TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

May 26, 2016
10:00 a.m.

BOARD MEMBERS PRESENT:

J. PAUL OXER, Chair
TOM H. GANN, Member
J.B. GOODWIN, Member
DR. JUAN S. MUÑOZ, Member
LESLIE BINGHAM ESCAREÑO, Member

TIMOTHY K. IRVINE, Executive Director
## Agenda Item Index

<table>
<thead>
<tr>
<th>Agenda Item</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roll Call</td>
<td>5</td>
</tr>
<tr>
<td>Certification of Quorum</td>
<td>6</td>
</tr>
<tr>
<td>Resolution Recognizing June as Homeownership Month</td>
<td>7</td>
</tr>
</tbody>
</table>

## Consent Agenda

**Item 1:** Approval of the following items presented in the board materials:

### Executive

**a)** Presentation, Discussion, and Possible Action on Board Meeting Minutes Summaries for March 31, 2016, and April 28, 2016

### Legal

**b)** Presentation, Discussion, and Possible Action on Report to Board regarding the initiation of an administrative penalty contested case hearing concerning Missouri Street Residence (HTC 93143 / CTMS 1177) and the adoption of an Agreed Final Order

**c)** Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Oak Park Apartments (CMTS 965 / HTC 91056)

### Bond Finance

**d)** Presentation, Discussion and Possible Action regarding publication of a Request for Proposal ("RFP") for Underwriters interested in serving as Senior Manager and/or Co-Manager for one or more proposed single family mortgage revenue bond issues beginning in fiscal year 2017

### Asset Management

**e)** Presentation, Discussion, and Possible Action regarding material amendments to the Housing Tax Credit Land Use Restriction Agreement ("LURA")

99173 Huffman Hollow Apartments Huffman
98161 Garden Gate II Apartments New Caney

**f)** Presentation, Discussion and Possible Action regarding Ownership Transfer Prior to IRS 8609 Issuance or Construction Completion

15237 TRM Senior Apartments Scattered Sites

### Home Program

**g)** Presentation, Discussion, and Possible Action on Amendments to HOME Single Family Development ("SFD") Household Commitment Contracts ("HCC") issued under
Administrator Agreement No. 11591 for the Development of three single family homes by WREM Literacy Group, Inc. under SFD Set-Aside 1001897

SINGLE FAMILY OPERATIONS & SERVICES DIVISION

h) Presentation, Discussion, and Possible Action regarding Authorization to Release a Notice of Funding Availability (NOFA) for the Programming of Program Income (PI) for the Neighborhood Stabilization Program Round One ("NSP1")

COMMUNITY AFFAIRS

i) Presentation, Discussion and Possible Action on Approval of the Department’s Administrative Plan for the Section 8 Housing Choice Voucher Program ("HCVP") Administered by TDHCA in its role as a Public Housing Authority

j) Presentation, Discussion, and Possible Action on Release of the Draft FFY 2017 Low Income Home Energy Assistance Program ("LIHEAP") State Plan to be made available for Public Comment and to be announced in the Texas Register

RULES

k) Presentation, Discussion, and Possible Action on an order proposing amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter H, Section 8 Housing Choice Voucher Program, §5.802, Local Operator ("LÖs") for the Section 8 Housing Choice Voucher Program ("HCVP"), and directing that they be published in the Texas Register

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE following REPORTS:

a) TDHCA Outreach Activities, April 2016


c) Report on Activities Assisted under HOME Investment Partnerships Program ("HOME") Reservation System Participant ("RSP") Agreement No. 2015-0119 with the Institute for Building Technology and Safety ("IBTS") to correct construction deficiencies on four single family homes located in Texas City and League City, Galveston County originally assisted by Ebenz Inc. ("Ebenz")

ACTION ITEMS

ITEM 3: ASSET MANAGEMENT

ON THE RECORD REPORTING

(512) 450-0342
a) Presentation, Discussion and Possible Action regarding material amendment
to the Housing Tax Credit/HOME Application
15234 Merritt Leisure Midland
b) Presentation, Discussion and Possible Action regarding Placed in Service Deadline
Extension pursuant to the Force Majeure provision in the 2015 Qualified Allocation Plan
13119 Emma Finke Villas Midland

ITEM 4: MULTIFAMILY FINANCE
a) Presentation, Discussion, and Possible Action on an Award of Direct Loan Funds
16501 Garden Terrace Phase Austin
b) Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers
under the Department’s Multifamily Program Rules
16029 Baxter Lofts Harlingen
16130 Cottages at San Saba San Saba
16260 Churchill at Golden Triangle Community Fort Worth

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS
EXECUTIVE SESSION
OPEN SESSION
ADJOURN
MR. OXER: All right. After a little brief technical delay, there. Good morning everybody. I welcome you to the May 6 meeting of the Texas Department of Housing and Community Affairs Board meeting.

VOICE: Mr. Chairman.

MR. OXER: Yes, sir.

VOICE: We are still having sound issues. They cannot hear you in the audience.

MR. OXER: Can you hear yet? All right. Somebody in the back. Are we good? Okay. Are you okay back there? This one is on.

Penny, are you good?

THE REPORTER: Uh-huh.

MR. OXER: Okay. Are you good there?

VOICE: Yes, sir.

MR. OXER: Okay. Captain Tweety says we are all right. Are we getting out? Have somebody at home email to make sure we are getting it out. All right. Let’s have the roll call.

Ms. Bingham.

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum is not with us today. He is recovering from a broken leg; a broken lower leg, I would point out. I saw him Tuesday. He’s getting about
but it’s still pretty uncomfortable.

Mr. Gann.

MR. GANN: Here.

MR. OXER: Mr. Goodwin.

MR. GOODWIN: Here.

MR. OXER: Dr. Muñoz.

DR. MUÑOZ: Here.

MR. OXER: And I am here. That gives us a quorum of five. So Tim, lead us in flag.

(Whereupon, the Pledge of Allegiance was recited.)

(Whereupon, a Pledge to the Texas Flag was recited.)

MR. OXER: Okay. Is Representative Sheffield here yet? Okay. There you go. Just wanted to recognize the Representative. We’ll have you on first, here. We will take care of your comments first thing, when we get to that point.

Is Bobby here. Bobby? Hey, there he is in the back. Always happy to have the Governor’s Office watching what we are doing. So let’s see. Michael, I think you’ve got something to read into the agenda on Home Ownership Month.

MR. LYTTLE: Yes, sir. June is a very important month, besides being the birth month of Captain
Tweety, whose birthday, by the way, is June 16, on the Board meeting. So if you all want to buy me a present or something.

MR. OXER: There we go.

MR. LYTTLE: More importantly, it is the recognition of Home Ownership Month in Texas. And so the following resolution is part of our Board agenda. It reads as follows.

"Whereas, June 2016 is Home Ownership Month in Texas. Whereas, the goal of the Texas Department of Housing and Community Affairs is to ensure that all Texans have access to safe and decent affordable housing.

"Whereas, it is the policy of the Department to support equal housing opportunities in the administration of its homebuyer and home ownership programs and services. Whereas, this year, the Department is celebrating 35 years of offering affordable first time homebuyer assistance to eligible buyers throughout the State of Texas.

"Whereas, since 1981, the Department has served as the State’s housing finance agency, providing a choice of mortgage products and services to accommodate market opportunities and buyer needs as appropriate. Whereas, the Department recently launched a brand new, free online homebuyer education tool, Texas Homebuyer U, to ensure buyers are informed and prepared for successful home
ownership.

"Whereas, the Department applauds all those who work to achieve and maintain affordable responsible home ownership, and recognizes those who provide services and resources to all home buyers, regardless of race, color, national origin, religion, sex, disability, or familial status. And whereas, the Department encourages Texans to explore the numerous resource available during Home Ownership Month and throughout the year.

"Now therefore, it is hereby resolved that in the pursuit of the goal and responsibility for providing affordable home ownership opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate June 2016 as Home Ownership Month in Texas, and encourages all Texas individuals and organizations public and private to join and work together in this observance of Home Ownership Month. Signed, this 26th day of May, 2016."

MR. OXER: Good. All right. Thanks, Michael. All right.

MR. IRVINE: The Board should adopt that.

MR. OXER: Do we have to do a formal adoption on that? We do have to do a formal adoption on that. So I’ll entertain a motion to do, to approve the resolution.

MS. BINGHAM ESCAREÑO: I will move to so adopt.
MR. OXER: Okay. Motion.

MR. GANN: Second.

MR. OXER: Motion by Ms. Bingham. Second by Mr. Gann. Okay. No public comment. Those in favor? (A chorus of ayes.)

MR. OXER: And opposed? (No response.)

MR. OXER: We adopt the resolution. Thanks, Michael. All right. Let’s get to work.

With respect to the consent agenda, we have one item that we’ll have public comment. But we also, see if there is any member who wishes to pull any item on the consent agenda? (No response.)

MR. OXER: Okay. With respect to Item 1(g), we have public comment. Okay. And we’ll ask you to sign in right there. Make sure your name is legible. And keep your comments to three minutes, please.

MS. DENNIS: Thank you.

MR. OXER: Yes. Good morning.

MS. DENNIS: To the Board. Thank you for allowing me to speak. I just want to make a comment --

MR. OXER: We have to make one request. You have to state your name and who you represent for the transcript.
MS. DENNIS: Okay. My name is Deborah Dennis. And I represent WREM Literacy Group. We are a CHDO, and a contract administrator of HRA, or at least, was.

When we first started out in partnership with TDHCA, we started out to build 50 houses. And we have come to the end of our journey, only having built 22 of those 50 houses.

But I think it is completely apropos that we are here today, thanking you for the opportunity to help build those 22 houses. Because without TDHCA, those 22 individuals would have either been still renters or still living in some extremely abject conditions.

And though I am exiting the program at the end of these three that I have underway, I want to implore the organization to keep moving toward home ownership, equally as you do with multifamily. Home-ownership empowers a person and the family.

And it revitalizes the community in ways that living in a multifamily complex will never do. And along research, we, when we started this, we researched how children who come of age living in their own home, and not in an extended family crowded situation, or not in the apartment complex, how well they do in school.

And it makes -- the research has shown that it makes them a better person. And it takes the pressure off
of the parent. And most of these are single mothers, to
not have to work additional jobs, just so they can afford
decent housing for their children.

So it is a wonderful thing that this program
does. It is an extremely wonderful thing. And it breaks
my heart to exit it. But when you become 62 years old,
and it is retirement time, it is just something. It is
time to go. And I just wanted to say thank you.

I have had a wonderful time. I have enjoyed
what I have done. Tim, please excuse all the fights we
have had. But it was in the honor of service. And I am
so grateful. Thank you.

MR. OXER: You are welcome, Ms. Dennis. We
appreciate your comments. And while we recognize that the
fights are there, you know, I think it is fair to say -- I
believe I would speak for the rest of the Board members,
certainly, that it is our intent to do everything we can
to propose that housing.

Certainly, we just announced Home Ownership
Month. So we were happy to do what we could. So thank
you very much, Ms. Dennis. Okay. With respect to the
other items on the consent agenda, does any member wish to
pull an item?

(No response.)

MR. OXER: Okay. I’ll entertain a motion to
approve.

MS. BINGHAM ESCAREÑO: Move to approve the consent agenda.

MR. OXER: Okay. Motion by Ms. Bingham to approve the consent agenda as listed.

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. No public comment is requested. Motion by Ms. Bingham. Second by Dr. Muñoz to approve the consent agenda as listed. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

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

Okay. Before we get to any of this, Representative Sheffield, we are going to offer you an opportunity to speak first as a courtesy.

We appreciate the effort that you put forth. So we will give you a shot at making your comments and getting back to work, since we have to go to work, too.

DR. SHEFFIELD: Thank you, sir.

MR. OXER: Yes, sir.

DR. SHEFFIELD: Do I need to put my name on this list?

MR. OXER: Yes. You do.
DR. SHEFFIELD: Being a doctor, I will try to make it legible. All right.

Ladies and gentlemen, thank you for your time and allowing me to be here. I am here as State Representative House District 59 for eight counties in Central Texas. The county in question today, San Saba, the community of San Saba.

I need to give you a little outline of this area in Central Texas. It is a county of about 7,000 population. A community of 3,000 population. So some people might call it small. We prefer to call it friendly.

It is in Central Texas, where some people might call it isolated. And we prefer to call it private. And it is the exact part of Texas, an area in small towns that people in cities like this work their entire working lives so they can then retire to places like San Saba.

As opposed to so many small communities in rural Texas, San Saba is growing on its own. Over the past census, it has gained instead of lost. And they are doing that by redoing their downtown, attracting new businesses, like some wineries. Attracting more tourism to that area.

The problem is, with so many small towns, there is a housing shortage. But it is small enough that no
developer can come in and put in a subdivision and make
time, there is no, virtually no rental property there.
There are new businesses coming in. A nursing
home; we’ll have 70 jobs. A ShopCo, 25 jobs. And as you
know, we small town folks are always trying to pull in
people to our small towns, especially two groups; retirees
who want to come to that area, young couples with small
kids who want to come and raise their kids in a small town
in a small school.
So what has happened, San Saba has worked with
Texas Housing Foundation. And they have planned a 36-unit
multifamily property. The question here today is about
the site. And six points in this program.
The gentlemen from San Saba are here behind me.
They can give much more detail, because they live in that
area. I would like to give you the high points as I
understand them.
If you have a plat that looks like this.
Eighty acres is in question. All owned by the City of San
Saba from before this started to now. The address, 206
North Harkey Street.
The address has stayed the same before this
started until now. The 4.06 acres in question for this
family unit is within this same 80 acres.
The problem we are here today, ladies and gentlemen, there was a clerical error. If you look on this plat, if you have a copy of it like I have, in this left hand corner, you will see an X. Well, that box and that X was supposed to be over here to the right on the same land.

Always owned by the City. Always the same address. Never having changed ownership. It was a clerical error.

MR. GOODWIN: Representative.
DR. SHEFFIELD: Yes.
MR. GOODWIN: Do we have a copy of this?
MR. IRVINE: Yes.
VOICE: It is in your Board book. It is in the supplemental.
MR. GOODWIN: I’m sorry.
DR. SHEFFIELD: So what we are here to respectfully ask is this be recognized as a simple unintentional clerical error with no attempt to cover over or shift. And we believe on -- let’s see. Here is where I get lost in the doctor and not legal minded. You had this system to where --

MR. OXER: That is actually an advantage in our fiefdom. Counselor.
DR. SHEFFIELD: You have this system where you
could address these clerical errors that were simple mistakes. And allow the process and the program to continue on.

And ladies and gentlemen, that is my presentation. I want to keep this short. Do you have any questions that I could answer for you?

MR. OXER: Are there questions from the Board?

(No response.)

MR. OXER: That is fine.

DR. SHEFFIELD: May I approach and show you mine?

VOICE: Mine is page 114 out of 215.

MR. OXER: This one.

(Pause.)

MR. OXER: This may be a trivial question.

DR. SHEFFIELD: Yes, sir.

MR. OXER: Who marked the spot?

DR. SHEFFIELD: That name hasn’t been put in print that I understand, sir. I have a gentleman from San Saba who will come up later and maybe will be better able to answer that question.

MR. OXER: And that is fine. I wanted to be certain to give you an opportunity, as a courtesy to the legislators we do that.

And assuming anybody is not twisted too tight
on this one, we will accept your comments at this point. Record those, have those in the record, and take this up, and see what is going to go through the agenda.

DR. SHEFFIELD: Yes, sir. And the section I was alluding to earlier, Section 11-9(f), development-sited application, at least in part development-sited preapplication. The census tract number listed at preapplication as the same in the application. That is what is highlighted on my papers.

MR. OXER: Okay. So specifically, we are just saying it is a clerical error?

DR. SHEFFIELD: Correct, sir.

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

(No response.)

MR. OXER: Okay. Dr. Sheffield, thanks very much for your comments.

DR. SHEFFIELD: Thank you very much for my time, and thank you for your service here.

MR. OXER: Okay. Keep that in mind Board members. We’ll take it into account when we take up Item 3, or take up Item 4(b). All right. With respect to the action items as they come.

All right, 3(a), Raquel. I think you are up first. Do I understand correctly that we have public
comment requested on this?

    Peggy, are you going to read something in? We
don’t have anybody.

    All right, one more. Hold on, Raquel. One
more time. That is all right. No, get up here. One more
time for housekeeping. And everybody that is a regular
here knows this.

    The first row up here on our left, room right
here, the first row is reserved for those who wish to make
comment on the item being considered. This chair right
here, for the staff, TDHCA staff, who is responsible for
that item.

    Anybody wants to speak, get in this chair. We
will take you from the first one right there next to the
aisle. We will go from that aisle and go out, go that
way. Okay.

    Raquel.

    MS. MORALES:  Good morning. Raquel Morales,
Director of Asset Management. Item 3(a) is a material
amendment for Merritt Leisure in Midland, Texas, which is
a 2015 tax credit and HOME application.

    I do want to make one clerical clarification
before we start. The information in your Board books
inadvertently left off the last page of the Board action
writeup.
I have made copies that are available at the
desk for anybody who wants them. And I believe copies
have been printed out for all the Board members.

MR. OXER: Have those been distributed?

MR. IRVINE: No. It is pending.

MR. OXER: Okay.

MS. MORALES: Yes. I would like to ask that
you accept this missing page. It was posted on the
Department’s website 15 days before this meeting. That is
required statutorily. It is just than when it got into
the Board book, that lost pages.

MR. OXER: And it is available in the front for
anybody who wishes it.

MS. MORALES: Yes, sir.

MR. OXER: Okay.

MS. MORALES: Yes, sir.

MR. OXER: Let’s distribute that, then. And
this is just the missing page. Is that correct?

MS. MORALES: Yes. It is just the last page of
that Board writeup.

MR. GOODWIN: It is a clerical error.

MS. MORALES: It was. Yes.

VOICE: Very funny.

MR. OXER: Thank you.

MS. MORALES: Okay. So if you will recall, the
Board heard this request two months ago, at your March meeting, when a similar amendment for the application was requested and ultimately denied by the Board.

At that meeting, the Board members expressed concern that the volume of changes being proposed to the application were significant. And there was considerable discussion about some local funding that was omitted from that request.

The item before you today is the Applicant’s second attempt to amend this application. The chart in your Board writeup which is included in your Board materials reflects the key changes from the original, and the last proposed amendment, compared to the amendment now; the current request.

I would like to note that one change that is not reflected in that chart, but it is reflected in the underwriting addendum that is attached is a change with respect to the HOME unit set-asides. Originally, the application committed and was approved to set aside eight units at 30 percent under the HOME program.

The current request is to shift all of those HOME program units at 50 percent. Otherwise, like I said, all the key changes are summarized in the Board writeup. But I am happy to walk through those with you guys, if you would like. One by one.
MR. OXER: Let’s do a quick summary of that.

MS. MORALES: Okay.

MR. OXER: Are you done?

MS. MORALES: Sure.

MR. OXER: Okay.

MS. MORALES: So the change in the current amendment request is similar to the first in a couple of ways. So I will go through that.

Originally, they asked to reduce the number of units to 140. That ask is still being requested now. The difference is that there are more low income units being offered with this current request than before.

A change that wasn’t requested previously, but is being requested now is a change to the residential density. The site of the development was previously at 9.10 acres, and now they are reducing that to a little over six acres.

So as a result it changes the residential density by more than 5 percent, which would trigger material alteration. There is also a summary on the changes as far as the capital structure of the development.

One of the things that the Board discussed considerably, like I mentioned earlier, is the $1.6 million in local funds from the City of Midland. That was
committed at application. And then with the first amendment, it was omitted from that. It is currently not reflected in the Applicant’s current request to use that 1.6 million.

However, they did provide documentation, I think in the form of another resolution from the City where the City is reaffirming or recommitting that money for this development. However, I think the Applicant is asking not to have to use that.

They would like to use instead the City’s contribution for the offsite road improvement in lieu of the $1.6 million. Underwriting, as part of our evaluation, did look at the impact of adding that $1.6 million now, if the Board chose to go that route.

And there would be an impact to the credit and our direct HOME loan, in that there would be an adjustment. Because I believe there would be an over sourcing, if that funding were to be in place. Otherwise, I think that is pretty much the key changes.

One thing that I will also note is, in the Applicant’s current request, they are asking for our direct loan for the amortization to go to a 40-year. However, we have underwritten and evaluated it.

And it still works as originally structured, a 30-year amortization, 3 percent. The term may be extended.
up to 40 years to be consistent with how we structure with
FHA financing. That pretty much summarizes the key
changes that they are asking now.

The current amendment request on net is more
significant than the prior, in that they have asked for
just a couple of more additional changes that weren’t
requested before. However, it would still fit within the
scoring criteria box, that would result in it being ahead
of its next competitor, of its closest competitor.

So staff, when we were evaluating this request,
and in considering the Board’s decision with the last
amendment, at this point does not make an affirmative or
negative recommendation. We are at a neutral, and just
asking the Board to consider the amendment and just listen
to what the Applicant has to say about their request now.

MR. OXER: Okay. So from an underwriting
standpoint, the deal still works as originally
underwritten and amortized on the 30 year?

MS. MORALES: Yes.

MR. OXER: Okay. There is no change in the
competitive position of the application?

MS. MORALES: There is a change. There would
have been an impact to the score, but it still would have
been competitive.

MR. OXER: It still would have been
competitive. Does it change anything in terms of others being ahead of it or behind it? Does it move it in the list?

MS. MORALES: No. It would have been ahead of its -- like I said, of the next.

MR. OXER: It continues to be ahead of its follower.

MS. MORALES: Of the next deal.

MR. OXER: Okay.

DR. MUÑOZ: So the 1.6 million is still not going to be provided by the City. But they do have the 200 --

MR. OXER: The City --

MS. MORALES: The City has indicated that they are willing to provide it. But it is not something that the Applicant is wanting to pursue at this point, I believe. He can answer the question.

MR. OXER: And if you have any -- we will ask this of the Applicant. So get ready, boys.

DR. MUÑOZ: But the $226,000 for the road?

MS. MORALES: Uh-huh.

DR. MUÑOZ: That is being --

MS. MORALES: That is in. Right.

MR. OXER: So that is as differentiated for the 1.6-. It is 226-, rather than the 1.6 million.
MS. MORALES: That is correct.

MR. OXER: Okay.

DR. MUÑOZ: So your positional is neutral, you say?

MS. MORALES: Yes, sir.

DR. MUÑOZ: Interesting. I wasn’t even sure that was an option. I am from West Texas, down the road from Midland. So my position is not neutral.

MS. MORALES: Okay. Are you ready to hear from the Applicant?

MR. OXER: You can paint me not neutral. You know that, don’t you?

DR. MUÑOZ: Yes. Do we have to make a motion?

MR. OXER: We have to have a motion to consider here. That is why I want to ask the Board if they have any questions of Raquel.

(No response.)

MR. OXER: Because there has to be a motion to consider before we take public comment.

DR. MUÑOZ: Motion to consider.

MR. OXER: Okay. Motion to consider. What is it?

DR. MUÑOZ: Motion to approve.

MR. OXER: Okay. Motion by Dr. Muñoz to approve the request for amendment.
MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. So there has been a motion. We will hear public comment now.

MS. MORALES: Right.

MR. OXER: Okay. All right. You are first.

VOICE: Are you going to tell them that’s what you tell everybody?

MR. OXER: Go ahead. Do it.

MS. BINGHAM ESCAREÑO: Just be real thoughtful about what you -- it is looking good at this point.

MR. OXER: Those of you who don’t know this, okay, or are not regulars here at this, you know, you are about to get what you want. So you need to really consider how much you say, and how you say it. You know, if your banker wants you to continue saying it.

MR. DENISON: So should I just go sit down?

VOICE: I think that is what he said.

MR. OXER: I don’t mandate anybody do anything until Annette runs the clock off, and then I will ask you to sit down. But --

MR. DENISON: Okay. Let’s see how fast I can talk. I really just wanted to say first that I apologize for not being here last time. I was -- I had the flu. I could have answered a lot of you all’s questions.

But the City is 100 percent behind this
They have the whole time. I have never been in a city this size and gotten more than a quarter-million dollar contribution from a city this size. Especially in an economic decline.

I thought I would never see circumstances like I did in 2008, when some crazy stuff happened. And I was -- I participated in TCAP and exchange. So there is some crazy changes that happened in 2008, 2009.

But hopefully, from West Texas, you know that there has been some significant changes. And so we have backed down off of the market rate units to have more affordable units, and trying to present something that you all -- would be a win-win for everybody.

So I am here to answer any questions. But thank you all so much for considering this.

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

THE REPORTER: Your name?

MR. DENISON: Sorry, Colby Denison, the Applicant.

DR. MUÑOZ: Well, I don’t have a question. Just an observation. I mean, I think anybody that lives out in the area knows what is transpiring.

And while the market, of course, for oil has declined, you have many people that for whom affordable housing is going to become an immediate necessary option.
very soon. Because of where they positioned themselves a year and a half ago financially, versus what is available to them professionally and financially in the future.

And I have friends, I have people that I know that are involved with the City and development and what have you. And I think we are going at that to see more of this, and find -- fortunately, it worked out financially for you, where the underwriting was basically sort of you know, neutral on penciling it. It writes sort of -- it wasn’t a very difficult position for me to take, at least.

I appreciate staff’s willingness to be flexible and consider alternatives. These always don’t work, right. Or these don’t work all the time, where it sort of comes out kind of, it costs sort of neutral. So I am glad that it did.

Because I anticipate, not just Midland, but other areas around West Texas. Even earlier, the Representative was talking about small towns. I mean, small towns have trouble developing affordable housing.

I think of Lamesa and former Board member Don Bethel, and how hard it is for him to get properties out there built in Lamesa, Smyer, et cetera. Right, so. Hopefully, this will work out.

MR. OXER: Well, all right.

MR. DENISON: And I wanted to say thank you to
staff. They have -- I mean, the amount of work they did on this. I apologize.

MR. OXER: So they weren’t exactly neutral, right. Raquel, you all put enough work into it, to see if it could work.

VOICE: Well said.

MR. OXER: Okay. Fair enough. All right.

Thank you.

MR. DENISON: I might waive the next people from speaking. Because I brought the bankers and the equity providers to tell you all a little bit about what their viewpoint and all on this is. But unless you all want to hear their side of this.

MR. OXER: Well, we are making the microphone available for public comment. But given what you just heard --

MR. DENISON: Okay.

MR. OXER: -- I would give some thought to whether you want to ask them to --

MR. DENISON: We’ll pass. Thank you all.

MR. OXER: Fair enough. Do you have anything to add to that?

VOICE: No. You don’t need to read that.

MR. OXER: Apparently not. Any other questions?
MR. OXER: Raquel, anything else to summarize?

MS. MORALES: No, sir.

MR. OXER: Okay. All right. Motion by Dr. Muñoz, second by Mr. Goodwin to award -- not to approve staff recommendation to do nothing, but to approve the amendment as requested by the Applicant. Is that a fair statement of it, Counselor? Okay. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. It is unanimous. Great. Thank you, Raquel on that one.

MS. MORALES: One more. Okay. Item 3(b) is a request for a placed in service extension under the force majeure provision of the QAP for Emma Finke Villas, which is a 2013 competitive application in Beeville, Texas.

The property consists of 16 buildings and 76 units that were to be completely renovated from the studs up. The development was scheduled to place in service by December 31, 2015.

However, unusual rainfall between January and June of last year as well as vandalism and fire to the property which destroyed one of the buildings have all contributed to delays in reconstruction activities.
Congress provides for a one-year extension of the federal placed-in-service deadline, in cases where a declared disaster area is -- or a natural disaster occurs.

Where a natural disaster is not declared however, delays outside of the developer’s control can only be remedied through the return and reallocation of tax credits, which is the subject of our force majeure provisions in the QAP. Back in December of last year, staff presented and recommended, and this Board approved the return and reallocation of 2013 tax credits for Emma Finke, and thereby extended the placed in service deadline as requested.

The owner had to accomplish the renovation in phases in order to accommodate tenants that were still living at the development. This caused an uneven work schedule, particularly for some of the specialty crews.

And while construction continues to progress, the owner has faced difficulty in keeping some subcontractors on the job at this site, as well as obtaining the needed development materials or supplies. According to the owner, about half of the subs have had to be replaced for nonperformance at this job.

And the owner notified the Department that the new approved placed-in-service deadline that was approved by the Board in December was not going to be met, and has
now at this point, passed that deadline. So the owner is coming before you today to ask for a second extension.

The owner has verbally reported to staff that the general contractor has required all of the necessary subs at this point to finish this job by the end of June of this year. And that all buildings will be certified for occupancy on or before July 15 of 2016.

Additionally, the owner is asking for a corresponding extension to submit their cost certification documentation to the Department to August 15. The extension is permissible if determined to be justified by the Board. And staff is recommending approval of the Applicant’s request.

MR. OXER: Okay. The extension that we gave them in December was to what date?

MS. MORALES: I believe it was to March 7, 2016.

MR. OXER: Basically, in the middle of March. So they are asking for a four-month extension; 120 days, more or less.

MS. MORALES: Right. To July. Right.

MR. OXER: Okay. All right. Any questions?

Ms. Bingham, anything?

(No response.)

MR. OXER: Okay. Motion to consider?
MR. GANN: I move we approve the request for extension as presented and --

MR. OXER: Okay. And dot dot dot, was there a period on it?

MR. GANN: -- hear it.

MR. OXER: Okay. A motion by Mr. Gann to approve staff recommendation on Item 3(b).

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. Is there a request for public comment?

(No response.)

MR. OXER: Again, as Ms. Bingham pointed out, okay. Read the tea leaves here, sport. Okay. Because -- all right. Regarding Item 3(b). Motion by Mr. Gann to approve staff recommendation, second by Mr. Goodwin.

Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

Good.

MS. MORALES: Thank you.

MR. OXER: Thanks, Raquel. Thanks, guys. And by the way, July 15.

VOICE: Those are the not so subtleties right
there.

MR. OXER: Okay. To Item 4(a). Marni.

MS. HOLLOWAY: Good morning.

MR. OXER: Indeed it is.

MS. HOLLOWAY: Chairman Oxer, members of the Board, my name is Marni Holloway. I am the Director of the Multifamily Finance Division.

Item 4(a) is presentation, discussion and possible action on an award of direct loan funds to application number 16501. This is Garden Terrace Phase III.

Garden Terrace is -- let me get that over here -- is the third phase of a project in which the Department participated in 2002 with a million-dollar HOME loan for the acquisition and rehabilitation of a nursing home that resulted in 85 SRO units, so single room occupancy units. Phase II was the renovation of another 4,400 square feet of unused space that resulted in 15 additional units.

Today, we are discussing Phase III which is the new construction of 20 more single room occupancy units, some common area spaces and supportive staff offices on a little piece of the land that has been unutilized. There will be 20 affordable units available for households earning 50 percent or less of area median income.
We -- staff had originally planned to award these, make this award with TCAP funds. We are considering making an award with HOME funds, if we can make it work within the statutory and regulatory requirements.

There is the potential that this could be a CHDO award, if we are able to make it happen. But it is looking more and more like it is going to be TCAP funds. This would be a deferred forgivable loan. In addition, according to the 2016-1 NOFA, the Department’s Governing Board must establish a hard closing deadline at the time of award.

We are recommending closing on all sources of funds must occur no later than January 31st of 2017. The application has been underwritten and is determined to meet REA rules and requirements.

There is a summary in the Board book of the underwriting report. We have also attached the application and award log for the direct loan program. The Department has received a letter of support from State Representative Donna Howard for this one. Staff is recommending approval.

MR. OXER: This is good. This is just giving you a little bit -- the way I read it, the staff gets a little bit more latitude to figure things out, make it
work.

MS. HOLLOWAY: Between the HOME and the TCAP, and even as late as this morning, we were discussing it. And it is looking more and more like it would be TCAP funds. Just because of the regulatory barriers around using HOME funds.

MR. OXER: Right.

MS. HOLLOWAY: Because the organization potentially would qualify as a CHDO, it was why we were headed down that route. But with all of these complications, it is going to be simpler, I think, just to go with TCAP.

MR. OXER: Okay. All right. Staff recommends approval. Is there any questions from the Board?

DR. MUÑOZ: Move staff recommendation.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Okay. Motion by Dr. Muñoz to approve staff recommendation. Second by Ms. Bingham. Is there any public comment?

(No response.)

MR. OXER: There appears to be none. Okay. With regard to Item 4(a), motion by Dr. Muñoz, second by Ms. Bingham. Those in favor?

(A chorus of ayes.)

MR. OXER: Opposed?
(No response.)

MR. OXER: It is unanimous. Good. Next.

MS. HOLLOWAY: Okay. Item 4(b) is actually three separate applications. It is presentation, discussion and possible action on timely filed scoring notice appeals under the Department’s multifamily program rules.

The first one, application 16029, is Baxter Lofts. I will tell you that we have come to understand that there is a piece of the scoring that we missed in our review.

So we may be coming back to you with that. So this may not be the end of the conversation about this particular development. But since we are here, and we have the information, let’s get through this part.

So staff originally determined that the application should lose points under three items; educational excellence, a resolution from the local Governing Board identifying the development site as contributing most to a concerted revitalization effort. And then as a result of those scoring losses, the original notice went out with them losing additional points for preapplication participation.

When the applicants submitted their appeal, we went back and took another look at the rule, and
reevaluated all of the issues around the educational
excellence item, particularly as it relates to Region 11.
As a result, we are revising our original recommendation
and allowing the Applicant to receive three points for
educational excellence rather than zero, and six points
for the preapplication participation.

So the Baxter Lofts application proposes the
adaptive reuse of a nine-story office building in downtown
Harlingen. The Baxter Building was originally constructed
in 1927. It has been vacant for about 30 years. The
Applicant is proposing to create 24 apartments within the
building.

So on the scoring items, the Applicant
originally claimed five points under, on the
preapplication and on the full application because they
were using the very highly ranked early college high
school in Harlingen for the score on their application.
The rule is really pretty clear about magnet schools and
attendance zones.

In addition, we received a third party request,
administrative, a third party request for administrative
deficiency that also brought this item to light. Our rule
says that an attendance zone does not include schools with
district-wide possibility of enrollment or no defined
attendance zones, sometimes known as magnet schools.
In fact, the Baxter Lofts site is located within the attendance zone of Harlingen High School. Harlingen High School has an Improvement Required rating from the Texas Education Agency.

The Applicant’s appeal of this scoring item has two parts. One is that they believe they should be able to use the magnet school. The other is that, if they are not able to use the magnet school, that they should get the three points under the other educational excellence item.

Our original analysis said, no. You don’t get any. But then we went back and looked at the rule -- let me find the language -- that says, the development site is within the attendance zone of any two of the following three schools: an elementary school, a middle school and a high school with a met-standard rating and an Index One score of at least 77. For developments in Region 11, and this is Region 11, the middle school and high school must achieve an Index One score of at least 70 to be eligible for these points.

Staff’s original reading of the rule was a very strict -- it wasn’t even an interpretation. It was a strict reading of the rule that said the middle school and high school must achieve an Index One score of at least 70. And the high school is an improvement required with a
59. So we said no, you don’t get any points.

   In talking about it some more, internally, we realized that that "and" probably should be an "or." And that that was the Board’s intent. And you will remember talking about undesirable neighborhood features, we had the same issue with the list of schools that has had an "and" in it, when it really should have been an "or."

   In that case, because the site is in the attendance zone of the Zavala Elementary School, which has an Index One score of 83, and Memorial Middle School, which has an Index One score of 70, both of which have met standard under the rule, the application should receive three points. The staff’s recommendation. All right.

   So, and I mentioned a moment ago, the undesirable neighborhood features -- this failing high school was not originally disclosed. That may be part of what we come back to you with.

   Also, under this educational excellence item, impacts historic preservation scoring, which we had not addressed in this item. So that is the other thing that we may be coming back to you with.

   DR. MUÑOZ: I have a question.

   MS. HOLLOWAY: Uh-huh.

   DR. MUÑOZ: You characterize the high school as a failing high school. Do you interpret an Improvement
Required as the equivalent of failing?

MS. HOLLOWAY: It is failing to meet the standard. Am I not using appropriate language there?

(No response.)

MS. HOLLOWAY: The second item, scoring item was a concerted revitalization plan. Our concerted revitalization scoring item includes differentiation by providing four points for being eligible as a community revitalization area. And then two additional points if the local governing body provides a resolution stating that this development most significantly contributes to that revitalization effort.

The rule does not require that the development be named in the original plan, so that there is some flexibility later on. But it does require that the local governing board names the development -- let me see. "If the development is explicitly identified by the city or county as contributing most significantly to the concerted revitalization efforts of the city or county as applicable."

Then it goes on to say, "a resolution from the governing body of the city or county that approved the plan is required to be submitted in the application." The Applicant submitted the original plan and the resolution that adopted the plan.
They did not submit this resolution. They did submit a letter from the City Manager. The Board item is very clear that a resolution is required. The Applicant makes a statement in their appeal that the original resolution adopting the plan would not have anticipated a future development.

This consideration is mitigated by the opportunity for an Applicant to approach the governing body for a current resolution naming the application as required in the rules. And we have had some other applications that are going through the same thing. And they have, in fact, gained that resolution and supplied it with their application.

The third item was the preapplication participation with the reinstatement of three of the five points for the educational excellence item. The net loss is now only four.

And the development is, once again, eligible for the six points for preapplication participation. So we are recommending denial of the appeal in part, and approval of the appeal in part.

MR. OXER: Since they had multiple facets that they had appealed on --

MS. HOLLOWAY: Right.

MR. OXER: -- they could win one and lose one,
so to speak.

MS. HOLLOWAY: Right.

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

MS. BINGHAM ESCAREÑO: Uh-huh.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: Hi, Marni. On the first, education excellence, when we talked about their appeal, and either being able to use that, the magnet school, the early college, or under education, other education excellence, you said that staff was okay with the three points?

MS. HOLLOWAY: Yes.

MS. BINGHAM ESCAREÑO: What would they get -- how many points would they get in total if they were able to use the magnet school?

MS. HOLLOWAY: The magnet school, five.

MS. BINGHAM ESCAREÑO: So it is a net two difference?

MS. HOLLOWAY: Yes.

MS. BINGHAM ESCAREÑO: Okay. And on the revitalization plan, I just lost you at the very end. So what the governing body’s resolution -- is it that they gave it late, that the resolution doesn’t contain what it is supposed to, or that you never got it?

MS. HOLLOWAY: We don’t have a resolution. We
have a letter from the City Manager. We also have a
letter, I believe, from Senator Lucio’s office discussing
this issue. But it is not the resolution that is called
for in the rule.

MR. OXER: And that is specifically called
out -- it is called out to be called out?

MS. HOLLOWAY: Yes. Would you like me to read
you that language again?

MR. OXER: I am confident that the language was
there. It is okay.

MS. HOLLOWAY: Okay.

DR. MUÑOZ: And it is in the resolution form
for the city typically, Marni?

MS. HOLLOWAY: I’m sorry?

MR. OXER: It is like one of our resolutions.

It would be in the form of a resolution.

MS. HOLLOWAY: Yes.

MR. OXER: Okay. Anything else on that?

(No response.)

MR. OXER: Okay. So personally, I agree. And
it was curious to me why it was an elementary school, a
middle school and a high school.

MS. HOLLOWAY: Right.

MR. OXER: But that makes sense for us to
correct that.
MS. HOLLOWAY: And we certainly will, moving forward.

MR. OXER: Right. Yes. It is one of those other. We have typos, too.

MS. HOLLOWAY: I have pages of notes.

MR. OXER: Confident that you do. So the staff recommends giving them nine points and denying the four. But in the net two that Leslie referred to, that could be in the --

MS. HOLLOWAY: We are -- let me run through it real quickly, just to make sure we understand it.

MR. OXER: Summarize the point --

MS. HOLLOWAY: Staff is recommending allowing them three points on education excellence, right. Denying the other two, from the magnet school.

We are recommending four points on concerted revitalization, denying them the other two for the resolution. And we are recommending that we grant their appeal on the previous participation on the basis that have not having lost -- only having lost four points, they now don’t lose an additional six.

MR. OXER: Okay. Everybody clear?

MS. HOLLOWAY: Is that --

MS. BINGHAM ESCAREÑO: Mr. Chair, may I ask?

MR. OXER: Ms. Bingham.
MS. BINGHAM ESCAREÑO: So and then you mentioned something about a third party comment, or --

MS. HOLLOWAY: A third party request for administrative deficiency has taken the place of the challenge process this year.

MS. BINGHAM ESCAREÑO: Right.

MS. HOLLOWAY: We received a third party request for administrative deficiency addressing these school items.

MS. BINGHAM ESCAREÑO: Okay. So then tell us how staff’s recommendations affect competitiveness.

MR. OXER: Does it move them up or down?

MS. BINGHAM ESCAREÑO: Losing the four points moves them down. I think that -- I need to go back and look more closely at tie breakers. I think it puts them into a tie breaker with another application for sort of the next-one-down status. It takes them out of priority status.

MR. OXER: So that is something that is as competitive as the program that we had. One point would put you in or out of the money. So two is significant.

MS. HOLLOWAY: Frequently.

MR. OXER: Okay. I put that on the record so that everybody knows that the Board is not insensitive to the reasons they get up here and scramble and fight for
one point.

DR. MUÑOZ: Hey, Marni, talking about points, let me talk about these two points that you are going to disallow because of the high school.

MS. HOLLOWAY: Uh-huh.

DR. MUÑOZ: I know a little something about early college high school programs, and how they are approved by the TEA. And do you have a sense of the distance from the Baxter Building to the early college high school campus?

Because I believe theoretically, they are available to anyone in the district. And I mean, you know, I understand geography to be prohibitive. Transportation and that sort of thing.

But and typically, you know, the constituents from around that high school typically avail themselves of the early college high school program more so than outlying students, or students in outlying areas of the district. Well, I think that you can’t prohibit people from those outlying -- students from those outlying areas to attend early college high school program.

MS. HOLLOWAY: That is correct. Absolutely. And I believe that they are fairly -- you know, remembering the maps, they are fairly close.

The distance is not the question here. The
question is, could any tenant, any high school age tenant
of this building be able to attend that early college
program without going through an application process.

That is -- the magnet schools, the concern is
the application process. So any student just by right
can’t go to that school. By right, they are going to go
to Harlingen High School, which is an Improvement Required
school.

Does that make it a little clearer? That is
why we have the language that says, an attendance zone
does not include schools with district-wide possibility of
enrollment, or no defined attendance zones, sometimes
known as magnet schools.

MR. IRVINE: We really have two concerns. One
is that you have the right to attend the school. In other
words, they can’t turn you away if they happen to be full.
And two, the whole issue of transportation to the school.

MR. OXER: Right. I’ve got it.

DR. MUÑOZ: Well, yes. I understand, Tim. And
I am sympathetic about transportation. The right, I think
you have a right to apply --

MS. HOLLOWAY: To apply.

MR. OXER: That doesn’t guarantee access.

DR. MUÑOZ: But I -- yes.

MS. HOLLOWAY: The early college programs all
over the state are doing amazing work. They really are, and they sound like they are tremendous schools. But not every tenant is going to be able to go to that school. Or, we don’t know that for sure. Okay.

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

(No response.)

MR. OXER: Staff recommendation is as described. There is partly reinstated nine points and denied in part, resulting in a loss of four points. Is that correct?

MS. HOLLOWAY: A net loss. Yes.

MR. OXER: A net loss. Okay. Motion to consider, please. That is on Item 4(b), application 16029. And hold on, before we get to the motion on this, Michael, do you have a letter to read into this?

MR. LYTTLE: Yes, I do. This is a letter to the Board from Senator Eddie Lucio, Jr. It is part of the Board item, but the Senator also requested that we please read the letter into the record.

It reads as follows: "Dear Chairman Oxer and members of the TDHCA Board. It has come to my attention that one of the cities that I represent in District 27, the City of Harlingen has an appeal before you on a critical tax credit revitalization project that is
important to its community.

"It is my understanding that the appeal pertains to education excellence and revitalization scoring items. As your Agency staff leadership is keenly aware, I have always been and will continue to be a proponent of Fair Housing. Every individual should have the ability to live where they choose without confronting any discrimination.

"I wholeheartedly believe that our children should be able to live in communities with first class schools and should have a second-to-none school system in our state. These are noble goals that guide my public service as Vice Chairman of the Senate Committee on Education.

"I also understand that clear disparities exist in our state in terms of available resources. In other words, differences in tax base. That makes providing opportunities found in other regions of the state a difficult task to achieve in areas that are economically challenged, such as those that I represent in Region 11.

"As the Board may agree, students who live in affluent communities like Plano East, Westlake and Cypress-Fairbanks have resources available due to their vibrant local tax base and property rich school districts that are few and far between in regions with low per
capita income, high unemployment and high poverty. While I am optimistic that in the years to come, that we are implementing at the state level to help transform the socioeconomic realities of the district that I represent, Region 11 currently does not have the abundant resources, tax base and related schools that are found in property-rich regions of our state.

"While I wholeheartedly agree that the Fair Housing goal that the Board is striving to achieve, I respectfully ask that the Board continue to carefully refine the education excellence elements of the tax credit program in areas like Region 11, especially when considering revitalization projects. As you may have seen through the tax credit program, more affluent areas in our state may more easily meet an education excellence criteria for new projects and new developments than may an economically challenged region.

"Because this is part of the reality in trying to address the increasing housing needs in distressed areas of our state, I implore the Board to carefully consider the position that would be conveyed to you by those representing Harlingen. While meeting the education excellence criterion may be challenging while undertaking new projects, it is even more difficult while trying to revitalize existing property."
"By definition, our communities do not have the schools that are supported by property-rich communities. As Harlingen and its team make their case in this appeal, I ask that the Board try to see their application through the eyes of someone else who is trying to meet the affordable housing needs of a community in an economically strained region of our state.

"After hearing their unique situation, I implore the Board to consider the arguments in a favorable light, and assist this community to address their affordable housing needs. It is my understanding that the application is also being denied revitalization points.

"I am informed that the project is supported by a general resolution of support, Resolution R16-3, passed and approved February 3, 2016, in a letter outlining revitalization roles of the City from the City Manager. The property in question has been vacant for some time, and is owned by the City. City officials report that it is a historical site and needs to be preserved.

"The City considers this project necessary to accomplish all the City’s goals regarding this property. Since the City has told me it now and always has deemed this project of highest importance to the revitalization of Harlingen, due to the importance of this project and to the community, I respectfully ask you to consider allowing
the City to rectify this deficiency.

"If the City of Harlingen failed to pass the proper resolution, I respectfully ask the Board to afford them an opportunity to do so especially considering that they have previously submitted to the Board a letter from the City Manager to address this requirement. I thank the Board in advance for your consideration of this appeal.

"And I appreciate any assistance that you may be able to provide my constituents in Harlingen.

Sincerely, Eddie Lucio Jr., State Senator."

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

(No response.)

MR. OXER: Okay. We will need a motion to consider too, before we take public comment.

DR. MUÑOZ: Marni, I understand the boundary argument. Like, where is the language that states that sort of assurance of enrollment?

MS. HOLLOWAY: Assurance of enrollment.

DR. MUÑOZ: You know, where you say that the tenants would be guaranteed admission --

MS. HOLLOWAY: Right.

DR. MUÑOZ: -- into the early college high school program --

MR. OXER: But they wouldn’t be. That is the
point.

DR. MUÑOZ: That is my point. I mean, where do you -- how do you reach that conclusion that it is sort of required that they --

MS. HOLLOWAY: That an application process is required?

MR. OXER: It is a magnet school, it requires an application.

DR. MUÑOZ: No. That is not what I am asking.

MS. HOLLOWAY: I’m sorry.

DR. MUÑOZ: What I am asking is, your interpretation that in order to receive these points, they have to be assured enrollment. You are saying that because in a local school within their zone, they would be guaranteed enrollment.

But in the early college high school program, maybe down the road, they would have to apply, depending on simply seats. Right. Availability. They may not be allowed to enroll. And that is sort of the prohibition --

MS. HOLLOWAY: Correct.

DR. MUÑOZ: -- that denies them the points.

MS. HOLLOWAY: Correct.

DR. MUÑOZ: I just want to be clear.

MS. HOLLOWAY: Okay.

MR. OXER: Okay. Motion to consider.
DR. MUÑOZ: So moved.

MR. OXER: Okay. Motion by Dr. Muñoz to approve staff recommendation on Item 4(b), application 16029. Do I hear a second.

MR. GANN: Second.

MR. OXER: Okay. Second by Mr. Gann. We have public comment. Okay. Cynthia, you know the drill. Sign in. Make sure it is clear. Three minutes.

MS. BAST: Good morning.

MR. OXER: Good morning.

MS. BAST: I am Cynthia Bast of Locke Lord. And I am here representing the Applicant today. I am going to speak on the education excellence issue and others in the group will speak on the community revitalization issue.

First of all, we do appreciate that staff went back and looked at this again, and got from zero points to three points. Because we do think that that "and" should be an "or." And we appreciate that interpretation.

But we still believe that this application should fit within the full five points, and here is why. There are two high schools in the whole city of Harlingen for which students are zoned. There is Harlingen High and Harlingen High South.

Both of those high schools are Improvement
Required schools. Therefore, if you just went with where are the students zoned, no application in Harlingen could ever get five points on this matter. And that goes to your issue, Dr. Muñoz, about how close this competition is.

By statute, and by ISD policy, the high school students in this district can go anywhere. That doesn’t mean that the elementary school students can go anywhere, the middle school students can go anywhere.

But the high school students can go anywhere, which is effectively for the high school purposes a district-wide enrollment. And that has been confirmed by the superintendent and counsel for the City, in documentation that you have in your Board book.

I would also note that on the issue of applications, in the letter from the superintendent dated April 12th, he says, we use an application process to administer the transfers for early college high school and Harlingen School of Health Professions. But the process is not competitive. And so they have given you their understanding that practically in Harlingen, they have a district-wide enrollment.

So we are turning to the QAP, which we must follow. It says that attendance zones do not include schools with a district-wide possibility of enrollment.
That is what we have here on these high schools is a
district-wide possibility of enrollment.

I would note that the Texas Education Agency
ranks the entire district as having met standard with an
Index One 73. So using the early college high school,
which per the questions, is approximately 2.5 miles away,
whereas Harlingen High School is approximately 1.5 miles
away, makes sense for this point item, and is consistent
with the notion that when there is a district-wide
possibility of enrollment, you use a qualifying school
nearby.

So we ask that you accept the input from the
City and the Superintendent that you find in your Board
book as to how their enrollment processes work. So that
this application can receive the full points, five points
for their education excellence. Thank you.

MR. OXER: Thanks. Any questions?

(No response.)

MR. OXER: Okay.

MS. BURCHET: Good morning. My name is Sallie
Burchet with Structure Development. Thank you, Mr. Chair
and Board members for your time.

I am a planner. I did my first downtown
neighborhood plan in 1994 for the City of Round Rock. A
couple of years later, I was fishing for a job for the
City of Austin, and I suggested a plan for downtown for Neighbors.

And the lady laughed in my face, and said no one will ever want to live in downtown Austin. Why would you propose such a thing. She is no longer there. I didn’t get the job either, though.

So by nature and definition, a plan is a long term document, where you have goals and implementation strategies to get there. So as we discussed, a specific project wouldn’t belong in a plan when it is adopted.

It would -- those come along later, as part of the implementation phase. The QAP requires that -- and I will read verbatim, explicitly identified by the city or county as contributing most significantly to the concerted revitalization efforts. We have a letter from the City.

A city is not capitalized. It is not a defined term. The letter is from the City Manager who, if you look at the charter for the City of Harlingen, is the Chief Administrative Officer. And I feel like we have met that item.

The QAP also says that a resolution that approve the plan is required. We have a resolution that approves the plan in 2015. It is number 16. And then we also, of course, have the resolution supporting the project that was done in 2016.
And so in essence, we have met the language of the QAP, and it has been explicitly identified by the city, little case C, as contributing most significantly.

There is another section in the QAP that says only one project can be identified. There are no other projects in Harlingen. I think that is an important case to make.

So in conclusion, we feel like we have met the intent and letter in law for the six CRP points. Thank you.

MR. OXER: Okay. Thank you, Sallie. Any questions of the Board?

(No response.)

MR. OXER: I have a quick -- before we have our next comment, I have a quick question for Marni.

MS. HOLLOWAY: Uh-huh.

MR. OXER: The resolutions that Sallie just referred to apparently don’t meet the requirement?

MS. HOLLOWAY: The other resolutions would be the local governmental support resolution. And I am assuming local political subdivision financial support. So those are separate resolutions that don’t address the concerted revitalization plan.

MR. OXER: Okay.

MS. HOLLOWAY: Would you like me to read you
that entire two-point scoring item?

MR. OXER: Yes.

MS. HOLLOWAY: Okay. "Applications may receive two points in addition to those under Subclause I, which is the four points of this clause, if the development is explicitly identified by the city or county as contributing most significantly to the concerned revitalization efforts of this city or county as applicable.

"A city or county may only identify one single development during each application round for the additional points under this subclause. A resolution from the governing body of the city or county that approved the plan is required to be submitted in the application. This resolution is not required at preapplication.

"Applications submitting resolutions under this subclause from the same governing body -- or, if more than one, if multiple application" -- I’m sorry. "If multiple applications submit resolutions under this subclause from the same governing body, none of the applications shall be eligible for additional points.

"A city or county may, but is not required to identify a particular application as contributing most significantly to concerted revitalization efforts." That is that scoring item in total.
MR. OXER: So we are essentially saying there has to be a concerted revitalization plan?

MS. HOLLOWAY: Yes.

MR. OXER: That is the resolution that is out -- there has to be something that supports this area of the resolution that is out. And then there has to be something that says the local subdivision, the local government says this particular project, whichever they identify contributes most to that. And that is the one. So what we are really doing is avoiding refereeing a local cat fight. So they can pick out the one that they want to have. We don’t have to decide.

MS. HOLLOWAY: Exactly.

MR. OXER: Okay.

MS. BINGHAM ESCAREÑO: So Mr. Chair, I have a question then. In the Board packet, so check on the resolution of the revitalization plan. Right? That looks like that is in --

MS. HOLLOWAY: Right. So there was -- the resolution adopting the plan actually really acts as a threshold item.

MS. BINGHAM ESCAREÑO: I’ve got you.

MS. HOLLOWAY: To be able to consider concerted revitalization. The four points item is about a letter from a local governmental official saying, these are the
things that we have already done under the plan.

This is the money that we have invested. So that as you have directed in the past, we are not the first money in.

MR. OXER: We are not putting in the first money.

MS. HOLLOWAY: Right.

MS. BINGHAM ESCAREÑO: I’ve got you.

MS. HOLLOWAY: So the four-point item is not under question at all. Just those two.

MS. BINGHAM ESCAREÑO: And then just another question. So then the letter from the City Manager --

MS. HOLLOWAY: Uh-huh.

MS. BINGHAM ESCAREÑO: So what I hear Sallie saying is, that they believe they satisfy the requirement for the other two points, because the language said "by city or county," that identifies the development as a significant -- "explicitly identifies the development as significant to the revitalization plan."

MS. HOLLOWAY: So the language that I just read to you, that started out with the explicit, talks about "explicitly identified," and then continued on to resolution. That is all one scoring item. So it is all -- it is taken in its entirety. So that is where staff is coming from with that.
MS. BINGHAM ESCAREÑO: So staff’s position is the City Manager does not represent the City? But having communication from the City --

MS. HOLLOWAY: It is our understanding that a resolution can replace a letter. But a letter can’t replace a resolution. A resolution is an action by the governing body.

MS. BINGHAM ESCAREÑO: I thought when you read -- okay.

MR. OXER: That is --

MS. BINGHAM ESCAREÑO: I thought you read that it could be a letter.

MS. HOLLOWAY: No.

MR. OXER: That is the other one.

MR. IRVINE: We believe that the totality of the language addressing that additional narrow item, scoring for identifying this as the most important revitalization deal to that city is something that the language specifies, must be accomplished by resolution.

MS. HOLLOWAY: By resolution.

MS. BINGHAM ESCAREÑO: Okay.

MR. OXER: So it is not an administrative action. It is essentially legislative.

MS. HOLLOWAY: There absolutely is a letter.

MR. OXER: So it represents the community as
opposed to the city management.

MS. HOLLOWAY: There absolutely is a letter from the City Manager. There is not a resolution from the governing board.

MR. OXER: Is that clear what the difference is?

MS. BINGHAM ESCAREÑO: I am not sure. But I will look at it. I will look at the language. It is -- unfortunately, I drive past that area every day. And there is no doubt that that is smack in the middle of a very concentrated downtown area that there is clear that there is a resolution -- that there is a revitalization plan.

MR. OXER: Well, I mean it is clear that --

MS. BINGHAM ESCAREÑO: So I mean, it sounds like a technicality to me. But I understand.

MR. OXER: We, you know, choked on technicalities before. And that is why I was trying to make sure that we --

MS. BINGHAM ESCAREÑO: I’ve got you.

MR. OXER: Try to hold the rule, maintain the integrity of the rule, while exercising limited and light discretion in terms of when to lift those rules. But it seems pretty clear. That the resolution -- because we went through this a couple of years ago, on the
redevelopment plans. Yes. Okay. So there is a
redevelopment plan in place. They spent money going into
it. And what we were really looking for on this is not an
administrative -- not a letter from the administrative
management of the community, which is what the city
manager is, but essentially, a resolution by the governing
body of the local community that says this is the number
one --

MS. HOLLOWAY: Exactly.

MR. OXER: -- item with respect to that aspect
of it. The housing -- do you have a contribution to make,
there? Yes. Okay.

DR. MUÑOZ: I do.

MR. OXER: Okay. Dr. Muñoz.

DR. MUÑOZ: Marni, I want to get back to
education.

MS. HOLLOWAY: Okay.

DR. MUÑOZ: Okay.

MR. OXER: It is this thing with him. You
know.

MS. HOLLOWAY: You know, that is fine.

DR. MUÑOZ: I am having -- I made the motion.

But I am telling you, I having some trouble.

MS. HOLLOWAY: Okay.

DR. MUÑOZ: Okay. Cynthia, can I ask you to
come back up here for a second. Do you know something
about these schools?

MS. BAST: I know what has been represented in
the Board book. I have not independently done any due
diligence.

DR. MUÑOZ: Here is my challenge. So you know,
we are talking about sort of early college high school
programs and magnet programs as if they are the same
thing.

Early college high school programs can be more
generic. You enroll. And there is an offering of a
certain menu of courses for which you could be -- you
receive dual credit, high school and college. Right.

Some of them are themed, right. So that they
can be focusing on STEM, Science Technology, et cetera.
Some of them are not. They may just offer a palette of
courses.

I mean, the point that I think staff is making
is, you know, an application process to help administer --
to me is not a selective process. And I mean, that is
what the issue is.

If these kids apply, are they going to get in.
I mean, that is what the issue is. If these kids apply,
are they going to get in? Period.

Or, I mean, is it a matter of an impacted
campus, a congested campus? Is there a limit of the number of courses for which dual credit could be -- would be assigned.

Do they have to be assigned in this early college program into a particular track for which there are limited seats? In which case, it is selective. Because they could say I want to go, and I want to be in this track, but there is no room for me.

And that is the point, right? But if that is not the case, then I feel sort of differently about it, and they might as well. I am just trying to get some clarity.

Because I know something about early college high school programs. And typically, you can enroll. It doesn’t really happen, because there are issues of geography, space, distance. Theoretically, you can, and some do.

If there is some kind of prohibition because of capacity, availability, et cetera, be it instructors at this school that have the credentials to teach the courses, et cetera, then you know, then I agree with the staff position. If that is not the case, now is the time to say so.

MS. HOLLOWAY: And I understand, I understand your point. What I understand from the correspondence
with the superintendent, and there are those on the team who have had discussions with the superintendent is that capacity at early college high school is not at issue. So again, that practically makes it available. They don’t have a crowding issue and numbers issue. As to the curriculum, I can’t speak. But there are people here from the City of Harlingen. They may be able to speak better than I can to the actual curriculum at early college high school.

I know there is also a school for health professions. So there is a distinct track high school as well. But I don’t have a handle myself on the curriculum for early college high school.

MR. OXER: That answers your question from her. But it just doesn’t answer the question. And I’ve got to -- hold on a second.

Because I am not looking for an answer from the City. I am looking for an answer from the superintendent. Okay. Because anything they are going to say is going to be secondhand in the first place.

MS. HOLLOWAY: Would it be feasible, if we can’t respond to that question today --

MR. OXER: Well, that is what I was trying --

MS. HOLLOWAY: I was going to say.

MR. OXER: Marni, come up.
MS. HOLLOWAY: Would it be possible to bring you information on that, from the superintendent?

DR. MUÑOZ: Hey, Marni -- yes.

MR. OXER: Here is what I am looking for. Is, what is the damage we are going to do if we pull this off to the next meeting. Because we are going to have the next meeting in six weeks, two weeks.

MS. HOLLOWAY: Two weeks.

MR. OXER: Basically in two weeks.

MS. HOLLOWAY: We absolutely could do that. And as I mentioned at the beginning of this item, there are some other issues that come up. In part, if this application loses two points under educational excellence and there is an impact on their historic preservation score.

MR. OXER: All right.

MS. HOLLOWAY: That information is not included in your book. But if I may, while it is still fresh in my mind, on the magnet school question, opening up to magnet schools would create quite an issue for us this year.

Number one, because a lot of places would have used a magnet school in scoring, had they had that possibility. The other thing I would point out is that frequently magnets -- there are a number of magnet schools that are just for girls or just for boys. So what do we
do with those.

MR. OXER: Yes.

MS. HOLLOWAY: What do we do with --

MR. OXER: So there’s girls and there’s boys --

MS. HOLLOWAY: Yes. With ones that are you know, for very high academic ratings.

DR. MUÑOZ: Single gender.

MS. HOLLOWAY: I mean, I think that it is a conversation that we could have. But this year, it would -- I just wanted to point that out.

MR. OXER: All right. Here is the Chair’s recommendation. And I think I can offer this up as a concept.

If Dr. Muñoz and Mr. Gann would be willing to rescind their second and their motion, I think we ought to consider tabling this until the next meeting. And have somebody here from down there, that can give us these answers. And some documentation.

Not just bring somebody who can talk about it, but get some documentation we can add to the file that supports what we are -- if somebody can come up here and provide documentation to answer Dr. Muñoz’ questions. Do you know what I mean.

DR. MUÑOZ: One way or the other.

MR. OXER: Yes. One way or the other. And we
will go up or down on the next one.

    MR. GANN: That is fine.

    MR. OXER: Does that function?

    DR. MUÑOZ: Yes, sir.

    MR. OXER: How are we doing there, Counselor?

    MR. ECCLES: I think it is fine, certainly, to withdraw the motion and to table this until the next Board meeting. But I would like to just kind of dovetail on something that Marni said.

        It is more than just, that it would cause problems to consider magnet schools. The underlying concept that comes up with areas of opportunity and how educational excellence factors into the area, and then we talk about primary attendance zones. And then you overlay what is choice districts that come about when schools don’t make their Meets Standards rating.

        What frequently then happens is, you go into, under TEA rules and policy, that those who live in the primary attendance zone of the school that does not meet standards have the choice to go to another school that does meet standards. And here is the caveat that we don’t talk about. Until that school meets its capacity.

        When they are full, they will no longer take students who are seeking to come in. So even if there is an opportunity to transfer, even if there is capacity
right now at a school that does meet standards, whether it is a magnet school, whether it is an early college school, it is just a school that does meet standards.

When they hit their capacity, they will have to go somewhere else, if they are not in the primary attendance zone. And that is where the problems come in, when we are talking about -- when we are getting into talking about sort of educational policy and developments that are going to live 30 and 40 years.

MR. OXER: Okay. Here is what I suggest to the Board that we consider doing is, we will withdraw the motions, withdraw the second. Withdraw the motion. Table this to the next meeting.

We will spend our time -- we’ve got a few weeks. We can do our homework as Board members, to make sure we are perfectly clear on this.

Withdrawing this, is no guarantee it is going to go up or down. It just means that you are giving it a second shot to get the information to us, so we can consider this.

We’ll look at the options that exist after that. And then we’ll take it up on June 16. Okay.

MS. HOLLOWAY: Okay.

DR. MUÑOZ: I think, just one observation for the delegation. I think I complete agree with
counsel’s --

MR. OXER:  Perspective.

DR. MUÑOZ: -- perspective. And just an observation about what happens once this campus becomes impacted.

MR. OXER: Because this is a very important aspect of what we are trying to do. And those of you who have been following the adventures in our litigation will recognize that we have been -- had an admonition to look at high opportunity areas that provide good schools.

So the concept of school excellence, and where we provide these developments is a critical component of what we have to consider. And while I am entirely sensitive and completely agree with the need that this particular area needs all the educational excellence, it needs the housing we provide. We are still under a mandate to provide these points.

Because if it doesn’t go to you, it goes to somebody else who does meet that standard. And so one of my constant admonitions on this thing is, don’t try to move somewhere. Try to fix the schools.

And that is -- I know you can’t do that in this application. We understand that. But that is the direction we ought -- that I personally think we ought to be heading.
Make this available to all parts of the state.

That said, we do operate under the QAP as it currently exists. So with that, Mr. Gann and Dr. Muñoz will you consider withdrawing your second and your motion?

DR. MUÑOZ: Withdrawn.

MR. GANN: Withdrawn.

MR. OXER: Okay. They withdraw their second and their motion. Keep that on while we are talking. So then we will consider a motion to table.

I will accept your motion to do so and your second to do so to table until the next meeting, and consider this application in the next meeting on June 16th. Michael?

MR. LYTTLE: Yes.

MR. OXER: June 16th. On Michael’s birthday.

MR. LYTTLE: That is correct.

MS. HOLLOWAY: We should all wear hats.

MR. OXER: We should have Captain Tweety hats.

DR. MUÑOZ: Do we need a motion to table now?

Motion to table.

MR. OXER: I think we have to have a motion to table this item until the next meeting.

DR. MUÑOZ: Motion to table.

MR. OXER: Okay.
MR. GANN: Second.

MR. OXER: Motion by Dr. Muñoz to table this item. Second by Mr. Gann. Anybody else want to say anything else?

(No response.)

MR. OXER: Good plan. Okay. Motion by Dr. Muñoz. Second by Mr. Gann to table this item to the June 16th meeting. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. All right. Here is what we are going to do, because this is an item that we have to take up.

We are going to move to Executive Session here, just for a brief Executive Session. You guys get to take a little time out. Everybody -- sit still. You guys know better. Cynthia, you know better than that.

MS. BAST: Sorry.

MR. OXER: All right. The Governing Board of the Texas Department of Housing and Community Affairs will go into closed or Executive Session at this time.

The Board may go into Executive Session pursuant to Texas Government Code 551.074 for the purposes of discussing personnel matters. Pursuant to Texas
Government Code Paragraph 551.071 to seek and receive legal advice from its attorney, and that would be him.

Pursuant to Texas Government Code Paragraph 551.072 to deliberate the possible purchase, sale, exchange or lease of real estate. And/or pursuant to Texas Government Code Paragraph 2306.039(c) to discuss issues related to fraud, waste or abuse with the Department’s Internal Audit or fraud prevention coordinator or ethics advisor.

Closed session will be held in the anteroom of this room, JHR 140. Today is May 26th, and the time is 11:27.

This is going to be a short one, because we’ve got things we need to get out of the way. Counsel just said that he will make it quick, fast and painlessly short. So we will be back here -- plan to be back in our seats at 12:00 noon. Thanks.

(Whereupon, the Board recessed into Executive Session at 11:27 a.m.)

MR. OXER: Okay. The Board is now reconvened in open session at 12 o’clock straight up. How about that for timing. 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.

Okay. Now we’re on 4(b). I think Marni’s
still in the box here.

MS. HOLLOWAY: All right. Item 4(b), application number 16130, presentation, discussion, and possible action on timely filed scoring notice appeal under the Department’s multifamily program rule.

This application is for the Cottages at San Saba. This is the issue that the representative addressed when he spoke with you earlier this morning.

Staff has determined that the property described in site-control documents submitted at preapplication is for an entirely different site than submitted at full application and not within the tolerances allowed under 11.9(e)(3), preapplication participation requirements for sites that move within a larger tract, because the larger tract was not identified at preapplication.

So that’s the 80 acres that the representative mentioned. The Cottages at San Saba application proposes new construction of 36 units to serve the general population in San Saba, Texas.

At preapplication the applicant submitted site-control documentation indicating the development would be built on a five-acre parcel that is part of an 18.6-acre tract.

The documentation submitted with the full
application indicates that the applicant plans to construct the development on a 4.06-acre parcel that is part of a 41.91-acre tract. The 4.06-acre tract is not within the 18.6 acre-tract submitted with the preapplication, and therefore the applicant does not meet requirements for six points under the preapplication participation.

There are two property contracts -- so you saw the drawing earlier, and it’s part of your supplemental board book. There are two purchase agreement that we received -- one at preapplication and one at full application -- that I think this is not a clerical error.

Let me read to you: On the application that was received at preapp, it says, the southwest corner five, (5) acres out of an 18.6-acre tract owned by the City of San Saba. At full application, we received the northwest corner, 4.06 acres out of an 80.65-acre tract.

MR. OXER: So that’s five out of 18 or four-point-something out of 86. Is that right?

MS. HOLLOWAY: So it’s five out of 18 and then 4.06 out of 80.

MR. OXER: That seems a little divergent.

MS. HOLLOWAY: These are two different legal descriptions.

MR. OXER: Okay. What are the metes and bounds
on this? Describe each of the -- are any of you here? Can you describe the metes and bounds? Okay. We will get to you in a minute. Marni, go ahead.

MS. HOLLOWAY: Staff is recommending denial of the appeal on the basis of these are two different pieces of property, between preapplication and full application.

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

DR. MUÑOZ: So, Marni, I am looking at the map on this, at 117 out of 215 in the supplemental Board. And just -- I want to make sure that the -- sort of the approximate site depicted in the preapp site was in that 18.6-acre tract.

MS. HOLLOWAY: Correct.

MS. HOLLOWAY: And then the new site is an entirely separate --

MS. HOLLOWAY: Yes.

DR. MUÑOZ: And the site control for the new tract of land was not provided in the preapplication.

MS. HOLLOWAY: Correct.

DR. MUÑOZ: And so we are considering an entirely original location from what was in the preapp for which points was assigned.

MS. HOLLOWAY: Yes. That is staff’s assessment.

MR. OXER: Okay. There is a piece of property
in there.

   MS. HOLLOWAY: Right.

MR. OXER: They said, we are going to start
with this piece inside that.

   MS. HOLLOWAY: Uh-huh.

MR. OXER: And the new piece, when you went to
the full application, is it in that same block to start
with?

   MS. HOLLOWAY: No. So originally at
preapplication, so -- there is the big 80-acre piece --

   MR. OXER: I know. So the answer is no.

   MS. HOLLOWAY: Yes.

   MR. OXER: Okay. Is it adjacent to that
property?

   MS. HOLLOWAY: No.

   MR. OXER: Okay. Is it near that property?

   MS. HOLLOWAY: It is all within the same 80-
acre parcel that has been divided into two tracts.

   MR. OXER: Okay.

   MS. HOLLOWAY: One is the 18, one is the 40.

   At preapp, we got a little piece of the 18. At full app,
we got a little piece of the 41. So it is two different
tracts.

   DR. MUÑOZ: Hey Marni, when you say two
different tracts --
MS. HOLLOWAY: Uh-huh.

DR. MUÑOZ: Who has divided that? Is that your definition or --

MS. HOLLOWAY: That is a legal description. So the City of San Saba does own all of that property. At issue is not -- the requirement is not from the same seller. The requirement is the same property.

MR. OXER: Right. The same site, the same location. Because the site conditions and terms of the development and the civil -- basically, the horizontal engineering are contingent upon the site, not the owner.

MS. HOLLOWAY: Uh-huh.

MR. OXER: Okay. So with respect to the question that I had on page 117 of the supplement, for those of you who wish to look, right. That is the difference. Okay. Any questions from the Board?

(No response.)

MR. OXER: I will have a motion to consider.

DR. MUÑOZ: Move staff recommendation.

MR. GOODWIN: Second.

MR. OXER: Okay. Motion by Dr. Muñoz to approve staff recommendation on Item 4(b), application 16130. Second by Mr. Goodwin.

It looks like we have a little public comment here. From the aisle out, you are first. Remember to put

ON THE RECORD REPORTING
(512) 450-0342
your name clearly, so that we can identify it for the
transcript. Let us know who you are, and let us know who
you represent and have at it.

MR. MAYFIELD: Thank you, Mr. Chairman, and
members of the Board. My name is Mark Mayfield. I work
with the Texas Housing Foundation.

We are a regional public housing authority, and
we work in communities across the state under agreement --
cooperative agreement with states [sic] that are outside
of our jurisdiction. Our jurisdiction is Burnet, Blanco,
and Llano Counties, but we work with multiple communities
across the state under agreement as we have working right
now at the City of Lamesa, and meeting with Don Bethel
multiple times, and had an application pending there
through the Texas Housing Foundation.

Accordingly, began to work with the City of San
Saba back in 2013. In order for a housing authority
outside of our jurisdiction -- according to Texas
Government Code, we have to have a resolution passed and
an authorizing cooperative agreement for us to even apply
within these communities. San Saba, as Representative
Sheffield spoke of, is a vibrant little rural community,
in very dire need of workforce housing in that community,
and that is what we were trying to do. Our model is to
work with these communities in private public
partnerships.

That is what we do as a public body working with the private developers across the state. Trying to meet the ever-growing demand in rural communities. And I can tell you, it is becoming very difficult to do it, even as a public housing authority.

But San Saba has stepped up to the plate. And you know, they have a tract of land out west of their community that is an 80.65-acre tract of land. That it has been the goal of that community to develop that site with workforce housing from the get-go.

And this property that we have, the City Manager of San Saba is going to be here to speak of it. This is all or in part of an 80.65-acre tract. It has been like that since this started. The census tract has not changed. The address has not changed.

In preapplication, it was 206 Harkey Street. And the full app is 206 Harkey Street. The part of that 80.65 acres, and there is a copy of a memo, I believe, in your packet from a surveyor out there that engineer that spoke about that it is all a part of that 80.65 acres, which is a requirement under the QAP.

So I would -- losing this six points deems this application non-competitive. This will just kill it. And we would absolutely hate this. We have been working on
this since 2013.

And the City of San Saba, the city manager is here. And he is going to speak. He is the one that actually signed the role of state contract in the first place.

MR. WEIK: My name is Stan Weik. And I am the City Manager for the City of San Saba. Mr. Chairman, distinguished members of the Commission, I want to thank you for allowing us to come and ask to consider granting us those points.

I think it is -- I am not going to go through all and tell you how great San Saba is, and how we have turned the corner in economic development. Because I think if you have been through there, you know that.

What we do have is the need for affordable housing for working men and women. We have a new nursing home that is opening up, that would create up to 65 to 70 jobs. And these people are going to have to drive 80 miles a day to and from work, because there is not adequate housing for working men and women in San Saba.

We have done a lot of good about creating jobs. We have not done a good job of creating the housing. And that is what we need. We need housing.

How did this error take place? Well, I am not perfectly sure how it took place. But I do know, I
believe that what took place is somebody is sitting in Marble Falls, Texas, is on the phone, with our City Secretary. And they are both looking at Google Earth. And the City of San Saba has some old plats laying around. And somebody faxes a plat to somebody.

And they are looking at it. And on that plat, that shows 80 acres. It also shows the potential of subdividing one of those acres. And they go down, and somebody puts an X on a piece of property which is included in the 80 acres.

And we assign the address of this plot of land, 206 North Harkey Street. And that 602 North Harkey Street cannot be identified on Google Map at the current location. Because it can’t pick it up, either. And so the wrong X was put on the wrong deal.

But the truth of the matter is, the City of San Saba has owned 80 acres out there. And we have been planning on developing it in the site that we were going to develop and sell. The 206 North Harkey, that site never changed from the very beginning.

At no point in time did anyone or any clerk, or the City, or the other organization attempt to defraud, to gain anything by the mistake. If the site that was originally X’ed on the application was in fact the site, all the points would have been awarded.
So if we said, well, we will just go ahead and sell you that piece of land. I mean, we can’t now, because they will take the points off. But if we did, we would’ve got those points. So there was no deception there.

There was no harm, no foul, except somebody put an X in the wrong spot. And the Texas Housing Foundation, they are not going to suffer from this mistake. The citizens and the working men and women in the City of San Saba are going to suffer if we are denied those six points.

Now, no mistake. The spirit of the rule has not been violated by this application. I understand laws. I understand ordinances. It is my job to enforce the ordinances of my City Council. And I need to quit talking?

MR. OXER: That is three minutes. Summarize.
MR. WEIK: Okay. And so I understand enforcing it. But I just don’t understand the rules, laws have a spirit that is behind them. And the spirit of this rule was that somebody didn’t do a bait and switch on you. I can stand on that tract of land, and pick a rock up and throw it to where the other one was. It is not like it is across town. It is right there. There was no bait and switch. There was no switching. And so I would really
like for you to consider and grant us those six points.

Thank you for your time, Mr. Chairman.

MR. OXER: I appreciate your comments. Do you have a comment?

MR. GUIDROZ: No, sir. I feel that --

MR. OXER: Can everybody hear Anthony. Don’t talk unless you want to go up to the mic. But it is yes or no. Do you have a comment?

MR. GUIDROZ: I am Tony Guidroz, Director of Economic Development, Tourism and Marketing for the City of San Saba, Texas. And I really feel that Representative Sheffield and City Manager Stan Weik really said that there is to say, except for the fact that that is one contiguous piece of land.

MR. OXER: Right.

MR. GUIDROZ: And if you were standing on that property with me in San Saba, Texas, you could see that. And that you could throw a rock from the one piece that was erroneously marked on the application over to the piece where it was actually supposed to be set. And see that it is just one single piece of land. And with all of the jobs being created and the progress that we are making in San Saba, Texas, it is really vital for our citizens and people coming to work that we do have adequate housing.
And the issue is at this point, is if we don’t have this opportunity right now to have this housing, you know, we miss the opportunity to grow. Our rural community of San Saba, to offer more for people that want to retire. It is quality of life, and so many other issues that are affected by not having the opportunity to have this housing here.

As the Representative first stated, it is a situation where you are not going to have a major builder that is going to come into town and build a new subdivision, because they don’t feel that they can recoup their money. But with these tax credits and the points, and this type of program, that is what San Saba really would thrive with. But I thank you so much for your time.

MR. OXER: You are welcome for that. And we appreciate your comments. I would point out to everybody, and we haven’t had a single applicant here who came to us and said, we don’t really need your money. We will just talk about our project.

MR. GUIDROZ: Absolutely.

MR. OXER: I will assume that everybody here is more or less in the same circumstances that they need the money to make their project work. So while I appreciate your thought, we are not evaluating the need for San Saba. We are evaluating your application.

MR. OXER: Thanks.

DR. MUÑOZ: Yes. Marni, I’ve got a question. And again, I think everybody obviously understands the need and the desire to help facilitate affordable housing in San Saba, and in other areas.

But here is my question, because what I have heard repeatedly is somebody simply misapplied an X on a map. And what I am reading in our response is that the 18.6-acre tract of land is part of this larger tract. But this larger tract and site control of that larger tract was not provided in preapplication as is required.

MS. HOLLOWAY: Yes.

DR. MUÑOZ: And that the new acreage, the new --

MR. OXER: The currently defined acreage.

DR. MUÑOZ: The currently defined was not part of the 18 acres for which documentation was provided in the preapplication.

MS. HOLLOWAY: That is correct.

DR. MUÑOZ: So --

MR. OXER: Stay right there.

DR. MUÑOZ: Because again, you know --

MR. OXER: Mark.

DR. MUÑOZ: What we are hearing is somebody put
the X on the wrong place on this sort of you know, plot
graphic, plot graphic.

MS. HOLLOWAY: And I would add that --

MR. OXER: That is all right, Mark. Stay up
there.

MS. HOLLOWAY: The description changed in the
purchase agreement between the preapplication and the full
application. So that to me, says yes, there definitely
was a change there.

MR. OXER: I am willing to sort of go out on a
limb here, and bet there wasn’t a second application in
San Saba.

MS. HOLLOWAY: No.

MR. OXER: Okay. So that means, that someplace
else, there is another application behind this that is
going to be -- were they not to get these points, they are
going to be more or less out of the running. And just
because of the highly competitive nature of this program,
the points are not going to be lost.

Somebody is not going to be lost and go to
someplace else. But the question that I have, Mark, is
how do you get around what the QAP says?

MR. MAYFIELD: Well, the 18 acres that was
mentioned is a part of that 80.65-acre tract. The 80.65-
acre tract has never been in question.
MR. OXER: But that is not the -- that is not the part of the property that was defined as the Applicant’s -- the location for the project.

MR. MAYFIELD: Well, according to our development partner, the final legal description is not required at preapp. But it cannot change from the -- it has to be all or in part of what the original was. And the tract, the 4.06 acres --

MR. OXER: Do we have a citation on that, Counselor? All right. Go ahead, Mark.

MR. ECCLES: I do, actually.

MR. MAYFIELD: It is all, or it has been done.

MR. OXER: Hold on a second.

MR. MAYFIELD: Mark’s trying to be an attorney.

MR. ECCLES: QAP 11.9(e)(3)(f), the development site at application is at least in part the development site at preapplication. And the census tract number listed at preapplication is the same at application. And development site is a term that is defined in 10 TAC 10.2. I’m sorry, 10.3, "Definitions, Sub 41 as the area or a scattered site areas on which the development is proposed and to be encumbered by a LURA." So it is not just the broad site.

MR. OXER: So it is not just the 80 acres. It is the part of this that you are going to have in this 40-
year LURA, essentially, that restricts that. So if you are -- for whatever piece of that property, irrespective of how we identify it now, but if it is the one with the X, or if it is the other one that was the actual property that you are looking at, that means the rest of the property is not restricted by a LURA. Is that correct, Counsel?

MR. ECCLES: That's correct.

MR. OXER: So it has to -- and you are absolutely correct. It is the same address. The same location. The same 80 acres. But it is not the piece that would be restricted by the Land Use Restriction Agreement. That is what we are trying to key in on, and make sure that we've got that right. Because that is a -- from a -- correct me, Counsel. But from an administration, a legal administration of this program, that is a key component of how this is managed in the process going forward.

That is why it is critical to be considered at this point in the application. So while we agree with you, it is the same census tract, the same general larger tract, all of those things, it is not the piece that would be restricted by the LURA. Do you see what I mean?

MR. MAYFIELD: No, sir. I don't. I mean, I --

MR. OXER: Are one of you guys over here a
lawyer?

MR. MAYFIELD: No. I mean, it is really pretty sad --

MR. OXER: Actually, that is maybe in your favor in this case.

MR. MAYFIELD: -- that it takes a lawyer to, you know. That is -- but it is what it is.

MR. OXER: No. I think we’ve got plenty of lawyers. They don’t.

MR. MAYFIELD: I mean, we try to put the housing on the ground. It is all we can do. You know, I mean --

MR. OXER: And while I understand that, we have a -- don’t misunderstand. We are sensitive to your -- to the efforts that everybody makes in these applications. They are not cheap, they are very detailed. And it is the fact that it is so competitive is why we wind up making it so detailed, and why details were critical.

MR. MAYFIELD: It is becoming impossible, just about.

MR. OXER: Well, I understand your point.

MR. MAYFIELD: Especially for public bodies that are --

MR. OXER: We accept the point. I accept your comment. You know, it is extraordinarily difficult. This
is not easy. And we are the ones that made it hard, okay.

MR. MAYFIELD: Rural Texas really hurts by it.

MR. OXER: Rural Texas suffers from this program.

MR. MAYFIELD: It sure does.

MR. OXER: Suffers from the requirements that are necessary to get a successful project in this program. But you know, at this point, on this round, at this point in the round, I am not sure I can do a whole lot about that, apart from trying to do something to accommodate the more diverse needs in rural Texas.

It is not -- it’s no secret this is hard to do. Okay. All right. Sign in. Tell us who you are.

MS. JUNGQUIST: I am Kim Jungquist.

MR. OXER: That will bend down. You don’t have to stand on your tiptoes.

MS. JUNGQUIST: Thank you. Kim Jungquist from Hamilton Valley Management, and I represent the folks that put the application together. And I think I can shed a little light on why the mistake was made.

MR. OXER: And while we appreciate that the mistake was made and there may be a reason for it, the issue is that the mistake was made.

MS. JUNGQUIST: Well, not really, because --

MR. OXER: Yes, really. Trust me. Really.

ON THE RECORD REPORTING
(512) 450-0342
MS. JUNGQUIST: The address stayed the same. The intent was the same. What happened was at preapp we’re not required to have our formal survey -- boundary survey yet, so we really don’t have a formal legal description. But the address was the same. It was designated by the City to us, and so that is what we used. We got a fax of a plat that was several years old, that they had -- the City being they -- had looked at several years ago selling off a piece. It’s never been separated; it wasn’t platted or anything. It was just you know, an idea. That’s all we had to go on.

And on the phone with the secretary, it was like the bottom left corner. So that’s how it got X’d. But it was not --

MR. OXER: So it was actually the bottom left corner of the other half.

MS. JUNGQUIST: -- 80 acres.

MR. OXER: Right.

MS. JUNGQUIST: Right, right. But unfortunately the plat we had that was an old plat --

MR. OXER: Didn’t show the separation with the street down the middle.

MS. JUNGQUIST: Do what?

MR. OXER: It did not show the separation with the street that’s marked down the middle.
MS. JUNGQUIST: I don’t know. It was just --

DR. MUÑOZ: We are looking at an updated one
that has it.

MR. OXER: Yes. We are looking at an updated
edition that shows it on there.

MS. JUNGQUIST: Yes. We got -- well, after
preapp, we ordered the full survey. We got that. We got
the actual legal description and talked with the surveyor.

That 18 acres, and 41 and all of that has never
been separated out; it was just an old plat that they had
come up with several years ago.

DR. MUÑOZ: Can I ask a question? I’m sorry
for the interruption.

MS. JUNGQUIST: Sure.

DR. MUÑOZ: But I hear you saying it was never
separated and legally defined. And Marni just a few
minutes ago indicated that these are legally defined.

MS. JUNGQUIST: No.

DR. MUÑOZ: Well, you’re going like this.

MS. JUNGQUIST: No, they weren’t. And the
surveyor attested to that in his email. To let you all
know that it was always the 80.

DR. MUÑOZ: Marni --

MS. JUNGQUIST: Originally -- I’m sorry. There
have been a few little pieces sold off, and those have
been platted out separately. But --

DR. MUÑOZ: Well, you heard her say a few minutes ago, that these are legally defined sections. Right?

MS. JUNGQUIST: I heard her say that, but they’re not.

DR. MUÑOZ: Okay. Okay.

MS. JUNGQUIST: It was just an old plat that they had come up with, they thought about selling several years ago. And that is where we -- it just accidentally got typed in, the 18, because that is what we saw. And we were not required to have the actual legal description at preapp. But an address, yes, we had. And so once we got the formal survey, we knew exactly where the piece was.

And the city, the surveyor, the construction, and the developer all went out one day and chose exactly where that piece was going to be. We knew it would be up to five acres. And then the surveyor got busy and surveyed off the piece. So it was always, always in that same area. It wasn’t separated.

You can see our frustration in here. It is just --

MR. OXER: Well, I mean, it is -- I understand your frustration. Understand our frustration.
MS. JUNGQUIST: I do.

MR. OXER: Because we are trying to make sure, you know, there is a certain benefit that you, and you too, Mark, enjoy by recognizing that we will -- but these are our transparent rules. We are trying to -- I mean, there is not a whole lot of discretion that we apply. Okay.

And these were written specifically for that purpose, to try and limit the amount of discretion. So it is clear what has to happen. So in matters like this, which I recognize are compounding your frustration, you know.

We are trying to figure out how to do this. We are not opposed to it. We are trying -- I am trying to figure out how to make sure we can get you what you want while we maintain the integrity of our rule. Get it?

MS. JUNGQUIST: I understand. I have seen you all go around it a little bit to help people. So you know, if you have --

MR. OXER: We grind things pretty fine up here.

Okay.

MS. JUNGQUIST: Sure. Absolutely.

DR. MUÑOZ: Marni, do you have any comment on this sort of this kind of legal definition point?

MS. HOLLOWAY: We have actually received a
number of drawings. There is a drawing with the X on it that you have seen. We have also received a survey plat of two tracts that the 80 acres is one of those tracts. That survey tract that we have received --

VOICE: This is the property. It’s right there.

MS. HOLLOWAY: Yes. I understand -- is actually much older than this more current drawing in that the older -- this other drawing doesn’t seem to indicate some further subdivision. I have actually looked at this site. I was out there this past Friday.

It is actually -- it is a lovely place. It is green, and wildflowers and everything. Driving down Harkey Road, which is not on Google, but I found it anyway, it -- on that road, it is very clear to me where the two sites are, and, yes, you could probably throw a rock if you have a good arm. But they are two very distinct different sites.

We also have purchase contract that says the northwest corner, 4.06 acres out of the 80.65-acre tract. And we have another one that says southwest corner, five acres out of 18.6 tract.

MR. OXER: Is the -- well, is the 18 acres part of the 80?

MS. HOLLOWAY: Uh-huh.
MR. OXER: Okay. So it is like 80 acres, down to the 18, down to the five. It was really down to the 18. It was over here on the other part of the 80, is what it appears to be.

MS. HOLLOWAY: Uh-huh.

MR. OXER: Okay. So the difference between the application stage, or the preapplication and the application stage, if you’ve got it, within the 80 acres -- if you got it within the 80 acres --

MS. HOLLOWAY: So you know, if at preapplication, they had said the southwest corner, five acres out of an 18.6-acre tract, that is part of a larger 80-point-whatever-acre tract, you know, then at full application when they bring in the 80-acre tract, you know, I can draw that line. But as it sits, they are talking about two distinct pieces of property and two sites on either one of those.

MS. JUNGQUIST: And yet it does say also known as 206 North Harkey Street on both.

MS. HOLLOWAY: Yes. And I would --

DR. MUÑOZ: All 80 acres?

MS. HOLLOWAY: And to the --

DR. MUÑOZ: All 80 acres have that one address?

MS. JUNGQUIST: No. Just --

MS. HOLLOWAY: Yes. So the one thing that I
would add there -- and I am sure that a number of you are aware -- until something -- until there is development on a piece of property and that address has been assigned by the Post Office as, it is on this site --

MR. OXER: On the 80 acres.

MS. HOLLOWAY: Yes. Right now --

MR. OXER: Not on the five. It is on the 80 acres.

MS. HOLLOWAY: Yes.

MR. OXER: On the five acres.

MR. MAYFIELD: The five acres.

MR. OXER: Okay.

MS. HOLLOWAY: So the five-acre parcel is way over from Harkey Street.

MR. OXER: I get it.

MS. HOLLOWAY: And it is --

MR. OXER: We’ve got the picture.

MS. JUNGQUIST: It is not that far.

MR. OXER: Trust me. We’ve got the picture. We’ve got the drawing.

MR. GANN: Mr. Chairman.

MR. OXER: Yes, sir. Mr. Gann, turn on your microphone.

MR. GANN: There’s two contracts here.

MS. HOLLOWAY: Uh-huh.
MR. GANN: The first contract draws -- is a legal description that applies to the square box of these two boxes that we are looking at to the left, which is a different legal -- and it is out of the 18.6-acre tract. And that is where the 8.6-acre tract is. This other tract over here is out of a larger tract, but basically out of a 41-acre tract.

MS. HOLLOWAY: Uh-huh.

MR. GANN: And there are two different legal descriptions. So if nothing else, they didn’t have the property tied up.

At the first contract that they needed to have tied up, to make this whole thing work -- they didn’t have it under contract. Can you understand that?

MR. OXER: Yes.

MS. HOLLOWAY: Yes.

MR. GANN: It was not under contract when it needed to be under contract.

MR. OXER: Okay. Can --

MR. GANN: And the 206 address, my cohort at the other end down there probably agrees that I put many addresses on many pieces of property, and you can move them around, you can change them later. And I don’t think there is any problem involved. I think it was just a big mess-up, but it is a big mess-up.
MR. WEIK: But the 206 would not be --

MR. OXER: No. You have to come to the mic and
state your -- you’ve got 30 seconds.

MR. WEIK: All right. Stan Weik, City Manager,
City of San Saba. The 206 would not ever have been given
to the part with the miscellaneous X, because that is on
the left hand side of the road. So it would have had to
been an odd number, not an even number. And Harkey Street
goes here.

MR. OXER: Fair enough.

MR. GANN: It doesn’t make any difference when
the legal description actually controls that, not the
address.

MR. OXER: Right.

MR. GANN: The address is a situs address.

MR. OXER: Okay. Mark, you’ve got 30 seconds.
Make it quick.

MR. MAYFIELD: Yes. Two points. The fact of
the site control, it is one owner. We have dealt with the
City of San Saba. There is no multiple owners. There is
one owner, to the layman which I am -- I am a layman; I am
not an attorney.

But you read this directly out of the QAP.
Section 11.9(f), qualifying for these six points, the
development site at application is at least in part the
development site at preapplication, and the census tract
number listed at preapplication is the same at
application. That has been met. And there is no other
way to say it, unless you dissect this down to the nth
little degree, to kill the deal. And that is what --

MR. OXER: No. We are not dissecting it to
kill the deal. We are dissecting it to maintain the
integrity of our rule. Do you understand the difference?

MR. MAYFIELD: Yes, sir. I do. And like I
said, to a layman, I just read the rule to you.

MR. OXER: I get it. We wrote it.

MR. MAYFIELD: Thank you.

MR. OXER: Okay. Your comments are received.

We understand your point.

And for the record, I recognize your
frustration, Mark. We are a bit frustrated too, because
we are trying to make these projects go in places where
they are needed.

Okay. Kim, anything else to say?

MS. JUNGQUIST: (No audible response.)

MR. OXER: Okay. Any other comments for this
one?

(No response.)

MR. OXER: Any other comment?

(No response.)
MR. OXER: Anything else from the Board?

(No response.)

MR. OXER: Ms. Bingham?

MS. BINGHAM ESCAREÑO: No.

MR. OXER: Okay. With respect to Item 4(b), application 16130. We have had a motion by Dr. Muñoz. Second by Mr. Goodwin to approve staff recommendation.

Is that correct, Marni? To approve staff recommendation to deny this appeal?

MS. HOLLOWAY: Correct.

MR. OXER: Okay. To approve staff recommendation to deny this appeal. We heard public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

All right. Next item, 16260.

MS. HOLLOWAY: All right. The last application under 4(b), presentation, discussion and possible action on timely filed scoring notice appeals under the Department’s multifamily program rules.

This is application 16260, Churchill at Golden Triangle. During the application review process, staff identified administrative deficiencies that required
resolution within five business days of notice to the Applicant, or they will suffer a five-point deduction for each day and potential termination after the seven days that that deficiency is not resolved.

This application was assessed a penalty of five points under 10 TAC 10.2017(a), related to the administrative deficiency process, because the Applicant failed to resolve administrative deficiencies to the satisfaction of the Department by 5:00 p.m. on the fifth business day. The rule reads in relevant part, unless an extension has been timely requested and granted, if an administrative deficiency is not resolved to the satisfaction of the Department by the 5:00 p.m. the following day, then five points shall be deducted.

Note that it is not resolved. At issues is when they are not materials were received. It is whether or not the deficiency has been resolved. And this has been --

MR. OXER: Whether or not those materials address the deficiency.

MS. HOLLOWAY: Right. The scoring notice that deducted those points was issued. The Applicant has appealed based on a number of issues. They have stated that the administrative deficiency was excessively vague.
That the reviewer was out of the office, and unavailable for two days. And that it was not possible, or they were not invited to submit the response in portions.

The Applicant has provided no evidence that between the time that the deficiency was issued and when it was due, that they contacted management, anyone else, and said, we have an issue. We have a problem. Can we just give you parts of this. There is no record of that communication.

At 4:28 p.m. on April 28, 2016, which was the due date, 32 minutes before the five o’clock deadline, the response for 16 deficiency items was uploaded to our site. That included 36 pages of documentation. The timing of the submission did not leave sufficient time for staff to review the documents, and determine whether the administrative deficiencies had been resolved to the satisfaction of the Department.

The review of the information later, the next day, revealed that there were in fact four deficiencies that were not resolved by the information that was uploaded. So we got all the information. Didn’t have time to get through it.

The next day, looked through it all. There were still four issues that were not resolved with that
initial submission. So staff is recommending denial of
the appeal on the basis that that administrative
deficiency was not timely resolved.

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

MR. GOODWIN: I make a motion that we accept
staff recommendation.

MS. BINGHAM ESCAREÑO: I will second.

MR. OXER: Okay. Motion by Mr. Goodwin to
approve staff recommendation. Second by Ms. Bingham. Do
we have public comment?

MR. SISK: Mr. Chairman, Board members, Mr.
Irvine, appreciate the opportunity to present our side of
the case, if you will. The purpose of this presentation
is to clarify why we respectfully request that the
Board --

MR. OXER: You’ve got to tell us who you are.

MR. SISK: I’m sorry --

MR. OXER: And who you represent.

MR. SISK: I’m sorry. Tony Sisk. Churchill
Residential. We are the developer.

MR. OXER: Thank you all.

MR. SISK: So I am trying to request that the
Board use its discretion to understand and agree that the
five-point death penalty is not appropriate. We have
developed 2,800 units within the tax credit program. And
we have never been faced with this penalty.

We intend to show that we made every reasonable
attempt to clear all the deficiencies in the review
process. We believe that all the required information was
in the application within the five-day deficiency
deadline.

As she mentioned, you know, there were 16
questions to start with. And we answered those
deficiencies. We were waiting on one last piece of
information from the Fort Worth Housing Authority. We
didn’t receive that until 4:00 p.m.

The guy in charge of this program at the Fort
Worth Housing Authority, his last day was the previous
Friday, within this same five-day period. So we submitted
it at 4:28.

Last year, all of our deficiency points were
cleared within 30 minutes of submission. And we strongly
believe that all the information necessary to evaluate
this application was either in the original application or
corrected in the allotted time.

There were four remaining items that she -- the
reviewer said were not cleared. The first one, site
control, she agreed the next day that we had provided all
the information, and indicated that that point was
cleared.
The remaining three, in Tab 22, these are the architectural plans. A number of documents, okay. As you can see, on the first page of the architectural plans --

MR. OXER: Are those in the materials that were provided to us.

MR. SISK: Yes.

MR. OXER: Okay.

MR. SISK: Well, a little bit of this was corrected in the deficiency. But this unit matrix agrees with the TDHCA form, okay, which is the unit-building-type configuration. Nothing changed with the number of units, the square footage. Everything was in the application.

And what she -- the issue, what it boiled down to is, on one of the four building types, the architect had B-1 where A-1 was actually supposed to be there. But in all the other places, it shows where the A-1 and the B-1 units and C units are supposed to be. All the information was in the application. Okay.

The third deficiency is related to the list of organizations and principles. She had asked for some sub-entities to be put in here. So the only sub-entities that we could find from the org chart were trusts that owned the Churchill entity. So we added those.

It turns out that she wanted the upstream entities. The entities of the Fort Worth Housing
Authority. Well, the form says sub-entities.

Okay. So it is -- the form is very confusing.

And we made every attempt to answer it. Again, the information was in the application on these forms. Every entity and the chart of accounts.

The last point is, somehow in this process, the name Fort Worth Housing Authority disappeared up here. But the Fort Worth Housing Authority name is right here. And all the entities were listed.

It is just where -- the form itself is confusing. And as far as this form, we -- the name Fort Worth Housing Authority is at the bottom. It was just not on the top for some reason.

So the point is, is that all the information necessary to fully evaluate this application was in there. And you know, this site is near 40,000-something jobs, most of which are workforce housing.

And it is a very important project with the Fort Worth Housing Authority. They are trying to put RAD units in here. But the overall point is that we had all the information necessary. And this has never come up in 14 years of this program.

MR. OXER: Okay. Any questions of the Board, by the Board of Mr. Sisk?

(No response.)

MS. DULA: Good afternoon. Tamea Dula with Coats Rose on behalf of the developer. Here, I would like to give you just a little bit of a description of the circumstances under which this deficiency notice was resolved. Because there were indications in the staff’s response that maybe they thought not enough effort had been put out.

The notice was received on a Monday in the midst of preclosing the 2015 deal. On Tuesday, the three-person staff that would address the deficiencies were at the closing for the entire day. On Wednesday and Thursday, the reviewer from the TDHCA was out of the office, doing other TDHCA things.

MR. OXER: That was whom?

MS. DULA: Pardon me?

MR. OXER: And that was whom.

MS. DULA: We really didn’t want to get into pointing the finger at a particular person, but it was Elizabeth Henderson.

MR. OXER: Okay.

MS. DULA: And she was doing stuff for the Agency in other places, but was not available. And she was out until late in the afternoon. There was a telephone conversation. She resolved some issues.
On Friday, that was the last day of the Vice President for development at the Fort Worth Housing Authority. He is the person who handles this for that agency. And that agency is a co-developer in the deal.

And then we had the weekend with the housing authority is not operating. And then on Monday, which was our day to resolve all of this, we finally got the Housing Authority signature at 4:17 in the afternoon, and within ten minutes, everything was forwarded to the TDHCA.

We were -- your requirements are that there not be partial submissions without an invitation from staff to do so. We didn’t have that invitation to do so. So and they did not go and ask for it, because the invitation had not been extended.

Here you have a Category I developer over the past 14 years. You don’t have that many Category I developers. They have 18 projects. They have developed over 2,800 units of affordable housing through this program.

They were making an all-out effort to resolve this. But because of the vagueness that this particular reviewer used in this set of deficiencies, it was very difficult to make sure that everything was addressed.

For instance, in the deficiency with regard to the building unit configuration form not matching the
building plans, another reviewer might well have said, three units in Building One are marked B-1 when they should be A-1. Please correct.

Or another reviewer would have said potentially, the units as shown on the building floor plans do not match the units as shown in the building configuration form. Please correct.

This reviewer adopts a much less rigorous approach. The building plans do not match the building configuration plan. Please correct.

Building plans include all of the architectural drawings. The developer identified the matrix as not matching the building configuration plan, and revised that, and sent it in. Did not know about the typographical error.

The other items all encompassed material that had previously been provided on the Monday, within the deadline. But this particular reviewer wanted it also in another space. Some of the places she wanted the information were incorrect, but it was provided anyway, to get this resolved.

And the final issue was the form in which the entity’s name was at the bottom of the form, but was not at the top of the form. There was no way you could fail to understand who the entity was that was filing the form.
We request that you take some cognizance of the difficulties with this situation and with resolving issues that are not specifically explained, and exercise your discretion here.

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

MS. BINGHAM ESCAREÑO: Tamea, what were you referencing the invitation about?

MS. DULA: On the form that is used for deficiency notices, it says everything must be filed at the same time, unless you are invited to file in pieces. Okay. We did not get such a --

MR. OXER: So all of your -- like on the deficiency notice, if you have in this case, five deficiencies, you are supposed to file all five of them at the same time, rather than three and two later.


MS. BINGHAM ESCAREÑO: Which is why you are saying that you got it in under the wire, because it took a while to smash all of the --

MR. OXER: Get the last piece.

MS. DULA: The last piece was the Housing Authority signature. And they were kind of running around, because the guy in charge had left employment the week before.

MR. OXER: Okay. Any other questions?
MS. DULA: Thank you.

MR. OXER: I have a question, Marni. In a circumstance, an instance like this when the shot clock is running, okay.

MS. HOLLOWAY: Yes.

MR. OXER: So they’ve got drop dead terms they’ve got to hit on this, in the event that somebody is unavailable, does that roll over and go to somebody else? Who would be there to answer the phone afterward?

MS. HOLLOWAY: Absolutely. We have five reviewers, program specialists. If -- we’re not all going to be out at the same time, Sharon Gamble, our 9 percent administrator, is available. I am available.

MR. OXER: So essentially, this goes up a notch if somebody is not available.

MS. HOLLOWAY: Yes.

MR. OXER: Were you -- I mean, when you called, Tamea. Just up, just wave and say right, when somebody called, did they get a chance to speak to Elizabeth, or did it go, move on up to somebody to speak to? Tony? Get up here and talk to me.

MS. DULA: There was no suggestion that somebody else would be called. There was an email notice. I am out until after such-and-such a date. If you have, actually --
MR. OXER: So you sent the email, and not -- I mean, you did not call in and ask to speak to her.

MS. DULA: They knew that she was out. And actually, the email notice said, if you are calling about this type topic or that topic, talk to somebody else. It didn’t say a word about deficiencies. So other topics were addressed to somebody else in the Agency. This issue was not.

MR. OXER: All right. Well, I am going to light up the staff here right quick. So in the event that anybody is out, and you need to get an answer, don’t stop. Don’t accept, we are out, call us next week. You know, escalate.

MS. HOLLOWAY: Absolutely.

MR. OXER: Escalate until you get somebody to answer.

MS. HOLLOWAY: Absolutely. You could go all the way to --

MR. IRVINE: Until 5:00.

MR. OXER: He will take your call. Trust me, he is available after 5:00 a lot of days, too.

MS. DULA: May I make a comment?

MR. OXER: Certainly.

MS. DULA: When I questioned whether under the terms of the deficiencies that were cited whether Mr.
Irvine could determine what was at issue --

MR. OXER: Well, that is true. He probably couldn’t. But he could make sure that somebody answered the question.

MR. IRVINE: I can definitely say I would give you another 24 hours to sort it out.

MS. DULA: Yes. And that would have been helpful.

MR. OXER: He can extend that deadline. Okay.

MS. DULA: And by the way, had they even known that the real critical issue on the architectural drawing problem was a typo by the architect -- they had already engaged the architect on like Tuesday or Wednesday to make changes. And they would have obviously included that, had they understood that that was the reviewer was objecting to.

DR. MUÑOZ: So Marni, is there any dispute about having responses to all of the deficiencies within the time allotted?

MR. OXER: One of your points on your presentation, Marni, is that one of these remains unresolved.

MS. HOLLOWAY: No. They are actually -- they have been cleared since. They were cleared the next day, as I understand it. Elizabeth was able to work with the
Applicant and get the rest of them cleared.

In there is an email from Elizabeth that says, okay. That is it. Then there will be a five-point penalty, because it was late. Your Board book includes the description from our perspective of the items that were not cured. Would you like to discuss those, or we can go through them.

MR. OXER: So they, I mean, you are saying there were five deficiencies.

MS. HOLLOWAY: There were 16 total.

MR. OXER: Sixteen total. You were saying there were five that were not resolved?

MS. HOLLOWAY: There were four, one, two, three, four that remained unresolved. Although, the fourth uncured deficiency -- was it the fourth one, one of them there was a later review, an administrative review that said yes, this issue is okay. But there was still --

MR. OXER: So 12 out of 16 have been taken care of.

MS. HOLLOWAY: Yes. There was still items left unresolved. I also would add that you know, if there was a question about a deficiency, about what we are looking for, then probably the best way to handle that would be to call or email and ask.

MR. IRVINE: I would just like to comment. I
felt a little trepidation in signing my letter. Because I really don’t want to come across as CS or whatever. But I think it is really important for the world to understand, the objective here is not to return the volley. The objective is for, by the end of the day, for the game to be over. We need to have certainty. This program cannot move along if people are just throwing things back and forth. We need to have closure.

MS. HOLLOWAY: Yes.

MR. OXER: Do you have something else you would like to say, Tony?

MR. SISK: Tony Sisk, Churchill Residential. That is exactly what did not happen here. The whole issue is that the way that these questions were being posed are unclear. You know we have done dozens of these applications. Never had these issues with other reviewers. I looked at some of the other applications where they said, we will get back to you, or send you another deficiency.

We were, you know, the thing is, this was very unclear. And we have the information in time to evaluate. We are talking about a name at the bottom and not at the top.
It was very unclear on this list of organizations and principals. She is asking for something that is incorrect, okay, to put down on the form.

And on this, these plans can and do move around once applications go through, and the design and the building process. And we -- two different places in the application, we show exactly what the units are, the tabulation, what sections they are in. And the information -- the point is that, the information was there in time, where you could conclude that everything is done completely.

DR. MUÑOZ: But Marni just said that there were at least four that were not --

MR. OXER: Are you addressing the four that she says were not --

MR. SISK: Number one --

DR. MUÑOZ: But Mark, you said everything was turned in, in time. Everything.

MR. SISK: We gave --

DR. MUÑOZ: A minute ago, she said not everything has been resolved.

MR. SISK: It is not resolved in their opinion. And they are asking for information, okay. That I am just saying, this form, she is asking for are sub-entities. And what she is asking for is not a sub-entity.
It is an upstream entity.

MR. OXER: Right.

MR. SISK: And the form is unclear. And so I mean, we are saying, we had the information to evaluate this. And we disagree with staff in terms of them concluding that we didn’t have it.

And a five-point penalty, that is why I called it a death penalty. Because I mean, it throws any application --

MR. OXER: We are on the record today, recognizing that this is a very competitive process if one point goes up or down.

MR. SISK: Yes. But that is not our point. Our point is that we had the information there.

MR. OXER: Marni? Anything to summarize?

MS. HOLLOWAY: If I may. Regarding the sub-entity question, in their appeal, the Applicant states that FWHA, Golden Triangle Public Facilities Corporation is not a sub-entity of the General Partner.

Exactly the opposite is, in fact, correct. Which may be fine. The problem is, that the organizational chart clearly showed that entity as a sub-entity of the General Partner.

Discussing the building configuration, the plans for buildings 1 and 3 do not match the unit.
distribution given on the building unit configuration form. You know.

MR. SISK: But these are the plans. And they do agree.

MS. HOLLOWAY: So -- this was the exchange. There was a deficiency issued. It had a five-day deadline.

There are opportunities to ask questions. There are opportunities to engage, and request additional information if you don’t understand. Call me. You know, I will help figure it out.

There is also an opportunity to request an extension, if you are not going to be able to get it completed in time. And I believe one of the conditions for that extension is information from a third party. You know, it is --

MR. OXER: Is there a citation on the availability of an extension, Tim? Or is that an administrative --

MS. HOLLOWAY: It is in the administrative deficiency section.

MR. IRVINE: Section --

MR. OXER: Can you --

MR. ECCLES: Section 10 TAC 10.201(7)(a) talks about administrative deficiencies for competitive HTC
applications. And that rule begins, "unless an extension has been timely requested and granted." As to the particulars of what it takes to garner an extension, that is not in this rule.

MR. OXER: But it is available.

MS. HOLLOWAY: That option.

MR. OXER: I mean, there is a statement that it is available? Is that at your discretion?

MR. IRVINE: I would certainly feel comfortable addressing a request.

MR. OXER: Okay.

MR. ECCLES: And regardless of the terms, may I ask Marni, was an extension requested in this instance?

MS. HOLLOWAY: No.

MR. OXER: And we recognize that. Tamea?

MS. DULA: May I comment?

MR. OXER: Yes.

MS. DULA: There is a specific -- Tamea Dula, Coats Rose. There is a specific reference that if you are getting something from a third party, that an extension can be available.

MR. OXER: Can be requested. But you hadn’t made the request.

MS. DULA: Yes. You do have to make a request.

MR. OXER: Making sure we are both clear.
MS. DULA: So far as they were aware, they weren’t getting anything from a third party that they didn’t have at five o’clock on Monday the 18th, which was their deadline, before their deadline.

MR. OXER: Okay.

MS. DULA: So no. They didn’t ask for an extension.

MR. OXER: Anything else on that, Tim?

MR. IRVINE: No.

MR. OXER: Okay. All right. With respect to Item 4(b) application 16260, a motion by Mr. Goodwin, second by Ms. Bingham to approve staff recommendation to deny this appeal. Is that a correct statement? To deny this appeal. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

Okay. Understand, we have -- we have reached a point on the agenda to provide for public comment on matters other than items for which there are current agenda items.

Those who wish to speak, I would remind you that we will be able to take your comments only. We will not be able to respond to them, or to reply to your requests for information. It is only for the purpose of
supplying or providing information on future agenda items, specifically beginning with June 16.

Now, there seems to be a little herd moving up here to the front. I would offer up that while we appreciate each of your individual comments, if you all have or are aligned in your comments and want to simply support that through volume, you don’t each have to take three minutes.

You can say, Me too, and sign your name. Or, you can just sign your name afterwards and say that you agree with somebody that you choose to be one of your spokespersons, which I recommend, because we are not stopping for lunch here, if you hadn’t noticed.

So anything that you do is going to get between them and their tuna fish sandwich, okay. So the first one of you that wants to speak can come up.

And while you are on the way, I am going to ask, Peggy, do we have something that you want to read into the list?

THE REPORTER: Those are all opposition to the same project.

MR. ALCOTT: Mine is different.

MR. OXER: And I gather -- okay. Then we’ll take yours first.

MR. ALCOTT: And I’ll go real quickly, because
I know people have tuna fish sandwiches they want to get to. The at risk --

MR. OXER: Who are you?


MR. OXER: I know who you are. But you have to tell her.

MR. ALCOTT: Tim Alcott, San Antonio Housing Authority. And one of the items we have been working on is the At Risk Subcommittee, and so we had meetings on that.

And I don’t know if the Board has received it or not, but we did come together with a consensus. There is about 14 to 15 of us on that Subcommittee. And we came up with seven comments or suggestions to the TDHCA Board and TDHCA staff on what we would like to change. And raising some suggestions.

One thing I would like to bring to the Board specifically, because two of them, I would like to talk about in my short period of time here is, I have talked previously about different states, and how they add additional points for Choice, Promise, Choice Zones, Promise Zones, Promise neighborhoods. And that is one of the items that did come through the Board, through the At Risk Subcommittee.
And much like other states, we wanted the best practices. And the reason is, with these sort of developments, the way the scoring currently is with the QAP, they are looking at the desirability of the neighborhood now. And with Choice and Promise neighborhoods, it is changing. And so that is why we ask for additional points for that. So I wanted to point that out.

Another item that I thought was a good outcome from those meetings was that the new developments, we suggest that there should be a cap of up to 50 percent of the credits awarded for new developments in new locations. And the reason is, there is a lot of developments both in the rural and in the city that they don’t have the opportunity to move.

So when you think about the ICP versus TDHCA litigation, one of the outcomes of that litigation is, it is not really what the litigation said, but was that development should be in, or there is a desire for developments to be in high opportunity areas. But there are lots of groups out there that don’t have the opportunity to move.

So they don’t have the opportunity to choose a new location. And so some folks don’t have that choice. Because it is a longer discussion than perhaps I could
have right now. Because, I won’t go into it. There is a reason behind it.

But that we suggested maybe only 50 percent of the developments should go new locations or new developments and new locations. The rest of the tax credits should go to developments going to same opportunity, in the same area where they are.

And the reason is, because for me, a public housing authority, you know, we put the land into the value of the deal. We don’t have the opportunity to move. We have a long list of folks that want to live where they currently are. And it wouldn’t be good for us to be choosing new areas of town where we are not wanted.

Thank you.

MR. OXER: Great. Appreciate your comments, Tim.

MR. GERANI: Good afternoon. My name is Wayne Gerani. I am with Austin Habitat for Humanity. I am also here on behalf of Habitat Texas.

We just wanted to speak actually about the National Housing Trust Fund. We know you guys are administering that, and are setting up the rules and procedures on how that is going to be.

My understanding is, the first year, you are not able to do anything with home ownership. But we did
want to encourage that, while you are setting the rules and procedures, that you look to the future years to allow for those funds to be used for home ownership.

Here in Central Texas, we are making great strides on long-term and permanently affordable home ownership opportunities for families. And that is a life-changing thing.

So we just wanted to encourage that, that you guys keep that in mind as you are setting the rules for the long term. Not be overly swayed by the fact that home ownership isn’t a part of it early on. Thank you.

MR. OXER: Great. Appreciate your comments. While she is signing in, I will ask as Chairman, is anybody here commenting on Application 16118?

MS. GRILLO: Yes.

MR. OXER: Is that all of you?

MS. GRILLO: Yes.

MR. OXER: Okay. Is there like somebody who can summarize this. Or each of you would like to speak?

VOICE: We each have a spot. But we are going to keep it all short. We are not all going to take three minutes.

MR. OXER: That is a good plan, by the way.

VOICE: We had that plan before you suggested it.
MR. OXER: There you go. Good thinking. All right. Have at it. You get three, and they get one apiece.

MS. GRILLO: Okay. Hi. My name is Jennifer Grillo. And I am the Vice President of Fall Creek Homeowners Association.

And I am here and speaking in opposition to Plan 16118, also referred to as the Standard at Fall Creek. It is an affordable apartment housing development that they are trying to put in next to our master-planned community.

Currently, we have about 2,500 homes, and we are still growing. We are located in Harris County, outside of the City of Houston, and also outside the City of Humble.

One of the things that I want to address real quick is that this isn’t a situation of not in our backyard. The location is not a good location.

And we understand the goal of providing affordable housing to people, and that is admirable. But even with the best of intentions, sometimes, if the facts and circumstances surrounding that project, you can actually end up doing a disservice to the very people you are trying to help. And that is the situation here.

There is six points that I want to address...
quickly. The first one is, it would place an undue burden on the MUD District that it would be assigned to.

The site has a number of undesirable attributes. For example, it is in a floodplain. And it has a history of flooding. And I am sure all of you are aware that Houston has been flooding lately.

Three, the site does not have access to many public services. I think, in the original application, they put in, or it may still be in the current application, that they put in they have bus service and sidewalks. That is not the case.

We don’t know if that was sloppiness, or if that was intentional misrepresentation. But we hope you do get down to the bottom of that.

Number 4, we already have a great number of apartment units available in Fall Creek. For example, within Fall Creek, actually abutting next to the boundary, we have four apartment complexes. And then three on the other side of Beltway 8. We have a total of 1,962 apartment units. We have plenty.

Five, the developer does have a poor track record. I don’t want to say anything that is disparaging. But I would like for some of the other units that he has put up, for you all to look at the status of those, and see how those are progressing.
And finally, the project does not provide Texas with the best use of tax dollars. Like I said, this is on Beltway 8, which is right next to the intersection of 59; with prime commercial property, you have prime commercial rates. We are not spending the money best here. You could be spending half as much and getting the same thing somewhere else.

Also, we have had opposition letters written. Not just us. The homeowners association and the residents, but also Representative Gene Green, he is a U.S. Congressman. Representative Tim Dutton sent another letter. I know the first letter was in response.

He wrote a second letter, giving reasoning for why he has changed his mind. And also, and most importantly, in my opinion is, the Superintendent for our school district, Sconzo, Dr. Sconzo has written an opposition letter as well.

One of the things that we will address is that our schools are very overcrowded. And I want to thank you for your consideration.

MR. OXER: Thank you for your comments today. Okay. One minute. I will take you at your minute, you will be short.

MR. SILEO: Yes.

MR. OXER: So one minute.
MR. SILEO: My name is Bret Sileo. And I am a resident of Fall Creek. I am also on the Board of Water Control Improvement District 96.

Fall Creek is in two utility districts. This project is actually in MUD 49, our neighboring district. We are concerned, though, because the MUD District is a very small utility system that has high taxes. It is about 2,500 homes.

And the appraised value for this property is going to only be about two-thirds of what a commercial property would be. Because it is going to be based on the cash flow. And so there is going to be a lot less taxes that the Water District is going to get compared to a market rate apartment complex.

But yet, they are going to have to provide the water and the sewer service. Right now, there are engineering issues and the MUD District has not been able to even provide a utility commitment to this property.

We are not even sure they are going to be able to get water and sewer service, because they haven’t submitted what they need to the utility district. There was actually a larger tract of ten or 12 acres, and there was a utility commitment to provide service to that tract.

They have carved out part of that tract. And they want to take about three-quarters or 80 percent of
the utility commitments to service this apartment. It is going to leave five or six acres with almost no potential for water service, and it is going to prevent further development.

There is a lot of undesirable neighborhood characteristics. It is right next to the high voltage power lines. If I could have just 30 more seconds.

MR. OXER: Okay.

MR. SILEO: High voltage power lines. Two gas pipeline easements. It is also near a natural gas-drilling site.

And it is also going to be built on top of a drainage easement. And they are going to have to put it in an underground culvert system that is going to be right in front of the apartments. And we are concerned that this is going to increase the possibility for flooding.

Because it is already in a floodplain. And they are going to keep the parking lots below the floodplain level.

So these people are going to move in. No bus service. Five miles away from the nearest bus service. Their cars are going to flood, because their car is going to be in the floodplain. And then they won’t be able to get to their jobs.

And so this is not a good place to subsidize a
development in a floodplain. Thank you.

    MR. OXER: Thanks for your comments, Bret.

    MS. MEDRANO: Okay. I will try to talk really fast. Good afternoon. My name is Rita Medrano. I am a resident of Fall Creek. And I am coming here to oppose the project 16118, The Standard at Fall Creek. I am here as a concerned resident, a taxpayer, and a mother.

    So when we first heard about this project, my immediate concern was, what is going to happen to our kids and their education. Fall Creek Elementary is already operating at 120 percent capacity.

    This school was built to educate 700, 750 students. We are currently at 884. About three years ago, another school was built to provide relief to our school, and 200 students transferred. But since then our numbers have just expanded, and we are stretching our boundaries again.

    And then I want to note that our neighborhood is still in the process of finalizing development. We still have 300 houses that are being built. So in short, our school is at max.

    Our Superintendent has written a letter of opposition to this project, saying that we don’t have the appropriate resources or physical space to accommodate any more students. Noteworthy is the fact that if these
students get re-zoned, our school is At Standard, but two
schools that are in closer proximity, one of them is still
at whatever. Needs Improvement.

So without further ado. We have issue with
this developer. I am going to skip the part where I tell
you that -- well. I am going to tell you. There is no
bus transportation.

And there is no reasonable pedestrian accesses
listed in the application. It is just a blatant lie. It
is not there. It is nonexistent. We brought these photos
to prove it.

So it would be very hard for these individuals
to get to the grocery store, to WalMart, to the doctor.
And all of the schools are at least a 55-minute walk from
the property. So students that have to engage in after
school activities or tutorials will be challenged.

My summary -- I just have to tell you this.
I’m sorry. I have been taught, and I teach my children
that liars and cheaters aren’t winners. It may seem as
though they get ahead sometimes. But eventually, they are
exposed for who they are.

Our goal here today is to expose the
misrepresentations and flat-out lies regarding this
proposed project. This location is not going to
effectively meet the needs of its tenants.
And this developer is not a person or a business entity worthy of receiving tax credits. I stand here today asking you to award these tax credits to another development that has the integrity to be truthful in its application and whose proposed location will better serve the needs of its residents. Thank you.

MR. OXER: All right. Thanks for your comments. All right. I am going to advise you on the illustration that you are about to try to show us, that you cannot do that. If you have a challenge to these, there is a process for that. That can’t be here. This is only for us to add items for the agenda for future meetings, okay. So if those need to come up, they need to go through the process of getting into the Board book to get to the agenda, for us to be able to consider those.

MR. CARPENTER: They were submitted.

MR. OXER: When were they submitted?

MR. CARPENTER: Last week.

MR. OXER: Okay. But there has been no -- this item is not on the agenda item for you to speak to.

MR. CARPENTER: Thank you for helping.

MR. OXER: It has to be a formal agenda item for us to accept that. I am just telling you, okay.

MR. CARPENTER: Thank you for helping us understand the rules.
MR. OXER: Okay. If you have -- and for the record, one more time, if there is any questions that anybody has, start calling and ask questions. And if you don’t get an answer, keep going until you get to him.

MR. CARPENTER: Okay. Hello. My name is Matthew Carpenter. I am the President of Fall Creek HOA. I am speaking in opposition of application 16118. Just because we respect your time, I would like to just take a couple of more minutes.

MR. OXER: You’ve got 60 seconds.

MR. CARPENTER: Representative Dutton has issued a letter to the TDHCA trying to withdraw his support, because the developer lied to him. Commissioner Cagle has stated that the only reason he issued support is because the Representative told him that he was supporting it. With those two letters, I have no doubt that there wouldn’t have been the points necessary for us to even have traveled from Houston to Austin to speak to you today.

The application also lists the wrong elementary school. The closest elementary school is not Fall Creek. But they are using Fall Creek to gain credits, because of its Exemplary rating.

This process, this application process is very confusing, very cumbersome. We have 2,500 residents in
our -- 2,500 homes in our community with lawyers, doctors, engineers, accountants, a whole bunch of other professionals. None of us understand this process.

So again, we are here in opposition. We have 30 people here today to express our opposition. But we are not going to take any more of your time. Thank you.

MR. OXER: We appreciate your comments there, Matthew. And while I appreciate the passion with which you and your community neighbors come up here and make this, understand that we can receive, only receive your comments.

And we can’t respond to them in any fashion at this particular meeting. This is only for the purpose of generating information to create future agenda items.

And the information that you are trying to provide in terms of the photos and that sort of thing, can only be applied to an item on the agenda that the staff will address.

So just a point of clarification. Is that a fair statement, Counselor?

MR. ECCLES: Yes, sir.

MR. OXER: Okay. All right. Is there any other public comment? Okay. Come on up.

MR. FISHER: Good afternoon. Thank you. my name is Franklin Fisher. And I come here on behalf of
Lifeworks, a client and a resident at the Works. I just want to thank you, the Board members and the Chairman for the money that you allocated to help build these apartments.

And just really quick, me being a client there, I came there with no home. Homeless, you know. And Lifeworks has given me that. They have given me a home, hope and basically given me a way to find jobs, to move forward in my life. So just being really quick with that.

They have done so much for me, coming from a place where I had nothing. And you guys made it possible for me to actually have a home that I pay my own rent and do these things. So really, that is all I just had to say.

MR. OXER: Well, we appreciate your comments, Franklin. You are the reason we do what we do.

MR. FISHER: Thank you.

MR. OXER: I think everybody -- any other Board member care to make a comment on that. Certainly, I think you -- we get their consideration in agreement. I think we appreciate your comments as well. Are there any others?

MS. MCDOWELL: Just a quick wrap-up. Franklin and I came today, because we understand that last month,
you all saw a video on homeless youth. Franklin was one of those youth.

And also, almost every single youth in that video works or lives at the Works at Pleasant Valley, which you all made possible through an allocation of NSP funding a couple of years ago. So I thought, wow, what a great serendipity that that came back to you in success.

On top of that, most of the youth in that video along their journey to the Works, were at one time supported in either our emergency shelter or rapid rehousing program through ESP funding. So another avenue of TDHCA.

So I think it is fitting we close the meeting on a positive note with a thank you, and just a recognition of how the work you all are doing are impacting homeless youth in our community. So thank you.

MR. OXER: Great. Susan, I appreciate the comments that you make. And just to -- a historical note for those of you who weren’t there, I am glad to see that the relationship that we have with Lifeworks got off to a far better start than it did on May 5, 2011.

Which I recall, the first vote that I was given, the first admonition that I was given by the gentleman at the far end down there was, there are rules and there are rules. And every rule has a sharp edge.
And a penalty is just a guideline. So I am happy to see that that all worked out.

MS. MCDOWELL: Absolutely. Thank you.

MR. OXER: Thanks very much. All right. Any other --

DR. MUÑOZ: Hey. Just one other comment. Maybe Franklin, if later on, maybe there will be time when you can come back and kind of tell us how you and your friends are doing.

I remember being very impressed by your comments in that video. I think everybody was.

MR. OXER: Yes. Actually, I would look forward to hearing that. At this point in the agenda, we look for public information or comments. And you can add information to create the agendas that we address in the future.

Or you can just provide comments and tell us how things are going. We always appreciate that what we are doing is actually making something work somewhere.

All right. We are at that interesting point in the meeting where we have had public comment. The agenda items are considered. Is there anybody else who wishes to make public comment?

(No response.)

MR. OXER: Is there any staff in the audience?
who wishes to make public comment or address an item?

MR. GOURIS: Mr. Chairman.

MR. OXER: I see Tom Gouris. Sit down, Tom. We will take yours last. I got the tractor parked outside for you. So don’t worry about it.

MR. IRVINE: Yes. Take care of Tom.

MR. OXER: Okay. So we have opportunity for staff at the dais to speak. Michael.

MR. LYTTLE: Relaxed dress code for the summer’s meetings?

MR. OXER: The Chair has got three items to come up with, to address here.

DR. MUÑOZ: Bow ties and pocket squares.

MR. IRVINE: Cutaways and --

MR. OXER: Yes. There you go. And deck shoes. Okay. All right. Anybody?

(No response.)

MR. OXER: Any member of the Board?

(No response.)

MR. OXER: Okay. We are coming up. And I will ask the -- do you have this, Captain Tweety, the schedule?

We have two meetings in June, two in July and one in August. Those being the sort of rough and tumble times of the year on the LIHTC progress.
MR. LYTTLE: June 16, and June 30.

MR. OXER: June 16 and June 30. And then July.

MR. LYTTLE: And July 14 and the 20.

MR. OXER: And August is sort of late, like the 25th. Is that right? Something like that? Okay. Those are the summer months.

We will go for summer casual. The ties will be optional. Bow ties and pocket squares for you, always in fashion for our clothes horse over here. So boots and jeans and nice jacket is -- we can’t make you suffer too much in the heat here.

Unfortunately, I found out this morning that we are getting ready to say goodbye to a friend of ours, here. And so, Ms. Penny, we would like to say, after 21 years reporting and being the transcriber for our meetings is -- this is her last meeting. She is moving to Amarillo.

And she has been a party of this since we were here, certainly since I was here for the first meeting, so we’re going to miss you, Penny.

THE REPORTER: Thank you.

(Applause.)

MR. OXER: Yes. Let the record reflect a standing ovation to our transcriber -- our madam recorder.

And also, last word from the Chair. Thank you
to everybody I know, who is watching it. A howdy at home
for all those over at 221 East 11th Street. I know the
reason this goes so smoothly is because of the work that
they put in supports the staff up here that makes the
presentations.

As the Chair, I get the last word. So I
appreciate the work that is done. The things that we do
here are worth doing. And it is good for Texas. So I
will entertain a motion to adjourn.

    MS. BINGHAM ESCAREÑO: So moved.
    MR. OXER: Motion by Ms. Bingham to adjourn.

Is there a second?

    DR. MUÑOZ: Second.
    MR. OXER: Second by Dr. Muñoz. Those in
favor?

    (A chorus of ayes.)
    MR. OXER: And opposed?
    (No response.)
    MR. OXER: There are none. We will see you
June 16th.

    (Whereupon, at 1:15 p.m., the meeting was
adjourned.)
CERTIFICATE

MEETING OF:     TDHCA Board of Trustees
LOCATION:      Austin, Texas
DATE:      May 26, 2016

I do hereby certify that the foregoing pages, numbers 1 through 147, 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.

06/02/2016
(Transcriber)         (Date)

On the Record Reporting
3636 Executive Cntr Dr., G22
Austin, Texas 78731