SPECIAL BOARD MEETING

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

Friday, September 11, 2015
10:20 a.m.

BOARD MEMBERS PRESENT:

J. PAUL OXER, Chair
TOLBERT CHISUM, Member
LESLEE BINGHAM ESCAREÑO, Member
TOM GANN, Member
J.B. GOODWIN, Member
JUAN MUÑOZ, Member

TIMOTHY K. IRVINE, Executive Director

ON THE RECORD REPORTING
(512) 450-0342
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   provisions, and a proposed new 10 TAC
   Chapter 10 Subchapter A, concerning
   general information and definitions,
   Subchapter B, concerning site and
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b. Presentation, discussion and possible 31
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   for public comment in the Texas Register

EXECUTIVE SESSION 109
OPEN SESSION 109

ON THE RECORD REPORTING
(512) 450-0342
ACTION ITEMS

ITEM 1: RULES (cont'd)

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 Chapter 10 TAC 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

none

ADJOURNMENT
MR. OXER: All right. Good morning, everyone.

Can you hear me, Penny? Are we hot over there?

Okay.

I'd like to welcome everybody to the September 11, 2015 special Board meeting of the Texas Department of Housing and Community Affairs Governing Board.

(Discussion re volume of speakers.)

MR. OXER: All right. First thing we're going to do is, in recognition of the fact that this is September 11th, the day that is seared in our collective memory, I want to ask everybody just to take a short minute of silence to remember those who fell on that day.

(Moment of silence.)

MR. OXER: All right. Thank you very much. I'm sure that our prayers are heard. All right. We'll move again as we do with roll call.

Ms. Bingham? She is not present but we anticipate her. We understand she's landed at the airport. We'll give her a second to get here.

Mr. Chisum?

MR. CHISUM: Present.

MR. OXER: Mr. Gann?
MR. GANN: Present.

MR. OXER: Mr. Goodwin?

MR. GOODWIN: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Here.

MR. OXER: And I'm here, so that gives us at least five, we've got a quorum. We're in business.

Tim, lead us in the pledge.

(Pledge of Allegiance and Texas Pledge.)

MR. OXER: Okay. Let's start. We've got a specific agenda to do this time, folks. We're looking at only -- get used to our new hardware up here. Curtis and the gang was kind enough to get us some new computers, and I'm still fumbling with my big fat fingers.

Okay. Tim, do you want to make any preparatory comments here?

MR. IRVINE: Yes. Thank you, Mr. Chairman.

After the Board's extraordinary action last week to allow for additional time for input in the development of the Qualified Allocation Plan and multi-family rules, we've had a tremendous amount of comment and input. Frankly, it's been a little bit like drinking from a fire hose. I mean as late as 8:35 this morning I was receiving lengthy emailed comments.

We have tried to digest and understand these
comments. We have worked really hard to formulate I think some changes that accommodate and improve the proposed rules in some respects.

But I want everybody to understand that we work in the world of the Administrative Procedures Act and the Texas Government Code, and we do not have the luxury of a freewheeling, open-ended dialogue on a lot of these issues. They have to move along quickly and crisply because we have a statutory timeline we must adhere to.

The formal public comment process is key to the Administrative Procedures Act. The way rules work is they are considered, they are put out in the Texas Register for public comment, and then we receive the comments. So what we're really going through right now is the end of the process that will lead to the publication of proposed rules for public comment.

There will be opportunity to provide formal rule making comment following the publication. We will provide reasoned responses to all of this public comment that we anticipate receiving. So I would ask that to the extent that you can, if you have comment you wish to make today after the Board performs its different motions, that you focus on things which could not be addressed in public comment once the rules are published. You know, tweaking specific nuances of language, tweaking, you know, various
ideas that could be logical outgrowths in response to
public comment, those are things that we handle on the
back end under the APA.

So that's really all I've got to offer at this
time and look forward to the discussion.

MR. OXER: Okay. I'd like to recognize a couple
of guests that we have.

Bobby, aren't you in the back somewhere? Bobby
Wilkinson from the Governor's office.

J.D., you're here? J.D. Pedroza. There you
go, thanks.

We also have Representative Ratliff -- I'm
sorry, Landgraf here who will be making a comment, and
we'll give him an opportunity to speak first.

We always appreciate the interest by the
Legislature and the consideration of what we do. So in
consideration for their time, we give them a shot at
getting here, making their comment so they can get back to
work and help do what they do.

I think with that --

MR. IRVINE: Marni?

MR. OXER: Yes, that's a great idea. Why don't
you introduce our Marni.

MR. IRVINE: I'd like to make an introduction.

Everybody in the room, staff, Board, developer community,
legislators, our new best friend Marni Holloway, who has graciously accepted the position of Director of Multifamily Programs.

Marni has been an incredible contributor in the way that she stepped up to the line in the formative years of the Neighborhood Stabilization Program. Took that on, pushed that program along to its successes. She's stepped in affordable housing development. She understands the concepts and the principles and especially the values. And I think she will be a real collaborator with all of us and hopefully help guide us to ever better places.

And, Marni, really glad you're in that role.

MR. OXER: Just for the record, for the rest of the Board, we've already measured her when we took the spikes when we throw her on them, so we're happy to have you, Marni. And thanks very much for taking this on. This is actually one of the more fun gigs that you can learn to have that's kind of fun.

All right. Let's see, I think we'll have -- Theresa, are you up here for the first item on 1(a)?

Can you guys hear me in the back now? I don't have to scream at you to hear? Okay, good.

Thanks, Eddy. Okay.

MS. MORALES: Teresa Morales, soon-to-be-
demoted Acting Director of Multifamily Finance.

(General laughter.)

MS. MORALES: Congrats, Marni.

MR. OXER: Notice, Marni, that she said that

with a smile on her face too.

MS. MORALES: Item 1(a) relates to Subchapters

A, B, C and G within Chapter 10, which established the

general requirements associated with the award of multi-

family development funding.

After last Thursday's meeting and within a

short 24-hour timeframe I was directed by the Board staff

was in receipt of comments from over 25 interested

stakeholders with various thoughts of changes to the draft

as published in the September 3rd Board book. Staff

worked diligently and with thoughtful consideration of the

comments and suggestions provided, and has proposed

changes reflected in the draft that is before you.

In addition, after posting the rules on Tuesday

there has been some evolution with respect to two items in

particular. These changes are specific to Subchapter B,

which include site development requirements and

restrictions.

The first item involves the requirement for all

multi-family developments to be located within three miles

of a full-service grocery store, pharmacy, and urgent care
facility. In response to comments, staff modified this rule specific to rehabilitation properties and developments in rural areas such that they would need to be located within five miles of at least two of the three services.

However, after the Board book was posted on Tuesday and after further deliberation, staff is proposing that proximity to the grocery store and pharmacy be moved to the QAP as a new scoring item worth two points, one for each, and move the urgent care facility back to the list of mandatory community assets for which an applicant can select in order to fulfill the minimum threshold requirements. In essence, we're reverting to the 2015 language with the exception of an additional scoring item.

The second item involved the requirement for all multi-family developments to be located within the attendance zones of an elementary, middle, and high school that has achieved the Met Standard rating designated by TEA. The general consensus from the comments submitted was that this should just be removed and handled through the scoring process.

Staff agrees that such mechanism is in place for 9 percent applications; however, it does not address the developments awarded through our other multi-family programs. The need to review all of the comments
submitted last Friday on the heels of a holiday weekend and staff's inability to arrive at a middle ground by the Tuesday deadline by which we had to post, we ultimately struck that language from the draft.

Believe it or not, some of us do lose a little sleep on over how we can effectively administer the tax credit program while still working within the statutory federal and legal constraints by which we are bound and also taking into consideration the suggestions and feedback from interested stakeholders.

In that vein, we propose that should a development be in the attendance zone of schools that have not achieved the Met Standard rating, that it be considered an undesirable neighborhood characteristic that requires disclosure.

As we go through the public comment period we can further flesh out acceptable mitigation that could be submitted in response to this and would certainly welcome ideas in this regard. Such mitigation could presumably include local efforts to improve schools and long-term trends that would point towards their achieving the Met Standard rating by the development's placement and service.

As with all other undesirable characteristics, should staff, after reviewing the information provided by
the applicant, recommend that a site be considered ineligible, the applicant will have the opportunity to present their case before the Board.

Staff recommends approval of the proposed repeal and new of 10 TAC Chapter 10 Subchapters A, B, C and G as reflected in your Board materials along with the aforementioned modifications relating to proximity of certain services and performance of public schools.

Surprisingly, there's no one behind me. If there is public comment, I would ask that those comments be specific to Chapter 10, and comments relating to the QAP and scoring hold off until we get to that item so that we can move through the agenda efficiently.

MR. OXER: I think that's an excellent request. Is that it? Juan?

DR. MUÑOZ: I've just got a comment. The point that you made about creating some mitigating circumstances or how to -- you know, mitigation I think you referred to it in instances where perhaps some characteristic could be explained in a certain -- you know, as not preventing this from moving forward, I would just say we've got to be very clear.

A developer hears that, I assume, and they get the sense that there's a way possibly to sort of mitigate this perceived sort of unattractive quality. And then
they say, well, here's how we're going to attempt to explain it. And we say no, no, no. So no, so functionally there's no mitigation.

I'm just saying how we define that, we need to be very clear. Under these circumstances or in these areas or -- this is how we will accept what you submit to us as potentially mitigating this, you know, unattractive feature.

I just think we've got to be very specific so that later on, you know, we're not told, you know, you gave the impression that there was a chance we could continue, and when we submitted what we thought was a compelling case, we were told that staff thought it wasn't.

You need to say up front what you generally think, you know, it will require or under what circumstances there is no mitigation or no sort of recourse.

MS. MORALES: I think that with all of the undesirable neighborhood characteristics we go through and outline what some of those mitigation forms could be. And, in essence, it comes down to, Tell us the story that's not being told by what the numbers say with respect to poverty or crime rate or what have you.

DR. MUÑOZ: Okay. Here's what I would say.
That's fine. I would say be very specific as to the characteristics of the narrative you're asking them to provide you with.

MS. MORALES: Okay.

MR. OXER: I think what Dr. Muñoz is saying, we want us interpreting what we want as opposed to them interpreting what we want.

DR. MUÑOZ: Right. If we say tell us your story but your story has to contain the plot, the protagonist, the denouement, the --

MR. OXER: And the part where the guy gets shot in the end and thrown off the stage too.

DR. MUÑOZ: That's right. So that they don't say to us, once you step down, I told her my story, she just didn't like the tone of it, the inflection of it, the ending.

MR. OXER: Anything else, Dr. Muñoz?

DR. MUÑOZ: No.

MR. OXER: Okay.

DR. MUÑOZ: That was from teaching eighth grade and ninth grade literature, by the way.

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

(No response.)

MR. OXER: Okay. Our process says we'll have a
motion to consider.

MR. CHISUM: So move.

MR. OXER: Motion by Mr. Chisum to approve staff recommendation on Item 1(a). Do I hear a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. Okay. We apparently have a few comments out here, so I'm going to -- you know, the Chair's admonition on comments is to respect what Teresa has asked you to do. If you have something specific to this, that's fine if it's on the QAP, that's different. But if you have something specific on this, we are trying to make this. And there'll be plenty of time, this is not getting cast into stone, there'll be plenty of time to make public comment on it.

So, okay. Janine?

MS. SISAK: Good morning, everyone. I'm Janine Sisak, I'm here today in the capacity of representing TAAHP membership, as chair of the TAAHP QAP Committee for this year's round.

MR. OXER: Janine, hold on a second. This won't cost you time.

Teresa, this is -- are we looking at 1(a) now, right? Or is it all of 1?

MS. MORALES: 1(a).

MR. OXER: 1(a), okay. This is Item 1(a) only.
MS. SISAK: Right. And my comments today will
be very general, just to follow the process how we got to
this place. It won't take more than my allotted time.
And I'm going to keep it very general, my comments very
general.

MR. OXER: A minute.

MS. SISAK: So thanks to the Board for giving
us an opportunity last week to schedule this meeting and
have the stakeholders submit, have the chance to submit
additional comments.

MR. OXER: It costs you some emotional baggage
points here having done that to the staff over Labor Day
weekend. You do know that, right?

MS. SISAK: I do know that. I want to thank
them, I want to thank the staff for that.

Because TAAHP is a big tent organization with
more than 300 members, unfortunately, we were not able to
have the required meetings with our membership to come up
with comments by the deadline last Friday. It's okay,
because the individual developers and stakeholders did a
great job of getting the comments in by the deadline.

And the staff did an excellent job of working
on those over the weekend and getting a lot of the
important or at least a lot of the new concepts that were
very important to the TAAHP membership into this version
of the rules and the QAPs that will go into the Texas Register. So I really do commend staff for the quick turnaround on that, and really the attention to some of the new concepts that were really important to be added so that we can have a full-fledged kind of discussion amongst the stakeholders about, you know, what can go and what should stay, what should go, all of those things.

So I just want to touch on a few things that we really like and we're really appreciative that the staff listened to us. One is taking out the schools of Met Standard as threshold. I still think there's some work to do on it both educational excellence and this new concept of embedding it in undesirable state features or neighborhood features, but we really love the fact that that's not a threshold item anymore.

Underserved -- giving some other opportunities for point variation in underserved with regard to population growth, job growth, we think that's great. A lot of the suggestions from the stakeholders were an effort to kind of open up certain census tracts so as developers we're not all kind of competing for the same site.

So some of these moves in terms of more of the tiering in educational excellence and more in the tiering of underserved I think is a really good thing for the
industry as a whole. You know, again we haven't talked to
full membership about these things, but these are some of
the items I think we can reach consensus on.

During the public comment period, you know,
TAAHP will go through its normal process of assembling the
committee, having committee meetings, and then going out
to the membership. I think some of the things that we
still have work on is schools, you know, just Met Standard
in terms of being an undesirable neighborhood feature that
can be rebutted with evidence. I think we need to talk a
little bit more about that.

Community revitalization plan, Tim and I had a
conversation about this earlier in the week. I feel like
it's just getting more subjective and less objective, and
there's a lot of concern about that. In particular, to
the requirement that the mitigation efforts or the
revitalization efforts have to be well under way. You
know, you can get to a point where, you know, the key of
the revitalization efforts is starting the revitalization.
That's the real tough part in these areas. So to have a
requirement that the revitalization almost be done I think
is problematic, and I think we need to talk about it.

And then finally I'll wrap up. There's some
new concepts in the underwriting rules that seem really
reactionary. Maybe there's some deals that really got off
track in the underwriting process. And I really think we need to talk and sit down with lenders and investors about some of those things, because they're problematic.

A couple of examples, underwriting all market rate rents at 60 percent AMI rents and having developer fees at the time of that location and not allowing for that to be adjusted by unexpected cost increases in a time where, you know, we're experiencing 8 to 12 percent construction costs increase per annum.

So I thank you all for your time and consideration in getting this draft into much better shape than it was just a week ago. Thank you.

MR. OXER: Thanks.

Any questions for Janine?

(No response.)

MR. OXER: Okay. Thanks.

Diana?

And everybody, homework item here, or housekeeping item: Remember to sign in when you get there so Penny can make sure she knows who you are and can identify you.

MS. McIVER: Thank you. Diana McIver, DMA Development. I'll be short and brief. I think there is a serious flaw with some language that is on the -- even on the change version, and it deals with the mandatory

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community assets. In Item 4 is "a department or retail merchandise store," and then in parens it says "retail merchandise must be available to unaccompanied minors."

And so that to me means that if I'm using Target for my amenity, I have to call Target and see if they allow a nine-year-old to come in and shop unattended by their parent. And I think if I understood what was trying to be accomplished, I could recommend corrective language. But I think the language as it stands is pretty bad. Thanks.

MR. OXER: Good. Comment noted.

Joy? Good morning.

MS. HORAK BROWN: Good morning. Joy Horak Brown, President and CEO of New Hope Housing. Chairman Oxer and Board members, I generally think there are two types of speakers, those who are prepared and those are unprepared, and I typically come before you very well prepared, I hope. Today I'm making a brief off-the-cuff comment on the item that was just handed out this morning.

And that is to call your attention to the idea that the Met Standard and also Neighborhoodscout stands to be as considered today very damaging to the type of housing that we specialize in, which is supportive housing for the deeply underserved, and also stands to pose great difficulties to any of the revitalization areas in our
urban cities, and most particularly, to my knowledge, in Houston, Texas.

So I will be commenting at length on these in the future, and I thank you for simply noting my pretty grave concern today. Thank you.

MR. OXER: Great. Thank you, Joy.

Okay. Let the record reflect that Ms. Bingham has joined us, so we now have a full house with an over quorum, as it turns out.

MR. IRVINE: Can we make sure that the Board has copies of the handout that people refer to? Chair's okay with that?

MR. OXER: Chair's good.

MS. MYRICK: Good morning, Chairman Oxer, Board, Mr. Irvine. My name is Laura Myrick, and I am with BETCO Consulting, and I have one brief comment, and it concerns the mandatory community asset.

We noticed in the other draft and in this one that there is an amenity that has been removed, and that is the religious institutions, and we would like to see that added back in, as the religious institutions are not just there for spiritual health but also provide services to the community: day cares, Meals on Wheels, and transportation in some areas.

And so there's a point category in Opportunity
Index where you can actually get day care points if you have a center that is within a certain radius of the proposed development. But in many of these communities your church is your licensed day care center. So we would like to see that added back in to the mix of the amenities.

Another scoring item is the community and civic organization point category. You can get points, up to two points for each letter, and many times these letters are overwhelmingly from churches. So these are community assets that are very necessary to the community, serve various purposes, and we would like to see those reinstated back into the mandatory assets. Thank you.

MR. OXER: Good.

Any questions?

DR. MUÑOZ: Yeah, I have one.

MR. OXER: Hold on.

MS. MYRICK: Yes, sir.

DR. MUÑOZ: I mean the child care center is still there.

MS. MYRICK: It is.

DR. MUÑOZ: It wouldn't have to be recognized as a religious center in order to enjoy the benefit of being recognized as a licensed day care facility.

MS. MYRICK: That is true. And I certainly
understand that. However --

DR. MUÑOZ: Some provide Meals on Wheels, a great many don't.

MS. MYRICK: True.

DR. MUÑOZ: If you provide that service, you'd probably be credited with that or the child care regardless of the nature of the edifice.

MS. MYRICK: I think the other thing also is that while they do provide these services and they could be recognized separately, and I certainly understand that, is that you -- it's very difficult to go to any community whether it's a very large community or whether a very small community, without having a church. It's a very essential part of a community.

Again they're also the groups that give you letters for support, community support. You know, I guess I would also go back to what we did this morning. We offered a moment of silence. That's very important to all of us, and so --

DR. MUÑOZ: Yeah, that's not -- I suppose that's not what I'm disputing.

MS. MYRICK: Okay.

DR. MUÑOZ: And I don't personally perceive that it's not an asset. I'm just -- you know, there's a finite number of things on the list.
MS. MYRICK: Sure.

DR. MUÑOZ: There are a great many that could be added.

MS. MYRICK: Sure.

DR. MUÑOZ: And if they provide these functional services to the community, they may be recognized under other categories like the day care facility that's still there.

MR. OXER: I think Dr. Muñoz -- and I don't want to put words in your mouth --

MS. MYRICK: Sure.

MR. OXER: -- he's essentially saying it's the service, not the institution.

MS. MYRICK: Okay.

MR. OXER: But we recognize your point --

DR. MUÑOZ: Right.

MR. OXER: -- that those services are made available. Although -- and we'll take that under consideration.

DR. MUÑOZ: Yeah, and if --

MS. MYRICK: Sure.

DR. MUÑOZ: -- was there before and it was removed, there should be a reason for that.

MS. MYRICK: Yes. And I guess part of me also doesn't understand why it was removed.
MR. OXER: Why it was removed.

MS. MYRICK: So perhaps that's a better conversation to have is why was it removed. Maybe we can continue the conversation there.

MR. OXER: Yeah.

MS. MYRICK: I appreciate your time for allowing me to make these comments.

MR. OXER: Okay. That's a conversation you're welcome to have with staff.

MS. MYRICK: Sure.

MR. OXER: We'll take it in public comment, but we're going to proceed.

MS. MYRICK: Thank you.

MR. OXER: Okay. Thanks, Laura.

Who's next?

MS. BURCHETT: Good morning. My name is --

MR. OXER: Grab a stick and get in the right here. Okay?

MS. BURCHETT: My name is Sally Burchett, I work at Structure Development. Thank you for having me. I will follow up on the community asset item for churches. I'm a community development professional, over 20 years experience helping cities, a couple dozen cities in Texas plan and grow and do zoning and annexation and things like that.
And in the high opportunity areas there'd primarily be more low density, higher income, large single family areas, and that's where we're trying to distribute our projects. And when something is zoned or annexed, it usually comes in as a very low density ag or single family one. And one of the only land uses that usually gets allowed in every category are churches, because they're protected, and legally they can go just about anywhere.

And when you're in these areas, because zoning is such a great land use control from the city's perspective, it's hard to find the community assets and to get a project viable in these high opportunity areas. So the churches, they're a great tool for the development of community to get where we need to be in the high opportunity areas.

And I think -- I believe I understand the logic, but I think the unintended consequences of removing it is it has negative effect on getting projects in the high opportunity areas.

MR. OXER: Okay. Comment noted. Thanks, Sally.

MS. BURCHETT: Okay.

MR. OXER: Anybody else?

Sally, did you sign in? That's okay.

Hi, Teri.
MS. ANDERSON: Good morning. How's everyone?

MR. OXER: Recovering.

MS. ANDERSON: Yes, exactly, we all are. Teri Anderson, Anderson Development & Construction. I had two comments from Subchapter C as they relate to zoning and then the other one is for the property tax abatement.

Language has been added under zoning that essentially states "if annexation occurs during the application cycle, then the applicant is going to have to provide evidence of zoning once the commitment or determination notice comes out."

That is a key indicator, quite -- well, involuntary annexation tends to be a key indicator of fair housing discrimination. And in cases in high opportunity areas, for example if you have a property located in an ETJ, the city may try to involuntarily annex that property. And in doing so there are vested rights that you have and some other legal options as opposed to having zoning. So that was one particular comment that I would like to see staff take into consideration.

MR. OXER: Let me ask a question on that while it's hot here. Are you suggesting that the aggressive uninvited acquisition actually constitutes a mechanism to prevent a project from going in?

MS. ANDERSON: I had a personal experience with
this, having a property located in the ETJ. When a tax credit application was submitted to the Department the city looked at involuntary annexation in order to prevent vested rights from occurring, although I had an attorney and we insured that that happened.

But the general idea was once the property is annexed, then the city can institute zoning that they otherwise could not institute. So it would allow them to prevent the affordable housing that was going to be constructed. So --

MR. OXER: Okay. I just wanted to be clear on that.

MS. ANDERSON: Yes, sir.

DR. MUÑOZ: Do you know of other instances where that's occurred?

MS. ANDERSON: I'm not particularly familiar with other instances, but I do know that I just went through the experience. And mind you, once the tax credit was not submitted the city -- or it was submitted but it was going to fail, the city did not take action on the involuntary annexation.

DR. MUÑOZ: Yeah. I think it's an interesting point you raise. I'd be more interested in also learning whether it's pervasive. Otherwise are we considering a rule change for an isolated sort of circumstance.
MS. ANDERSON: I'm --

DR. MUÑOZ: Or a rule --

MS. ANDERSON: I'm not certain. But I --

MR. OXER: Your point is noted. In the comments that you have opportunity to provide those, if you could provide some data that shows the occurrence of that more than just your own individual personal experience, that would help inform the Board.

MS. ANDERSON: And I actually got that information from a separate attorney who's involved with ICP who indicated that. So I'm sure they have it. I'm sure they do.

MR. OXER: Yeah, I'm sure they do too.

MS. ANDERSON: Unfortunately. And then as it relates to the payment in lieu of taxes and/or tax abatement, statute actually recognizes that nonprofit or community housing development organizations do receive tax abatements that are essentially automatic depending on the size of the county.

So the new language that essentially requires an opinion of an attorney in order to inform staff of whether or not a tax abatement is likely, I would just like to see that be limited to the counties that are a million or greater in order to follow statute. So it would actually follow those particular counties that an
applicant would have to apply and could be denied the
right for that tax abatement.

MR. OXER: Okay.

Any questions of Teri from the Board?

(No response.)

MR. OXER: Okay. Thanks, Teri.

MS. ANDERSON: Thank you, sir.

MR. OXER: Anybody else? Are you just accompanying somebody or waiting for the next one or would you like to speak?

MS. SAAR: I'm going to wait for the next one.

MR. OXER: Okay. Good.

Okay. Regarding Item 1(a), motion by Mr. Chisum, second by Mr. Goodwin, and public comment. Is there any other public comment? There appears to be no other public comment. All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

Tim, do you have a thought?

MR. IRVINE: No, I just wanted to remind everyone that when you're speaking in public comment you're talking about public comment on the action before the Board, not public comment on the rule per se.
MR. OXER: Right.

MR. IRVINE: So if you have something that you want to be addressed in a reasonable response, provide it once the rules are published.

MR. OXER: Yeah, there'll be a whole lot more for full digestion. We're only -- we're taking these things with the public comment, we'll have it on the record to be considered, but the response will come later on during the public comment period after the posting in Texas Register.

Okay, Teresa, I think you're up again, aren't you?

MS. MORALES: Can I just make a clarification? The motion did include the proposed modifications that I went over in the presentation.

MR. OXER: Correct. That is correct. And if we need to restate that, it was to be by -- the recommendation to approve, a motion to approve staff recommendation which include the comments that Teresa made, changes made by Teresa.

Kathryn, good morning.

MS. SAAR: Good morning. Kathryn Saar, 9 Percent Tax Credits. Since the QAP did not get heard at all last week, I'm going to walk through the original changes that we made first and then talk about the things
that were made in response to public comment that we got
in the last week.

MR. OXER: So you're essentially telling us
what would be the delta between what we had and --

MS. SAAR: Sure.

MR. OXER: -- what we now have.

MS. SAAR: I'm going to give you my
presentation from last week and then tack on the stuff
that we changed.

MR. OXER: There you go.

MS. SAAR: So a summary of some of the changes
outside of scoring that happened: In the program calendar
we have moved up the deadline for state rep's letters to
March 1st, so they will now be due with the application,
as opposed to a month later.

We added some clarifying language under
11.3(d), which relates to limitations on developments in
certain census tracts. Just clarifying language that
makes sure that the local jurisdiction is -- that the
proposed development is consistent with the local
jurisdiction's obligations to affirmatively further fair
housing.

In 11.4(c) we've added the small area,
difficult area, difficult development area to the increase
in eligible basis, the 30 percent boost. In the award
recommendation methodology we have added the language needed to comply with House Bill 3311, which equalized scoring between elderly deals and general population deals, and it also placed a cap on the number of elderly deals. So the award recommendation methodology has been changed to ensure that that cap is not exceeded.

We've added another tie break related to the lowest poverty of the census tract for applications that have the same score. And then in the preapplication requirements we have removed the requirement to submit a CD. We used the online preapplication system this year, and it worked pretty well. We're going to continue that.

So now on to scoring. Under red levels of tenants and tenant service scoring items we've allowed for qualified nonprofits to be eligible for the additional three points related to supportive housing developments. That was previously only eligible to those nonprofits who qualified under our nonprofit set-aside. So now national nonprofits will be eligible for those points as well.

The original change to the Opportunity Index related solely to the equalization of scoring related to House Bill 3211 again. Under the underserved area we added some new language related to colonias. I know that was a big topic of conversation in that series. You guys spent a lot of time listening to us talk about that.
So the change requires that a development -- in order to be eligible for the points, the development site must be located in full or in part within the boundaries of the colonia, and critically needed infrastructure will be brought to that colonia, so that the residents of the colonia would have the opportunity to tie in.

Under tenant populations with special housing needs, we are adding a further incentive to place your 811 units within an existing development. I know there's going to be some public comment on that in a little bit. Under 8 we've added a new scoring item called aging in place. It is a parity item with educational excellence and provides up to three points for providing services and design features that are specific to an elderly population.

The local political subdivision funding has been statutorily removed from the top 11 scoring criteria and made a below the line item scoring, and that is now a de minimum amount of LPS funding for a single point.

MR. OXER: That was courtesy of our guys up on the big hill there --

MS. SAAR: Correct.

MR. OXER: -- pointed building. Right?

MS. SAAR: That's correct. We've made some -- I don't -- not, I would think, significant changes to our
CRP rule, but it's really an effort to take a more holistic view of community revitalization efforts. Previously with the criteria to have five of eight factors, it was eliminating some legitimate community revitalization efforts that existed prior to the QAP's existence from qualifying for those points. Because they didn't have the language in front of them so how could they know to include five of eight factors.

And with that item, what we're looking for is the local jurisdiction should be able to point to that at one time this area was a vital area, it has gone into a level of decline, they have put together a plan that will reasonably be able to achieve a measured outcome to bring it back up to a vital area. And we're really looking for that, you know, that kind of movement on a graph.

MR. OXER: And want to be headed up on that curve coming back.

MS. SAAR: That's correct.

MR. OXER: Not at the bottom with us putting the money in to get it moving up.

MS. SAAR: Right. Because I think the Board has been very clear that you don't want tax credits to be the first money in.

MR. OXER: Right.

MS. SAAR: So the changes that we've made there
are in a direct response to that directive.

MR. OXER: Okay.

MS. SAAR: And then with historic preservation, we have decoupled that existing scoring item from the extended affordability scoring item. Those were combined for a maximum of four points. You could get two points for extended affordability and you could get four points for historic preservation.

The Legislature has added historic preservation as something that they want us to incentivize. So we've decoupled those two items so that the point delta goes from a two point advantage if you have historic preservation to a four point advantage.

And then, finally, with the original changes that we were going to put that last week, we are proposing to replace the challenge process with a third-party request for an administrative deficiency. And I'm sure that there's probably going to be a little bit of comment on that as well.

So that kind of wraps up the presentation that I was going to give you last week. In response to all of the public comment that we've gotten since we've made some additional changes. And those are also outlined in your Board book.

In 11.5 when it comes to the set-asides, we've
actually now allowed for USDA deals that are new
construction and have a 514 funding to be eligible under
the USDA set-aside. Previously those deals, because they
were new construction, were competing in the subregion.
So now they're able to compete within the set-aside.

We have added an additional tie breaker that
takes into consideration high performing schools. We have
also modified the language under general information that
talks about providing materials to local parties seeking
support. We made a clarification that per the
Department's rules some of the things that they were
presented may -- are subject to change. So adding that
disclaimer to their presentation materials.

Under sponsor characteristics in response, to
public comment we've added the scoring item for having a
Category 1 compliance portfolio. And then under
Opportunity Index we've added an additional item specific
to second quartile developments where the elementary
school that the development site is zoned to has a Met
Standard, a 77 on Index 1 related to student achievement,
and then has at least one distinction designation by TEA.

Under educational excellence we've changed the
scoring item a bit. We've increased the point value from
three to five, and you will achieve maximum points if all
three schools that the development site is zoned to have a
Met Standard and a 77 or greater, and a lesser number of points for having all three schools with just the Met Standard.

Underserved area, in response to some public comment we've added an additional option for census tracts not having been served by housing tax credits in the last 10 years. And then under cost per square foot we've modified this item to allow for up to 50 square feet per unit, I believe, of common area in the cost per square foot calculation for supportive housing deals.

MR. OXER: You've been busy in a week.

MS. SAAR: We've been very busy. As Teresa mentioned in her presentation, there were some things that were taken out of threshold and we've created an additional scoring item. That scoring item is proximity to important services. So rather than having a grocery store and a pharmacy as a threshold item, now you can get one point for each under this new scoring item.

And that about wraps it up for me. Unless you have any questions, staff recommends approval.

MR. OXER: Mr. Chisum.

MR. CHISUM: Yes. You uncoupled historic preservation.

MS. SAAR: Yes.

MR. CHISUM: And did you change the definition
or alter the definition of historic preservation?

MS. SAAR: We did make some changes to the existing item that we had previously. We've changed it to where 75 percent of the units within the development have to be within that historic structure.

MR. CHISUM: Okay.

MS. SAAR: So we don't want to see, you know --

MR. CHISUM: Thank you. That's my question.

MS. SAAR: -- three square feet --

MR. CHISUM: Thank you.

MS. SAAR: -- of the existing structure.

MR. OXER: Okay. Any other questions for Kathryn?

(No response.)

MR. OXER: Then I'll have a motion to consider.

DR. MUÑOZ: So move.

MR. OXER: Okay. Motion by Dr. Muñoz to approve staff recommendation of Item 1(b).

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. With changes as defined, that Kathryn defined, by staff.

Okay, give us just a second, we've got a housekeeping item to take care of.

(Pause.)

MR. OXER: Okay. Looks like we've got somebody
that wants to talk. So first one's up. Let's -- forgive me; I've made a courtesy mistake here. Let me start with this.

Representative Landgraf, since you had a hand in changing some -- making some of those changes, we'll give you the first chance to make comments on those too. So we appreciate you coming by and saying hi to us.

REP. LANDGRAF: Well, thank you, Mr. Chairman. I appreciate you giving me the opportunity to speak with you and the members of the Board this morning.

My name is Brooks Landgraf, I'm the State Representative for District 81, which includes four counties out in West Texas. And, you know, now that the session's over. I normally don't like to be here in Austin. You know, I'd rather be, you know, back home with my family, making a living.

But from time to time there are important issues that require me to be down here, and one of those important issues that's very important to my district is something that I want to discuss with you very briefly this morning. So thank you for the opportunity and thanks for also making some accommodations for me within the meeting.

MR. OXER: Glad to do so.

REP. LANDGRAF: But specifically I just want to
talk about an application that was submitted by the Odessa Housing Partnership. For the record, it's application number 15418. And in that application the Odessa Housing Partnership applied for the 4 percent housing tax credit to be combined with tax exempt bonds to develop the 87th Street affordable housing complex in Odessa. And the Odessa Housing Partnership has received an administrative deficiency on that application.

Now, I understand that the Department is taking the position that the Odessa Housing Partnership application for housing tax credits is eligible only -- or for the 30 percent boost that they were applying for only if the development meets the criteria that were set forth in Section 11.4(c) of the QAP. Now, this position is contrary to the plain language of Section 42 of the Internal Revenue Code, and that's simply what I want to bring to your attention this morning.

Now, the language in the Internal Revenue Code is very clear. It states that "the eligible basis for a new building in a difficult development area shall be 130 percent of the basis that otherwise would be calculated."

So what that means is there really is no discretion for the Department to decide whether a development may receive the boost. And this provision has been in the Code for many years, and it does seem to be
very well understood.

And, Mr. Irvine, in your comments earlier you talked about, you know, in so many cases -- and I know, Mr. Chairman, you've discussed this too -- that really we just have to -- you know, these criteria are in place; we have to let the chips fall where they may. And I couldn't agree any more with that, and that's why I think this particular application might deserve a little bit more oversight, because I think maybe we didn't get it right the first time, because that discretion was used really where there was no discretion to be used in the first place.

So I know these things -- we want to get them right, and sometimes it's better just to take one more look at it, make sure that we get it right instead of rushing through it and not getting the correct outcome.

The reason why I'm here is this is a very important project. As you know, in West Texas we have a very dynamic economy. We're always facing housing shortages. I've worked with the stakeholders on this project, have become very well acquainted with it. This is something -- really the crux of this is we have a housing shortage which enables -- or which prohibits us from being able to attract teachers for our schools. We need affordable housing options. This will do that, or
this project will help alleviate that.

So I've provided a letter to all of you, and I believe there's a legal opinion that's been also provided to you that they can go into more detail. And I'm sure there's a few others here who can speak on the subject a little bit more gracefully than I can.

But I do want to thank you for the opportunity to bring this to your attention. I hope that you'll give it some additional consideration, and I think in doing so we might be able to find a different outcome or at least, in my opinion, the correct outcome. So I do appreciate it.

MR. OXER: Okay. We appreciate your comments. And I would offer this as a follow-on to what you and I were speaking to about earlier. The highly competitive nature of the programs we were talking about was for the 9 percent credits. So 4 percent is a little different; it doesn't have a shot clock running on it, and there's some -- you get a little bit more latitude. It gives us more cassette capacity to take a look at things. But with that, do we have anything else you'd like to say?

DR. MUÑOZ: We'll absolutely dig in.

MR. OXER: Oh, yeah. It'll be -- I think it's fair to say we'll make sure it's adequately evaluated and covered for you.
REP. LANDGRAF: Well --

DR. MUÑOZ: And, Mr. Chairman, I'd just like to add. Obviously, many of you know I live in West Texas as well, Lubbock, a little bit removed from Midland/Odessa area. But -- and I'll say to the Representative, I appreciate your comments. I'm not sure anybody could have been more elegant than you were.

But having friends in the area, we receive a great many students to my university from Midland College, Odessa College. And I spoke with the president of Odessa College not very long ago; I just took his son to lunch. And the crisis is real there in terms of housing. And you have so much industry, and still the oil. I mean despite the drop there's still a great many workers.

REP. LANDGRAF: Absolutely.

DR. MUÑOZ: And it's very difficult to find affordable housing for professionals, teachers, nurses, et cetera.

MR. OXER: There wasn't really a drop in the housing demand; it was just a slowdown in the growth; it's flattened out.

REP. LANDGRAF: You know, that's really true. And within certain sectors the demand for housing continues to grow.

MR. OXER: Yeah, it's only growing at a slow
rate now instead --

REP. LANDGRAF: That's right.

MR. OXER: -- of exploding.

REP. LANDGRAF: That's right.

MR. OXER: So we understand your point, and we appreciate your comments.

REP. LANDGRAF: Well, I know you all don't get enough gratitude for what you do, but thank you for your service to the State, we appreciate it.

MR. OXER: Yeah, we get a tunafish sandwich in the middle of the day.

REP. LANDGRAF: Thank you very much.

MR. OXER: Thank you, sir.

Okay. Now let's do it.

MS. THOMPSON: Thank you. I appreciate your time this morning, and I actually thank you for that interruption because the Representative just actually addressed an issue that I'd like to address.

My name is Terri Thompson. I'm Deputy Director with Southeast Texas Housing & Finance Corp. I'm also on the board of the Texas Association of Local Housing Finance Agencies. And I am here today to read a letter that our executive director has drafted on our behalf. She's not able to be here today, so I have stepped up to the plate. It relates to the increase of eligible basis,
the 30 percent boost that the Representative was just speaking to.

And the letter begins, "Dear Mr. Oxer. The Texas Association of Local Housing Finance Agencies, referred to as TALHFA, represents 31 local housing finance corporations throughout the state of Texas. These agencies have geographic jurisdictions coinciding with that of the governmental unit or units which sponsor their creation. They represent cities, counties, and regional areas containing multiple cities and/or counties.

"As you are aware, a local HFC corporation issuing private activity bonds with a reservation for allocation from the Texas Bond Review Board generates access to the 4 percent credits for affordable housing development. TALHFA's interest, therefore, is to limit any negative impact the Texas Department of Housing and Community Affairs qualified allocation plan rules may produce for utilizing 4 percent credits.

"TALHFA is opposed to the proposed QAP Section 11.4(c)(2) for the following reasons. It does not recognize the automatic Internal Revenue Code, referred to as IRC, Section 42, 30 percent credit boost for difficult development areas. Only small area DDAs, referred to as SADDAs, are identified as being eligible.

"This denies access to the 30 percent tax
credit boost for Texas counties that are not designated 2016 DDAs. HUD will use the SADDA designation in 2016 only for metropolitan areas, leaving counties as DDAs. Section 11.4(c)(2) must also include DDA-designated locations as being eligible for the 30 percent tax credit boost.

"Number 2. Section 11.4(c)(2) attempts to invalidate the right to extend a DDA designation for the 30 percent credit boost up to 365 days as provided in the Internal Revenue Code Section 42.

"The IRC Section 42 permits a project that applied for a bond reservation in one year to close the transaction in the next year. Section 11.4(c)(2) grants the 30 percent tax credit boost only when the bond reservation certificate is received in the same year as the HUD SADDA designation, which is subject to change annually. The housing site may no longer be included in a SADDA in the year following receipt of the private activity bond allocation reservation.

"The proposed rule will also force closing 4 percent bond transactions that access the increased amount of private activity bond allocation after the mid August housing bond collapse by the end of the calendar year, unduly reducing the already very short under 50 day bond closing timeframe.
"Number 3. DDAs geographically include qualified census tracts as well as the highest income census tracts, denying the 30 percent tax credit boost for a project in high income DDA areas while allowing the credit boost to a QCT area is contrary to TDHCA's objective to support housing development in areas that contain greater opportunities for residents.

"Number 4. Texas has benefitted from Congress's designation of natural disaster area DDAs to increase the available tax credits for rebuilding communities such as after Hurricane Rita. TDHCA granted the 30 percent boost to projects during 2006 through 2010 that otherwise were not eligible for the boost but for the DDA designation. Section 11.4(c)(2) would not permit the 30 percent tax credit boost to disaster-driven DDAs because it has omitted DDAs as discussed in number 1 above.

"Number 5. The 4 percent tax credit remains an important financial tool for communities to respond to local housing needs. Affordable housing development financed with 4 percent credits, however, is often not financially feasible due to the limited equity generated without accessing the 30 percent tax credit boost. Utilization of the 4 percent tax credit does not reduce the federal allocation of 9 percent taxes. To the
contrary, the 4 percent tax credit is an additional source of funding for Texas affordable housing.

"In summary, TALHFA encourages the Department to maximize 4 percent tax credit utilization through rule making that supports rather than hinders this valuable resource. Thank you for the opportunity to submit these comments on the proposed QAP. Sincerely, Jean Talerico, Executive Director, on behalf of the TALHFA Board of Directors."

MR. OXER: Good. Thanks, Terri.

MS. THOMPSON: Thank you.

MR. OXER: And don't forget to sign in.

MS. THOMPSON: Gotcha.

MS. McIVER: Mr. Chair, members, my name is Diana McIver, I'm President of DMA Development Company, and I'm here to speak on a topic near and dear to my heart, the aging in place criteria that's been added to this year's QAP.

MR. OXER: I feel like we're doing that now, aren't we? So.

MS. McIVER: We are aging in place, yes, sir. And as many of you know, our firm does a lot of senior housing, and we also provide consulting services to NCR and other nonprofits in the development and redevelopment of senior housing. And I got my start in this industry as
I like the fact a lot that we've added this section for points on aging in place. I love the fact it has services assigned to it. But there is a serious flaw in the design element that I hope was not intended, and I hope that we can correct it.

As stated right now, it says that all units -- in order to qualify as aging in place, that all units are designed to be fully accessible for both mobility and visual/hearing impairments in accordance with 2010 ADA. What that would mean -- and I tested this on an architect -- that means that we would have to have 100 percent of our units as wheelchair accessible from the get-go.

Now, a wheelchair unit basically has -- within the bathroom it's got grab bars, which is a good thing, but it also has virtually no cabinets; you have to have the open under the sink for a wheelchair to go in. In the kitchen you have the lower stove. You also have an open space next to the stove. And again you have a very limitation on your cabinets.

What we find in senior housing is very, very few of our residents are wheelchair residents. And it becomes extremely difficult for a person who's 6'2" or
6'3" to maneuver that unit that has a stove that's dropped three or four inches, so they're not a functional unit for anyone who is not in a wheelchair. The vast majority of our residents are very healthy physically, and those who have impairments usually are using a cane or a walker.

So what I would like to suggest is that we do exactly what we're already doing, and that is the ADA, which requires the accessible route and all of our common areas to be totally accessible for a person in a wheelchair -- ADA covers those common areas.

But covering the units, we need to go back to the HUD 504 standard and the Uniform Federal Accessibility standards. And under that rule what we do is we develop of our units 5 percent of those units to be fully wheelchair accessible from the get-go, and then we do another 2 percent that are hearing and vision impaired. But all of our units are designed so they are adaptable. And we, as developers, have to pay for that adaptable unit to become a fully accessible wheelchair unit if it's needed by the resident.

So that's what we have to do today. That's the correct standard for aging in place. And I would like to ask that as part of this that we go to that test rather than to require 100 percent of our units to be wheelchair accessible and basically make a very institutional
environment for the other 95 percent of our residents that
don't require that. Thank you.

MR. OXER: Thanks, Diana. Sounds like a good

comment to me.

MS. McIVER: Thank you.

MR. OXER: Hold on one second.

(Pause.)

MR. OXER: Are we going to have -- would you

like to -- you got a thought on that, Megan?

MS. SYLVESTER: We can handle that later.

MR. OXER: Okay. We're taking some input, you

know. Whatever comes of all this will come out in the

public response, our reasoned response.

Is that a good time to do that, Megan?

Okay. That way you're off the heat on this

one. Okay. Good.

Don't forget to sign in.

MS. FINE: I did, thank you.

MR. OXER: Good.

MS. FINE: I'm Tracy Fine with National Church

Residences, and I'm here to echo everything that Diana

said. National Church Residences --

MR. OXER: It's okay if you just say ditto and

sit down. Okay? I'm sorry, go ahead.

MS. FINE: I could say that, but I do think I
have a slightly different angle than Diana, but I do echo
everything she said.

National Church Residences is the largest
nonprofit owner, manager, and developer of senior housing
in the country, with over 20,000 seniors in it nationwide,
1500 being in Texas. We are really pleased that staff
recognizes the importance of services at senior properties
and added an aging in place criteria.

This will aid seniors to remain living safely
and independently and have a positive impact on the health
care costs, as it keeps our seniors out of hospitals and
higher-care living facilities which come at a much higher
cost to the state and taxpayers.

However, the current language under aging in
place requiring all units be fully accessible for mobility
and hearing impairments does not serve the intended
population we are targeting. Our target population is not
100 percent wheelchair bound, and it is a disservice to
imply that all of our seniors living in dependent housing
need a fully accessible unit.

Our seniors want to live independently and
associate a 100 percent mobility campus in line with
assisted living, and it's stigmatizing them. Should a
senior resident become mobility impaired, there is an
opportunity to meet that need at that time, but that could
be 20-plus years from initial move-in, if at all.

Ambulation issues do not necessarily require wheelchair-accessible units. There are a variety of reasonable accommodations our properties make to help our seniors to continue to live independently should ambulation become an issue. Furthermore, it may not be physically or financially possible for a preservation project to be retrofitted for 100 percent units to be mobility accessible.

I appreciate you listening to my concerns today.

MR. OXER: Great. Thanks, Tracy.

MR. GOODWIN: I do have a question.

MR. OXER: J.B.

MR. GOODWIN: Of your 20,000 units, how many are wheelchair --

MS. FINE: About 5 percent, consistent with ADA standards. And we have actually -- specifically in Texas -- and I hate to talk about this; I am not a compliance specialist. But we have had instances in Texas where we're required to keep our units open for 12 -- or accessible units open for 12 months in order to let an individual needing that unit to be able to have the opportunity to get an accessible unit. We've had in the past issues even leasing those units, and we've had to
keep them open for a longer period of time than we would have liked to.

MR. OXER: So let me ask this. And so somebody moves out of one of the accessible units, and so you have to keep it open just on the prospect that somebody who would qualify or need that unit might come along --

MS. FINE: So I'm not a compliance specialist, but it my current understanding that --

MR. OXER: Nor am I. That's why we've got one over here. Okay?

MS. FINE: My current understanding is just in the initial lease-up and not in turnover.

MR. OXER: In the initial lease-up. Okay.

MS. FINE: Uh-huh.

MR. OXER: Okay. All right. Thanks very much.

MS. SLOAN: Good morning. I'm Maddie Sloan, I'm the Director of Disaster Recovery and Fair Housing Project of Texas Appleseed, and I'm also speaking on behalf of the Texas Low Income Housing Information Service. I'd like to briefly flag three topics that are not addressed by the current proposed QAP language.

The first is legislative letters. The 16 point spread really conflicts with the statute by effectively changing the priority of those letters, and that was set out by the Legislature. We think the positive letters
should be eight points and agree with other commentators, the negative letters negative one or two points to bring the QAP back in line with the legislative priorities.

The second is neighborhood organizations. We think TDHCA should eliminate its own process for certifying neighborhood organizations. It duplicates existing state and county processes, it's a big burden on the staff and really I think complicates the entire process.

The third issue I'd like to flag actually was previously raised with the comments on annexation. It's the issue of local jurisdictions post application or even post award making changes designed to kill a development. Whether it's changing zoning to force material changes that would disqualify the development, the annexation issue.

I think in the case -- one case that's going on right now is China, Texas, where the city council withdrew previous support, including financial support. We think that expressions of local government support should be treated like legislative letters. They cannot -- the jurisdiction cannot go back and retroactively change its support once that's been given, and that, you know, I think there is a process for dealing things like the loss of certain kinds of funding and adjusting the budgets,
particularly when developers, you know, can't foresee that.

This is obviously a particular issue in high opportunity areas, and it is largely very openly driven by animus against classes of persons protected by the Fair Housing Act, particularly in terms of race and families with children.

I would also cite you to some of the efforts coming out of Cypress, Texas. I can't really recommend reading the comments on some of the opposition Facebook pages and petitions, but it's not -- it's barely-coated racism fairly clearly, and I think the Board recalls the Galveston situation.

So thank you for hearing my comments.

MR. OXER: Thanks, Maddie.

MR. JACK: Hi, I'm Darrell Jack with Apartment Market Data and de facto mapping guru as it just turned out over the last few years as --

MR. OXER: Do we have any de factos we need to find?

MR. JACK: You know, developers are always coming to me asking, well, where should I go, where should I go, and that really created a whole new sideline business for us. The last three years, you know, it's -- as we go through and create the maps that help developers
find sites to qualify and score, it's obvious that rural Texas has a real problem.

And that problem is that using the first and second quartiles in rural Texas really doesn't allow development to go in in a lot of the rural towns in Texas.

On page 156 of your Board book you'll find seven examples that I put in my comments that show towns like Gainesville, Hereford, Graham, Paris, Carthage, Plainview, and even Nacogdoches.

But as I went through and mapped out first and second quartiles for 2016, you can see that, you know, these towns, you know, they have first and second quartiles that surround -- immediately surround the town but those are where the ranches and the farmers are located that have higher income than the poor people that actually live in these towns.

And so effectively for the last three or four years, we've created these donuts around Texas or in rural Texas, where you can't develop inside the town where you have things like schools and utilities and power lines and things. The rules are forcing them to go out on the fringe of the towns just chasing the first and second quartiles.

Reality is that you don't have quantities of poor people living on the farms or ranches. They live in
town and probably work on the farms and ranches. But presently the rules for rural Texas really eliminate a large part of the state. The only way that you'll ever see new real development in these towns is through the tax credit program, through the 9 percent program. Developers are never going to go out to rural Texas and develop in places like Carthage.

And so, you know, today I would ask that at least you put in the registry the comments that I made that would eliminate first and second quartile from scoring rural Texas, so that staff can take the next 30 days or so to do the mapping themselves -- or I'm happy to help verify the things that I'm saying -- and then give yourselves an opportunity when you come back to vote on the QAP, the opportunity to say that, yeah, this is a problem in rural Texas, you know, we agree with the information I presented, and make a fix for rural Texas. So thank you.

MR. OXER: Thanks, Darrell.

Any questions for Darrell?

DR. MUÑOZ: Yeah.

MR. OXER: Hold on a second, Darrell. We do have two.

DR. MUÑOZ: No, I just have a comment. So how do we get this looked at? I mean I live close to
Plainview, I've been to Hereford many times. They're towns, they're not tiny towns. I'm surprised that this phenomena is occurring. I mean Plainview is, you know, 22,000. I mean it's not 4,000. So I'm shocked actually that towns, that cities of that size would be precluded from this kind of opportunity. I mean Hereford's smaller. So how do we get this looked at?

MR. JACK: I mean the --

DR. MUÑOZ: I guess I suppose I'm asking staff.

MR. JACK: I mean staff every year goes through and ranks the census tracts by quartiles. I just did it earlier than what staff did this year to come up with the mapping programs that we developed here in the last few weeks. Then it's just getting, you know, those census tracts married up to a map. And so it's doable and I'm willing to help, you know, facilitate that.

But, you know, I only gave you seven examples in your Board book. You know, I could have given you 25 or 50 or probably even a hundred around rural Texas that, you know, just the town proper is eliminated because of the first and second quartile but, you know, the ranch land immediately outside the loop or outside the next census tract, you know, would be fine for first and second quartiles. You just don't find the utilities, you know, the water hookups, the things that you need to facilitate
development.

And the other thing is that, you know, there are these cases and developers come to me, the first one that comes to mind is Panhandle, Texas. Panhandle, Texas is first quartile and has three schools in its core. And the population is so small that, you know, I have to tell this one developer time after time no, I can't write you a market study that tells you that this project is going to be successful when you only have a town of maybe, you know, 2500 people and the renter population is only maybe 5 or 10 percent of that total population.

So, you know, we kind of -- the rules have driven developers away from what everybody knows to be good real estate decision making to chase the points. And that's a function of the program. And if you got rid of the first and second quartiles in rural Texas specifically, then we could go back to making good sound policy or development decisions that ensure the long-term viability of these projects that are always already stressed because they're in rural Texas.

MR. OXER: Tim?

MR. IRVINE: I just want to point out that because the way the process works, unless you have specific concrete changes that you would propose to the rule that is going to be posted for public comment, all
that we will be able to do after receipt of the public
comment would be to pull back from what's in there. So if
you've got some new idea that you want --

MR. JACK: And that's why, you know, in my
comments I proposed the elimination, language to go into
the Register that would eliminate the scoring of first and
second quartiles in rural Texas.

MR. OXER: Is that okay with you?

MR. JACK: And I may be naive to think that
it's that simple, but that really is the fix.

MR. OXER: So what you're essentially saying is
your impression of the change that you're offering up will
provide -- will offer more areas that truly are in need of
the housing support that we provide, will make them
available or make the program available to them.

MR. JACK: Yes, sir. And, you know, I grew up
in a small town and --

MR. OXER: Yeah, I grew up in a small town, so
small it had both -- the city limit signs on both sides of
the same pole. Okay?

MR. JACK: You know, people in small town
Texas, you know, if there is a distinction, it's more
about, you know, what side of the railroad tracks do you
live on. You know, that's the reality. They're not
really so concerned that it's too -- you know. I mean
these people that rent these properties would never be
able to tell you, well, that's a first and second quartile
and this is a fourth quartile over here, and I want to
make sure I live on that side of the census tract.

MR. OXER: Okay, Darrell. We appreciate your
comments and understand.

MR. JACK: Thank you.

MR. OXER: We'll get Kathryn to make -- do you
want to answer that one specifically, Kathryn?

MS. SAAR: Yeah, I just wanted to make a
clarifying comment. In rural areas under Opportunity
Index it's an either/or. We look at census tracts that
have a poverty rate below 15 percent or 35 percent if
you're in regions 11 or 13, or the first and second
quartile. So it's not if you're --

MR. OXER: So there's an alternate to what
Darrell's offering.

MS. SAAR: Correct.

MR. OXER: Okay.

MS. SAAR: And, you know, as a policy I think
first and second quartile does make good real estate.
We're putting people in places that don't have high
concentrations of poverty.

MR. OXER: Good. Point noted. Thanks.

Any questions so far?
(No response.)

MR. OXER: Okay. Robby?

MS. MEYER: Sarah's going to let me cut in front of her because I kind of go along this.

MR. OXER: You're getting soft there, Sarah, or what?

MS. MEYER: Since I've been in this position over here, now I'm in this position over here. I know --

MR. OXER: This one's open if you want this one, Robby.

MS. MEYER: No, I don't. I don't really want to be standing here. I know how important it is --

MR. IRVINE: Name?

MS. MEYER: Robby Meyer. I'm sorry. I'm sitting on the consulting side now. And, you know, I understand the gun that TDHCA's under, and I know the gun that we sit under out here. It's very -- and it's a fine line. But everything that goes on today is very important to this group out here.

It's very important that these rules get in and we have a pretty final draft that goes out in final form so that we know what we're doing over the next few months. It's important that most of our comments that are made and the things that go out in the draft, they're so driven on location of sites and everything, that we know what's
going to come out in November. We have to meet with cities. We're doing a lot of work, and to reshuffle the desk in November, taking things out, it's huge.

So I appreciate everything that you did last week in making this meeting, you know, that we were able to come back and, you know, redo some things. But I also hope that you listen to the comments, and that if we can make changes today, that those get in the QAP so that we're not reshuffling --

MR. OXER: So you're asking us not to undo the things we did. Right?

MS. MEYER: Correct.

MR. OXER: Okay.

MS. MEYER: And I only have a couple of brief comments, and one is on the educational excellence. I appreciate, you know, the reshuffling of that from last week and removing the special requirements of the educational excellence and the threshold requirements. That was a big help.

The educational excellence in scoring those, it's still I think problematic. I went back and did a lot of research on the TEA scores. Although there are -- the average score of the performance index is 77. Fifteen of the subregions of the 26 subregions, 15 of those regions are under a 77 score. Seven of those are 74 and below. I
think that's problematic.

And when you've got seven of those subregions that don't get -- you know, they're below 74, that's still problematic. You can't get that. At 77, only 53 percent of our schools scored 77. That's a low score I think. So I think we need to make some adjustment. If you do it -- and I'll look at it and -- if you do it -- if you bring it down to a 74, 62 percent of the schools will qualify. If you bring it down to a 71, 70 percent of the schools will score. It's just a suggestion.

TEA's actual target score is a 60 for schools. I'm not saying take it down to the target. I at least want to get up above the target. But I think there is some room for a little bit of leeway there. I really would rather have a score that goes across all of the regions so that we don't have fluctuation and have to keep up with that. It's much easier to administer if everybody's the same. But I think there is some -- a little bit of improvement in that score.

MR. OXER: Great. Thanks, Robby.

MS. MEYER: Thanks.

MR. OXER: All right, Sarah?

You want to respond to this or you want to get them all at once?

MS. SAAR: I'll get them all at the end.
MR. OXER: Okay. Thanks, Kathryn.

MS. ANDERSON: All right? So my name is Sarah Anderson, I'm with Anderson Consulting, and I'm just here to make a couple of overarching generals, and we will, I will be submitting specific comments on these later.

MR. OXER: Somehow we expected that.

MS. ANDERSON: Thought you might. So the first one has to do with the revitalization. And Janine spoke for TAAHP, the revitalization changes, and I'd like to echo her concerns. As we look at it, we just got our arms around the way revitalization plans worked. We were getting them through with very few of them having to come before you.

It's so changed that we're sort of back at the beginning, and it feels much more subjective. And of course the nightmare scenario is that we're going to be here in July with you guys having to decide all of them again. So we'd like to see -- personally I'd like to go back just to the 2015 language.

And if not, if we're going to stick with something new, I think that we need to go back to what was discussed in the remedial plan, which was a preclearance or some sort of preview where we can submit them early and get them reviewed and approved prior to the full app submission if possible. It's a big question mark going
forward, and I think it would be nice if we could bring them forward, have them approved before full applications were done. So we don't waste anybody's time with those if they're not going to qualify.

The other one is the 811 program. And I know that the Department's been struggling with this, and I think that on our part and on the industry side perhaps we need to work a little harder with the Department on how to find incentives to make the 811 program more successful. So our little group, that's one of the things we've talked about, and we're trying to brainstorm on other incentives over scoring in the QAP to get immediate units for you guys to use for 811.

As the language is in right now, it's problematic, because what you're doing is incentivizing people who have a specific portfolio whose units will meet a certain criteria. And that will exclude people who have rural units, because the only units that can be used are in the MSAs. It will exclude people who have primarily elderly units, because those cannot be used. And it will exclude people who are in the 500-year flood plain, which may be people with large Houston portfolios.

So rather than a scoring item that's based on your past portfolio --

MR. OXER: And that's 500-year floor plains
that flood every other year?

MS. ANDERSON: Exactly. So rather than having a scoring item that isn't about trying to go to a better area or anything, it's really based on what your old portfolio just happens to look like, I think that we would prefer to stick with what was in 2015. And I think the industry needs to sit down and come up with other incentives that will incentivize people to bring their existing units to your use.

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

Any questions from the Board?

(No response.)

MR. OXER: I would add just from my own personal perspective on this, anything that you can do anytime when we're developing these rules, if anybody out there has a comment, don't wait, don't slow down, talk to the staff, because if you do this and we find out that you were sandbagging on comments to get to something, it's not going to -- let's just say that doesn't engender an extraordinary amount of sympathy on the Board's part.

Okay?

The second thing is if there are key issues that need to address on each item the point scoring, sometimes we are limited by what we can do by the
legislation, but we're happy to see what we can do on each one of them. But in the end we've got an extraordinarily competitive process.

The good news is we've got an extraordinarily competitive process that invites all comers, and we've got to figure out a way to make it transparent, objective, and critical to get there.

The bad news is we've got an extraordinarily competitive process that we have to make -- that brings everybody in and we've got to score them accurately and evenly. So we have a blessing of riches in terms of the number of folks that want to participate in this process.

So as I've said before, we're not looking for projects; we're looking for money on this particular program. So we're happy to see that it reaches as many people that are as happy as they are.

Any other comments from the Board so far?

(No response.)

MR. OXER: Okay. Who's next? We've got -- Joy, you're back. We've got fruit basket turnover here in the front row.

JOY HORAK BROWN: I am back. Joy Horak Brown, President and CEO of New Hope Housing. I spoke to you earlier about the flawed data set that is neighborhood scout and about my general concerns for undesirable site
characteristics and educational excellence. And I'm here now to say a couple of things.

One is to thank the staff for adding the extra 50 square feet for each single room occupancy unit. That's something that was in past QAPs, it fell away, and it's back. It's very much needed for supportive housing and we're most grateful, Chairman Oxer and members of the Board.

What I'm pointing out now is I think it's marvelous the fact that aging in place and senior limited properties are being exempted in certain areas of the rules in QAP and that there is now a way for aging in place or senior properties to achieve points for services rather than under educational excellence.

And I would suggest to you that I would like to see added in this draft single-room-occupancy supportive housing. That is limited to an adult, one adult, by the way, per living unit. And should an adult be a woman living in one of those units who is pregnant at the time she leases or becomes pregnant and has a child, there is a limit as to the amount of time that that individual may live in that unit. And this is -- we're talking about an infant; we're not talking about a school-age child. So I would like to suggest that that be added, and I thank you very much for listening to me twice today.
MR. OXER: Great. Thanks, Joy.

Just a quick question here, Kathryn. There's quite a few coming here. You know, if you want an interstitial moment here to address them to date or do you want to wait till everybody comes up?

MS. SAAR: That's your decision. How would you prefer to hear them?

MR. OXER: If anybody here has additional comments on what we've heard so far, let me know, and we'll hear those first. Okay? We'll get that out of -- looks like everybody else is talking about the same thing. So it looks like you'll answer them all when we get finished.

MS. SAAR: Okay.

MR. OXER: Okay. Thanks.

All right. Who was next? Lisa, are you next?

MS. STEPHENS: Yes, sir.

MR. OXER: Okay.

MS. STEPHENS: Lisa Stephens with Sagebrook Development and TexCad [phonetic]. I just first want to say thank you to the staff, to the Board. I know that that was a herculean effort. I truly appreciate it. I think it was the Twitter feed that wound up getting this 80 pages of comments, but just saying.
We have one comment that we're not sure whether it is -- will be a logical interpretation as it relates to the QAP, and it has to do with the challenge process. The challenge process is coming out of what is being published in the Register, and so if it is not in there we're not sure you can -- we can put it back in as part of a logical outgrowth. As an industry, our group has a consensus that we have some concerns with this new administrative deficiency process.

MR. OXER: Let me ask this. Your industry has a consensus. Who do you represent?

MS. STEPHENS: The TexCad group, and there -- it was a group that all raised their hands last week.

MR. OXER: Okay.

MS. STEPHENS: So --

MR. OXER: And the industry, that can --

MS. STEPHENS: It's not -- I should have reframed: Our group TexCad has a concern, a consensus concern with the challenge process. And because it's being removed, we're not sure under a logical outgrowth it can be put back in. You said it best, that this is a very competitive process that we're trying to keep transparent, and part of that challenge process allows for transparency. And removing it goes against transparency.

So we really would like to see the challenge --
and I understand there's concerns with the challenge process by staff. We feel like it's going from one extreme to the other. There's probably a middle ground that we would like to be able to explore. But if it's not in this draft, we're going to be precluded from exploring that.

MR. OXER: Okay. Thanks for your comments.

MS. STEPHENS: Can I make one other comment?

MR. OXER: Okay.

MS. STEPHENS: Just we understand that the public web board, the discussion board has to come down once the public comment period opens, and we understand why that is coming down. We are putting up a developer web board for those who are interested, and I'm just using the microphone here to let everyone know that that is up; we're going to begin posting comments to it. It's open to the public. It is simply a method of engaging discussion and anyone that's interested. See Sarah or myself and we'll get them the web board.

MR. OXER: Good.

Tim, you have a comment?

MR. IRVINE: Yeah. With regard to the challenge process, no, I do not believe it would be a logical outgrowth to change the proposed language on administrative deficiencies back to challenges. But we
fully intend to carry out the administrative deficiency process, if it's ultimately adopted, in a way that continues the commitment to transparency.

We're looking to be able to post more information in real time or close to real time on our website so that people know exactly what's going on. And as somebody raises an item that somehow or another got missed in the review process and says, hey, you might want to look at that as an administrative -- or as a deficiency, whether it's administrative or material, that, you know, we obviously, if it's in a prior review posture, are going to look at it. And the way that we are going to look at it and treat it is something we're going to try to share with the public.

MR. OXER: Good.

Kathryn?

MS. SAAR: And I just wanted to piggyback off of what Tim said. As part of this new process, we are actually going to be posting somewhat live applications to the Department's website. Any information that comes in to the Department from the applicant will be posted to the web that evening, and so the full scope of everything that we have seen will be available. So I think that this process actually increases transparency.

MR. OXER: Let me ask you this. You said --
say that again. You're going to be posting some of them
or you're going to be posting some components of all
applications?

MS. SAAR: So anything that comes in through an
administrative deficiency process will also get included
in the application. Currently the application is only
posted to the web site at the beginning of the cycle. And
so any information that is subsequently received through a
staff review is only available if a person requested it
through an open records request.

MR. OXER: I got it. Okay.

MS. SAAR: So now every new piece of paper that
comes in, every question that gets answered is doing to be
included in that application file that will be posted to
the web nightly.

MR. OXER: That's great. Good. Thanks.

Any questions so far?

(No response.)

MR. OXER: Okay.

MR. BENNETT: Let me sign in before I forget.

Mr. Chairman, members of the Board, Mr. Irvine. My name
is Kyndel Bennett, and I'm a developer with Cayetano
Housing. Our company is fairly new to this program, as we
have competed in the last three rounds, winning
allocations in two of the last three years.
MR. OXER: You're just now getting your calluses, develop your calluses.

MR. BENNETT: We're just getting started. We plan to be in the program for a while. I'd like to comment on a proposed change to the QAP which we think would create an unfair advantage to developers who own portfolios in select areas of the state.

The new three point scoring under the population of special needs section draft QAP will only be available to developers who have existing units in an area where 811 services are available, currently the seven urban metropolitan areas of Texas. Everyone else can only earn two points in this category.

As the Board is aware, most deals are won or lost by one point. So it seems that creating a scoring item that is only accessible to select developers seems anti-competitive and exclusionary. With this new rule developers like me will no longer be able to compete and new developers will not enter this extremely competitive industry.

If the goal of the rule is to put more 811 units into service, certainly there's a way to accomplish this without sacrificing the integrity of the program. Favoring one developer over another is not the way this program has traditionally worked, and seems contrary to
the spirit of what we're trying to achieve. Please modify
the existing language in the draft QAP to give all
developers in all areas of Texas equal access to the same
scoring points.

MR. OXER: Good. Thanks, Kyndel. Appreciate your comments.

Okay. I'm sorry, you're not one of the
regulars so I don't know you. No, no, come up here.

MS TYLER: I'm not one of the regulars. Good
to be here this morning. My name is Kathy Tyler, I work
with motivation, education, and training around farm
worker housing. And so I wanted to talk about farm worker
housing and tax credits.

And I wanted to thank the staff for including
in the new edition of the QAP a comment that allows new
construction to take part in the USDA set-aside, new
construction at 514, many from USDA, which is for farm
labor housing. And again the TDHCA staff has been very
helpful in trying to figure out a way to do this.

I want to give you a number, $714,294,
$714,000. That's the amount of tax credits since the
beginning of the program that have gone to farm worker
housing in Texas. 714,000. So that allowed us to bring
in 2.2 million of rural development funding into Texas
which would have gone to other states otherwise.
So there's a problem with developing farm worker housing with tax credit monies. And they're for a gazillion reasons. But I think one clear reason is the structure of the QAP. So I appreciate staff being willing to put in this funding into the set-aside. I'm not sure it's the right answer, but I think it's a good way to pilot a change to see if it helps.

And I know that the USDA set-aside is not a lot of money, it squeezes the current users. I think we should have more money in that set-aside to allow for that. But we have not been able to figure out a way to make farm worker housing fit in and score well in using tax credits. We are one of the biggest agriculture states in the nation. You know, the amount of funds that agriculture brings in is extreme. The workers that work in agriculture need better housing. So it's a particular problem.

So we hope this can help us resolve that issue. It would be good to have it like a pilot, see if it works to help figure out what -- and we'll work towards increasing the set-aside, which I know that you can't do but maybe we can figure that out.

MR. OXER: Great. Thanks, Kathy. Yeah, I think -- I can give you the Board's perspective, certainly mine. The QAP by virtue of the nature of the problem
we're trying to address is going to always be a work in progress. So we keep tweaking it and hunting down those quirks and ironing out the wrinkles. So we thank you for your comment.

MS. TYLER: Thank you.

MR. OXER: Appreciate those.

Okay, Terri, you've had a shot at it.

Sarah, do you want to jump up? Do you want to speak on this one?

MS. ANDERSON: Yes, sir.

MR. OXER: Okay. Well, then, I was going to give Sarah a shot at it since you'd already had one.

But you want this or the next one?

MS. ANDERSON: I've got a new topic.

MR. OXER: Okay, you don't get to play yet.

Terri?

MS. ANDERSON: I think I spoke on the last one, not this one. But Terri Anderson, Anderson Development & Construction. Very quickly as it relates to revitalization, I believe that the current language is very subjective. And I know before it was very prescriptive and we're trying to possibly move away from that.

But one key component of what I have heard is that the Board's direction to staff is that we are not
putting tax credits in a revitalization area as the first investment in that area. And it's been, quite frankly, housing typically has been the first thing behind jobs that goes into a particular location, including the revitalization. Because the businesses aren't going to come unless the rooftops are there.

And so it's a different mind set than what necessarily we've heard here recently, but I do believe historic development does have jobs in a location, housing, and then the services for the residents who live in that area.

The other comment that I had was related to historic preservation. And the updated language that at least 75 percent of the units typically have to be located in the building. My general comment was how does that necessarily hinder -- whether you've got 75 percent of the units in a building or fewer units, how does that hinder the preservation of that historical building?

So if the Legislature would like for us to continue to restore historic buildings and use housing tax credits for that purpose, it's possible that restoring one particular building may have more than 75 percent of the units outside of that.

MR. OXER: Okay.

MS. ANDERSON: So those were my only comments.
MR. OXER: Good. Thanks for your comments.

MS. ANDERSON: Thank you.

MR. OXER: Laura?

MS. MYRICK: Hello again. I would like to echo the 811 comments that were previously made by Sarah and by Mr. Bennett. I also believe that having a screen criteria which gives other developers or certain developers an advantage may be not the right answer.

We certainly understand the wanting to get the 811 vouchers out, and so we are also very happy to see that the 4 percent program would be something that would be open for discussion and to perhaps have some 811 units there. And I also agree with Sarah that perhaps we need to go back and vet some other options out as to how we get the 811 units out there. Perhaps things -- I've heard things like maybe increases in developer fees, maybe some underwriting criteria that can be crafted for these transactions.

So I would just like to echo those sentiments on the 811, and we would certainly welcome the opportunity to work with staff on coming up with an alternative path.

MR. OXER: Great. Thanks.

MS. MYRICK: Thank you.

MR. OXER: And I will personally make sure -- I will assure you that staff will be willing to have that
discussion with you, which I don't want it ever reflected
that they were not, you know.

MS. MYRICK: No, not at all. And we know we
will, and we're certainly looking forward to that
discussion.

MR. OXER: Great.

MS. MYRICK: Thank you.

MR. OXER: Dennis?

MS. REIDY: No, it's actually -- I am on the
811 program.

MR. OXER: Okay, let's do that one.

MS. REIDY: I apologize, I didn't -- I thought
you wanted to -- you were talking about farm workers.

Is it okay for me to go?

MR. OXER: Come along.

MS. REIDY: Thank you.

MR. OXER: When you talk about farm workers,
that's me and Juan up here. Okay?

MS. REIDY: Good morning, Chairman Oxer and
members of the Board. My name is Sara Reidy with Casa
Linda Development Corporation, based in Dallas. Casa
Linda Development Corporation is a 100 percent woman-owned
business, and it's active in the competitive tax credit
program as a developer, general partner, and HUB. We've
been fortunate to have been awarded in each year since
We submit the following recommendation as a proposed change to the tenant with special housing needs section of the 2016 QAP. The new language in Section 11.9(c)(7)(A) should be omitted in its entirety to prevent an unfair statewide advantage for those developers whose portfolios include Section 811 program eligible inventory.

Section 11.9(c)(7)(A) in the 2016 QAP draft aims to award developers three points if they have existing developments in their portfolios that can participate in the Section 811 program. By rule these developments can only be located in the seven large urban metropolitan statistical areas.

For developers fortunate enough to have previously developed in these locations, this creates unfair leverage for scoring purposes, particularly against all other developers in the state who are not fortunate enough to have existing 811 program eligible inventory in these markets.

In addition, we spoke in detail to staff regarding this rule, and it is our understanding that developers with 811 program eligible inventory can apply in regions outside of the seven large urban MSAs and can receive three points for committing 811 eligible existing properties. This automatically puts developers with 811
program inventory at a huge disadvantage over those
developers without -- puts them at an advantage over those
developers without eligible inventory.

It is also our understanding that while the
rule is silent, applicants can solicit owners developers
that have 811 program eligible inventory. This allows
owners with 811 program inventory to sell their units to
an applicant that is applying in the current round. This
simply is not good practice.

While we understand that 11.(c)(7)(A) [sic] is
being proposed to get more participation in the 811
program, we have never seen a proposed rule benefit only
those who were fortunate enough to have developed in
certain areas of the state. Our recommendation is to
maintain the rule as stated in the 2015 rules. An
alternative for staff and the Board to consider is placing
the threshold requirement on the noncompetitive 4 percent
tax credit applications for the 811 program.

Most bond transactions currently awarded are in
the seven urban MSA areas and must close within that
period of time. And we recommend a tiered approach. Less
than 100 units, commit 10 811 units. Between 100 and 200
units, commit 20 811 units. And between 200 and 300
units, commit 30 811 units.

I appreciate your time and consideration.

ON THE RECORD REPORTING
(512) 450-0342
Thank you very much

MR. OXER: Okay. Thanks, Sara.

All right. Now, I would remind everybody that we're -- some of these comments, while -- and they're all important, we appreciate that you're making the effort to make those, but there will be an enormous amount of time, even though you want to make sure as much as possible is put into the draft, according to what Sara's comment was, as much as possible is put into the draft so that we're -- you know more or less where it's going. A lot of these are just public comments that would be better suited to have the response, reasoned response put into the -- in public comment when it's posted to the Texas Register.

So I continue to ask everybody if that's the nature of your comments, we will hear them but please be brief. You need to -- if there's an expansion of that, you want to be able to put that into the public comments when we post this to the Texas Register.

Because there's not much we're going to be able to do it today apart from hear the fact that you've got that comment. Because we're going to go up or down based on what Kathryn says or the suggestions we'll make for modifications to the original motion.

So, with that, Dennis, you're up.

MR. HOOVER: Thank you. My name is Dennis
Hoover, and I'm here today representing the Rural Rental Housing Association. I want to thank the Board for their service, and particularly the staff for working with us so hard and long. Three of them came to our convention this summer and have met with us once since then, and they've worked very hard to hear us.

The Rural Rental Housing Association represents 24,212 units of USDA 515 across the state. Seventeen of those are farm labor housing.

MR. OXER: And I take it that's 17, not 17,000.

MR. HOOVER: Seventeen --

MR. OXER: That's what I mean.

MR. HOOVER: -- properties. I don't know how many units it is.

MR. OXER: Seventeen properties, okay.

MR. HOOVER: Yeah. Kathy Tyler may know. And most of what I got to say here today is the new thing that was proposed last Tuesday about farm labor housing coming out of the preservation -- funding for new construction coming out of the preservation side of things for 515s. Like I say, there's 24,000 -- over 24,000 units. As a result of a recent survey, 80,000 of those -- 80 percent, excuse me -- 80 percent of those need over $20,000 per unit rehab, and most of them around 40-. I mean, I think the average age of a portfolio is over --
the youngest are probably 25 years old, and the oldest 40 or 45 years old. They all need a lot of rehab.

USDA does not have hardly any money anymore.

Everybody depends on tax credits. The farm laborer should be funded. It's such a unique set of circumstance there.

It leverages so much federal funds, and most of the funds are grant funds. And it comes generally with 100 percent rental assistance. If somebody actually gets commitment of funding for that from USDA, we ought to do all we can to fund the thing.

Except that all the rest of the developers, you know, that have these existing deals -- you know, this year out of the 20,000 that need rehab bad, we're going to rehab 486 units. So we're not -- the 5 percent set-aside that we have is only scratching the surface of what needs to be done there.

And these are units out in little small towns that are probably not going to be replaced by anything else. Most all of them are still needed badly. And so as much as we want to support farm laborer housing -- and we do -- we want to support leaving the rules the way they are now in that the farm laborer would have to -- new construction farm laborer would have to compete pointwise with new construction deals. That's the way the rules are for 515s and 514s. There's not any new 515 money, hasn't
been for a long, long time. I don't think there'll ever be any more again.

Otherwise I want to support Darrell Jack's comments. Have you ever looked at those maps at a little town like Burnet, I don't know that it's rich ranchers, but it's probably people living in the suburbs in the one-acre rancho-not-so-grandes. But there's not -- the first and second quartiles aren't inside the city limits. They're out there where there's no city services.

So we've got some other comments that we'll propose about only one new construction deal per year. If there is a new 514, that only per year get done so it does not dilute the other at-risk 515s. And thank you for your time.

MR. OXER: Good. Thanks, Dennis.

Question by Mr. Chisum.

MR. CHISUM: You mentioned some of these facilities were 45 years old. So at $20,000 on average to rehab them, to bring them up, then how many that have been put in place now are uninhabitable?

MR. HOOVER: There are some that aren't viable anymore. And I think existing underwriting standards from TDHCA, from RD, and from the syndicators would prevent nonviable properties in nonviable towns -- and there are some -- or from nonviable owners, for that matter, would
prevent that from ever being funded or even applied for. But I would say 80 to 90 percent of those properties are still badly needed in those towns, and are viable towns, viable properties.

MR. OXER: I don't think that was the question he's asking, if I could put some words in your mouth, Mr. Chisum.

But of those properties, not the ones that are needed but the ones that are needed but not inhabitable. Is that what you're asking?

MR. CHISUM: Yes.

MR. OXER: How many of them are so deteriorated that they're not habitable at this point?

MR. HOOVER: I'm going to take a wild guess at 10 percent.

MR. CHISUM: Okay. So the attrition -- my question then -- thank you, Mr. Chairman -- is that then so with the attrition and the addition, are we losing ground?

MR. HOOVER: Oh, yeah, we're losing units.

MR. CHISUM: Okay.

MR. HOOVER: But I -- the units that we're losing I don't think are save-able. They're just -- They're in towns that have -- the population has gone down and nobody's going to come in and save them. Maybe they
don't need to be saved.

MR. CHISUM: Natural attrition. I understand.

MR. OXER: Okay.

MR. HOOVER: But most of them need -- I'd say on the average they need 40,000 a unit. Some of them, a few of them get rehabbed every year. Some of them are well kept and need less than 20-. But 80 percent of them need 20- or more, and most of them need an average of 40-, I'd say.

MR. OXER: Good. Okay. Thanks for your comments, Dennis.

Okay. Look like the mayor sent a rep here.

Good morning.

MR. KEN: Good morning. How are you.

MR. OXER: Or so far. Actually it's good afternoon at this point.

MR. KEN: Yes, sir.

MR. OXER: Nice to see you again.

MR. KEN: Good to see you, sir. How are you.

MR. OXER: Good so far.

MR. KEN: Mr. Irvine, how are you. It's good to see you again.

Chairman Oxer, Mr. Irvine, TDHCA staff, members of the Board of TDHCA, on behalf of Neal Rackleff, Director of the Department of Housing and Community
Development for the City of Houston, my name is David Ken. He could not be here today, he's away on a long-planned family vacation, and I don't think his family would have appreciated him taking time out to fly across the country to come back here to Texas to make comments. So he sent me here in his place.

We only have one comment to make right now about the QAP. First of all, we want to thank TDHCA for being a long-standing partner in our efforts to revitalize communities and neighborhoods across the city of Houston. Together we have worked to finance the development of hundreds if not thousands of units of quality affordable housing across multiple neighborhoods within the city of Houston.

We're especially proud of our current and ongoing partnerships to revitalize specific neighborhoods that we're targeting due to our plan to spend Disaster Recovery Round 2 funds. As you know, we talked about this before previously with staff and with certain Board members, we are spending over $150 million of DR Round 2 funds to revitalize communities in order to affirm further affordable housing and to promote community revitalization in specific neighborhoods.

Thankfully the TDHCA has seen fit to invest low income housing tax credits in currently three out of the
five multi-family deals we're pursuing right now and there is a fourth deal that we think will come before you to I think take on 4 percent tax credits as part of the funding stepped in to make the deal work. So we're very grateful for your help. We've very grateful for your partnership.

We noticed in this year's version of the QAP that there was an incentive in last year's plan for about I think up to four points for development that chose to be located in an area that we're targeting under our plan. That incentive is not in this year's draft, so we're respectfully asking you to consider that our plan is still ongoing.

Yes, those disasters, those hurricanes took place a number of years ago, we acknowledge that. But the plan that we're executing now will take time to fully finish, we think. So we're asking for -- because we want to encourage developers and other people to come to Houston and look at specific neighborhoods, and it's just going to take time to finish this affirmatively furthering fair housing plus revitalizing communities.

And I want to point out that I did have a conversation with Tom Gouris this morning about this, and we're going to continue the dialogue. But we're just asking to put back in what we had last year as an incentive to help people come to Houston and help us get
some good things done.

MR. OXER: Good.

MR. KEN: Thank you very much for your time, sir. Thank you.

MR. OXER: I appreciate your comments, Dave. I hope you give our best to Neal and to Mayor Parker.

MR. KEN: Thank you.

MR. OXER: Jean, how nice to see you back. You went over to the dark side, did you?

MS. LATSHA: I did. I have to say good afternoon.

MR. OXER: Hold on a second. I think we've got a comment from our counsel here.

MS. LATSHA: Sure.

MR. ECCLES: Not trying to be antagonistic.

MS. LATSHA: No.

MR. ECCLES: Just want to make sure that you -- before coming here, since we do have a specific Rule 2306.6733, I just want to make sure that you consulted with independent legal counsel and you're comfortable that your comments here are all kosher.

MS. LATSHA: I have. And I have a remark regarding exactly that. For those in the audience that might not appreciate my former position, I am Jean Latsha with Pedcor Investments. Before I do start, I would like
to acknowledge that.

As most of the people in this audience probably know, I was very recently the Director of Multifamily Finance for the Department. Because of that former position, as you stated, I am limited by statute and cannot represent an applicant to the staff or Board.

So make it very clear, I am not here representing any applicant or any application; I'm simply a stakeholder in the housing tax credit program and as well in those rules.

I appreciate that there might be a perception that my former position might afford me some favor in front of this Board, but I know that I do not enjoy such favor. In fact, I would not be here at all had I enjoyed any favor from staff.

(General laughter.)

MR. OXER: Tom, pull the pin out of that and roll it back under her. Okay?

MS. LATSHA: But I do know that this Board is more than capable of distinguishing between Jean Latsha as a staff member and Jean Latsha as a member of the development community. And I say that not so much to this Board but to anyone who was not aware of my former position or might object to my presentation here today.

So that being said --
DR. MUÑOZ: Excuse me, Jean. When can we begin
to ask the antagonistic questions?

MS. LATSHA: Whenever you like.

MR. OXER: Like you ever slowed down anyway.

So go ahead.

DR. MUÑOZ: I think they already started.

MS. LATSHA: I have to say -- I'm going to get
to my specific point, but I have to say I was a bit
stunned by what happened last week.

I find this discussion here with specific
points made by the development community and some dialogue
with the Board really helpful in this process. I find it
difficult, however, to determine what if any of the
comments that have been included in the draft -- from the
first draft to this draft are actually supported by staff
or the Board, because that dialogue didn't exist; it was
just kind of a frenzied throw-it-all-in-there kind of
thing.

And so I do appreciate that we're having this
dialogue now. But I have to say I am still going to find
it a little bit difficult to make very focused, meaningful
comment on this draft, because I'm not sure what parts of
this draft are actually supported by staff and the Board.

That being said, in mid-August Pedcor
Investments submitted a written comment regarding the
revision to the additional phase rule, which prohibits building a second phase until after the first phase is stabilized. I will say before I go on, too, that I had a brief discussion with Tom, and we were not sure this would be a logical outgrowth or not, which is why I'm here.

The comment submitted suggested that a developer could evidence significant demand for the second phase and be exempt from this rule. The suggested revision was not included in the draft, and I took that to mean that staff didn't support the change.

Chairman Oxer, I think you made the comment last week that the omission of a comment is response to that comment. I think that was the response that I did get from staff.

When I followed up with them, it turns out I was right. Tom disagreed with me. We did discuss maybe some other options if the site was maybe in a high-income low-poverty area or if it met some other parameters related to deconcentration, that it might have a chance of getting in.

And then I was wavering between making that comment last week and just waiting until the draft came out, and then the sky fell. Right? And everybody's comments were thrown in.

And so I'm once again here with my written
comment that was submitted back in August, not included in this draft. If it would be considered a logical outgrowth of an existing rule, I certainly appreciate that I don't think that staff needs to do that work right now, and I can certainly make that comment again later, or you could direct staff to add my comments in right now. I might make some additional comment later, I might drop the whole thing. I'm really not sure. But I did want to point out that we did make that comment.

There are -- I would say that the first draft I thought was well done. There were a couple things in there that I did think needed to be added. They got added. And there are a few things in there that we will likely submit comment on.

I think one thing I'll touch quickly, just because a few people spoke on it, is aging in place, and to consider the definition of elderly that has been changed when looking at that rule.

Right now the concept is that educational excellence is not important when it comes to an elderly development, when referring to an elderly development. However, we have a definition now that states that basically those elderly developments might very well house children. So perhaps educational excellence is relevant for those developments.
Like I said, I have a few more but I think all of which could be made at a later date. So unless you have any questions for me.

MR. OXER: We appreciate your comments, Jean.

Any questions by members of the Board? I will add that all of those things are points to be considered, but it's a public comment. I think since we started that process, and you know very well and very much how it works, the public comments, you're more than welcome to resubmit them if you choose. But I would recommend that you consider the response you got the first time to be an indicator on what's probably going to happen on the second time. Okay?

MS. LATSHA: Yes, sir.

MR. OXER: Yeah. So all right. Good to see you back.

MS. LATSHA: All right. Thank you.

MR. OXER: Thanks for your comments.

All right. We're going to -- let's see. Well, here, we have one more comment, I'd like to have that. Is there anybody else -- just a little housekeeping item while you're filing in, does anybody else want to speak on this?

(No response.)

MR. OXER: Okay. Let's get everybody who wants
to speak up here. Because when we get finished on this
we're going to take a break, just so everybody can work on
your own schedule. We're going to take a little break
here. We have an Executive Session we'll need to have.
We're going to grab some lunch. We'll be back, but to the
point or to the fact that we don't want to be running a
risk of a quorum, we're going to make it a quick lunch
break and then get back in the game here. Okay.

So we've got you, three minutes.

MR. O'DAY: My name is Dan O'Day, I'm President
of Delphi Affordable Asset Group. I'm here to speak to
the proposed 2016 QAP Section 11.4(c)(2). The changes I'm
proposing do not affect the Department's ability to
achieve the policy goals specific to this section.
Instead, the Department would retain its authority but
would implement it on a transaction specific basis rather
than globally.

By doing this, the Department would then be
able to access additional credits for the State to use on
4 percent transactions and thus help achieve the greater
goal of providing more affordable housing units in the
state of Texas.

I am proposing two changes. One to add
difficult-to-develop areas to what will qualify for a 30
percent boost and to not eliminate the 365-day carryover
period available for DDA designated areas.

The reasons: The Department has a broader policy objective of providing housing in areas that contain greater opportunities for residents. Providing for the use of the boost for DDA can add tools that will incentivize developers to help meet these goals.

DDAs cover a large area and thus will include both the poorest areas and the highest income areas. Using Odessa, the only current metro DDA in the state as an example, it covers 28 census tracts including five qualified census tracts. Those five QCTs qualify for the 30 percent boost on a bond transaction under both the 2015 and proposed 2016 QAPs. Those five QCTs have poverty rates running between 25.13 percent and 33.59 percent.

Now, the best part of the DDA designation is that it gives the boost not only to the low income areas but to all areas, including the highest income areas. In Odessa there are three census tracts with poverty rates below 5 percent. Under both QAPs those census tracts are not eligible for the 30 percent boost on a bond transaction.

There are five census tracts that have a ratio of tract median income to area median income of more than 125 percent, including two that are over 150 percent. Under both QAPs those tracts are not eligible for the
boost.

While I know the intent of the proposed language is to achieve the broader goal of housing in areas that contain greater opportunities, I believe there are times where it incentivizes the opposite. The Department has strong site feature requirements to meet threshold, and I believe it's a better way to use those transactions specific than to rule out areas globally that may have potentially greater opportunities.

While HUD is changing its methodology for metro areas to designate small area DDAs, they will still be using DDAs for rural areas. This denies access of 30 percent boost for Texas counties that will be designated 2016 DDAs where are currently designated DDAs for 2015 in rural areas.

One area that this change would be a very helpful resource is for RAD transactions. There are several rural PHAs that currently have awards and more are expected to apply. While they qualify for the at-risk set-aside, that is limited and cannot fund all the units needed to be rehabbed or reconstructed. The bond program has been used for several RAD transactions in Texas to-date and it's important to have as many resources as possible.

And one quick last comment. When
Representative Landgraf spoke to the project that he spoke to, the changes in the proposed 2016 QAP that I'm recommending would address that project if the Department felt it couldn't be addressed under the 2015 QAP.

MR. OXER: Okay. Good. Thanks for your comments.

Terri?

Next? Who's next? Get through to the front row here.

MS. BURCHETT: Right. Sally Burchett with Structure Development, and I will be brief. Thank you for your time. I'm here to speak on behalf of the historic preservation amendment and its benefits to the state and the program.

I am a member of the American Institute of Certified Planners, and like city managers and engineers I'm ethically obligated to serve the public. And I will be listing the reasons why I think the historic projects are good for the community. There's environment economic --

MR. OXER: While I appreciate your thoughts, is that anything that you feel like's going to materially affect the -- since we're under an obligation to now consider that as a scoring item, is this comment better suited to put into the public comment to be addressed when
we post this in the Register?

MS. BURCHETT: Honestly I'm a little fuzzy on the whole process, how that works. I think probably yes. But I wanted the Board to hear my comments as well.

MR. OXER: We will.

So, Kathryn, can you make a response to that?

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

I've had a conversation with Sally outside of this meeting, and my understanding is that she is proposing to increase the number of points available to historic preservation deals. So that would not be a logical outgrowth and --

MR. OXER: So that's something we need to put in right now.

MS. SAAR: Correct.

MR. OXER: It would not be something we could modify as we go forward.

MS. SAAR: If the Board so choose to go in that direction, it would be something that we would need to address today.

MR. OXER: Okay, good. Thanks.

All right. Thanks, Sally. That's why we ask this question.

MS. BURCHETT: Thank you. So, briefly, for environment benefits for downtown historic revitalization,
a not new building is the greenest building you have because it's not new materials. There are cultural benefits with downtown revitalization. Pride, lasting building materials, and changing an empty shell into vibrant living space is the epitome of revitalization.

Economic benefits, no new infrastructure extension. Downtown synergistic revitalization of nearby businesses. And the additional historic tax credits, federal and state, fill the void with the added cost for historics, so the housing tax credits don't bear the burden of the additional cost. The three together make the stack.

And, finally, the community benefit of downtown revitalization. Just on Wednesday the Surgeon General announced a step-it-up campaign because of their studies show that 10 percent of deaths are from preventable diseases such as heart disease and diabetes with a strong link with our current land use patterns.

Our auto oriented, gated building patterns that we're having seen across the nation are making people literally sick without the physical and social interaction. And so a downtown project in a historic building is an example of what to do to help make our folks healthier.

And so in compliance with the new state law and
your mission for building homes and strengthening communities, I would suggest that the historic preservation increase in points is a fabulous way to go. However, with four points it's impossible to be competitive with high opportunity or community revitalization in almost all circumstance in these donut areas that have come up earlier in the conversation. Because downtown is usually not where the wealth is, and that's where the historic buildings are.

And so the four points can't compete with seven or the six, and then the schools, three or five, that's an additional hurdle. So if it were six points, five or six points in lieu of four, it would go a long way in closing that gap. I think that's a modest request. It's not onerous, asking to trump the others but would help us be more competitive and save more historic buildings.

MR. OXER: Good.

MS. BURCHETT: Thank you.

MR. OXER: Thanks, Sally.

Good morning.

MR. COLVIN: Thank you, Mr. Chairman, Board. I'm Clark Colvin, I'm with the ITEX Group, and we're based in Port Arthur and in Houston. I understand that we had five items we wanted to talk about, but of those we understand two of them have been adequately addressed. So
let me just kind of mention a couple of them that deal with rural areas that we would certainly like for the staff and the Board to consider.

One of them deals with the Opportunity Index, 11.9(b)(4). We were -- we find that -- and I notice it was mentioned recently that you have a lot of the high Opportunity Index census tracts and things are outside rural communities. And sometimes to get to the one grocery store is going to be a little bit -- needs a little more distance. We know it's proposed that a mile and a half, we'd love to see it go back to or maybe to have two miles on some of those things for Opportunity Index.

Second point is on educational excellence. We find -- we know that we've got the 77 for the three schools. What we run into is a lot of the rural schools tend to be unprepared for what has been happening, and we see something rather unusual. Typically in the south elementary schools are ranking up here, and when kids reach about fifth grade they start falling off a little bit and don't seem to recover.

But what we're finding in some really nice rural areas is all of a sudden they're getting a lot of children that require a lot of help in English as a second language. And as a result we're finding that the middle
school and high school are achieving, but we're not finding the elementary school achieving because they're trying to overcome the situation.

And we were just going to suggest that maybe if you get two of the three schools, you might get some of the points; let's say two points as opposed to getting three. And I think it would help make sure that we're not getting all of these projects and developments in a single census tract or in a single school district if we did that.

The last thing was just on the concerted revitalization plan, 11.9(d)(7). And every set-aside we see that there's a disadvantage there of only four points for rural where urban can get six. And if you're in the adverse set-aside you're at a two point disadvantage. If you're in a rural situation you really can't recover. We'd like for you to reconsider that.

MR. OXER: Thanks for your comments.

MR. COLVIN: Thanks, Mr. Chairman.

MR. OXER: Any comments? Any questions?

(No response.)

MR. OXER: Okay. Thanks.

Last comment.

MR. HULL: Great, I get to stand between you and lunch. Is that right? That's just the position I
want to be in. Mr. Chairman, members of the Board and
staff, my name is Matt Hull, I'm the Executive Director of
the Texas Association of Community Development
Corporations.

My organization represents about 150 nonprofits
across the state, a number of whom utilize the tax credit
program. Most of them do not. Collectively they build
somewhere in the neighborhood of 1500 to 2,000 units of
affordable housing across the state every two years.

And my comments are particularly related to the
QAP Section 11.19(b)(2), related to sponsor
characteristics. This is the part of the QAP that governs
or provides insight on how joint partnerships and joint
ownership of developments are handled between a for-profit
and nonprofit or a HUB.

And in the past there's been language in there
about the partnership should last throughout the
compliance period, and that phrase, throughout the
compliance period, has been struck in this draft. And our
members would like to see that included in the draft that
goes out to public comment. And then we can engage in
staff in trying to figure out why that language was struck
and whether it should actually be included in the draft.

The second piece is around aging in place,
11.19. We were, like many of the other speakers, very
pleased to see that included in this draft. Our members
being nonprofits have a long track record of doing
resident services and having on-site resident service
coordinators.

One of the best practices that they've
discovered over the past 15, 20 years is that there be a
separation between the property management staff and the
service coordinator staff in that when you allow property
management staff to serve that role as resident service
coordinator the services tend to get not necessarily given
the attention that they should be given at any given
development.

So we would like to see some kind of language
included that includes that they should be separate duties
between property management and an on-site resident
service coordination.

MR. OXER: Good. Thanks for your comments,
Matt.

MR. HULL: Thank you.

MR. OXER: Okay, we're at about a little after
12:30 here. Kathryn, let's -- what we're going to do is
give you some time to assimilate all of this, and if there
are any changes you and staff, we're going to give you
some time to do that while we're having lunch and going
through an Exec Session for some things that we've got to
consider. We can come back or we'll integrate those here in a bit. So if you have anything you want to state as a summary before we get to the point of modifying the rules as they were presented in your -- on the item.

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

I think that the majority of the ideas that we were presented today from the development community are items that can be addressed under the existing -- under the proposed rule that is before you. I think all of the ideas would be considered logical outgrowths from the published draft, and I'm --

MR. OXER: So essentially what we're talking about is no new concepts, these are tweaks.

MS. SAAR: Right. The only exception to that would be things like the historic preservation comment where they are requesting that that point item actually be increased. I think we would be able to -- and, you know, legal counsel can correct me if I'm mistaken, but I think we can dial back language through the public comment period. but we would not be able to increase that point level.

MR. OXER: Ken, do you have a quick -- well, let's think about this -- all right, here's what I think we would like to do and I would like to do. Take all those. We're assuming that everything can be handled.
Spend some time at lunch. If you need to talk to them afterwards, we'll give you time to do that. But spend some time at lunch, find anything in there that can be considered that has to be in this draft because it couldn't be addressed under the logical outgrowth point.

We'll take those up, but essentially everything that's not considered after this will be considered a -- everything that we don't take up as a new item after we come back from lunch will be considered a logical outgrowth that can be modified or --

MS. SAAR: Sure. Oh --

MR. OXER: -- such for the new draft at the end of public comment.

MS. SAAR: -- the historic preservation and then the other one was the difficult to develop areas with the boost. That would probably need to be addressed today if we were going to take action on that.

MR. OXER: Do you have an initial thought on that, Beau? Or do you want -- we can consider it later because we're not going to really make any decision on it.

Just a thought just as some help to her.

MR. ECCLES: On the difficult to develop, would that change though be to bring the rule into conformance with Internal Revenue Code?

MS. SAAR: I can't really say. I haven't spent
any time looking at -- there hasn't been time to look at the comments that are being made today and that have been provided on that topic. So I would -- I'm not sure.

MR. OXER: Let's leave that till after lunch. Just spend some time and after lunch it may take more time, so if it is we may have to add that as something to be considered. But we'll --

Do you have a thought, Tim? Okay. All right. You I'm sure have taken copious notes on all of these, so, all right, everybody sit still. We'll be quiet for a second.

So the Governing Board of the Texas Department of Housing and Community Affairs will go into closed Executive Session at this time. The Board may go into Executive Session pursuant to Texas Government Code 551.074 for purposes of discussing personnel matters; pursuant to Texas Government Code 551.071 to seek and 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 (4) pursuant to Texas Government Code 2306.039(c) to discuss issues related to fraud, waste or abuse through the Department's internal auditor, fraud prevention coordinator, or ethics advisor.

Closed session will be held in the anteroom of...
this room, which is John H. Reagan Building Number 140. The date is September 11, 2015, the time is 12:39. We'll stand in recess. We'll be back at 1:30.

(The Board met in Executive Session at 12:39 p.m.)

(Board reconvened in open meeting at 2:07 p.m.)

MR. OXER: All right. The Board is now reconvened in open session at 2:07.

All right. 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. So we're back.

There's a motion on the table to consider Item 1(b). I'd like to have Kathryn come up and see if we can summarize this and get to the point of -- I think there's been a considerable amount of comment, a lot of the things that we decided. We appreciate the comments that were raised today. We appreciate the comments that will be made after the posting in the Texas Register.

We determined that there are things that were considered, much of it can be handled under the logical outgrowth component of our administrative law. There are a couple of items that we feel like should be considered under this motion.

So I want to ask you to do, Kathryn, because
you've got a better handle on this and the sequence that's
gone on. The motion as it currently stands is to approve
staff recommendation on Item 1(b), which includes the
rules and what was considered through last week's edition
to this week's edition that's posted in the Board book,
and the items that were included or have been included on
the handout that the Board was made.

What we're looking at now are those components
that will be added in addition to that. That will require
an amendment to the motion. So with that, run through
what we've got here, would you?

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

As you summarized, the majority of the comments that we
received today is things that can be made through the
logical outgrowth process if public comment. There were
four items that staff considers would be needed as change
before it goes into the Register.

The first of those is the sponsor
characteristics scoring item, and that is 11.9(b)(2).
Staff proposes the language "throughout the compliance
period" has been stricken from the rule in the Board book
that you have. Staff proposes unstriking that language.

MR. OXER: So put it back in so if necessary we
can strike it later.

MS. SAAR: Correct.
MR. OXER: Okay. Next point.

MS. SAAR: The second item would be the historic preservation piece. Public comment today was to increase it to a five or six point item. If the Board were to want to go in that direction, that would need to be a change made today.

MR. OXER: So if we changed it today, we would add that, it'd potentially be one of those two in the public comment, and depending on what we hear on the public comment we can back it up to what it is now.

Is that correct, Counsel?

MR. ECCLES: If the Board wants to add additional points now, it could back them out or it could vote them in as it sees fit as it currently stands.

I believe Ms. Saar is just outlining those areas that have been presented in comment that would require a change if the Board wants to deviate from how they've been proposed now.

MR. OXER: Okay.

MS. SAAR: The third item that would need to be addressed by the Board prior to voting on the motion would be related to the DDAs. And I believe the language that would be proposed has to do with conforming with federal law.

MR. IRVINE: Yeah, I think that the federal law
has aspects where it requires that the boost be granted.
And I think that following HERA, there are discretionary
instances where the boost could be granted.
And I think that if you were going to conform
the rule to those federal requirements to maximize your
flexibility, you would say that where required by federal
law the boost will be granted, where permissive under
federal law you could either fashion a laundry list of
those situations in which you would grant the boost, or
you could create a mechanism where the boost could be
requested and the Board can make determinations.

MR. OXER: Okay.

MS. SAAR: And then the final item that would
need to be addressed today if the Board so chose, it would
be adding language to the support scoring items that talks
about not being able to change that support once its
submitted. And that would relate to 11.9(d)(1), which is
local government support.

We already have that language in (d)(5) with
state rep letters. I think the proposal by Ms. Sloan was
that it needed to be in quantifiable community
participation as well and I suppose under LPS, even though
that's now a one point scoring item.

MR. OXER: Okay. So the local government
support and related support items.
MS. SAAR: Correct.

MR. OXER: Okay, let's leave it -- sort of
generically describe it as that. Because we're going to
take these -- I have a procedural reason for doing that.

MS. SAAR: Sure.

MR. OXER: Okay. Next item if there is one.

MS. SAAR: Those are the four that would need
to have action before we could --

MR. OXER: Four or five. Historic

preservation, the DDAs, conform to IRC, to the IRS Code,

and the support --

MS. SAAR: Sponsor characteristics.

MR. OXER: Sponsor characteristics. Okay.

Are there any other questions from the Board?

Ms. Bingham, did you have a question?

MS. BINGHAM ESCAREÑO: I'm not sure --

MR. OXER: Microphone.

MS. BINGHAM ESCAREÑO: Thanks, Mr. Chair. Just

I'm not sure what our options would be if we wanted to

address the issue of historic preservation point.

MR. OXER: If we -- okay. Can we have a debate

on that or have a discussion on that? What's our options

on that one? Tim?

MR. IRVINE: The options are you can certainly

increase the point item, you could decrease the point
item, you could leave the point item unchanged.

MR. OXER: Is that something that's required that we do today or is that something that could sit or put into the Register to be able to consider later?

MR. IRVINE: I would think you could adjust the point item in response to public comment.

MR. OXER: Okay. Effectively what my perspective on this is that we have these five areas that we would like to consider to have public comment on. Assuming no member of the Board is opposed to considering those or think those should not be in now, we have the option to make sure that they are part of the draft so that they can be considered and have public comment received on them. So the question as Chair is there any of these items that Kathryn has just gone through that --

DR. MUÑOZ: Four items.

MR. OXER: Okay, I'm sorry, four items that Kathryn has gone through that feels like were inappropriate? And if there are, we will take those up individually. Otherwise we'll take them as a block up and down, modify the motion, then with that modification vote on the original motion, and then that would be what goes to the Register with the QAP draft that is these additions by staff. Is that clear?

(No response.)
MR. OXER: Okay. All right. To that end, is there anything that any Board member would like to handle individually?

(No response.)

MR. OXER: Okay. Then we'll entertain a motion to consider these amendments to the original -- or these items as amendments to the original motion, which was to accept staff recommendation on Item 1(b) with respect to the QAP with the draft that was provided in today's book plus the handout that's been issued. Do I hear that motion?

DR. MUÑOZ: So move.

MR. GANN: Second.

MR. OXER: Well, how consistent. That's the same as the original motion. So Dr. Muñoz, Mr. Gann issued a motion and a second to amend their original motion. I'll assume that is in play. So there's no other public comment?

(No response.)

MR. OXER: All right. Motion by Dr. Muñoz, second by Mr. Gann to accept a public -- or accept the staff recommendation with respect to Item 1(b) as presented in the Board materials plus the amendment as just provided under the -- or just the additions provided in the amendment. Is that a correct statement? Okay.
Is there any comment?

(No response.)

MR. OXER: Okay. Those in favor?

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: There are none. Let the record reflect that Mr. Chisum had to leave and the vote now was 5-0. Okay.

Thanks, Kathryn. Good luck. Get it in.

Okay. Brent?

MR. STEWART: Good afternoon. Brent Stewart, Real Estate Analysis. I wasn't sure that I was going to be able to get up today.

MR. OXER: Because of a hangover or just the timing on this?

MR. STEWART: Could be both. Okay. So this item is a request for approval to publish for public comment the 2016 real estate analysis rules and repeal the 2015 rules. These are your rules that guide REA in underwriting the transactions for feasibility purposes, for sizing tax credit purposes, and sizing other Department funds.

The black line in your book makes it look like that there's a lot of things changing, and there really
isn't. There is a lot of clarifying language, expanding upon current things we do language. But there are some things, more material things that are new or have changed that I'd like to lay out here. Some of them are in your book, and I won't touch on all those. But these are kind of the more specific ones.

First off 10.302(d) is the section that talks about rents and what we will use in the pro forma in underwriting a transaction, and one segment of that is market rents. The proposed rule is that we're going to limit the amount of rent for market rate units that we're going to use for underwriting to the 60 percent rent level if there's only -- if there's 15 percent or less market units in the transaction.

It's important to note that we are not capping the rent, we're not capping the rent or the income on the market units. We're just, for feasibility testing purposes, we're using the 60 percent rents. So why do this? Mitigate risk. We've seen a number of transactions in the past two years where there have been significant premiums on market rent units, some in the 250, $300 per unit range when they may only have 10 percent of their units as market rate units. And the deal depends on that rent to work, not just for DCR purposes but for break even purposes. We've seen some premiums as big as $400 a unit.
And we basically believe that you're not going
to get those premiums on a deal that has 15 percent market
unit. In fact, you're probably not going to get them even
if you had 30 percent in most markets. So you're going to
have -- to get those rents you're going to have to have a
significant number of market units and you're going to
have to be in an area where market rents are just
extremely high, extremely high over the 60 percent rents.
And, you know, Austin would be one of those markets. You
could throw anything out in Austin and you would rent it.

But some of the secondary and tertiary markets
have been really tough. The rural areas have been really
tough. You heard Darrell kind of talk about some of the
issues in rural areas. Well, it takes pretty good rent in
those rural areas to make the deal from a financial
standpoint cover debt and break even even, break even
also. And then there's a lot of submarkets in some of the
larger cities that have the same problem. Again Austin is
an example of -- it's an anomaly.

The verdict is kind of still out on deals that
we've done in other high opportunity areas over the past
couple years. Because those deals really haven't come on
line yet. Logic would tell you that being in high
opportunity areas you could get a premium on your market
units. We don't know that yet. Even in those areas
there's the risk of the propensity of the higher income person to go to an affordable property and pay equivalent market rate rents when they could go across the street and get the same unit, same price in a nonaffordable unit.

And that's not saying that the affordable property is really any different. But the experience has been that there's a propensity there of people will not move into an affordable property, particularly again if there's 10 or 15 percent of the units. They'll choose the conventional deal across the street.

You know, part of this is that you're going to run, you run an affordable deal differently than a conventional property. You have different staffing, you do different things, you market the property differently.

And if you have few market units you're not doing the things that you're going to need to get those same market units that the conventional properties would do.

So we picked 15 percent. It's kind of a number that we've seen through the past two years in terms of the number of market units that we've struggled with. And again we want to limit the rent on those units for -- at the 60 percent rental.

MR. OXER: For purposes of valuation only.

MR. STEWART: That's correct. It will not be reflected in the LURA.
MR. OXER: So essentially this is your financial model, the real estate analysis of whether the deal will work.

MR. STEWART: That's correct.

MR. OXER: Okay.

MR. STEWART: So that's item number one. The second item is tenant services. What we're proposing is that tenant -- the cost of tenant supportive services be excluded as an expense item in the pro forma. Unless there's an obligation to a unit of local or state government or the owner/applicant has a history of doing that level of service, the cost of those levels of services on their other property.

What's happening is that the cost of the services that are being expensed are -- there's a huge range. Some properties, they do not show any tenant services expense, and usually what that means is that one of the staff people on site is doing some of those services and their cost is imbedded in payroll.

There's deals, transactions in Dallas, Dallas requires a total of $40,000 of tenant services of which half of it, $20,000, has to be cash. The rest of it can -- they can go get free services from someplace else and cover that. And so it's a big number.

So in those circumstances we would allow or use
those costs as an expense item. If we do that though, we're going to -- if somebody says we're going to spend 10 grand a year on tenant services and we underwrite to that, we're going to use 10 grand a year at cost certification, whether you spend the money or not. Because you need to tell us from an operating standpoint what you're doing up front. And if you want those expenses considered in the debt coverage and the sizing of the credits on the back end, we're going to use that same number.

This is not about whether or not services are being provided. This is strictly about how we treat the expense item in the pro forma. It's also kind of a competitive issue. Because if you have a property that you need expenses to hit that DCR or you don't need expenses to hit the low end of the DCR, you had transactions that effectively would be feasible under that scenario, which means the guy behind might lose.

And so we're trying to just kind of level the playing field here on what we're doing with tenant services, not affecting whether the services are provided or not, and I think we have a pretty logical way of using those in situations where they're either required or whether the applicant has shown a consistent track record in providing those services at that cost. That's that
Unit capture rates. We currently have a gross capture rate as a feasibility item which is an indicator of how much of the targeted tenant population in an area that you have to capture to fill up your property. And so -- and that's done propertywide. You take the entire population qualifying people in the PMA that's drawn by the market analyst, and how many of those people do you have to capture to fill up your property.

What we've run into -- and this again is in rural areas primarily, some urban areas -- is where if you look at the individual unit capture rates, a 60 percent three-bedroom unit for example, we've seen unit capture rates that have been as high as 600 percent, which is impossible. But --

MR. OXER: You think.

MR. STEWART: Right. We've seen many of them that are in the three to 400 percent range, and maybe it's only one or two units. And then we've seen some that were 684 percent in one and it had other units that were in the two to 300 percent range. So you scratch your head, you go gross capture rate works, it's just the way that model is set up, that way that kind of threshold kind of thing that we've used for a number of years is set up. But you look at the individual unit ones and you scratch your head and
You just say we can't do that.

So what we're saying, we put in a new feasibility test in, which is the individual unit capture rate. And no individual unit can show a capture rate above 100 percent. A hundred percent is still not achievable, but there are circumstances where there's anecdotal information about a market or a town that's going on that is not showing up in the demographic numbers.

And so we go look for that anecdotal information. We call the Chamber of Commerces, we talk to the mayors, we talk to people to figure out what are the economic drivers going on in that town to create anecdotal information that might help us get comfortable recommending a transaction even if a unit capture rate is at 100 percent. So yeah, that's that one.

MR. OXER: Okay. Got more?

MR. STEWART: Yes, sir. There's actually two more, and they're both related. This is about developer fee. The first proposal about developer fee is a proposed increase to developer fee of 20 percent for Public Housing Authorities that are converting one of their public housing properties through the HUD Rental Assistance Demonstration program, it's called RAD. And so it's Public Housing Authorities RAD, and it's only on bond
deals with 4 percent credits. It's not for the 9 percent competitive program.

This increase was requested because the reported cost associated with doing a transaction like that is higher administratively and otherwise than a typical transaction, and the complexities of the program, the, you know, the time issues associated with working with HUD and those kinds of things. So that's the first one.

The second one is right now the proposal is that we'd like to fix the developer fee at initial underwriting. And what I mean fix is fix the dollar amount of the fee. The developer fee, the nominal dollar amount of the developer fee will not go down or go up over the life of that deal.

So here's some background. You guys are authorized by the IRS to establish through the QAP basically a developer fee. And historically you've set that at 15 percent. It's been 15 percent pretty much since inception. We've got a 20 percent developer fee for small little deals, 49 units or less, to try to incentivize people to go do the smaller deals. But basically it's 15 percent consistent with NCSHA best practices. So that's where it is today.

The developer fee is basically -- the owner
pays somebody to perform developer services. And that is a defined term in the rules, developer services, and there's a list of things. Finding the site, putting -- negotiating the purchase contract, all the way to placing it in service and going through the cost certification process and so forth. So there's a scope of services, cradle to grave kind of services that the developer does.

But if You think about it, there really is no relationship between those level of services and the costs of a property. The 15 percent developer fee is 15 percent of the eligible costs of the property. So to go and do that cradle-to-grave work generally is the same amount of work for a large project and a small project. And the relationship between the amount of that fee, it's not real logical that it should go up or down based on whether the hard costs of the property go up or down.

We've seen deals recently that have had -- costs go up, You know, market costs go up, commodities, labor. You know, in Austin right now people are stealing subs -- stealing labor off of sites to come over and work on their site. Costs go up, and sometimes they go up pretty big.

What we're really after are the costs that went up because there was stuff that basically should have been known at application that wasn't known. And those are the
kinds of things that we have seen recently. We've seen
cost increases as high as 32 percent on deals. It's about
$6 million on one transaction. And, you know, many times
it's just on stuff that should have been known.

You know, you should have known about
detention, you should have known about retaining walls,
you should have -- you know, when you have site work
double, there was an indication up front that the site
work was going to be something higher than what you put
in. Granted, you're not going to know your soils, but
there are things that you can know.

So, you know, there are things out of the
control of the developer, and many times they either are
known or in the control of the developer. And what we're
suggesting is that, You know, because there's not
necessarily that relationship between fee and costs of the
building, if somebody doesn't size up the costs up front
and the true costs actually go up, you know, what's the
logical reason that we would pay somebody a higher fee if
they had missed the stuff up front.

At the end of the day for us, you know, our job
is all about how many, from policy standpoint how many tax
credit units can we get out of a set amount of tax credits
every year. And sometimes it's these little things that
sound kind of like nickels and dimes. It doesn't to the
developers. I mean I understand what this is to them, having been there. But for our purposes that's what this is about as well as trying to deal with whether something is logically tied together.

So with that I'll stop rambling.

MR. OXER: Good.

Any questions from the Board? Pretty comfortable with this?

(No response.)

MR. OXER: Okay. Motion to consider.

MS. BINGHAM ESCAREÑO: Move staff recommendation.

MR. OXER: Okay, motion by Ms. Bingham to approve staff recommendation on Item 1(c). Do I hear a second?

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. Well, it looks like we got somebody that wants to talk about it.

Janine?

MS. SISAK: Hi, good afternoon. Janine Sisak again; I'm here representing TAAHP. If I were here representing DMA I would have so many things to say about Brent's comments. But in my role as the committee chair, we will get together and reach consensus on some of these items and, you know, put it in writing and take it to
Just generally though, you know, I didn't speak on the scoring criteria for the QAP because it is really hard for TAAHP to reach consensus on those items because it's the competitive part of the program. This part of the program and the post award part of the rules, I think really there's a lot of areas where TAAHP could come to a consensus on some of these things.

Part of the concern with some of these new concepts in underwriting rules is they're really big changes. And, you know, I guess philosophically my issue is it kind of gets away -- some of these underwriting standards really get away from the underwriting standards that our lenders and investors hold us up to.

So we kind of get in a situation where we have two sets of numbers, and we've talked about this several years with staff. You know, people at TDHCA are like, you shouldn't have two sets of numbers. So like, yeah, you're right, we shouldn't. And the reason we do is because these underwriting standards are different than those in the industry.

So on behalf of TAAHP and the membership I ask -- I know that Brent held a roundtable. Again it's really hard for TAAHP, coming off the conference, to focus on these rules in time meeting the publication deadline.
So we're not asking that you don't publish the underwriting rules, but we would like an opportunity to sit down with staff and representation from TAAHP and talk through these issues, because I have a lot of thoughts on some of the comments that Brent just shared, rationale behind some of these rules changes.

And the same -- I know people are trying go get out of here, I know the next set of comments is post award, and we've got some similar concerns, is that we just haven't had a chance to sit down with staff and talk through the substantive issues.

MR. OXER: Okay.

MS. SISAK: Thank you.

MR. OXER: Thank you for your comments.

I think it's -- Brent's always going to be available and staff will always be available to work through these, you know, on a schedule as we're getting up to it. There are obviously pinch points in the date and we have to issue to the Register and that sort of thing, the Texas Register. I'm confident the staff is more than willing to hear comments from the development community.

Do you have some more?

MS. CORMIER: Good afternoon. I'm Jana Cormier with JP Development Consulting. And I kind of echo Janine's comments there, that, you know, having a chance
to talk about some of these underwriting changes would be
great, because they do differ from industry standards.

You know, just as an example, I've worked for
the past 14 years for a lender and syndicator, and so I've
underwritten a lot of deals from the financial institution
standpoint. And generally what we see on market rate
rents is that they would be capped at a 10 percent
advantage to what the current market rate is, so not all
the way down to the 60 percent rents. But sometimes they
are all the way down to 60 percent rents, and, you know, a
syndicator's even going to capture 60 percent rent at a
10 percent advantage to the market. They'll even take it
further than that.

And then, you know, just again the industry
tolerance really for market rate units is more like 20 to
25 percent of the project, depending completely on the
community and what the market study would support. So
there are definite standards out there that we're all
working within.

And then there were a couple of other things
that I think kind of show a trend that we've been seeing
where things are going to be set at underwriting and not
be allowed to change. And when I was working on deals at
the bank, you know, you get a -- start working on a deal
after it has a tax credit allocation and work with that
through closing and beyond, and nothing ever stays exactly 
the same throughout that process.

So capping a debt service amount on a senior 
loan without, you know, interest rates are going to 
change, your rent limits may be up or down, your expenses 
may go up or down. There are just so many variables that 
to cap an amount is very limiting where as capping, you 
know, a debt service coverage ratio, which is more the 
industry standard, would make more sense.

And then also, you know, capping the developer 
fee where it is at application. And I, you know, 
appreciate Brent's point that you set up a deal agreeing 
to work for this amount. But I think it does disregard 
what may be unforeseen and the amount of work and the 
amount of risk, additional risk that a develop may be 
taking on during that period.

And so that's something that, you know, 
generally the industry would allow to float and wouldn't 
want to see anything fixed at application. When an 
application's been put together pretty quickly things are 
going to be the same. You're going to have the same 
number of units, the same population served, but there are 
just a lot of variables that will change the process.

MR. OXER: Good. Appreciate your comments.

Don't forget to sign in.
Darrell, come on up while you're getting started or while she's finishing up there.

MR. JACK: Thank you. Darrell Jack with Department of Market Data. Just wanted to comment quickly on two of the items that Brent mentioned, the capture rate by unit type and the market rent. And if you want to see something really funny, watch Tom's face on this. I am in support of the capture rate by unit type at 100 percent.

MR. OXER: Somebody give Tom some oxygen back there, please.

MR. JACK: And over the years Tom and I have gone to friendly battle over that as an underwriting standard. But the reality is that these two particular rules that Brent has proposed are taking the QAP that's new well away from good real estate practices and brought it much closer to what makes sense.

The reality is if these properties are built in rural areas and they don't function and they don't make sense financially over the long term, it's a black eye for the Department and it's a black eye for the entire program. And I think what Brent is trying to do is to bring a reasonable rule back to bring it in line.

You know, we had a project in Goldthwaite this last year that, you know, the capture rate overall met the standard of the QAP, and only because it required HOME
funds it eventually was turned down. But the capture rate by unit type was just outrageous; it didn't make sense in the market. This gives Brent and his team an avenue to rein projects in towns that they really don't make sense in.

On the market rent issue, we set out on a project to kind of disprove HUD's rule, and theirs is using 10 to 15 percent above a maximum of 60 percent rent for a market rate unit in an affordable project. And as we went through to try to disprove that in San Antonio, surveying all the affordable projects that had market rate units, we actually proved up their argument, quite to my surprise.

You know, you typically cannot get a full market rent in a market rate unit in an affordable project. That's just throughout. The reality is that unless you're in a place like Austin, you know, where housing is limited and locations are limited, you know, I hate to stand up here and say it to you, but the general populace doesn't want to live with affordable housing people. That affects the underwriting of the project, and that's just a reality of the world that we live in.

You know, I think that the 15 percent benchmark that Brent is asking you to approve is a reasonable expectation. So thank you.
MR. OXER: Good. Thanks.

Anybody else?

(No response.)

MR. OXER: Brent? Do you want to address any of that?

MR. STEWART: Just real quick. I want to make it really clear that on capping the debt service amount that we're only doing that when we have HOME funds in the deal. And we've underwritten an NOI and a debt coverage that we're comfortable with on making our HOME loans. And these are big HOME loans, and we all know the risk and liability we have to HUD on that.

We believe that this is more flexible to the developer by setting a debt service amount, because it allows them to change interest rate, it allows them to change the debt amount. As long as that payment ahead of us is the same, we don't care; basically we don't care. So that's kind of why we structure that way. And again that only applies when there's our own money or any of our money that's sitting behind, subordinate to the senior debt.

And I do appreciate Janine's comments about different sets of numbers and how things, you know, go and consistency with winners and equity. And I guess I would say to that is right, and really it should be. We
underwrite for a very different purpose than lender in equity do. Yes, we underwrite for feasibility, we underwrite for size in tax credits and doing what we're supposed to do under Section 42.

We have a different purpose. The equity guys have a different purpose. The lender has a different purpose. Everybody has a different box that they underwrite to and fit deals into. In the conventional world, it's the exact same thing. You're right in the middle as a developer between a lender in equity and a mezz lender, and it's the same thing, everybody's got kind of different parameters, different sets of numbers and so forth.

I don't think our box is -- should be or necessarily now today that far away from -- in fact our box is gigantic compared to a lot of lenders and syndicators. We have a debt coverage range between 115 and a 135. That's huge. Right? We don't have a loan-to-cost or a loan-to-value constraint. You know, our box is big. And it should be different.

I'm all open for talking about making this better and certainly with the development community, with the lenders, with the equity. So just pass that along.

MR. OXER: Okay. There's been a motion by Ms. Bingham, second by Dr. Muñoz to approve staff
recommendation on Item 1(c). We've heard public comments. Is there any other comment here?

(No response.)

MR. OXER: Okay. I take it there's not. Those in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

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

Okay, Raquel, I think you're next.

MS. MORALES: I'm last. Raquel Morales, Director of Asset Management. Item 1(d) is staff's proposed changes to -- proposed draft of the 2016 asset management rules. These rules set out information on processes and procedures related to the activities that happen after they get the award from you guys.

You know, we try to be transparent, try to be clear about what the requirements are related to the different benchmarks they'll have to meet afterwards. And so the bulk of the changes proposed in the draft before you today relate to just that, just providing some clarification to rules that are in place now but we felt needed to be additionally clarified for the development community's benefit.

The more substantial changes would be, you
know, related to implementation of legislation that just passed, in particular to House Bill 3576, which amended some provisions of the right of first refusal. And so language was added to be able to implement that change.

I would like to note that there is a correction that needs to be made in this latest draft that's before you, and that would be related to the right of first refusal. It's in Section 10.407(d)(3)(F). That whole section is a brand new section, and that was added to implement House Bill 3576. Item F is shown as stricken through in your draft, and needs to -- that was done in error and needs to be put back in for purposes of getting it out into the Texas Register.

MR. OXER: Okay. Are those material? They're not material changes, are they, just corrections to what we have in force?

MS. MORALES: Right. The first draft didn't have that stricken through, and it was erroneously stricken through for the second version.

MR. OXER: There's a gremlin in the computer again? What, another one?

MS. MORALES: Yeah. But otherwise staff would recommend approval of the draft.

MR. GOODWIN: So moved.

MR. OXER: Okay. Motion by Mr. Goodwin to
approve staff recommendation on Item 1(d). Do I hear a second?

DR. MUÑOZ: With change.

MR. OXER: As stated, with change. Staff recommendation as with changes mentioned.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Okay, second by Ms. Bingham. Janine, you got anything you want to say or you're just camping out here?

MS. SISAK: Just hanging out. Ditto.

MR. OXER: Ditto, great. Good on you. All right. Okay, with respect to Item 1(d) as amended by staff recommendation, motion by Mr. Goodwin to accept or to approve staff recommendation as amended by staff or added by staff, second by Ms. Bingham. Those in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous. I think we're now at the point where we accept -- are there any other items to come before the Board? Okay.

MR. IRVINE: I'm both sad and happy to say that Kathryn Saar has decided she's going to go have fun doing
something else.

MR. OXER: I was trying to ignore that. I didn't want that to be talked about.

MR. IRVINE: Well, you know, it's mixed. She's been and is still an incredibly valuable part of this team. She's beloved by everybody she works with. I hope she's beloved by the development community too, because she really busts her backside for you. But one of the things is when you hire great people, they are wonderful people to go find other opportunities.

So we thank you for everything you've done and wish you all the best.

MR. OXER: Yeah. Where you headed, out there into the real world or in the dark side or going --

MS. SAAR: Going to the dark side.

MR. OXER: Way to go, kiddo. All right. Well, we appreciate all you've done here while you were part of us.

All right. We're to the point in the agenda where we accept public comment on items to construct any future agenda. Does anybody wish to make any comment?

(No response.)

MR. OXER: Okay. That said, is there any comment from staff in the audience?

(No response.)
MR. OXER: That said, is there any comment from staff or members of the Board at the dais?

(No response.)

MR. OXER: Okay. I get the last word. It's a good thing we do here. There's a lot of milling and grinding, we pound these things to death, but our rule for Texas, we're good at protecting that rule, and in the process we've made something that's as transparent and very competitive for the State.

With that I'll entertain a motion to adjourn.

MR. GOODWIN: So moved.

MR. OXER: Okay. Motion by Mr. Goodwin to adjourn. Second by?

MS. BINGHAM ESCAREÑO: Me. Second.

MR. OXER: Second by Ms. Bingham. Those in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, 5-0. We'll see you in five weeks.

(Whereupon, at 2:50 p.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF: Special meeting of TDHCA Board
LOCATION: Austin, Texas
DATE: September 11, 2015

I do hereby certify that the foregoing pages, numbers 1 through 146, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

09/16/2015
(Transcriber) (Date)

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