've had no motion and no consideration. Is that correct? That's where we stand.

Motion on 5(b). Ms. Bingham, are you satisfied you've heard enough information to be able to make a consistent decision on those? We wanted to hear the conversation, hear the item presented on 5(b) to make sure we were trying to be consistent on 5(a) and 5(b).

MS. BINGHAM ESCAREÑO: And so Mr. Chair, you need a motion and then we'll hear comment?

MR. OXER: We have to have a motion to consider on 5(b) and then we'll entertain public comment on that one also.

MS. BINGHAM ESCAREÑO: I'll move staff's recommendation on item 5(b).

MR. OXER: Motion by Ms. Bingham to approve staff recommendation on 5(b).

MR. GANN: Second.

MR. OXER: And second by Mr. Gann.

MR. CHISUM: We're going to vote on these separately?
MR. OXER: We will vote on them separately; there are two on the table. I believe Ms. Bast has a comment to make.

MS. BAST: Good morning. Cynthia Bast of Locke Lord, representing the applicant in this appeal.

MR. OXER: On 5(b).

MS. BAST: On 5(b), which is Merritt Hill Country, Dripping Springs. These are 80 units for seniors and a requested HOME loan amount of $2 million.

You've heard several times at the last Board meeting, we also heard some at the TAAHP conference that there was some legitimate confusion in the community about how the rules, the FAQ, the workshop presentations were all laid out to the applicant base. You know, it's really easy to go back in hindsight and take the words and put them all together and say, Oh, yes, this all makes sense. I do that every day as a lawyer. But when you're in the heat of the moment and in the application process, I would say that I think there was a lack of clarity.

But I think the point for this particular application, just like the 5(a) applicant, is again financial. The request is for $2 million, it has been reduced to $1.55 million, and if the $2 million with the terms that the applicant has requested were put in, I don't think that this project would be considered over-
sourced. The amount was reduced because at a 3 percent interest rate, 30-year amortization, that's all that it could support from a debt service coverage perspective, and the concern that this applicant has is feasibility in the long run and a little bit of cushion for the potential glitch.

You've got an 80-unit deal, elderly, potential environment of perhaps some rising interest rates, there is a concern that you want to make sure that you have your sources just right, and if we reduce this by $450,000 to $1.55 million now, we'll never get that back. So this applicant's request would be allow the full $2 million as an award. The applicant is willing to pay the interest rate, the applicant is willing to use a 40-year amortization instead of a 30-year amortization if you need to do that to get to a 3 percent interest rate, but at the end of the day, you're going to be able to look at this again and cost certify and underwrite.

So rather than taking away the $450- now, allow the $2 million that was requested, based on the fact that there was some confusion, that it can be supported, that it will give this development the cushion that it needs, and then you do have another opportunity to look at it. So that would be the request that we would present and request your discretion on this matter.
MR. OXER: Okay. Thanks for your comments, Cynthia.

Does anybody have any questions for Cynthia?

(No response.)

MR. OXER: I have a question generally for Tom or Brent, either one of you or both. Come on up, both of you. That's all right, Brent, you can blame him for it, for the answer.

MR. STEWART: I'll just stay away from him.

MR. OXER: Stand aside so the paint doesn't splatter.

(General laughter.)

MR. OXER: Okay. So I can see that everybody wants a zero percent interest rate.

MR. STEWART: Me too.

MR. OXER: Me too. We're being given commentary on the reduction of risk for the project going forward. How do we mitigate our risk to make sure to make sure that we get the money back? Because if there's enough risk in this project that it's running problematic early on like this, how do we mitigate our risk by even considering something like this and when we consider something like this? I understand that you recommend that the Board do this because the real estate analysis and underwriting has said that this works at the rate that you
put together. Right, Brent?

MR. STEWART: Yes, sir.

MR. OXER: Were it to be different, what
mechanism does the Board have even at a follow-on
consideration -- and this goes through, as Cynthia just
said, another consideration afterwards for final cost
certification -- where is there the capacity for the Board
to manage its risk then?

MR. GOURIS: The strategy to do a shorter
amortization and a higher interest rate actually is an
attempt to mitigate the long-term risk for the Department
because if something should go bad, we could extend the
amortization at that point or adjust the interest rate at
that point five or ten years from now. So it is built in.

MR. OXER: So it gives us the capacity, since
we're shortening inside that 40 years, pull it in, if
something went bad we could extend that amortization out
some years.

MR. GOURIS: Right. In year ten or year
fifteen or whatever, if that was needed. So it gives us a
tool that we wouldn't otherwise have if we've already
extended out as far as we can go.

As far as mitigating today, things like
guarantees would be things that we could use to mitigate
risk. With a tax credit deal that's possibly a little bit
more difficult. But those are things that we could explore as alternatives to interest rates. Typically, folks that need the zero percent 40-year amortization may not have as much capacity to provide those guarantees, so you might not be providing that alternative.

I would want to say something about Cynthia's ask. In leaving the money there, it's not like the credit program where we actually can adjust back. Once we commit the money, the money is committed and they can draw on it, so they would draw on it because that's how it would go, and at the end of that cost cert we would re-true up and we'd say, Oh, they had too much money. Well, we really can't take the money back then. It would be difficult to stricture the deal that way because they would have already drawn it. And if they don't draw it and waiting till the end to draw that last piece, then we've got a timing issue with HUD in that we need to get our expenditures to occur quickly.

One of the things that you'll be hearing from us over the course of the next number of months is mechanisms that we need to create to accelerate the expenditure of HOME funds because of changes in the IDIS HUD system and how they are allocating funds to us. So that solution actually potentially increases our risk too. While it's not unreasonable, it potentially goes the
other way with regard to our risk of interacting with the HUD program.

But to answer your question, some sort of guarantee would be something that would help mitigate our risk. Tim, I don't know, we've talked about this before.

MR. IRVINE: Two traditional tools that a bank uses to mitigate its risk other than the ability to restructure the deal itself are financial strength of obligors and collateral with good margins.

MR. OXER: Okay. Final summary. Anything to say, Brent?

MR. STEWART: No, sir.

MR. OXER: Mr. Chisum and Ms. Bingham, did you have any further comments? I take it not.

MR. CHISUM: Yes. I continue to be uncomfortable with my motion, so I'm withdrawing my motion.

MR. OXER: Ms. Bingham, will you withdraw your second?

MS. BINGHAM ESCAREÑO: Mr. Chair, can you or the recorder just reiterate? I'd understood Mr. Tolbert Chisum's motion to be to approve staff's recommendation to deny.

MR. OXER: Is that correct, Mr. Chisum?

MR. CHISUM: That's correct.
MS. BINGHAM ESCAREÑO: So you're withdrawing your motion to approve staff's recommendation to deny?

MR. OXER: So Mr. Chisum is withdrawing the motion to approve staff recommendation to deny the appeal.

DR. MUÑOZ: Is this 5(a) or 5(b)?

MR. OXER: It's on 5(a) is the one we're considering now.

MR. CHISUM: I apologize. I misunderstood which one we were talking about. My motion is still good.

MR. OXER: Your motion stands.

MR. CHISUM: I apologize. I was on the wrong subject on 5(a) versus 5(b). I apologize.

DR. MUÑOZ: So the motion stands.

MR. CHISUM: Motion stands.

MR. OXER: The motion stands on 5(a), motion by Mr. Chisum, second by Ms. Bingham. Ms. Bingham moved to approve staff recommendation on 5(b) which was to deny the appeal. Correct, Brent? And then it was seconded by Mr. Gann.

With respect to item 5(a), motion by Mr. Chisum, second by Ms. Bingham to approve staff recommendation to deny the appeal to change this, essentially keep it at the underwriting terms that Brent presented us. Correct?

MR. CHISUM: Correct.
MR. OXER: Okay. We've heard comment. Is there any other comment wished to be made? Terri, Mike, anything else you want to say? Terri, 60 seconds. Make it quick.

MS. ANDERSON: Yes, sir. Thank you so much. I do appreciate the time and the opportunity.

MR. OXER: And one more time for the record.


I hope that we will not be in a position where we would need to come back under asset management to request a restructure of this existing debt. The 40-year term and a 40-year amortization would certainly help this development move forward, and if we had a 3 percent interest rate as opposed to a zero interest rate, I think that would be effective. I know that the 30-year amortization creates a significant block or lock down on our total structure, which our senior debt has not been rate locked, et cetera, at this point. But thank you so much again.

MR. OXER: All right. Thanks for your comments.

All right. With respect to item 5(a) which was just described, motion by Mr. Chisum, second by Ms.
Bingham to approve staff recommendation to deny the appeal. There's no other public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

MR. CHISUM: Thank you, Ms. Bingham, for helping me.

MR. OXER: With respect to item 5(b), motion by Ms. Bingham, second by Mr. Gann, with respect to the same concept, to approve staff recommendation to deny the appeal. We've heard public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

Okay. Item 6, go the rules. Teresa.

MS. TERESA MORALES: Teresa Morales, acting director of Multifamily Finance.

Item on the agenda involves a number of rules that govern the multifamily applications that are submitted to the Department. As you are aware, the Board materials are published seven days before the Board meeting and there is a fallback, if you will, for materials to be published three days beforehand if
necessary. While the rules were not in a form that staff was comfortable with under the seven-day posting requirement of last Thursday, staff did post all of the rules included under item 6 last Friday afternoon.

Circumstances beyond the Department's control required all of the operating systems, including the Department's website, to be taken offline Friday evening through Sunday evening. In an effort to see all the rules to be viewed by folks, we included a link on our website to our Facebook page which at least created some opportunity for folks to view those rules, albeit through social media.

That being said, item 6(a) relates to Chapter 10 which establishes the general requirements associated with making an award of multifamily funding. In getting the 2016 rulemaking process underway, staff disseminated anticipated changes using various methods that included a roundtable discussion in July with approximately 170 people in attendance, we engaged in several discussions at the TAAHP conference in July, and throughout the month of August, staff participated in several meetings with industry individuals at their request to discuss ideas on proposed changes. Lastly, staff launched, as it has in prior years, the online discussion forum which allowed an opportunity to engage with the Department and one another and provide feedback on possible changes. Staff evaluated
the information received in all of these discussions by
which to formulate the draft rules that you have before
you.

In addition, we didn't come out of the 84th
Legislative Session unscathed. There were some changes to
Chapter 2306 that have been incorporated into these rules.
The majority of those bills affected the QAP and will be
further addressed when we get to that particular item.
The one bill that we incorporated into Chapter 10 requests
to the request from a municipality to be designated as
rural which I'll discuss in a bit.

Within Chapter 10 there are various
subchapters, and my presentation will primarily focus on
the more noteworthy changes within Chapters A, B and C.
Subchapter A contains all of the definitions and some of
those changes include a new definition for elderly based
on HUD guidance, and this was something in a prior agenda
item that was explained by Tom.

There was also a modification to the definition
for supportive housing to fix I guess what we've been
referring to as a quirk with respect to 4 percent deals.
Currently the definition does not take into account 4
percent transactions where the debt is retired after
construction completion. Historically, a 4 percent deal
wouldn't be debt free because of the bond financing used,
but we've learned and encountered some situations where this isn't necessarily the case and believe that in such instances those 4 percent deals should be treated in the same vein as 9 percent transactions under various aspects of the rule.

Changes to Subchapter B, which includes the site specific restrictions, involve a requirement that multifamily developments be located within three miles of a full service grocery store, a pharmacy and an urgent care facility. These items were previously on a list of community assets from which an applicant could select to meet the minimum threshold. That list which now removes those items has been modified as well to include proximity to a higher education campus, removes religious institutions and modifies that the medical office should be that of a general practitioner.

Staff has also proposed that multifamily developments be located within the attendance zones of an elementary, a middle and a high school that has the met standard rating by TEA. The rule as drafted does allow a carve-out for the school requirement for developments that have that elderly limitation.

Also within Subchapter B relating to undesirable site features, we have modified the requirement to obtain the compliance with a fair housing
letter from HUD. As I mentioned on the prior agenda item, staff recognizes that the ability to obtain such a letter might be difficult, if not impossible, and therefore, rehabilitation properties would instead be required to submit a letter stating that the rehab of those units is consistent with achieving at least one or more of the stated goals as outlined in the state's analysis of impediments to fair housing choice or outlined in the local analysis of impediments as applicable.

The last noteworthy modification to Subchapter B relates to undesirable neighborhood characteristics, something that was discussed earlier as well and at prior Board meetings. The characteristics requiring disclosure still include the poverty rate of the census tract if it's above 40 percent, and where the Part I violent crime rate exceeds 18 per 1,000 persons annually. However, for incidences of crime we are not just looking at the census tract containing the development but also within a thousand feet of any census tract.

A new undesirable neighborhood characteristic that we've included relates to a site that is within a thousand feet of blight, and the draft rule goes into a little bit more detail on what would constitute blight. With respect to how the site could be found eligible by the Board despite these aforementioned
characteristics, staff has proposed that at least one of the following three goals be achieved: the first is whether the development involves the preservation of existing occupied affordable housing with existing federal restrictions; two, a factual determination that such undesirable characteristics do not accurately represent the true nature of the situation to render that site ineligible; and a determination that the development is necessary to affirmatively further fair housing.

Moving along to Subchapter C, this outlines for the most part the threshold requirements. Staff is proposing that full applications be uploaded to the Department's server rather than having a CD submitted. This subchapter also outlines the process by which an area can request to be designated as rural under House Bill 74. This process will involve a letter from an authorized official of the political subdivision, basically identifying how the characteristics of that political subdivision differ from those of the area with which it shares a contiguous boundary, as it relates to unimproved roads, amenities in that area that differ from that of an urban area, and undeveloped or agricultural land.

I'm sure there's public comment with respect to this.

MR. OXER: You seem to be attracting a lot of
attention today, Teresa, more so than normal.

MS. TERESA MORALES: Staff recommends approval of the proposed repeal and new 10 TAC, Chapter 10, Subchapters A, B, C and D.

MR. OXER: And all this time I thought you had a lunch gig with your band and your groupies were here.

(General laughter.)

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Okay. Nice summary. So it's all in one on item 6(a). Correct? Okay. Let's have a motion to consider and start saddling up over here.

MS. BINGHAM ESCAREÑO: So moved.

MR. OXER: Okay. Motion by Ms. Bingham to approve staff recommendation on item 6(a)

DR. MUÑOZ: Second.

MR. OXER: And I hear a second by Dr. Muñoz.

I'm going to have to assume that some of you over here have more or less the same thing to say or would like to ditto or second some of the things. This meeting, we'll go as long as everybody would like to speak, but you'll benefit by saying I agree with the guy that just spoke. Okay?

We're going to have the first gentleman right here. He's going to get to be the first one because he
has some logistics issues so we're going to take care of him first. But the rest of you, start getting yourself lined up.

MR. REED: Mr. Chairman, I'm glad you appreciate age, or seniority, as we call it.

Mr. Chairman, members of the Board, delighted to see you. I'm Julian Reed, a past president of Preservation Austin and a current trustee of the Texas Historical Commission. In those roles I have seen firsthand the enormous benefits of historic preservation.

As just one example, I have watched the Texas Main Street Program which is, of course, a program of the Texas Historical Commission, I have seen it bring revitalization to 173 communities across this state, an incredible, incredible impact. Those endeavors have resulted in $5.2 billion in new investment. Now, that was with a B. Okay? So with that background -- and incidentally, I have to put in here that that program was founded and directed by my late wife, Annis Barbara Reed, for two decades. So I have a particular interest in preservation, as you can imagine.

MR. OXER: You've made more than a substantial investment in the whole enterprise, I can tell.

MR. READ: Thank you.

So I'm very pleased, obviously, to see passage
of SB 1318 which will enable more historic and cultural preservation across the state while meeting an urgent housing need for our citizens. The bill prioritizes the use of historic structures for affordable housing. Through this measure, TDHCA has the opportunity to save historic buildings that are in danger of being demolished -- and we deal with that every day, particularly right here in Austin we see it every day, we have to fight to save these historic structures -- while bringing life to downtown areas across Texas. Of course, the legislature passed this bill because it saw the many benefits, economic and quality of life benefits.

Through implementing a realistic point awarding system, the bill can accomplish laudable purposes. Historic preservation of structures in downtown areas saving iconic landmarks representative of our culture and our past. Their preservation thus becomes an economic development tool, new households downtown that will increase local spending, sales tax collection and property tax values. Revitalizing existing downtown structures strengthens a community's core and helps postpone pressures, delay them or even eliminate them in cases, the pressures of sprawling infrastructure extension with all the associated budgetary costs.

The program also is a tourism tool. Historic
buildings and their surroundings, with their unique
classic and cultural experiences, are tourism friendly.
They draw a lot of people, people wanting to see
structures that reflect our heritage. That would add to
the already $65 billion industry that tourism represents
across this state.

There is strong public sentiment for preserving
and utilizing historic structures in downtowns which have
been affected by neglect and economic malaise. And also,
obviously, you deal with it primarily here, the
demonstrated need for affordable housing, a fact that's
clearly in evidence as middle income families struggle to
find it.

In reality, there's really no downside in this
program. It's a win-win for Texas communities and I hope
you will take full advantage of the opportunities that are
in your hands by adopting a robust point value to
accompany the qualification and performance details down
in the bill. And I would summarize by just stressing
again the word robust. The more robust the points are,
the more successful the program will be.

Thank you very much.

MR. OXER: Thank you, Mr. Reed. We appreciate
your comments.

Does anybody have a question of Mr. Reed? Any
thoughts? Thanks very much, Mr. Reed.

MR. REED: Thank you.

MR. OXER: I would remind everybody when you come up don't forget to sign in, put your name here. It's for Nancy to make sure that we're able to identify you on the record and the transcript.

MS. BINGHAM ESCAREÑO: Mr. Chair, I have a question. So just for clarification, what we're considering right now, item 6(a), this is for publication in the Register for comment. Correct?

MR. OXER: Is that correct, Teresa? Yes, that's correct. Making sure we're on that.

MS. STEPHENS: Good morning, Chair, Board, Mr. Irvine. I'm Lisa Stephens with Sagebrook Development, but I'm not here just on behalf of myself speaking today. We did have a group of us that got together and I am actually speaking on behalf of that group. We have two overarching comments that I would like to make on behalf of that group. I may run slightly over my three minutes but I am speaking on behalf of quite a few of us.

MR. OXER: Speak faster if you don't mind.

MS. STEPHENS: I'll speak quickly.

So the group that we have today, normally we are competitors and normally we are fighting against one another for money, but we're here today with two issues...
that we think are of great importance that we have joined together on.

MR. OXER: When you say we, who does that mean?
Everybody says we. You have groupies too, huh?

MS. STEPHENS: I have groupies. I don't know how I got to be the point person but here I am. But it's rural developers, urban developers, large developers, small developers, nonprofits, for profits, and we cover the whole state. We have more than 35,000 units that we have developed as a group in Texas. So that's who we are and that's who I'm speaking on behalf of.

We understand that there are time constraints in this QAP and the rules, and by the way, these comments apply to all four rules. We understand that they have to be published for 30 days in the state Register, we understand we're working against a deadline for the governor to sign. That being said, we're actually asking that you hold off on publishing the rules for publication in the Register today, and I'm going to explain why.

In August and in July, TDHCA did have discussions about the rules. However, we just got them on Friday and there are over 120 pages of these rules with comments, and some of these are threshold items, they're items for ineligibility, they're items that are going to drive where these developments are going to be built, and
we think that they're due more time and consideration to
actually have the drafts in front of us and be able to
discuss them in a public forum at a workshop before they
get published.

And the issue with publishing them is that once
they are published you are bound by what is in that
publication. You can take things out and you can add
things that are a natural outgrowth of what is in that
publication, but any new ideas, any new concepts, any
thoughts that are not in there today cannot be added. So
we are drawing a box today that says we can only take away
from it. And as a group, we have a lot of ideas, a lot of
thought and a lot of discussion has been had that we don't
see reflected in the drafts that just came out on Friday.
So we're asking that we have a workshop.

DR. MUÑOZ: I had a question.

MS. STEPHENS: Yes, sir.

DR. MUÑOZ: You're saying that we have a lot of
thoughts, a lot of ideas, a lot of discussions, plural,
that are not reflected.

MS. STEPHENS: Yes, sir.

DR. MUÑOZ: So I mean, hasn't there been ample
opportunity to weigh in?

MS. STEPHENS: The draft of the rules just came
out on Friday, so while there's been a lot of
conversation, a lot of the conversation was staff asking the industry: Hey, what do you think? We've given ideas, we've had a web board, we've put a lot of things on the web board. We've received no feedback to those ideas, thoughts, comments, suggestions, questions.

DR. MUÑOZ: You're saying none of what you provided is reflected here.

MS. STEPHENS: Less than 10 percent would be my estimate.

DR. MUÑOZ: But some.

MS. STEPHENS: Some. I can cite two specific items that were comments from the public.

MR. OXER: To be pretty cold-hearted about it, the fact that they're not in there does constitute some feedback.

MS. STEPHENS: That may be, but I think that there should be some discussion.

MR. OXER: Apparently you had an opportunity for some discussion. Did you not, Teresa?

MS. STEPHENS: Not on these rules. There are things in these rules that we're seeing for the very first time. There are concepts in these rules that we've not heard, nor have we had an opportunity to review more than the three days since they've been posted.

MR. OXER: Go on. Because you know it's a
tough room, you've got to make your argument.

MS. STEPHENS: I know, I know it's a tough room. I know that this is a big ask. I didn't come in here expecting that this was an easy ask, but this is a collective ask, not just of myself but of a lot of industry representatives.

So our second ask isn't quite as big as the first one, but our second ask is a general comment that relates to the rules themselves and some of the things that we're seeing in the rules. There are several sections in the rules that imply and that state that a developer should know everything there is to know about an application at the time you put that application in place, and that simply isn't reflective of how affordable housing development happens. The examples of these are found in the sections on site plan, they're found in the sections on architectural changes, lender financing commitments and developer fees.

And the application rules get finalized in December. We have about 90 days to put our applications together, to find our sites, to get our support, to get our letters, to prepare all these plans, and that simply is not enough time to know everything there is to know about a development. We generally have three to five weeks from pre-app to app to have all of these application
requirements put together and to ask us to have everything firmed up, everything there is to know about a site within that time period, it's just not realistic.

Development is not static, it's a process. We manage local regulations, state regulations, federal regulations, storm water, building codes, life safety, site issues. All of these factors come into play when we're developing a site and it is, in fact, a process that changes and it's fluid. From the time we put the application till we get to closing, there may be multiple changes that occur. But the end goal should be to get the housing on the ground and the end goal should be are we providing the same number of units, the same affordability and the same point items in the general product that we said we were going to.

There are multiple changes in the rule that say if these items change, we've got to come back to the Board and get your approval. That's going to slow down the time process, it's going to slow down our ability to get the housing on the ground if every time something changes we have to come back and get Board approval. Board approval should be reserved for big picture items, it should be reserved for those items where we're changing the number of units, we're changing the affordability, we're changing the points that we asked for. Those are big items that I
think we all know when we put our application in that we can commit to those, and if those change, yes, we should have to come back to you. But for other routine changes that are in the normal course of the development process, we should not be in a position where every time that happens we should have to come back and ask for approval.

Additionally, to say that our developer fees should be capped at what it is at application, regardless of whether costs go up or down, is not reflective of the conditions that we know. Our application is what we know at that point in time, it's not what we know six months from now, and the development process takes four to six months to get your permits approved and sometimes a year.

In the City of Austin you're a year. And so during that time, we learn more, we know more, things fluctuate, costs change, so to say that our fee should be capped because we knew everything there was to know at application or we should have known is not an accurate reflection on the process.

Finally, there are some comments in the general statements of the Texas Register about the costs of putting an application together that say that the costs are generally $15- to $30,000. I will tell you that is not an accurate statement.

MR. OXER: It's missing a zero?
(General laughter.)

MS. STEPHENS: It's not an accurate statement. The costs of these applications run $40- to $50,000. Just our third party outlay, hard costs paid to professionals, is $40- to $50,000 per application. In light of that, we pay a lot of money just to play in the game and what we're asking is, one, for some consideration of the process, that we not be in a position where we have to come back to you every time we shift a building around on our site plan, and two, that we have some more time to actually look at the published rules and talk about them, as opposed to the theoretical conversations we've had prior to now.

Thank you.

MR. OXER: Thanks, Lisa. Stick around, we're going to have some questions for you.

Anybody have a question for Lisa, anybody from the Board? Dr. Muñoz

DR. MUÑOZ: Not for Lisa immediately, but I mean, how problematic would both of those requests be?

MR. OXER: Teresa, have you got a second? If we post this tomorrow and they want to hear some rules, they basically want another 30 days, what's the schedule on this and how does the posting tomorrow fit within the schedule to meet the QAP requirements that we have to have
it to the Governor's Office by was it November 15?

MS. TERESA MORALES: Teresa Morales, acting director of Multifamily Finance.

The timeline that we're under with respect to these rules, with adoption today or with approval, we are required to submit them to the Texas Register by noon tomorrow, and what that means is they will then be published in the Texas Register on September 18. Those are their publishing deadlines, not ours, so we submit them tomorrow by noon, they're published on September 18.

MR. OXER: So it's a two-week advance on getting them in to the Register.

MS. TERESA MORALES: Correct. For their time to review and stuff. That will open up the public comment period which will run through October 15, and then staff will have approximately two weeks by which to go through all of the public comment and craft our quite lengthy reasoned response and present that back to you at the November Board meeting, which I believe is on November 1. The following day is when they must be submitted to the Governor's Office, and he has until December 1, and those are statutory.

So if you're talking about delaying publication into the Register, some issues might be limiting the public comment period, maybe doing less than 30 days, and
then you would even brush up against not having staff sufficient time to go through all of the public comment and craft reasoned response and incorporate any possible changes.

MR. OXER: This is just for the record here, the Texas Register is published how often?

MS. TERESA MORALES: Weekly. It's just a matter of their deadlines by which we have to submit in order to have it published on a certain day.

MR. OXER: I understand. I'm trying to see if there's a way to accommodate the request to make sure they have time to look at this. There's obviously been at least some coordination or some opportunity through these workshops and stuff, to which you referred in your presentation, that everybody had a chance. If there were parts of this that they say were not considered, I'd like to hear something in terms of what those may have been, the items that they were not privy to before these rules came out, that they're brand new fresh rules that they haven't seen or haven't been alluded to in any of these workshops, that that was the case. And if that's the case, do we have the capacity to just move this off a week, give them some period and then put it not in tomorrow but put it in on the 11th for publication on the 25th, and could we make that work.
Mr. ED.

MR. IRVINE: I think that you would have to put together a kind of out-of-the-box format to accommodate something like that. If, for example, the areas that you want to add to the QAP for consideration are known and can be identified and can be generally described, I think that the Board could recast its motion to direct staff to address those issues in a manner in the draft in which they could be out for public comment, as Lisa indicated they could be pulled back in final adoption and rejected, or they could be modified with very limited aspects, sort of the logical outgrowth kind of standard. You could probably formulate a way that the motion could describe the areas to be addressed in that process and you could authorize and direct staff to incorporate those additional items into the publication document, perhaps with approval of the chair or something like that. It could be done. The idea, though, of delaying a month is not conceivable.

MR. OXER: Delaying a month is not going to happen.

It is a really good argument. For those of you developers out there, it's a good argument for a two-year QAP. Right? Because all of this, there's so much that seems to be statutorily locked into a calendar and it carves you guys down to a really small period to be able
to get all this information and put it together to be able to make these applications as valid as possible.

I've done enough -- not specifically on housing but I've done enough project development, you normally go find something and get started and assume that you'll have enough time and latitude to work it out as you go. So don't misunderstand, I'm not insensitive to your request, but we're also constrained by the calendar and the process and the legislative requirements that we have to work under. So if nothing else, this will tell us in four months some of the things we can do in terms of working for this scheduling for the future.

Dr. Muñoz, you have a question.

DR. MUÑOZ: For the executive director. Is it possible to have some language drafted in the immediate future that would allow us to very narrowly define a possible new motion that would comport to this one-week very limited window of opportunity to gain additional comment?

MR. IRVINE: Actually, we've prepared a shell document that could be into.

MR. OXER: Lisa, we have a question.

That's all right, Teresa, you're still in the box. Stay close.

Go ahead, you make your comments.
MS. STEPHENS: We understand that 30 days was not going to be a reasonable ask. A week, ten days would be huge, I think, because we already have substantive comments put together and we could very quickly go through them. We've had three QAP committee meetings ourselves; our group has gotten together and discussed this three times and we have written comments. Some have been submitted, some we just got together on Tuesday when this draft came out, and so we could put those before you. And if those substantive items could be put into a shell document, understanding that they're for consideration and that they may be pulled back at a later time, at least that would expand the box.

MR. OXER: Your comments are valid. I'm trying to figure out a way to maintain the integrity of our process and incorporate your interests.

MS. STEPHENS: We understand.

MR. OXER: But making sure that this works fluidly, or as fluidly but as strongly as possible for the development community is one of the things that we want, but we're also not going to bend the rules.

MS. STEPHENS: Understood.

DR. MUÑOZ: More like a week, not ten days.

MS. STEPHENS: We can get it together in a week if we need to.
MR. OXER: More like Monday, if you could do it.

MS. STEPHENS: Monday is Labor Day.

MR. CHISUM: Mr. Chairman, but at the same time, I want to remind the Board that these statutory limits are not a surprise.

MR. OXER: No, they're not.

MR. CHISUM: That these are in place, they have been in place, and so we need not lose sight.

MR. OXER: Go ahead, your comments are valid.

MR. CHISUM: We just need to understand that this is our environment, that this is the way it works, and we have to deal with what we've got. And so I'm sensitive to what's being said, but at the same time, we must play by the rules.

MR. OXER: No question about it. Give me the top three areas that you think weren't considered and that you had no interaction with the staff on in the workshops and stuff that you saw for the first time Tuesday.

MS. STEPHENS: I think there's two different things. One is we have quite a few thoughts about de-concentration. We see a lot of issues with concentration of sites.

DR. MUÑOZ: Lisa, let me just help you a little bit. Rather than sort of identify the topic and go into
some protracted explanation of it, give us what are those three big important areas that we can put into this document.

MR. OXER: The top three. You guys get to vote over there but that's between you.

MR. IRVINE: Might I make a suggestion. Instead of having all of this as public comment, I think it would be really helpful if one or two of you could go meet with some folks from staff, perhaps during the lunch break or something, reduce these to specific bulleted descriptions. I'm not talking about rule language but descriptors that say, you know, we would like for the draft documents to do this, do this, do this, and then we can look at dropping them into a shell structure.

MR. OXER: When we put that in the shell structure, does it have to have language to it because we're posting this tomorrow? Because essentially what we're doing is we're asking you what do you want to add to this to get it posted tomorrow into the register. Because I agree, Mr. Chisum's position on maintaining the primacy and integrity of our rule is first, now you've got to figure out how to do that.

MS. STEPHENS: We understand. And it seems like in prior years there has been more time on the front-end than there was this year, once the staff draft came
out there was actually more time to have a workshop after
the draft came out.

MR. OXER: Is there anything that might have
made that occur, Teresa, or is it just scheduling that it
happened out that way?

MS. TERESA MORALES: I'm sorry?

MR. IRVINE: There's a lot that occurred. We
lost a lot of key staff in this process.

MS. STEPHENS: You did, and we understand that.

MR. IRVINE: It's been a challenging time, and
I would point out that, yes, we would have loved to have
gotten a draft up earlier.

MR. OXER: But we didn't.

MR. IRVINE: But we didn't. You would have
loved to have had more time to look at this. By statute
we're only required to post materials three days before
the Board meeting. Our historic practice of posting a
week before Board meetings is a courtesy, it's not a
statutory requirement. We want to get the information
out. We would like as much specificity as possible but
we're working under something where we were just unable to
do it, and I apologize for that.

MS. STEPHENS: We understand.

MR. OXER: You know, we're all doing the best
that we can do here.
Here's our ask: Can you put this together and have this ready to go by after lunch? Your answer is yes; the question is who's going to help you.

MS. STEPHENS: Yes. I'm looking for nods.

Yes, we can do that. And I thank you for that. That's a significant consideration and we truly appreciate it.

MR. OXER: We've got a way to make this work. Is that not correct?

MR. IRVINE: Absolutely. And I would also just point out to everybody the likely impact of that is staff will then have to take that and recast it in actual rule change language. There's no way that that's going to result in sending this to the Texas Register tomorrow. It's probably going to delay publication a week. I do not believe that there's a statutory requirement that there be a 30-day comment period, it's just that there has to be a reasonable comment period. If necessary, the comment period may be shortened somewhat, and we'll work with you to the best of our ability.

MR. OXER: Okay. Well, in trying to get that word out, because I assume that you'll make sure, and everybody here has heard this, so we'll get your comments now.

Captain Tweety, can you make sure that everybody out there in Twitter-land understands that if
they want to make comments, they can. I'm not kidding, I want this out. Okay? Make sure that they know. In fact, if they've got comments, tell them to start now putting them back in on the website. He said yes.

Is there anything else we need to do to get that structure ready? So we can delay this a week. Once we've done this, if it goes out in the September 25 Register, we're basically going to shorten the comment period down to whatever that is that's left. You're going to use that up, you're going to use a week of that up in the front-end. The comment period will end where it would have ended anyway, and we'll be able to add some more optionality to the new rulemaking.

DR. MUÑOZ: But I'll just say to my mind, Mr. Chair, that that shortened period also incorporates and captures other commentary, so to my mind it still is a period of commentary, arguably by some fairly adroit, thoughtful people in the industry.

MR. OXER: Actually he was talking about you when he said that. Most of the people that comment on this are people within the industry anyway, or within this sector, and I have to assume that most of you that would comment are already here. Right? So what we're looking for is that public part of the comment for somebody that's really got some interest in it. That's why I wanted to
ask Michael to make sure this gets out. So we're starting the public comment period right now and it will be published three weeks from tomorrow. That gives us an extra week in there, but the end of that comment period, whatever it was, Teresa, from what we schedule now, that's still the end of the comment period. Everybody live with that? Everybody on this live with that?

Mr. Chisum, are you good with that from the rule standpoint?

MR. CHISUM: Yes, I am, but I do have a question.

MR. OXER: Microphone.

MR. CHISUM: Thank you. That if we're looking for this feedback, then you said after lunch, then do we provide them space so that they have a room here to meet?

MR. OXER: They're big kids.

MR. CHISUM: There's a lot of them so I just wanted them to be able to get together and do whatever they need to do.

MR. OXER: The lunchroom is going to be busy, Mr. Chisum.

MR. CHISUM: I understand, our lunchroom.

MR. OXER: There's room over in the cafeteria, there's places you can find to work. Like you said, make it up as you go.
MR. CHISUM: Just trying to help them get
organized.

MR. OXER: I understand. That's why he's known
for his family over the Chisholm Trail, running that herd
down that trail.

MR. CHISUM: Don't make fun of my family.

MR. OXER: I grew up on a cattle ranch, pal.

That was a compliment.

MR. CHISUM: Okay. Thank you. I'll take it as
a compliment.

(General talking and laughter.)

MR. OXER: All right. Do we have the
structure, the capacity to do this fairly quickly, pretty
easily?

MR. ECCLES: There may be a question, though,
on the amount of time it needs to be posted. There's a
tie-in to HUD regulations about citizen participation, so
that week may have to come from somewhere else.

MR. OXER: Okay.

MR. CHISUM: But that's our issue.

MR. ECCLES: Well, it's an issue.

MR. OXER: All right. We'll know some more
about this because you're going to have three items on
here. You probably have some more but make sure you've
got them in order of the ones that you want because we're
going to basically go from the top down, prioritized. That way, if you've got too many, the ones on the bottom will get tailed off.

I don't know where that extra week would come from, Tim.

Megan, do we know anything on the scheduling on this?

MS. SYLVESTER: We'll discuss it.

MR. OXER: All right. With respect to item 6(a), is there anybody out there who wants to speak on any other aspect of this apart from what Lisa spoke on? Raise your hand. All right. There's such a crowd up here. Anybody on the front row?

All right. We'll take it from right here. It's 11:48 right now so we're going to basically cut off the comment or pause the comment at twelve o'clock, we'll go get some lunch and be back in place here at quarter after 1:00. That way you can predict what you need to do and then you can have your comments ready. Whatever your task force is, Lisa, have them put together and get all this put together so we can take it up around 1:30. Okay?

MS. FINE: A question before I start. Can I only comment on the rules and not the QAP at this juncture?

MR. OXER: You may. It's item 6(a).
MS. FINE: I'm Tracey Fine with National Church Residences.

First, I just want to thank TDHCA's staff for all their hard work and time they have spent with many of the development community, listening to our concerns, engaging in authentic dialogue and revising the QAP.

I do want to take this opportunity to highlight an issue in the rules which could hamper improving the lives of vulnerable residents in Texas. Mandatory assets for preservation deals. Without satisfying all the mandatory assets proposed in the draft, a project cannot compete. Unfortunately, the existence of some mandatory assets would unnecessarily exclude worthy preservation projects from being eligible to compete, in particular, the requirement that all rural Texas projects be less than three miles from an urgent care clinic.

For example, a senior housing preservation project that is 3-1/2 miles away from an ER could not compete even if the site has 24-hour ambulance service available and had other excellent amenities, such as a grocery store, pharmacy and restaurants around the corner. The aforementioned preservation project cannot be moved. The residents have, to date, not had issues with their health and the location is strong, however, the current draft would arbitrarily keep this project from being
rehabilitated. I would encourage staff and the Board to revisit the applicability of mandatory assets in preservation.

Furthermore, I didn't write this piece out, but on the mandatory schools, I would really encourage TDHCA to think about that definition. I'm concerned that the HUD 202 projects as a specific program specifically for seniors could be ruled out as an eligible senior project not having to be under mandatory schools. And to also highlight that many supportive housing projects that serve 100 percent adults also do not utilize schools and to consider them not required to meet the met standard rating for the schools currently in the rules.

So I appreciate you listening to my comments.

MR. OXER: Great. Thanks very much.

Mr. Chisum.

MR. CHISUM: Question for you, please. This particular property that you're talking about, how many seniors?

MS. FINE: Forty.

MR. CHISUM: Forty, and not a single senior has a medical issue?

MS. FINE: I'm not saying that --

MR. CHISUM: That's what you said.

MS. FINE: No. I'm saying that their
healthcare needs are being met. They're not having an issue meeting their healthcare needs. The current mandatory assets says that a site must be within three miles of an urgent care clinic that is open after hours. So this particular site is 3-1/2 miles away from the hospital with 24/7 ambulance service, but the urgent care clinic closes at 6:00 so it's technically not open after hours. And to date, our seniors do have healthcare issues but they have sufficiently received services under the current healthcare in the vicinity.

    MR. CHISUM: Thank you.

    MR. OXER: Thank you.

    One more. Hi, Robbye.

    MS. MEYER: I'll make it quick, I'll get in before 12:00.

    MR. OXER: That's okay. You've got plenty of time.

    MS. MEYER: Robbye Meyer. I'm with Arx Advantage, a consultant in the program.

To piggyback off of what she said, with the threshold requirements actually having a requirement for grocery stores, pharmacies and urgent care facilities that goes across for all of the State of Texas, you're taking out most of rural Texas and a lot of the suburban areas having this requirement in the Multifamily rules.
Actually, in the rule definition under the state statute in this last legislative session, it actually states the proximity or absence to major amenities commonly associated in urban and suburban areas. That is what rural Texas is, and so it's saying that they don't have those amenities.

MR. OXER: That's what defines rural. Right?

MS. MEYER: Right. And so to require those amenities to be in rural Texas, you're actually taking away most of rural Texas.

Also, urgent care facilities, a lot of urgent care facilities don't take Medicare or Medicaid. Just another thought to take into effect.

The public school requirement for meeting the met standard, I'm uncomfortable with that putting it in as a threshold requirement because you do take out a lot of areas, especially in rural, but you do actually take out a lot of urban as well. But if we're going to put it in threshold, I can live with it if we're going to do that, but let's take it out of scoring. Let's have it in one place or the other. If you put it in both areas and have it in threshold and as a scoring item, you're tightening up and we're concentrating housing even more than we're already doing.

It's difficult to do it as a scoring item with
the met standard and having that performance index, but when you put it as a threshold requirement and eliminate areas and then you put it as a performance as scoring, we're going to all be in the same area and competing for tiebreakers and we're all going to be arguing with cities trying to vie over the same things with cities. So I ask you if you'll put it in one or the other and eliminate the opportunity index threshold. Thank you.

MR. OXER: Great. Thanks, Robbye.

Anybody else on this part?

MR. BRADY: Thank you for this opportunity. My name is Sean Brady.

I wanted to echo what the other two previous commenters said. With the emphasis on schools and groceries and pharmacies and urgent care all in threshold, which are also considered in scoring sections, it really is driving us away from de-concentration and towards concentration, eliminating large sectors of the state, in particular the rural areas, as Robbye mentioned, that by definition lack a lot of these resources but also a lot of the urban/suburban areas as well.

Especially on educational excellence, there is a one-point category already for an elementary and either a middle or high school, but then I'm wondering if all three of those now have to be threshold items. That leads
to some conflict in my mind, as well.

One other item that has not been mentioned yet is in the submission requirements section. There is language that we cannot change building locations or sizes, types, orientations without seeking Board approval. And I understand the intent of that is to keep developers from saying one thing to a community and then doing another, but please look at it from the other way. That language is so restrictive that really that's going to limit the amount. We like to share information up front with caveats, with disclaimers clearly printed on it that this is subject to change as the design process continues.

But these are common questions among communities. They want to know what's it going to look like, what are your amenities. And we can tell them the types of amenities, the services, the things like that we could offer but that they are subject to change. And so I do think loosening that language in the Multifamily rules would be highly advantageous to allow us to continue to share the information freely all throughout the process with our communities without having to go back to the Board every time that we do a soil boring test and realize we have to shift the orientation of the building. There's lots of information we don't know when we first come to the communities, but it's a process ongoing. So I wanted
to mention that as well.

I do have some comments on scoring as well, but I believe that's covered in the next section. Should we cover comments on scoring now?

MR. OXER: Only the item that we're taking up, if you would, please, Sean.

MR. BRADY: Well, thank you for your time.

MR. OXER: All right. Thanks very much.

Okay. Let's have one more.

DR. MUÑOZ: And Mr. Chair, before this gentleman begins to speak.

Teresa, on those sort of points that Robbye made about threshold items or items that might exclude, services or amenities that may not be available in rural communities, like proximity to certain things, I hope we look at that carefully, because at least up in West Texas where you've got small towns like Tahoka and O'Donnell and Idalou and these small towns, there's limited infrastructure, there's limited willingness for outside companies to come in and develop some of those services and amenities. I mean, I guess I'd have a lot of heartburn about communities that could never satisfy some of these requirements just based on their density and tax base and attractiveness to outside sort of services. I hadn't thought about it until just that comment was made.
MR. OXER: Thanks.

MR. SISK: I'm Tony Sisk, Churchill Residential, Irving, Texas.

My comment has to do with Subchapter B, again under public schools, and we just noticed this a couple of days ago when this came out, and this has to do with district-wide enrollment or choice programs within an ISD. As I understand it, there's only a handful, if that, of choice programs in school districts in Texas, but specifically I'm thinking about one that covers three different cities, population in excess of some 300-and-some thousand people, one large school district that has the choice program, but in that particular ISD, out of approximately 80 schools there's only two elementary schools that did not meet standard.

And it's not realistic, in my opinion, to penalize every potential development in three cities with a large population with that definition. I would like to respectfully request that if, say, 90 percent of the rated schools in the district meet standard that that would be enough to basically meet the threshold for that particular large independent school district covering three cities. It basically kills every potential development in a large area, and I don't think that definition is really realistic because there's only two elementary schools in a
very small area of that large area, and most of these developments are in high opportunity areas.

MR. OXER: Thanks, Tony.

MR. IRVINE: Can I ask a question about the choice settings? If you've got a district with multiple schools and you've got some that don't meet standards and many that do meet standards, is a school-age child living in a tax credit development able, without reservation or limitation, to choose to go to a school that meets standards and receive transportation to that school?

MR. SISK: Well, in this particular case, theoretically, I guess, a kid could go to any of the schools in this large district that has 80 different schools. All of the middle and high schools met standard, only two out of maybe 60 elementary schools did not meet standard, but those kids are not going to be likely to go to one of those two elementary schools that didn't meet standard, they're going to go to one of the 58 other ones.

MR. IRVINE: So they will have a right to choose to go to one of the others.

MR. SISK: Yes. They have a right to go to any of those other schools.

MR. IRVINE: Do they have any transportation assistance in getting to those other schools?

MR. SISK: That, I'd have to research that.
MR. OXER: So the current rule, as you
interpret it, or the current draft, that current
threshold, as you interpret it right now, Tony, precludes
that district from being considered?

MR. SISK: Yes, and three different cities, and
all the schools in two of the three cities meet standard.

MR. OXER: Okay. All right. Thanks for your
comments.

Okay. We're going to go into an exec session
and I want everybody to be still and listen for a second.

The Governing Board of the Texas Department of
Housing and Community Affairs will go into closed or
executive session at this time. The Board may go into
executive session pursuant to Texas Government Code
551.074 for the purposes of discussing personnel matters,
pursuant to Texas Government Code 551.071 to seek or
receive legal advice of its attorney, pursuant to Texas
Government Code 551.072 to deliberate the possible
purchase, sale, exchange or lease of real estate, and/or
pursuant to Texas Government Code 2306.039(c) to discuss
issues related to fraud, waste or abuse with the
Department's internal auditor, fraud prevention
coordinator or ethics advisor.

The closed session will be held in the anteroom
of this room which is the John H. Reagan Building, Number
140. The date is September 3, 2015 and the time is 12:02.
Let's be back in our seats, I know we're going to have an
active session here, so we'll be back in our seats at 1:30
exactly.

(Whereupon, at 12:02 p.m., the meeting was
recessed, to reconvene this same day, Thursday, September
3, 2015, following conclusion of the executive session.)

MR. OXER: All right. Let's come to order.
We've got a hot schedule here and we're running into some
quorum issues.

The Board is now reconvened in open session at
1:45. During the executive session the Board did not
adopt any policy, position, resolution, rule, regulation
or take any formal action or vote on any item. Did I get
all of it, Counselor?

Okay. Back on the rules on item 6(a), we have
a motion in the floor by Ms. Bingham, second by Dr. Muñoz
to approve staff recommendation on item 6(a). What we're
going to do, and I think it's the right way to approach
this, we're going to table that motion and hold that.
Bottom line is, without the reasoning, one week from
tomorrow we're going to have another Board meeting, take
up these final rules. You'll have an opportunity to make
comments, consider those, in addition to what was being
considered today. The information we'll take from the
development community, and we'll have next week to take
that, form it into some language, and then that language
will be made available for a special Board meeting to be
on Friday, the 11th.

We understand there are posting requirements
for the agenda and that sort of thing. I will tell you
that the meeting will probably be ten o'clock here once
again, it will be two hours at the max, take up this issue
with the rules, and that will be the extent of the agenda
for that single item meeting.

So with that, would the Board consider tabling
the motion on 6(a)? Ms. Bingham?

MR. GANN: Move to table.

MR. OXER: Okay.

DR. MUÑOZ: Second.

MR. OXER: Motion by Ms. Bingham, second by Dr.
Muñoz, as the original motion, to table this motion until
our special meeting coming up one week from tomorrow.

Tom.

MR. GOURIS: If I might. Tom Gouris, deputy
executive director.

Can we just make it clear that if folks have
comment that they want to get into the next version that
they need to -- because I think earlier you said they can
get to us by next Friday, but in fact, for us to get it
into the new Board book, we want to make sure we get it by
tomorrow, and then we'll post three days before or as soon
thereafter as we can to incorporate those comments.

MR. OXER: Now, the worst case scenario is that
we would make any comments or modifications to those
available, hand it out at the meeting because, of course,
we'll all be in active involvement in those. I think we
originally the interpretation was we would have another
week to make comment. What I was trying to do was push
off the Board posting in the Texas Register by a week, but
to do that, we need to back that up for the commentary so
we've got time to take the commentary and make the rule so
that it could be posted. So anybody that posts a comment
a week for tomorrow is going to have to wait until next
year to get it in.

DR. MUÑOZ: And I'd like to say something. I
appreciate, Tom, you making that point. If truly you've
thought about this -- I'm talking to the community that is
interested in this particular topic -- then you should
have some ideas that are fairly well formulated, defined,
and so it's incumbent upon for this unique, rare,
unprecedented window of opportunity to communicate to the
staff, not that they should necessarily seek you out. You
have this time, it's been articulated, it's been said
repeatedly, so get in what you need to get in to be
considered. But don't then say we haven't had an
opportunity to comment. The unprecedented opportunity is
now before you.

MR. OXER: And I will reiterate a comment that
I made earlier. The fact that the rules don't reflect the
comments you made doesn't mean that you weren't heard, it
just means that we didn't think that it was appropriate to
put it in the rule. You can make it again if you want,
but when we come up with the rule for next Friday, that's
what's either going to be in it or out of it, so that's
it.

The deadline for submitting, we need to back
that up.

MR. IRVINE: We need to post this afternoon for
the agenda.

MR. OXER: With respect to the agenda.

MR. IRVINE: And three days before the meeting
would be Tuesday. Monday is a holiday, so quite honestly,
if you want to get something in, it really needs to be
here tomorrow.

MR. OXER: If anybody has a thought on this or
a comment to make on the rules, tomorrow afternoon, five
o'clock. Does that work? Is everybody good?

MR. IRVINE: Yes.

MR. OXER: The motion has been tabled. We'll
take up item 6(a) one week from tomorrow at ten o'clock in
this room. There's a motion by Ms. Bingham, second by Dr.
Muñoz to table the original motion for item 6(a), there's
no public comment on the table. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

All right. That's how we're going to handle
it.

Brent, do you have anything else on (b), (c)
and (d) under item 6? You get to handle that one,
Kathryn?

MS. SAAR: Kathryn Saar, 9 percent tax credits.

Yes, (b) is the QAP and I assume that we might
want to take the same action with the QAP that we're
proposing under 6(a), but if you would like to hear the
QAP changes, we can walk through those first and then
proceed however the Board wants.

MR. OXER: I'd like to hear them but the
problem is we're getting ready to run into a quorum issue
and so that's why I'm trying to expedite some of this. Is
there anything that would not be viable to be considered
for the next meeting, Tim?

MR. IRVINE: No.
MR. OXER: Do you see anything on that, Beau?

MR. ECCLES: No.

MR. OXER: Then I would recommend or I suggest that (b), (c) and (d) --

DR. MUÑOZ: Can we add them to the next meeting?

MR. OXER: We can take up the whole set of rules, item 6 will be considered a week from tomorrow at that meeting.

MR. CHISUM: Make a motion, please, sir.

MR. OXER: I can't make it since it's a special motion.

MS. BINGHAM ESCAREÑO: In addition to item 6(a), I move to table items 6(b), (c) and (d) to the called meeting on the 11th.

MR. OXER: An administrative motion, I'll second on that one. There's no public comment on that. So those in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none.

Okay. You folks up here have obviously got some thoughts on this, but if it's about these rules or the QAP, make sure that they're in by tomorrow, and if you
want to have public comment to them, get back here next
Friday. Is that clear? Is everybody good on that? It's
a good thing because that's the way it's going to happen.

We are now at the point on the agenda where
we've completed or at least postponed the formal agenda,
we're at the public comment. We're looking for public
comment on matters other than those items for which there
were posted agenda items for the purpose of building the
agenda for follow-on meetings. Our special meeting one
week from tomorrow will be to handle item 6 on this agenda
item only, only this item. And do we rightly limit it for
that? So this will be only for the rules as listed here
on item 6.

Is there any public comment for the purpose of
building the agenda? Dennis, did you have something you
wanted to add? Item 6.

Terri, you were item 6 also, weren't you?
Okay.

DR. MUÑOZ: Can I say something, Mr. Chair,
before you continue?

MR. OXER: Please.

DR. MUÑOZ: I just want to thank those in the
development community for bringing this to our awareness.

We've tried to act responsibly but it helps when you
attenuate our understanding in the way you have today.
MR. OXER: And I don't want anybody in that community suggesting that we don't make every effort to accommodate your interests either. Got that? Okay.

All right. Anybody else like to make any comment for the purpose of the future agenda.

MS. RICKENBACKER: I just want to say thank you very much.

MR. OXER: You get to come up and tell us who you are first.

MS. RICKENBACKER: I'm Donna Rickenbacker with Marquee, and I'm sure on behalf not only of myself but everybody else how much we very much appreciate the extension. We realize it's unprecedented and I guarantee you we are engaged. We'll be visiting with Tom, staff and the rest of the members to make they get everything promptly today.

DR. MUÑOZ: And we want to recognize the staff in anticipation of the Herculean effort they're going to have.

MR. OXER: Terri.


I do want to thank everyone and staff in advance. I should say after having heard my comment on Facebook left some level of consternation, the frustration
of not being able to pull down the Board book, pulling it
up on Facebook, having to go do different locations, and
I'm essentially a dinosaur, I want to apologize to staff
or anyone that I may have offended for my comment on
Facebook. It wasn't my intent to offend anyone, but I do
thank you all for your efforts, and it was certainly
complicated to have to go on Facebook and try to use
something you're not used to using. So thank you very
much.

MR. OXER: If this was easy, anybody could do
it. You know that, don't you?

MS. ANDERSON: I do know, sir. Yes.

MR. OXER: Once again, anybody else, any staff,
any TDHCA staff out there? Michael.

MR. LYTTLE: I just wanted to say because of
what Terri just said I'm going to like her again on
Facebook.

(General laughter.)

MR. OXER: Captain Tweety was in the process of
deleting a whole lot of you out there.

Any member of the Board care to say anything or
anyone on the dais up here? Counsel, Mr. ED, any Board
members?

(No response.)

MR. OXER: All right. I get the last word
being the chairman, that's one of the few advantages I have. It's a good thing that we do here, it's a complex process, and we make an awfully big effort, a concerted effort to maintain the integrity of our rules but also with the intent to accommodate the development community to make this the best program of any state that this country has got.

So with that, I'll entertain a motion to adjourn.

MR. CHISUM: so moved.

MR. OXER: Motion by Mr. Chisum to adjourn this meeting.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: And a second by Ms. Bingham. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. We'll see you in eight days.

(Whereupon, at 1:55 p.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: September 3, 2015

I do hereby certify that the foregoing pages, numbers 1 through 114, 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.

09/09/2015
(Transcriber) (Date)

On the Record Reporting
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