TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

October 13, 2016
9:06 a.m.

MEMBERS:

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

TIMOTHY K. IRVINE, Executive Director
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**ITEM 1:** APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

**LEGAL**
- a) **Presentation, Discussion and Possible Action** regarding the adoption of an Agreed Final Order concerning Missouri Street Residence (HTC 93143/CMTS 1177)

**BOND FINANCE**
- b) **Presentation, Discussion and Possible Action** on Resolution No. 17-006 authorizing programmatic changes to the Single Family Taxable Mortgage Program FHA Streamline Refinance Program ("TMP-79 Refinance Program")

**MULTIFAMILY FINANCE**
- c) **Presentation, Discussion, and Possible Action** on Determination Notice for Housing Tax Credits with another Issuer
  - 16431 Northview Village, Brenham
  - 16432 Oaks at Georgetown, Georgetown
  - 16434 ThinkEAST Apartments, Austin
  - 16408 Broadmoor at Western Hills, Fort Worth
- d) **Presentation, Discussion, and Possible Action** on a Determination Notice for Housing Tax Credits with another Issuer and an Award of Direct Loan Funds
  - 16403 Cross Creek Apartments, Austin
- e) **Presentation, Discussion, and Possible Action** on Determination Notice for Housing Tax Credits with another Issuer
  - 16418 Pathways at Georgian Manor
  - 16419 Pathways at Manchaca Village
  - 16420 Pathways at North Loop
  - 16421 Pathways at Northgate
  - 16422 Pathways at Shadowbend Ridge

**ASSET MANAGEMENT**
- f) **Presentation, Discussion and Possible**
Action regarding material amendments to Housing Tax Credit Applications
13139 Stonebridge at Plainview, Plainview
15285 Residences at Earl Campbell, Tyler
g) Presentation, Discussion and Possible Action regarding material amendment to the Housing Tax Credit Land Use Restriction Agreement
99060 Villas at Costa Brava, San Antonio

COMMUNITY AFFAIRS
h) Presentation, Discussion, and Possible Action on the Use of Program Year 2017 Community Services Block Grant ("CSBG") Discretionary Funds
i) Presentation, Discussion, and Possible Action on the Release of a Request for Applications for Continuum of Care Lead Agencies to Locally Manage the 2017/2018 Emergency Solutions Grant ("ESG") Program Award Process

RULES
j) Presentation, Discussion and Possible Action on: first, amendments to 10 TAC Chapter 1 Administration, Subchapter B, §1.201 (concerning Purpose), §1.202 (concerning Definitions), §1.203 (concerning General Certifications and Effect of Non Compliance), §1.204 (concerning Reasonable Accommodations), §1.205 (concerning Compliance with the Fair Housing Act), §1.206 (concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1978); and second, the proposed repeal of §1.208 (concerning Public and Common Use Areas in Multifamily Developments), §1.211 (concerning Additions of Units to Existing Multifamily Housing Developments), and §1.212 (concerning Resources) and directing that these be published for public comment in the Texas Register

k) Presentation, Discussion, and Possible Action on an order proposing the repeal of 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and an Order Proposing new 10 TAC Chapter 21 Minimum Energy Efficiency Requirements for Single Family Construction Activities and directing that these be published for public comment in the Texas Register
l) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 12 Multifamily Housing Revenue Bond Rules, and a proposed new 10 TAC Chapter 12 Multifamily Housing Revenue Bond Rules and directing its publication for public comment in the Texas Register

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) TDHCA Outreach Activities, September 2016
b) Report Regarding Status of Appeal Rights for 2016 Competitive Housing Tax Credit #16040 Parklane Villas
c) Report Regarding Ranking of Applications in Region 2, Rural, from the 2016 Competitive Housing Tax Credit Application Cycle
d) Report Regarding Amended and Restated Determination Notices for (#14225) Dwight D. Eisenhower Memorial Apartments and (#14427) Kennedy Brothers Communities in El Paso
e) Report Regarding a Request for Proposal ("RFP") for Underwriters issued by the Texas Department of Housing and Community Affairs (the "Department")

ACTION ITEMS

ITEM 3: INTERNAL AUDIT

a) Presentation, Discussion, and Possible Action on approval of the Fiscal Year 2017 Internal Audit Work Plan
b) Internal Audit: Review of Fair Housing Activities
c) Report of the meeting of the Audit Committee

ITEM 4: REAL ESTATE ANALYSIS

Presentation, Discussion, and Possible Action on Timely Filed Underwriting Appeals under the Departments’ Multifamily Program Rules

15273 Merritt Hill Country, Dripping Springs

ITEM 5: COMMUNITY AFFAIRS

a) Presentation, Discussion, and Possible Action to adopt an order to terminate the entity know as Urban League of Greater Dallas and North Central Texas, now doing business as Urban Community Centers of North Texas, as a designated eligible entity under the Community Services Block Grant ("CSBG") Act and to terminate contracts with that entity and further
directing staff of the Department to initiate the necessary actions to identify a replacement eligible entity and to take such other measures as may be lawfully available to provide for delivery of Community Services Block Grant Services to eligible Texans in Dallas County.

b) Presentation, Discussion, and Possible Action regarding termination of the Program Year ("PY") 2016 Low Income Home Energy Assistance Program ("LIHEAP"), Community Energy Assistance Program ("CEAP") contract to Community Services Agency of South Texas ("CSA"); award of 24.99% of their PY 2016 CEAP contract for the specific service areas covered by CSA to alternate providers; the commencement of the 30-day notification period required by Tex. Gov't Code §2105.203, §2105.301; and the authorization of staff to identify a provider, through release and subsequent award of a Request for Application ("RFA") or through a direct designation, to temporarily and permanently administer the CEAP in Dimmit, La Salle, and Maverick counties, the area served by CSA.

c) Presentation, Discussion, and Possible Action regarding approval to proceed in accordance with applicable state and federal law with termination of the Eligible Entity Status and the contract for Community Services Block Grant contract funds with Community Services Agency of South Texas.

d) Presentation, Discussion, and Possible Action regarding Suspension of the Program Year ("PY") 2016 Low Income Home Energy Assistance Program ("LIHEAP") Community Energy Assistance Program ("CEAP") contract to Community Services, Inc. ("CSI"); award of 24.99% of their PY 2016 CEAP contract for the specific service areas covered by CSI to alternate providers; the commencement of the 30-day notification period required by Tex. Gov't Code §2105.203 and §2105.301; and the authorization of staff to identify a provider, through release and subsequent award of a Request for Application ("RFA") or through a direct designation, to temporarily and permanently administer the CEAP in Anderson, Collin, Denton, Ellis, Henderson, Hunt, Kaufman, Navarro, Rockwall,
and Van Zandt counties, the area served by CSI

e) Presentation, Discussion, and Possible Action on waiver of 10 TAC §1.304(b) and appeal of Executive Award Review Advisory Committee recommendation not to make a 2017 Comprehensive Energy Assistance Program award to Community Services, Inc. and enter into a contract for same

ITEM 6: RULES

a) Presentation, Discussion, and Possible Action on proposed 10 TAC Chapter 13 concerning multifamily Direct Loan Rule, and directing its publication for public comment in the Texas Register

b) Presentation, Discussion, and Possible Action on the proposed repeal of 10 TAC Chapter 10 Subchapter E concerning Post Award and Asset Management Requirements and a proposed new 10 TAC Chapter 10 Subchapter E and directing their publication for public comment in the Texas Register

ITEM 7: ASSET MANAGEMENT

Presentation, Discussion, and Possible Action regarding material amendments to Housing Tax Credit Applications

a) 15119 Liberty Square and Liberty Village, Groesbeck

b) 15251 Casa Verde, Laredo

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

EXECUTIVE SESSION

OPEN SESSION

ADJOURN
MR. OXER: All right. Good morning everyone. I'd like to welcome you to the October 13 meeting of the Texas Department of Housing and Community Affairs Governing Board. We will begin with the roll call. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum is not here today and we'll have some news on him here in a bit. Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin?

MR. GOODWIN: Here.

MR. OXER: Dr. Munoz is not with us, and we don't anticipate him. I'm here, and that gives us four so we have a quorum. We're in business.

(Pause.)

MR. OXER: All right. Tim, lead us in the pledge of the flag.

ALL: I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible with liberty and justice for all.

Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

MR. OXER: Okay, I'd like to recognize a couple
of guests. Representative Israel's here today. We'll
give you an opportunity to speak here in just a moment.
Looks like we got standing room only.

And we offer the -- and I'll just some of you
haven't been here before, so I'll give you some
housekeeping rules. The front row here to our left, to
the room right, is for those who are speaking on a
specific item as it comes up. If you want to speak on
that item, come up here and sit and we'll take you from
the aisle side out. If there's an overflow when you get
finished speaking, move out of that row and anybody else
that wishes to speak will come up here and fill that
chair.

Let's see, we have some other guests, Michael?

We have the Mayor of Laredo?

MAYOR SAENZ: Yes.

MR. OXER: Okay.

MAYOR SAENZ: Thank you so much. Glad to be
here.

MR. OXER: Good morning.

MAYOR SAENZ: Appreciate it.

MR. OXER: We'll have your item here in just a
minute.

MAYOR SAENZ: Thank you.

MR. OXER: Anybody else we got out there? Is
Bobby here? Bobby? Bobby Wilkinson?

(No response.)

MR. OXER: All right. He's watching in with the big eye in the sky up there, so.

We're going to -- as a courtesy, we're going to offer Representative Israel an opportunity to speak first off because since the legislature is fond of -- or we're fond of the appropriations that the legislature offers us, we're going to give her a shot at getting -- so she can get back to work.

REPRESENTATIVE ISRAEL: Thank you, Mr. Chair. I appreciate the courtesy. I do have a lot going on, but that doesn't minimize my respect for your work.

I was sharing with Mr. Goodwin when I was a younger, much younger woman, I worked on the appropriations -- I mean appointments process for Governor Richards so I know finding good Texans to do what you do is not easy and your work is very important, especially now, you know, what the economy is doing.

Every major urban area in Texas is experiencing a crisis, and the crisis is affordability and moving out to find a good and decent place to live and I say that also as a realtor.

So, I'm here to speak on Item Number 1(e), and this item was brought to my attention by the Austin
Housing Authority.

Mr. Irvine, you and your staff have been wonderful whenever we have had to work with you guys on the tax credits programs, the competitive programs. You've been very responsive and very helpful, and this issue is no different.

But I'm here to speak to you in particular about the RAD Program which is a non-competitive program. But I was just presented about the opportunities that this program offers, and I see it as a creative way for Texas and the federal government to help our low income housing structures that are outdated and need updating get the updating that they need.

Taking these structures at market value I think is a smart thing to do. In Austin in particular, our market is so out of whack. We've grown in crazy ways, our property values, but the properties that are in East Austin, for example, have suddenly become prime property, and they are very high in value.

I would like you to consider supporting Item number 1(e) because taking the value from that property and using it to do good things and rehabbing those facilities I think is a common sense way to use our resources and our assets. Full market value is an acceptable methodology that the federal government has
looked at, and I would welcome your favorable consideration.

Lord knows we don't have a lot of revenue either at the federal or the state level to do right by the responsibility that's been given to us. So I hope that you'll support this initiative not only for the Austin Housing Authority but as you look at a rules change in the weeks ahead, I hope you'll consider it favorably as well.

Finding a way to say yes on this kind of an opportunity is something I very much appreciate. I know it's not clear-cut as I might be presenting it, but I would appreciate you working with the various issues around it to help us take advantage of the value that we have and the value is our land.

So I appreciate your time again and that's really all I had to say. You have a member letter from some of my colleagues in the Travis County delegation, and thank you for your consideration.

MR. OXER: We appreciate your comments and your interest in what we're doing.

REPRESENTATIVE ISRAEL: All right.

MR. OXER: All right.

REPRESENTATIVE ISRAEL: Have a good day.

MR. OXER: Thank you very much.
REPRESENTATIVE ISRAEL: Thank you.

MR. OXER: Yeah, just a quick note, we'd like to say welcome back to Captain Tweety since he got his pump remodeled and repaired. And he was -- left us with the support staff there who took good care while he was gone, but we're glad to see Michael back.

Okay, with respect to the consent agenda, does any board member wish to pull any item?

I have a question, Marni, on Item 1(e). I assume you could do a thumb up or thumb down, does staff recommendation on this comport with Representative Israel's comments?

MS. HOLLOWAY: Good morning. Marni Holloway, Director of Multifamily Finance. Staff is recommending this item.

MR. OXER: Okay.

MS. HOLLOWAY: If we would like to discuss it further of course, I have some notes prepared.

MR. OXER: Then I'll pull Item 1(e) because I'd like to hear a quick note on that just for -- so I'll pull 1(e). Any other item to be pulled by any other board member?

(No response.)

MR. OXER: Okay. Entertain a motion to consider.
MR. GOODWIN: Motion by Mr. Goodwin to approve staff recommendation on Consent Agenda Item after or with the exception of 1(e).

MR. GANN: Second.

MR. OXER: And there's a second by Mr. Gann.

Any request for public comment?

(No response.)

MR. OXER: Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: Got none. Okay, let's do it quick, Marni.

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

Item 1(e) is Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer for five applications. This is Number 16418 Pathways at Georgian Manor, 16419 Pathways at Manchaca Village, 16420 Pathways at North Loop, 16421 Pathways at Northgate, 16422 Pathways at Shadowbend Ridge.

All five applications were submitted by the Austin Affordable Housing Corporation on June 1. A certification of reservation from the Texas Bond Review
Board was issued on June 27 of 2016 and will expire on November 24. The proposed issuer of the bonds is the Austin Affordable Public Facilities Corporation.

The properties are currently occupied and operating as public housing. They are owned by the Housing Authority of the City of Austin and will be converted through HUD's Rental Assistance Demonstration Program, through RAD. The applicant is considered a medium Category 1 portfolio, and the previous participation was deemed acceptable by EARAC on October 3.

The applicant has disclosed certain undesirable neighborhood characteristics. All five sites are within ASTM search distance of a Resource Conservation and Recovery Act generator of hazardous waste or other hazards. The ESA provider did not recommend additional assessment or mitigation, and staff recommends that the sites be found eligible based on the environmental site assessment.

For 16422, Pathways at Shadowbend, the applicant has requested a waiver of 10 TAC 10.101(b)(8)(a) relating to development accessibility requirements. The distribution of accessible units across the unit types does not meet the Department's accessibility requirements specifically because these are townhome style, three-bedroom, two-bath units that have building limitations.
that will hinder compliance with accessible construction
requirements.

The applicant has proposed making one of the
four-bedroom, two-bath units accessible instead. And
while staff agrees that this is an acceptable solution, it
requires waiver of 10 TAC 10.101(b)(8)(a) and staff is in
support of this waiver because it was requested with the
application and because of the existing building
limitations and because the development will still meet
the requirements and qualified persons with disabilities
will still have a comparable choice of housing options.

The applicant has presented a sales price using
a market value approach. They did this with advice from
counsel and the use of a third-party appraiser. While
this would not have been the process we would have used,
it was the one they used so our role was to review it and
assess two things. One, was it a supportable approach and
two, did it yield a well-supported value determination?

On the first question regarding a supportable
approach, we relied heavily on representations by the
applicant, its counsel, and HUD staff overseeing the RAD
conversion, all indicating that this was a commonplace
approach being employed on similar RAD conversations in
all other jurisdictions.

They emphasized that the Housing Authority
could have pursued a market transaction. HUD assured us that they could require that any excess cash that the Housing Authority might derive from this transaction will be restricted for use for its public housing purposes.

We have requested specific examples or contact information for Housing Finance agency staff in other states that would be familiar with this structure but as of late yesterday, the applicant was still gathering that information.

On the second question regarding the well-supported value determination, we note that the rental comparables used appear superficially to be in much better condition than the subject properties. And therefore, we would expect they would produce quite different rental-based values, but the appraisals performed did not confirm this to be the case.

We have not had an opportunity to use tools such as a review appraisal to probe these value determinations and felt, therefore, constrained to move forward with them.

Staff is recommending that the sites be found eligible under 10 TAC 10.101(a)(4) relating to undesirable neighborhood characteristics and recommending approval of the request to waive the distribution requirements of 10 TAC 10.101(b)(8)(a) relating to development accessibility.
requirements.

Staff is recommending issuance of Determination Notices of 4 percent housing tax credits. Since publication of the underwriting reports, the credit amounts for four of the applications have been adjusted. 16418 Pathways at Georgian Manor is now recommended in the amount of $484,199. 16419 Pathways at Manchaca Village is recommended in the amount of $186,288.

Number 16420 Pathways at North Loop is recommended in the amount of $603,990. Pathways at Northgate, 16421, remains unchanged at $300,144. And Pathways at Shadowbend is recommended in the amount of $262,077. Of course, these recommendations are subject to any conditions that may be applicable as noted in the underwriting reports.

MR. OXER: Any questions?

(No response.)

MR. OXER: So essentially, we're keeping these in a portfolio making them available to the Austin Housing Authority --

MS. HOLLOWAY: Yes.

MR. OXER: -- moving us along sort of in the direction that Representative Israel requested?

MS. HOLLOWAY: Yes.

MR. OXER: Okay. Any questions?
(No response.)

MR. OXER: Motion to consider?

MS. BINGHAM ESCAREÑO: So moved.

MR. OXER: Okay, motion by Ms. Bingham to approve staff recommendation on Item 1(e).

MR. GOODWIN: Second.

MR. OXER: I hear a second from Mr. Goodwin.

All right. Now, Michael, I assume that you're going to be here speaking for everybody since you have a, you know, modest influence over the Housing Authority in the city.

So, this looks like it's going where you probably want it. Do you really want to say anything?

MR. GERBER: I do.

MR. OXER: Okay.

(General laughter.)

MR. OXER: As you might recognize, there's a few people behind you back there who's going to -- we're going to have a long agenda today, so. All right. Yes, sir?

MR. GERBER: Could we ask those who --

MR. OXER: You can't do it from there. You know that. Sorry.

MR. GERBER: Mr. Chairman, I'm Mike Gerber. I'm the president of the Housing Authority of the City of Austin. We do have a number of our public housing
residents who took great time out of their schedule this morning to --

MR. OXER: We'll be happy to -- appreciate their --

MR. GERBER: Could we just acknowledge them?

MR. OXER: Yep.

MR. GERBER: I appreciate them being here.

MR. OXER: All right. Everybody here that's on the Mike Gerber team here, we thank you for showing up.

(Applause.)

MR. OXER: I have to tell you, you're the first one to bring a hell of a posse from the old days there in the --

(General laughter.)

MR. OXER: -- Authority.

MR. GERBER: Well, they were all close by. And I just want to say it's great to be back here. You know, everyone remarkably looks younger and thinner.

(General laughter.)

MR. GERBER: But we appreciate --

MR. OXER: Sadly but wiser is the problem through, but that's --

MR. GERBER: I wanted to just say thank you to the staff for their hard work. This has been a tough issue, and we've got lots of professionals working on it.
And I wanted just to express my thanks to Tim and to the team.

MR. OXER: Good. I'm glad to see you back, Mike.

MR. GANN: I'd like to express my thanks for the work that he's done for this particular committee, too.

MR. OXER: Absolutely, so.

MR. GANN: We appreciate you. Mike.

MR. OXER: Okay. We have -- regarding Item 1(e), we have a motion by Ms. Bingham. Hold on. Stand by. Stand by.

MR. IRVINE: Can you take these two letters from HUD into the record?

MR. OXER: Okay, do you want to read those in?

MR. IRVINE: Well, they've been distributed to the Board, and they're available to the public I assume.

MR. OXER: Okay, let our public or external affairs --

MR. IRVINE: Yeah, just for the record, these are two letters from --

MR. OXER: It's just one. This one is on another agenda.

MR. IRVINE: Oh, excuse me. Yes, just one letter from --
MR. OXER: Do you want to read it in, Beau, or you want to have Michael do it since he's our external voice?

MR. LYTTLE: The Agency loudmouth. Okay, it's a letter from HUD directed to Michael Gerber. Dear Mr. Gerber, I understand that questions have been raised about your application for the 4 percent noncompetitive low income housing tax credits deals to renovate and significantly improve quality of life for residents of five pocket properties.

These properties include Pathways at Manchaca Village, Pathways at Shadowbend Ridge, Pathways at North Loop, Pathways at Georgian Manor, and Pathways at Northgate.

It is my understanding that these issues have been raised by the Texas Department of Housing and Community Affairs concerning these five transactions and the valuation method was used. I can confirm that the underwriting methodology used is a standard methodology that has been accepted by HUD for many Rental Assistance Demonstration transactions.

HUD created the RAD Program to allow public housing authorities to access the debt markets using any number of financing mechanisms including the use of private activity bonds and 4 percent tax credits. In
fact, HUD encourages the use of private activity bonds and 4 percent low income housing tax credits because competition for the allocation of the 9 percent low income housing tax credit is keen while private activity bonds and 4 percent low income housing tax credits are readily available and require no such competition.

We accept HAC's [phonetic] evaluation for these RAD transactions. Please let us know if you need any further information. Sincerely, Jeffrey Little, Deputy Director, Office of Recapitalization, U.S. Department of Housing and Urban Development.

MR. OXER: Good. All right. With that into the record and added to the file, is there any modifications to the motion?

(No response.)

MR. OXER: Okay, motion by Ms. Bingham, second by Mr. Gann to approve staff recommendation on Item 1(e). Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. Congrats, Mike, and thank you for all of you for coming out today.

(Applause.)

(Pause.)
MR. OXER: All right, folks. We're happy to have you here, but we also -- if you want to talk, you need to move out because we have more items on our agenda today, okay? Thanks for your courtesy.

All right. Nichole? Do I see her?

MR. IRVINE: She's there.

VOICE: She's in the back.

MR. OXER: She's there. She is making her way through the crowd. She's in there swimming upstream. I'm going to exercise the Chair's discretion and move to Item 5(a) to begin. So Michael?

VOICE: Got to wait until she gets up here.

MR. DeYOUNG: Okay. Michael DeYoung, Community Affairs Division Director. Mr. Chairman and members of the Board, Item 5(a) relates to a subrecipient of the Community Services Block Grant ("CSBG").

The entity is currently named Urban Community Center of North Texas, but at the beginning of this process a few years ago, it was called the Urban League of Greater Dallas. The action before you today is the final step in a deliberate process defined by federal statute relating to CSBG subrecipients.

Two years ago in August 2014 in response to a monitoring visit, it was identified by staff that Urban League of Greater Dallas struggled to properly administer
its CSBG contract. Our monitoring team conducted a monitoring and found three deficiencies requiring corrective action. Those deficiencies are set forth in your board book.

And then subsequently a year later in November 2015, the Department returned for an additional monitoring visit and found numerous violations of the law and contract provisions that are also set forth in your board book.

By this time Urban League of Greater Dallas had reconstituted itself, and they were now being called Urban Community Center of North Texas and that's why you see the two different names in this board item. So now they are titled UCC. The Department required that Urban Community Center submit a quality improvement plan which addresses all the deficiencies. That quality improvement plan is a step within the federal law and relates to the CSBG subrecipients that offers them the opportunity to correct their deficiencies.

In this case, the submission by UCC did not correct their findings and as permitted by the CSBG Act procedures, a hearing was set by the Department to seek termination of their eligible entity status.

After proper notice, an administrative hearing was held by the State Office of Administrative Hearings on
September 15, 2016, just last month. UCC failed to appear at that hearing. The administrative law judge issued a proposal for a decision, a "PFD", shown in your board book on pages 566 and 567.

Also provided to you beginning on page 568 of the board book is the final order reflecting the administrative law judge's recommendations for approval. Your action today will authorize the final order to terminate Urban Community Center CSBG contract in eligible status which will then be forwarded to the Secretary of the U.S. Department of Health and Human Services.

They will do their review and approval process and staff will release a request for applications to identify a new eligible entity to receive the CSBG funds in Dallas County so services can be resumed for the residents, and we will wait for that opinion from the U.S. Department of Health and Human Services staff before we move forward.

MR. OXER: All right, any questions?

(No response.)

MR. OXER: All right. And I will point out those of you who are out there in the audience and perhaps watching in from home, we'll recognize that we've exchanged our General Counsel. Tim's going to tell you why.
MR. IRVINE: Well, because this involves a contested matter. We have our different lawyers on staff working in different capacities and then the Board must have its own independent counsel. So Nichole Bunker-Henderson from the Office of Attorney General is here to provide legal advice to the Board should they require it.

MR. OXER: Okay. Thanks for being here for us, Nichole. Okay.

MR. ECCLES: Why she's a great lawyer.

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

(No response.)

MR. OXER: Barring that, we'll have a motion to consider.

MS. BINGHAM ESCAREÑO: I'll move acceptance of staff's recommendation.

MR. OXER: Okay.

MR. GANN: Second.

MR. OXER: Okay. So essentially just to recap here, Michael, we're moving this process along. There's a process that there is a lot of rope given to these folks that have continuous processes. There's a lot of hearing time in there. We're moving this on. We're getting to the end of that with this particular unit.

MR. DeYOUNG: Correct.
MR. OXER: Okay. Any other questions?

(No response.)

MR. OXER: All right. So you have a motion by Mr. -- let's see a motion by Ms. Bingham, a second by Mr. Gann. Is that correct?

Okay. And do we have a request for public comment?

(No response.)

MR. OXER: Do you wish to speak on this item, sir?

VOICE: The second item, yes, sir.

MR. OXER: Okay. Well, we're on 5(a). That's why I was curious, so. All right. We'll hold you for number 2. Do you wish to speak on 5(a) or 5(b), which one?

VOICE: 5(b).

MR. DeYOUNG: 5(b).

MR. OXER: 5(b), okay. We'll work on that. Okay. A motion by Ms. Bingham, second by Mr. Gann to approve staff's recommendation on Item 5(a).

Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. It's unanimous.
MR. DeYOUNG: Thank you.

MR. OXER: Okay. Thanks, Nichole. Looks like we won't need an Exec Session to go into much detail on this, but we appreciate you being here. It's important that we have counsel.

MS. HENDERSON: You're welcome. I'm happy to be of assistance to you all.

MR. OXER: Thank you. Okay. And to point out, we took this item out of order because Ms. Bunker was here, so we're not going to go to 5(b) right now.

VOICE: Okay.

MR. OXER: But that's all right. That's an honest mistake on this. We have another item that there were quite a few people that showed up. And so, to exercise Chair's discretion again, we're going to go to Item 7.

Okay, Mr. Mayor, I understand you're going to be interested in this one?

MAYOR SAENZ: Very much so, yes, sir.

MR. OXER: Okay. Well, there's your row up in the front, so. And I'll assume that even though there are more than a few people that showed up from Laredo, that you're here to speak for them. And I would remind you most of the people that are regulars here recognize that your argument is not made stronger by being made louder or
being made more times.

If you've got anything to say, you can summarize it for everybody. We don't need to hear the same thing eight times.

MAYOR SAENZ: Okay.

MR. OXER: Okay.

MR. ECCLES: If I could also have the record reflect -- this is Beau Eccles -- that Ms. Bunker Henderson is off the dais, and I have resumed my --

MR. OXER: Resumed --

MR. ECCLES: -- position up here.

MR. OXER: Taken his weapons on.

MR. ECCLES: And I'll tell the Board that y'all missed out by not having an opportunity to ask her for legal advice because she's an amazing lawyer.

(General laughter.)

MR. OXER: Okay. Raquel, I think you're up for this one.

MS. MORALES: Yes, sir. And we're doing 7(b) only right now or both of those entire 7 agenda items then?

MR. OXER: Let's go to the 15251 on Item 7.

MS. MORALES: Okay.

MR. OXER: Because we'll take them one at a time, okay. We'll just do the Laredo first.
MS. MORALES: Okay. Good morning, Chairman Oxer and members of the Board. My name is Raquel Morales. I'm the Director of the Asset Management Division. Item 7(b) is a Presentation, Discussion, and Possible Action regarding the material amendment to the Housing Tax Credit Application for Casa Verde, which is Application Number 15251.

This application was submitted and approved during the 2015 competitive tax credit cycle and was awarded Housing Tax Credits under the at-risk set-aside. The applicant, the Laredo Housing Opportunities Corporation, which is a public facility corporation of the Laredo Housing Authority, received its award under the at-risk set-aside based on its status as a development proposing to demolish housing units that are owned by a public housing authority and receive assistance under Section 9.

The application for Casa Verde proposed to build 152 total units of which 138 of those units would be relocated public housing units that were going to be demolished at the existing Russell Terrace Public Housing Development and reconstructed at the new Casa Verde site. Additionally, 25 percent of the units at Casa Verde or 38 units would come over to Casa Verde from Russell Terrace with the Public Housing Operating Subsidy.
Russell Terrace is an existing 200-unit public housing development located approximately five miles from the Casa Verde development site. The original application for Casa Verde clearly contemplated the demolition and partial replacement of the aging Russell Terrace development.

However, staff was notified in May of this year of HUD's decision to not approve the demolition application for Russell Terrace because it did not meet HUD's minimum thresholds for obsolescence.

The applicant contends that the approval they did receive from HUD was to move 38 RAD units from Russell Terrace over to Casa Verde, and they did provide that approval from HUD, which is included in your board book. And that based on that, Casa Verde still qualifies as an at-risk application.

The applicant also contends that since Russell Terrace was originally part of the Casa Verde transaction and Russell Terrace is proposed to apply and go through a demolition according to HUD's definition of demolition, but a rehabilitation by our definition and because Russell Terrace is proposed to be disposed of again according to HUD's definition because they're going to sell it out of public housing, that it should still qualify Casa Verde as at-risk.
The problem, however, is that Russell Terrace is no longer part of the Casa Verde transaction as we understand it today. In fact, the applicant has stated that they may seek at a later date to rehab Russell Terrace using a different financing structure, likely private activity bonds with a 4 percent housing tax credit application which has not yet been submitted, but clearly a separate transaction from Casa Verde.

While RAD units can be considered eligible for tax credits under the at-risk set-aside, the Department has never considered the use of RAD funding or subsidy alone to be enough justification to qualify under at-risk without reconstruction or rehabilitation of units as part of the development plan.

Housing units at Russell Terrace are not at risk of coming out of the housing inventory and the legislative intent for expanding the at-risk qualifications to include public housing in the definition of at-risk specifically stated that the eligible housing was at risk of no longer being in the housing inventory.

In fact, because HUD has not approved the demolition of Russell Terrace and seeks to preserve those units in the affordable housing pool, the Casa Verde transaction would result in additional affordable housing units for the Laredo area and not a loss. This is not to
say that the additional affordable units are not needed in
the Laredo area, but staff is responsible and has a duty
to ensure that credits designated to replace units that
are at-risk of being removed from the housing pool go
towards serving that legislative purpose. That risk
simply no longer exists as we understand the plan today.

Therefore, staff recommends denial of the
waiver amendment or any reinterpretation to consider Casa
Verde eligible as at-risk and further recommends that the
credits be rescinded and reallocated to other 2016
applicants on the waiting list under the at-risk set-
aside.

MR. OXER: So we found another quirk in here,
huh? Okay, any questions from the Board?
(No response.)
MR. OXER: Okay. Also, yeah, I'm about to add
that Beau. Let the record reflect -- do we have to put
that into the record? We should put that into the record.
Okay, Michael, you've got a copy of that thing, don't
you? Give it to him.

At any rate, with respect to the Board
materials that were made available, there is a letter that
apparently was received by the City of Laredo yesterday.
They've been provided. There are copies outside at the
sign-in table for those of you here joining us today that
wish to have a copy of it.

Michael's going to read it into the record. I've chose as Chairman to allow it to be added to the record for consideration on this meeting. So Michael, read this into the record, please.

MR. LYTTLE: A letter is addressed to Melissa Ortiz from the Housing Authority of the City of Laredo. It's from HUD, reads as follows, "The Rental Assistance Demonstration, i.e., RAD Program, provides tools housing authorities may use to address the significant nationwide capital needs backlog which has put many public housing units across the country at risk.

"In seeking to reposition or preserve their portfolios, housing authorities can apply to participate in RAD or can use tools within the parameters of the public housing program itself including the application for demolition or disposition of units. A housing authority's decision as to which of the various tools best fit the local conditions is discretionary.

"The RAD Program is administered by the Office of Recapitalization. The Laredo Housing Authority has applied to participate in RAD with respect to all 200 units at the Russell Terrace property. HUD has issued two commitments to enter into housing assistance payment contracts to LHA, 38-unit CHAP, associated with the
Transfer of Assistance to the Casa Verde site and a 162-unit CHAP associated with the remaining Russell Terrace units, the Onsite Redevelopment.

"All 200 units of the original Russell Terrace Public Housing Project will be disposed of by the LHA at the time of the RAD conversions. With respect to the Onsite Redevelopment, 162 units in Russell Terrace will be disposed of by LHA and acquired by a public/private partnership meeting the RAD requirements.

"This transaction is anticipated to be a 4 percent tax credit transaction. And while we understand that the scope of the work continues to be subject to adjustment until final financing approvals are provided at the transaction closing, we understand it is anticipated to be a substantial rehabilitation impacting many building systems.

"With respect to the Transfer of Assistance transaction, LHA will convert the assistance through RAD of 38 public housing units that are currently part of the Russell Terrace property and will transfer that assistance to the Casa Verde site. Upon the conversation and Transfer of Assistance, the 38 units are no longer public housing and LHA will have the authority to demolish the structures.

"Depending on LHA's plans, authority to sell or
repurpose the underlying land may be subject to additional
HUD procedures under either the RAD Program or the rules
applicable to the public housing authorities generally.

"HUD has been processing the Casa Verde
Transfer of Assistance transaction approvals and supports
both the Casa Verde Transfer of Assistance transaction and
the Russell Terrace Onsite Redevelopment Substantial
Rehabilitation transaction. We look forward to the
successful completion of these RAD conversions.
Sincerely, Thomas R. Davis, Director, Office of
Recapitalization."

MR. OXER: Okay. So apparently the question
seems to be, Raquel, that while HUD supports this, the
question is does this meet our legislative definition of
at-risk. Is that --

MS. MORALES: Right.

MR. OXER: -- generally a summary of this?

MS. MORALES: Yes.

MR. OXER: Okay. Do we -- so I'm asking a
question I think I know the answer of, but counsel, do we
even have a mechanism for addressing this?

MR. ECCLES: Well --

MR. OXER: Ron White is --

MR. ECCLES: That --

MR. OXER: Go ahead.
MR. ECCLES: We would and that would be the application amendment process and are these facts in this letter that Michael Lyttle just read of the undated letter that purports to be from Thomas Davis of HUD to Melissa Ortiz, are those facts contained in the application amendment that's being sought before the Board today.

MS. MORALES: No, it's not something that -- I just got this letter this morning, and it's not something that's been shared with staff until recently, so we haven't had a chance to evaluate what this letter is saying. We've evaluated what their ask was, what's posted in your board book.

MR. OXER: Did they make a formal application for amendment to their application?

MS. MORALES: Yes, that's the item before you today.

MR. OXER: So what we're saying -- I'm going to give the Mayor a chance to speak here, but your interpretation is they have new information that HUD is supporting, but the question is whether or not what they've offered in here supports their position that it continues to be an at-risk property and there are --

MS. MORALES: That's correct. We have not had a chance to evaluate that and I don't want to rush to a conclusion that it does or it doesn't without having the
opportunity to know what the development plan is now.

MR. OXER: Believe me, there's nobody up here on this dioce [phonetic] that wants you to rush to any judgment on any of this.

So essentially the recommendation or the request from staff on this is to give -- from the Board -- is to give staff the authorization to pursue this, to do the diligence, to make that determination, and to come back with the application amendment for consideration to the Board for the next meeting?

MS. MORALES: No, the action that's before you is staff is recommending to deny the amendment that was presented to us and is in your board book now.

MR. OXER: Okay.

MS. MORALES: And staff is recommending denial of that amendment and waiver and is further recommending rescission of the credits based on what we understand the plan is now and what HUD has approved or hasn't approved with respected to Russell Terrace again, not having --

MR. OXER: Right.

MS. MORALES: -- had this information that was just read into the record.

MR. OXER: Does the --

MS. MORALES: -- prior to this morning.

MR. OXER: Does the applicant have the option

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to return with new information to modify the amended application? Can they amend the amendment basically?

MS. MORALES: I suppose if there's no action taken by the Board on this. I'm not sure legally how that would play out, but if you guys decided to not take action on the --

MR. IRVINE: I think a very simplistic overview is that the requirement for a RAD transaction to be an at-risk transaction is basically that specific properties be identified and that the plan be, you know, RAD-type transaction either to rehabilitate them or to demolish and reconstruct them. And that way those units which because of their RAD conversion are presumptively, you know, in need of this type of assistance can also line up with the fact that it will preserve the same number of units in the affordable housing pool.

The original application contemplated that specific units would be subjected to either rehab or reconstruction in accordance with the at-risk definition. What is now going on is because HUD has apparently made some additional decisions regarding what can be done with those units, that the housing authority is confronted with a need to evolve and amend its application to meet HUD's requirements and yet reconcile them to the at-risk definition.
It I think is the fundamental position of staff that if you are going to amend it, it still needs to relate back to that original application and preserve the at-risk characteristics. If you lose those fundamental at-risk characteristics of either rehabbing or reconstructing those specific units, then it is a completely appropriate and laudable housing authority purpose but it no longer qualifies for the at-risk set-aside.

At-risk set-aside, it's very clear both in the law itself and in the legislative intent, it's to prevent the possibility that these units would fall out of the affordable housing pool.

MR. OXER: Now as part of the mandate for this Board is to preserve the portfolio in terms of number and quality of those housing units, that's why we actually have that at-risk set-aside.

MR. IRVINE: Correct.

MR. OXER: Okay. So to restate --

MS. BINGHAM ESCAREÑO: Mr. Chair?

MR. OXER: Ms. Bingham?

MS. BINGHAM ESCAREÑO: Accept that so the dilemma in this is it's actually -- this would net out --

MR. OXER: It's been a --

MS. BINGHAM ESCAREÑO: This would net out
additional units but then it defeats the purposes under which they originally applied. And then so the board book also talked about you're getting super tight with your place and service date too, right?

MS. MORALES: Correct, that's always a concern.

MS. BINGHAM ESCAREÑO: So I think the other dilemma is even if we thought something good could come out of that in the HUD letter, that they're in their 14 months to their place and service date. So that's kind of a hard stop.

MS. MORALES: Right. And still not knowing what additional approvals might be required from HUD and how that impacts that schedule. Yeah, that's definitely a concern.

MS. BINGHAM ESCAREÑO: I mean they're ready. Obviously I'm sure the Mayor's going to tell us the City's ready to roll, but they're getting super tight with the place and service date, too.

MR. IRVINE: Right. And as with all the competitive credits, there are wait list transactions that meet the specific requirements and attributes of the at-risk set-aside.

MR. OXER: Okay. So we approve staff recommendation on this one, their application is over on this? They lose the credit?
MS. MORALES: The amendments, right. There's
two different actions that are recommended. One is to
deny the amendment request --

MR. OXER: Right.

MS. MORALES: -- knowing that they can't, you
know -- and then the second action is to take back the
credits and reallocate them to the next person in line on
the at-risk --

MR. OXER: So if we deny the amendment -- if we
take this in two stages -- if we deny the amendment,
they'd still retain the credits, but they'd have to do the
deal as it was originally --

MS. MORALES: That's correct.

MR. OXER: -- presented.

MS. MORALES: That's correct.

MR. OXER: Okay. And so not being able to do
that -- in the event they were unable to do that, those
credits would roll back anyway?

MS. MORALES: Yes. Yeah, if they weren't able
to move forward as originally planned to, you know, the
original development plan for Casa Verde, then they would
hopefully return the credits so that we can --

MR. OXER: Just like anybody else that couldn't
do the deal --

MS. MORALES: Right.
MR. OXER: -- their credits would --
MS. MORALES: Right.
MR. OXER: Okay, is that clear to the Board?
MS. BINGHAM ESCAREÑO: Mr. Chair, is there an option to break up the motions and hear the comment of the first recommendation and then --
MR. OXER: Absolutely. We can make this in two parts, so would you like to --
MS. BINGHAM ESCAREÑO: So I'd like to move staff's recommendation on denying -- on the first part. Let's see, should there be some appropriate wording here.
(Pause.)
MS. BINGHAM ESCAREÑO: Counsel, can -- I have to go back to the original --
(Pause.)
MS. BINGHAM ESCAREÑO: Okay. Move to approve staff's recommendation to deny the nonmaterial amendment to the application for Casa Verde.
MS. MORALES: Yeah, it was a request for a waiver and amendment to the application.
MS. BINGHAM ESCAREÑO: And waiver request.
MR. OXER: So this is simply for the waiver request and the amendment.
MS. BINGHAM ESCAREÑO: Not to rescind --
MR. OXER: Not to rescind. And essentially
even if we don't -- the tax credits while they've been awarded, if they don't meet the time schedule on the deal that they presented, then they automatically have to return those. Is that correct?

MS. MORALES: Yeah, I'll add that they did come -- when we were notified in May about HUD's nonapproval to demolish Russell Terrace, it was in conjunction with their request to extend their 10 percent test deadline, which was July 1 of this year.

All 2015 competitive tax credit transactions had to turn in documentation to evidence that 10 percent test expenditure. They were unable to due to the decision by HUD and we're still trying to work through. And so they requested and did receive approval to extend. Their date now is October 31 to submit that 10 percent test.

MR. OXER: So we could actually deny the waiver and the appeal or the waiver --

MS. MORALES: The amendment.

MR. OXER: -- and the amendment and then give them until the next meeting to figure out whether or not they could meet the 10 percent test. Or do we have to do that today?

MS. MORALES: Well, yeah, if you're going to take these separately and you're not going to take back the credits, you're not going to approve their amendment,
then again, they have to proceed as originally proposed.

MR. OXER: Right.

MS. MORALES: And whether they can do that and meet the October 31 deadline, I don't know that they can, given that they don't have approval from HUD, or at least the last time, you know, that we knew they didn't have approval from HUD to move forward with demolishing the units at Russell Terrace.

MR. IRVINE: Yeah. Essentially they'd need either to convince HUD to relent and let them proceed as originally proposed in their application or devise some other sort of amendment that would reconfigure the development in a manner that preserved its character as an at-risk development and enabled them to move forward under a different structure.

MR. ECCLES: Which is immaterial now

MR. IRVINE: Which would be immaterial and it would come back.

MS. MORALES: Right, it would be immaterial that would have to come back. And then again, just taking into consideration the time crunch that we're under now, you know, moving along that timeline.

MR. OXER: Yeah, I know we're on a time crunch because Halloween's right around the corner here so
basically two weeks, two and a half weeks.

So the question is if we deny the -- my question is if we deny the waiver and the amendment, do we give them one more chance to get this fixed by October 31?  

MR. IRVINE: The next board meeting --


MR. IRVINE: November 10, so if there is a proposed material amendment, that would have to be posted by --

MS. MORALES: October 25.

MR. IRVINE: October 25.

MS. MORALES: Which would be this -- but yeah.

MR. IRVINE: And that would mean that it would need to be submitted to us, evaluated. We would have to have time to develop our analysis and post for the public to review the form of the amendment structure and the resolution.

MR. OXER: Okay. We're going to take this in two parts. We're going to do the first one on the waiver and the amendment, okay. Pending the outcome of that, the discussion and decision, that'll have an influence on how we'll respond to the first one, so.

Is that clear to you, Ms. Bingham? Okay. Do you care to move to that effect?
MS. BINGHAM ESCAREÑO: I think I -- did I? I think I did.

MR. OXER: Okay, so your motion is to approve staff recommendation on what we'll call 7(a) now is the half, the part of it to deny the waiver and the amendment. Okay, and then we'll consider the tax credits on Part 2.

All right.

MR. GANN: I'll second.

MR. OXER: All right, second by Mr. Gann.

All right, Mr. Mayor, you can see where this is going, but I'll assume that you're going to be able to speak for the rest of your crowd there. And if there's any --

MAYOR SAENZ: Well, as a matter of fact we have a specialist here who knows and I was going to ask --

MR. OXER: And that's fine. You know, we'll give you three minutes on each of it, but I assume that, you know, if you have a specialist in this, he can add something to the conversation as opposed to recounting what you're going to offer.

MAYOR SAENZ: Well, thank you very much, Mr. Chair, and of course, the board members as well. Thank you for the time. Of course, the Housing Authority --

MR. OXER: And I have to ask you to do this. You know, we'll make sure -- everybody that comes up
today, make sure you sign in and --

MAYOR SAENZ: Okay.

MR. OXER: -- as soon as you come to the microphone, you have to identify yourself and who you're with.

MAYOR SAENZ: Okay, I'm so sorry. Pete --

MR. OXER: So that's Nancy can tell who you are when she's transcribing the notes. That's all right.

MAYOR SAENZ: Yeah, it's no problem at all.

Thank you again. Pete Saenz, Mayor of Laredo, Texas. We appreciate the fact that you are allowing us some time here.

Of course, we're asking, the Housing Authority is asking for the Board's favorable disposition of the application that they submitted sometime back. Then, of course, as we've been going against, but I know you all have currently ruled on not accepting the waiver and the amendment I guess. But be that as it may --

MR. OXER: We haven't yet. You're actually -- we've made a motion that's not been voted on yet. You're making comment to that.

MAYOR SAENZ: Okay, wonderful. Thank you.

Yeah, you know, obviously we've expended a lot of time. The City of Laredo's prepared to go forward on this. The need is there without doubt. You know, we have a list of
waiting people.

A primary example, the Laredo Housing Authority, you know, asked for a list of people that would be interested. Within a week's window, you know, we got 1400 applicants. We have other municipal housing authority list as well that extend 240, and I know I can go on and on.

I know my time is limited, so the key here is time. You know, we've been expended a lot of time and effort and, of course, resources, you know, to get this thing done. These credits are extremely valuable without question to any community. Laredo's no exception. We have the need, so, you know, we'll do the best we can to overcome some of these hurdles that we have.

Granted, HUD did, you know, issue an order not to demolish, but we feel very certain that the definition of at-risk has been met and I think you have that definition in your packet there. But I need to stress this, under B, it says a development that proposed to rehabilitate or reconstruct housing units, a.) either received assistance -- that received assistance under Section 9, United States Act of 1937 and are proposed to be disposed of or demolished by a public housing authority or received assistance through RAD.

Personally we feel -- at least that's our
position -- that we have complied with that, that that is within your purview, you know, to consider that and that the units should be allowed at Casa Verde.

Keep in mind the spirit and I think HUD's letter provides a spirit of what we want to do, and it's to overcome that zero gain. And I realize that's an important parameter within your definition. But if the need is there, why not exceed that -- you know, those units, the Russell Terrace units, have value. You know, we can use it for some other means.

And disposition also is that, you know, the transfer of that, you know, if you consider the definition of at-risk, and then, of course, the Casa Verde units would also be, you know, well utilized in our community.

So anyway, I understand you have, you know, certain constraints, but we're saying that maybe, you know, just allow good conscience and the spirit of housing and communities to prevail.

Thank you so much, and we ask for your favorable disposition.

MR. OXER: Any questions of the Mayor?
(No response.)

MR. OXER: Okay, thanks. Tim, would you like to speak up? We appreciate you coming from the Senator's office.
MAYOR SAENZ: Thank you so much.

MR. OXER: Yes, sir.

MR. STOSTAD: Mr. Chairman, members, thank you.

My name is Timothy Stostad. I'm a staff attorney with the Office of Senator Judith Zaffirini. Senator Zaffirini expresses her regret that she couldn't be here. She had a prior commitment in the district.

She's asked me to put into the record the substance of a letter that was addressed to the Department's staff earlier, also signed by Representatives Raymond and King. So I'm substantially just going to go over the substance of that letter, some of which may have been superseded by the motion that's before you now and by subsequent developments including the HUD letter from Ms. Ortiz.

Nevertheless, I'll begin by saying the Senator wants to thank you for your commitment to providing critical affordable housing in our community. This is to urge the Department to continue to support the 2015 Low Income Housing Tax Credits awarded to LHA for their Casa Verde Apartments project.

Although the Casa Verde Project in conjunction with the demolition and reconstruction of Russell Terrace we believe meets the statutory requirements for an at-risk set-aside, Department staff contends that the project does
not because Russell Terrace would no longer be demolished as originally proposed.

   Essentially, our position -- we think the Ortiz letter from HUD backs us up -- is that the requirement for disposition is met, specifically as Ms. Ortiz writes, the Russell Terrace Public Housing Project will be disposed by the LHA at the time of the RAD conversions.

   We'd note that Texas Government Code 2306.6702(5) defines an at-risk development to include that which proposes to rehabilitate or reconstruct and that meets one of three subsequent criteria. There is no statutory definition of the requirement that rehabilitation or reconstruction requires demolition of the property.

   What's more, even if demolition is required, neither the applicable Texas statute nor the QAP defined definition as it relates to reconstruction and therefore, the HUD definition as expressed in the Ortiz letter should prevail. A project that proposes to rehabilitate or reconstruct housing almost must meet one of the three additional criteria to satisfy at-risk set-aside.

   It has to be owned by a public housing authority receiving Section 9 assistance. It has to receive federal -- pardon -- it has to be, yeah, owned by a public housing authority, has to receive Section 9
assistance, and be proposed to be disposed of or
demolished. And it has to receive assistance through the
Rental Assistance Demonstration, the RAD Program.

Essentially our position is that the proposed
Casa Verde Development meets all three of these, but in
particular, again, as of the addition of the HUD letter,
we think most importantly is the disposition as opposed to
demolition. So accepting that definition of disposition,
we do think that this is consistent with the
characteristics of an at-risk insofar as HUD would view
the disposition as taking this out of the affordable
housing stock.

I'm happy to field any questions, but I would
note that I would defer to subject matters experts that
may be present on technical questions. Thank you.

MR. OXER: That's fair. All right. Any
questions for Timothy?

(No response.)

MR. OXER: Okay, thank you.

MR. STOSTAD: Thank you very much.

MR. OXER: Give the Senator our best regards
and thanks.

(Pause.)

MR. SOLOMON: Mr. Chairman and Board members,
thank you so much for hearing us. My name is Rod Solomon.
I'm with Hawkins Delafield and Wood, and I was a former HUD deputy assistant secretary and worked some in this area on getting RAD going to begin with.

We do think that we meet the at-risk characteristics, but I want to point out that this going to RAD really didn't come from nowhere. When HUD informed the Housing Authority that the demolition application would not be approved, our consultants, National Development Council, consulted with the staff, with the TDHCA staff, and said, Okay, well, what we can do here. Under the at-risk statute, it looks like RAD is an alternative or disposition is an alternative. Would those work?

And came away with the understanding that those would work. Staff senses they have more facts now, and, you know, no point in getting into that. But based on that, the Housing Authority applied for RAD, promptly received RAD, has been processing through RAD. And in fact on the Casa Verde site, HUD has gone from awarding the RAD in August to going all the way through its processing to authorizing the Housing Authority to proceed with closing for Casa Verde, record time in my decades of experience with HUD to try to make this work.

And I think on the Russell Terrace site itself, that HUD's letter actually does a little bit more than was
being portrayed by the staff comments. HUD's letter makes it clear that all these units are being taken out of the public housing inventory, that HUD clearly sees this as a disposition, which is one of the categories under the at-risk statute.

HUD also has authorized this to go forward, clearly expects it to be substantial rehabilitation, and expects that a number of systems are going to have to be redone at Russell Terrace which as HUD's definition you have to do basically four or five of demolitions. So under HUD's definition, not defined in state law, there will be demolition at Russell Terrace.

So then you get to the question, so under state law, basically we think although we've tried hard with the staff, the staff has tried to hard, but they can be more flexible than is -- and I'm very reluctant to have to try to argue not to go with the staff recommendation, but we just think you can be more flexible.

The statute itself only says for public housing. It basically is a recognition that all public housing is at-risk, and it doesn't have language about imminent danger of removal.

The statute itself only says a development that proposes to rehabilitate or reconstruct and is either owned by the Housing Authority and receives operating
assistance, which this is, or proposed to be disposed of, which this is, or demolished, which this is, or received RAD, which this is.

So then we get to the question I think of, well, is there anything we can do about this given the concern that, well, Russell Terrace was going to be completely leveled. Now there's going to be some reconstruction on Russell Terrace.

Casa Verde is not changed, and so that's why what we submitted was a request for a nonmaterial amendment only to substitute RAD for public housing for the 38 units of low income subsidy. Casa Verde is not changed. So we're only talking about what's going on at Russell Terrace.

And what the staff basically has concluded is that because the Housing Authority has found an innovative way to both meet the statutory definitions here, and by the way, the definition of reconstruct, which is the most troubling here is not a statutory -- it's not in the state statute.

They met the statutory definitions for at-risk. They found an innovative way to bring back some units at Russell Terrace. They are demolishing those units under HUD's definition of demolishing whether they're disqualified because now they've found a way that they can...
bring them back.

And we would argue that the statute doesn't go that far. It gives -- you have a lot of discretion under attorney general opinions and would otherwise about how to interpret your own at-risk statute, of course, and what is at-risk. And you don't have to reach out so far as to say here that because we're going to save some affordable housing in Laredo, you have to throw out the tax credits.

It's an ironic position for the State to take, and the staff has told us we hope you can find a way with the Board sort of not to make us do this, and I guess -- at least that's what they said in the last conversation. And I think what we're saying is, well, we think you don't have to do this.

We think as to the reconstruction onsite, that first of all, disposition as opposed to demolition and I'm glad that Tim, you know, emphasized that. There's nothing in the QAP about disposition. There's nothing in the QAP -- other than referencing the law, the QAP perhaps hasn't caught up to disposition. There's nothing about how many units you have to replace it with or how -- where or how many have to go where. It's totally silent.

So we think either by way of -- or by just recognizing that the QAP hasn't gotten that far, this could be authorized under disposition. And again, as it's
been stated as to rehabilitation and demolition, it meets
the HUD standard for demolition. There's no defined state
standard for demolition, so we think it meets it.

So then you get back again to the only other
question which is, well, yeah, but even if you're
demolishing, you're reconstructing on the site. Is that a
disqualification? And we would say no, that one, the
statute doesn't go that far. And in fact, even under the
original proposal where Russell Terrace was going to be
leveled no more, nothing there, a vacant site, the Housing
Authority a year later could have come back or two months
later and put public housing money there and basically
rebuilt everything. And you wouldn't have even questioned
it. It wouldn't have come up.

So we think that although granted there's some
ambiguities here, it may be that the Board would see
better fit to do a waiver and perhaps, define the QAP
further in future rounds. But we think there's enough
room here that you can help Laredo make this happen, be
consistent with the HUD letter, support the enormous work
that the staffs at LHA, HUD, and your own staff have
already done and make this work for everybody. So that's
what we hope you'll do.

MR. OXER: Okay. We appreciate your comments,
Mr. Solomon. Any questions?
MR. ECCLES: I just have a point of clarification because there's been talk of certain things not being defined by statute. You would agree that the terms "rehabilitation" and "reconstruction" are defined in our rules.

MR. SOLOMON: I certainly would agree that those terms are defined in the rules, but as to reconstruction, I would say that it's consistent with the QAP not addressing disposition whatsoever. It's really not been -- that definition in the rules, not in the law, has really never been carefully -- it doesn't appear to mesh up with disposition.

I mean if you were going to reconstruct in total, I mean how does that mesh up with selling the property and it being gone? The reconstruction definition, I'd certainly agree, so I'm sorry to belabor it, but the reconstruction definition, it's been the same since before even this public housing at-risk category was in the statute.

It perhaps needs to be looked at again in reference to disposition, but we also think we meet it because of the demolition at Russell Terrace.

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

(No response.)

MR. SOLOMON: Thank you for hearing me.

MR. OXER: Okay, you're very welcome, Mr. Solomon. Thank you for your comments and your insight on it.

(Pause.)

MR. BROWN: Good morning. Doak Brown. I'm with Brownstone. We are the developers and general contractors on this particular development. I just wanted to address the timing question. I know y'all were discussing that earlier.

We still believe that we can meet the specific timing. The 10 percent test can essentially be met between the capitalized ground lease cost and developer fees and maybe a small material purchase that may not even be necessary. So we still have the opportunity to meet that October 31 deadline.

And in terms of the place and service date, we are able to meet that at this point. We can get a site work permit if necessary to at least get that portion of the work going in order to get our loan closed down the road.

So I just wanted to address that from a timing perspective our investor and lender are still comfortable
with the time that we have to get this project done.

MR. OXER: So they think you can meet the clock on this one?

MR. BROWN: Yes, they do.

MR. OXER: Okay. And that's on the completion of the project as it was originally presented just for the record.

MR. BROWN: Well --

MR. OXER: And I understand that you're presenting it as you could meet all those with the current configuration that you're supporting and presenting, but we're -- you know, we have -- tragically at times we have some of these rules that we have to -- we're very careful about that. We work very hard to try to preserve the integrity of the rule that we've put together, make sure that we have to play by them, and that everybody else does too.

So the question is does, as is the point that we brought out in the motion, do we appeal or approve the staff recommendation on the appeal on the waiver and the amendment.

MR. BROWN: The intent all along was to build the new construction to begin with. That's still going to be done, so there won't be any tenant displacement. So whatever happens at the Russell Terrace site, it's going
to be subsequent to the Casa Verde site.

And let me just add to what Rod is saying, really the issue here is one of timing. It is with the transaction that's currently being proposed in the amendment, everything's kind of wrapped up into one larger transaction. Yes, there's a net gain, but it's a net gain that could have occurred if they didn't wrap it up into one transaction to begin with.

For example, if the Housing Authority just essentially decommissioned, you know, 138 units at Russell Terrace, sold it to somebody else, somebody else can bring back that housing and do a 4 percent transaction on it. So it's really just a question of timing, and they've wrapped it up and improved the situation from an affordable housing perspective.

So I think the Board could consider that as well. And it is a separate transaction, but that housing is going to be developed years down the road. You have to get Casa Verde built first and then you have to go through the rehab. You're probably talking about a two and a half year process there.

So I think that's worth the Board considering as well. Thank you.

MR. OXER: All right. Thanks for your comments there, Mr. Brown.
MR. OXER: Now we'll assume that everybody else who wishes to speak has something new to add to the argument, right? Okay.

Good morning.

MS. FREEMAN: Good morning. I thank you for allowing me the opportunity to speak before y'all. My name is Gloria Ann Freeman. I live in Russell Terrace Housing Project under the management of the Laredo Housing Authority in Laredo, Texas.

Since returning to Laredo in 1991, I personally have experienced homelessness four times. It shames you; it demoralizes you. It degrades, especially when you have a full-time job, but I am not here to talk about my personal story. I'm here to speak to you about my community, its needs, its special requirements which must be addressed by this Board.

Laredo Russell Terrace is a unique situation. We sit on the border between Latin America and the rest of the United States of America. The Laredo Housing Authority not only has the responsibility to provide adequate affordable housing for low income families, single-parent families, the disabled, the elderly, the disabled veterans, which all have special needs. They also are burdened with an influx of illegal mothers with
children that must be prioritized for their housing needs.  

Russell Terrace is a subcommunity of 200 units.  

That means 200 families occupy these homes. The 
demolition of Russell Terrace would not only negatively 
impact these families, which most have a special needs 
person in the household, but it would also affect Laredo 
Independent School District by denying them the funds that 
the State would allocate for a student that would be 
removed from the district.

Furthermore, all the small businesses 
surrounding the housing project would also suffer because 
their financial stability is generated by Russell Terrace 
tenants utilizing their neighborhood businesses. Most of 
these tenants are on low fixed incomes and which they 
struggle month to month and would not have a home if they 
did not have to live in public housing because they could 
not afford to live anywhere else.

Moving them from their centralized location 
would greatly affect their access to our metro public 
transportation system. I am asking the Board to please 
release the tax credits discussing this project that would 
bring more affordable housing into Laredo or allow the 
Laredo Housing Authority to propose a viable alternative 
plan to allow the building of Casa Verde and still keep 
Russell Terrace standing to help ease the burden that our
I ask, reject staff recommendation and to approve the low income tax credits. I urge the Board to vote not only the monetary value of this project but your moral judgment to please put these people's minds at ease because uncertainty of what the future holds in regard to our housing is placing a heavy hand over my heart fearing that I might be homeless again.

Thank you.

MR. OXER: Thank you, Ms. Freeman. We appreciate your comments.

(Pause.)

MR. OXER: That's all right. No points off for that one, but don't anybody else do it, okay.

(General laughter.)

MR. GARCIA: Good morning, Mr. Chairman and fellow Board members. For the record my name is Arturo Garcia. I am the acting director for the Department of Community Development for the City of Laredo. Also the primary staff liaison for the Laredo Housing Finance Corporation.

First of all, the City's committed to providing a better quality of life for its citizens and in particular persons of very low income and moderate incomes. By creating, providing, and promoting affordable
housing opportunities.

In this case, the City of Laredo passed the resolution supporting the Casa Verde Project. In addition, the Laredo Housing Finance Corporation Board is very supportive of the project and have committed to provide $2,070,000 in the form of a construction loan for the affordable housing project.

This project that is before you is vital to our community, and in order to provide affordable and safe living conditions to our citizens who are tremendous need as you just heard from one of the residents. I'd like to provide you some facts.

As per the 2015 U.S. Census, the City of Laredo currently has a population estimated of over 255,000 individuals, with 31 percent of residents living in poverty, as compared to statewide at 15.9 percent. Our community's current housing conditions affecting the City of Laredo is a lack of safe, decent, available, affordable rental housing.

The City has measured this growing need by the increase of families requesting in the waiting dwellings and several, as the Mayor mentioned earlier, waiting list. The City of Laredo through its Home Investment Partnerships Program, as an example, currently has a waiting list of over 160 elderly waiting for assistance.
for tenant-based rental assistance.

And the City's Municipal Housing Division, which is not associated with the Housing Authority, has approximately over 250 itself persons waiting an opportunity to rent an affordable unit. We have other neighborhood nonprofit organizations such as NeighborWorks and, of course, the Laredo Housing Authority and other entities that are committed to increasing affordable rental housing in our community. They have seen this demand by our citizens.

The market conditions that are referenced in the U.S. Department of Housing Comprehensive Marketing Analysis conducted in 2015 show a shortfall of over 1,300 affordable rental units with a vacancy rate of 6.4 percent vacancy rate.

The shortfall demonstrates the need for our community to act quickly and increase our rental housing stock to avoid a more devastating housing crisis such as an increase of homeless families or individuals.

Through the U.S. Department of Housing and Urban Development Five Year Con Plan that the City provides and addresses multiple needs in our community by leveraging local funds with federal funds such as HOME funds focusing on affordable housing opportunities, this plan has identified the critical need to support low
income housing tax credit projects in our community to increase the availability of affordable housing rentals.

Lastly, I would like to emphasize the increase of the housing units in our community is desperately needed and is vital in order to help accommodate families in need that are requesting affordable, safe, and clean rental housing.

The City requests that Texas Housing Community Development Board's consideration in maintaining the low income housing tax credit projects for the Casa Verde Project. I'd like to thank you for your time and consideration on this matter.

MR. OXER: Okay, thank you, Arturo. Any questions from the Board?

(No response.)

MR. OXER: I would offer just an observation. Be coming up and signing in and be prepared to speak. An observation, what we've found is, at least in the time of my tenure here on the Board, we haven't found anybody yet that makes a low income housing tax application that doesn't need the housing.

So, you know, everybody, that argument that we desperately need this housing, there's 30 more behind you, okay. So we recognize that. Part of the problem is we have a limited resource, a huge demand for it. And the
question we have to do is sort out the ones that get it and prioritize those.

If somebody's willing to give us an unlimited amount of money, I'll make sure that everybody in this room gets a house. Okay.

You, sir.

MR. LOPEZ: Good morning. For the record my name is Gabriel Lopez. I'm a veteran's advocate. I'm a veteran, and I represent the Laredo-Webb County Veterans Organization which there all were 13 veterans organizations.

But I also work for a nonprofit organization, which is called the Laredo Veterans Transitional Center, which is a homeless shelter for veterans in Laredo. At one time we housed up to 96 veterans. Due to the lack of funding, we now can only house nine, including two families.

We have been working to end homelessness in veterans in Laredo and Webb County for many, many years. Unfortunately, we still have a lot of work to do. It is estimated that there are between 100 and 120 homeless veterans in Webb County and some of them across our border in Nuevo Laredo, Mexico, or in other areas. And they do that because they cannot afford to live in the United States.
We are against the staff recommendations as they will limit our chances to end homeless veterans in our community as more than likely the resources will decrease with the staff recommendations.

Currently we have veterans, elderly veterans, that are living on Russell Terrace, and I just want to point out to you that the population of our veterans in Laredo is roughly about 10,000. The majority of our veterans in Laredo are Vietnam veterans, those veterans that are coming of age and their needs are rapidly increasing.

Yes, we do have a surge of younger veterans come into our community and our county, but the most needed assistance are Vietnam veterans. We cannot afford more homeless veterans in our community, and we cannot afford to make them at-risk.

So on behalf of all Laredo Webb County veterans, we respectfully ask that you go against staff recommendations and move forward with the Casa Verde Project to help us end homeless veterans in our community.

Thank you very much.

MR. OXER: Thank you, Mr. Lopez. Any questions?

(No response.)

MR. OXER: Okay.
MR. ECCLES: Actually --

MR. OXER: You want me to do that? Go ahead.

MR. ECCLES: I was going to ask a question.

Mr. Solomon, are you acting as counsel for the applicant?

MR. SOLOMON: Yes, for the Laredo Housing Authority.

MR. ECCLES: That would be fine.

MR. SOLOMON: Thank you.

MR. ECCLES: If I could just ask one question about what is before the Board just as a procedural point.

MR. OXER: Come to the mike, Mr. Solomon, we'll get to you in just a minute.

MR. ECCLES: I'll make it quick, ma'am. I'm sorry. The application as it was filed stated -- I think it was a narrative and staff can correct me if I'm wrong on this -- that Russell Terrace was going to be razed, like completely demolished.

MR. SOLOMON: Because it was filed in 2015.

MR. ECCLES: Yes.

MR. SOLOMON: Yes.

MR. OXER: The original application.

MR. SOLOMON: Yes.

MR. ECCLES: So all of those units were going to be lost. And I'll ask this, and you can say whatever you want in response. It was then that the Board
afterward was after commitment was told that HUD had said
No, Russell Terrace is an obsolete, so you can't raze it.
And then what is before the Board was developed that
Russell Terrace was going to be at some point rehabbed and
Casa Verde was going to be made. And the RAD transaction
was in there and trying to make it meet the original
application.

And this is all just bringing us to the point
that with this HUD letter that we just got today that says
that 38 of the units in Russell Terrace will no longer be
public housing and the Laredo Housing Authority would have
the authority to demolish the structures, I'm just
wondering is the amendment that you want to put in front
of the Board actually in front of the Board.

MR. SOLOMON: I'm sorry, but could you please
-- what do you think we should be saying, you know, to be
blunt?

MR. ECCLES: Well, and that's fair. I'm just
wondering if what is before the Board is what you're
actually seeking to do because -- and here's the
clarification on this. When an application changes, there
needs to be an amendment.

And it seems like the situation on the ground
has changed twice now when I'm looking at this letter, and
I'm just wondering if you are asking the Board to consider
an application amendment for a situation that it hasn't
been fully fleshed out.

MR. OXER: Essentially --

MR. ECCLES: -- for your application amendment.

MR. OXER: -- what my interpretation of that is
the amendment that you filed is a half a step behind where
this letter purports to move you to in the application
process.

MR. ECCLES: Don't get me wrong. I'm not
giving you legal advice. If you want to stand on it --

MR. OXER: You're asking a question on it.

MR. ECCLES: -- you're within your rights to do
it. I'm just wondering if what you are asking to amend
your application to read is actually what your contract or
what your application amendment is the one that you want.

MR. IRVINE: And let me amplify that by
pointing out that while it might make sense within the way
that different people are discussing this for the Board
fashion some sort of resolution on the fly, procedurally,
legally it cannot do that. It can only take action on a
specific amendment that has been properly requested and
has gone through that 14-day public posting process.

MR. SOLOMON: Please let me know if you don't
think this is responsive, but the amendment which was
filed in July, we proposed a nonmaterial amendment to
substitute RAD for a Public Housing Operating Subsidy at Casa Verde.

It was our understanding that that's really all at the time -- that that's really all we needed to do because in part based on the staff's advice. Maybe they didn't have enough information, but based on that, we didn't really expect an issue with what was going on at Russell Terrace as still qualifying. And we thought all we had to do was correct what's actually being done where the tax credits are being used at Casa Verde.

Now, as to the 38 units, I mean I think the HUD letter says many things, but as to the 38 units, HUD is making clear that those 38 units now would be no longer subsidized at Russell Terrace as public housing or RAD. And HUD is saying, Well, you could demolish those. You would have authority to demolish those.

And we said to the staff in one of our recent correspondences that yes, if that will make a difference, we'll consider, that we have HUD authority to demolish those under the RAD Program and we could do that. Our proposal for the Russell Terrace site for the other 162 units still is to meet HUD's definition of demolition. But then to reconstruct them and for the reasons we've already talked about, we think that does qualify.

Can I also just if you'll indulge me for a
minute on the motion that you were trying to make, we
appreciate your trying to help us and that you're trying
to kind of find a way to keep it alive and we're grateful
for that.

I'm not sure that emotion which denies the
ability to make the waiver and use RAD Casa Verde is --
even if you take the other part off the table, that's
going to make it very hard because what we can do at Casa
Verde is RAD for the 38 units. And you've approved that
kind of amendment in other cases for the 2015 round.

So I appreciate the attempted help, and we want
to try to work with you. And therefore, we were saying,
you know, well, maybe you can consider a waiver where the
disposition part of the QAP really hasn't been fully
developed so that you don't have to feel like you're
setting a precedent for all time. But we do need to work
with you to find something that'll work here, and I know
your questions are in that spirit and that is appreciated.

Let's figure it out.

MR. IRVINE: Well, I think "let's figure it
out" is the perfect segue in many respects. You know, you
have an award, and it's to do something very specific.
And you now need to react to circumstances and do
something different.

Have you articulated in your current amendment
request which is before the Board exactly what it is you want to do?

MR. SOLOMON: If you're saying have we -- what we want to do at Russell Terrace with RAD, we didn't think we had the need to do that originally. Given how the discussion has gone, perhaps we do, and if that's what we need to do -- if we need to make that amendment to make clear that the 162 units would be disposed of, 4 percent credits, reconstructed under RAD meeting HUD's definition of demolition, we could make that amendment.

And the HUD's letter I think does -- I mean HUD has approved this. I'm not saying there's no more for them to approve, but HUD has approved this. We could do that.

MR. OXER: But that's not your amendment.

MR. SOLOMON: We could amend to that -- we could amend if that's what it takes to finish this action.

MR. OXER: Okay, thank you, Mr. Solomon. And we'll -- all right, thank you. And we'll have another opportunity. You'll have another shot at this, okay, but thank you for your comments.

MR. SOLOMON: All right.

MR. OXER: Did you get what you wanted on that part?

MR. ECCLES: I'd actually like staff's thoughts
on what is before the Board and just how this conversation is going and what staff sees as what is before the Board and what is not before the Board and what is being presented by this letter and whether it would change it.

MR. SOLOMON: And we also could amend with regard to the 38 units of course, everything on the Russell Terrace site if that's needed. Thank you.

MR. OXER: Irrespective of the changes that might occur, I get the sense that part of the two tracks on this is if you decide to rescind this and amend it, there's an opportunity to fix this. If we take what we have now, it doesn't meet our rule, and we vote it, you're done. Understand what I mean?

Okay, Raquel, you want to answer Beau's question?

MS. MORALES: Yeah. And just a couple of points that I want to address that have been brought up, one in particular, the way this amendment was presented to the Department, as Mr. Solomon just stated, was a nonmaterial amendment to switch the 25 percent public housing subsidy to RAD.

And he indicated that this Board has approved that type of amendment with other 2015 housing tax -- and one in particular, the El Paso deals that asked to do the same thing. They were fully conversing to RAD. That is
Mr. Oxer: Aren't you proud that we did this?

Ms. Morales: That is the case. However, the characteristics for that one application and another one that's going to be before you today have not changed, that would no longer disqualify -- or that would make it not qualify under the at-risk set-aside.

And that's really the crux here is that that in and of itself just having RAD subsidy at Casa Verde, which, Mr. Brown, it is a new construction. It was proposed to be that way in 2015, but with the added characteristic that it was proposing to reconstruct housing that was going to be lost at Russell Terrace and relocated newly constructed at Casa Verde.

That's what qualified it under at-risk.

Mr. Oxer: Right.

Ms. Morales: One of the things that qualified it under at-risk.

Mr. Oxer: Right.

Ms. Morales: As it stands now, it is a new construction deal and had this application come in as a new construction application, not under the at-risk set-aside, the changes that they're proposing likely would come before the Board as an amendment, but, you know, may not have been such a struggle for staff to get to but for
the fact that it's at-risk and the characteristics that make it at-risk just no longer exist.

So, you know, I appreciate that, Mr. Brown --

MR. OXER: what you're saying is they're at-risk and this is at-risk?

MS. MORALES: They were at-risk before.

MR. OXER: It'll make it easier for us to do this. Okay?

MS. MORALES: Right. Beau's question about the letter that was received today with respect to the statement that's in here that says that 38 units are no longer public housing and LHA will have the authority to demolish the structures, does that change? I don't know.

We have had several conversations trying to figure out how to make this still meet the at-risk qualification, trying to get to the same place. And unfortunately, we just agree to disagree, and that's why we're here before you.

MR. OXER: So Mr. Solomon --

MS. MORALES: I know that we've had this --

MR. OXER: Mr. Solomon's comment to the effect that we're making every effort to accommodate what they're trying to do also reflects the staff's efforts in the past I guess and you've had conversations with them, Mr. Solomon?
MR. SOLOMON: We have had.

MR. OXER: Okay, so.

MR. MORALES: Yeah.

MR. OXER: And I think there have been made every effort to see if we can work this out too.

MS. MORALES: Right. I guess just to answer Beau's question, I don't know that this would change things. As I said before, I'd like to have the opportunity to evaluate that. That's not the request that was presented that's before you today.

But I know that we've had discussions over several conference calls and correspondence with the applicant and their consultants and their counsel regarding definitions of demolition according to HUD and our definitions.

And so, while, you know, one of the questions that comes to mind having had the conversations that we've had with this applicant that the Laredo Housing Authority will have authority to demolish the structures, well, HUD's definition of demolish is different and is more akin to our definition of rehabilitation.

And so that in and of itself raises questions for me because ultimately, does that mean -- does this statement in this letter mean that the units will physically be gone or are they still going to be there?
And therefore, was that housing lost?

That's, you know, one of the questions that comes to mind with this letter that was just presented this morning. Again, needing -- if the Board chooses, we need that time to ask those questions and understand to make sure that if there's a change in the plan at this point, we need an opportunity to review that plan to see if it qualifies under at-risk.

But based on what we understand today, staff does not believe it does meet the at-risk qualifications.

MR. OXER: Okay. All right. Thanks, Raquel. All right. Any further comment, Beau?

MR. ECCLES: Nothing.

MR. OXER: Okay. All right. Let me ask a question here. We had someone in front of you who --

MR. CEBALLOS: I wanted to jump in if you don't mind.

MR. OXER: It doesn't bother me. Does it bother her is the question. She was there first, so.

MR. CEBALLOS: She'll be okay with that. Thank you. Good morning, Chairman. Thank you for allowing us to speak. I'm Jose L. Ceballos. For the record, I'm chair of the Laredo Housing Authority.

On that last comment, and I wanted to make sure I jumped in and at least provided that insight. In
working with the residents, I think if it's a good point for us to come to in terms of how do we reconstruct those 38 units, I think the residents are okay with us finding a way to do that in trying to, say, preserve these tax credits and preserve the housing that's in place as well.

So I just wanted to make sure that if that's a good point for us to talk about and to work with staff with, we definitely want to consider that. I think Mr. Solomon's made that clear. Within RAD we can do that, so it's important. I just wanted to provide you that insight.

And for me, you know, this process started for me in January, but in April after we got that HUD letter, it became extremely important to put things in place to try to do both things as I've been in housing. I chaired the local homeless coalition. I've been in housing a long time. I know what it means to not have affordable housing.

But in particular, if that's what we need to talk about, I think the residents will continue to be happy. As a housing authority, we can find solutions for those 38 tenants that may end up -- I think ideally, we'd want them to go to Casa Verde. But if they choose not to, we will find a plan to address those.
If we decide that the 38 units -- demolishing completely 38 units is necessary, I think the residents would be agreeable to that, the community there, and we would find a way to make it work. If that's where this amendment needs to take us, we can do that.

I think Rod and everybody else has explained quite well the technicalities with both what's in the law and the QAP. At this point we really need the housing. Obviously that's been restated, so you're going to hear it some more, but it's finding a way --

MR. OXER: We've been hearing that for a while.

MR. CEBALLOS: Yeah, I know, so --

MR. OXER: We get that regularly.

MR. CEBALLOS: So I just want to make that point on behalf of the Board of Commissioners. I think we would entertain that very -- it's very feasible for us to come to a working plan if we need to address -- if you'd like to see us as you consider a waiver seeing some demolition. That's certainly something we will work with.

MR. OXER: Okay, thank you for your comments, Mr. Ceballos.

MR. CEBALLOS: Thank you.

MR. OXER: All right. Do you have something to add to the discussion?

MS. VILLARREAL: Okay. Thank you so much, Mr.
Chairman and Board members here. Very short really, my name is Elizabeth Alonzo Villarreal. I'm the CEO for NeighborWorks Laredo and a partner with the local housing agencies. Laredo cannot afford to lose more of its housing stocks, specifically the units at Russell Terrace.

There's two elementary schools right across the street, within walking distance, where parents walk their kids to school. NeighborWorks Laredo is only one partner of many affordable housing agencies whose waiting list as mentioned before by Mr. Saenz and Mr. Garcia. And we continue to see that at NeighborWorks Laredo also.

The recent decline what we're seeing in the oil and gas industry is putting a strain in affordable housing. We try to help them with foreclosure prevention, but sometimes they come too late to where they're losing their home so, you know, we try to accommodate them with our rental properties.

But really we respectfully, you know, again ask that you vote against staff recommendation. And we are for the Casa Verde moving forward. Thank you.

MR. OXER: Okay. Thank you for your comments, Elizabeth. All right. Is there anybody else that wants to speak on this item?

MR. LYTTLE: Mr. Chairman, I do have a letter we just need to register that Cynthia Riley submitted a
letter. She's a Russell Terrace resident submitted a letter to the Department in support of the Casa Verde Development receiving the tax credits and in opposition to the staff recommendation.

MR. OXER: Okay, thanks, Michael.

MS. GALINDO: Good morning, Mr. Chairman and members of the Board. Mary Galindo, Executive Director of Bethany House of Laredo on behalf of Casa Verde. My position is against staff's recommendation.

And I would like to take this opportunity to strongly urge the Board to preserve the vital award of tax credits for the Casa Verde Project because reallocating these credits would be devastating to affordable housing in our area.

Based on the 2016 Point-In-Time Count conducted by the Laredo Homeless Coalition, the City of Laredo has an estimated 1,400 homeless individuals. Bethany House operates the only emergency shelter in Laredo along with the only 17 transitional housing units.

Our shelter is at capacity on a daily basis and when 20 percent of our clients receive SSI benefits in the amount of $733 monthly without the addition of these affordable units, my clients will continue to remain homeless because they will never be able to afford an average market rent of $672.
I strongly believe that the absence of affordable housing in our community has an extremely impact on homelessness in Laredo, and I would like to thank you for your consideration.

MR. OXER: Okay. Thank you, Mary.

MS. GALINDO: Thank you.

MR. OXER: I appreciate your comments. Any questions from the Board?

(No response.)

MR. OXER: Okay. You're going to --

MS. JACKSON: You're looking at me --

MR. OXER: No, no. I mean do you need to say anything on this one?

MS. JACKSON: I was if it was okay and I will be quick.

MR. OXER: I know better than that.

MS. JACKSON: Good morning still --

MR. OXER: Still.

MS. JACKSON: -- Mr. Chair and Board members. I just want to speak on support of and appreciation of the staff's recommendation. The development community recognizes that this is a very -- oh, I'm sorry. I didn't say my name.

MR. OXER: Right.

MS. JACKSON: Toni Jackson, hi. Thank you too.
The development community recognizes that this is a very competitive process and that all of us standing before you and every application before you has a need in those communities in which we serve.

However, it is also important for us to be able to rely on consistency of interpretation of decisions that come before you. Earlier this year in the 2016 round, there was another application that had a very similar amendment to it, and it was the at-risk category. And because of that amendment and the interpretation as has been set out by staff today, it was removed from the at-risk category.

So again, we appreciate when there is consistency in the interpretation and decisions made by you. And again, since that particular application was removed from the at-risk category, I stand in support of staff's decision today.

MR. OXER: Okay.

MS. JACKSON: Thank you.

MR. OXER: Thanks, Toni. All right. Anybody else care to speak on this one?

(No response.)

MR. OXER: All right. I'm going to give everybody what they're not looking for, and that's an indecision because I want to -- we're going to take a --
we have some more to speak. Okay, get up there and tell
them who it is. Hello, Mr. Solomon.

MR. SOLOMON: Hello. Well, at least I don't
have to repeat who I am.

MR. OXER: No, yes, you do every time you come
to the mike.

MR. SOLOMON: Okay, I'm Rod Solomon with
Hawkins Delafield and Wood. Just a few very quick
comments. If the application that was just referenced is
what I'm thinking it is, it really wasn't the same
situation at all. This is a situation where 200 public
housing units are being eliminated and 200 units are being
either done with RAD or well, done with RAD at different
sites.

That application that was referenced as I
understand it, actually really did add units in a way that
this one doesn't. The other thing, just a quick further
clarification about what our Board Chair from Laredo said.
The 38 units could be razed -- to use Ms. Morales' word
that she used -- and I just wanted to be clear in case it
wasn't that that's what was being said.

And I thank you for taking me in one extra
time.

MR. OXER: Sure. And just to confirm that,
that's what we're talking about, right, Raquel, what he
just said?

MS. MORALES: That the 38 units could be
demolished, raised down? Yeah, again --

MR. OXER: I'm just making sure that both of
you were saying the same --

MS. MORALES: Not having evaluated that plan --

MR. OXER: Got it. Okay. I got it. I got it.

Terri?

MS. ROEBER: Hi, Terri Roeber of Department of
Housing. I have 17 registered opinions that are against
staff recommendation. Did you want me -- or 12, five
spoke. Did you want me to read the names?

MR. OXER: You can add those to the record.

We'll have them written in. She'll put them in. Nancy,
can you put those into the record?

THE REPORTER: Yes.

MR. OXER: Okay. Good.

MS. ROEBER: Thank you.

(The following individuals registered in
writing their opposition to the staff recommendation and
did not wish to speak: José D'Jesus Collazo, Bulmaro
Cruz, Anita C. Garcia, Gabriel Lopez, G. Gina Magallanes,
Edna Morales, Maria Morales, Julia Orduña, Cynthia V.
Riley, Sara Rodriguez, Mario Sauzo, and Gisele Uribe.)

MR. OXER: Thank you. All right. Here's what
we're going to do. This is a complex issue. We need to
take a little time to think about it. I don't want
anybody's head to explode on this one.

So it is now 10:47. We're going to take about
a 15-minute break. Let's be back in our chairs at eleven
o'clock.

(Whereupon, a brief recess was taken.)

MR. OXER: Okay, we'll be back in session back
in order. Okay, with respect to this item, Mr. Ceballos,
do you have a --

MR. CEBALLOS: Hello. Jose Ceballos --

MR. OXER: You're all right. Nancy's taking
care of that one.

MR. CEBALLOS: Great, thank you. We just
wanted to say and make a request to you that obviously
you've received a lot of information today and we've
shared a lot of information today.

If we can have some time to work with staff
before you make your decision to be able to see if we can
reach a point that's amenable to everyone involved and in
the interest of everybody meeting -- you know, meeting
your interest in terms of the QAP and the law and as well
as taking care of our affordable housing needs and
reaching a possibility of addressing some demolition if
that's required to the level of razing.
We would consider that, and I'd like to work with staff. And given that she's just received the HUD letter too today, it may be wise for all of us to sit down and --

MR. OXER: Take a deep breath and look at this again.

MR. CEBALLOS: Yeah, and come back to you at the next opportunity with this.

MR. OXER: So with respect to this item -- please stay at the mike for a moment -- with respect to this item, there's a motion by Ms. Bingham, second by Mr. Gann if I recall correctly. Okay, would the two of you be willing to --

MR. GANN: Rescind it?

MR. OXER: -- rescind your motion and second?

MR. GANN: I do.

MR. OXER: Okay, Ms. Bingham?

MS. BINGHAM ESCAREÑO: I'll withdraw, yeah.

MR. OXER: Okay. Now with that, you're in a position to pull this item from the agenda for consideration for the next meeting. Your request, you have to say yes.

MR. CEBALLOS: Yes, sir.

MR. OXER: Okay, that's good.

(General laughter.)
MR. OXER: I suspect that that's going to work out better for the project for the --

MR. CEBALLOS: Well, we appreciate that.

MR. OXER: Okay.

MR. IRVINE: If I might provide just two pieces of procedural clarity. One, this is on a very tight timeline because of the 14-day posting requirement for any material amendments. And second, you already have an award to develop 200 new units that replace 200 units that are being lost to the affordable housing pool.

And I think that that is the critical essential attribute of an at-risk deal. It's a zero sum, you know, 200 out, 200 in.

MR. CEBALLOS: Great.

MR. OXER: You know, maybe the sum and substance of this would be you're on a really tight schedule.

MR. CEBALLOS: We know that.

MR. OXER: We're still alive, okay.

MR. CEBALLOS: That's why we appreciate that.

MR. OXER: The project is still alive, so. All right. With respect to that, is there any other questions or anything else on this item?

(No response.)

MR. OXER: Okay. So, thank you, Mr. Ceballos.
ME. CEBALLOS: Thank you very much.

MR. OXER: Okay, Raquel, then that takes care of 15251 under Item 7. Is that correct?

MS. MORALES: Yes.

MR. OXER: Okay, do you want to go ahead.

MS. MORALES: Yeah.

MR. OXER: Let's just since we're there --

MR. ECCLES: And if I could just chime in.

Under --

MR. OXER: Go ahead, counsel.

MR. ECCLES: Under the Amendment Rule, folks from the --

MR. OXER: You're going to want to hear this, Laredo folks, so.

MR. ECCLES: The Department shall require the applicant to file a formal written request for amendment to the application because you are changing your application. I mean even down to the narrative, you're making a change to the application what the Board got and awarded.

So the Department, if it hasn't already, is requesting that you file a formal written request for amendment to the application and include a detailed explanation of the amendment request and all other information as determined to be necessary by the
Department. So within that context, please go forth and work with staff. Thank you.

MR. OXER: Okay. We appreciate your efforts at making this work out, and we appreciate that you recognize that we're trying to do the same.

(Pause.)

MR. OXER: Since we're on this item, let's go ahead and knock this other one out if we can.

MS. MORALES: Okay. The next one is Presentation, Discussion, and Possible Action regarding material amendment to the application for 15119, Liberty Square and Liberty Village. This is another 2015 at-risk 9 percent deal that was awarded tax credits.

The Groesbeck Housing Authority owns 80 units which are located on two scattered sites originally built in 1964 and 1973. The applicant received its award under the at-risk set-aside based on its status as a development proposing to rehabilitate housing units on a one-for-one basis and are owned by a public housing authority that receives assistance under Section 9.

The application for Liberty Square and Liberty Village proposed a rehab of all 80 units, again, a one-for-one replacement. It also proposed that 75 percent of the units would be financed with housing tax credit and RAD Program funds. And then the remaining 25 percent
would be supported by a Public Housing Operating Subsidy as required by the 2015 QAP.

The applicant has submitted a request for approval to change the application such that it would be able to fully convert 100 percent of the units, all 80 units, to RAD. This change would mean that the applicant would not be able to maintain 25 percent of the units as public housing as originally proposed and required. And so the applicant is seeking approval for this change.

It's worth noting that with respect to the original development plan or with the characteristics which qualify this application under the at-risk set-aside, those characteristics have not changed. They are still doing what they said they were doing. They are going to replace one-for-one 80 units by rehabbing.

So it continues to maintain the characteristics to qualify under at-risk and continues to meet the Department's QAP rules related to at-risk as well except for the change to fully finance the deal from the Public Housing Operating Subsidy to RAD.

There were some additional changes that were reflected in the letter and are included in detail in the Board action write-up with respect to changes to the rent and income levels that were -- that scored points in 2015.

However, at this time the applicant has asked to table
that decision and recommendation on that -- or
recommendation and decision by the Board on that. They
may come at a later time to address that particular
amendment to the application.

Other changes included a change to the
ownership structure and a clarification to the development
site acreage, which those two are not considered to be
material for purposes of requiring your approval but are
included in this action item to document and recognize the
changes noted.

Staff is recommending approval to request
Liberty Square and Liberty Village to convert 100 percent
of the development to RAD and to no longer be required to
maintain 25 percent of the units as public housing.

MR. OXER: Okay, any questions from the Board?
MR. GOODWIN: Move for approval.
MR. OXER: Okay, motion by Mr. Goodwin.
MS. BINGHAM ESCAREÑO: Second.
MR. OXER: All right, second by Ms. Bingham to
approve staff recommendation on Part 2 of Item 7 with
respect to Application 15119. Tammy, do you want to speak
on this?

VOICE: Only if there are questions.
MR. OXER: Any questions?
MS. BINGHAM ESCAREÑO: No.
MR. OXER: Okay. All right. This is headed probably in the direction you wanted, so. All right. A motion by Mr. Goodwin and second by Ms. Bingham to approve staff recommendation on Item 15 -- let me get the number right -- 15119. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

Okay, good, thanks.

All right. Let's get back in the calendar here, back in the sequence. Mark, why don't come and take care of this one.

MR. SCOTT: Good morning.

MR. OXER: Yeah, it's been a great morning so far.

MR. SCOTT: I'm Mark Scott, the Director of Internal Audit. And we had an Audit Committee this morning, and we went over the Internal Audit Plan for 2017. We went over the new audits that are proposed for 2017, which include Information Services, Bond Finance, the contract for Deed Conversion Program.

From the 2016 Audit Plan, we carried over the Housing Tax Credit and Multifamily audits and we combined them as one project. We are finalizing an audit of the
Compliance Division from 2016, and we should have that completed by the end of the month.

And the Audit Committee recommended approval of the 2017 Audit Plan, and so I am requesting the full Board approve it as well.

MR. OXER: Okay, any questions? Ms. Bingham, as Chair of the Audit committee, would you care to comment?

MS. BINGHAM ESCAREÑO: Mr. Chair, and thanks Mark, I think there was nothing unusual that came out of the Audit Committee this morning. We're on track to -- the Department's on track to complete what it planned to for 2016 with the exception of the two carryovers that Mark mentioned and I think the Committee was comfortable with that.

MR. OXER: Okay. Everybody's comfortable. We're heading in the right direction.

MR. SCOTT: Yes, sir.

MR. OXER: Half speed, full turns, right?

MR. SCOTT: Yes, sir.

MR. OXER: Good.

MR. SCOTT: Okay. The next thing on the agenda is the Fair Housing Audit. I talked about that this morning. It covered the areas of compliance and affirmatively furthering Fair Housing. We found that the
program was well managed. We had a recommendation to continue in their provision of training to staff on the Fair Housing requirements.

So are there any questions about the Fair Housing Audit that was -- the Fair Housing Audit was in your packet.

MR. OXER: Right. And just as a point of procedure here, I think we have to make a --

MR. SCOTT: Oh, I'm sorry. Yes, I forgot to --

MR. OXER: We have to make a full accept or full approval of the Fiscal Plan.

MR. SCOTT: Yes, sir, I'm sorry. I forgot to ask y'all to vote on the Audit Plan.

MR. OXER: I'm the one that actually that technically has to do that. But you presented and you're comfortable with it? Everything's good?

MS. BINGHAM ESCAREÑO: Yes.

MR. OXER: Okay. And would you offer a motion to --

MS. BINGHAM ESCAREÑO: Mr. Chair, I move --

MR. OXER: -- to approve that plan?

MS. BINGHAM ESCAREÑO: -- move approval of the 2017 Audit Plan.

MR. GANN: And I'll second.

MR. OXER: Okay. That's good. And Mr. Gann is
the -- motion by Ms. Bingham, second by Mr. Gann as two members of the Audit Committee to approve the Internal Audit Work Plan for 2017.

There's 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, Mark.

MR. SCOTT: Thank you very much. And then the other item on the Plan or on the schedule for today was the audits. And the current audit and consulting activities, I discussed that this morning in detail.

As I said, we're almost finished with the audit of the Compliance Division. We talked about the scheduling of the peer review, and I recently hired Ms. Neda Sanjar. She's a certified internal auditor, and she has extensive experience in banking.

So that concludes my presentation.

MR. OXER: Good. Any comments from anyone?

MS. BINGHAM ESCAREÑO: No.

MR. OXER: Okay, we accept this as a report time?

MR. SCOTT: Yes, sir.
MR. OXER: Okay. Good.

MR. SCOTT: Thank you very much.

MR. OXER: Thank you, Mark.

Okay, Brent?

MR. STEWART: Good morning. Brent Stewart, Real Estate Analysis. This item is an appeal for a property in Dripping Springs called Merritt Hill Country. It's a new construction transaction that was approved in 2015. They received an allocation of tax credits as well as a home loan in the amount of $1,550,000.

The original report was produced with certain conditions, one of which is a standard condition placed on all of our underwriting reports that basically says if there are changes to this, you got to bring it back for us to look at.

So prior to the home loan closing they submitted a package to close the home loan, and there had been some pretty significant changes to the cost and the financing structure that triggered then a reevaluation of the application. Through that evaluation, we identified $3-1/2 million of additional debt that was ahead of our loan. And the amount of the debt service on that debt ahead of our loan was right at $56,000 annually.

So when we underwrote that -- well, there was an addendum that occurred where we said, okay, you can go
do that, but we're going to keep -- the deal hadn't been priced yet -- we're going to keep the fixed payment amount ahead of us the same. Interest rates can change. Anything else can change except for that annual payment.

And this request in addition to wanting us to allow the new debt service, they were also wanting us to extend the amortization period on our loan from 30 years to 40 years. When it was submitted for these revisions, it was submitted with a D-4 loan. The interest rate was reduced from 6 percent based on what we underwrote before to 3.3 percent. Again, debt increased.

So the issue here -- you know, there's a bunch of detail in your write-up, but the issue here is as we've talked before, risk profiles to the Department when debt and debt service ahead of our loans increase. And we've taken the position that we will allow for the debt amount to change, the principal amount of the debt that's senior to us to change, based on the interest rate change, but the debt payment ahead of our loan needs to remain constant.

That is the piece that tells us what our risk profile is in the transaction.

MR. OXER: So the risk of payment remains essentially the same. Even though the debt increases, the rate goes down so it --
MR. STEWART: That's right.

MR. OXER: -- balances.

MR. STEWART: Now, what you're likely to hear is that in the appeal what they have said is, Look, our pro forma NOI has gone up so your actual debt coverage ratio is improving. On numbers, that would be true. We accepted the rents that they proposed in their amendment because we knew that our debt service was not changing, and therefore, from an underwriting standpoint, our original assumptions were still valid.

In other words, if they can get more rent, great. Our position was the same. We underwrote it and are keeping to that underwriting. You know, who knows what the rents are going to be, but you have to pick a point in time that the deal was underwritten. And based on what we now do, that point in time was chosen and that was the debt service amount that was chosen.

With regard to the other issue about the 30-year to 40-year amortization, they're claiming that HUD will require a 40-year amortization. We've closed a number of transactions with HUD where we have kept to our 30-year amortization, extended the term to 40 years. They did not want our term to be shorten than theirs.

But to them, it was strictly a payment.

Whether it was based on 30 years, 25 years, 40 years, they...
didn't care. It was an underwritten payment to them. And so in our subordination kind of discussions with them, we've been through that process with them, and they do accept a 30-year amortization.

So, again, it's sticking with what we originally underwrote, sticking with what the original NOFA said how we were going to underwrite them. And so staff is recommending that we keep our loan terms as they were originally proposed and approved, and that's staff recommendation.

MR. OXER: So okay, you've underwritten how many deals?

MR. STEWART: A lot.

MR. OXER: Okay, a lot meaning a big number with a lot of zeros behind it.

MR. STEWART: Yes, sir.

MR. OXER: Right? So I'm sure Mr. Goodwin's underwritten a few deals himself.

MR. GOODWIN: Or two.

MR. OXER: A couple. Okay, I personally have not, okay, other than that, other than buying some utilities. So overwriting this would constitute the Board saying we have more experience than you do in underwriting?

MR. IRVINE: I would actually characterize that
a little differently. I would say that staff --

MR. OXER: That's what I was looking for.

MR. IRVINE: Staff has limited latitude to function outside of the clear parameters of the rules. And, you know, I think I made it pretty clear in my denial of the appeal that the denial of my appeal was predicated on the fact that I just did not think I had the authority to go where they were requesting us to go.

I think it's certainly within the Board's appropriate latitude to consider all the factors, and it does have more latitude to grant these kinds of changes.

MR. OXER: Okay, so we are constrained by our constraints on the prospect of us breaking the fence --

MR. IRVINE: I believe --

MR. OXER: -- and letting the herd out.

MR. IRVINE: -- our Federal Compliance Council may also want to chime in about specifically how this may intersect with provisions in the NOFA distribution process.

MR. OXER: Megan, come on up. We'd love to hear from you this morning.

MS. SYLVESTER: Good morning. It's still morning; isn't it?

MR. OXER: So far.

MS. SYLVESTER: Megan Sylvester, Legal
Division. So this is -- I'm only speaking on the 40-year amortization part. That was a --

VOICE: [Inaudible].

MS. SYLVESTER: Well, then I guess I'm not needed. That's okay.

MR. OXER: Nice job, Megan. You got that cleared off really quickly, so.

Okay, so with respect to this, here's what we're going to do. We have a motion to consider, and then we're going to have public comment. And so if you guys can talk us into this, we'll look at it in a different way maybe, so hold still.

MS. BINGHAM ESCAREÑO: I'll move staff's recommendation.

MR. OXER: Okay, motion by Ms. Bingham to approve staff recommendation on Item 4. Do I hear a second?

MR. GANN: Second.

MR. GOODWIN: Second.

MS. BINGHAM ESCAREÑO: Twins.

MR. OXER: Okay, Mr. Gann gets that one. All right. Mahesh, what you got?

MR. AIYER: Good morning. My name is Mahesh Aiyer with Citi Community Capital. Thank you members of the Board. I think going to Mr. Irvine's point of clarity...
of the rules, we're not disputing I think the policy
procedure of what Brent outlined in terms of if in fact
the Board and staff have got a new policy of maintaining
that service amount, not that service coverage, but that
service amount.

The issue comes down to transparency and when
that's communicated. So historically for as long as I've
been working on tax credit transactions in the state, well
over 500 for 20 years, everything has been related to debt
service coverage, right? Because going to Brent's point
on rents, expenses, movement, and rates, debt service
coverage was the clarity on which you could have a
barometer when you put in an application at a certain date
and when you went in for your final review, last bite of
the apple before you closed.

In this case we understand the standard of
what -- if some things have changed, they got to get
reviewed again, but that's within the context of what the
rules are and what the parameters are. They're usually
well communicated, transparent, and everyone knows what
they are because by the time you come in for that final
review, the last bite of the apple, you're ready to close.
Right?

This is not a front-end process we're talking
about. We're talking about the process just prior to
closing. When Merritt Hill Country came in just prior for
closing -- we were slated for October 31 -- in September,
beginning part of September or I think end of August,
beginning of September, that's the first time we were
communicated to that, hey, in fact, wait a minute, the
home loan amount has changed enough that the debt service
amount has changed. And we are now requiring it constant.

When we asked when was this rule promulgated,
we were referred to a transcript on a page in the April
board meeting. You know, historically when something --
this is a material departure on underwriting standard.
When you're going historically on a home loan saying that,
hey, we'd like to be at 120 debt service coverage, then
all of a sudden you're moving to a hard absolute number on
debt service amount, that's usually something that's been
discussed, communicated, broadened in terms of how it's to
applicants.

In this case, one would have thought out of the
April board meeting and I read through the transcript and
I see it was a brief discussion related to one particular
transaction. We subsequently spoke with staff. I spoke
with Mr. Irvine separately to kind of figure out what was
the interpretation here. And that was the basis for the
policy change.

My next question was, well, if that were the
case, wouldn't you when you went back to the office since we're talking about people who have already applied for a home loan, that you would have communicated to every home loan applicant that hadn't closed their home loan, Hey, we have a new policy change that we are now looking at debt service amount as opposed to debt service coverage and here are the reasons why.

Usually, you know, historically when you look at home loans, you will find in underwriting that the amount of the first loan when you put in your application at the end of February or March at the application time, and when you actually go to close, it's different. It's never a constant amount. The equity amounts change. The permanent loan amounts change. The rental expenses change. They're dynamic; they're not static, hence, debt service coverage.

So when you have something of this kind of material nature and it was more of a reactive process, right, where, okay, let's wait until they come in for their final review. But at that point, you're kind of baked.

We rate-locked on the HUD 221(d)(4). We didn't have any notion that that policy change had occurred. There wasn't any communication. There wasn't -- you know, there's nothing in the rules that said that. We
were only referred to a Board transcript and don't feel like that's necessarily deep communication on something of this sort.

I'll give you an example. Back in 2009, there was a healthy discussion on TDHCA permanent loans, right, as to whether TDHCA should have a first lien or a second lien. That was a broad open discussion where TDHCA staff and the Board felt, hey, if the TDHCA home loan amount was greater than the first lien, it should get a first lien.

I remember at the time we had several discussions in front of the Board. And then it was well communicated, and that was before applications were filed. In this case it kind of came late in the day. The deal's fairly infeasible if we adhere to the policy in the way it was communicated to us.

What we're just saying is is it wasn't communicated in a timely way sufficient enough to make us aware. We wouldn't have rate-locked. We wouldn't have outlaid significant funds. We could have restructured the deal five, six months ago had we been aware. And of it's that material a policy change and how you're going to underwrite from the way it's always been done, that's something we felt should have been well communicated out to everyone.

MR. OXER: So it should have been communicated
to everyone, not just to you?

MR. AIYER: Yes.

MR. OXER: And even then it wasn't communicated to you?

MR. AIYER: That's right.

MR. OXER: Okay.

(Pause.)

MR. GOODWIN: I've got a question for Brent.

What was the DCR original underwriting?

MR. STEWART: At 115.

MR. GOODWIN: And what is it now with the modifications?

MR. STEWART: Due to the higher rents, it changed loan amounts. It's at 133.

MR. GOODWIN: 133, okay.

MR. OXER: So it's going in the right direction?

MR. STEWART: Yes, sir.

MR. OXER: So am I interpreting this correctly that this is just a rule constraint that we got balled up in our rules and this is something we could actually say this sounds good, it looks good. We would approve this?

MR. STEWART: I think that --

MR. OXER: Tim, do you have any -- go ahead.

Go ahead, Brent.
MR. STEWART: I think that this has been a topic of discussion amongst staff for some period of time, and there's a lot of issues that come into play including how big the deals are when they come in, right, how much changes between then and closing of the home loan, how much back and forth work there is, as a participant, as a lender in the transaction to kind of work through those issues without deals -- and I'm not saying that's what happened on this one, Mahesh.

But we typically get transactions that come in and it's baked and it's just assumed that the Department is going to not want to change its position because of our risk profile when we're having to pay HUD back quite a bit of money on transactions that go into default. We've done that.

MR. OXER: All right.

MR. STEWART: So there's been all of that. Then at the April meeting, staff through Tim kind of said, Hey, we had just gotten done with an item, a board item, and Tim kind of brought up. He said, you know, let's talk about some policy stuff.

And we know that the Board in this environment cannot set policy. You cannot set rules, but we had a discussion about some of our concerns. So we kind of felt like based on that, we couldn't bring to you a
recommendation that said, you know, yeah, let's go ahead and do this. Let's go ahead and allow this change to occur.

MR. OXER: So what we're essentially saying is, for something if there's an obvious net benefit or positive that accrues to the State, to the TDHCA and to the State, we could then overturn -- we have to have a reason. We have to have quantifiable reason not to go with staff recommendation. That's our requirement, okay.

So it occurs to me that Mahesh might have just offered that up, a 133 DCR over a 115 seemed like a pretty positive influence.

MR. STEWART: Using higher rents, that's where you get to a 133. If we stuck with the original underwritten rents, it wouldn't get to a 115. We assumed because our risk profile wasn't changing, we just went ahead and assumed that those rents were achievable.

MR. OXER: The new rents?

MR. STEWART: The new rents. And, you know, cursory -- a brief look at it would suggest they are achievable, but we didn't get a market study. We didn't have a formal review of those rents.

MR. AIYER: I might could add, we've got --

MR. OXER: Mahesh, you have to say who you are.

MR. AIYER: I'm sorry. Mahesh Aiyer, Citi
Community Capital. We have an updated appraisal and two market studies that were done, specifically one for HUD and one for the equity investor that we could provide to staff that substantiates the rent.

We've scrubbed them. I've had seven people from different departments go out to the site on a number of occasions. Again, it's a dynamic process because when you put in your application in February and you're coming in, you know, with this point later. But I think we can feel comfortable in substantiating those rents to staff.

MR. OXER: Okay. Then let's take a quick time out here then. So, on this item, Brent, you know, you want to give some thought to pulling this as an item, getting that information back to them to reconsider, so we can bring it to the next meeting?

MR. AIYER: We have an October 31 rate lock deadline for closing with HUD. And the problem is if we have to renegotiate the rate lock, rates have gone up 35 to 40 basis points since that time, and it's a material sizing hit at that point on the rate structure.

MR. IRVINE: May I?

MR. OXER: Sure.

MR. IRVINE: Yeah, I think really the staff concern here is basically Board input. I think Mahesh has basically said in a real polite way that the Department
communicates its requirements through specific media. One medium is a regulation or a rule, and the other medium is a NOFA. And that this is consistent with those things.

However, it has undergone a change that does involve a change in the amount of senior debt. And I think staff would really welcome -- and perhaps this is not the appropriate setting; perhaps it is. Staff would really welcome guidance on setting future criteria under rules and NOFAs as to whether those kinds of changes are things that we should address and constrain in rules or NOFAs or whether the Board is comfortable continuing to focus on characteristics such as DCRs and the ability to service the change in debt.

I mean real estate's a world of variables. Everybody knows that costs change on deals. Everybody knows that financing structures are very timing sensitive. If there's one thing on this Earth I've learned never bet on it, it's interest rates and certainty on interest rates is an incredibly valuable thing, so, you know --

MR. OXER: it's also an oxymoron.

MR. IRVINE: Well, if you can lock them with a party that's got the capacity to deliver, that's --

MR. OXER: That's probably some of it.

MR. IRVINE: -- as close as you can get to taking it out of oxymoron.
MR. OXER: You have a thought, Mr. Goodwin? You spend a lot more time doing this than any of the rest of us.

MR. GOODWIN: I surely don't want to see the project have a 35 basis point increase in its rate after October 31. And if you're comfortable that the rents that are projected with a BCR of 133, that's better than 115.

MR. STEWART: Again, as y'all know, we do a lot of independent research on rents. We call properties. We, you know, I mean -- and we found nothing that would suggest that the proposed rents aren't achievable. Without an official market study, we said, Look, as long as the debt service isn't changing, our risk profile's the same as it originally was. Therefore, the rents were irrelevant, right?

So that's where we were coming from on that issue. You still have the issue about the amortization, which is a NOFA issue. It's an issue that you have dealt with before, and you've actually dealt with it with this applicant on the deal in Midland.

MR. IRVINE: But that issue's off the table?

MR. GOODWIN: Yeah, I think Cynthia just said that's gone.

MR. OXER: We just cleared that.

MR. ECCLES: We got the third base kind of...
signal I think.

MR. STEWART: Okay. There's a lot today that I was unaware of.

(General laughter.)

MR. OXER: So essentially you haven't had -- this is a little stream of consciousness here. You're comfortable that those, the rate and the new rent rates are achievable essentially?

MS. STEWART: Yes, sir.

MR. OXER: Okay. There is no -- you've received -- not that they don't have one, Mahesh -- but you've received no formal market study that would suggest that apart from feeling comfortable in your anecdotal conversations with respect to the rents?

MR. STEWART: Okay.

MR. OXER: So essentially what we're saying that it comes down to it, the Board would have to intercede to say we accept Mahesh's assessment of his underwriting in terms of the rent capability for getting this and stand in your stead for your underwriting?

I'm trying to give you an out.

MR. STEWART: No, I think the out is is we believe if you believe those rents, which we are comfortable with and the DCR is what it is based on those rents, that debt, et cetera. The question of how much
debt is ahead of us is still there, and so that -- yeah, so 133 DCR is what would show based on the underwriting with those higher rents.

MR. OXER: Okay. So then it's a question of the debt that's ahead of ours?

MR. STEWART: The debt service amount is what we have -- what we have said over recent experience has been holding the debt service fixed. What changes in interest rates you can go get however much principal amount of debt ahead of us, right.

We don't really have a collateral issue. We've got a debt service issue. And so, again, it gets back into if you're going to accept those higher rents, then the DCR is going to be higher. Then from a DCR standpoint, you know --

MR. OXER: It's a wash.

MR. STEWART: Yeah.

MR. OXER: Is that right?

MR. IRVINE: Yeah, and I really think that if you're inclined to go the other direction against staff's recommendation, the rationale is essentially that with the 40-year amortization issue off the table, the financial benefits in the transaction shift and conform to the rule.

MR. OXER: Say that again. So if the 40-year amortization is off the table, then it does conform to the
rule?

MR. IRVINE: If you assume that the rents that are achievable and that it produces a compliant DCR, yeah.

MR. OXER: I have every confidence --

MR. IRVINE: Which we have no reason to believe it would not.

MR. OXER: Okay. Is everybody clear? Have any questions?

(No response.)

MR. OXER: All right. So there's been a motion by Ms. Bingham, a second by Mr. Gann to approve staff recommendation. Do you wish to rescind that so that we overturn staff recommendation to allow this project?

MS. BINGHAM ESCAREÑO: Is there -- and may I ask is there any other public comment on the item that would be different --

MR. OXER: Germaine to the conversation. Anybody here want to add to this? Anybody here got anything to add that's going to add to this as opposed to confirm it or re-confirm or -- Cynthia, you got anything you want to say? Come on. You wrote -- get out there you say it. You wrote it down.

MS. BAST: I'd just like to give a couple of pieces of information. This is Cynthia Bast. I am with Locke Lord, and I am representing the applicant in the
appeal.

Hopefully you did have a chance to look at the appeal that I filed. And I wanted to just put on a record a couple of pieces of background information that when the costs went up, this applicant did what they had done with this Agency two times before, which is to look at adjusted rents, get some more equity, which is being provided by RBC, and to also adjust the debt and in this case based on lower interest rates, longer amortization period.

That was done in the Merritt Lakeside transaction where the total debt coverage, the annual debt service went up $44,000 a year on a $2 million home loan. By contrast, here we are with a $1.55 million home loan, and the annual debt going up $56,000.

So to Mr. Aiyer's point, the applicant followed the rules that we have with regard to underwriting feasibility conclusions. They took these new numbers. They've put them into TDHCA's worksheets to see if we would meet all of the continued underwriting feasibility conclusions in those rules.

And, Mr. Goodwin, in my appeal on Exhibit B, you'll find the 40-year projections of debt service coverage ratio that they derived from that. So, I just wanted to make that point that this isn't something that people just grabbed out of the air. This was not
something that was done in bad faith.

This was something that was done consistently with past practice going in with revised numbers at the time you're getting ready to close your home loan. And I appreciate the consideration. Thank you.

MR. OXER: And to address your point, too, Cynthia, we'll assume that nobody does anything in bad faith in here. We're just trying to figure this out and everybody be clear about what's on -- you have a comment or thought, sir?

MR. DENNISON: I'm Colby Dennison. I'm the applicant. I just wanted to quickly say this is in Dripping Springs which is 20 miles west of Austin. We've been trying to do affordable housing in Dripping for a long time. It is a high income, beautiful area and --

MR. OXER: It makes good vodka out there too from what I understand.

MR. DENNISON: Yes. And the reason for these changes is this is the first multifamily project in Dripping Springs. They care about their city. The reason this deal was so expensive is because they care about their city and costs in Austin as you heard on your first agenda item are just skyrocketing. And we've bid this thing out like crazy.

It's a related party transaction so our
construction costs are audited with HUD. It is what it
is. I mean thank God interest rates were low. So I just
wanted to tell y'all this is an amazing deal and an
amazing place, so thank y'all.

MR. OXER: Okay, thank you. Now, let me make
sure I'm clear on this, Counselor, because -- hold on,
Terry -- staff recommendation has been to deny the appeal.

MR. ECCLES: Correct.

MR. OXER: Correct, okay. Terry, did you have
something you want to say?

MS. ANDERSON: Yes, sir.

MR. IRVINE: And staff recommendation also
encompassed the request for the 40-year amo which is --

MR. OXER: Which is now off the table, so we
don't have to worry.

MR. IRVINE: That was key I think.

MR. OXER: Okay.

MS. ANDERSON: Good morning. Terry Anderson,
Anderson Development and Construction. As an interested
party in the Direct Loan Program as well as other programs
in the state, I think it's important that we do ensure
that we have consistency with the rules.

And having been a Direct Loan applicant and
recipient, which I'm grateful for, we did experience the
exact same issue. And I believe it would be important for
staff to receive some type of instruction from the Board that interest rate changes and increases on loan amounts don't necessarily reflect a material change that needs to be brought to the Board because our rules don't specifically require it.

Underwriting guidelines are provided. They're followed, and I believe it would be critically important if we could receive expeditious review when we're trying to close on a transaction and have the debt service coverage rules followed. So thank you.

MR. OXER: Okay. Thanks, Terry.

And recognizing that, you know, as everybody recognizes, that this is a fluid business write-up until you have to lock that down, put a stake in the ground, you go from that, so. Okay.

MS. BINGHAM ESCAREÑO: Mr. Chair, I withdraw my motion.

MR. OXER: Okay.

MR. GANN: Second.

MR. OXER: All right. Ms. Bingham and -- Mr. Gann's withdrawn his second. Ms. Bingham has withdrawn her motion.

MR. STEWART: I need to make one clarification.

MR. OXER: Certainly.

MR. STEWART: The 133 DCR is based on the new
rents but the fixed home loan payment which then reduces
the senior debt that they're at basically on their FHA
loan. The DCR drops to 116 if you use the full debt,
which again still falls within the debt coverage
parameters of a 115 to a 135. It doesn't change the
outcome here. It's just I needed to make that
clarification.

The other thing is, you know, yeah, we want to
follow the rules, you know. But at the same time, in
underwriting, when you're underwriting --

MR. OXER: Most of it's judgment.

MR. STEWART: There's a lot of that there. And
so, you know, we could say let's follow the rules and get
a new market study, you know. But we did our own due
diligence. We came up with an answer. If we had done our
own due diligence and come up with a different answer,
then we would have -- I don't know where does that put us,
right?

So I hear this about following the rules. I
agree that we need to follow the rules. I'm not
suggesting we don't. But there's a lot of stuff in
underwriting that you just cannot put in a rule, you know.
I don't think so anyway. It's just commentary.

MR. OXER: And I think everybody up here
recognizes that underwriting is mostly a judgment factor,
so while we want to follow the rules, the -- and I think we're on the record -- every one of us, me particularly since I'm the usual voice up here, the latitude that's exercised this Board is best exercised lightly and rarely, but when we need to, we can exercise it and have done so in the past.

So we were just trying because of our requirement to have a quantifiable reason as a benefit to the State that we overturn staff recommendation. I wanted to get that one the record.

MR. STEWART: And Mr. Colby has a ton of money in this transaction. It is a great project. It is locked. FHA loans are not easy to deal with. Not that that's a reason to do what we're doing here, but it is true that's where we're at on this transaction and they do need to close.

MR. OXER: Okay. Mr. Colby, you sit tight.

MR. IRVINE: Colby Dennison.

MR. OXER: Mr. Dennison, sorry, Colby. You can make this work, right?

MR. DENNISON: Please.

MR. OXER: Good.

MS. BINGHAM ESCAREÑO: Mr. Chair, I'd like to make a new motion.

MR. ECCLES: Before you do --
MS. BINGHAM ESCAREÑO: Yes, sir.

MR. ECCLES: Since we've only gotten third base signals, if you could formally withdraw the 40-year amortization piece of the appeal.

MS. BAST: Yes, sir. Cynthia Bast of Locke Lord on behalf of the applicant. We withdraw the portion of our appeal as to the 40-year amortization and only request that the underwriting condition limiting the debt -- annual debt service be eliminated. Thank you.

MR. OXER: Properly stated, counselor?

MR. ECCLES: Yes, thank you.

MR. OXER: Good. Okay, Ms. Bingham?

MS. BINGHAM ESCAREÑO: Mr. Chair, in light of the withdrawal of the 40-year amortization part of the appeal, I would move that the Board accept the underwriting appeal for Merritt Hill Country.

MR. OXER: All right. And essentially to quantify that, to deny the staff recommendation and accept the appeal?

MS. BINGHAM ESCAREÑO: Yes.

MR. GOODWIN: Second.

MR. OXER: Okay, motion by Ms. Bingham, second by Mr. Goodwin to allow the appeal or accept the appeal and deny staff recommendation on Item 4 --

MR. ECCLES: As modified.
MR. OXER: -- as modified with taking out the 40-year amortization. Is that clear? Get it right?

MS. BINGHAM ESCAREÑO: Yes, sir.

MR. OXER: Okay. Those in favor:

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: None. It's unanimous. Congrats.

And we'll use this -- I hope we'll take this as a perhaps guidance from the Board and how we pursue this, recognize that these things are fluid. But it sounds like the direction -- it was heading in the right direction in terms of providing a benefit to the State.

Okay, geez, where are we? 5(b) I believe.

Michael, are you on this one?

MR. DeYOUNG: Michael DeYoung, Community Affairs Division. Mr. Chairman and members of the Board, Item 5(b), relates to the Presentation, Discussion, and Possible Action regarding the termination of the Program Year ("PY") 2016 LIHEAP/CEAP contract with Community Services Agency of South Texas, also called CSA. You will recall that CEAP is our program that helps low income Texans pay utility bills.

In accordance with Texas Government Code Chapter 2105, staff is first recommending that 24.99
percent of the CEAP contract be immediately provided to an alternative community action agency so that services can be more timely and appropriately provided to clients. And this Agency serves the counties of Dimmit, La Salle, and Maverick County. If you know your map, Carrizo Springs, Crystal City, Eagle Pass.

Secondly, we are requesting that the Board authorize staff to provide notice to CSA that will commence a 30-day notification period required by Texas Government Code offering them the opportunity to request a hearing.

And then third, staff is requesting authorization to release a Request For Applications, what we would call an RFA, and subsequently award through the RFA or direct designation an alternate provider to temporarily and then permanently administer the CEAP in Dimmit, La Salle, and Maverick Counties.

For some background, the CEAP Program runs from January to December. CSA's contract was effective January 2016 and totaled $730,000 approximately. To date, CSA has only drawn $116,000 of the available funds. Staff has received numerous complaints from clients that were promised assistance and did not receive the assistance and are experiencing disconnections or a threat of disconnection due to the late or nonexistent payments.
The most recent monitoring review of CSA identified repeat findings and deficiencies, and staff identified LIHEAP-disallowed costs that required repayment to the Department which have not been repaid. The Department has provided significant training to CSA staff and management, and no significant adjustments have been made responsive to that training.

Staff has determined that no further training and technical assistance will help to remedy the continued procurement, case management, and inadequate financial management deficiencies identified and that remain uncorrected. And staff has notified the U.S. Department of Health and Human Services of that determination.

Additionally, TDHCA notified CSA on September 16 of this year that the required single audit has not been received by TDHCA which could result in the suspension and/or termination of the 2016 CEAP contract. The audit was due August 31, 2016, and as of today, that audit has not been received.

Staff believes that at this point the appropriate action of the Department is to identify another provider to deliver utility assistance to the residents of the three counties.

The steps you are approving will allow us to do so in the short term right away by providing a portion of
the CEAP contract to another provider. And in the long
term through the 30-day notification and subsequent
release of the RFA under the Texas Government Code, up to
24.99 percent of the 2016 CEAP contract can be awarded to
alternative providers.

There is an adjacent agency named Community
Council of South Central Texas located in Seguin that has
indicated a willingness to provide those temporary
services to the residents of the county.

So I'd be happy to answer any questions that
you have. I do believe Mr. David Ojeda is the Executive
Director of the Agency and he is here also, and I think he
wants to speak.

MR. OXER: Any questions from the Board?
(No response.)

MR. OXER: So we're saying that they need to
get their money out and they haven't been doing that?

MR. DeYOUNG: Correct.

MR. OXER: Okay. We're removing that so that
it moves out to somebody else to get that money, get the
grants in process, and the money into the programs where
it needs to be.

MR. DeYOUNG: Yes, this is covered up under
Section 2105 of the Texas Government Code. We, as an
Agency, have the option of providing up to 24.99 percent
of that award to another agency to immediately provide services, and that's what we're recommending.

MR. IRVINE: And it's not as simple as just getting the money out. It's also compounded with numerous ongoing significant monitoring findings and deficiencies that have not been satisfactorily addressed.

MR. OXER: Any other questions from the Board?

(No response.)

MR. OXER: A motion to consider?

MR. GANN: I move for staff recommendation.

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: Motion by Mr. Gann, second by Ms. Bingham to approve staff recommendation on Item 5(b). Mr. Ojeda, would you like to speak?

MR. OJEDA: Mr. Chairman and respectful members of the Board of Directors, my name is David Ojeda, Jr. I am the Executive Director of the Community Services Agency. I'm here to speak on the termination of our CEAP contract.

First, let me say that the information you were provided with states that our agency is not providing utility assistance is not an accurate statement. We have been working with the 2015 contract that we have and to date, we have provided over $200,000 worth of assistance
to the residents of our service area.

I do acknowledge we have had some problems in implementing the program. And due to some of these problems, we found it necessary to terminate some key staff members in order that we might correct some of the problem areas.

You have been informed that the proper training has been provided to our agency staff. And while this statement is correct, all of the staff that received this training is no longer a part of our agency. We have had to recruit new staff, and at the present time most of the staff members working with the CEAP Program have been with the agency about five months.

The first task of the new staff members was to work with TDHCA staff to clean up all of the mess which had been made by the previous staff members. The clean-up has taken more time than we had anticipated because in making corrections to reports and policies, we were also taking advantage of training needed by our new staff.

In order that we might build a new foundation for our CEAP Program, we had to stop the application process in order that we correct all of the deficiencies which we had. We do acknowledge that the valuable technical assistance provided to us by TDHCA staff and while on the surface, there's an appearance that we were
not implementing the program, we needed to stop so that
our new staff could receive training and at the same time
bring up to date all of our reporting and documentation.

Currently we have $200,000 in payments to our
clients which we will bring up to date as of September of
2016. We have another $200,000 in commitments which we
will honor for October, November, and December. We
anticipate another $200,000 will be committed in new
applications which we will take for October, November, and
December.

These are conservative figures, and we
anticipate that we will spend at least 80 percent of the
contract by the end of December. All of the applications
which we did up to September of 2016 were done manually.
We have not purchased the client intake software which
will make the intake process much easier and more
efficient.

For the record, the purchase of the software
was procured in accordance with all of the requirements of
TDHCA, and we have written authorization to purchase the
software. Through our CSBG discretionary grant, we have
hired a private consultant to develop an internal
monitoring plan which will greatly improve our
performance. This consultant was also procured and we
have written authorization for these contracts.
We do have problems which we need to resolve, and we are working toward resolving those issues. We are not being uncooperative with TDHCA staff as we work to resolve these outstanding issues. Eventually all of the problem areas will be resolved, but working through the bureaucracy obviously will take time.

What we are asking, Mr. Chairman, is that we be allowed to finish the CEAP contract without any outside interference. The CEAP contract will end in December, and that's just two months away. With the short time left, if we are serious about providing services to the low income community, the best thing is not to interfere with the course which we are pursuing in conjunction with the support of TDHCA staff.

We have made much progress with all of the technical assistance we have received, and all of the improvements are just beginning to take place. We understand the desire to bring another agency to run our CEAP Program, but with the short time left in this Program Year, the transition from one agency to another will take more than two months and that will stop the services which are needed.

Again, we would ask the Board to allow our agency to complete the two months left in the contract. At the end of December the situation can be evaluated.
again. If there is no improvement, that will be the right
time to make the change. Thank you for the opportunity to
address you.

MR. OXER: Thank you, Mr. Ojedo. Any questions
from the Board?

(No response.)

MR. OXER: Okay, thank you.

MR. GOODWIN: I do have one question. How big
is your staff?

MR. OJEDA: Right now the CEAP staff we have
one person working in Eagle Pass, a person working in
Cotulla and one person working in Carrizo. And we have
one person that oversees the program.

MR. GOODWIN: Is that the total staff of your
agency?

MR. OJEDA: No. No, that's just the CSBG and
CEAP staff.

MR. GOODWIN: On this contract?

MR. OJEDA: Yes, sir.

MR. GOODWIN: How big is the total staff of
your agency?

MR. OJEDA: Right now we have about 20 staff
members. there.

MR. GOODWIN: Twenty staff members?

MR. OJEDA: Yes, sir.
MR. GOODWIN: Okay.

MR. OXER: I have a question.

MR. OJEDA: Yes, sir.

MR. OXER: Where's your A144 audit that was due August 31?

MR. OJEDA: What happened, let me just state that, you know, I've been working there for 35 years and we have never had any problems with submitting an audit on time. We were involved with one of our fiscal staff members that basically stole some money from the agency. And when we uncovered the situation, we reported it to the authorities. And the local sheriff's department and the Texas Rangers in the area got involved. And we had to do all of the internal investigation and we had to -- at first we didn't know who had committed the theft. And the audit at that time was in process, so it was recommended that we stop until we find out, you know, really what had happened.

That took some time, and finally one of our staff members came up and declared themselves that they were the ones that have committed that. And that member was a very important member of our fiscal staff that was our payroll officer. And that also delayed, you know, the audit because, you know, the work that she had been doing, there was some doubt whether it was accurate or not.
And the auditors moved their resources to other contracts that they had. And when we were able to resolve the situation with the local authorities, they told us that they could not come back and finish it.

We did notify THCA of the situation. We did it in writing, and we have informed them that the audit will be provided to TDHCA in November.

MR. OXER: Okay, thank you, Mr. Ojeda.

Michael, I think you're being --

MR. DeYOUNG: No problem.

MR. OXER: Good. Hi, Patricia.

MS. MURPHY: Good morning. Good afternoon.

MR. OXER: It's not afternoon.

MS. MURPHY: Patricia Murphy, Chief of Compliance. It is wonderful to hear that Mr. Ojeda and CSA are making progress in resolving their issues. The action before you to, you know, move this money to an agency that can spend the funds is, you know, that's the goal of our agency is to serve those low income Texans.

So approval of staff recommendation will get the funds moving where they need to be going. And part of what you're approving is that staff be allowed to release an RFA, and there's nothing stopping Mr. Ojeda from applying for that.

So, you know, he may be successful in getting
his A133 audit together and done and resolving the compliance issues that he has. And while he's working on those things, the program can be administered by an alternate provider. He has the opportunity to apply for that RFA, and he resolves his problems. He very well may could be successful in getting that CEAP Program.

So, again, I appreciate his acknowledgment of his issues, and staff recommends approval of the motion.

MR. OXER: So would the RFA to go out and Mr. Ojeda would have an opportunity to respond to that --

MS. MURPHY: Sure.

MR. OXER: -- but the response to that would include demonstrating that he's essentially solved these problems and has enough capacity in his system to be able to manage this?

MS. MURPHY: Yes. Yes, it would.

MR. OXER: Tom's over there just pushing me to make the tractor analogy I know.

MS. MURPHY: The other thing is that what this motion does is it approves staff providing CSA with a notice of an opportunity for a hearing. So he would have the opportunity to say I would like a hearing in front of the S --

MS. IRVINE: State Office of Administrative Hearings.
MS. MURPHY: There it is.

MR. OXER: SOAH.

MS. MURPHY: SOAH, okay. So that he would have the opportunity to -- you know, there's nothing saying that Mr. Ojeda should stop working on resolving these compliance problems. They need to be resolved. In the meantime, the funds need to be administered by another agency. And if he's not able to resolve his problem, then we need, you know, to move --

MR. OXER: Then if he hasn't solved the problem, then we haven't lost that -- if he's not able to solve -- or not able to work through this and solve the constraints on his management, then we haven't lost the time and making the funds available to the community.

MS. MURPHY: That's right. And it will not take two months to enter into a contract with another provider too --

MR. OXER: Okay.

MS. MURPHY: -- for the 24.99 percent.

MR. OXER: Okay.

MS. MURPHY: Do you have any questions?

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

(No response.)

MR. OXER: Okay. Regarding Item 5(b), there's
been a motion --

MR. OJEDA: I --

MR. OXER: Mr. Ojeda, one minute, please.

MR. OJEDA: Yes. Again, and our situation is that we have started the process of making all those payments, you know, that had been delayed. We are working with TDHCA, under the guidance of TDHCA staff. They're helping us very much, and we acknowledge that.

We would like to finish the contract. We would like to -- you know, there's two months in the contract. If there is interference, if all these things are going on and we request funding to pay the utility vendors and then, you know, it is not approved, you know, we're just concerned about all of this interference with the contract.

If TDHCA wants to put it up for bids, that's okay. We're recommending that all this action be taken after December so that we can continue, you know, providing the services that we're providing. If we have to compete, that's part of the process. I don't have any problem with that.

We're just concerned that we be allowed to continue with this contract. It's only two months left in the contract, and, you know, we would like to finish it out and make sure that the services are provided.
MR. OXER: Okay. Thank you for the commends, Mr. Ojeda. Michael.

MR. IRVINE: May I ask one question before Mr. Ojeda leaves?

MR. OXER: Sure.

MR. IRVINE: One of the things that you've indicated has been a problem was that there was an employee theft and that caused a variety of issues. What was the magnitude of that situation?

MR. OJEDA: The magnitude was $7,500. I sent a letter to TDHCA informing them of the situation, the amount, and I also informed them that, again, it was an employee that worked with the agency and had several years working with the agency. There were no federal or state funds involved. The employee knew what she was doing, and the funds that were in question were from our general fund or our non-federal fund.

MR. OXER: With respect to you continuing the program -- Michael, you'll confirm this for me if you'll come up -- that we'll point out that it's just a fraction, just under 25 percent of those funds would be -- so the other 75 percent of those funds would still be available to you to continue your management of that component. Is that correct?

MR. DeYOUNG: Correct.
MR. OXER: Okay, so.

MR. DeYOUNG: This is just taking 24.99 and moving it to an adjacent provider.

MR. OXER: Separate entity, so while this process undergoes. So you gave a list of some funding that was being -- that you're in the process, you know.

I suggest you work it out with Michael to make sure that you're looking at 75 percent of the total because assuming this goes in the direction it's headed, then we expect you to continue with the program, expect you to continue with the process, and expect you to continue sorting out the problems within the management of the financial management of your agency. Okay.

All right. You confirmed what I think.

Thanks, Michael.

MR. DeYOUNG: Welcome.

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

(No response.)

MR. OXER: Counsel? ED?

(No response.)

MR. OXER: Okay. With respect to Item 5(b), there's been a motion by Mr. Gann and second by Ms. Bingham to approve staff recommendation. Those in favor?

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

(No response.)

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

Okay. And you're up next again, Michael.

MR. DeYOUNG: Michael DeYoung, Community Affairs Division. Mr. Chairman and members of the Board, Item 5(c) relates to a staff recommendation to begin the process to terminate the eligible entity status and the contract for CSBG contract funds with Community Service Agency of South Texas.

So to be clear, this is the same organization we just discussed under Item 5(b) and in that case, we were talking about utility assistance. Now we are discussing a different program that they also received called the Community Services Block Grant. You've heard it as CSBG.

Department staff monitored CSA in February 2016 and detailed 10 deficiencies and two concerns. The review also resulted in about $86,500, give or take a little bit, in disallowed costs. CSA has indicated that they do not have the non-federal resources to repay the Department and offers no suggested solution.

Additionally, the response to the monitoring that CSA provided the Department indicates a very basic lack of understanding of program requirements and
disregard for federal OMB requirements.

The deficiencies included such things as the lack of a legally sufficient cost allocation plan, lacking support for reported expenditures, lacking support for salaries and wages, lacking procurement procedures, failing to obtain prior approval for expenditure of funds, insufficient case management processes, noncompliance with CSBG Board requirements, unallowable expenditures, noncompliance with denial procedures as detailed in federal laws, and unsupported claimed expenditures.

Staff also noted concerns with program implementation, inappropriate prioritization of clients, noncompliance with Limited English Proficiency requirements, limitations in fully implementing the CEAP Program, incorrect income calculations, lack of documentation for weatherization referrals to outside agencies, and failure to document federal debarrment verifications.

Department staff has provided ongoing training to CSA, and no significant adjustments have been made by CSA. Additionally as mentioned in the previous Board item, CSA has not submitted their A133 audit, which was due to the Department on August 31, 2016.

Staff must follow both the CSBG Act and the Texas Government Code, Section 2105.302. Staff has
already sent notice to CSA and the U.S. Department of Health and Human Services regarding staff recommendation to proceed with termination proceedings.

I'd be happy to answer any questions.

MR. OXER: I have a procedural question on the audit. On the A133 audit, which basically covers a multitude of programs, in the event that there is a condition or circumstance, context where there has been some issue and they're unable to generate the data to complete the audit, is a report from the auditor to that extent acceptable in terms of that with the expectation that they'd be working through that? Basically it's a request for a delay on the audit with the auditor saying that they don't have the data.

MR. DeYOUNG: I've got two people ready to answer that question.

MS. MURPHY: The Texas Department of Housing and Community Affairs does not have the authority to grant an extension to submit a federal A133 audit.

MR. OXER: That's the answer.

MS. MURPHY: Yeah. So they could ask the U.S. Health and Human Services, and it is unlikely that HHS would say yes, but we have no authority to grant an extension.

(Pause.)
MR. ECCLES: For the record, that answer was from Patricia Murphy.

MS. SYLVESTER: Megan Sylvester of Legal, just exactly I totally agree with what Patricia said, but they could actually ask whoever their fiscal agent for audit is. They receive a fairly large funding from another federal agency, and it very well could be that's the entity they would have to request the extension from, not HHS.

MR. OXER: Okay.

MS. SYLVESTER: But in either case, we don't have the authority.

MR. OXER: Right. Okay. So the fact that they have not provided us their A133 audit constitutes a default essentially?

MR. DEYOUNG: Correct.

MR. OXER: Okay. Any questions from the Board? (No response.)

MR. OXER: Anything to add? (Pause.)

MR. OXER: You're right. Counsel corrects me that that's a deficiency, not a default.

MR. ECCLES: Exactly. There's still a very long process in statute and regulation for how the eligible entity status for CSBG funds can be reduced or
terminated, and that's what Mr. DeYoung is proposing through the sanction.

MR. OXER: So we're essentially embarking upon this pathway down this with expectations that they fix this or we'll give the money to somebody else?

MR. DEYOUNG: Yes.

MR. OXER: Good answer. Okay, any questions from the Board?

(No response.)

MR. OXER: Motion to consider?

MR. GOODWIN: So moved.

MR. OXER: Okay, motion by Mr. Goodwin to approve staff recommendation on Item 5(c).

MR. GANN: Second.

MR. OXER: And a second by Mr. Gann. We've had public comments. Any other request for public comment?

(No response.)

MR. OXER: There being none, motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation on Item 5(c). Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

Okay. One more, Michael, 5(d).
MR. OXER: Yeah, but Patricia gets number (e). Maybe Patricia will do this one for you. She's been up here --

MR. DEYOUNG: Give me a second. I've got so many items today, it's --

MR. OXER: You're popular today.

MR. DEYOUNG: 5(d).

MR. OXER: Want a breather? We'll let Patricia do 5(e) if you want.

MR. DEYOUNG: Yeah, she's got that one. Okay, Michael DeYoung, Community Affairs Division. Mr. Chairman and members of the Board, Item 5(d) relates to action being requested regarding the termination regarding the termination of the Program Year 2016 LIHEAP/CEAP contract to Community Services Incorporated located in Corsicana, Texas, called CSI. To be clear, the last agency was CSA. This one is now CSI.

MR. OXER: Any in another place?

MR. DEYOUNG: Yes, Corsicana, Texas. Just now again for clarification, now we're going back to the utility assistance program, the CEAP Program. In this case because of a variety of issues that you will hear about, we are recommending that the Board take several simultaneous actions because we do not feel CSI is able to
perform under their contract.

First, staff is recommending that a portion, 24.99 percent again, of the CEAP contract actually be provided to an alternate provider so that services can be more timely and appropriately provided to clients.

Secondly, we are requesting that the Board authorize us to provide notice to CSI that will commence a 30-day notification period required by Texas Government Code which formalizes our reduction and ending of funding.

And third, staff is requesting authorization to identify a provider through the release and subsequent award of an RFI or through a direct designation to temporarily and permanently administer the CEAP in a ten-county area.

Just for you edification, we are talking about an area that begins to the north of Forth Worth and goes to the east, around the east side of Dallas and back across underneath the Metroplex to the middle or Arlington area. This is a huge ten-county area that they provide services in.

MR. OXER: It's got about a third of the population of Texas in it, right?

MR. DEYOUNG: It's a very large, high population area with a lot of suburban communities involved.
MR. OXER: All right.

MR. DEYOUNG: So for some background again, the CEAP Program runs from January to December. CSI's contract was effective January 2016 and totaled $3.8 million and some change. To date, CSI has only drawn $605,471, approximately 16 percent of the available funds.

Staff has received numerous complaints from clients that were promised assistance and did not receive assistance and are experiencing disconnections or a threat of disconnection due to late or nonexistent payments by CSI.

Additionally, staff has learned that two utility companies have requested their funding be returned, and one utility company has refused to accepted the pledges from CSI due to multiple instances of nonpayment.

This is problematic because clients served by those utility companies are de facto unable to receive assistance from federal funds in spite of their being eligible otherwise. This dynamic limits the ability of CSI to truly offer the program across its full service area.

The most recent monitoring review identified ongoing noncompliance with disallowed ineligible costs, unsupported administrative costs, and overall fiscal
capacity issues. At this time, CSI does not have a
current audit on file.

And with that, we late yesterday did receive a
copy of their audit. I apologize my notes were not
updated. We received a copy of their audit. We checked
the federal clearinghouse last night to see if it had been
filed at the federal clearinghouse which is a federal
requirement based on 2 CFR 200. The search results did
not show that they have filed that audit with the federal
clearinghouse.

So, this --

MR. OXER: The date on that audit would have
been August 31 also?

MR. DEYOUNG: No, that was a July 31, 2016 --

MR. OXER: Okay.

MR. DEYOUNG: -- date that it was due.

MR. IRVINE: Was the previous audit filed with
the clearinghouse?

(Pause.)

MS. MURPHY: Patricia Murphy, Chief of
Compliance. I was unable to find any of their A133 audits
filed with the clearinghouse.

MR. OXER: Any back -- I mean like ever?

MS. MURPHY: Ever. I was unable to find any of
them.
MR. OXER: Okay.

MR. DEYOUNG: So this organization has had significant organizational challenges and voluntarily relinquished the WAP Program. You all took action on that a few months back where we identified some new providers for the weatherization program.

Department staff receives multiple calls daily from clients who are refused services and are unable to contact anyone at CSI, or they have not been provided with the services that CSI promised them when they actually do get through and go through the eligibility process.

Additionally, training staff have fielded questions from CSI, staff, and management on a daily basis for many months now. In spite of such training being provided, no improvement has been noted.

TDHCA notified CSI on September 16 that the required single audit has not been received by TDHCA and that that could result in suspension and/or termination of the 2016 CEAP contract.

As I said, late yesterday TDHCA did receive a copy of the audit. It appears that many of the issues identified in the previous audit have not been corrected.

It is unclear if CSI's Board has received or reviewed that audit.

Staff believes that at this point in time, the
appropriate action of the Department is to identify another provider to deliver utility assistance. The steps you are approving will allow us to do so in the short term right away by providing a portion of the contract, again 24.99 percent, to other providers in the long term through the 30-day notification and release of the RFA.

Under the Texas Government Code, the 24.99 percent of the CEAP contract can be awarded to alternate providers. We've contacted three alternate providers. The Greater East Texas Community Action Program, Economic Opportunities -- EOAC of Planning Region 11, and Texoma Council of Governments have indicated a willingness to provide the temporary services.

So what we would do just for your information is to assign certain counties to each of those three entities. There would not be overlap. The problem here again it starts to the north of the Metroplex. It goes all the way to the east and down to the south. And so we would --

MR. OXER: A pretty big territory.

MR. DEYOUNG: It's a big territory. There's a lot of big populations in each of those areas, especially on that north side of Dallas. That's a huge service area, so we would divvy up a solution and find three -- the three agencies each would have very distinct counties to
operate this program in.

So I'd be happy to answer any of your
questions.

MR. OXER: Okay. So this Community Action
Agency is not strong enough to deliver the goods, and
you're asking there's a path to go down to help remedy
this problem for the State. And you're asking for up to
three steps along that path right now in sequence. So
basically we would give you the authority to move at least
three steps down the board here.

MR. DEYOUNG: Yes, sir.

MR. OXER: Okay.

MR. GOODWIN: Move approval.

MR. OXER: Okay, a motion by Mr. Goodwin --

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: -- to approve staff recommendation
on Item 5(d). Second by Ms. Bingham. There's no request
for public comment. A motion by Mr. Goodwin, second by
Ms. Bingham to approve staff recommendation on Item 5(d).

Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. It's unanimous. Go
get them. Patricia?
MS. MURPHY: Patricia Murphy, Chief of Compliance. Item 5(e) is also about Community Services, Inc., but it's about their 2017 contract. So you just took action on a 2016 contract.

When they were considered for their 2017 contract, it went through the Executive Award Review Advisory Committee, EARAC. And so EARAC heard all of these issues about CSI and did not recommend an award. CSI was notified of that, and they were given the opportunity to propose terms and conditions. They didn't do that. And then not within the deadlines of the rules, they requested to appeal.

So this item is granting a waiver of the deadline to appeal so that the issue could be heard, but they didn't show up to discuss it. But it is denying their request to -- it's denying their request by EARAC's recommendation.

MR. OXER: So the fact that they haven't showed up should give us some idea of their confidence in their argument?

MS. MURPHY: No comment.

MR. OXER: Any questions from the Board?

MR. GOODWIN: So is it your recommendation to grant them the waiver against the deadline? I want to make sure I understand.
MS. MURPHY: Yes, to grant the waiver of the
deadline to appeal.

MR. ECCLES: Which then places the appeal
before the Board.

MS. MURPHY: Places the appeal before you.

MR. ECCLES: But the recommendation for EARAC
to deny them in 2017 contract still stands.

MS. MURPHY: Yes. We think you should allow
them to appeal, but support EARAC's recommendation to not
award them.

MR. GOODWIN: So if we --

MR. OXER: So they get to come make their
argument to counter your position.

MS. MURPHY: And they did not.

MR. IRVINE: We had contemplated I believe that
they would have shown up today.

MS. MURPHY: Yes.

MR. IRVINE: And the granting of the waiver
would have been a necessary predicate procedurally to
hearing their appeal. As they have not shown up, they do
not appear -- I mean we are not in any way, shape, or form
recommending that they be given yet additional time to
appeal and that it comes back at a later time.

We need to move forward with this now. Does
staff disagree with that in any way?
MS. MURPHY: No.

MR. IRVINE: I mean this is an agency that's had a lot of problems. It's not just a --

MR. OXER: For a long time apparently.

MR. IRVINE: It's not just a failure to submit audits. It's a failure to address the material deficiencies and weaknesses identified in those audits, to address the material deficiencies and weaknesses identified in monitorings, to repay us significant disallowed costs. There's a lot of stuff.

I mean, you know, it was interesting to hear about complaints from individual households that aren't being served and from utility providers that are distancing themselves from the relationship.

I got a rather extraordinary call from a county judge in one of the impacted areas, and I was fully anticipating it would be, you know, some local official imploring me to, you know, cut the local agency some slack and work with them and in fact, you know, he said quite the opposite. He said, I really want you to work as fast and hard as you can to find a way to ensure that these services are being provided to my constituents.

MR. OXER: Okay. So EARAC has said they don't get it. They're going to appeal that or if they would have been here to appeal, they're not here to make their
appeal, so we're essentially -- our vote today would be to support EARAC's position? Am I clear?

(No response.)

MR. OXER: Okay. The fact that they're not here, does that change anything in the resolution within the item?

MS. MURPHY: No.

MR. OXER: Okay. All right. Then let's have a motion to consider, please.

MR. GOODWIN: So moved.

MS. HOLLOWAY: All right. A motion by Mr. Goodwin.

MR. GANN: Second.

MR. OXER: And a second by Mr. Gann. Nice how that worked out. With respect to Item 5(e), no request for public comments. Motion by Mr. Goodwin, second by Mr. Gann to Item 5 to support staff recommendation to Item 5(e). Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. Okay, everybody sit still. We're going to go into an Executive Session here, folks, and take a break for lunch.

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

This closed session will be held in the Andy Room of this room, which is John H. Reagan Building 140. Tate is October 13, 2016. The time is officially 12:28. 12:28, we're going to have -- there are a couple of items to take on Executive Session for legal. I know this, so let's be back in our chairs at 1:30.

(Whereupon, at 12:28 p.m., the meeting was recessed, to reconvene this same day, Thursday, October 13, 2016, following conclusion of the executive session.)

MR. OXER: All right. The Board's now reconvened in open session at 1:33. During the Executive Session, the Board did not adopt any policy position, resolution, rule, regulation, or take any formal action or
vote on any item.

Let's see. We have no pending items for the closed session. But we're back on to the formal agenda for Item 6, No. 6(a). Marni?

You're in luck. You don't seem to be attracting as much attention as you first were.

MS. HOLLOWAY: I know. I lost my touch. Marni Holloway, Director of Multifamily Finance. Item 6(a) is Presentation, Discussion, and Possible Action on the proposed 10 TAC Chapter 13 concerning multifamily Direct Loan Rule, and directing its publication for comment in the Texas Register.

In 2017, the Department will administer HOME funds from both the annual allocation and program income, National Housing Trust Fund, which is our new fund source, and TCAP repayment funds.

Because of all of these funds carry similar requirements, staff believes that it will be useful to align state requirements and create efficiencies to administer the Multifamily Direct Loan Program through a rule rather than through a Notice of Funding Availability.

Staff saw a need to dedicate an entire rule to Multifamily Direct Loan funds rather than have sections of the rule scattered through 10 TAC Chapter 10 as they have been in previous years and then on top of that we've been
administering the program largely with NOFAs. So this brings all of that together into one rule.

MR. OXER: So we're essentially consolidating, just get it all in one spot?

MS. HOLLOWAY: All in one spot. So like the conversation earlier today about the loan and the underwriting and when it needs to come back, that's addressed in this rule. So it's, you know, exactly what stakeholders were asking for.

Upon Board approval, the proposed rule will be posted to the Department's website and subsequently published in the Texas Register. Public comment will be accepted between October 28 and November 28. The rule will be brought back before the Board in December for final approval. Note that this is December. Your Board book says November, but with the public comment period, it would have to be December.

Staff recommends that the proposed 10 TAC Chapter 13 concerning the Multifamily Direct Loan Rule presented at this meeting are approved for publication in the Texas Register for public comment.

MR. OXER: So this is basically procedural, put it out there. We're giving them something everybody's asked for.

MS. HOLLOWAY: Right.
MR. OXER: This is just getting it down the road.

MS. HOLLOWAY: This is -- yeah, publishing it for comment. We've already gathered some input. We've held a roundtable and then, of course, our efforts working through the Trust Fund Allocation Plan, you know, also gathered some input that's been incorporated into this rule.

MR. OXER: Okay, any questions?

MR. GOODWIN: Make a motion for approval.

MR. OXER: Okay, a motion by Mr. Goodwin to approve staff recommendation to Item 6(a). Do I hear a second?

MR. GANN: Second.

MR. OXER: And second by Mr. Gann. Is anybody here? Oh, we're attracting a little more. We've tripled our public interest here so far.

Okay, a motion by Mr. Goodwin and second by Mr. Gann to approve staff recommendation on Item 6(a). Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

Okay, Raquel, you've got the last one for the
formal agenda.

MS. MORALES: All right. Item 6(b) is Presentation, Discussion, and Possible Action on the proposed repeal of 10 TAC Chapter 10 Subchapter E related to the Asset Management Rules and a proposed new 10 TAC Chapter 10 Subchapter E and directing its publication for public comment in the Texas Register.

This item is staff's recommendation for changes to our Asset Management Rules. The bar goes into detail about what we're doing, but I'll talk briefly about the more substantive changes that we're proposing in particular to our amendment section.

You guys get to hear about amendments to applications at every board meeting, and we are trying to create a process, a little bit more efficiency where we can, with changes that we still want to be made aware of, but maybe doesn't have to rise to the level of a formal approval, either administratively or for the Board.

The items that are considered material changes that are identified in 10.405 and in statute still remain the same. We're simply trying to identify some of the changes that we see that are nonmaterial and can maybe go to the staff as notification of the change. Staff gets the chance to review it and then acknowledge that change.

So again, hoping to create some more efficiency there.
We have also proposed some pretty substantive changes to our Right of First Refusal Rules. Still continuing to try to implement House Bill 3576 and in this particular section, most of the change is reorganization to identify the different types of ROFRs that we have out there, the process that each of those different types of ROFRs have to go through, et cetera.

So, if approved, these rules will also go to the Texas Register. The public comment period will be between October 28 and November 28, and these rules will also be brought to you in December for final approval.

MR. OXER: Essentially parallel set for what Marni has?

MS. MORALES: Yep.

MR. OXER: Okay.

MR. GOODWIN: Move for approval.

MR. OXER: Okay, a motion by Mr. Goodwin to approve staff recommendation on Item 6(b).

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: And second by Ms. Bingham. No request for public comment. Motion by Mr. Goodwin and second by Ms. Bingham to approve staff recommendation on Item 6(b). Those in favor?

(A chorus of ayes.)

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

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

Okay, we have reached the point. Is there any other clarification or additions you need to make to the agenda, Mr. ED?

MR. IRVINE: No, sir.

MR. OXER: Okay. We have reached the point where we will accept public comment on matters other than those items for which there were posted agenda items today for the purpose of building out future agenda. Does any staff or any member of the public wish to speak?

Okay then, step up.

MS. ABLING: Good afternoon. My name is Emily Abling with New Hope Housing. I'm director of real estate development. Let me just sign in before I forget.

(Pause.)

MS. ABLING: So I'm here today a poor man's substitute for Joy Horak Brown, who you're used to seeing up here. She's traveling and asked me to speak on our behalf.

MR. OXER: I hope you'll give her our best when you go back.

MS. ABLING: I will absolutely do that. She sends hers as well.

I'll respect your time and keep my remarks
brief. As you'll remember, two projects this year have
been approved by you and the Board and the staff of the
Department for New Hope Housing, two 4 percent bond
transactions both landmark projects in Houston. One
single room occupancy on the Light Rail, 4 percent and a
187 multifamily development that is serving homeless
families, New Hope's first foray into family development.

Both of those are critical pieces in Houston's
solution to end homelessness. And one of the things that
is important to us and we bring those two up today because
we are really concerned about the way the direction of the
multifamily rules are going and New Hope's ability to
continue providing these kinds of projects for the last,
the least, and the lost of our communities.

The staff has worked tremendously with
developers over the past year in creating a set of rules
that really incentivize development in the urban core, and
we're tremendously appreciative for that. There are
points associated with those urban developments on the QAP
side.

On the multifamily rules side, there's a little
bit of some backstepping, and there's a lot of tightening
of the parameters of the kinds of developments that can be
approved by the Board and those restrictions are growing.

And it's getting harder and harder for
developments like ours which are typically located in the urban core near services and that typically have more undesirable neighborhood characteristics than say, a place out in the suburbs. We're going to be fighting issues of poverty and crime.

In some cases, we can just prove up that they're not detrimental to the project whatsoever and it's relatively easy. In other cases, it's a little bit harder. It costs us a tremendous amount of resources and staff time and cost in hiring consultants to document these issues for the TDHCA.

And so we're concerned that there's forward motion on the QAP and backward motion on the multifamily rules. And we're hopeful just on a policy level -- we will be submitting formal comment -- but on a policy level, we'd like to keep those in step with one another.

And if our intention is to allow developers like New Hope Housing to create affordable, safe, sustainable housing for the least, the last, the lost among us, then we need to be able to do that in tandem with the multifamily rules and not overburden small nonprofits like us with extremely onerous rules.

So that's why I came here today, and I appreciate your time.

MR. OXER: We appreciate your comments. Tim?
MR. ALCOTT: I'm Tim Alcott of the San Antonio Housing Authority. And I want to talk a little bit about the urban core points. Every once in a while your staff hits a home run and writes it perfectly. This is one of those situations, and I want to make sure --

MR. OXER: We always like to hear when we get it right.

MR. ALCOTT: Exactly, and I want to make sure it doesn't change either, so. So with the urban core, this is, as you know, it's a new scoring where you get five points for developments within four miles of the urban core for the five largest cities.

And according to the TDHCA's Board memo whenever they wrote the QAP and they published it, it said it seeks to support development in genderfying [phonetic] areas in close proximity to employment in other areas. And I want to make sure that Urban Core points are applicable to at-risk deals, and they currently are so I want to keep it that way.

Looking at last year, most deals went to rural areas with populations because it was easier to be at-risk and also be in a high opportunity area. For San Antonio, another big city, it's a little bit more of a challenge where you have everything come together perfectly.

And so moreover, the at-risk funding comes...
after the USDA deals and so it's a limited pool. It's not unlimited. There's very few deals being done, so I want to make sure that that doesn't change.

And looking at 2016, when I looked through who actually got the deals, ten were rural, six were urban, none were in San Antonio. I'm doing one there.

At-risk provides mixed income housing for people near job centers, people 36 percent of AMI. That's why that was added, and this will achieve that result. And I'd also to point out, moreover, at-risk deals are already in a disadvantage by being excluded from achieving the maximum five underserved points and so we can't get all the points there.

And also we have at times near downtown areas, the school systems don't score as well. And so for us to be able to hit that perfectly, you know, this really gets us on an even playing field because we lose a point to somewhere else.

We've already scored our application on these new rules, and so it's very important to us, meaning the larger cities, to be able to get these deals, to not change the rule. It's perfect. Great job, Tim Irvine.

MR. IRVINE: Quick point, are you expecting to submit public comment in writing that's going to cover all
of those points?

    MR. ALCOTT: I e-mailed them this morning while
    I was waiting around.

    MR. IRVINE: Okay.

    (General laughter.)

    MR. IRVINE: Thank you.

    MR. OXER: This is the suspenders, okay.

    MR. ALCOTT: Exactly. Just in case it doesn't
    get pushed on to the Board, I talked to underwriters.

    MR. OXER: Thanks, Tim.

    Okay. Any other public comment?

    (No response.)

    MR. OXER: Any comment from the staff?

    (No response.)

    MR. OXER: Don't let it ever go unsaid that we
    don't -- we really appreciate what the staff does, and
    thank you to you and everybody at 221 East 11th Street.
    We know that's where all the work gets done.

    So any question for comment from the -- Mr.
    Irvine, care to say something?

    MR. IRVINE: Yes, Patrick -- I'd like to
    introduce Patrick Russell, the newest member of the
    Multifamily Team, fresh out of school, not yet
    disillusioned, will be --

    (General laughter.)
MR. IRVINE: -- playing a key role in working with all of the team to develop future rules and help organize some of these complex bodies of thought. So glad to have you on board.

MR. OXER: Welcome to the kitchen, Patrick. It'll take you a while to get jaded and cynical like we are, but, you know, we'll make sure that you get there.

MR. RUSSELL: Give me ten years.

MR. OXER: There you go. All right. Any other member of the Board? Counselor, you have anything to say?

(No response.)

MR. OXER: All right. I get the last word. It's a good thing that we do here, and it's a good thing that the State of Texas needs what we do and appreciates the quality of the work that we do it in. So Mr. Goodwin's moved to adjourn. Do I hear a second?

MS. BINGHAM ESCAREÑO: Second.

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

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

(Whereupon, at 1:46 p.m., the board meeting was adjourned.)
CERTIFICATE

MEETING OF:     TDHCA Board
LOCATION:      Austin, Texas
DATE:      October 13, 2016

I do hereby certify that the foregoing pages, numbers 1 through 172, 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.

10/19/2016
(Transcriber)         (Date)

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