TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

August 25, 2016
10:00 a.m.

MEMBERS:

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

TIMOTHY K. IRVINE, Executive Director

ON THE RECORD REPORTING
(512) 450-0342
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**EXECUTIVE**

a) Board Meeting Minutes summaries for the meetings of May 26, 2016; June 16, 2016; and June 30, 2016

**ASSET MANAGEMENT**

b) Presentation, Discussion and Possible Action regarding Material Amendments to Housing Tax Credit Application

   13281 Sunquest Apartments Primera
   13400 Villas at Colt Run Houston

c) Presentation, Discussion and Possible Action regarding Material Amendment to the Housing Tax Credit Land Use Restriction Agreement

   98180 Delta Estates Edcouch

**COMMUNITY AFFAIRS**

d) Presentation, Discussion, and Possible Action on State Fiscal Year 2017 Homeless Housing and Services Program Awards

**MULTIFAMILY FINANCE**

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

   16423 Plano Artist's Lofts Plano (PULLED)
   16426 87th Apartments Odessa

**RULES**

f) Presentation, Discussion, and Possible Action on the withdrawal of previously proposed amendments to 10 TAC Chapter 1

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ON THE RECORD REPORTING
(512) 450-0342
CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) TDHCA Outreach Activities, July 2016

b) Final Report On Activities Assisted under HOME Investment Partnerships Program ("HOME") Reservation System Participant ("RSP") Agreement No. 2011-0062 with EBENZ Inc. ("EBENZ") for four single family homes located in Texas City and League City, Galveston County

c) Report on appeal and conditional award on: 16057 Silverleaf at Mason Mason

ACTION ITEMS

ITEM 3: RULES

a) Presentation, Discussion, and Possible Action on an order proposing new 10 TAC Chapter 7, Homelessness Programs: Subchapter A, General Provisions; Subchapter B, Homeless Housing and Services Program ("HHSP"); and Subchapter C, Emergency Solutions Grant ("ESG"), and directing that they be published for public comment in the Texas Register

b) Presentation, Discussion, and Possible Action on an order proposing new 10 TAC Chapter 6, Community Affairs Programs: Subchapter A, General Provisions; Subchapter B, Community Services Block Grant ("CSBG"); Subchapter C, Comprehensive Energy Assistance Program ("CEAP"); Subchapter D, Weatherization Assistance Program ("WAP"), and directing that they be published for public comment in the Texas Register
c) Presentation, Discussion, and Possible Action on an order proposing actions to 10 TAC Chapter 2, Enforcement, including the: 1) proposed amendment in Subchapter A, General, of §2.102, Definitions; 2) proposed repeal of Subchapter B, Enforcement Regarding Community Affairs Contract Subrecipients; and 3) proposed new Subchapter B, Enforcement for Noncompliance with Program Requirements of Chapters 6 and 7; and directing that they be published for public comment in the Texas Register

d) Presentation, Discussion, and Possible Action on an order proposing actions to 10 TAC Chapter 1, Administration, including the: 1) proposed repeal of §1.3. Delinquent Audits and Related Issues; 2) proposed repeal of §1.21, Action by Department if Outstanding Balance Exists; 3) proposed new §1.21, Action by Department if Outstanding Balance Exists; 4) proposed repeal of §1.302, Previous Participation Reviews for CSBG, LIHEAP, and WAP; 5) proposed repeal of §1.303, Previous Participation Reviews for Department Program Awards Not Covered by §1.301 or §1.302 of this Subchapter; 6) proposed new §1.302, Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter; and 7) proposed new Subchapter D, Uniform Guidance for Recipients of Federal and State Funds; and directing that they be published for public comment in the Texas Register

e) Presentation, Discussion, and Possible Actions on: first, withdrawal of previously proposed repeal and concurrent proposed new 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614 (concerning Utility Allowances); second, the proposed repeal of §10.614 (concerning Utility Allowances); and third, the proposed new §10.614 (concerning Utility Allowances) and directing that these be published for public comment in the Texas Register

ON THE RECORD REPORTING
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ITEM 4: MULTIFAMILY FINANCE

a) Presentation, Discussion, and Possible 59 Action Regarding the Issuance of Multifamily Housing Revenue Bonds (Skyline Place Apartments) Series 2016 Resolution No. 16-024 and Determination Notice of Housing Tax Credits

b) Presentation, Discussion, and Possible 64 Action on Inducement Resolution No. 16-025 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2016 Waiting List for Piney Woods Village

c) Presentation, Discussion, and Possible 80 Action on Inducement Resolution No. 16-026 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2016 Waiting List for Robert E. Lee Apartments

d) Presentation, Discussion, and Possible 84 Action on Timely Filed Underwriting Appeals under the Department’s Multifamily Program Rules (PULLED)

16274 Rockview Manor Fort Hancock

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS 84 FOR WHICH THERE WERE POSTED AGENDA ITEMS

EXECUTIVE SESSION none

OPEN SESSION none

ADJOURN 94
MR. OXER: Good morning, everyone. I'd like to welcome you to the August 25 meeting of the Texas Department of Housing and Community Affairs Governing Board.

We'll begin with roll call. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum?

MR. CHISUM: Present.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin?

MR. GOODWIN: Here.

MR. OXER: Dr. Muñoz?

MR. MUÑOZ: Present.

MR. OXER: I'm here. We've got a full house today so we've obviously got a quorum.

Tim, lead us in the pledges.

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

MR. OXER: I'd like to say hi to some guests today. Julie Frank, there she is in the back. Thanks for coming in. Appreciate you taking interest in what we're doing today.

Captain Tweety, we got anybody else back there
I can't see?

MR. LYTTLE: Tom Gouris is here today.

MR. OXER: Oh, yeah, he's a guest. We can tell he's here, he parked his tractor out front.

(General laughter.)

MR. OXER: All right. Let's get to work. With respect to the consent agenda, Marni, do you have one you want to pull?

MS. HOLLOWAY: Good morning, Chairman Oxer, members of the Board. My name is Marni Holloway. I'm the director of the Multifamily Finance Division.

We are pulling off the agenda for today under item 1(e), application 16423, Plano Artist's Lofts. Some questions have come up regarding this transaction in the last couple of days that we need to get answered before we're going to feel comfortable bringing it back, hopefully at the September 8 meeting.

MR. OXER: Okay. With respect to the balance of 1(e), the 16426, 87th Apartments in Odessa, remains active for this consent.

MS. HOLLOWAY: Yes, it does.

MR. OXER: All right. We'll take that one off.

MR. IRVINE: And we would also like to pull off item 2(c), Silverleaf at Mason, and make that a verbal report.
MR. OXER: Right. I believe that satisfied your request also.

Any Board member care to pull any other item from the consent agenda?

(No response.)

MR. OXER: We'll have a motion to consider, please.

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

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

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. No request for public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

Okay. It looks like we've got Brooke. Good morning. I'm sorry. Let's take the consent item on Mason first, the one we pulled. My mistake. It looks like Brent is in the box.

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

This item relates to the Silver Leaf at Mason
transaction in Mason, Texas. Before I get into the actual item, I feel compelled to give you some contextual background information on what we're doing here.

The applicant filed an application for competitive 9 percent housing Tax credits for Silver Leaf at Mason, number 16057. The application received the highest score in its subregion and the Real Estate Analysis Division published an underwriting report for the application on July 6. The application was not recommended for approval because the underwriter's gross capture rate of 12 percent exceeded the 10 percent maximum rate pursuant to 10 TAC 10.302(i)(1)(A). The market analyst's gross capture rate was 2.9 percent.

These capture rates differed because the primary market area that the underwriter used was smaller than that of the market analyst, and therefore, contained less demand which produced a higher capture rate. Additionally, and contributing to the use of the smaller PMA, the underwriter determined that the market analyst did not adequately describe why the demand for this project would be coming from within the PMA, adequately be coming from within the PMA.

The applicant appealed the underwriting conclusions and the executive director denied the appeal at the July 29 Board meeting. The executive director
withdrew his denial of the appeal and basically asked staff to go back and continue working on the transaction with the market analyst.

So a bit about capture rates. The Department uses capture rates to determine if there's ample demand for a property. There's two types of capture rates. There's a gross demand, gross capture rate, which basically says within this area how many total qualifying households in that area and that ratio to how many units are in the development. There are individual unit capture rates which take the demand and carves it up into family sizes and says how many families do you have to lease this unit size, how many families do you have to lease a two-bedroom or could qualify to live in a two-bedroom.

The capture rates we use in determining feasibility are extremely generous. A 10 percent maximum rate says that you need 10 percent of the qualifying rental households within a market area to show that the deal has a reasonable shot at being feasible. The reality is if you need a capture rate of 10 percent, the qualifying renter households in a 3,000 square mile PMA, the deal is considered to have really significant risk. Note that on senior deals, in addition to the renter households, we include homeowner households in that calculation which provides for more demand in that
calculation number.

Again, the capture rates outlined in the rule are very generous, very high maximums. For example, we put a limit on individual unit capture rates at 100 percent which is extremely unrealistic, but the reason we did that was because we had applications being submitted that had individual unit capture rates as high as 600 percent which is a mathematical impossibility. These are analytical tools that are designed to capture really questionable markets, really risky deals.

REA doesn't review deals in a vacuum. Underwriting is ticking and tying together a bunch of different parts, a bunch of different moving parts. We have to consider all feasibility aspects of development, all the risks. For example, a pro forma may show a breakeven rent that is very close to the average rent being proposed. Market analysts don't analyze the pro forma, they don't analyze the pro forma rent in relationship to net operating income, they don't analyze debt coverages, expense ratios, but all of those things relate to each other.

On the Mason development, for example, there's a $46 difference between the pro forma rent and the breakeven rent. A $46 per unit cushion on whether the deal can pay its operating and expenses and debt. On a
PMA that is close to 3,000 square miles, that's concerning. How much of a discount or concession would you have to potentially place on one of those units to draw somebody from as far as 60 miles away to live in that property, as opposed to other properties that are in that PMA or in other cities that have properties that are similarly priced?

So REA's recommendations and determinations of feasibility must consider the totality of the deal, making recommendations including satisfying itself that the market area is appropriate. The market analyst doesn't do that and they shouldn't, that's not their job. But the market analyst should provide a decent rationale for reaching the same conclusion as it relates to the primary market area.

Market studies, while backed with data, are opinions of the market analyst, appropriate opinions on whether there is enough demand for a property within that market. The key then is determining what is the appropriate market area for a development. REA rules provide a framework for defining a PMA and put some limits on it but a key component of the rules require that the market analyst tell the story -- in other words, what are the qualitative aspects of a development and its location within a market area that would draw people to it as
opposed to other properties in the same market area. What
are the qualitative aspects of the PMA and how those
relate to the property? What is the propensity for
someone that lives in the PMA, 60 miles away, to consider
the property as a viable place to live?

That story wasn't initially told in this market
study, so it took multiple discussions back and forth with
the market analyst and additional clarification of their
data to kind of understand the story that they were
telling.

There have been and still are issues
surrounding the market study for Silver Leaf. Various
individuals, attorneys and others aligned with the
application next in line which is Stonebridge at Lamesa,
have weighed in and asserted that staff is acting in some
sort of nefarious manner outside of your rules. Staff has
always focused on transparency. We understand,
acknowledge and respect that some or all of these
individuals who have expressed these concerns are
understandably acting in advocacy roles and are therefore
interpreting actions and rules to their best advantage.
It's also understandable that the applicant on the Mason
deal is likewise doing the same thing. I mean, that's
what everybody's job in that side of the role is.

And I only say all that because throughout the
whole process the one outside party that should be truly
disinterested is the market analyst. In fact, Section 42
requires that the market analyst is disinterested. The
underwriter's work with the market analyst is always a
back and forth process and the process can sometimes be
lengthy when working on difficult markets.

I'm going to try to explain what we understand
the facts are and the way that we understand our rules and
how we're applying the rules to the facts. And we
certainly want everybody else to have a full opportunity
to express their opinions as well.

So factually, this is an application to develop
49 total housing units in Mason, senior limitation housing
units in Mason. Of those, 44 are affordable units, the
rest are market rate units. Mason has a population of
approximately 2,100 people.

The market analyst identified a primary market
area comprising of Mason, Menard and McCulloch counties.
All three are geographically large counties with
relatively sparse populations. Mason county is 932 square
miles and has a population of approximately 4,100 people.

Mason County is the area that REA used as a primary
market area, 932 square miles. Mason is located just
north of the center of the county. McCulloch County to
the north comprises 1,073 square miles and has a
population of roughly 8,300 people. Most of this population is in the town of Brady which is, again, kind of centrally located in that county. And then Menard County is to the west, northwest of Mason, has 902 square miles and a population of about 2,200.

So the question at the most basic level is: Can the proposed development in Mason be expected to draw the majority of its tenants from this PMA? Majority can be interpreted as 25 of the units makes the majority for a 49-unit development. I think the REA rule contemplated that that majority meant the most of, it was never intended to be a quantitative number, and that's something that we'll need to go back and fix in the rule. But note that the breakeven occupancy on this deal is 42 units, so you have to have 42 units leased at all times at the rents in the pro forma to break even.

REA grappled with the critical question of what the PMA is and the market analyst had reached an affirmative conclusion but the methodology in the rules again require a narrative that tells the story, that leads a reader of that report to draw the same conclusion that the market analyst is trying to make. And while the market study contained ample demographic data and study of that data, there was only two paragraphs in the market study that addressed the tell-the-story question, and we
didn't believe that those two paragraphs were adequate in telling that story and it didn't convince us necessarily that the three-county PMA was appropriate to use.

So we concluded it was inappropriately large. We couldn't, for example, understand why an income-eligible elderly household from in and around or north of Brady would move 30 to 45 miles to the south past Brady into a community that had much fewer amenities, including a hospital, than Brady.

So we reached out to the applicant and to the representatives and the market analyst and received some responses, but in our judgment still could not get to a place where we were comfortable with that PMA, so we issued an underwriting report based on the county of Mason which calculated a unit capture rate higher than threshold, and therefore, we did not make a recommendation on the deal.

Right before you made your awards in July, the applicant, through their counsel, contacted us and took the position that in accordance with 10 TAC 10.303(c)(2), the market analyst needed to have any discrepancy identified and be given the opportunity to address them. This was in addition to the back and forth that we had had with the market analyst at that point. Concern that the
Department had possibly not provided the applicant and market analyst the total level of identification of these issues and opportunity to address them, at the last Board meeting the matter was kind of returned to us to re-engage in the process with the applicant and the underwriter.

On that basis, the market analyst was given the opportunity to further explain the situation. So one, they explained that the use of the three counties was because of the rule requiring the use of census tracts to define PMAs and the facts that counties involved are made of very large census tracts. That's a big problem in rural Texas: you have very, very large census tracts and our rules require a PMA defined on census tracts. And that will be changing in the new rules if we're able to find data that we can use that's not census tract related.

But in this case, they concluded that their PMA would not have been that large, basically, if we did not require census tracts to be used in the definition.

They indicated that the majority of the tenants would come from an area within a reasonable driving distance of Mason, with no intervening low income housing alternatives. So they provided us with kind of a drive-time analysis radiating out from Mason and did some analysis on the numbers of folks in that area. However, to depict that, that distance extended into Menard and
McCulloch which then means you've got to pick up those census tracts, and that was the basis for the original including those census tracts in their PMA. However, the drive-time analysis included drives into other counties that were not in the original PMA, Gillespie and Llano. And while the majority of that drive-time falls within Mason County, those other pieces are not included in the original PMA.

According to the market analyst, there appears to be sufficient documented income eligible population within that drive-time area to enable the development to be found feasible, meaning it meets the capture rate requirements. Capture rate analysis of the drive-time yields rates which are extremely close but technically compliant, including a gross capture rate just under the 10 percent at 9.89 percent. Because the drive-time area extends into the counties not originally part of the PMA, REA has asked for yet further clarification, as late as yesterday, to show us what that looks like if you do not include those parts of the drive-time extending into those other two counties -- in other words, keep it in the original PMA. If they do that and the numbers show and we believe that's reasonable, then the math may prove up that the capture rates work.

So I guess I'm done with that. I'm here to
answer questions and certainly respond to comments or questions that you may have.

MR. OXER: Okay. Thanks, Brent.

All right. Questions from the Board?

MS. BINGHAM ESCAREÑO: Is the drive-time analysis typical, is that routine? Do we do that in most of these or is it specific to the fact that you do have those kind of huge census tract rural areas?

MR. STEWART: No. Because we deal with this capture rate issue at such a high level, it's a 30,000-foot view and the box is really big. And like most of the REA rules, if you can't drive one of these things through the REA rules, you really want to consider whether that transaction is feasible or not.

Now, we do have market studies in that telling the story they will say, look, our PMA is huge, but let us tell you the real story. The real story is here's the drive-time analysis or here's this other analysis, or whatever the analysis is that says it dribbles into these other counties, it dribbles into these other census tracts, so therefore, it makes our PMA look huge. That's the story that I think we've eventually gotten to on this deal except for the question about the two pieces that go into other counties, but it's that type of narrative that tells that story.
Honestly, if you've got a deal in an urban area and the math looks good, you don't have as much a story to tell. Right? And so I think maybe it's our bad that we don't necessarily even on those market studies go back and say, hey, tell us more of the story. The story is very obvious in those situations. It's on deals where the story is not obvious, tell the story.

MS. BINGHAM ESCAREÑO: Thank you.

MR. OXER: So how many deals have you through REA underwritten and gone through in, say, the last five years?

(General laughter.)

MR. OXER: It's in four digits anyway. Right?

MR. STEWART: Well, in the eight cycles that I've been here, including bond transactions and others, we've reviewed 950 market studies.

MR. OXER: Okay. Close to a thousand.

MR. STEWART: Twenty-five to 30 percent of those are deals where we have had to work on with the market analysts, and probably with almost every developer we've done that. That's the part of the market review process that exists. Of those, we've had ten do not recommends; of those, we've had three appeals come to this Board, 950 versus three appeals.

MR. OXER: And so we're dealing with one appeal
now.

MR. STEWART: That's right.

MR. IRVINE: Potentially.

MR. OXER: Potentially. And so there were two others.

MR. STEWART: Well, now three others because of the transaction that was in Fort Hancock which withdrew this week.

MR. OXER: But the ones that actually reached the Board for a decision and were not placated, satisfied, finished with, whatever REA and the agency came up with, there were two that actually came through the process up until now, two that you've resolved.

MR. STEWART: Three prior to this one.

MR. OXER: Three prior to this one.

MR. STEWART: That's right.

MR. OXER: And the resolution on each of those was what?

MR. STEWART: The Board upheld staff's recommendations.

MR. OXER: So what percentage -- because you're talking about something that drops considerably as you get in closer because you have to use the census tracts which in those areas are enormous. I mean, we've got counties in southwest Texas that are bigger than Rhode Island.
MR. STEWART: That's right.

MR. OXER: So what percentage of that overlaps outside of the original PMA that was defined in the project? Ball parking.

MR. STEWART: That's a question that's outstanding because we don't have the ability to look at data, population data in anything but a census tract. There are ways of getting to block group data, but even in the data world there's some questions about some of that data. We would like to be able to get to a place where the Department and the market analysts could use a smaller geographical area than census tracts to better tell these stories.

MR. OXER: More finely grained analysis.

MR. STEWART: Yes. Because most of the time it is a drive kind of look analysis. You know, certainly there are other factors that people would move from further distances away. In urban areas, the studies that we've done show that people come from within the zip code around that property, makes sense. I've had personal experience where if you do a transaction that is in a really high rated school district, people will move from a lot of places to go and put their kids in that school district.

MR. OXER: But they're generally not seniors
that are looking to retire with kids.

    MR. STEWART: My two experiences were family deals, and I think most of what I've seen have been family deals.

    MR. OXER: And as a reminder, this one is?

    MR. STEWART: Senior.

    MR. OXER: Any other questions?

    MR. MUÑOZ: So what you have right now to work with is census tracts. Right?

    MR. STEWART: That's correct.

    MR. MUÑOZ: And so explain to me this, right now the current capture rate is over 12 percent you said? Or what was originally presented? I thought you said it was like 12 point something.

    MR. STEWART: Right. So the market analyst presented 2.5 or 2.9, ours was 12.5.

    MR. MUÑOZ: And the limit generally is 10.

    MR. STEWART: On a senior, yes, 10.

    MR. MUÑOZ: And I put a note, you said something like at 10 percent it's doubtful.

    MR. STEWART: Ten percent is a very high maximum type of cutoff threshold that says if you're trying to get 10 percent --

    MR. OXER: You have to have 10 percent to make it work, you're walking the edge.
MR. STEWART: -- from a 3,000-mile area, okay, you technically complied with the rule but there's a lot of risk there. You take that risk with a $46 breakeven, with a 115 DCR, you add up all those things and you kind of get this confluence of things going on with respect to how feasible a deal is. Underwriting, it's hard to put anything other than big picture rules around it.

MR. MUÑOZ: So given this sort of confluence of data, does the original recommendation change any?

MR. STEWART: The denial that was expressed in the underwriting report related to the capture rates. We addressed the confluence of concern issues in the underwriting report, but those were not reasons that we used for the denial of the transaction.

MR. MUÑOZ: Those were not.

MR. STEWART: No, because the capture rate itself presented the rationale for the denial.

MR. MUÑOZ: So is the recommendation the same?

MR. STEWART: Right now today --

MR. MUÑOZ: Right now today where we're at.

MR. STEWART: -- where we're at is we have an underwriting report out there that says do not recommend. We have an appeal on that recommendation. We have where we have been instructed to go back and continue our work with the market analyst to get data to try to make sure
that we're making the right decision, make sure that we're understanding their story. And we're still doing that, that's what we're here today to do, basically, we've asked for some information as late as yesterday. That's kind of where we're at.

MR. MUÑOZ: So here's what I'm asking. Maybe I'm not being clear. So based on there was an original denial, then there was an appeal, then there was an effort to collect more information, based on that effort to collect additional information, work with the market analyst, et cetera, has that altered what was the original recommendation? Right now, here today.

MR. STEWART: Right. Not until we get the answer with respect to carving off the pieces of the drive-time area outside of Llano and Gillespie counties.

MR. OXER: So what you're saying is the answers you have depends on gathering that continued data.

MR. STEWART: Yes, sir. That's why this is a report item.

MR. OXER: So you're only reporting, it's still engaged and active.

MR. STEWART: That's right.

MR. OXER: The process is active with respect to this particular application.

MR. STEWART: That's right. And it's been an
extraordinarily long process. It's not unusual, again, for us to work diligently with the market analyst back and forth, it occurs a lot. Again, that 25 to 30 percent of the 950, that's what happens.

MR. OXER: We have a couple of people on the Board who have a little experience in real estate and in banking, so when you really get down to it, this is one of those things where real estate analysis is not mathematics, it's an art form.

MR. STEWART: Yes. I think the other issue here that should take note of is that for the first time since I've been here we actually completed all the underwriting reports before the July awards.

(General laughter and applause.)

MR. OXER: We appreciate that you did that too.

MR. STEWART: And so probably for that reason I think it was appropriate to allow more time to go back and try to work on this, because we had very few problem children this year and they all warrant the time and the effort.

MR. OXER: Ms. Bingham, did you have a question?

MS. BINGHAM ESCAREÑO: Just on behalf of the two people on the Board that don't have a huge depth of real estate and banking --
MR. OXER: That would be me and you, by the way.

MS. BINGHAM ESCAREÑO: Actually, I was throwing Dr. Muñoz in there too.

(General laughter.)

MR. OXER: Okay. Half of us do and half of us don't.

MS. BINGHAM ESCAREÑO: And probably oversimplifying, but what I think I read and I heard you saying is the original market analysis didn't support the application, but in looking at it, there's an obligation or you have the opportunity to look for that more qualitative story, and the revised analysis that came back included a PMA that was the three counties as opposed to the original one that was the one county, and now the story could support the application but you have a little bit more work to do, especially once those two pieces of those other two counties were kind of brought in through the drive-time analysis.

MR. STEWART: That's right.

MR. OXER: So you know more than you think you do.

MR. STEWART: Originally three counties, originally not much of a story. REA said we didn't see it, we didn't see the dots being connected, we didn't see...
it. So we carved it back to one county. We still kind of felt one county was maybe a problem because a lot of that county is very close to much larger cities, and so it's conceivable that you have populations living on the ends of those counties that would rather go to Brady or Fredericksburg or someplace else to live. So we kind of felt that the county was a fairly generous market area.

Through the process, they've come back and said, Well, REA, here's why we picked the three counties, it's because we have this drive-time situation that dribbles into these other two counties, and because of the rule, we had to include it all in the PMA. Meaning our look at it, going wow, three counties this big, that doesn't make a lot of sense. Again, the story wasn't there.

MR. CHISUM: I've got a question and a comment, being one of the bankers on the Board. Real estate in itself is marketing and numbers and location. That being said, you mentioned that there was a $46 spread and so if you're going into a real estate transaction, you're almost going in under water when you close that deal.

I also will remind us that distance in those rural counties are quite different than in the metropolitan areas in that you're 60 miles but the speed limit is 75, so it's much closer in the rural counties.
time-wise than it is in the metropolitan.

But going back to the deal, for it to be successful, the numbers have to work, and so if the numbers don't work, then we're doing a disservice to everybody because it's going to collapse.

And so that's my observation purely from a financial standpoint. I don't even know where this is; I think it's in South Texas, West Texas.

MR. STEWART: Hill Country, north of Fredericksburg.

MR. CHISUM: Oh, sure. Well, I am familiar with it then. But for me to be comfortable, the financial side has to work, and if it doesn't work, well, then we're going to fail and they're going to fail and it's going to be something that we'll have to deal with, Mr. Chairman, going forward.

MR. MUÑOZ: Brent, help me to understand, just a followup, because I thought what they originally presented was sort of three counties and then you reduced it to one county, and then they made the sort of narrative, provided a narrative argument for the inclusion of the three. But I thought I heard earlier in the conversation about it sort of dribbling into two other counties. Are those the two that they included? Because I thought I heard you say and I thought I may have read
something like they weren't originally included.

MR. STEWART: Picture the drive-time area.

MR. MUÑOZ: And I go through there all the time.

MR. STEWART: We refer to it kind of as an amoeba, and so there are parts of the amoeba that extend into the counties that were included in the original PMA. Makes sense, that's fine. There are a couple of parts, maybe three, one is kind of insignificant, doesn't matter, but two parts of that amoeba that extend into counties that were not originally part of the three-county PMA. And so our question back to them has been what happens to the data if you carve off those two pieces that extend into Llano and Gillespie counties.

MR. MUÑOZ: That weren't part of the original.

MR. STEWART: They were not part of the original, and that's why we're asking the questions.

MR. MUÑOZ: See, that sort of thing gets my attention because so often in other deals, right, you can't modify. Is this an instance where this has happened in your kind of analysis before, it occurs sometimes, not really? Does that make sense what I'm asking?

MR. STEWART: Sure. And I think it kind of gets back to Mr. Chisum's comments that it's hard to evaluate and underwrite a property in a vacuum, and a
market study is data that a professional then comes up with a market area based on that data and their thoughts and opinions. There's always that back and forth. Questions or disagreements -- not disagreements -- well, in this case, disagreement -- but there's always that back and forth, there's always that work that goes on. And it is not part of the parts of the application necessarily that say, well, you submit this document, now you cannot change it. The market study and the review process of that is more fluid.

    MR. OXER: So the parts that you can't change, basically, we're saying so many units, so many square feet.

    MR. STEWART: Scoring items.

    MR. OXER: Scoring items. But the real estate analysis, back to the original point I made was, this is the art form on it. So they plop it down in the middle of this county expecting that it's going to work because even though the PMA they put together includes this very vast area, they ostensibly included that because of those census tract issues. Even if you take those two counties off, there's enough in there to make this work if you add these in the bottom. So it's more a matter of drawing the circle out to figure out where the deal will work, irrespective of what the location is.
MR. STEWART: You can draw any area and make a deal work, and we do have situations where it's very clear that the area that's drawn is drawn for reasons to make the deal work. That's why our review of that area is important.

MR. OXER: It's a risk management issue. It's basically to predict the probability this deal is going to work.

MR. MUÑOZ: Because if you draw the circle large enough, it will work, but you have to evaluate whether or not it is practical, whether or not somebody might want to drive 50 miles this way as opposed to 20 miles that way for greater amenities.

MR. STEWART: That's right.

MR. MUÑOZ: That's part of the underwriting analysis.

MR. STEWART: What would compel somebody to move to this property, given that there are other options.

MR. MUÑOZ: Closer.

MR. STEWART: Closer, more amenities. What is compelling about this property that would draw people there.

MR. MUÑOZ: In order to populate the property, in order to make it financially viable.

MR. STEWART: That's right.
MR. OXER: And so you've got 42 out of 49 is a minimum breakeven on the rent, and even with a full load you've got $46 a month.

MR. STEWART: That's right.

MR. OXER: So you're running at low freeboard to start with, your DCR is probably what, 115 or less? Probably 115 is the minimum to get by on this.

MR. STEWART: The DCR here was at a 120, but it's a small deal and so numbers move pretty rapidly on small deals with small changes.

MR. OXER: It has a high beta on that.

MR. STEWART: So a 115 versus a 120, but breakevens, we're talking about a 1.0. You know, we're not talking about a debt coverage issue, we're talking about how do I pay expenses and debt at a breakeven.

MR. OXER: How does it keep from going underwater.

MR. STEWART: Right.

And I need to make sure I point out that's not on our pro forma. You know, we have this issue of we underwrite a pro forma, the applicant has a pro forma, if they're within 5 percent of each other, we use the applicant's numbers. So these numbers are based on the applicant's numbers. Our pro forma was reasonably close.

MR. CHISUM: And I'm assuming that they have
all of the apartments filled, their pro forma?

MR. STEWART: That's assuming a 7-1/2 percent vacancy and collection loss, so 92.5 occupancy.

MR. CHISUM: And the housing tax credit on this, is it 9 percent?

MR. STEWART: It's 9 percent. Yes, sir.

MR. OXER: Competitive deal.

MR. CHISUM: Mr. Chairman, my concern still remains on the financial side. If in fact we have a $46 differential, that's going to be, I'm afraid, too difficult for this property to make it over time.

MR. STEWART: And again, I point that out as a confluence of things. It's not the death knell at all, it's just a confluence of things.

MR. CHISUM: That's also your job.

MR. OXER: An accumulation of risk against things that could happen, so it sounds like a lot of these are teetering right on the edge and combine them all together, there's got to be a whole lot of things that have to go right to make this work.

MR. CHISUM: Almost perfect.

MR. OXER: Right.

MR. MUÑOZ: How often does almost perfect occur in your business?

MR. CHISUM: When things are very, very good
with deep pockets.

MR. GOODWIN: My projects don't ever.

(General laughter.)

MR. CHISUM: What happens is the market continues to change like right now, and so unless -- and it does not have to be perfect but you have to go in knowing that it works under normal circumstance, and if it doesn't, then when things get tougher, we'll be back here doing foreclosures and everything else, and that's not where you want to be.

MR. STEWART: I have to make a comment that part of this is a result of how we're pushing deals into certain areas. Because there are rural communities that need the housing but maybe it's not the right type. But we're having some problems with market issues because of the way the scoring and things work to put properties in these places, and that's driving the location maybe over other areas that might make some more sense.

MR. CHISUM: What is the best answer for closing the differential?

MR. OXER: Let me speak to that just for a second, Brent, because one of the things that we're doing is trying to, from a policy standpoint, increase the distribution so we don't continue to cluster all these projects more or less in the same areas. The policy is to
get these out but we're doing so at the expense of assuming more risk in the financial viability of the deals.

MR. STEWART: It's doing that, it's causing higher costs, it's doing a number of things.

MR. OXER: So it costs more to do it, runs a higher risk of failure for the purpose of increasing the distribution of available housing.

MR. CHISUM: More staff time too. That's their job.

MR. OXER: That's their job, that's the job of this Board is to figure out how to do this because I haven't seen any place yet that truly had as much affordable housing as they needed. I've heard comments from a couple of counties that had more than they wanted but not as much as they needed.

MR. STEWART: Well, and it's in addition to that scoring issue of to where they're going. You'll see if you look at the list every year there are multiple applications in the same places, particularly rural places. We've had situations in urban areas where there has been out and out bidding wars on the same site which has created land costs that are not market.

MR. OXER: Unsustainable.

MR. STEWART: They're not market, they're tax
credit market. We've created a market, an artificial market.

MR. OXER: We've created a bubble is what we did.

MR. STEWART: Some of these rural towns, unfortunately, Texas doesn't have some of the resources that we would really need to go and address some of these rural housing issues. Sometimes a tax credit structure is just not the best execution.

MR. OXER: One of the comments that other members of the Board have made is that the Tax Credit Program is a good program, an excellent program in terms of the capacity and the magnitude and the strength and the detail and the things that go about it, but it's not the only tool that we have and it's not the only program that we have and it's not the only one we can use, and not every type of deal is going to fit in the Tax Credit Program. My comment from that discussion that came up some time ago was if you use that as the only tool in your toolbox, eventually you're going to find yourself standing there with a hammer looking at an electrical problem.

So the issue is what can we do from a policy standpoint and while this is a report item and we're reporting some discussion and it's one of those things that needs to be done, yes, we'll have to look at this
from policy but at this point the best we can do is use
the rules that we have as interpreted as best you can in
an aspect of this process and program that more correctly
resembles an art form than a fine hard science and say,
We're trusting your best judgment on nearly a thousand
deals to come through this and we got one that fell
through the cracks that needs a hard analysis. And it's
an analysis but it's a review of the facts, but what it
really is is a review of perspective.

MR. STEWART: Well, and I think if we continue
the way we're allocating deals, we're going to see more
and more deals that are not going to pass because we're
putting them in places --

MR. OXER: We're driving them to places that
don't work.

MR. STEWART: That's right.

MR. MUÑOZ: Brent, I wasn't at the last Board
meeting, and this is a report item, I appreciate that, but
how much more information, if at all, do you all need?

MR. OXER: And do you anticipate that to be
forthcoming?

MR. MUÑOZ: I mean, because everybody is
entitled to the opportunity for clarification,
elaboration, et cetera, but at some point something is
going to have to be done.
MR. STEWART: We've asked for one more piece of information that's either going to say excluding those two pieces that spill into Gillespie and Llano counties, if you cut those off, does the capture rate work.

MR. OXER: So that's a math problem.

MR. STEWART: If you carve off the population out of those two fingers that are going into Llano and Gillespie counties, what do you have?

MR. CHISUM: Won't work.

MR. OXER: So if you left it in, what would be the implications for the applicant for having added those later in the real estate analysis? Since it's a give and take, adding information, and even though that wasn't included in the original PMA, what does that do for the REA position on this application?

MR. STEWART: Right. The goal would be to understand the market analyst's thoughts on why their original PMA made sense to use and that it works, so they provided a drive-time area to help explain that. The drive-time area spills into these other two counties that we don't want to include because that's adding to the PMA as opposed to what we're looking for is the explanation as to why that PMA that you submitted works.

MR. IRVINE: I would also inject that not only would those little fingers that go outside of the original
PMA go beyond this self-limiting description of the PMA, but they also get closer to large centers of population, like Llano or Fredericksburg or Kerrville, where the pull changes. Basically, you've got five roads running out of Mason: you've got one going northwest into Menard and it's going to draw, presumably, some people from that area; it's got one going north towards Brady, and the closer you get to Brady, the less likely it is that you'll be drawing from that area; you've got one going east toward Llano and then you've got two going down south into Gillespie, and the closer you get to those other population centers, the less likely it is that you'll attract someone.

MR. STEWART: And the market analyst has done a good job through this followup process. They went and interviewed more people and got some data and things that help tell that compelling story. It now simply relates to those two fingers.

MR. OXER: So from the perspective of where we are on the application and the standpoint, you continue to be in the REA give and take back and forth with the applicant, and the applicant's market analyst.

MR. STEWART: We're at the end of that road, but, yes, sir.

MR. OXER: So it's either going to turn off or
stop.

MR. STEWART: That's right.

MR. OXER: Okay. So you're going to get that answer. What you need from us today is we'd like to have the answer too so we'll give you another meeting.

MR. STEWART: We would expect to have this wrapped up by the next meeting for sure. That's September 8, I believe.

MR. OXER: September 8. Correct. Two weeks from today.

MR. CHISUM: Mr. Chairman.

MR. OXER: Sir. With this being a report item -- go ahead, Tolbert. I'm sorry.

MR. CHISUM: Would the reduction of the project, the size, the number of apartments, would that change the deal? If they cut it in half, would that be something? It sounds like to me that the $46 differential is driven by much of the fixed costs, so if you reduced the size of the project, it's still underwater. Or would we allow that?

MR. STEWART: The rules would not allow the applicant to reduce the number of units at this point.

MR. OXER: That's a material change. Right?

MR. STEWART: I'm sorry?

MR. OXER: Material change?
MR. STEWART: I'm guessing. I try to stay away from the QAP and so forth.

MR. OXER: Marni is still healing over there and patched over most of the scars from the last one.

(General laughter.)

MR. STEWART: From a capture rate standpoint, it would be obviously much better because there's less supply that you're calculating that on. Probably from an appropriate size of a development going into Mason, something smaller than 49 units might make more sense. But then you get into the whole toolbox thing. Tax credits were originally intended for certain things and we've kind of taken it and done a lot with it, it's been good, but sometimes you reach a limit where maybe not so much.

MR. CHISUM: That's my banker side coming out.

MR. OXER: Right. That's the one we want exposed on this.

MR. MUÑOZ: Brent, just some final thoughts. Just what I've have read and as I hear you explain, this 10 percent, some concern about that threshold 40-something dollars cushion, some concern, and now we're looking at all these different areas, I hear this sort of theme of risk.

MR. STEWART: It's important to know that this
is the level of work we would do on any transaction that
had these types of issues. This is not something where we
are trying to make a deal happen or not make a deal
happen. We want to get to a definitive place where we can
use our judgment and make a recommendation to you and say
this is what we've concluded.

MR. MUÑOZ: So you have until the 8th. Right?

MR. STEWART: Yes, sir.

MR. MUÑOZ: So I'm going to drop the mic now.

MR. OXER: That meant something.

MR. MUÑOZ: I meant turn it off.

(General laughter.)

MR. OXER: All right. So you have more
information coming, expect to continue on your real estate
analysis. This was a report item. I think as chair I'll
acknowledge we've accepted the report, we recognize the
issues associated with it. And you feel fairly
comfortable what our concerns are?

MR. STEWART: Yes, sir.

MR. OXER: They seem to be consistent with what
good real estate finance would suggest, which aside and
apart from the fact as an agency we do have to use that
good judgment for the sector we're working in.

All right. Anything else to offer, Brent?

MR. STEWART: Not from me.
MR. OXER: Any other questions from the Board?

(No response.)

MR. OXER: Okay. Appreciate you doing it.

We'll let it play out and let's see how this works out.

Keep your standards high.

MR. STEWART: Right.

MR. OXER: All right, Brooke.

MS. BOSTON: Hi, Chairman Oxer, Board. I'm Brooke Boston, one of our deputies of the Department.

I'm here today to present to you on items 3(a) through (d). All four of these items relate to Department rules in the Texas Administrative Code. While these actions are separated into four distinct action items in your agenda and in the book, that was done primarily to make it a little less unwieldy and more manageable.

MR. OXER: And so you didn't have to stand there all morning.

(General laughter.)

MS. BOSTON: But because they're so interrelated, my presentation to you now is covering all four together.

These four items together represent the Board's action on the Community Affairs rules project, or the CA rules project. Within the Department's sections of the Texas Administrative Code, a series of different
Department rules govern all of the programs administered by the Community Affairs Division. Those programs include the Community Services Block Grant (CSBG), the Comprehensive Energy Assistance Program (CEAP), the Weatherization Assistance Program (WAP), the Emergency Solutions Grant Program (ESG), and the Homeless Housing and Services Program, also called HHSP.

Over time varying components of these rules have been amended as needed to address specific changes, but a wholesale review and revisit of the rules has not take place in several years and we felt that was well overdue. So we decided to begin a broad reorganization of and revision to the rules that govern the Community Affairs Program, hence, the CA rules project.

So the programmatic rules that currently govern the Community Affairs programs are located in Chapter 5, we call that the Community Affairs Programs. However, to remove ambiguity about what program contracts are subject to which sets of rules, the Department is proposing to actually leave Chapter 5 unchanged, as it continues to apply to many existing contracts. We alternatively are proposing two new chapters that will govern these Community Affairs programs contracts in the future: a new Chapter 6 to govern the traditional Community Affairs programs, CSBG, CEAP and WAP, and a new Chapter 7 to
govern the two homelessness programs.

Staff is recommending that these two sets of programs be separated into two different chapters because staff believes that the CSBG, CEAP and WAP programs, and their applicable state and federal oversight regulations are sufficiently distinct to support separate rulemaking from the homelessness programs. So those two new chapters are represented for you in items 3(a) and 3(b).

There are also other rules that affect the Community Affairs programs being proposed for change as part of the CA rules project, which include Chapter 1, Administration, and Chapter 2, Enforcement, which are located in the parts of the rules that relate more broadly to all Department activities. Those actions within Chapters 1 and 2 are represented in items 3(c) and 3(d) in your book.

As part of the CA rules project, staff is proposing a set of rule actions that jointly capture the rule reorganization and revisions. The rule changes being made include everything from incorporating language that is currently in Chapter 5 into Chapter 6 and 7 because it's still relevant to program activities, removing unnecessary or redundant requirements or sections, streamlining uniform requirements, organizationally placing sections in a logical order or within more
appropriate chapters and subchapters, incorporating new or
more fully addressing existing federal program
requirements, renumbering consequential sections, and in
some cases making significant policy and process changes.

Because a lot of this was very significant, we
have worked pretty diligently to make sure that the public
is aware of all of this, so on June 27 we held a
roundtable to discuss the proposed changes. And then
based on what we heard at that roundtable, we actually
released a staff draft of this rule on July 29 and let
people comment on that for a week. And then we took that
into consideration into the set of revisions that we are
providing you today, or the set of rule documents that you
see today. So after your action today, then the rules
will go out, be published for draft and then be put out
for public comment, so there will be even additional input
at that point.

So at this point I was not going to take you
through a comprehensive list of each of the sets of
specific changes going into each of the different
chapters. Those lists were provided in your Board items.
If you have specific questions, I can take you through
all that, but in the essence of time, I wasn't going to.
That's kind of it, so I'm happy to answer any questions.

MR. OXER: So we're essentially putting out
rules to make us better, sleeker and faster.

MS. BOSTON: Yes.

MR. OXER: Nothing bad about that.

Any questions from the Board?

MR. GOODWIN: Move approval.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation on item 3(a), (b), (c) and (d).

MS. BOSTON: Yes.

MR. OXER: All four at one time. We'll take 3(e) coming up here next.

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: Second by Ms. Bingham. We have request for public comment.

MS. RODRIGUEZ: Good morning, members of the Board, Mr. Irvine. My name is Stella Rodriguez. I'm with the Texas Association of Community Action Agencies.

First and foremost, I want to thank Brooke and the staff for this opportunity that we've had. This is a major revamping of the rules and I know it's taken months for them to work on them, and so we really do appreciate the opportunity to comment during the roundtable and then as well during the staff draft. So kudos to the staff for that.

But there are a few concerns that we have with the proposed rules that you have before you, and I'm only
going to hone in on one. Hopefully we can continue to work with Brooke and staff and iron out some of the other kinks. But the one that I want to bring to your attention is in reference to Chapter 6, Subchapter B, 6.204, the use of the Community Services Block Grant funds. That was completely rewritten the way it currently stands, and so we would encourage the rule to continue to be under the current language, not the proposed language because it's in line with the federal CSBG Act. And we encourage the staff to leave it as is because otherwise revising that language to not just pointed to the Community Services Block Grant removes the intent of the CSBG Act and the local control. So we will continue to work with her to offer more comment about that.

MR. OXER: Any questions?

(No response.)

MR. OXER: Thanks, Stella.

MS. RODRIGUEZ: Thank you.

MR. OXER: Got a quick question on that one, Brooke. So how is it we are once again telling the feds that we do it better than they do?

MS. BOSTON: So to give you the specifics of the section she's talking about, I think you guys, from hearing testimony over the years and hearing about the program, the CSBG Act does, in fact, provide a lot of
latitude locally for them to decide through a needs assessment, and then some planning documents that they turn in to us, what the local communities need. The suggestion, that is in the draft that's in your book, from staff is that we're adding some specificity to what we think how those funds should be used. We're saying that we think that 10 percent of the funds should be used for direct client assistance for people transitioning out of poverty, and that an additional 20 percent of the funds should be used for assistance for case client services which would not necessarily have to be for transitioning out of poverty.

You know, we've done some analysis of how they're spending the money now and we think most of this them would satisfy this anyway. I can tell you kind of from what we've talked about with the network, if I were to say what I think they would say, some of them do a lot of their work through referrals and they're successful with that, and so they, I think, take exception that we say that you would need to do it directly.

MR. OXER: I'm just trying to make sure we're clear. We, TDHCA, the crew on this little ship of state here, the crew has a responsibility to spend those monies that are provided to us through allocation from HUD and elsewhere in the federal programs, in a manner that
reflects their expectations and our standards in terms of quality and way we're looking. So what you're saying is we've got a few added expectations.

MS. BOSTON: Correct.

MR. OXER: All right. You're still working with Stella.

Stella, you're going to have plenty of shots at this, we're announcing this. So your point is taken, point understood, but as we've tried to point out in other things, we're going to try to set the standard for how these should be done.

Comments from the Board?

MR. CHISUM: I do have a question. Under Chapter 7, item 4 through the definitions it's mentioning about a child, household member not exceeding 18 years of age. Is that the standard that we have used historically?

MS. BOSTON: Let me look real quick. I think that's for as it would be defined if we were trying to figure out a household for a child. It doesn't mean someone can't get assistance if they're under 18, just to clarify. Right, Megan? Because someone could be, for instance, a youth under 18 and still get assistance. So it's not saying that you would have to be that age to be assisted.

MR. OXER: So it's not a matter of restricting
that individual.

MS. SYLVESTER: Megan Sylvester, Legal Division.

That is how HUD in its rules defines a child, and Chapter 7 is the part that deals with our Emergency Solutions Block Grant which is a HUD-funded program and our state-funded HHSP program, which because several of our subrecipients of those funds use them to match to make the required match under CSBG, we try to have those programs work as much in concert as we can.

MR. OXER: So that means they sort of parallel up on the definitions and such. Right?

MS. SYLVESTER: It makes it a whole lot easier for reporting purposes.

MR. OXER: Okay.

MR. CHISUM: Thank you.

MR. OXER: Satisfy your question?

MR. CHISUM: Yes.

MR. OXER: Any other questions? Counselor.

MR. ECCLES: Just a quick note because there was a staff draft that went out and public input was received on that. With the Board adopting this draft of rules, it begins the public comment period, the formal public comment period. So there may have been some discussions that ran around. If out in the public there
is a desire to make a formal comment on it, just because you made it back during an input phase when you were talking about a staff draft doesn't mean that it carries forward, so if you have comments that persist, please put them in now.

MR. OXER: Whatever you want to say, keep saying it.

MS. BOSTON: Great clarification. Thank you.

MR. OXER: Of course, we don't have any question about you, Stella. We know you'll make sure we know.

Any other questions?

(No response.)

MR. OXER: Let the record reflect on this vote that Dr. Muñoz has taken a brief leave.

With respect to items 3 collectively, 3(a), (b), (c) and (d) --

MR. MUÑOZ: Let the record reflect he's returned.

(General laughter.)

MR. OXER: Just making sure you knew there, Doc.

We had a motion by Mr. Goodwin, second by Ms. Bingham, if I recall, had public comment. Motion by Mr. Goodwin, second by Ms. Bingham. Those in favor?
(A chorus of ayes.)

MR. OXER: And opposed?

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

Hey, Steph. Jump in the box.

MS. NAQUIN: Good morning, everybody. I'm Stephanie Naquin, the director of Multifamily Compliance.

MS. NAQUIN: Item 3(e) is: Presentation, discussion and possible action on rulemaking related to utility allowances for the Department's multifamily rental programs.

At the Board meeting of March 31, 2016, the Board approved rulemaking regarding utility allowances, and at that time staff was proposing changes to align our rule with the new Treasury regulation requirements regarding the Housing Tax Credit Program and HUD's requirements regarding the HOME Program. The public comment period for that action was April 15 through May 16 of this year. We were all ready to propose adoption of the rules with some small tweaks based on that comment when HUD released a HOMEfire for the HOME Program that requires us to make additional changes.

MR. OXER: It's a flyer, not a fire,

MS. NAQUIN: No, it's a fire, it's a HOMEfire.

A HOMEfire is the publication through which the community planning division of HUD provides guidance related to the
HOME Program.

So staff attended a QAP roundtable on June 29 to discuss this new guidance, so today we're requesting you approve withdrawal of the proposed action from March, propose repeal of the current utility allowance rule in the Texas Administrative Code, and a proposal of a new rule that will reflect what we would have proposed for adoption, plus other changes needed due to the HOMEfire.

We talked a lot over the last eight months about utility allowances, so today I'm going to focus on just the things that are new since we last discussed this issue. The HOMEfire guidance did not introduce any new requirements, rather provided additional clarification of the changes made to the utility allowance requirement in August of 2013 when the HOME final rule was revised. Prior to this clarification, it was proposed that for all developments with HOME funds, the Department would calculate the utility allowance using the HUD utility model schedule to meet our obligations as a participating jurisdiction under the HOME final rule. The HOMEfire introduced alternate methods that the Department could adopt to satisfy these obligations, and the rule we're proposing today allows for those methods to be used.

To sum it up, we're asking you to withdraw the rulemaking proposed in March, propose repeal of the
current rule in the Administrative Code, and propose a new utility allowance rule, with a new public comment period which will be from September 9 to October 10.

I'd be happy to go into any detail, explain the various options for calculating utility allowance, when it's appropriate to do so. That might be more information than you guys are interested in, but I'd be happy to answer any questions. So do you guys have any questions?

MR. OXER: Well, utility allowances are just one of those things that are just fascinating technical adventures.

(General laughter.)

MR. OXER: Essentially what we're doing is taking away what we recommended, they said here's some more stuff you need to add, so we're unwinding and winding some more things in, straightening it out so what we're recommending includes what they've told us to add.

MS. NAQUIN: Exactly. And hopefully, when this public comment period concludes, we won't receive any additional federal guidance that would interrupt what we've done.

MR. OXER: I wouldn't count on that.

MS. NAQUIN: I said hopefully. I'm keeping my fingers crossed.

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

MR. CHISUM: My question, Mr. Chairman, are any of the current provisions being grandfathered into this?

MS. NAQUIN: So prior to this guidance, it eliminated the owner's ability to choose different utility allowance methodologies when they had HOME funds on their project.

MR. OXER: If there were HOME funds on it, we got to tell them what they used.

MS. NAQUIN: That's exactly right. We would have to calculate it under a very specific method. What this HOMEfire did is allowed for the choice that they previously had prior to the August 2013 HOME final rule. So with the August 2013 HOME final rule, it introduced a new idea, it tasked the PJ for calculating the utility allowance using the HUD model schedule, and we in turn have received guidance that it's not that narrow of a prescribed methodology but we have some additional guidance. So what this does is provide the choice which was what most of the comment that we had received with the previous rulemaking was about was the lack of choice. So we're hoping this really kind of satisfies a lot of that.

MR. OXER: So the project owners and such now have a little bit more latitude and we have the capacity to offer them more latitude in the way they do this which
is better for them and for us.

    MS. NAQUIN: Right. So as the participating jurisdiction, we're still tasked with establishing it, this just allows different avenues through which we can meet that obligation.

    MR. OXER: There are a number of different ways you can calculate the utility allowance. They'll say we'd like to do it this way, and we say, well, have you thought about this. It's a give and take, like Brent was talking about on the real estate analysis.

    MS. NAQUIN: Exactly.

    MR. CHISUM: So there was some grandfathering.

    MS. NAQUIN: Yes.

    MR. CHISUM: Thank you.

    MR. OXER: I'm good with that.

    MS. BINGHAM ESCAREÑO: Move to approve.

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

    MR. CHISUM: Second.

    MR. OXER: And second by Mr. Chisum. Nobody wants to talk. Motion by Ms. Bingham, second by Mr. Chisum to approve staff recommendation on item 3(e). Those in favor?

      (A chorus of ayes.)

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

MR. OXER: There are none.

MS. NAQUIN: Thank you.

MR. OXER: Thank you.

All right. Here's what we're going to do.

We're at the end of that time and we'll take a little short 15-minute break. We'll be back in 15 minutes. Don't go away, folks.

(Whereupon, at 10:13 a.m., a brief recess was taken.)

MR. OXER: All right. Boots in saddles. Let's get back in the game, everybody.

Marni, I think you're up. Item 4.

MS. HOLLOWAY: Item 4(a) is: Presentation, discussion and possible action regarding the issuance of Multifamily Housing Revenue Bonds for Skyline Place Apartments, Series 2016, Resolution No. 16-024, and a determination notice of housing tax credits.

So the Board adopted the inducement resolution for Skyline Place Apartments at the meeting of January 28, 2016 and a full application was subsequently submitted on April 1. A certificate of reservation was issued in the amount of $19 million on May 31, 2016 with a bond delivery deadline of October 28.

The applicant has disclosed undesirable
neighborhood characteristics, as required by 10 TAC 10.101(a)(4), specifically that the Harold Wendell Lang, Sr. Middle School did not achieve a 2015 Met Standard rating by the Texas Education Agency. The borrower is Dalcor Skyline, Ltd. and includes the entities and principals as illustrated in Exhibit A in your Board book. And in accordance with 10 TAC 10.301(d)(1), the applicant's compliance history is designated a Category 3 small portfolio and was deemed acceptable by EARAC, and EARAC recommends the issuance of Multifamily Housing Revenue Bonds and the issuance of the determination notice.

Skyline Place Apartments, for some background, is an acquisition and rehabilitation transaction for 318 units serving the general population. It was originally constructed in 1987. All of the units will be rent and income restricted to 60 percent of AMFI.

As I mentioned earlier, the proposed development is located in the attendance zone of the Lang Middle School which failed to achieve that 2015 Met Standard rating by three points on performance index 4. From a historical perspective, Lang achieved a Met Standard rating in 2013 and 2014, so 2015 was the first time that they were IR, and preliminary data from midyear student assessments indicates that they're making good
progress across the majority of subjects in all grade levels and that they were making good progress towards the objectives identified in their school improvement plan.

When TEA released the 2016 accountability ratings, Lang fell one point shy of achieving the Met Standard rating, so there's still improvement required but they're just one point off, they've certainly made progress, and there's every indication that that will continue.

MR. OXER: Trajectory is in the right direction.

MS. HOLLOWAY: Yes.

The undesirable neighborhood characteristics rule provides for consideration of acceptable mitigation on the basis that there is a determination that such characteristic is not of such a nature or severity that it should render the development site ineligible.

After reviewing the historical ratings and improvement over the past year, staff does not believe that the development site should be considered ineligible under the Uniform Multifamily Rules.

A public hearing for the proposed development was conducted on July 5 of 2016. There was no one in attendance. The Department has not received any letters
of support or opposition for this development. On August 9 of 2016, the Department received a copy of a housing discrimination complaint that was filed with HUD relating to the resolution of no objection which was passed by the City of Dallas to fulfill the requirements of 10.204 of the Uniform Multifamily Rules and our statute under 2306.67071. A copy of the complaint is included in your Board book, along with the resolution of no objection which triggered that complaint. We will point out that that complaint was filed against the City of Dallas and not TDHCA. Staff will continue to work with counsel and the Bond Review Board regarding this issue moving forward.

This transaction utilizes Fannie Mae multifamily pass-through mortgage-backed securities which mirrors the financing structure used for the Williamsburg Apartments transaction which you approved in November of 2015. So under the proposed structure, the Department will issue tax-exempt fixed rate bonds in an amount not to exceed $19 million which is currently sized at $18,750,000. The bonds will have an interests rate currently estimated to be 2.7 percent which does not include servicing or guarantee fees.

Staff is recommending that the site be found eligible under 10.101(a)(4) and is recommending approval of Resolution No. 16-024 for the issuance of $19 million
in tax-exempt Multifamily Housing Revenue Bonds and the issuance of a determination notice of $955,499 in 4 percent Housing Tax Credits for Skyline Place Apartments.

MR. OXER: Any questions from the Board?
MR. GOODWIN: Move the recommendation of staff.
MR. OXER: Motion to Mr. Goodwin to approve staff recommendation.
MR. GANN: Second.
MR. OXER: And a second by Mr. Gann.

Looks like all is going well. Basically, we're taking a reconstruction and remodeling of one that was put in 30 years ago and we're fixing it back up and putting it back in the portfolio, using the 4 percent puddle that we haven't dipped into very often.

MS. HOLLOWAY: Actually, we've been doing a lot of 4 percent deals this year.
MR. OXER: Better this year than before.
MS. HOLLOWAY: We're at 50 this year so far and we were at 30 last year all for the entire year, so business has picked up quite a bit.
MR. OXER: Got any sense on why that is? Just easier to do?
MS. HOLLOWAY: I don't know about easier. I think that it's just that it's another tool that developers are out there using.
MR. OXER: Got a screwdriver instead of just a hammer in the box now.

MS. HOLLOWAY: Exactly. Before long they'll have pliers, and then I don't know what we'll do.

MR. OXER: Oh, my gosh, then we can fix fence.

(General laughter.)

MR. OXER: Okay. Motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation on item 4(a).

Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

Thank you, ma'am.

MS. HOLLOWAY: Item 4(b) is: Presentation, discussion and possible action on Inducement Resolution No. 16-025 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority and determination regarding eligibility under 10 TAC 10.101(a)(4) related to undesirable neighborhood characteristics. We are discussing the pre-application we have received for Piney Woods Village. That's number 16608.

In their pre-application, the applicant has disclosed undesirable neighborhood characteristics
pursuant to 10 TAC 10.101(a)(4), specifically that the proposed site is located in a census tract where the Part 1 violent crime rate exceeds 18 per 1,000 persons annually, according to Neighborhood Scout, and that the site is located within 1,000 feet of multiple vacant blighted structures.

Staff has conducted a further review of the proposed development site and surrounding neighborhood and is recommending that the proposed site be found eligible currently under those rules based on the mitigation provided.

The proposed development is new construction of 290 units serving the general population in Houston. 288 of the units will be rent and income restricted at 60 percent of area median income, the remaining two units will be employee occupied.

Regarding the undesirable characteristics, the applicant disclosed the presence of a crime rater greater than 18 per 1,000 persons annually and that there was blight within 1,000 feet of the site.

With respect to the violent crimes, the proposed site is not within the census tract that triggers that measurement, it's actually the census tract within 1,000 feet of the census tract that it's in which has a measurement at 21.56 per 1,000 persons annually, per
Neighborhood Scout. The applicant provided crime data from the City of Houston's Police Department as well as Harris County Sheriff's Department which indicates that actually the average violent crime rate for that census tract is 3.7 per 1,000 persons. They also provided information regarding violent crimes within a half mile radius and a three-quarter mile radius of the proposed development which shows at that measurement 2.38 violent crimes per 1,000 persons, both of which are well below our threshold.

MR. OXER: Our threshold being?

MS. HOLLOWAY: Eighteen per thousand.

The proposed development is located in a neighborhood of primarily older single family homes as well as several multifamily developments. During a site visit on June 7, staff observed several blighted structures but we could not at that point determine whether they were within that 1,000 foot measure. The applicant has provided a map with a 1,000 foot radius from each of the four corners which revealed two structures that the applicant believed could be considered blighted. On further assessment, staff believes that only one of them could be considered blight. One of them is actually an occupied home that's under repair, and therefore, not of a magnitude that would render the site ineligible.
So under 10.101(a)(4) which is the Undesirable Neighborhood Characteristic rule, there is consideration for the Board to find a site eligible despite the presence of undesirable neighborhood characteristics on the basis that there is a factual determination that such characteristic is not of such a nature or severity that it would render the site ineligible. Staff believes the information provided by the applicant meets this criteria and the site should not be considered ineligible.

So keeping in mind this is an inducement, if additional information should become available during the full application process regarding undesirable neighborhood characteristics, the site will be reevaluated for eligibility and the staff would present that information to the Board if applicable at that time.

Staff is recommending that the Board find the site eligible at this time under 10 TAC 10.101(a)(4) Undesirable Neighborhood Characteristics and approve the Inducement Resolution No. 16-025 to proceed with the application submission to the Bond Review Board for possible receipt of state volume cap issuance authority from the 2016 Private Activity Bond Program for Piney Woods Village.

MR. OXER: Any questions?

MR. GOODWIN: Move staff's recommendation.
MR. CHISUM: Second.

MR. OXER: Motion by Mr. Goodwin, second by Mr. Chisum to approve staff recommendation. Is there request for comment?

MR. LYTTLE: Yes.

MR. OXER: Okay. On that one we'll have a letter by Mr. Lyttle to read into the record.

MR. LYTTLE: Thank you, Mr. Chairman.

We do have a letter that's been submitted from State Representative Armando Walle. His chief of staff is here today as well, but they've asked me to read the letter into the record.

It reads to Mr. Irvine:

"I write to you today to express my opposition to the housing tax credit application for the proposed affordable multifamily housing complex, Piney Woods Village Apartments. On behalf of my constituents, I strongly advocate against adding another unnecessary multifamily housing complex to our community.

"My Texas House district encompasses a northern section of Harris County, with some areas falling within City of Houston boundaries with the rest in unincorporated Harris County. Community residents end up depending on a variety of different sources, government and otherwise, to access basic service needs like law enforcement, water and
wastewater, trash pickup and others. Despite spotty public services and the modest means of many of our residents, we are a proud, hardworking, family-oriented community. As such, our community is always concerned and skeptical of development in our neighborhoods that do not potentially improve on these values.

"As part of encouraging a safe family-oriented community, my constituents and I prioritize public safety. My district has previously encountered issues related to apartment developers using tax incentives to build and fill new multifamily construction but later failing to hold up promises to maintain their new properties, letting properties fall into disrepair. Such neglect not only creates more visual blight and diminishes living conditions, but also invites criminal activity to the area and surrounding neighborhoods.

"An unfortunate recent example of this is only a few blocks down the road across the street from this proposed Piney Woods development, the Haverstock Hills apartment Complex at 5619 Aldine Bender. The Haverstock Hills complex is well known to be a nexus of criminal activity, often related to gang activity. A simple search on Google for Haverstock Hills pulls up reports of murder and gang-related vandalism, drug trafficking, trespass and other criminal activities, as well as different local
efforts to curtail this activity.

"The problems are of such a scale that a multi-jurisdictional effort among local law enforcement entities established a 217-acre East Aldine "Safety Zone" designed to mitigate the gang-related criminal activity at Haverstock Hills and other nearby apartment complexes. While efforts like this have some occasional success, problems persist to the extent that this safety zone continues to be necessary. Violent crime is still a too common occurrence in the area. I am confident this type of environment is not safe for our families and children. "The elevated level of criminal activity also makes the nearby residential area less safe. Building a new large multifamily complex across the street, along the existing safety zone, despite their admirable yet non-guaranteed goal of serving U.S. Veterans, sets this proposed development up for failure and potentially following the infamous footsteps of the Haverstock Hills Apartments.

"My concern with this proposal was also derived from my experience in helping constituents living in Haverstock Hills and other nearby complexes needing assistance dealing with neglect of their apartment issues. Issues include rental contract disputes, lack of interior and exterior maintenance and rodent infestations, among
others. My experience with these repeated issues over
time and under different property management continue to
give me pause. I worry about developers knowingly,
negligently, or otherwise adding to this ongoing public
safety and quality of life problem.

"Three multifamily complexes have been built
directly across the street from the Piney Woods Village
site with TDHCA financial assistance since 2001: Costa
Rialto, Timber Ridge I and Timber Ridge II. Another two
TDHCA assisted complexes are located just north of these
around a half mile from the Piney Woods site: Villas in
the Pines which was funded in 1999 on Crosswinds Blvd.,
and Northland Woods funded in 2003 on Vickery Drive. The
area community does not have a need or interest to take on
another multifamily experiment until, at the minimum,
existing criminal and poverty issues are addressed and
balanced with existing community need.

"For all of the foregoing reasons, I
respectfully oppose the approval of TDHCA assistance for
the proposed Piney Woods Village Apartments. To note, I
am a strong proponent of housing affordability, especially
programs that serve senior citizens and families and help
them purchase an affordable property to live in. I support
giving people the opportunity to live in residences that
foster a safe environment and help them build their credit
in working towards property ownership.

"I appreciate your time and consideration in this matter. I appreciate it if you could please keep my office informed of any updates.

"Sincerely, Armando Walle, State Representative, House District 140."

MR. OXER: So for the TDHCA properties that were mentioned, do we have any information? Is Patricia here, the chief?

MS. HOLLOWAY: I can tell you that the Haverstock development that was described as a source of crime and blight is not a TDHCA property.

MR. OXER: Right.

MS. HOLLOWAY: So while it is absolutely unfortunate that that's going on in that development, that's not something that we as an agency have any oversight of.

MR. OXER: Right. And I understand that, but the point is that even though this would use private activity bonds, it would still be in the monitoring portfolio.

MS. HOLLOWAY: Yes. This deal would be, yes, absolutely.

MR. OXER: The one we're talking about would stay within Chief Murphy's overview for compliance, and
God help anybody who opposes that and doesn't stay in line on that one.

MS. HOLLOWAY: That's right. And keep in mind also that this is an inducement, so we have not received and evaluated the full application.

MR. OXER: Okay. This is something we're offering as an inducement, and it's not through every gate that it will have to get through.

MS. HOLLOWAY: Exactly.

MR. OXER: It has to go wrestle with the dragon over in Brent's shop yet. Right? Keep your standards high, Brent.

Any questions? Mr. Chisum.

MR. CHISUM: First of all, given the tone of the letter, the recommendations we just received from a legislator, would it be the policy of the Board -- Tim is here or our attorney -- that we should respond to that from the Board? Because example, the property that is in disarray nearby, we have nothing to do with and I'm not sure he understands that. That's number one.

And number two, he obviously is totally committed for us not to do this, and I think that maybe we need some clarification or a sit-down meeting with him or something so he better understands what we're doing, what we're proposing.
MR. OXER: And I know but I would like to hear you to speak into the record, any letter like that from a member of the legislature gets a personal response, even if it's a letter saying this is how we're taking this into consideration.

MR. IRVINE: We can absolutely provide a personal response, including reaching out to meet with the representative's office.

I think it's also really important to understand that although there are multifamily properties in the world that run into maintenance problems and the way that they operate and so forth, but the Tax Credit Program and the bond program which is adjunct to it, are really kind of unique. With Chief Murphy's regimen of routine inspections and oversight, and frankly, the financial incentives of the risk of tax recapture, responsible owners and investors really, really work hard to make sure these are well maintained and well run properties. They're a credit to any neighborhood.

MR. CHISUM: Amen.

Can I keep going? I've got a couple more, Mr. Chairman.

MR. OXER: Absolutely.

MR. CHISUM: First of all, in our relationship when we know that there's a blighted area and there's some
crime, obviously, heavy crime in that area, does that imply in any respect to us having any liability as a Board, as an organization, a state agency?

MS. HOLLOWAY: That's really a legal question I think that I am not equipped to answer. I can tell you about our review process when we know about those things. For instance, there was some concern about this site and Teresa went and drove around and looked at it, number one, to see if there was blight. She had to get a feel for the neighborhood, and this is something that we do if there's a concern, one of us will go out and actually physically look at the property. From that, we sent questions to the applicant, said we have these problems, please address them.

And then also we had received the information regarding the crime data that's in Neighborhood Scout. Neighborhood Scout we use because it's available statewide and it's not always the most current information but it gives us that threshold to go and look deeper. So in this instance what the applicant did was go to the police department and the sheriff's department and say, okay, what's really happening here, does the rate of violent crime hit this threshold or what is it actually on the ground, and proved to us that the rate was actually much lower than what was presented in Neighborhood Scout.
MR. OXER: So they made the effort to get a finer resolution.

MS. HOLLOWAY: Right. So those are the things, the process that we go through when we note these issues with any development.

MR. CHISUM: Next question is about the video cameras, and a lot of these video cameras don't record.

MS. HOLLOWAY: The security measures at the site?

MR. CHISUM: Yes. And so from a staff perspective, I think it would be important you've got a video camera up there but you're looking at it in real time but it's not recording anything, so should something happen, unless you're watching, you have no record of it.

MS. HOLLOWAY: And I don't know if it's included in the documentation provided by the applicant.

MR. CHISUM: I tried to find it and I couldn't find it. That doesn't mean it's not in there.

MS. HOLLOWAY: It doesn't really full describe everything that they've told us, but certainly, as we're discussing site features and they've told us that they're going to provide this additional security, and we certainly can make sure that that box is checked about cameras actually recording and those recordings being stored.
MR. CHISUM: I did see where they mentioned that the courtesy cops or whatever, mall police, would be there at night, and of course, the security police and the county sheriffs are 24/7. So I would encourage that that place in the clubhouse for the police/sheriff be 24/7 too.

It didn't say that.

The other question I have for you being that the state law has changed for concealed carry. Are there any restrictions in our projects that we fund that would limit the ability of the residents to have weapons for defense within their properties?

MS. HOLLOWAY: So far as I know there wouldn't be. There's nothing in our statute or anywhere that would limit a tenant's ability to legally possess firearms.

MR. OXER: I know this is just a question and inquiry. A place of business can limit the carry on premises which is inside the door; outside in the parking lot they're still allowed. That's a place of business. A place of residence, I don't think can do that.

MS. HOLLOWAY: That's far beyond my capacity.

MR. CHISUM: Well, Mr. Chairman, I was looking and simply was there some restriction that we put on.

MR. OXER: Are we in a position to be able to? I don't think we can do that, can we?

MS. HOLLOWAY: No. We do not put that
restriction on a property.

MR. OXER: Nor are we able to.

MS. HOLLOWAY: Right.

MR. OXER: So this is an inducement which we are offering for the purpose of?

MS. HOLLOWAY: We have received a pre-application and what the inducement does is allows the applicant to continue the process through a full application and issuing bonds. So with approval of the inducement today, then we start the full application process which is a much deeper review.

MR. OXER: So we're basically giving them an idea that they're going to get the bond if they go through the whole process.

MS. HOLLOWAY: If they go through the whole process. This is in no way saying: Yes, you will get the bonds. Actually the resolution includes that language that says that basically this is not a guarantee of issuance of bonds.

MR. LYTTLE: Mr. Chairman, I just want to interject one thing. Yesterday, Teresa Morales and I had a phone call with Representative Walle's staff about this transaction, and I do know that they're aware that Haverstock Hills is not a TDHCA property, and I think from their perspective -- and I don't want to speak for the
representative, because traditionally he is not somebody that would opposed affordable housing -- it is that they feel it's being placed in an area that would not be set up for success. But regardless, I'm sure Tim and I can go meet with them and bring Marni along with whoever else and work that out.

MR. OXER: Okay. Point taken. Thanks, Michael.

MR. OXER: This is an inducement to continue the process to go through their application.

MS. HOLLOWAY: Yes.

MR. OXER: As opposed to them going through a full application and making that expense and we say no, you didn't do this, we wouldn't give you the money, they at least get some sense that we're inclined to consider it.

MS. HOLLOWAY: We will consider their application.

MR. OXER: But it still has to go through all of the REA and fine-toothing.

MS. HOLLOWAY: Yes, and the Bond Review Board process.

MR. OXER: Which I assume will include the Real Estate Analysis will look at the market analysis because the representative indicated that there's a concentration
of units that are already nearby. So they'll have to defend their capacity or capture rate for that area.

MS. HOLLOWAY: Yes, that is a fact.

MR. OXER: Okay. Any other questions?

(No response.)

MR. OXER: Okay. Motion by Mr. Goodwin and second by Mr. Chisum to approve staff recommendation on item 4(b). We've had public comment. Are there any other questions from the Board?

(No response.)

MR. OXER: Okay. Motion by Mr. Goodwin, second by Mr. Chisum. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

MS. HOLLOWAY: Item 4(c) is: Presentation, discussion and possible action on Inducement Resolution No. 16-026 for Multifamily Housing Revenue Bond regarding authorization for filing applications for private activity bond authority for the 2016 waiting list for Robert E. Lee Apartments.

A bond pre-application for Robert E. Lee Apartments has been submitted to the Department for consideration of an inducement resolution. The pre-
application included disclosure of undesirable
neighborhood characteristics under 10 TAC 10.101(a)(4),
specifically that one of the schools located in the
attendance zone of the development did not achieve a 2015
Met Standard rating by the Texas Education Agency.

This item differs from the previous item in
that we have not yet considered this undesirable
neighborhood characteristic. Staff will conduct further
review and present findings and make a recommendation as
to eligibility of the site under the undesirable
neighborhood characteristics rule at the time of
consideration for an award of housing tax credits and
issuance of private activity bonds.

So the last one, we had looked at it and we are
saying that, yes, right now today it's okay and we're
going to look at it again later. This one we're saying we
haven't started looking at it, the applicant would like to
continue forward with the process. We will bring back to
you at final approval our recommendation regarding site
eligibility.

MR. OXER: So there's no request for inducement
on this one?

MS. HOLLOWAY: This is a request for
inducement, this is not a request to find the site
eligible or not at this time. We are informing you that
there's been this disclosure and we have not examined it yet.

MR. OXER: Okay. This disclosure is related to the school as opposed to the neighborhood characteristics.

MS. HOLLOWAY: Yes, right. And that's all we know of it at this point is the schools. We haven't taken a deeper dive to see if there's anything else.

MR. OXER: I'm sorry to interrupt, but essentially on each one of them we're not saying no now.

MS. HOLLOWAY: Yes, that's exactly what it is.

MR. OXER: Okay.

MS. HOLLOWAY: The Robert E. Lee Apartments is the acquisition and rehabilitation of an existing 72-unit development in San Antonio serving the general population. All units will be restricted for occupancy and rents at 60 percent of AMI.

This is a ten-story structure originally constructed in the early 1920s in downtown San Antonio. It was last renovated in 1994 with non-competitive housing tax credits. The initial compliance period ended in 2011, however, the extended use period extends through 2026.

Preliminary information submitted in the pre-application reflects approximately $35,000 per unit in rehabilitation costs. This is a historic building; they are also applying for historic tax credits.
The Department has received letters of support from Mayor Ivy Taylor, State Representative Diego M. Bernal, City Councilman Robert Treviño, and San Antonio ISD Superintendent Pedro Martinez. No letters of opposition have been received.

Staff recommends approval of Inducement Resolution No. 16-026 to proceed with the application submission to the Bond Review Board for possible receipt of state volume cap issuance authority from the 2016 Private Activity Bond Program for Robert E. Lee Apartments. It is important to note that Board approval of this action does not indicate that the site has been found eligible under 10 TAC 10.101(a)(4) Undesirable Neighborhood Characteristics. That determination will be made in connection with the resolution approving issuance of the bonds at a future date.

MR. OXER: So it's not that we're saying it has been found eligible, we're simply not saying that it has been found ineligible.

MS. HOLLOWAY: We have received disclosure, we are not making a recommendation on that item at this time.

MR. MUÑOZ: Move staff's recommendation Inducement Resolution No. 16-026.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Item 4(c). Motion by Dr. Muñoz and
second by Ms. Bingham. Did I hear that?

Any other questions?

(No response.)

MR. OXER: Okay. Motion by Dr. Muñoz, second by Ms. Bingham to approve staff recommendation on item 4(c). Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

MS. HOLLOWAY: Thank you.

MR. OXER: Okay, Brent.

MS. HOLLOWAY: We are pulling that item from the agenda.

MR. OXER: We got finished early.

MR. MUÑOZ: You're so efficient.

MR. OXER: Keep the trains running on time, that's what good engineers do. Right?

All right. We have now reached the point in the agenda where we'll receive public comment on matters other than items for which there are posted agenda items.

As I think everyone would recognize by now or should know, we cannot respond to these but we'll simply gather information and public comment to build future agendas.

You guys know to get up here. Now, how long
have you been in the game here? Right?

MR. ALCOTT: You recognize me after all these times.

MR. OXER: After all this time.

MR. ALCOTT: I am Tim Alcott from the San Antonio Housing Authority, and thank you for listening to me for a few minutes.

MR. OXER: Welcome back.

MR. ALCOTT: So we had a meeting yesterday, staff is doing a great job.

MR. OXER: You're on the clock, you know that.

MR. ALCOTT: Okay. About the changes to the QAP and they're doing a good job. We applied for a Choice grantee, San Antonio Housing Authority is. We didn't get tax credits this year, that's the way the cookie crumbles so we're not complaining. But when we told HUD about it, they were surprised. They said, If we would have known early on that the QAP was written in a way whereby you wouldn't be able to leverage your dollars because you're building in the inner city. And the rules had changed on us midstream, so the first phase we're so thankful we got tax credits, the second phase we're so thankful, the third phase the rules changed, and they said you're not an area of high opportunity, and so because you're not an area of high opportunity, that's why you got the Choice Grant but
you will not get the tax credit dollars.

And they said, You know what, this causes us to pause on all future applications to Texas that are Choice grantees. Harlingen just got an implementation grant which means they get to do the neighborhood component because normally they do the neighborhood, but to get the full grant they have to show that they can leverage their tax dollars. And what they're saying is, the conversations I'm having with them is: Listen, all these other states, they have revised their QAPs to specifically give additional points to folks that are Choice or Promise grantees.

Texas doesn't do that. And so the ability for Texas, all across the state because there's been applicants probably from every major city asking for Choice Grants, all these people, all these different cities will not have the same opportunity of other states to get these Choice dollars the way it's currently written.

So I specifically request that when you revise the QAP you put the low income from Texas, let them have the same opportunity to get these Choice Grants as other states. I can't think of a reason why we wouldn't want to do this. Why not have Texas on the same playing field as other states. So that's my humble request.
MR. OXER: Appreciate your comments, Tim.

And this is simply a notification, but our QAP discussion continues today. Marni, is that correct? Do you want to make a quick note of that just to advise everybody?

MS. HOLLOWAY: That's right. Our QAP meeting yesterday afternoon was fairly spirited, and we didn't actually get to cover all of the ground that we really wanted to with the group. There's still a couple of scoring items that we would like to discuss and make sure that everybody has an opportunity to be heard. Because of that, we will be reconvening in this room at 1:30 this afternoon. We have the room for the rest of the day and hopefully we'll be able to work through a few more of those items that we didn't get to yesterday.

MR. OXER: You get to sit up here and I get to go home.

MS. HOLLOWAY: That's right. And I would point out, I don't know if the Board is aware, we have chunk of the QAP posted on forum right now, so it's an opportunity for everyone to see what's up there and provide us their written comments. We've been encouraging everyone to do that. There have been lots of views and not so many comments.

MR. OXER: We offer everybody an opportunity at
this point, we like to think a fair opportunity to make comments for items to be considered on the agenda for future meetings. If anybody here has a comment to make on the QAP process, there's a forum. Bobby, I know you're out there and I appreciate that you're here, but there's a forum, an online forum to do that. For those comments, while we will be here and they will be recorded, they're best made into that process that you've set up online to receive public comments on the QAP.

MS. HOLLOWAY: And it's actually technically not public comment at this point, it's like stakeholder input. Once we bring you the draft and we go through all that process, then we get to the formal public comment part.

MR. OXER: Okay, good.

Bobby, have you got something else?

MR. BOWLING: I understand what you're saying, Mr. Chairman. Bobby Bowling, developer from El Paso. I wouldn't have come up here but I do want to comment on the other public comment that came here before you.

I can't think of a reason why you wouldn't do what the last speaker was asking you. You've had lots of hearings about this before, and I again have always advocated for and I'm still strongly advocating for don't make an unlevel playing field between housing authorities.
and private developers. That's specifically what was just asked of you and I don't think that's right. I understand through the QAP process you have repeatedly not done that, unlevel playing field, you've always kept it level, and I just wanted to come up here and give you, since you heard one side of that. The process is just beginning.

MR. MUÑOZ: Bobby, I don't mean to interrupt. I appreciate what you're saying. I'm commenting --

MR. OXER: We can't.

MR. CHISUM: Can't do it.

MR. OXER: This is to build agendas for future meetings.

MR. MUÑOZ: But if there's a mechanism to communicate these kinds of concerns outside of this, I mean, this is a forum or an opportunity on an item for a future meeting. Is that what we're hearing, or are we hearing comment on what was commented that shouldn't have been commented now?

MR. BOWLING: Probably the second, Dr. Muñoz. I apologize.

MR. OXER: And the intent is to make opportunity because we really can't comment or digest it and take it in to consideration, but the point is we can hear everybody but recognize that we can't respond to anybody.
MR. BOWLING: I understand.

MR. IRVINE: I think the bottom line is if you've got ideas on the QAP, whether it has to do with the level of tilt on the playing field or Choice Grants or anything else, bring them to Marni, to the QAP online forum, to me, whatever, and we'll work through it to the best of our ability and bring something back.

I also want to let people know just because there are particular documents up on the forum that are out for discussion and consideration or whatever, check regularly because I would anticipate that as we get feedback rather than continuing to receive input about what's up there that people don't like, we will come up with things that are different and we'll propose some different ideas, it will evolve.

MR. GANN: Mr. Chairman?

MR. OXER: Yes, sir.

MR. GANN: I'd like to bring up a subject that came up a little earlier today that I think we need to be having some research and development on so we can start making better decisions or thinking about it, and that's the part where I just heard that there's a 1920 project that had been approved for two or three different financial situations, and so now we're into an extended long time frame on a 1920 project or a 1940 project --
we've had several of those. We've got to determine how many times we can refinance on some of these things because these properties are destined to have dysfunctional situations simply because in 1920 they didn't have what we have today, like air conditioning, for instance, little stuff.

MR. OXER: Indoor plumbing.

MR. GANN: But we can't carry these things out 30 years from now and still have to guarantee that they're going to close. That's really bothering me, and we've never had the problem because we've never been this far out in the deal. But somebody has got to do some research and development to say, hey, look, this is going to work. And we know every project is going to have to be separate because some of them may be totally --

MR. OXER: And that's Brent's job to tell us if it's going to work.

MR. GANN: Okay. I love him to death but I don't think he can handle all that. It's a tough situation, though, really, if you think about it.

(General laughter.)

MR. OXER: And it is.

MR. GANN: And you can't see functional obsolescence, it's hard to see sometimes.

MR. OXER: A lot of times that functional
obsolescence is hidden behind the plaster, the drywall.

MR. GANN: But we're still guaranteeing it for 30 years basically, is the way I'm looking at it, and we just need to really realize how many times do we want to reinvest money in these projects when after a while they need to be self-sufficient anyway.

MR. IRVINE: I would just like to chime in with a pretty important clarifying remark. This is a private sector program, the Tax Credit Program. We're attracting private capital that's coming in and it's really those investors who are providing that 30-year certainty, it's not our certainty. We certainly underwrite them to say to the best of our knowledge and ability these deals are going to work for 30 years, but really, the ultimate challenge is to the investor/developer.

But I agree with you completely that we need to probably tee up some additional research and discussion for a future meeting on the whole issue of fast approaching functional obsolescence on some of these properties.

MR. GANN: Thank you.

MR. CHISUM: Well said.

MR. OXER: And point well made, Tom.

All right. Bobby, have you got anything else?

MR. BOWLING: I don't.
MR. OXER: Okay. Anything else from anybody else in the audience?

(No response.)

MR. OXER: Okay. Any of the staffers? Tom, we haven't heard from you today.

MR. GOURIS: Amen.

(General laughter.)

MR. OXER: Thank you.

Any member of the Board? Anyone on the dais?

(No response.)

MR. OXER: Okay. I get the last word. It's a good thing we do here and it's worth the effort that we put into it. Sometimes it's hard. Marni was a bit reserved in her assessment of the discussion in yesterday's QAP session, so one of the things that makes it good is Texas puts this into a pot, heats it up nice and hot and beat it up till it's clean and we make something really good come of it, which is why we lead the nation in how we do this.

With that, I'll entertain a motion to adjourn.

MR. CHISUM: So moved.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Motion by Mr. Chisum, second by Ms. Bingham to adjourn. Those in favor?

(A chorus of ayes.)
MR. OXER: See everybody in two weeks.

(Whereupon, at 12:11 p.m., the meeting was adjourned.)
MEETING OF:        TDHCA Board
LOCATION:         Austin, Texas
DATE:             August 25, 2016

I do hereby certify that the foregoing pages, numbers 1 through 95, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

08/30/2016
(Transcriber)       (Date)

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