TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

November 10, 2016
9:17 a.m.

MEMBERS:

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

ON THE RECORD REPORTING
(512) 450-0342
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CALL TO ORDER                                               8
ROLL CALL
CERTIFICATION OF QUORUM

CONSENT AGENDA

ITEM 1:  APPROVAL OF THE FOLLOWING ITEMS    9
PRESENTED IN THE BOARD MATERIALS:
EXECUTIVE
a)  Board Meeting Minutes summaries for
the meetings of August 25, 2016, and
September 8, 2016

LEGAL
b)  Presentation, Discussion, and Possible
Action regarding the adoption of an
Agreed Final Order concerning The Landing
Apartments (HTC 060416, CMTS 4419)
c)  Presentation, Discussion, and Possible
Action regarding the adoption of an
Agreed Final Order concerning Second
Adams Corporation (HTC 94018, CMTS 1217)
d)  Presentation, Discussion, and Possible
Action regarding the adoption of an
Agreed Final Order concerning Second
North Corporation (HTC 94001, CMTS 1201)
e)  Presentation, Discussion and Possible
adoption of a Corrected Agreed Final
Order concerning Missouri Street Residence
(HTC 93143 / CTMS 1177), correcting
technical errors in an Agreed Final Order
approved by the Board at its meeting of
October 13, 2016

HOUSING RESOURCE CENTER
f)  Presentation, Discussion, and Possible
Action on the draft 2017 State of Texas
Consolidated Plan: One-Year Action Plan

COMMUNITY AFFAIRS
g)  Presentation, Discussion and Possible
Action on the 2017 Section 8 Payments
Standards for the Housing Choice Voucher
Program ("HCVP")

ON THE RECORD REPORTING
(512) 450-0342
h) Presentation, Discussion, and Possible Action to adopt a resolution regarding Designating Signature Authority and superseding previous resolutions in this regard

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j) Presentation, Discussion and Possible Action regarding Material Amendments to the Housing Tax Credit Application
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- 14209 Riverside Village Rio Hondo
- 14226 Art at Bratton's Edge Austin
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- 15159 Abbington Commons of Whitewright
- 15241 Trails of Brady Brady

k) Presentation, Discussion, and Possible Action regarding Amendments to HOME Direct Loan Terms
- 1001576 Trails at Carmel Creek Hutto

l) Presentation, Discussion and Possible Action regarding Placed in Service Deadline Extensions
- 14087 Cypress Creek at Joshua Station Joshua
- 14113 Avenue Terraces Houston
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m) Presentation, Discussion, and Possible Action on Determination Notice for Housing Tax Credits with another Issuer
- 16433 Housing First Oaks Springs Austin
- 16439 People’s El Shaddai Village Dallas
- 16440 St. James Manor Dallas
- 16443 Villages at Fiskville Austin

ON THE RECORD REPORTING
(512) 450-0342
n) Presentation, Discussion, and Possible Action on the Re-issuance of Determination Notice for Housing Tax Credits with another Issuer
15409 Pleasant Hill Village Apartments Houston

BOND FINANCE

p) Presentation, Discussion, and Possible Action regarding Resolution No. 17-008 authorizing application to the Texas Bond Review Board for reservation of the 2016 single family private activity bond authority carryforward from the Unencumbered State Ceiling

HOME AND HOMELESS PROGRAMS
q) Presentation, Discussion, and Possible Action on Awards for the 2016 HOME Investment Partnerships Program ("HOME") Notice of Funding Availability ("NOFA") for Single Family Non-Development Programs

RULES
r) Presentation, Discussion, and Possible Actions on: first, an order adopting the repeal of §10.614 (concerning Utility Allowances); and, second, an order adopting new §10.614 (concerning Utility Allowances) and directing that these be published in the Texas Register

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

t) Presentation, Discussion, and Possible Action on an order adopting actions to 10 TAC Chapter 2, Enforcement, including the: 1) adopted amendment in Subchapter A, General, of §2.102, Definitions; 2) adopted repeal of Subchapter B, Enforcement Regarding Community Affairs Contract Subrecipients; and 3) adopted new Subchapter B, Enforcement for Noncompliance with Program Requirements of Chapter 6; and directing that they be published for adoption in the Texas Register

u) Presentation, Discussion, and Possible Action on an order adopting new 10 TAC Chapter 6, Community Affairs Programs: Subchapter A, General Provisions; Subchapter B, Community Services Block Grant ("CSBG"); Subchapter C, Comprehensive Energy Assistance Program ("CEAP"); Subchapter D, Weatherization Assistance Program ("WAP"), and directing that they be published for adoption in the Texas Register

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

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) Report on the Department=s 4th Quarter Investment Report in accordance with the Public Funds Investment Act ("PFIA")

b) Report on the Department=s 4th Quarter Investment Report relating to funds held under Bond Trust Indentures

c) Report on the Section 811 Project Rental Assistance Program

d) Executive Report of Multifamily Program Amendments, Extensions and Ownership Transfers

e) Report on the status of the National Housing Trust Fund Allocation Plan

ACTION ITEMS

ITEM 3: REPORT ITEMS

Quarterly Report on Texas Homeownership Division Activity

ITEM 4: ASSET MANAGEMENT

Presentation, Discussion and Possible Action regarding Material Amendment to the Housing Tax Credit Application 15251 Casa Verde Laredo

ITEM 5: MULTIFAMILY FINANCE

a) Presentation, Discussion, and Possible Action on a Determination regarding Eligibility under 10 TAC §10.101(a)(4) related to Undesirable Neighborhood Characteristics for The Pointe at Crestmont (#16429) in Houston

b) Presentation, Discussion, and Possible Action to adopt the 2017 Multifamily Programs Procedures Manual

c) Presentation, Discussion, and Possible Action on Timely Filed Appeals under the Department’s Multifamily Program Rules 16502 Freedoms Path at Kerrville Kerrville
ITEM 6: RULES

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

b) Presentation, Discussion, and Possible Action on orders adopting the repeals of 10 TAC Chapter 10 Subchapter A, concerning General Information and Definitions; Subchapter B, concerning Site and Development Requirements and Restrictions; Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules; and Subchapter G, concerning Fee Schedule, Appeals, and Other Provisions; and orders adopting the new Subchapter A, concerning General Information and Definitions; Subchapter B, concerning Site and Development Requirements and Restrictions; Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules for Applications; and Subchapter G, concerning Fee Schedule, Appeals, and Other Provisions; and directing their publication in the Texas Register.

c) Presentation, Discussion, and Possible Action on order adopting the repeal of 10 TAC Chapter 10 Subchapter D concerning Underwriting and Loan Policy and an order adopting new 10 TAC Chapter 10 Subchapter D concerning Underwriting and Loan Policy and directing its publication in the Texas Register.

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

EXECUTIVE SESSION 125
OPEN SESSION 125
ADJOURN 207

ON THE RECORD REPORTING
(512) 450-0342
MR. OXER: Good morning, everyone. I'd like to welcome you to the November 10 meeting of the Texas Department of Housing and Community Affairs Governing Board.

We begin with roll call, as we do. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum is not here today. Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin?

MR. GOODWIN: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Present.

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

So today, in honor of today being the birthday of the United States Marine Corps in 1775, we're going to ask our Marine Corps Veteran, Dr. Muñoz, to lead us in the pledges.

(Whereupon, the Pledge of Allegiance and the Texas Allegiance were recited.)

DR. MUÑOZ: Semper fi.

MR. OXER: Have we got any guests here today,
Michael? Is Bobby here today? Hey, Bobby, you're here, good. Always glad to see notice taken from the Governor's Office. We seem to have attracted a lot of attention today.

MR. IRVINE: And there's also Tim Stostad from Senator Zaffirini's office.


With that out of the way, let's get to work here. We've got a lot to do today. On the consent agenda, any Board member wish to pull any item from the consent?

(No response.)

MR. OXER: It looks like most of today's agenda is consent.

Stella, do you have something you want to say on the consent? Okay.

Anything to pull? Motion to consider?

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

MR. OXER: Which item is it, Stella? Get to the mic. Good morning.

MS. RODRIGUEZ: Good morning.

MR. OXER: So far.
MS. RODRIGUEZ: It's just a compliment I want to give.

MR. OXER: Well, then say that right now. Let's get this started early and right. We've got 20 or 30 minutes if you really want to talk about compliments. (General laughter.)

MS. RODRIGUEZ: Greetings, Chairman Oxer, members of the Board, Mr. Irvine. For the record, my name is Stella Rodriguez with the Texas Association of Community Action Agencies.

On behalf of our network, I want to take this opportunity to say thank you to Brooke Boston and staff for listening to our network during the staff draft and the official public comment period of the rules pertaining to Chapter 6, Community Affairs. She and staff didn't just listen, but they questioned and sought input during the process. We believe the rules that you have before you are the result of teamwork benefitting our communities and our clients. Thank you.

MR. OXER: Good. We appreciate your comments. We're always anxious to hear the pluses. I'd like to think that we make more than the minimal effort to reach out to the community to engage comments, and we think that improves the quality of the output of the agency as well.
MS. RODRIGUEZ: Absolutely. We appreciate it.

MR. OXER: Thanks for your comments.

Now we'll hear a motion to consider.

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

MR. GOODWIN: Second.

MR. OXER: Motion by Ms. Bingham, second by Mr. Goodwin to approve the consent agenda. No request for public comment. Those in favor?

(A show of hands.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

That gets us through the first two or three pages. Item 3, our first report item. Cathy.

MS. GUTIERREZ: Good morning. Cathy Gutierrez, Texas Homeownership Division director.

I'll follow up that compliment with some exciting news to share with you today on our Homeownership Division. Today we are again bringing to you the quarterly reports on activity in Texas Homeownership Division. The reports provided to you in your Board packet cover loan purchase activity through August 31. Today I wanted to give you an update on more recent activity and the activity that we have seen in the program.
since the program change in master servicer.

During the September 8 Board meeting, Monica Galuski, our Bond Finance Division director, provided an update on the selection of master servicer for the Department's Single Family Mortgage Loan Purchase program.

On October 1, Idaho Housing and Finance Association began providing the services as master servicer for the My First Texas Home TMP-79 program. The Bond Finance Division and the Texas Homeownership Division staff had approximately five weeks to transition from the previous servicer, U.S. Bank, to our new servicer, Idaho HFA, and I'm happy to announce to you today and to provide you an update that the transition was a huge success. We had a lot of effort from our staff in making that transition a success, and it was very well received by our lender partners in the community, so we're happy to say that that's been done.

The change in master servicer allowed TDHCA to make modifications to the program which provided additional opportunities for low to moderate income first-time homebuyers. The Bond Finance team was able to consider the economic benefits that came along with the change in master servicer and apply additional savings to the borrower through lower interest rates and lower costs.

So as it relates to interest rates, I wanted to give you an update on where we are with that. Yesterday
we had our rate and we had, since the change in master
servicer, interest rate at 3.625. We did see a slight
increase in rates this morning, so we did have to increase
that just a little bit, but with the 3.625 interest rate,
borrowers were able to receive 4 percent of the loan
amount to assist in meeting their down payment and closing
cost needs. Several months ago, the loan structure would
have been at least 50 to 100 basis points higher, or
around 4.375 to 4-1/2 percent to cover all of our costs.

Today's lower rates translate to substantial
savings for a first-time homebuyer, so when we're looking
a 3.625 compared to maybe 4-3/8 to 4-1/2, you're looking
about a $75 savings in mortgage payment on $150,000
mortgage loan at today's rates, versus the previous rates
or rates for similar options. $75 quickly adds up.
That's a huge savings for a first-time homebuyer that
translates to $900 on an annual basis, $4,500 over a five-
year period, and about $9,000 over a ten-year period, so
definitely some savings there.

In addition to lower rates and costs,
programmatic changes were made with respect to program
overlays. Under the previous master servicer structure,
the minimum borrower FICO credit score requirement was 640
with a one percent penalty against the loan amount for any
loans with a FICO score between 640 and 660. In an effort
to continue to serve borrowers within the lower FICO range, the Department absorbed the one percent penalty which allowed these borrowers the ability to net the total amount of assistance under the program and not pay any additional costs. However, in order to make the program work, the overall interest rates for all borrowers would have to absorb that cost.

As master servicer, Idaho HFA has a lower minimum borrower FICO score, 620, with no additional penalty. This change has allowed the Department to continue to offer financing to underserved credit markets and expand the homeownership for those low to moderate income first-time homebuyers that meet the credit requirements of a standard mortgage loan product, such as an FHA loan, but could not access various down payment assistance programs due to the previous master servicer credit overlays. So a lot of the programs that are available here in the state were utilizing the services of U.S. Bank as master servicer and had the minimum 640 FICO requirement or overlay, and with the change in master servicer, it's given us the ability to lower the FICO score requirement.

Again, the reports presented to you today reflect purchase activity through August 31, 2016. The most recent loan activity, September through November,
will be reported on the next quarterly report. These reports are specific to closed purchase loans and do not reflect loan reservations. For a comparison of loan reservations over the last 12-month period through September 30, the daily loan reservations under the program average at approximately $975,000.

MR. OXER: So we round it up to a million.

MS. GUTIERREZ: About a million a day. Right.

With an average FICO of 684. Since October 1, or the effective date of the master servicer, the daily loan reservation average has increased to approximately $1.8 million, with an average FICO of 675. It's a pretty significant increase in volume, about 61 percent increase, and we expect our average daily production to continue to grow. After a little more than 30 days, we are already seeing the results in the form of almost twice the dollar volume and slightly lower average borrower FICOs.

During the transition, the Homeownership Division staff and the loan acquisition lender on-boarding team with Idaho HFA, conducted five webinar trainings for our lender partners. Training participation exceeded our expectations. We had just short of a thousand participants in our trainings, which is quite a bit. Prior to the change in master servicer, TDHCA had approximately 100 approved lenders, with 25 of those
lenders responsible for about 90 percent of the program activity.

To be approved to originate under the revised program as of October 1, lenders were required to go through an approval process with Idaho HFA, which included reviewing audited financials, insurance policies, and licensing information, and complete the process with the execution of a mortgage loan purchase agreement. To date, approximately 61 lenders are approved with the new servicer, including all 25 that were responsible for the previous loan activity, the 90 percent of the previous loan activity.

The response and feedback from our lender partners has been overwhelmingly positive, as evidenced by the increase in loan originations since October 1, even with 40 percent smaller number of current approved lenders. But we are still working with lenders and still getting lenders approved and transitioned over to the new servicer.

A couple more things I want to mention. Homebuyer education continues to be a key and critical component of home buying and remains a requirement of the program for program participation. In addition to information received through a homebuyer education course, TDHCA and our new master servicer have created and
customized a welcome packet that is provided to each homebuyer after loan closing. The informational packet is designed to answer common questions about their home loan and help clarify the home mortgage process. Included in the packet is information on how, when and where to make their monthly mortgage payment, how to access an online borrower portal to make their payment, where to view account information such as loan balance, escrow balance, estimated property taxes and property insurance, tips on household budgeting which we think is really important, a glossary of loan terms and policies and information on who to contact if the borrower faces a hardship or circumstance that may result in some difficulty in making their mortgage payment.

An enhanced loan structure of lower interest rates, lower costs and expanded flexible underwriting requirements, combined with the streamlined simplified shorter purchase processing timeline and online tools and resources, make buying, selling and closing a home under the My First Texas Home program an efficient, affordable and sustainable option.

In closing, I would like to thank the Texas Homeownership Division, the Bond Finance Division, and our sister agency and new partner, Idaho HFA, for all the work put into making this transition such a success. I'd like
to extend our appreciation to all of our lender and realtor partners for their continued support of our programs and their patience during this transition, and most importantly, for bringing the dream of homeownership to Texans across the state.

Additionally, the Texas Homeownership Division is extremely thankful to you, our Board, and our executive team for the support of our homeownership programs. It is really exciting to be a part of a team and an agency that is so focused on our mission, and I do think we're doing great things here. The change has been welcomed, well received, as I mentioned, and we're excited about what's to come. So I'll leave that with any questions that you might have.

MR. OXER: Any questions from the Board, any comments from the Board? I have a couple, but go ahead.

MR. GANN: We really enjoy this kind of report, so appreciate it.

MR. OXER: Good news is always good news.

MS. GUTIERREZ: Good news is always good.

MR. OXER: So we made the transition, the Homeownership Division is a sparkling example of the agency's commitment to those that are a part of our client community. You've got people that are lower FICO scores but also not just offering this to them but offering them
that in the education to bring that FICO score up so they
can score better on the next one.

    MS. GUTIERREZ: Yes, sir.

    MR. OXER: We have more money available, more
houses available, and as evidenced by the uptake rate on
this, the daily rate on this, there is a lot of need that
we're apparently meeting.

    MS. GUTIERREZ: Yes, sir.

    MR. OXER: I don't hear anything bad in any of
this, so congrats to you. I think the Board would join me
in saying good job.

    MS. GUTIERREZ: A lot of effort by both our
Bond Finance team and our Homeownership team, partners,
the agency executive team, everyone. So thank you.

    MR. OXER: And pass along this Board's
gratitude and thanks and appreciation to the board of the
Idaho agency. They understand what we're up against, so
as an agency providing that loan servicing, they see what
we're up against and they have a different set, perhaps
more subtle influences that they're responding to that
makes it fit a little bit better.

    MS. GUTIERREZ: It's a great partnership for
sure.

    MR. OXER: It is that. Thank you very much,
Cathy. It's a great report.
MS. GUTIERREZ: Thank you.

MR. OXER: Tim.

MR. IRVINE: And let it never be forgot that when you peel out your General Appropriations Act, we are an economic development agency, and I think it's so wonderful that this particular engine is finding that final homeownership for something that's the result of development and investment and jobs, and it's just fantastic.

And I'd also like to say you, Cathy, individually deserve a tremendous amount of credit. I know you spend phenomenal amounts of time working these relationships with our lenders and with others and working closely with Monica to keep everybody informed and compliant and moving along crisply. So thank you.

MS. GUTIERREZ: Thank you.

MR. OXER: And thanks for that. And it's evident, my observation from up here and my involvement with the agency, it's evident that everybody seems to work together pretty well, we've got a pretty well oiled machine here. Happy with that. Nice ship you've got there, Captain.

MR. IRVINE: Thanks, Admiral.

MR. OXER: All right. Let's get to some hard parts here. Raquel.
MS. MORALES: Good morning, Chairman Oxer, members of the Board. My name is Raquel Morales. I'm the director of the Asset Management Division.

The next item is item 4, which is presentation, discussion and possible action regarding a material application amendment for application number 15251, Case Verde. If you remember, this item was presented to you last month at the October 13 meeting but the application asked that the Board table any decision on the matter in order to provide additional consideration for staff's consideration.

Just as a quick recap, Casa Verde submitted a competitive tax credit application in 2015, they submitted under the at-risk set-aside and qualified as an at-risk location based on its status as a development proposing to demolish housing units that are owned by a public housing authority, in this case, the Laredo Housing Authority, and receive assistance under Section 9. The application for Casa Verde proposed to build 152 total units, of which 138 of those would be relocated public housing units that were going to be demolished in an existing public housing development known as Russell Terrace. Additionally, 25 percent of the new units at Casa Verde, or 38 units to be specific, were to retain public housing operating subsidy.

So last month staff presented the applicant's
amendment request and staff's recommendation at that time was to deny the amendment and we also recommended rescission of the tax credits based on the circumstances that changed with Russell Terrace, in particular, that HUD had not approved their demolition plan for the existing public housing development.

After the Board meeting, on October 20 the applicant submitted a revised amendment request, still seeking a waiver or amendment to replace the public housing operating subsidy for the 38 new units at Casa Verde with RAD financing, and the public housing authority also clarified its intent with Russell Terrace, specifically to demolish 100 units at that time. In subsequent correspondence with staff, they have now indicated that they will demolish 138 units -- that number has kind of been a moving target but I think we're at 138 now.

Subsequent to that, in an email to me on the 25th of October, they forwarded an email that they had received from HUD -- and I believe that's available on page 1224 of your Board book -- and in that email, HUD states -- I'm just going to read something from parts of that email from HUD: "Under the RAD program, a PHA has the flexibility to renovate an existing site or to demolish and build back onsite or offsite, subject to
further HUD review." The email from HUD goes on to state, as well, that: "HUD does not require that the PHA obtain approval at the time of application or award, instead, each PHA is allowed time to assemble an appropriate financing plan. So while the Laredo PHA does not yet have an approved financing plan to demolish 138 units, such authority would be granted if they presented a feasible financing plan."

The Board item was published in the Board book, it still recommended denial from staff of the application amendment, however, since posting of that recommendation, I understand the Department has had additional conversations with the applicant which has led the Department to reconsider its position on this matter, particularly that it would provide an affirmative recommendation on this amendment to allow it to move forward and to continue qualifying as an at-risk application, subject to the applicant making the following confirmations/commitments to the Board:

One, that 138 units would be demolished at Russell Terrace, which is what they told us originally in 2015, so we're just asking them to keep to what they said they were going to do originally; two, that 138 units would be reconstructed at Casa Verde; three, that the new tax credit units at Casa Verde, that a portion of those
units, or 38 specifically, would retain public housing RAD financing as it's provided for in our rule; and also, that the applicant confirm today that they will receive all necessary HUD approvals to do what they want to do and move forward with their current position to demolish 138 units, that they get all necessary HUD approvals, in particular, the HUD approved financing plan to do that demolition, and that the complete demolition of the 138 units at Russell Terrace be carried out prior to submission of the cost certification for Casa Verde.

If the applicant can make those commitments to the Board today and confirm those items, then the Department would affirmatively recommend their request.

MR. OXER: List those again, please.

MS. MORALES: That they will demolish 138 units at Russell Terrace, which is what they said they were going to do originally; that they will reconstruct 138 units at Casa Verde; that a portion of the units at Casa Verde, 38 units in particular, would retain RAD financing; and that they would receive all necessary HUD approvals to move forward with this plan with their current representation to us to demolish 138 units, and that the complete demolition of the 138 units be carried out before they submit cost certification for Casa Verde to the Department.
DR. MUÑOZ: I'm assuming that they're going to affirm what you've represented.

MS. MORALES: I believe they will. I talked to their counsel yesterday.

DR. MUÑOZ: But who will monitor this documentation that is to be received?

MS. MORALES: The Department, staff will.

DR. MUÑOZ: Okay. So at some point in time in the future.

MS. MORALES: Because the recommendation in the Board book still recommended denial, we can place some timing. I think that was discussed when we discussed this matter and the additional information they provided. If we can put a timing on when we want to get these HUD approvals, that would be easier for staff to monitor, if they could get the necessary HUD approved financing plan to demolish 138 units, as they represented, in 30 days. We're obviously still concerned with the timing, we're in November, this is a '15 deal, they have to place in service by the end of next year.

Last month, Mr. Doak Brown, who is a consultant with the Laredo Housing Authority, came up and spoke to the Board and said that they have no problem meeting that deadline. I spoke with Doak again yesterday, he provided me with an updated construction schedule that indicates
that they'll be able to meet that federal deadline.

DR. MUÑOZ: I'm comfortable with the due diligence that you're prepared to enact in order to assure the Board, the agency that these concessions that they're prepared to accept are completed and the original intent of the project is sort of fulfilled. Also, this to me strikes as a very elegant solution. Initially you say no; they say if we would do these things, you do our due diligence and reach a conclusion that yes, this is acceptable; and then you place deadlines when this information has to be in your office in order for you to be assured that everything is compliant and appropriate. I just want to recognize I think an important project shouldn't be threatened because some kind of understanding within reason can't be reached.

MR. OXER: Any questions?

(No response.)

MR. OXER: For everybody sitting there on the front row, which one of you can speak unilaterally for the project? I wanted an answer to that question, we're going to get there, but we want to know who we're talking to when we're talking.

MR. CEBALLOS: Jose Ceballos, with the Laredo Housing Authority. I'm the chair of the board of commissioners.
MR. OXER: Hold your point, just stand there for a second. Okay? You're the target right now. So given that that's the case, and Raquel, you're saying that if they say all those things, if he says yes, they'll do that and agrees to that list, then what you're recommending is that our motion would be to deny the staff recommendation which is currently to deny the approval or deny the amendment. Is that correct?

MS. MORALES: That's correct.

MR. OXER: Is everybody clear on that?

MR. IRVINE: Actually, I would clarify that. I think that the motion would be based on a revised staff recommendation to approve the amendment because the law requires that.

MR. OXER: That's why I was trying to make sure we get this right procedurally. That's why we have good lawyers up here, I've got to tell you.

DR. MUÑOZ: So Jose, if you deny or approve, either way, you win.

(General laughter.)

MR. OXER: It's an interpretation thing. So Raquel, you're essentially amending, based on communication you've had since that. Is there any requirement that that be posted, or is this just an item to be considered, it can be modified?
MR. IRVINE: I think that the Board transcript will reflect the revised recommendation.

MR. ECCLES: It's still within the scope of the posting.

MR. OXER: I want to make sure that was clear. It's within the scope of the posting so we don't have any question of being able to modify the staff recommendation.

MR. ECCLES: The only point that I would bring up is this is an application amendment. What is being amended to say what?

MS. MORALES: At this point, if the applicant can confirm the items that I just stated, then the amendment would be to allow that 25 percent of the units, or 38, that the financing for those 38 units at Casa Verde go from being public housing operating subsidy to RAD.

MR. OXER: Okay. Go ahead, Beau.

MR. ECCLES: Well, my understanding of the amendment was also a shifting over to RAD.

MS. MORALES: Right. I just said that, they would go from public housing operating subsidy to RAD financing for the 38 units.

MR. ECCLES: Okay. But besides that, he application is essentially stating the same now that the 138 units --

MS. MORALES: Right. If they could confirm the
items that I stated, the Department is stating that they are still qualified as an at-risk application and can move forward.

MR. ECCLES: And those conditions are essentially being added into the application itself.

MS. MORALES: Correct.

MR. OXER: What he's about to agree to, your points are an amendment to the actual application to do all the demo, the reconstruction, and move 38 to RAD.

MS. MORALES: Yes.

MR. ECCLES: Okay. That's what I wanted to clarify. Thank you.

MR. OXER: We're good on that legally, Counselor? Okay.

Just as an inquiry, you're prepared to say yes on all those.

MR. CEBALLOS: Yes, we're prepared to say yes.

MR. OXER: Given that that's the circumstances, under the modified staff recommendation for item 4 --

DR. MUÑOZ: Jose, you heard staff refer to trying to establish some timelines, some deadlines, and you're comfortable with that, we don't have to determine that right now, but you're comfortable with the spirit of meeting with staff and trying to establish some reasonable deadlines for documentation.
MR. CEBALLOS: Absolutely comfortable with it. It may take us more than 30 days --

MR. OXER: Not deadlines, they're milestones.

MR. CEBALLOS: -- it may take us a little more than 30 days to get a finance plan back from HUD.

DR. MUÑOZ: You all will work that out.

MR. CEBALLOS: But we will work that out.

MR. OXER: It may take more than 30 but it shouldn't take 90.

MR. CEBALLOS: We'll do our best to come back quickly with the finance plan approval.

MR. IRVINE: If the Board believes that 90 days is an appropriate outside horizon, I would suggest that any motion include that 90 days to get that done.

MR. CEBALLOS: Rod Solomon is our consultant working directly with the HUD office. Rod, what are we looking at?

MR. OXER: Get on the mic, get on the record.

MS. BINGHAM ESCAREÑO: Do you want the motion?

MR. OXER: We haven't got one, we're soliciting input at this point to modify the motion.

MR. SOLOMON: First, thank you for getting us to this point so that we can have this discussion, staff as well as the Board.

MR. OXER: You've got to say who you are. We
know who you are but she's got to know who you are.

MR. SOLOMON: Rod Solomon, representing the
Laredo Housing Authority.

I think that that time, having worked with HUD
on many RAD transactions around the country, I think that
timing is very tight.

DR. MUÑOZ: Ninety days?

MR. OXER: Thirty or ninety?

MR. SOLOMON: Ninety even is tight. I would
hope that we could get six months; if we can't get six
months, then whatever as close as you can give us. We
have to formulate the plan, there are many HUD
submissions, HUD has to agree to the plan, and of course,
I'm trying to give the Laredo Housing Authority
flexibility, but I would hope that however much
flexibility the Board can fathom. We're going to comply
with everything but I think we need some time given that
we're working with HUD and we've got to formulate this
whole plan and then get HUD to agree to it.

DR. MUÑOZ: That kind of complicates my
understanding, though, Rod, because if you're talking
about a certain date in service and we're going to go six
months before we have this documentation.

MR. BROWN: Doak Brown with Brownstone.

Let me clarify. This is the financing plan for
the housing that the housing authority wants to rebuild
onsite, it doesn't have anything to do with the Casa Verde
application. It wouldn't slow down construction on Casa
Verde, it has to do with only how they plan on rebuilding
on the Russell Terrace site.

MR. OXER: So basically your project will
continue to progress.

DR. MUÑOZ: I see the E-D going like this, so
what am I misunderstanding?

MR. IRVINE: I believe it's fundamental to the
at-risk character of this transaction that it involve
either rehabilitation or reconstruction, and for it to
involve reconstruction, that means that the units are
being replaced with the new construction need to be
demolished. So in order to retain the characteristics of
an at-risk transaction, it needs to have that; in order to
retain the characteristics of a RAD conversion
transaction, it needs to be okay with HUD.

MR. CEBALLOS: Maybe we agree on when we submit
the plan to HUD. Would that be satisfactory so that you
feel confident that we're going to submit a document.

MR. OXER: You'll forgive us if we don't have a
lot of confidence in HUD. Okay?

MR. IRVINE: Here's my concern, straight up
concern. What happens if you get into all of this and you
can never secure that HUD consent? Is this Board going to then say: Well, we just really can't approve cost certification.

MR. OXER: Speaking, Rod Solomon.

MR. SOLOMON: Yes. I don't have a good answer for why that's all fine, but we are committing to do this. There was that situation even with the original application in that the original application said that units were not going to be demolished until Casa Verde was completed, to prevent displacement, really, so that residents could move directly from Russell Terrace to Casa Verde. Again, we understand the concern. I think if there's some more time than 90 days that you could give us, that would be helpful. I would think I could say that we'll work within the parameters that you think you need.

MR. IRVINE: And I completely get the URA concern, that you don't need to tear down units and kick people out until you've got a new place to put them. I'm concerned with the characterization of this as a compliant RAD at-risk deal.

MR. CEBALLOS: Jose Ceballos. 120 days, is that reasonable?

MR. OXER: 120 days, that's what you've got. Not to submit, that's to get approval. One of you is going to be camped out in Fort Worth.
MR. CEBALLOS: Fortunately, he's in D.C.

MR. OXER: Somebody ought to be knocking on their door tomorrow morning, I'm guessing.

Are we clear on what we're looking for? Got 120 days on the approval. Raquel, you're taking notes. Right? You know what this is all about.

You're agreeing to all those components, Jose. Right?

MR. CEBALLOS: Yes. We've got those.

MR. OXER: We trust Raquel and the staff, trust me. We're going to line up on her side and start shooting if this doesn't work well.

Given that, can we hear a motion to consider?

MS. BINGHAM ESCAREÑO: I'll make the motion. I'd like to make a motion to approve staff's recommendation to approve the material amendment requested for Casa Verde.

MR. OXER: As modified.

MS. BINGHAM ESCAREÑO: As modified. And that it include the five conditions as stated by staff, to include receipt of HUD approval within 120 days.

MR. ECCLES: Approval to demolish?

MS. BINGHAM ESCAREÑO: The HUD approval is for the demolishing --

MR. ECCLES: The finance plan.
MR. OXER: It's for the financing plan. Because their project is going to continue, it's the financing plan we're working on. Is that clear? Are you good with that, Counselor?

MR. ECCLES: Yes.

MR. OXER: All right. Motion by Ms. Bingham. Is there a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. We've had all kinds of conversation about this.

MR. LYTTLE: Mr. Chairman, I have got two legislative letters to read into the record on this issue.

MR. OXER: Good. Let's hear them.

MR. LYTTLE: The first is from State Representative Tracy King. It reads:

"Please accept this letter of continued support for the 2015 low income housing tax credits awarded to the Laredo Housing Authority Casa Verde Apartments project. We all agree that the proposed new affordable housing development would be beneficial to the Laredo area. With this in mind, I respectfully request TDHCA take another look at the application and additional information submitted to be sure all available options were considered for this project.

"I appreciate the dedication of the TDHCA staff
and the hard work that they do to assist our offices on these local projects. Again, thank you for your time and attention to this matter.

"Sincerely, Tracy O. King."

The second letter is from Senator Zaffirini. I'll read it, and then I know her staff member wanted to make just a brief comment following the letter.

"Thank you for your commitment to providing critical affordable housing in our communities. We are writing to you again to urge, as we did in October 2016, that the Texas Department of Housing and Community Affairs continue to support the 2015 low income housing tax credits awarded to the Laredo Housing Authority Casa Verde Apartments project.

"We have reviewed both TDHCA staff's Board action request and the Laredo Housing Authority's November 2 letter to you. We respectfully disagree with staff's conclusion that the tax credits must be rescinded because the units at Russell Terrace public housing development will be replaced twice. What's more, the concern expressed in your October 6, 2016 replay to us that the Russell Terrace units no longer will be demolished, has been addressed the LHA's agreement to demolish 138 units there and the statement from HUD's director of transaction's division that administers the rental
assistance demonstration that LHA may take this action under its RAD approval.

"The applicant was awarded tax credits for 138 units and will demolish 138 public housing units at Russell Terrace and replace 38 of them, or 25 percent of Casa Verde's 152 total units, with RAD units at Casa Verde. This is the same in all material respects as the original application except for the substitution of RAD for public housing units at Casa Verde, the change the TDHCA has previously allowed.

"The original application states that 138 units are proposed to be demolished at Russell Terrace. Any additional demolition is immaterial under the law as long as the number of units proposed to be demolished is the same number as the number of units proposed to be reconstructed with housing tax credits. TDHCA staff's conclusion that 100 of the Russell Terrace units will be replaced twice fails to take into account the fact that the RAD subsidy is a rent subsidy, it does not provide funding for the reconstruction of units. As was proposed in the original application, the Russell Terrace units will be demolished separately after completion and initial occupancy at Casa Verde.

"Any units that LHA plans to reconstruct other than at Casa Verde are irrelevant because LHA must
identify development funding other than tax credits from the at-risk set-aside to accomplish that construction. In fact, a similar construction effort could have been undertaken if the original public housing proposal had gone forward and HUD likely would have provided a similar level of subsidy. TDHCA was correct that this possibility was not relevant to the original award of tax credits and it is not relevant simply because RAD is being substituted for public housing.

"TDHCA staff raises other concerns regarding HUD's final approval of the LHA demolition proposal and the at-risk statute PHA plan requirement. LHA has shown that HUD's approval for the demolition in the RAD context is much more flexible than in the context of a mixed finance proposal for public housing. The at-risk statute's requirements are prospective: proposed to be demolished or disposed of by a public housing authority, receive assistance or will receive assistance through rental assistance demonstration, and they are being met. The statute's PHA plan requirement has also been met. In response to a staff inquiry, LHA reported that it's 2014 and 2015 PHA plans included plans to convert public properties to RAD, and the recent 2016 plan significant amendments specifically covered Casa Verde and Russell Terrace and discussed how this clearly meets the statutory
requirement.

"Based on our extensive research and review, we legislators who represent the City of Laredo agree strongly that the Casa Verde continues to fully meet the at-risk requirements. We also believe that in view of the placed in service deadline for this project, TDHCA's deliberation of this matter must conclude with a favorable decision at its November meeting if LHA is to proceed. Accordingly, we urge TDHCA to approve at that meeting LHA's amendment originally filed in July to substitute RAD for public housing units at Casa Verde so that this valuable affordable housing resource for Laredo will not be lost.

"Very truly yours, Judith Zaffirini, State Senator, and Richard Raymond, State Representative."

MR. OXER: Good. Thanks, Michael.

Tim, did you want to make an addition to that or supplement that?

MR. STOSTAD: Good morning. Timothy Stostad with Senator Zaffirini's office.

I just wanted to provide a little bit of context. That letter was based on the Board recommendation as it appeared previously before it was amended this morning.

MR. OXER: We recognize that there's some
subtle nuances in there that don't apply to the new edition.

MR. STOSTAD: Right, it was superseded. But as a procedural matter, we just wanted to get it in the record so that's why we had it read in.

But I have nothing to add, other than that the senator continues to support the project and we support the staff recommendation as amended this morning. Thank you very much.

MR. OXER: Great.

Gentlemen, you can sit down, but thank you.

MR. CEBALLOS: I just want to thank you and thank the staff for all their work. I know it's been a long process, but we appreciate your time and dedication in working with us. Thank you.

MR. OXER: Great.

MS. HENDERSON: Peggy Henderson, TDHCA, registering public opinion on agenda item 4, project number 15251. We have 15 opinions against this item. Would you like me to read each name?

MR. OXER: Just the names.

MS. HENDERSON: Just the names?

MR. OXER: You don't have to read all the comments. You just have the names listed. Right?

MS. HENDERSON: Yes, sir.
MR. OXER: Let's be clear on what they're against, they're against the denial.

MS. HENDERSON: They're against staff's recommendation.

MR. OXER: As originally posted in the Board book but not as modified currently.

MS. HENDERSON: I won't make an assumption for their registered opinion.

MR. OXER: Would that be correct?

MR. CEBALLOS: (Speaking from audience.) That's correct.

MR. OXER: This is a procedural question. I think you can see where this is going. Do you really want to register that? That's the right answer.

So we'll recognize that there were 15 comments that were opposed to the original staff, but as modified that everybody is satisfied where this is going, including the Board. Given that that's the case, we're going to hold off on registering all those.

We have a motion by Ms. Bingham, second by Mr. Goodwin to approve staff recommendation as modified today in transcript in this meeting. There's no other questions.

Raquel, do you have anything to say?

MS. MORALES: Just a clarification for my
purposes. 120 days is the deadline that's been put forth, that's fine. We will do what we need to monitor that progress on both the new construction application as well as the demolition plan for Russell Terrace. If in 120 days they don't have the approved financing plan, do you want this matter brought to you again? Do you want to know?

MR. OXER: Yes.

MS. MORALES: And then I just want to emphasize the importance of construction status reports moving forward. This is one of the big reasons why we have that interval, why we emphasize the need to get those timely so that we can monitor that progress, and then in conjunction, monitoring how they're going along getting the financing plan.

MR. OXER: For purposes of fleshing out this scheduling on this, I want to know what are the interim reports. Because here's what we don't want to have happen, guys, we don't want to come up here and 119 days from now you say, well, we can't do this. That's not going to happen because we're going to know like every 15 days where you stand on all of this. Right? Shake your head, Doak. We're going to know that. Right?

MS. MORALES: Like I said, it's already in rule that we get construction status reports every quarter
after they submit 10 percent test, they did submit timely on their extended deadline.

MR. OXER: This is a special request that what we want is status reports --

MS. MORALES: Just reiterating the rule, make sure you get those in so that we can monitor this progress.

MR. OXER: This is a special project, special consideration for a project, and as a consequence of that, because of the timeline on it, quarterly is not going to do you any good on 120-day clock. It's up to you, Raquel will tell you when they're going to be, but we want no more than every month, or no less than at least once a month, so that way you've got at least four reports in there about where we stand. That way you'll know where they are as this thing progresses.

MS. MORALES: Yes.

MR. OXER: Is that clear for the record?

That's a clarification on the schedule.

Are we good on that, Counselor?

MR. ECCLES: Yes. We still have a motion.

MR. OXER: I know. I'm just making sure we're clear on that motion and what the details are.

MR. IRVINE: Might I add a comment?

MR. OXER: Always, Counselor.
MR. IRVINE: I think that the at-risk set-aside is probably one place where creativity is not a good idea. I think when you bring in an application under the at-risk set-aside, you need to be very crisp in fitting your application into the statutory and rule-based requirements, and no matter how laudable, changing your ideas to create more units has the risk of changing the characterization of the deal. And I'm sorry that we can't use this as an opportunity in some respects to create more units, but that's just not what the at-risk set-aside was created to do.

I also just want to state preemptively, from a staff perspective we really don't want to see someone trying to fit this into a force majeure request sometime late next year as completion of construction is in peril. These are not matters that were outside anybody's control, you've always had the power to do what you said you were going to do.

MR. OXER: Everybody got it? Okay.

Now we have a motion outstanding, motion by Ms. Bingham and a second by Mr. Goodwin. We've accepted public comment, there's no request from staff for additional comment. Right, Raquel?

MS. MORALES: Right.

MR. OXER: Those in favor?
(A show of hands.)

MR. OXER: And opposed?

(No response.)

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

Good job, guys. I wouldn't be late.

And for those 15 of you who came and registered your comments, we appreciate your input and hope you recognize the effort that the staff made to come to an accommodation with this applicant. Thanks to everyone how participated.

Marni.

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

Item 5(a) is presentation, discussion and possible action on a determination regarding eligibility under 10 TAC 10.101(a)(4), related to undesirable neighborhood characteristics for the Pointe at Crestmont in Houston. This application proposes the new construction of 192 units serving the general population. The development site currently consists of an abandoned 308-unit multifamily development that was damaged by Hurricane Ike in 2008.

A 4 percent housing tax credit application was initially submitted to the Department on May 13, and was
subsequently terminated due to failure to disclose the presence of undesirable neighborhood characteristics. A new application, which included the required disclosures, was resubmitted to the Department on June 24.

Initially, upon initial submission of the application, the boundaries of the property included several pipelines on the southern end, one of which carried propane, however, the site boundaries in the purchase agreement have been adjusted such that the pipelines are not actually on the development site any longer and do not constitute an undesirable feature under 10 TAC 10.101(a)(3) which would render the site ineligible.

The site has several undesirable characteristics, and while mitigation to address some of these issues has been submitted to meet the letter of the rule, there remains a confluence of concerns related to the general welfare and safety of prospective tenants of the proposed development. So of those undesirable characteristics, it is located in a census tract and within 1,000 feet of a census tract where the Part 1 violent crime rate exceeds 18 per 1,000 persons, it is located in the attendance zone of a middle school and a high school, neither of which achieved a 2015 Met Standard rating, and the development site is within 1,000 feet of
Regarding the blight, a multifamily development, known as Park Terrace Apartments, which has a number of boarded and vacant buildings, is within 1,000 feet to the south of the proposed development. The condition of this property was not disclosed by the applicant, but when questioned, they conducted research and contacted the owners of that property, who, as it turns out, is in the process of rehabilitation and some of the units have already been rented. This information is confirmed by the housing department at the City of Houston, and your Board book includes a letter from the current owner and some photos of the rehabilitation that's underway, and staff believes that the information presented is sufficient evidence of mitigation that the Park Terrace Apartments should not be considered blight in the context of this application.

Immediately adjacent to the proposed development is an abandoned multifamily property known as Crestmont Village. This development was ordered by the courts to be closed in October of 2015 due to its deteriorated condition and continued unrepaired code violations. Information provided by the applicant and the City of Houston indicate that the property has been purchased and the new owner intends to redevelop the
property as senior housing in the future. That is a private party so, of course, we have no ability to make that happen or assure that that's going to happen. But what we do have is information from the City of Houston that they are planning to demolish the buildings that are there now and will be taking a demolition contract to their city council no later than November 30. They anticipate completing demolition of the Crestmont Village no later than the end of the year.

So they are planning to demolish, but the 2016 rule states that acceptable mitigation would go beyond the securement or razing and require the completion of a desirable permanent use of the site on which the blight or abandonment is present. For the 2017 rule, we've modified that requirement so now it says: acceptable mitigation to address extensive blight should include a plan whereby it is contemplated that a responsible party will use the property in a manner that complies with local ordinances.

So the demolition of the property would meet the letter of the 2017 rule.

Regarding schools, the proposed development is located in the attendance zones of both a middle school and a high school that did not achieve 2015 Met Standard ratings. The Thomas Middle School did meet standard for 2016 and in past action the Board has found that if a
school met standard for 2016, the increased rating was sufficient to support a reasonable expectation that the school would have a Met Standard rating when the development is placed in service and that's considered acceptable mitigation.

Sterling High School did not achieve the Met Standard rating for 2013, 2014 or 2015. The applicant has provided information regarding programs that are underway at Sterling, including and open enrollment early college high school. This differs from other early college high schools that we've discussed in that it is open enrollment and there is no limitation on attendance. Construction is underway at the school as a result of bond funds and we have a letter from Dr. Samuel Sarabia of Houston ISD, who is the chief school officer of Houston ISD, which provided information on efforts underway to turn the school around.

In 2016 the performance rating indicates that Sterling High School missed the Met Standard rating by one point under Index 4. The increased rating, along with the information from Houston ISD, leads staff to believe that Sterling High School will have a Met Standard rating by the time the development is placed in service.

The final undesirable neighborhood characteristic is the crime rate. The threshold measurement in rule is Part 1 violent crimes exceeding 18
per 1,000 persons annually, as indicated by Neighborhood Scout. It's important to note that this is just a trigger. We acknowledge that Neighborhood Scout is an imperfect tool but it's the only tool that we have. You know, if the only tool you have is a hammer, everything looks like a nail. But what we look for in rule, once that trigger is reached, is what is the actual data on the ground. So according to Neighborhood Scout, the Part 1 violent crime rate for this census tract is more than 36 per 1,000 persons annually. The development site is located within 1,000 feet of a census tract where the Part 1 violent crime rate, according to Neighborhood Scout, is 28.59.

The applicant provided crime data from the Houston Police Department based on the police beat in which the proposed development is located, consistent with acceptable mitigation under the rule. Calculations of the actual crime rate by the applicant and staff are provided in your Board book. Staff acknowledges that our numbers differ slightly from what was provided by the applicant, but we believe that the message is clear in that these crime rates are not decreasing. Staff cannot identify a downward trend that would lead to a reasonable expectation that the crime rate would be at a further reduced level by the time Pointe at Crestmont is placed into service. The
current crime rate is 15.1 Part 1 crimes per 1,000 persons annually.

The applicant contends that the redevelopment of the subject property, in addition to the adjacent abandoned and blighted property, will contribute to remediation efforts to reduce the crime rate in the area. The applicant has indicated that security features will help serve to further deter crime on the property, and with the exception of a police substation they are planning, the security features are really considered common amenities typical at any multifamily development.

Staff acknowledges that the mitigation provided by the applicant to support their claim that crime does not rise to the level of concern that warrants ineligibility and that the crime rate as reported by Neighborhood Scout is not an accurate reflection of and this is acceptable mitigation that conforms to the rule.

A site visit on June 7 prompted staff to further review the crime statistics specific to this neighborhood. A review of the instances of violent crimes for the first half of 2016, as reported by the Houston Police Department, revealed that on average there were approximately 20 violent crime incidences per month within the police beat that contains this development. Among these instance in early 2016 were two murders in March and
June, the other crimes include aggravated assault, robbery and rape. The locations are not limited to a residence or the abandoned properties, but include area parks, streets and businesses, including a child care facility.

We have received a letter from the City of Houston Housing Department that speaks to a multifamily task force convened at the mayor's request which is designed to focus on the most dangerous and poorly managed apartment complexes in the city. This task force will identify those multifamily complexes with high crime rates and focus on crime reduction at specific developments, one of which is a development three blocks from our proposed site on Selinsky Road. While this is a step in the right direction in combating crime in the area, the multifamily task force is considered a pilot program, the efforts and results of which have yet to be seen.

Staff does not believe, based on all for the aforementioned information, that crime in the area at this point in time has been demonstrated to show the type of downward trend necessary and to reasonably expect that it will not negatively impact the quality of life of prospective tenants in a safe affordable housing development. When evaluating the mitigation provided as a means to find the development site eligible, the rule includes mention not only of the nature and severity, it
also includes mention of a reasonable expectation. These are how we get to those mitigation measures that say that it's okay.

So staff believes that while there is still reason for concern regarding the crime based on continuing violent crimes in the neighborhood, and while there is an initiative in place to address the crime, it has not been in effect long enough to indicate it will successfully reduce the crime rate to a level that does not warrant concern. This development would be the first new multifamily development in the area that is struggling with undesirable neighborhood attributes and can be likened to a first money in project which would be inconsistent with prior policy directives issued by this Board.

Staff believes that absent a reasonable expectation relative to crime reduction, such undesirable characteristic fails to meet the criterion relative to the nature and severity of the crime, and therefore, recommends that the development site should be considered ineligible under 10 TAC 10.101(a)(4) of the Uniform Multifamily Rules.

MR. OXER: Any questions?

MS. BINGHAM ESCAREÑO: Yes, sir.

MR. OXER: Ms. Bingham.
MS. BINGHAM ESCAREÑO: Hey, Marni. So on the Met Standard school, just so I understand, so Thomas Middle School made it for?

MS. HOLLOWAY: For 2016.

MS. BINGHAM ESCAREÑO: Okay. And then Sterling is the high school and it hasn't made it consecutively several years.

MS. HOLLOWAY: This would be the fourth year that it has not met standard.

MS. BINGHAM ESCAREÑO: But they're turning it into an early college high school, or at least part of it, and that has open enrollment as opposed to some of the other discussions we've had in the past.

MS. HOLLOWAY: Exactly. And Sterling missed Met Standard by one point this year, so they're showing a trend upward.

MS. BINGHAM ESCAREÑO: Trend upward. Okay.

And then on the property that's been closed that's adjacent, our old rules actually said that those kind of properties had to be repurposed, and our new rules says that if it's demolished. The wording gives a little bit more latitude to repurposing it appropriately.

MS. HOLLOWAY: It does. The new rule acknowledges that -- and this is a perfect example -- the city is doing what they can and they're going to demolish
it, but the city or our applicant are not able to
influence redevelopment of a privately held property.

MS. BINGHAM ESCAREÑO: Okay. And then on the
crime rate, so obviously of concern, but what I heard you
saying about the violent crimes was that they in
aggregate, or what it looked like was those violent crimes
weren't necessarily happening in this property or the
adjacent property, more in parks and streets.

MS. HOLLOWAY: It's the entire area. Yes.

MS. BINGHAM ESCAREÑO: And then did you say
that the police are planning on being on site, that
there's a station planned for somewhere in that area?

MS. HOLLOWAY: The applicant plans to include a
police substation on the property, and this is part of the
evidence that they are presenting of mitigation of the
concerns over the crime rate.

DR. MUÑOZ: Hey, Marni, can I follow up to
that? If you have a substation, does that then obligation
law enforcement to utilize it?

MS. HOLLOWAY: I do not believe that it does.
I'm not able to answer that question; I'm sure that
somebody will.

MR. OXER: Raise your hand if you plan to
address that one. Okay.

MS. BINGHAM ESCAREÑO: And then can I just ask
one more question.

MR. OXER: Absolutely.

MS. BINGHAM ESCAREÑO: So I'm assuming we crossed the bridge of the revitalization plan, so we were good with that from the very beginning.

MS. HOLLOWAY: We've actually spent a lot of time on this one trying to get to an eligibility recommendation and just could not make it there with this crime issue.

MS. BINGHAM ESCAREÑO: Okay. I think that's it. But I mean, first money in, we've talked about that a lot. But relative to the violent crime, when we hear from somebody in a minute maybe about the commitment of the city to this area, there may be an opportunity to hear.

MS. HOLLOWAY: Well, and that's why we wanted to bring this item to the Board so that you could gather all of that information.

MR. OXER: Staff has obviously an obligation to follow the rules, as we've stated, and we have the latitude, as I've often said lightly, it's rarely applied occasionally to overturn those, but we've got to have some real good reasons to overturn that, and that's why we're looking for this evidence. Okay? I don't want anybody to ever think that we're trying to stop any project, but we're trying to make sure that the ones we do, meet the
requirements we have of safe and affordable housing. The safety part is particularly important, you know, crime is one of those issues.

Do you have a comment there, Mr. E-D?

MR. IRVINE: Actually, it was a question. You said that this was damaged by Hurricane Ike. Right? And this is maybe not a question for you but more for the development team whether they had approached the possibility of accessing CDBG disaster recovery funds.

MS. HOLLOWAY: As I understand it, disaster recovery funds will be used for the demolition of the existing property.

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

DR. MUÑOZ: Well, I punched out of my Board book so I'm just going to try to recall. If there's a chance for somebody to respond, I recall that the one point that the high school didn't meet its improvement plan had to do with its score on literacy.

MS. HOLLOWAY: It was post-secondary readiness. It was that Index 4.

DR. MUÑOZ: But I think it had to do with their test scores, the EOC having to do with literacy. I'm just curious how many ELL students that they might have at the high school. I suspect it's pretty high and it could impact their score in that particular area of English
literacy skills. So that over time can be improved, as I recall the math scores being improved.

MS. HOLLOWAY: Yes. And clearly the school district is putting a tremendous amount of effort into improving the school. They have a Teach-Its grant which is helping to fund the early college program. They also have an aviation program which is basically a vocational education.

DR. MUÑOZ: An aviation curriculum that they receive some sort of grant to expand, I think, their facility for the delivery of that curriculum.

MS. HOLLOWAY: Right. So I think that there are some good things going on in the school and it is trending upward, and that's why staff is recommending that that not be an ineligibility issue for this development.

MR. OXER: Okay. So with respect to the staff perspective as it stands with respect to the rules, you're pretty good on the schools, you're getting there on the schools?

MS. HOLLOWAY: Yes.

MR. OXER: The blight, we've got some latitude based on that, you're getting there. These sites for these and rebuilding these locations that were already there is an issue to start with, so the blight is something -- staff has reasonable confidence that the
blight is or will be addressed timely.

    MS. HOLLOWAY: Yes.

    MR. OXER: Crime is an issue. The pipeline aspect of it is addressed through the --

    MS. HOLLOWAY: Because of the way that the site was redrawn for the purchase agreement, the propane pipeline is now off of the property so it no longer triggers that undesirable site.

    MR. OXER: Right. So what this really comes down to is the crime component.

    MS. HOLLOWAY: Yes.

    MR. OXER: All right. I'm anticipating that we're going to have, as evidenced by the participation we're expecting up here, considerable commentary, so I'm going to exercise the chair's discretion. We're going to take a 15-minute timeout of break since we've been in our chairs here since a little after 9:00. Currently it is 10:24, let's be back in our chairs at 10:40.

    (Whereupon, at 10:24 a.m., a brief recess was taken.)

    MR. OXER: Let's come to order, please. You can continue your conversations but please do so out in the hall.

    Are there any other questions for Marni from the Board?
MR. OXER: Now, everybody sitting up here in the front, I want you to take note this is a procedural thing we do because we have to have a motion to consider and then we have to consider the staff recommendation, so this is not a final review.

Anything to add, Marni?

MS. HOLLOWAY: Not at this time.

MR. OXER: Okay. Staff recommendation is to deny --

MS. HOLLOWAY: Staff recommendation is to determine the site ineligible.

MR. OXER: As a consequence of these issues we've talked about, and you've sort of gotten around as we talked about schools, the blight, the pipeline, and the pipeline meets the letter of the rule, we don't have to deal with that. Crime is the issue.

MS. HOLLOWAY: Yes, it is.

MR. OXER: So what we really want to know from comment that we're going to hear is have they got anything that's going to fix this.

That being the case, we'll hear a motion to consider from the Board. This is noting that staff recommendation is to find this site ineligible at this time.
MR. GANN: I'll move staff's recommendation.

MR. OXER: Okay. Motion by Mr. Gann. Do I hear a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin.

We'll have public comment. Barry, it looks like you're up first.

MR. LYTTLE: J. Paul, did you want me to read the letter?

MR. OXER: I'm sorry. Hold your position there. Yes. Thank you, Michael.

MR. LYTTLE: Thank you, sir. This is a letter to the Board from Houston City Council Member Dwight Boykins, District D. It reads as follows:

"Thank you for consideration of the Pointe at Crestmont redevelopment application. I regret that I cannot be there in person to speak in front of you today.

"As you know, this application proposes the redevelopment of a former multifamily housing development that has been vacant for many years. The surrounding neighborhood supports this project, and as the elected city council member for District D, I strive to be responsive to the needs of the community.

"I understand that your Department has concerns regarding this application due to crime. It might be
helpful to outline the events occurring in the community that will contribute to its continued positive change and ultimately make this a stronger and safer community. While this might not be a so-called high opportunity area, according to your Department, this is not an area of no opportunity. This area needs and deserves new safe and affordable housing as much as any other area of Houston.

"The Pointe at Crestmont is located in the Crestmont Park section of Houston. While your funding will contribute to positive change in the area, it is not the first positive change and it will not be the last. Significant public and private investment is being made in this neighborhood. Construction is nearing completion on the community's new $72 million Sterling High School campus within walking distance of the proposed development. There are newly built single family homes with granite countertops being sold within 1,000 feet of the development site for over $135,000.

"Street and drainage projects are underway to improve infrastructure. Specifically, in the last two years the City of Houston has completed or has allocated over $10 million in street and utility improvements in the immediate area of the Pointe at Crestmont. New owners have purchased existing apartment complexes and are investing millions of dollars into rehabilitation."
Specifically, your staff has confirmation of $11 million in private funding being invested into the apartment complex renovation directly to the south.

"Additionally, my office has allocated $305,000 of my council district budget towards community improvement efforts, including $170,000 for three community liaisons within the Department of Neighborhoods specifically for neighborhood inspection and monitoring within District D, $100,000 for the Houston Police Department overtime pay for fiscal year 2016, and $30,000 for fiscal year 2017. I can confirm that your participation in this development will not be the first investment in the area.

"I have reviewed the crime statistics released by the Houston Police Department for this area and see that they do not show a decline from 2014 to 2016. When analyzing the data, a significant amount of crime was and is occurring in a small number of apartment complexes. The City of Houston closed a high crime apartment complex next to the Pointe at Crestmont and will be demolishing the vacant buildings. Another complex located south of the site with significant crime has new ownership who has recently instituted 24-hour guarded gate access, installed new lighting and has committed to providing the safest housing in the area."
"Two other complexes in the area will be the focus of the new multifamily task force. As requested by the mayor's office, this initiative is headed by the Housing and Community Development Department and will include five city departments, including the Houston Police Department. This task force will use enforcement and incentives to improve dangerous apartment complexes. Reducing crime at these apartment complexes which have the most concentrated incidents of crime will reduce crime in the overall neighborhood. While the crime statistics show room for improvement, the city is implementing strategies to address crime and I urge you not to disregard this neighborhood.

"Crestmont Park is no longer an overlooked neighborhood and the City of Houston is working to better this area. Please recognize the opportunity in Crestmont Park and join the City of Houston in participating in the Pointe at Crestmont development.

"Sincerely, Dwight Boykins, Houston City Council, District D."

MR. OXER: Thanks, Michael.

Barry.

MR. PALMER: Barry Palmer of Coats Rose.

As you see, we have a number of speakers so I'm going to keep my remarks short. I know you're primarily
concerned with hearing more about crime and we have Captain Campbell from the Houston Police Department to address that.

I was glad to see Council Member Boykins make a number of excellent points in his letter about all the other things that are going on in this neighborhood and how this would not be the first dollars in, that there's a $72 million new state of the art high school under construction, walking distance from this property where our kids would get to go to high school.

You heard that this property, Crestmont, became vacant after Hurricane Ike. Well, Hurricane Ike was in 2008, so that property has sat there vacant and rundown as blight in the community for eight years now, and the City of Houston, together with a private developer, has put together a plan with 4 percent tax credits. These are not 9 percent tax credits, this is a 4 percent deal, so there's nobody standing behind us that is going to use these funds if it doesn't go forward, that either this happens or the money goes unused.

The City of Houston has committed $5 million to this project of their own money, as well as committing to demolish the apartments next door that are vacant. So there would be close to 500 vacant blighted apartments torn down and replaced by 192 state of the art new
construction tax credit units with a police substation in
the property.

I'd like Captain Campbell from HPD to talk
further about the efforts of HPD in this area.

Thank you.

CAPT. CAMPBELL: Good morning. Kenneth
Campbell, Houston Police Department. I've been a captain
over that area that we're talking about for the past
couple of years.

I guess you want to know about crime, huh?

MR. OXER: That seems to have nicked the
trigger her on our concerns, so yes, we'd like to hear
what you've got to say on it.

CAPT. CAMPBELL: Excuse the word trigger there
too.

MR. OXER: Got it. Purposefully said.

(General laughter.)

CAPT. CAMPBELL: So anyway, looking back at it,
as far as the numbers that have been produced, I can bring
you data and numbers all day long that will show a
different perspective. It depends on how you interpret
the data. I ran even specific stats just for Selinsky
itself, which is the street we're talking about, and we've
seen a downward trend as far as our Part 1 violent, we've
seen a downward trend on our just Part 1 nonviolent, and
quite a bit different picture than what I've seen in some of the documentation I read.

DR. MUÑOZ: Over what period of time? When you say downward trend, is that a downward trend in the last two weeks or in the last six months?

CAPT. CAMPBELL: 2014, '15 and '16. I have stats on year-to-date comparison '15 versus '16.

DR. MUÑOZ: Downward trend over that year.

CAPT. CAMPBELL: Yes, sir. Specifically on Selinsky. I'm not going to give you a whole bunch of numbers, because like I say, one thing we found also, I can change the data and I can go one day different on the time period from another day and I can make my percentage drop 52 or 72 percent, depending on how you're looking at it. And if you're specifically looking at one crime, maybe murder, let's just say, overall we have reduced it, overall it has slowed down.

Now, I will say this, some of the stuff that we've been practicing over this past couple of years now has been running kind of a three phase approach, and what we do is we're working on specific crime analysis, data-driven research. So when you take the area as a whole, yes, sometimes you might see a spike in crime, but we try to find the actual hard target areas through our data-driven analysis. So we're looking at time of day, day of
the week, most likely when the ag robbery is going to
occur, sexual assaults. We had a serial rapist who we
recently arrested who was working in one area and then
committing the crime in the other area, so it was skewing
the stats for two different sides of Houston, different
things like that.

But basically we do the data-driven research
and then we go out and we do hard target enforcement, and
that's our phase two. And after that we implement a phase
three which is an evaluation where we go over our stats,
we adjust, we kind of keep our program fluid, and then we
also do a community outreach to get more presence in the
area. So for a while, like you know, back in July-August
area, officers were being targeted by criminals by fairly
large numbers and so we wanted to be sure we made it safe
before we went out there on horseback or bicycles and then
went to the parks and all that, and we've seen a really
good result of that.

Also, in this program and in our initiatives
that we have, we've partnered with federal law
enforcement, so we've had ATF, FBI, DHS, DEA, all of us
working in coordination. So we have regular meetings
where we're meeting and we're conducting operations
through the use of federal -- without saying too much, we
get a lot of good help from those guys.
Another thing that you've got to take into account --

MR. OXER: The real issue is you're focusing a lot intellectual and human capital on helping solve this issue.

CAPT. CAMPBELL: Yes, sir. And like the letter said, Council Member Boykins, from the City of Houston Council, they actually gave our department over $100,000 to use towards overtime funding. Mayor Turner for the City of Houston --

DR. MUÑOZ: Do you mind if I interrupt? Captain or Chief?

CAPT. CAMPBELL: It's captain, sir.

DR. MUÑOZ: I'm sorry to interrupt. But is that overtime going to be dedicated? I mean, if that's overtime across the entirety of the force or is that overtime for this specific geographic location?

CAPT. CAMPBELL: The overtime from Council Member Boykins, which is about 130- we've spent so far and we'll still using some of it, specifically for District D, specifically for 14 district for Sunnyside area. And so that's been a help. Plus, the mayor has overtime that has been distributed throughout the department that's used for law enforcement purposes, and our chief is dedicated to supplementing the funds. We just recently acquired over
$80,000 for the next couple of months to go into the holiday time, and then we have other events that come up. But I feel personally that the city and the department is backing law enforcement efforts very well right now in the area, and I feel confident that we will be able to continue to do well on fighting crime and deterring criminal activity. You understand a lot of times the overtime funding is specifically valuable because it allows for basically full-time proactive policing, so I don't have to use that overtime to just go answer 911 calls, we can use that for investigations, hard target initiatives.

We have special units that are assigned to the southeast patrol station which covers this area. Those units are meant to do full-time proactive work. We have a tactical team that goes out and does full-time tactical work, and then we also have a crime reduction unit that is citywide for the Houston Police Department, and the crime reduction unit will sometimes come and supplement. So if we have a spike in crime, we can take our tac team and the crime reduction unit, which we have done before, and we can amass the area very quickly with an additional 40 to 60 officers specifically in that area to deter criminal activity.

MR. OXER: Go ahead, Juan. I've got another
question.

DR. MUÑOZ: Captain, you heard earlier, I suspect, about a substation being incorporated, so I've asked the question, I've heard this before that a facility exists but it doesn't necessarily compel your agency to utilize it.

CAPT. CAMPBELL: Well, as far as a substation out of the apartment complex, no, it doesn't compel us to have to use that particular facility. What happens is it's kind of a community policing effort and our officers are more likely to go by there, do their reports, because our laptops are mobile and they come out of the cars now. They can go into that workroom and do their report, take information. It causes the officers to be in that area more often than other areas.

DR. MUÑOZ: Here's what I'm asking, Captain. You said it would cause the officers to more likely utilize that space. What I'm asking, more likely is not definitive. Would they? Would there be some directive, some encouragement officially from your office to say, Hey, there's a facility, we want to make sure it's used, make sure if you're in the vicinity to go by there, be visible, utilize that space that's been created for this purpose?

CAPT. CAMPBELL: Yes, sir. I would support
that to the troops. When I was a patrolman, I used at
another apartment complex on the north side, we used to go
there all the time and do our reports, and management was
very friendly, they provided water, just kind of say, hey,
come on in, get your work done. And also, we've had in
the area other areas where we've had officers and they've
deterred crime because they were already at the apartment
complex and were able to apprehend suspects who were
engaged in criminal activity at that time.

DR. MUÑOZ: The presence is a deterrent.
Right? So when they see the room being used occasionally.
Right?

CAPT. CAMPBELL: Right. And just to reiterate,
this apartment complex, along with the one next door, the
one next door was in deplorable condition and it's now
been shut down, but this was just festering and harboring
a criminal element to come there. We had some narcotics
dealings that were going on over there and it was almost
set up as a drive-through at the one next door, and the
apartment complex we're talking about, the Pointe, getting
to be rebuilt, it's high weeds and grown up and people
were going over there and it's hard for us to conduct law
enforcement in there. We do. And by it being shut down,
I think it really would help us getting stuff cleared out.

MR. OXER: Basic target hardening.
CAPT. CAMPBELL: Yes, exactly. And we've found too, with proper fencing and we have couple of model complexes we've noticed literally within the area, similar to what Council Member Boykins listed in his memo, that if you have security who's actually monitoring who's coming in and coming out, the crime is extremely low in those particular units. So if they can deliver a decent product, it would help us, it would help us allocate our resources to deter and fight criminal activity in areas all surrounding that area, as you're saying hard targeting and whatnot.

MR. OXER: You know, of course, we have to consider the safety of the members of the community, the residents who would be in these facilities that we're supporting the construction, but we also want to see that they're an integrated component of the larger policing so that it's not an island, nor do I suggest that they are. I'm just saying we're looking at it in the context that this is a regular part of it. I personally believe there is a lot to be said for mowing the grass, fixing the windows, and putting fence up to make sure who's coming in and out. That's like a little sunshine and bleach to clean the place up.

CAPT. CAMPBELL: Sure. The broken windows theory goes a long way.
MR. OXER: Exactly. To my mind, this is headed in the direction that we'd like to see it got, but if you have some other comments. We typically run on a clock on these, but this is an important project or an important component of the discussion on a project that we hope can be an exemplar for others that we do later on.

Did you have a comment, Tim?

CAPT. CAMPBELL: I'm sorry.

MR. OXER: Go ahead, Captain.

CAPT. CAMPBELL: I would note that there's a lot of areas in this particular side of town that are being rebuilt and getting fixed up, and it's one small step at a time, basically, I don't think it would be an island. There's different pockets all throughout here that are flourishing and starting to come up. I think the council member is dedicated to coming up here, I think the police department is extremely dedicated to providing services, and I have to add, too, the community is behind it.

When we shut down the Crestmont Village one, which is the apartments next door to that, HPD was out there, we were helping unload water and food trucks and helping people, but the community and the church down the street, they really pulled together about finding placement for other people. I think this is a good
example of community policing and community effort trying
to improve the area. It might take a while but I believe
that HPD can help a lot with getting this done as far as
the criminal side. As far as the numbers, like I said,
I've got pages of stats but I'm not going to bore you with
numbers.

DR. MUÑOZ: Hey, Captain.

CAPT. CAMPBELL: Yes, sir.

DR. MUÑOZ: You've been to this neighborhood,
you've walked up and down that street?

CAPT. CAMPBELL: I've been there a lot.

DR. MUÑOZ: You've seen those weeds with your
own eyes.

CAPT. CAMPBELL: I know exactly. The complex
is painted green, there's not any windows left. They've
got wrought iron fencing going around the property but
it's been damaged and bent open for people to get in and
get out. Even when we were shutting down the complex next
door, we actually stationed units in the complex and we
stationed them at all four corners and in between, with
minimum two men in each patrol car for safety. They
started boarding up from the back, so they started
boarding up units from the back and trying to shut them
down, and then also trying to find placement for people
that were having to move out, and there were people coming
in and tearing the boards down and trying to move in the middle of the night. So that's why the police, we sat out there for the residents' safety, as well as the people that were trying to come back in. It was a long time, it took from like August till almost November before we had everybody placed at a different location.

MR. OXER: So this is not the old one next door that's been shut down and gone, this is the one we're talking about.

CAPT. CAMPBELL: The one we're talking about.

MR. OXER: So Barry, this one is not occupied now. Right?

CAPT. CAMPBELL: Right.

MR. PALMER: No. Ours is the place that's been closed for a number of years but the one Captain Campbell is talking about is the one next door to ours.

MR. OXER: Barry, you've got to say who you are.

MR. PALMER: Barry Palmer with Coats Rose.

MR. OXER: We know who you are but she has to know who you are.

CAPT. CAMPBELL: And to clarify, Kenneth Campbell again.

MR. GANN: I had a question.

MR. OXER: Mr. Gann.
MR. GANN: Number one, are these the same owners that own the project now that's going to be torn down?

CAPT. CAMPBELL: I can't answer that question, I'm not sure who the owners are.

MR. PALMER: No. The new developer has nothing to do with the previous owners.

MR. GANN: The point I'd like to make -- not Barry, it's going to be another one on the police officer, the captain -- that 36 percent is more than twice our minimum acceptance, so there must really be a lot of crime out there. Do you know where it's really coming from?

CAPT. CAMPBELL: Well, like I said, I don't necessarily agree with the Neighborhood Scout report. Do I know where the crime is coming from?

MR. GANN: We have to have some level to start with.

CAPT. CAMPBELL: I understand that.

MR. OXER: To answer that question, I'll make a point to address that one, at least to describe my understanding of it. The Scout report is not an up or down vote, it doesn't quality, it doesn't disqualify, it simply says if it's above what our indicated criteria are, that means we need to take a little closer look, and that closer look includes going locally as opposed to this...
nationally reported, going locally to get the data that
you're talking about, and the investment of the
intellectual capital and the effort in improving the
neighborhood that you've indicated.

MR. GANN: I'm agreeing with that, but some of
my situation and problems with that is why did it take
eight years to get this rolling. Do you know why they
didn't clear that?

CAPT. CAMPBELL: To answer your first question,
yes, we know where the crime is coming from and it moves.
So it's like any kind of nuisance or problem, once you
conduct enforcement in that particular area, it's going to
move. Now, do we know the area it's going to move within?
Yes. And like I said, we do that through our phase one of
our initiatives and we do the crime analysis and figure
out exact locations, time of day. We have people working
with us in the community, people working with federal
entities that are helping us as well, and we get a lot of
information and intel.

As far as why this didn't happen from '08, Ike
hit in '08 and there were already problems with the
complex in question at that time, and there's a lot of
residual from '08 from Ike that took a long time to come
to fruition as far as rebuilding and coming back. But I
don't know why it took that long for it to come about now.
I know that the property in question is particularly bad because I believe it harbored a refuge for criminals to live and criminal activity that was also occurring out of the combination with the other complex. So when you have both properties in question, it really created for a really mass area, very large size area for criminal activity to occur and also for them to hide. So that's why I kind of talk about both all in the same as one, I think they contributed to the numbers increasing over time.

MR. OXER: Any other questions, Tom?

MR. GANN: No.

MR. OXER: Thank you, Captain.

Do you have a question, Beau?

MR. ECCLES: Just really quick, the statistics you brought with you that show a downward trend, you said that those were crimes on Selinsky Road, or are they around Selinsky Road? Because the statistics that I think the Department was using were based on census tracts.

CAPT. CAMPBELL: I have ones that are specifically on Selinsky that show a downward trend, I have ones for the -- within that local area for that station we have five beats that are in 14 districts, so it's 14-10, 14-D20, 14-D30. 14-D40, that district and beat, there's a downward trend, which would be that area
that encompasses the specific complex that shows downward
trend in Part 1 violent and nonviolent crimes.

MR. ECCLES: How big is that area that you're
talking about, that beat?

CAPT. CAMPBELL: Well, my station covers two
districts, it's 13 and 14 districts which covers 51 square
miles, and so you take at least half of that, about 25
square miles and divide that by five, so you're looking at
five to ten square miles. And don't quote me on that
exactly, but I'm just trying to give you a rough idea to
maybe help paint a picture.

MR. OXER: And staffing amongst that would be
what?

CAPT. CAMPBELL: For the two districts, 13 and
14, the station that I oversee operations has just under a
couple hundred officers at it, and then we put a very
large portion of our staffing towards the 14 district
which is our heavier side as far as activity.

MR. OXER: We have -- or at least I have a
comparison for a project that we did have an opportunity
to address that was in San Antonio, it's called Wheatley
Courts, and the chief, four stars, showed up and he was
saying he was putting the effort into it. But one of the
questions I had, I gather there are some residents here
from this particular area. Raise your hands if you’re
from that area. Glad to see you. Appreciate your coming over from Houston. That's where I come from, by the way. I don't know if you know Doug Brinkley over in Fort Bend County and Sugar Land, but he's my guy like you. Okay?

The question I have in there and you've said that you participated and supported the residents, several of the residents of Wheatley Courts, and it was a reconstruction project, came up and said we needed this, there's crime. And my single question, they had others, but my question was: What are you as the residents doing to improve the safety of your own home? I know, watching, you've got to do that, and we'll get there, don't worry we're getting there, but that's a question that's coming, so be ready to answer it. All right?

CAPT. CAMPBELL: Also, as a note, sir, as far as improving the safety of your home we've put together some awareness campaigns we've done in that area where we've actually gone out and helped them install reinforcing their locks, fire detectors. We did a big public news thing on that but we're still continuing that where we go out and we partner with churches to help get things done as far as taking care of crime prevention measures for their homes.

MR. OXER: It's a sad thing that we have to do that with such intensity in so many locations, but it's a
fact. Okay? So we can either ignore it exists, or we can address it and fix it. That's one of the questions that comes up. I think we're adequately satisfied, I certainly am, that this is not going to be the first money in and there's a sufficient concentration of law enforcement that is there and will continue to be there, and there has been sufficient investment -- and we'll hear from Mr. Mudd here in a minute -- of the city's resources and certainly Councilman Boykins' resources there to make sure that this is going the direction we want to go.

And I'm happy to see that it's a 4 percent deal because we've got a lot of 4 percent money left over, folks, we need to be doing some more of these. Okay?

Do you have anything else?

CAPT. CAMPBELL: No, sir.

MR. OXER: We appreciate your comments and glad you're here.

CAPT. CAMPBELL: Thank you, sir.

MR. OXER: Any other comments from the Board?

Any questions?

(No response.)

MR. OXER: Mr. Mudd, did you have some thoughts? I'll ask you first thing to say who you are and how you represent so we put it on the record, and then have at it.
MR. MUDD: Good morning. My name is Richard Mudd. I'm a manager at the City of Houston's Housing and Community Development Department. It's a pleasure to be here today, Chairman Oxer and members of the Board, so thank you for allowing me to speak.

The City of Houston is committed to addressing the blight affecting the community surrounding the apartment complex formerly known as The Bridge of Crestmont, located at 5638 Selinsky Road in Houston, Texas. In 2013, the city filed a lawsuit against the Village of Crestmont which resulted in an agreement directing the property owners to bring the complex up to code and abate criminal activity on the property.

After the owners failed to comply with this agreement, the city sought and was granted a contempt and enforcement order. This order required the complex to be vacated by October 2015, and now a proposal to demolish the Village of Crestmont complex is scheduled to go before Houston City Council on November 16 of this year. We believe the demolition of this property, scheduled to occur on December 3, would provide significant benefits to the surrounding community.

In addition, at the mayor's request, the city has assembled a multifamily task force comprised of staff from five different city departments. This task force is
part of a pilot program to identify the most dangerous and poorly managed apartment complexes in the city, and to take swift and targeted actions towards remediation. An apartment complex near the Village of Crestmont will likely be included in this pilot program which involves both enforcement action and incentives aimed at reducing crime and improving property management and living conditions.

The city also expects this area to benefit from significant private and public investments aimed at revitalizing the surrounding neighborhoods. Sterling High School, located within one mile of the Village of Crestmont, is expected to complete a new $72.3 million campus in 2017. In addition, a private developer has notified the city of its intention to invest $11 million in private funds to rehabilitate a nearby apartment complex and provide greater services to the area. The city will continue to work with this developer and other private investors to explore additional opportunities that will benefit the wider community.

Finally, Mayor Sylvester Turner's Blue Tarp Initiative is also investing in single family home rehabilitation in this area. This initiative targets homes with roof tarps due to past storm damage, and the city is committed to repairing these roofs by December 31,
Chairman Oxer and members of the Board, I thank you for your time.

MR. OXER: Appreciate your comments, Mr. Mudd. Any questions from the Board?

(No response.)

MR. OXER: Thank you, sir.

MR. MUDD: Thank you.

MR. OXER: I do have one question, I just thought of something. We're building a $72 million high school. How big is it going to be, how many students, estimated?

MR. MUDD: Unfortunately, I don't have that answer.

MR. OXER: Anybody got any idea? Any staff got any sense of how big that might be or would be? I don't have a sense of it.

SPEAKER FROM AUDIENCE: I'd say about 6,000.

MR. OXER: Okay. Thank you, Mr. Mudd.

MR. MUDD: Thank you.

MR. CAVE: Good morning, Chairman and the Board. My name is Charles Cave. I'm a resident of
Crestmont Park. I moved there in 1978 and I've been a resident since. And I just wanted, before I get started, to urge you all to exercise your discretion to overcome the waiver and push this project forward. And before I go further, I also want to just introduce you again to the folks who came with me from Crestmont Park, our neighbors, our homeowner and our stakeholders. And if you would stand, please.

MR. OXER: Rise up, everybody, stand up and show us who you are. We appreciate you coming over.

MR. CAVE: So that's to let you know that we're really seriously concerned about improving our neighborhood.

And speaking directly about the crime -- by the way, my kids have gone to school in the neighborhood, my wife is a retired teacher, she taught at the neighborhood schools, so we're a part of Crestmont, it flows through our veins, and so we feel very confident and comfortable to talk about this subject. I'm also president of our Crestmont Park Civic Association, I've been so for the last twelve years. I've been involved in the organization for about the last 28 years of my residency there. And so here's some of the things that we're doing about crime.

Number one, we've started our Citizens on Patrol which is a program that comes out of Houston Police
Department. It empowers citizens to patrol the neighborhoods and to report crime to the police department, who then responds, and because of this, our neighborhood gets a little bit higher priority response because of our Citizens on Patrol. It's been going on about four years now, we have about ten citizens that do, on average, about one hour a week of patrolling.

Number two, HPD has a program called PIP that stands for Positive Interaction Program. It meets once monthly, the second Thursday of the month at the command center where Captain Campbell resides. And that's an opportunity for us as citizens which we participate to go meet the command staff, meet the patrol officers, get a chance to give them our criminal issues, and they also give us information about crime prevention, et cetera. So we participate actively in that as well.

We also have a storefront that's not very far from us, it's on Reed Road. We had a very good ongoing relationship with the officers there. Lieutenant Young is the officer there, and they occasionally come to our civic meetings and kind of enlighten us of crime issues in our neighborhood as well. And because it's a storefront, they work Monday through Friday, we can also call on them on specific community issues that we come in contact with that they can deal more proactively with and not go
through the 911 system or the non-emergency system.

We also participate in National Night Out. We had it the first Tuesday in October.

MR. OXER: First Tuesday in October. I was active on mine.

MR. MUDD: Yes, sir, absolutely. We had a great crowd to turn out, we had about 50 people there, served some food, we had some candidates come by and speak, and Councilman Boykins sent one of his persons from his office to be involved as well.

We also have patrol by a constable in the area, Constable 7, May Walker. She provides frequent patrols in the area and throughout the community.

Also, a part of crime control is also making sure that our youth have things to do and are preoccupied and that their busy minds don't focus so much on crime or things that they shouldn't become involved in.

MR. OXER: It's not the busy minds, it's the idle hands.

MR. MUDD: Absolutely, absolutely. So we have some great programming in our community park, we've got a youth football program that operates out of there, we have ongoing activities that go there, and also, we're getting ready to bring in some computer labs, et cetera. So we're very active, we meet once a month. Our Council Member
Boykins, who comes to our meetings quite often, he says --
we have about 40 or 50 people usually -- that we're one of
the most populated civic clubs in the area in his
district. That's him saying that, of course.

And so I guess in conclusion, we're really
excited about all the development that's going on. We
feel that one of the key components also of crime
prevention is good housing, and we think that this project
will help in that regard.

MR. OXER: That's okay. Please continue.

MR. MUDD: As you already heard, we have a new
development just a thousand miles -- excuse me, a thousand
feet down the way that are homes that are selling for
$135,000.

MR. OXER: It only seems like that.

MR. MUDD: It does. So a lot of good things
going on around us. We have the attention and clear
support of our council member and city council, HPD. So
in that regard, we would urge you all to consider these
issues, and therefore, waive the crime issue as an issue
for this project going forward.

MR. OXER: Great. Mr. Cave, thank you for
coming.

Are there any questions?

DR. MUÑOZ: I have a question, sir. Why has it
taken so long? I appreciate that the area was damaged by
the storm, it's been unoccupied since '08. What's taken
so long to generate this degree of sort of activity an
interest and visibility? What you're describing is all
very positive and favorable, obviously. Why didn't it
happen four years ago, five years ago, six years ago? You
obviously have a very supportive community of friends in
your neighborhood, there's obviously a desire for this to
have happened. Back to my colleague on the dais's
question, why did it take so long?

MR. CAVE: Well, largely, I would say that this
is an issue that we did not have direct control over,
because obviously to do a project or to mitigate abandoned
apartments takes a developer, takes money and commitment
from the city, and unfortunately, due to other priorities
within the city, we were not able to garner the support
we've gotten now.

And I've got to tell you, one of the most
significant improvements has been the election of Council
Member Dwight Boykins. He has come in and made a huge
difference in terms of rallying his support and city
resources, and this developer to come in and initiate this
project.

I hope that answered your question.

MR. OXER: Good. Thank you, Mr. Cave.
Any other comments? Happy to have you come up here. I think we're going in the right direction here.

DR. SIMON: Good morning, Mr. Chairman and Board. I'm Dr. Murphy Lee Simon, Jr. I'm the pastor of Bethel Institutional Missionary Baptist Church. Many of the people that you see here today are members of our church, and I think I'm going to be able to answer your question.

I want to give you a good idea of where we are. There is a cross at Selinsky and Martin Luther King. On that corner is a brand new Exxon station. We own the vacant property right next door to it, then our church campus, and right next door are those green dilapidated apartments that have been wiped away since Ike. On the other side of those are the Crestmont Park Apartments.

MR. OXER: So this is not in a hood, this is in your hood.

DR. SIMON: This is right next door. Yes, sir.

And we have members that have been in this neighborhood that have made investments in this neighborhood for over 40-50 years. It is a neighborhood that has nurtured a Hall of Fame Canadian football player, it's nurtured doctors, lawyers, teachers that have come back to Sterling High School to teach. I myself grew up on the other side of Cullen and our community has also nurtured me and
helped me grow when I came to the church eight years ago, the church nurtured me as I went through my masters and my doctoral studies. What we do do is we are investors in the souls of the people there in the Crestmont Park area of town.

Now, you've got to understand there's a difference between South Park and Crestmont Park. When you get to Belfort, you're entering into the South Park addition of this area which has to be about, I would say, four miles down Martin Luther King. You have a high concentration of crime there. In the Selinksy-Martin Luther King area, there's not a high concentration of crime there. I'm there many times at night. We did have a situation after Ike, with the church being next door, I mean, literally the only thing that separates our property and those apartments is the wrought iron fence that's there. Ike as able to destroy the apartments and didn't touch the church. Not only did it not touch our church, but it destroyed the Crestmont Park Apartments.

To answer your question, what happened is we had some slum lords in the neighborhood. They took the money, they did not make the repairs, and over eight years, those apartments have slowly deteriorated and it's a haven for any such crime that we can imagine. One of the things that we have done is we prayed and we hoped to
God that we never find a young girl that has been raped or murdered in those apartments because they've been neglected.

MR. OXER: So basically it took from 2008 to 2013 for the city to bring down the heat.

DR. SIMON: Well, let me help you with that. About three or four years ago, I did a report with the Isaiah Factor, and I called the city out on this because we were patiently waiting but nothing happened. Soon as we began to start talking about it, we got some action from the then councilwoman, Wanda Adams. That's when we became privy to what's happening at the Crestmont Park Apartments. What was happening at the Crestmont Park Apartments is the same thing, the slum lord. He took the insurance money and never fixed the place, so we had a high crime area.

We then went in and we forced the city to start dealing with the situation because the slum lord took the money and did not pay the electricity bill, so we had people that were in the dark. Our church fed them every day, our church partnered with the city to get programs to find them new places to live so that they could have a better opportunity at life. We were able to get those apartments closed down, and now, thankfully, they're going to be destroyed.
So what we have here is we talk about the test scores of the schools, we talk about what's happening, we talk about the morale, but what we have are children that are seeing a light of hope but they have to walk past the darkness of death in order to get to school. And when they get to school and come from school, we're saying go learn, go be the best that you can be, but then when you walk right past his darkness of death, they're saying it doesn't matter because is this where I'm going to end up.

So what I'm saying is, and I know we're short of time, what we're asking is this, it's real simple, we're not asking for a handout, but what we are asking you to do is to invest in this community, just as this community has been investing in the souls that we care for.

Thank you for your time, and may the Lord our God bless you.

(Applause.)

MR. OXER: I might offer this comment, Dr. Simon. I have to say I spend a lot of time up here, but it is woefully apparent to me that you spend a whole lot more time behind that podium than I do.

(General laughter.)

DR. SIMON: Yes, sir.

MR. OXER: I appreciate your enthusiasm and
that of your congregation that has joined you, and I think we're going to be able to find some resolution to this issue.

   DR. SIMON: Thank you, sir.

   MR. OXER: Just for the record, when you're passing that plate around, you pass it down that way, don't come up here with it. We're going to do our part but I just want to get the check, you know what I mean.

   (General laughter.)

   MR. OXER: Anybody else? You hear where this is going? You're welcome, we're happy to have you if you want to say anything.

   MR. ANDERSON: I'll say it real quick. My name is Lloyd Anderson. I'll tell you a little bit about myself.

   MR. OXER: I pity you for having to follow Dr. Simon.

   MR. ANDERSON: I know. That's why I was hesitating, that was my hesitation. I'm like, really, you're going to put me behind him?

   (General laughter.)

   MR. OXER: You're a brave soul, I've got to tell you right there.

   MR. ANDERSON: Just to tell you real quick who I am. My name is Lloyd Anderson and I grew up in the
Crestmont Park area just a few blocks down from that particular project we're talking about, Crestmont Pointe. 1995 I joined the Houston Police Department, so I've been 21 years as a police officer. I went to Frost Elementary. We've been hearing the name Sterling High School, I finished from Sterling High School. Not only myself but Clyde Drexler finished from Sterling High School.

MR. OXER: The Glide.

MR. ANDERSON: Clyde the Glide finished from Sterling High School, walking distance from the apartments. Yolanda Adams, the gospel singer that won many Grammy Awards, also finished from Sterling High School. Zena Garrison -- I've got them written down.

(General laughter.)

MR. ANDERSON: Zena Garrison, professional tennis player, who also finished from Sterling High School.

MR. OXER: What they're trying to say it ain't where you come from, it's where you're going that matters.

MR. ANDERSON: That's it. And myself, who finished from Sterling High School in 1983, but not only am I a Houston police officer, I also have a nonprofit called 713 Ministries, based on the area code at that time, where we go into the apartments right down the street and we do after school programs, we do computer
classes for adults, we do all type of activities so that those kids and those residents know, like you said, it ain't where you come from, it's where you're going. We try to remove the whole broken window theory.

I'm also contacting former residents of that area that grew up over there and saying, hey, many, let's come back, let us come back. We just have celebrated 50 years of Sterling being built, we had our 50-year, and a lot of people was there and I was able to say, hey, we need to come back and give back to where we come from and don't just depend on those who are left, it's our responsibility as well to give back.

And we're looking to team up with those at Pointe to do everything I'm doing to over at Villa Americana Apartments, 5901 Selinsky. We're looking to do all type of computer classes, after school programs, mentorship. We teamed up with Boys and Girls Club -- we didn't mention that. There's a Boys and Girls Club right down the street from that as well, so with the Boys and Girls Club, the apartments we're going to be working with in that area, Pastor Simon's church, we're going to make Selinsky look real good.

Thank you for your time.

MR. OXER: Thank you, Mr. Anderson.

(Applause.)
MR. OXER: And if you want to speak, you can come up here, we're happy to have you come up and speak, but I'll just offer up this comment. You're looking for investment, there's money being put into that, but it's apparent to me that nothing changes and the investment of money is irrelevant unless there's a change of thinking. The first change has to come in the way you see yourself and see your community, and that's evident that that's occurred.

If you'd like to speak, ma'am, we'd love to have you comment.

MS. BUHL: Thank you. My name is Odeal Buhl. I am a teacher, I taught school for 41 years.

MR. OXER: Did you have this young man in your class while you were there?

(General laughter.)

MS. BUHL: No. But I moved into Crestmont addition November 29, 1969. I have been there ever since. I joined Bethel Baptist Church April 17, 1972. I have been there and Bethel has been an inspiration in the community. We have had, as he said, Clyde belonged to our church, his mother and I are good friends, as others he had mentioned came through our area. Ninety percent of the children that have gone through Bethel Church have gone to college, out and making a livelihood in society,
are great participants in society. I thank my pastor and all of the members.

I retired in 1987 with 41 years of experience, I nursed my husband and my mother during that time. When they passed on, I helped to take care of my grandchildren and great grandchildren. They're all in college, finished, have good jobs. And since that time, volunteer at my church to tutor. I tutor children free of charge and they are going on. This summer I helped a young man, he was failing in government of Texas. I said, Well, a lot of the laws have changed but bring your textbook and I'll help you. So he came back and he called me and said, I made an 80. I said, If you made an 80 at TSU, you're doing a good job.

(Applause.)

MR. OXER: Thank you, Ms. Buhl. Ms. Buhl, if you could just sign in and tell us who you are, please, so we can get that on the record.

All right. Let's get a summary review here. It seems like we have a motion from Mr. Gann, a second by Mr. Goodwin to approve staff recommendation which was to find this site ineligible. It occurs to me that Mr. Gann and Mr. Goodwin might be willing to reconsider that. Or not, it's up to you.

MR. GANN: I'm really not. That crime rate is
just way too high, as far as I'm concerned.

MR. GOODWIN: I'm willing to reconsider and withdraw my second.

MR. GANN: I can withdraw my motion, if you like.

MR. OXER: Mr. Goodwin, you're withdrawing your second. Did I hear this correctly?

MR. GOODWIN: I am.

MR. OXER: And Mr. Gann?

MR. GANN: I withdraw my first.

MR. OXER: There you go. Given the circumstances, we'll now have a motion to consider on this particular item.

DR. MUÑOZ: What would the motion be?

MR. OXER: The motion would be to deny staff recommendation on this item which was to find the site ineligible which would, in effect, find it eligible based on the commentary and the testimony that we've heard.

MS. HOLLOWAY: Yes.

MR. OXER: Is that correct, Marni?

MS. HOLLOWAY: That is correct. Denial would be to find the site eligible so that we would move forward with the process to bring it back next month -- hopefully next month if we can get it all together, for a 4 percent award.
DR. MUÑOZ: I move to find the site eligible and deny staff recommendation.

MR. OXER: Motion by Dr. Muñoz to deny staff recommendation and to find this site eligible for 4 percent financing.

MS. BINGHAM ESCAREÑO: Second.

DR. MUÑOZ: Based on the testimony that's been provided.

MR. OXER: And second by Ms. Bingham.

We heard public comment. Is there anybody else who wants to say anything on comment? I'm going to tell you like I tell some of the other folks that show up here, you've got to look where this is headed. Do you really want to say anything else? I'm happy to have you say anything you want, but it's leaning the right direction for you.

Marni, do you have anything else to add?

MS. HOLLOWAY: Other than I need to work on my presentation skills.

MR. OXER: I think all of us just had a lesson.

MS. HOLLOWAY: Yeah, we did.

(General laughter.)

MR. OXER: Dr. Simon, we appreciate you being here.

All right. Motion by Dr. Muñoz, second by Ms.
Bingham to deny staff recommendation on this item and to find this site eligible for consideration for 4 percent financing. Those in favor?

(A show of hands.)

MR. OXER: Those opposed?

MR. GANN: No.

MR. OXER: No by Mr. Gann. The item is four to one, it's approved.

(Applause.)

MR. OXER: Good job, Marni. We're going to come see you down there, we want to see that area. Just like Wheatley Courts, we're not going to ignore this, we're not just dumping the money in, we're going to see what comes down there. Okay?

While we appreciate your enthusiasm, I would ask you to be quiet because we have other items to consider as you move on.

Marni, next item, 5(b).

MS. HOLLOWAY: Item 5(b) is presentation, discussion and possible action to adopt the 2017 Multifamily Programs Procedures Manual. Texas Government Code Chapter 2306.67022 requires the Board to adopt a manual to provide information regarding the administration and eligibility for participation in the Housing Tax Credit Program. The manual as presented in your Board
book is not complete, it includes general information and headers for information that we will be filling in after the rules have been adopted and approved by the governor. The manual will be published on the Department's website no later than the date that the Uniform Multifamily Rules and QAP are filed for publication in the Texas Register.

Staff is recommending that the Board approve the 2017 Multifamily Programs Procedures Manual as presented in your Board book.

MR. OXER: Any questions from the Board?

MR. GOODWIN: Move approval.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Motion by Mr. Goodwin, second by Ms. Bingham.

DR. MUÑOZ: I have a question. Any substantive changes to this manual right now, any significant changes? Because I looked through it, I get it, it's not complete.

MR. OXER: Any big diversion from last year?

MS. HOLLOWAY: There was some big swings in editing from last year but at this point it's really about administrative issues. For instance, we made sure that this year the manual is very clear about submission, how to submit an application to the Department and a few other cleanup items like that.

MR. OXER: You're basically buffing and
polishing the edges on this, making it smoother, faster, sleeker and easier.

MS. HOLLOWAY: Right. The real meat of it is when we start marrying it up to the rules and the application and start dropping in information under those tab headings.

MR. OXER: So we're adopting this with the idea that it's still in process.

MS. HOLLOWAY: Yes.

MR. OXER: Any other thoughts, any other questions?

(No response.)

MR. OXER: Okay. I had a motion by Mr. Goodwin. Did I hear a second from you?

MR. GOODWIN: I made the motion.

MR. OXER: I know. Motion by Mr. Goodwin. Who seconded?

MS. BINGHAM ESCAREÑO: I did.

MR. OXER: All right. Motion by Mr. Goodwin, second by Ms. Bingham. There's no request for public comment. Those in favor?

(A show of hands.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous.
It looks like you're the big winner, Marni, you get to stay.

MS. HOLLOWAY: Okay. Item 5(c) is presentation, discussion and possible action on timely filed appeals under the Department's Multifamily Program Rules. This item involves Freedoms Path at Kerrville, which was previously awarded 9 percent housing tax credits for the development of 49 units in 2013, so this was a 2013 deal.

They have applied for additional funds under the deferred forgivable loan set-aside under the 2016-1 Multifamily Direct Loan NOFA. That application was received on January 4 of 2016; that's the day we opened for applications. The application was received on the same day as four other applications within the same set-aside during the regional allocation formula period, which expired on January 29. So we were still working within the RAF on the multifamily loans the same way we work within the RAF on 9 percent credits.

The application requested $980,000, more than the amount available for Rural Subregion 9 in which the development site is located. The four other applications received on that same day requested less than the amounts available in their subregions and were awarded funds under the deferred forgivable loan set-aside earlier this year.
Approximately $142,000 remain in the set-aside and that's not sufficient to meet the applicant's request.

The applicant has submitted an appeal seeking the reallocation of unused funds under the general set-aside in the 2016-1 NOFA to the deferred forgivable loan set-aside in order to award this application, so moving dollars from one set-aside to the other. They assert that the 2016-1 NOFA did not sufficiently describe the RAF in order for them to understand that they were limited to the amount available in their rural subregion. The amounts available in each subregion were published in the NOFA. The applicant actually had to add the amounts published for rural and urban subregions in order to arrive at the amount they contend should have been available to them.

It should also be noted that as the successful applicant for competitive housing tax credits in 2013, the applicant is familiar with allocations to subregions in Texas.

If the RAF limitations were removed, the application still would not have been competitive due to scoring under Section 5 of the 2016-1 NOFA. Had competitive scoring been applied, which would have been the case if we hadn't had this RAF issue to begin with, this application would have scored last for the five applications received on January 4. On February 5, staff spoke with the applicant -- this was after the RAF period
had ended so we're at collapse -- and let them know that
funding the application under the deferred forgivable set-
aside was unlikely, although a final decision had not been
made at that point since no applications had been awarded.
The applicant sent a letter on February 17, appealing staff's belief that the application was unlikely
to be funded under the set-aside. So we hadn't taken an
action but the applicant sent a letter saying, hey, wait.
On February 23, the executive director responded in a
letter reiterating the reasons why the application was
unlikely to be funded and informing the applicant of the
opportunity to explore options outside of the deferred
forgivable set-aside. On March 3, the applicant requested
that the application be considered under the general set-
aside, while requesting some repayable loan provisions
outside of the provisions of the 2016-1 NOFA.
Real Estate Analysis has found the application
to be infeasible within the parameters of the general set-
aside. REA also considered parameters outside of the NOFA
in an effort to find an avenue to provide funding to this
applicant. While the do not recommend conclusion of the
REA report is technically the trigger for this appeal, the
applicant is questioning staff administration of the NOFA
rather than the conclusion of the REA Division. That's
why I'm standing here and not Brent.
Staff does not recommend reallocating those funds for two reasons. First, applications can no longer be accepted under the NOFA, so other applicants who may have submitted an application had they known that additional funds would be available are not able to apply. Secondly, two other applications remain on the waiting list under the deferred forgivable set-aside after Freedoms Path, and reallocating funds within the NOFA at this point for this application would have ramifications for those applications, as well as potential applications that were not submitted since applicants believed that this type of waiver under the NOFA was unlikely.

Staff recommends denial of the appeal on the grounds that staff did properly apply the regional allocation formula provisions of the 2016-1 NOFA, and there are insufficient funds available to make the requested award. Any questions?

MR. OXER: Questions from the Board?

(No response.)

MR. OXER: Can I have a motion to consider then?

MS. BINGHAM ESCAREÑO: I move to approve staff's recommendation.

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

MR. OXER: And second by Mr. Gann.

Tamea, do you have a comment?

MS. DULA: I do. Good morning. Tamea Dula with Coats Rose. Nice to be with you today.

Tomorrow is Veterans Day and that means that today is a very opportune day to come to you on behalf of the Freedoms Path at Kerrville, which is a 49-unit supportive housing development in Kerrville for disabled veterans. I invite you to look in your supplemental Board book at all of the beautiful photographs of this project so that you know what we're talking about. It's in the supplemental Board book under 5(c).

This project is located in a high opportunity area. The poverty rate is 12.4 percent, substantially less than 15 percent. The median income of the area is in the second quartile. It is located on the campus of the Veterans Administration Hospital. The project got tax credits in 2013. Now, this project is dealing with a lease from the VA, and as we all know, that takes time when you're working with the Veterans Administration.

They also had some difficulties with an unexpected decision by the City of Kerrville to take a water tower out of commission because of backup of chemicals in the water from that tower. As a result, the
project had to be effectively redesigned because they had to bring water in from a different location. During that period that the project was being redesigned and get back to the point where they could consider a closing, construction costs rose substantially because this was the time of the West Texas oil boom and we had people rushing to West Texas to build housing for all of the oil workers out there.

When we got to the point that they were going to close, there were funding gaps. A 2013 tax credit deal has to be placed in service by the end of 2015. At the end of 2014 they still hadn't closed. They got the general contractor, the design consultants to agree to basically defer a substantial portion of their fee. Additionally, they got Bank of America to agree to close on that basis, on the promise that they would continue looking for fees to close this gap.

They talked with the TDHCA about this gap and were encouraged to seek HOME funds because Kerrville, with a population of less than 25,000 people, is not a participating jurisdiction, it has no HOME funds or any other HUD funds on its own account available to make grants or deferred forgivable loans to projects such as this. So there are no more soft funds available in the city. The city was able to get together $200,000 which
they gave as a local political subdivision contribution in
order to get the points to get the tax credits awarded,
but there's no more money available there.

So we have the TDHCA as the state agency for
the benefit and with the mandate to serve non-
participating jurisdictions. This is a non-participating
jurisdiction. In 2015, this project owner applied for
HOME funds in the 2015 NOFA. Problem: when the NOFA came
out, it turns out that if you'd received assistance within
the past five years, you were ineligible for that NOFA.
Then you started seeing Mr. Craig Taylor appearing here at
the Board meetings on basically a monthly basis to provide
some insight into what is necessary with a supportive
housing project, and especially a small supportive housing
project. And in 2016, after much discussion by Mr.
Taylor, and I think that contributed to the thought of
having a deferred forgivable loan set-aside in 2016, $3
million was devoted to that purpose.

This project applied on the first day that
applications were accepted. Problem: when they were told
that they were unlikely to be funded, the found, number
one, that the staff was interpreting the rules of the NOFA
that the funding had to be within the subregion because
there was a reference to the RAF. And the last page in
the materials provided here is the last page of the NOFA.
and it shows the RAF distribution there which shows that the rural subregion for Region 9 is only entitled to $430,000. The NOFA also contained a provision that you could not make application for less than $500,000 or more than a million. This application was sized at $980,000 which was what was needed in order to pay off these people who had deferred their fees in order to get the project done because they believed in the project.

If you look at the NOFA and if you look at the letter of appeal that's included in the supplemental Board book, the NOFA talks about there has to be enough money in your region. The region is both rural and urban and there was sufficient money in the region, there was like $1.7 million in the region when you add it all up. But with only $430,000 in the rural subregion, they couldn't even apply to be in the first cut and their application wouldn't even be considered until the statewide collapse.

At that point, two applications from the City of Houston and two applications from the City of Austin, both of which are participating jurisdictions, and all four of which applications had substantial deferred forgivable debt already in them, as well as grant funds, they sucked up all the money because they were able to apply for more than $500,000 but less than the subregion limit, and so they were in the first priority. They took
all the money, there's $142,000 left.

So when they were notified that there was little likelihood of being funded, we filed an appeal based upon the interpretation of the NOFA. That appeal was never dealt with, but there were conversations with staff, and the applicant was encouraged to consider the possibility of moving their application to a different set-aside. And so they did so because the executive director indicated that some of the agricultural applications had been able to meet the requirements of the general set-aside, they requested that their application be considered in the general set-aside.

And it was there as application number 2 on the list in terms of the priority of receipt, and all of the ones that had 2016 credits were considered first, and finally in August and September, this application started to be considered from underwriting status, and underwriting said, You can't qualify, you don't have enough income because if you're in this set-aside it's 3 percent interest, 30-year amortization, you can't qualify.

So here we are kind of a double catch-22 for two years running now and this is a project, it's supportive housing, it is not permitted by the TDHCA rules to have any foreclosable permanent debt or any non-cash flow debt, so truly getting into the general set-aside was
not a good idea, especially when underwriting said, We can't consider terms other than were published in the NOFA.

Sao today we're coming to you and saying the Board reserved the right in the NOFA to change the terms of the NOFA, it's in there, black and white, and we're asking that the Board exercise its discretion to do so. And we suggest that the easiest best way to do this that can benefit this project and keep it operating is to allocate some of the substantial monies that the staff says is still available back to the deferred forgivable loan set-aside so that this project can indeed be funded.

Do you have any questions? If not, Mr. Craig Taylor would like to speak.

MR. OXER: Okay. You mentioned, Tamea, that the appeal was never dealt with?

MS. DULA: Right. An appeal was filed. As staff pointed out, no definitive action had been taken at that time. They hadn't been told that they were being considered ineligible or anything like that, and so the appeal was not dealt with. So that's why we are harkening back to the February 17 appeal letter that was filed, which is attached to the appeal that's in your Board book.

MR. OXER: Okay. Any questions?

Marni, can you address this appeal question or
DR. MUÑOZ: And Marni, help me understand, I mean, I'm reading more was requested than was available.

MS. HOLLOWAY: In the subregion.

DR. MUÑOZ: And I'm hearing there's plenty available, plenty of money available, and even some kind of proposal to move money into and at this point in time change this NOFA. Can we even do that?

MS. HOLLOWAY: The Board does have the ability to --

DR. MUÑOZ: Talk about the money first.

MS. HOLLOWAY: So you'll recall that the 2016-1 NOFA was divided into four set-asides. The first one was the CHDO set-aside so that's HOME funds, $3,236,344. The deferred forgivable loan set-aside, which is the one that we're talking about right now, was $3 million. You'll recall from our conversations last year when we first published the NOFA that that deferred forgivable loan set-aside is funded with interest payments that are received on TCAP repayments. That's how we are funding that deferred forgivable set-aside so that we can continue to have those funds available and we're not depleting our pool. $4 million was set aside for the 4 percent housing tax credit layered new construction awards. The balance is considered the general set-aside, $12,872,752 was...
originally allocated.

There is sufficient funds left in the general set-aside to make an award of $980,000, but those funds are in the general set-aside which carried terms, requirements for payable debt --

DR. MUÑOZ: Which they can't.

MS. HOLLOWAY: -- at 3 percent over 30 years.

Our conversation with Mr. Taylor and Scott Deaton on February 5 was saying, okay, it's not likely that you're going to get an award. The letter that we received said, This is an appeal for assistance in connection with the denial of funding. The letter that we sent back said, We've received your letter, and went on to describe that the likelihood of receiving funding was very low. At that point we had not taken an action that was appealable under the rules. So I think to say that the appeal wasn't dealt with is not how I view it because what we did is we said, Okay, let's look at this other way that we may be able to make this happen for you.

I think it's important to point out that, yes, there are notes to the contractor and I believe the architect totaling $461,000. That's what was presented to us in the application. The balance of funds is $518,000 which would be developer fee. I think it's also important to point out that this property is open, operating and
there are folks living there. So yes, there is this concern with financing but veterans are still being housed in this property.

MR. OXER: So absent the change in financing on this, what's our interpretation, what's the agency's interpretation of the impact to the project?

MS. HOLLOWAY: The impact?

MR. OXER: They're trying to make sure funds get moved. If we move those funds, where does that money go to, what happens to that money?

MS. HOLLOWAY: What happens to the money?

DR. MUÑOZ: If we move it from the general set-side.

MR. OXER: Into the deferred.

MS. HOLLOWAY: Into the deferred forgivable.

DR. MUÑOZ: Which has a percentage repayment of 3 percent. Right?

MS. HOLLOWAY: It would go from the 3 percent at 30 years to a deferred forgivable structure.

MR. OXER: So basically we can say -- come on, Megan, get up here and help us out.

DR. MUÑOZ: And have we ever done that? I mean, this is a new one.

MS. HOLLOWAY: Not that I know of. And as I described to you earlier, there are a couple of really
important things to consider prior to taking this action. One is other applicants --

DR. MUÑOZ: Two other. Right?

MS. HOLLOWAY: There are two downstream still. There's a third that originally came in looking for deferred forgivable funds that has successfully moved on to general set-aside. So other applicants would expect the same consideration, I believe.

MR. OXER: Their expectation.

MS. HOLLOWAY: And moving funds from general set-aside to deferred forgivable at this late date means that folks who potentially would have applied, other than the two that are in line right now, didn't.

DR. MUÑOZ: And they're going to say to us?

MS. HOLLOWAY: Wait, I didn't know that waiver was available; you should give me some money too.

DR. MUÑOZ: And you were derelict in not informing us that this was a possibility.

MS. HOLLOWAY: And as I said, the language in the NOFA, as Tamea described, the Board does have the ability to do this. It's not my recommendation that you take this action.

MR. OXER: Okay. Megan.

(General talking and laughter.)

MS. SYLVESTER: This gets really, really into
the weeds about --

MR. OXER: What, again?

MS. SYLVESTER: Yes -- about how you distribute funds under a NOFA. Megan Sylvester, Legal Services.

So our method of distribution from HUD is through a NOFA and though this particular NOFA distributed funds both from TCAP, which have some lingering federal requirements but are mostly state funds, and the HOME, you have to treat the NOFA as a distribution of what would be required under that method of distribution that we told HUD. The NOFA gives you the ability to waive provisions but the ability is to waive provisions to amend a NOFA while it is still open. The NOFA is no longer open.

MR. OXER: So we don't actually have the capacity to change it if we wanted to because it is closed.

DR. MUÑOZ: Because there's a passage apparently that gives us the authority were it open. That's your point, right, it's not anymore?

MS. SYLVESTER: It is not anymore. And to amend a NOFA, you would have to reopen a NOFA and you might have the ability to do that, but then you have to reopen it for everyone, not just for this applicant.

MR. IRVINE: Would you have the authority to do that at this meeting under this posting?
MS. SYLVESTER: No.

Are there any further questions?

MR. OXER: I'm trying to look at an assessment of this. Even if we were inclined to consider this, even if we wanted to do what you said, Tamea, which I'm not saying, but even if that were an inclination, we actually don't have the capacity at this point, according to what you think.

MS. SYLVESTER: It would be my legal recommendation that you not do that.

MR. ECCLES: Beyond that, it would require we put out another NOFA which is not listed for this meeting.

MS. SYLVESTER: Right. Or reopen this NOFA, which is not an action you can take under this agenda item as posted.

MR. OXER: So do this -- come on, Tamea, you'll have your shot. Don't go away, Megan. So right now as it's currently posted, we don't have the option to reopen this, and since the NOFA is closed, we don't have the capacity to go back and restructure that without reopening it, advertising to everybody that they had the access to this.

And fundamentally, there was a deferred forgivable loan, there was basically what I call a hard real estate based on cash flow that Brent says it's got to
meet this 3 percent, 30-year amortization schedule. They applied for this one, it's not there. There's a lot of money sitting there, but they couldn't meet those requirements, they could meet the deferred forgivable but now the door closes and they can't get there. Am I getting this generally right?

MS. SYLVESTER: I think you would need to speak to Underwriting regarding whether they could get there for the deferred forgivable.

I also want to say that the application as presented and the costs which they seek to be reimbursed for is not an eligible HOME cost at this point. Basically, because they've already closed on their debt, this would be basically a refinancing, and that is not an eligible item unless you do it as part of a rehabilitation under the HOME program, and it is a statutory limitation.

MR. OXER: Okay, we've got that.

Tamea, do you want to have one more thought, a quick shot?

MS. DULA: Yes. Tamea Dula, Coats Rose.

MR. OXER: Marni, you're next.

MS. DULA: Let me point out that we filed an appeal on February 17 while the NOFA was still open. We saw what had happened. This project, which is in a non-participating jurisdiction, was unable to compete because
there was not enough funding in the subregion to let it file the minimum application that was permitted under the NOFA. Okay? You're not allowed to apply for less than $500,000, there was only $430,000 available. Okay?

We pointed out at the time that in the NOFA itself it states: Any complete applications received during the period of the RAF will be prioritized to the extent the funds are available both in the region and in the set-aside under which the application is received. If multiple applications are received in the region, then score will be used as a determining factor affecting priority of the application. If insufficient funds exist in a region -- not a subregion, a region -- to fund all applications, then the oversubscribed applications will wait for the collapse of funds by region, be combined with other applications received by the deadlines and as described by additional priority levels below.

So the NOFA calls out that it has to be considered on a regional basis. There was $1.7 million available in the region.

We also have a legal opinion from the Law Firm of Broad and Cassel, dated December 30, 2015 -- I think that this was provided to the TDHCA staff -- which says that the HOME funds would be permissible during the year after the construction completion.
"The project was completed on December 29, 2015, the partnership is applying for HOME investment partnership funds to pay eligible costs under 24 CFR, Part 92. There's nothing in 243 CFR, Part 92 which expressly prohibits an award of HOME funds after a project has been completed. In fact, had HOME funds previously been committed, 24 CFR, 92.502(d)(2) expressly allows additional funds to be committed to a project for up to one year after project completion. As such, it appears that the HOME funds may be awarded to a project post-completion to pay eligible costs so long as other requisite HOME requirements can be met."

So if you chose to fund from HOME funds, Broad and Cassel, which is a very reputable national law firm, says that it is supported. If you choose to fund with TCAP funds, then this is not a problem because TCAP funds are not subject to the same strictures as are HOME, except to the extent that this Board chooses to make them so.

MR. OXER: Thanks for your thoughts.

Marni, do you have something you wanted to say on this?

MS. HOLLOWAY: The language that Tamea was reading to you earlier about the RAF, on Section 3 Set-asides which is where we describe which funds are available and which set-asides, it starts with: All funds
will be subject to the regional allocation formula, the RAF, located in attachment A, until January 29 of 2016, which includes the subregions. So I think that this region versus --

MR. OXER: Region versus subregion.

MS. HOLLOWAY: And I explained to you earlier that the applicant was, in fact -- and you know this was a successful applicant for 9 percent tax credits and is familiar with our regional allocation formula and the subregions that we use.

MR. OXER: Okay. Here's what we're going to do, I and I think some others would like to have some legal counsel on this, so we're going to -- I know you're going to be excited about this, Tamea, but you'll just have to wait. Okay?

Craig, you'll have time.

We're going to go into an executive session. We have some things to consider in our exec session in addition to this, so I want to hear some comments from counsel on this one, so everybody be still for a second.

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

The closed session will be held in the anteroom of this room, John H. Reagan Building Number 140. The date is November 10, 2016, the time is 12:13. So we'll be right back there, we're going to have lunch as well. We've got a bit to go through, get some counsel on this, let's be back in our chairs at 1:30.

(Whereupon, at 12:13 p.m., the meeting was recessed, to reconvene this same day, November 10, 2016, following conclusion of the executive session.)

MR. OXER: All right. The Board is now reconvened in open session at 1:37. During our executive session, the Board did not adopt any policy, position, resolution, rule or regulation, or take any formal action or vote on any item.

Okay. Marni, we're back to your item, I believe. Is that correct?

MS. HOLLOWAY: Yes, sir. Item 5(c).

MR. OXER: Okay. And Megan gave some
suggestions that under this particular NOFA, given the
particular circumstances, given where we're at, we don't
exactly have a whole list of viable options in terms of
how to resolve it under this NOFA. Is that a fair
statement, Megan? You can just say.

MR. ECCLES: That's based on the comments made
out here.

MR. OXER: Correct. Based on the comments made
here, our legal inquiry was in terms of the -- let's just
say we had a legal inquiry, let's just say it that way.
Is that the right way to say it? Can't talk about the
exec session.

All right. So an option or some options in
this, we have a prospect of having a new NOFA, we have a
prospect of an additional NOFA, we have a new NOFA coming
up, we'll have one that you would present in December.

MS. HOLLOWAY: Yes.

MR. OXER: So I'll try to summarize on behalf
of the Board, at least my perception. What we'd like the
staff to do is take a look at the NOFA that's coming, the
one that is the 2017-1. Right?

MS. HOLLOWAY: Yes.

MR. OXER: That's more or less the identifier
on it, and see whether or not there is an opportunity or a
capacity where we have some structure to create in that
NOFA some mechanism to address those unfunded
applications, or the ones that were not funded or
successful under this NOFA, under the 2016 NOFA, and see
if there's a way we can make this work.

MS. HOLLOWAY: Okay. We certainly can look at
that. Of course, before committing to anything, we need
to discuss further with Megan what we can and can't do.

MR. OXER: I understand that, and we want to
see whether or not we can do it, which, of course, we'd
like to see every effort made. So what I'm saying, Tamea,
is we're trying to figure this out. Okay? So I gather
that since this facility, Freedoms Path, we've got folks
staying there now, so it's there, it's working. This is
one of the ones we're trying to thread the needle here to
make sure that this funding -- our process and procedure,
sequence of events is appropriate and that we have the
funding in the right spot. So between the TCAP and the
HOME funds, we're trying to see whether it is additions on
this coming NOFA, if we need to have a separate NOFA. I
think we'll, in a moment, ask for a motion from the Board
to consider deferring this item until next meeting to see
if you can put that together.

MR. ECCLES: I don't think there's a motion to
defer.

MR. OXER: No, there's not a motion to defer.
Maybe that's the wrong term because that has legal implications. Okay? But right now under this item, there's a staff recommendation.

MR. IRVINE: I think that this item is couched as an appeal, and even though these ancillary issues have been brought in, it's essentially an appeal of an underwriting determination, and I guess you could take action on that appeal. But other than that, all I think that is really warranted is just general guidance or request to the staff to develop the next NOFA.

MR. OXER: Well, as inarticulately as I could possibly be and confusing, I tried to just do that. My mathematical nerd speak was showing up in that one. We'd like to see if you can figure out a way to do this, and you'll have a second here in a second, Tamea, hold on. I'm getting a signal from the dugout so everybody sit still for a second.

MR. IRVINE: Unless the applicant has something further to say on this, I would think that any action here would just be simply action on the appeal.

MR. OXER: On this item as presented.

MS. HOLLOWAY: Yes, on this appeal, and then, of course, we'll take Board direction to go back and take a look at what could be done with another NOFA or a future NOFA for these applications that are on the waiting list.
at this point.

MR. OXER: Okay. But we haven't had yet --

have we had a motion on this item? We have not had a
motion on this item. Correct? Yes, we have, 6(a). Say
it again, Peggy.

MS. HENDERSON: Ms. Bingham motioned and Mr.
Gann seconded.

MR. OXER: And let the record reflect that Ms.
Bingham has departed to make her transportation, and we
are four. We'll have to recall the motion and restate it
formally. That said, we remain at quorum.

There was a motion by Ms. Bingham and second by
Mr. Gann to approve the staff recommendation on this item
which was to deny this appeal.

MS. HOLLOWAY: Yes.

MR. OXER: But in doing so, what we were trying
to do was figure out a way that we could satisfy their
needs without compounding the errors in this NOFA as it
currently exists. Perhaps we should have the restatement.

MR. GOODWIN: Since Ms. Bingham isn't here, do
we need to restate the motion?

MR. OXER: I think that would be appropriate.

Don't you, Counsel? Okay, so Mr. Gann, I'm assume you'll
offer your second if we have a motion?

MR. GOODWIN: I would move we accept staff's
recommendation.

MR. OXER: Mr. Goodwin steps in for Ms. Bingham. Motion by Mr. Goodwin and second by Mr. Gann to approve staff recommendation on this item. You've made your comments. Anything else to add to it right now, Marni?

MS. HOLLOWAY: No.

MR. OXER: Tamea, one more shot, 60 seconds, please.

MS. DULA: Tamea Dula, Coats Rose.

I thank you for trying to figure out a way to accomplish the goal. I wanted to make two points, however. One is that no developer fee has been paid with regard to this project. As presented in the underwriting report, it talks about additional developer fee, but that's additional developer fee vis-à-vis potential eligible basis, it's not additional in the pockets of the developer, the developer has not been paid. And the second item I wanted to say is to reiterate that this was not an appeal of an underwriting determination, it was a reiteration of the appeal in February of the methodology for the deferred forgivable loan process.

Thank you.

MR. OXER: The executive director says thank you for that correction. But at any rate, it does
constitute an appeal, not of the real estate analysis but of the procedural administration of the rule. Right?

MS. DULA: Yes, it does constitute an appeal, although I do not know that we have yet to accept through the underwriting that occurred last week. Had an event that from the staff's point of view constituted a determination which would trigger an appeal. And the NOFA is now over, et cetera, so we're having to base it upon the February appeal.

Thank you.

MR. OXER: All right. Anything to add to that, Marni? Are you good?

Okay, Brent. You didn't think you were going to slip up there and not get noticed, did you? How many scenarios did you look at this for Real Estate Analysis?

MR. STEWART: I believe three. Brent Stewart, Real Estate Analysis.

We looked at it three different ways, and the underwriting do not recommend was based on the terms that are outlined in the NOFA, 3 percent, 30-year.

MR. OXER: That was on the general set-aside out of that NOFA, as opposed to the deferred forgivable bucket.

MR. STEWART: That's right. And there's some issues here with, you know, there's some issues in the
rules with respect to supportive housing and some of the underwriting exceptions it gets versus some of the thing related to the loan structure in the NOFA versus whether it's supportive housing. There's kind of a collision of different things occurring here, and the scenarios that we ran included we underwrote as under the NOFA, we underwrote it as if it were zero percent soft pay debt, and based on the cash flows, we could get none of those scenarios to work. We worked with the applicant on various scenarios. We've yet to get to one that actually works under the rules, so there would need to be some additional rule type of exceptions or something that would go along with trying to fit that under the NOFA.

I want to clarify, though, that the information that we have says that in the development cost schedule between the original underwriting and the underwriting today, the total amount of developer fee went up based on higher costs, not just eligible basis but actual costs. And so of the $980,000 that's in this request, a portion of that is to pay for additional developer fee based on the increased costs.

MR. OXER: What's the difference? What's the step up in the developer fee, more or less?

MR. STEWART: So the total amount of the developer fee previously underwritten, the total amount of
the developer fee was $1.17-, so a million one seventy.  
The new developer fee amount is a million six thirty.  
Previously, the amount of deferred fee was $414,000, and  
as underwritten with the higher fee, higher equity and  
this $980-, there's $26,000 that's deferred. So I  
understand that there have not been checks cut to the  
developer, but there's a bit portion of this new money  
that's going to pay for new developer fee based on the  
higher costs that they incurred. Does that make sense?

    MR. OXER: Yes.

    DR. MUÑOZ: Say that again.

    MR. STEWART: Costs went up.

    DR. MUÑOZ: Costs went up so the developer fee  
goes up.

    MR. STEWART: The developer fee goes up.

    MR. OXER: Because it's a percentage of the  
cost basis.

    MR. STEWART: So of this money --

    DR. MUÑOZ: Of this money or of this potential  
money?

    MR. STEWART: Yeah, potential money.

    DR. MUÑOZ: There you go.

    MR. STEWART: So of the $980,000, $518,000 is  
going to the developer fee.

    DR. MUÑOZ: More than half.

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MR. STEWART: That's right.

MR. OXER: Craig, do you have something you want to add?

MR. TAYLOR: Oh, yes, sir.

MR. OXER: Your turn.

MR. TAYLOR: Thank you very much. Craig Taylor, Communities for Veterans. I've missed you guys, it's been a while now.

MR. OXER: We remember. Freedoms Path hasn't been off of our radar for very long, you know that.

MR. TAYLOR: Yes, sir.

I'm very much confused by the comments that we just heard, so let me state the facts. I've been in front of you before. We have received zero dollars for developer fee, nothing, so we have worked five years on this project and received nothing for it. We got it built and we got it built by three things happening. Bank of America wanted to make sure there was enough money in the budget to cover construction costs, so they actually increased the amount that they paid for the equity so there would be enough equity coming into the project during construction that we could complete construction.

The second way we got there was by getting some of our professionals, primarily our design team, because of additional costs to defer $461,000 in payments. Bank
of America wanted to make sure that that was delimited and quantified, so they asked that notes for those amounts be entered into. These are not mortgages, these are not debts that are tied to the property, these were partnership notes to vendors that we were asked to execute on behalf of Bank of America so that it wouldn't be an open-ended thing subject to liens and so forth, and so we did that, $461,000.

The third thing was Bank of America agreed to close and we agreed to go forward with the project with 100 percent deferral of our developer fee, 100 percent. So all of that was predicated on the idea that we could come back and ask this agency for additional money. And I could go through the litany, and that's why I've been in front you all time and again, about all the various options and efforts we've made attempting to get that funding, and we still haven't.

So if the $980,000 is received, $461,000 goes to pay the professionals who helped us get this project done, and $519,000 goes to pay us a developer fee. And gentlemen, I have been as transparent and clear about that as I could be from the get-go. Your rules say that a developer fee on this project can go to 20 percent on a small project in a rural location, so when the numbers are done for cost certification and so forth, 20 percent of
the total development cost is a new number, it's not the $1.1 million it was before, it's some new number, $1.6 million or whatever. But it is patently wrong to make even any suggestion that the money that this $980,000 represents would somehow go into our pockets beyond the first payment of a developer fee on this five-year-old project of $521,000.

I mean, there is no other way to cut this, that's exactly what would happen with the $980,000. If there is that much money, it doesn't even matter if it goes into basis, it can't be paid. There's not enough money in the cash flow even to show that that can be paid.

Thank you very much.

MR. OXER: Thank you, Craig.

MR. GOODWIN: I have a question. So if you receive the $519,000, is the book closed on the remainder of the developer fee?

MR. TAYLOR: No, sir. It becomes a deferred developer fee, and like with any other property, you have 15 years through the life of the property, even though we're now into the first year, we're past that already. So you have 15 years to see that that gets repaid.

What happens if it goes into eligible basis, and your folks could tell you better than me, is that if it never gets paid and it's needed to perfect the credits,
then the syndicator asks the developer to pony up the money so that money can then be paid back to you and you get it into eligible basis. The problem with doing that is it creates phantom income, you loaned the money and you then paid yourself back, and now you've got to pay taxes on the money that just got paid back.

MR. OXER: That you just had before you gave it to yourself.

MR. TAYLOR: Yes, sir. So we don't think we have an eligible basis problem, it is just what was allowed based on the 20 percent. But they've run the cash flow analysis. There's not enough cash flow in this property to show that in 15 years that deferred developer fee can be paid. Whether it's $1.1 million or $1.6 million, it's just not there. So the issue for us is we get this money now, and you didn't ask, I need to shut up, maybe, but if you want to know what will we do if this doesn't happen, the project is built. We've already, in trying to meet underwriting, we've cut our services budget out there and we would take whatever cash flow we have, we would pay off the vendors so they don't sue us, and we would then try and pay whatever developer fee we could at a cash flow down the road.

That's just not right. Nobody out here, none of your stable of developers would have done this project.
and not gotten paid. It has nothing to do with whether
we're for-profit or nonprofit or whatever, we need to be
paid for our services, and unfortunately, in a way, guys,
you are the only pot of money, that's why we keep coming
back.

But anyway, that's just the God's truth.

MR. GOODWIN: If we figured out a way to in the
future get you this $980,000, would you agree to say the
$519- was your payment in full.

MR. TAYLOR: I'll have to talk to my boss and
our accountant to make sure.

MR. GOODWIN: Just curious. There's no legally
binding thing, just curious.

MR. TAYLOR: That's above my pay grade, that's
not a decision I can make.

MR. OXER: Did you get paid for this?

MR. TAYLOR: Not yet.

(General laughter.)

MR. TAYLOR: That's an interesting suggestion,
but I can't give you an answer on that, sir.

DR. MUÑOZ: That was a very helpful
explanation. I just wanted to thank you.

MR. OXER: Last comment, Brent.

MR. STEWART: I'll wait until it comes back.

MR. OXER: All right. We had a motion by Mr.
Goodwin, second by Mr. Gann to approve staff recommendation on item 6(a).

MS. HOLLOWAY: No. 5(c). Let's not get ahead of ourselves.

MR. OXER: 5(c). That's wishful thinking, I guess, if we were that far along.

MS. HOLLOWAY: Actually, I would be fine with moving forward on that particular motion.

MR. OXER: Okay. Tamea, you're satisfied you had your say?

MS. DULA: Yes.

MR. OXER: Craig, you okay?

MR. TAYLOR: Yes, sir.

MR. OXER: All right. Motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation on item 5(c) which would deny this appeal. Let's take care of that one first. Those in favor?

(A show of hands.)

MR. OXER: And opposed?

(No response.)

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

Now, staff directive/directions from the Board is to take the coming NOFA and see whether or not we can work out some way to make this fit.

MS. HOLLOWAY: Yes, sir. We will do that.
MR. OXER: And for those that were unfunded for this sort of thing because we really don't want to look at opening up all of this, but we want to find those applications that were not funded that have these kind of issues and see if we can satisfy this because we really want to make sure that this works. So we'll wait for you at the next meeting under the draft NOFA 17-1 to see if we can accommodate their interests in some fashion, whether it's possible. You understand this ain't no primrose path, it has some rocks in it. So see if you can make this work, see if you can come back to us and tell us something that makes that work.

DR. MUÑOZ: Minimizing the stones on the road, given the nature of the population being served in this assisted living for veterans -- as I receive messages on Marine Corps birthday and pictures of Chesty Puller, famous Marine.

MR. OXER: Semper fi.

Okay, 5(c) is complete. Thank you. And for the record, we are going to see you back, Craig.

Marni, 6(a).

MS. HOLLOWAY: 6(a) is presentation, discussion and possible action on orders adopting the repeal of the 2016 sections of Chapter 10 and adopting the new 2017 Subchapter A concerning general information and
definitions, Subchapter B concerning site and development requirements and restrictions, Subchapter C concerning application submission requirements and eligibility criteria, Board decisions and waiver of rules for applications, and Subchapter G concerning fee schedules, appeals and other provisions, and directing the publication in the Texas Register.

The Uniform Multifamily Rules in Chapter 10 contain eligibility, threshold and procedural requirements relating to applications for multifamily funding. The provisions in this chapter apply to all fund sources utilized by the Department to assist multifamily developments. We are presenting the proposed final rule after the proposed draft new Chapter 10 was published in the September 23 issue of the Texas Register, we've received public comment, reviewed it and provided reasoned response by staff. We have made some limited changes to the rule as a response to comment and correct some errors.

Let's note that this item that we're discussing right now does not include Subchapter D relating to underwriting. Brent is going to discuss that later. Subchapter E, post-award and asset management requirements, will be discussed next month, as will Chapter 12, which is the multifamily housing bond rules and our new multifamily direct loan rule, also will be
next month.

So I'm just going to run through and tell you some of the highlights of what's happened as a result of public comment. For Subchapter A, we have modified several definitions as the result of public comments; we have not struck any or added anything new, of course.

Subchapter B concerns site and development restrictions and standards, and this subchapter garnered the most public comment by far. There are two items within Subchapter B that a lot of people are interested in, and I'm sure some of these folks are going to talk about. Undesirable site features, one of the recommendations that we are making is that for historic preservation projects they have a path to exemption of the undesirable site features, just as rehabilitation of an affordable housing projects do.

A number of commenters requested that the distance from a railroad be left at 100 feet where it was last year. You'll remember we talked about that 100 feet quite a bit one day. It's important to note that none of the commenters provided data that indicates is an appropriate measurement to protect the health and safety of tenants. HUD considers noise at 65 decibels to be acceptable, above 75 decibels it is unacceptable. The 500 feet presented by staff is the result of information
published by the U.S. Department of Transportation, Federal Railroad Administration which describes the noise at 500 feet from a suburban grade crossing with horns at approximately 65 decibels, so at that acceptable HUD level. The same website says that at 100 feet from that same crossing, the noise level is at 80 decibels which is louder than standing a mile and a half from the end of Runway 22-R at Kennedy Airport.

We had originally proposed a half mile distance. That is the evacuation zone in cases of accidents with trains bearing petroleum products. We're going to continue to look at that one and may bring it back next year if we can find more supporting data.

There was also a great deal of comment regarding undesirable neighborhood characteristics, so the Crestmont project that we talked about earlier today. It's important to note that undesirable neighborhood is not a full stop, as we found out today; rather, it is a threshold at which both the Department and the applicant take a closer look at the proposed site. Most of the developments we saw in the past year with these characteristics were among the 52 4 percent applications we evaluated. Just like the four applications on the consent agenda today, all had undesirable neighborhood characteristics that staff was able to get to that
mitigation, and then Crestmont -- which we all discussed and learned a lot about presentation skills.

MR. OXER: Boy, did we.

MS. HOLLOWAY: Boy, did we. I asked why they don't applaud when I talk.

MR. OXER: They said amen to that.

(General laughter.)

MS. HOLLOWAY: Just as with these five applications, no final decision regarding eligibility is made by staff. Any applicant with a site that staff cannot recommend as eligible will have an opportunity to address the Board with their evidence and perspective. Yes, applicants proposing these sites have to do some more work, and admittedly, this past year it took us a while to get to a standard for the evidence of mitigation that was needed, and a couple of applicants suffered through that process with us.

A number of commenters suggested removing Neighborhood Scout as a tool for measurement of crime rates, but no alternative was presented to us. Staff is aware of the limitations of that website. We don't ever just use the Neighborhood Scout number, we just use that Neighborhood Scout number to trigger a further look.

With this proposed rule, we have made several important changes from last year to undesirable
neighborhood standards. We have removed the environmental items; these are handled by an environmental site assessment, so including them here is duplicative. We've clarified the requirement for disclosure of schools.

DR. MUÑOZ: Hey, Marni. Can I go back to the crime thing?

MS. HOLLOWAY: Yes.

DR. MUÑOZ: Name that service again.

MS. HOLLOWAY: Neighborhood Scout.

DR. MUÑOZ: Is that fairly reliable? That's where we get that number of 18.

MS. HOLLOWAY: That's the problem it's not.

DR. MUÑOZ: Because the problem is if you put it in there and you refer to it, it kind of gives it the appearance of credibility and then we have this captain coming up saying this is what I do every day and this isn't accurate.

MS. HOLLOWAY: And this is a conversation that's been ongoing. We have not been able to find, and no one has presented us with, a substitute that works statewide. For instance, the City of Houston publishes crime data. You can go to the City of Houston Police Department website and pull up all the data for a beat and you can get down to addresses and everything else. Other police departments do not. So Neighborhood Scout
functions as a trigger and that's all that it is. That's all that it is, it's just a trigger for we need to look at this again, we need to gather that local data, we need to look at whether or not crime rates are increasing or decreasing.

DR. MUÑOZ: Well, I guess I'd say, by the same token, if it's not reliable and if it's not reliable and it says a 20 and maybe it's not reliable if it says a 42.

MS. HOLLOWAY: That's true. And it could be that it's not reliable when it says 10.

DR. MUÑOZ: That's right. I get it, there is no apparently reasonably acceptable substitute at the moment, but if we're going to make this something that can make a project eligible or ineligible, we should provide something a little bit more reliable. I don't have an answer, by the way.

MR. OXER: Well, providing something more reliable would mean that there would be something more reliable that's out there, which I gather it's not at this point. Is that right, Marni?

MS. HOLLOWAY: We have not been able to find anything and the development community has not been able to find anything either.

MR. OXER: So what you're saying is this is bad radar, but absent this, we're flying in the dark.
MS. HOLLOWAY: Right.

MR. OXER: That's one more you can add to your list.

(General laughter.)

DR. MUÑOZ: Either way, you might hit the mountain.

MS. HOLLOWAY: You might.

MR. OXER: But at least on the first one you would know you're going to.

MS. HOLLOWAY: At least you'd know what was coming, you could duck.

We've also clarified the requirements for mitigation on all the undesirable neighborhood characteristics and we're creating a disclosure package that will simplify the process for applicants and staff.

There was some comment received regarding the removal of this item. It's important to repeat that the vast majority of applications impacted by this rule are submitted to the 4 percent program where competitive scoring does not drive site selection.

Subchapter C is application submission requirements, ineligibility criteria, Board decisions and waiver of rules for applications. There was also a good deal of comment in this subchapter received on administrative deficiencies. We had suggested the
deficiency period to three days, and response to comment, we are leaving it at five days which is what it was last year.

By far, the most comment was received regarding Section 811 to this subchapter from the QAP as a scoring item. This change was made in response to agreement amongst the attendees at one of the monthly planning meetings. Many commenters suggested that it be moved back to the QAP, but staff doesn't believe that we have the ability under the Administrative Procedures Act to make that change. We have changed the requirements for the number of units to the lower of ten units or 10 percent in order to not negatively impact smaller developments.

There were several comments on Subchapter G requesting clarification of fees, and staff has made changes in response to those comments.

Staff is recommending that the final order adopting the repeal of 2016 10 TAC Chapter 10 and the final order adopting the proposed new 10 TAC Chapter 10, Subchapters A, B, C and G, concerning the Uniform Multifamily Rules be adopted, together with the preambles as presented.

MR. OXER: And to be clear, this is item 6(b), not 6(a). Is that correct?

MS. HOLLOWAY: No. This is 6(a). 6(b) is the
MR. OXER: I was just trying to make sure if there was a question that came up.

MR. ECCLES: I think actually the chair is correct that this is on the agenda as 6(b).

MS. HOLLOWAY: Are you sure? Let's be clear.

MR. OXER: Let's be clear.

MR. IRVINE: That's what it says in the supplemental posting.

MS. HOLLOWAY: It is. I apologize.

MR. OXER: No apology necessary.

MS. HOLLOWAY: This is 6(b). I didn't realize that the order was different, I was just thinking Chapter 10, Chapter 11.

MR. OXER: Your mistake would be to presume that there was some logic to our approach to this. Is that what you're saying?

(General laughter.)

MS. HOLLOWAY: Yes. My apologies.

MR. OXER: No problem. To be clear for the record, this is 6(b).

MS. HOLLOWAY: Yes.

MR. OXER: And all those things that you said, of course, apply only to 6(b).

Questions from the Board? Motion to consider?
MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation on item 6(b).

DR. MUÑOZ: Second.

MR. OXER: A second by Dr. Muñoz.

Okay, Walter, you're up.

MR. LYTTLE: Mr. Chairman, I have a legislative letter also to read. Do you want me to do that first or after everybody comments?

MR. OXER: Let Walter take of it and we'll get to you next.

MR. MOREAU: Walter Moreau, the director of Foundation Communities.

I think we found a quirk or something weird, and we mainly develop affordable housing in Austin so that would be appropriate.

MR. OXER: That would be a weird quirk.

MR. MOREAU: Exactly. One of our state reps is resigning, there will be a new election, we probably won't have a state rep and that covers most of the urban core of Austin, so we can't get a letter March 1. I just want to be really sure in the rules that there's some provision for an extension of that deadline so that whenever the new state rep is elected --

MR. OXER: Is that a QAP comment?
MR. MOREAU: I think it's a rule comment.

MS. HOLLOWAY: That's actually a QAP comment.

MR. IRVINE: It's a 6(a) comment.

MR. MOREAU: I'm just as confused.

MR. OXER: That's what we've started. That's all right. Make your comment and it will be retroactive.

MR. MOREAU: Whether it's rule or QAP, it makes us nervous because we expect that seat to be vacant on March 1, and we want to make sure there's some --

MR. OXER: Accommodation to that circumstance.

Okay. Message received.

MR. MOREAU: Thanks.

MR. OXER: Thanks.

Regarding item 6(b), everybody clear, 6(b).

MR. LYTTLE: Mr. Chairman, did you want me to read this in?

MR. OXER: Hold on.

MR. LYTTLE: This is 6(b).

MR. OXER: Yeah, 6(b). Michael, you're up.

MR. MOREAU: So this is the QAP.

MR. OXER: no.

MR. LYTTLE: Walter, it's my turn.

(General laughter.)

MR. OXER: Is somebody pumping gas in here or something? We've got to sit down and let Michael talk for
a minute. Hold still. You in the middle, your name is what?

MR. MARKS: Scott Marks.

MR. OXER: Scott, be quiet and stand still.

Michael.

MR. LYTTLE: "We write to you today concerning the proposed changes to Texas Administrative Code Section 10.101 pertaining to the 2017 Multifamily Rules. Specifically, we are concerned about Subsection 10.101(a)(2)(G) of the proposed rules. This subsection relates to undesirable site features of a proposal to determine if a project is eligible for support from the Texas Department of Housing and Community Affairs.

"Currently, these rules establish a two-mile zone around a nuclear generation facility as an undesirable site feature, and accordingly, makes development projects within this zone ineligible for funding from TDHCA. As we understand the proposed rule changes, the Board is expanding this zone from the current two miles to ten miles from all nuclear generation facilities. While we applaud the decision of the Board to allow review of projects within the proposed zone, we do not believe expanding the exclusion zone from two to ten miles is good public policy, nor does it reflect the safety of Texas's nuclear generation facilities and the
neighborhoods surrounding them. Furthermore, we would like to see concrete reasoning behind this proposed rule change before the Board takes an action to expand the eligibility zone.

"The U.S. Nuclear Regulatory Commission, NRC, is the federal entity charged with ensuring the safety of the nation's nuclear power plants. The NRC works closely with our Texas Commission on Environmental Quality to regulate and monitor the radiation levels from Texas's nuclear generation facilities. This federal and state cooperation guarantees a layered protective system. Recently, the NRC requested the National Academy of Sciences design a study to determine whether there was increased cancer risk to residents near nuclear energy facilities. This research effort follows a comparable study by the federal government in 1990. That study was not able to identify any increase in cancer mortality risk.

"After much collaboration, the NRC decided to cease work on the new study, deeming it impractical for this study to scientifically prove or disprove any increased cancer risks associated with radiation levels from our nuclear generation facilities.

"The preliminary research developed by the NAS study did establish the average amount of exposure of
radiation released at nuclear plans is .009 millirem which is less than one percent of the levels of naturally occurring radiation in the environment of 300 millirem of exposure for the typical citizen. In fact, the NRC sets an individual exposure limit for members of the public of 100 millirem per year from any and all licensed uses of radioactive material. The U.S. Environmental Protection Agency sets an additional environmental radiation safety standard of 25 millirem per year for any member of the public from any nuclear power plant operations. These levels are continuously monitored by the plan operations, NRC, EPA and TCEQ to verify compliance with the strict exposure levels.

"To provide a frame of reference of these levels, in March 2009, the National Council on Radiation Protection and Measurements issued a report called "Ionizing Radiation Exposure of the Population of the United States" that determined medical radiation exposure within the U.S. population has increased since the early 1980s because of the increased use of radiation-based imaging procedures, including computed tomograph, known as CT scans, or CAT scans. The NCRP reported that the average annual medical radiation exposure for Americans has increased to 620 millirem from 360 millirem over the period. We do not believe our state's hospitals or
imaging centers create "an undesirable site feature" and given the comparable radiational exposure limits, we do not believe our nuclear generation facilities do either.

"Finally, the operators of our state's nuclear generation facilities have to develop detailed emergency plans for each facility. These plans must be reviewed and approved by the NRC and the TCEQ and become part of the operating license for the facility. The plans not only have to have ensured monitoring compliance but they also have to include evacuation procedures in the event of an accident for all population centers located within five miles of the plant. As a result, the operator of the Comanche Peak Power Plant already has to ensure safety of all citizens within five miles of the plant as part of its license to operate.

"We appreciate your review of TDHCA's lending and grant provisions located near the site's nuclear facilities. We support ensuring taxpayer dollars do not go to projects that will not support TDHCA's goals or appreciate over time because the surrounding neighborhood is an undesirable location. We commend you for looking at the area around nuclear plants but we believe expanding that zone from the current two miles to ten miles is too far and does not reflect the operation realities of our nuclear facilities. Because of the information provided

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above, we suggest no expansion changes until there are proven studies that demonstrate this is the safest policy change for Texans.

"Again, we appreciate your efforts to expend taxpayer resources strategically to develop high quality affordable housing which allows Texas communities to thrive, and we understand your proposed changes to the Texas Administrative Code 10.101(a)(2)(G) seek to ensure that mission. We, however, believe it is an unnecessary change at this time and request that you continue to look at this issue more closely before adopting this rule change.

"Thank you for our service and consideration of these thoughts.

"Signed Respectfully, Senator Brian Birdwell, Chairman, Committee on Nominations; and Representative Jim Keffer, Chairman, Natural Resources."

MR. OXER: Thank you, Michael.

MR. MOREAU: I had one other quirk and it is in the rules. There's a unit and development features menu, so in the QAP to score points you have to include things off this menu, like high speed internet, 100 percent masonry, 30-year roof shingles or metal roof. This is really in the weeds, but all of our recent affordable housing developments in Austin are on smaller sites,
Homestead, Live Oak, Cardinal Point, our Bluebonnet Studios on South Lamar. To look like all the conventional market apartments, we are doing a three or four story design with more of a flat roof and what we put on is a not inexpensive TPO membrane roof. It's more highly reflective and better for green building. You can put the air conditioning units for safety and maintenance on the roof, it accommodates solar panels, but we can't get the points for that even though we believe it's as good or better than, from a resident's perspective, a shingle roof. It's a quirky thing.

MR. OXER: Getting in the weeds is what this discussion is about, so comments accepted.

MR. MOREAU: Thank you.

MR. ECCLES: I have just a quick clarification. Had you made that comment during the public comment period?

MR. MOREAU: Yes. And the draft rules exclude TPOs and we'd like to change that to include, with the same 30-year warranty.

MR. OXER: And not that we ever want to limit -- that's not true -- there are times when we want to limit compounding and adding new things. We're to the point now we've got to get this written, get it done, put it in the rules. So what it really gets down to is we've
got to talk about the things that have been considered, been a part of the discussion, we can't start anything new now. So as long as that was a part of the discussion before. Is that basically correct, Counselor?

MR. ECCLES: Sure.

MR. MOREAU: Thank you.

MR. OXER: All right. Scott. Thank you for being so patient.

MR. MARKS: Sure. Scott Marks with Coats Rose, and I'm here speaking on behalf of 28 housing authorities that submitted comments on the undesirable neighborhoods rule, and TAAHP also submitted at least similar comments. We presented Plan A and Plan B in our comments. Plan A is just to remove the undesirable neighborhood characteristics rule, and I'd like to talk first about that before talking about more refined comments on the rule. We've been told that this rule arises an allegation of affirmatively furthering fair housing, so TAAHP looked at the ten largest states in the country to see if any other state has a rule that makes sites ineligible because of these types of undesirable neighborhood characteristics, and we didn't find any other state that makes it a threshold requirement.

In fact, we found almost the opposite. Pennsylvania, for example, awards points if your site is
likely to decrease the level of crime in the neighborhood. So to the extent that the argument is that there is a federal statute that requires this, the ten largest states, other than Texas, I guess, don't see that obligation, or at least in their rules they don't have a similar rule.

Another point I'd like to make in favor of Plan A before we move to Plan B is that I understand that there hasn't been a site yet that's been deemed ineligible under the undesirable neighborhood characteristics. So there's been a lot of blood, sweat and tears that the development community has put into making their arguments under the rule, there's been a lot of state resources that's been involved in looking at these sites under the rule, but I don't know that there has been a site yet that has been deemed ineligible under the rule. There have been sites where people have lost site control, developers have lost site control because they were wrangling over crime statistics and things of that nature, and they lost site control for their site.

So those are my arguments in favor of Plan A, removing the rule altogether.

Plan B is to make some changes to this rule on why --

DR. MUÑOZ: I'm sorry to interrupt. You said
to remove undesirable characteristics altogether.

MR. MARKS: Neighborhoods. So we would still have the undesirable site features which are within a few hundred feet of railroads and things of that nature, but this kind of what many people call the social engineering of the undesirable neighborhoods, the crime, the blight. These could be arguments for investing in a neighborhood.

DR. MUÑOZ: Things we heard this morning.

MR. MARKS: Exactly. Removing that undesirable neighborhood characteristics rule is Plan A that the housing authorities and TAAHP commented on.

Plan B is to take out some of the aspects of the rule such as crime and on schools. And crime, a few things about that. Neighborhood Scout is a paid subscription, so developers actually have to use their credit card and get a paid subscription to this website. A few years ago I understand that TDHCA tried to buy the data from Neighborhood Scout and couldn't buy it, and part of the reason the Department tried to do that is that it's not transparent, we can't see what's behind that score, and so it's very difficult, as you saw this morning, to make these arguments about crime when we don't even know what we're rebutting, we can't see what the boundaries are for the neighborhood or many of the other aspects of Neighborhood Scout.
And there's also just a policy question. In a lot of these neighborhoods, kids are living there, we saw that this morning, they're already living there, and to say that the Department doesn't as a policy matter want to invest in neighborhoods where children are already living and where maybe there is high crime but there's also really crummy housing. Why don't we do something about the housing, and there are lots of studies that show that that may reduce crime and it's certainly going to help the kids who are already living there, so to take out crime altogether and Neighborhood Scout.

And then this last thought on schools, to focus on elementary schools only, not middle schools and high schools. Middle schools and high schools take out huge swaths for big cities and they're not neighborhood schools, they're much larger geographic areas. And then a lot of developers have pointed out that the children who live at the tax credit sites tend to be elementary school kids anyway, it's rare for them to be middle school or high school students.

Thank you for your attention.

DR. MUÑOZ: I've got a question. So you're suggesting that we be sort of inconsiderate of crime rates as they're currently being reported in these neighborhoods.
MR. OXER: In Neighborhood Scout.

DR. MUÑOZ: As they're being reported through this particular paid service, and remove middle and high schools from consideration of the kind of educational efficacy that exists in these neighborhoods. By your own argument, though, you say we'll consider only elementary schools because most of the kids in these homes are young. Does the laws of development get suspended or don't they eventually become middle and high school kids? Don't they matriculate to other schools?

MR. MARKS: Yes.

DR. MUÑOZ: And the argument about high schools, yes, some high schools might attract some students from outside of the neighborhood, but that wouldn't necessarily be the case for middle schools.

MR. MARKS: And Dr. Muñoz, as we saw in this last 9 percent round, tax credits went to the suburbs and to the far flung areas and not to the cities, and so we have maps that we've prepared that show just a large part of the city of Austin, the city of Houston are ineligible because of the schools, because the middle and high schools. And when you look at those maps and you think about whether it would be better to build tax credit housing there or in some of the far flung areas where the tax credits have gone, it's hard to make an argument that
a kid is better off in a far flung area.

DR. MUÑOZ: I'm not prepared to make that argument either, but your argument is that we be incognizant of the low performing schools in the neighborhood. That doesn't strike me as a reasonable argument either.

MR. MARKS: So an elementary school has small attendance boundaries that tend to be a neighborhood. It is called the undesirable neighborhood school, and so you would think that you would have criteria related to the neighborhood. But middle schools have a very large attendance boundaries; many, many neighborhoods are covered by middle school attendance boundaries, and high schools the same. So to say that such a huge geographic area is undesirable because of a public middle school.

DR. MUÑOZ: I'm going to look into that point of the middle school. I think the issue you raised is fair with respect to the high school. You may be right and I'm just not aware of sort of how that gets defined, but I'll ask the question about that.

MR. MARKS: Thank you.

DR. MUÑOZ: I appreciate your patience.

MR. OXER: Thanks, Scott.

Janine.

MS. SISAK: Good afternoon, everyone. I'm
Janine Sisak. I'm here today on behalf of the TAAHP as the QAP chair.

TAAHP did use kind of Scott's markup to the undesirable neighborhood features part of the Multifamily Rules in submitting our comments, so we are in large part in agreement with many of the arguments that Scott raise. However, for me, I just wanted to provide a little kind of on-the-ground reality check for this. This particular provision I think is more problematic for 4 percent deals. As Scott mentioned, the 9 percent program isn't really serving the urban areas right now, so we're left with the 4 percent housing tax credit as the tool to serve those areas which have the largest population of people in need of this type of housing. And so to have this very robust yet subjective threshold rule, when none of the other larger states in the country have anything like this, I think deserves a higher level of scrutiny than we've given it.

We took a lot of time to mark up this provision. Again, Plan A was removal, Plan B was a markup, and unlike a lot of provisions of the Multifamily Rules and the QAP, a lot of our changes in this particular section were not addressed or accepted, and so many people, as Marni noted so many people commented on the section, when we first had a draft, so much conversation
dealt with this section. And we're just not seeing enough change here, we'd like to see more change in this section. And it's not about giving developers kind of unfettered access to go to the worst neighborhoods in urban areas. That would be a bad investment for us as private developers, we would have a hard time getting investors and lenders to go into these neighborhoods.

It's more of kind of the process and how bloated this rule has gotten over the years and kind of the devil in the details, and we talked a lot about it with Neighborhood Scout, the school data is also problematic, and what happens is just we get caught in this process and it takes time. We spent how long, two hours this morning on that deal. It's an important conversation, I'm glad that we're having it, but as Scott mentioned, time kills bond deals. Bond deals you need high rent, you need a hot market, you need a QCT. Some of these QCTs in these urban areas are at-risk because they're gentrifying so quickly.

So if you hold up a bond deal for a couple of months, kind of arguing these subjective things when I've heard from other people -- I personally have never gotten into one of these scenarios with staff -- but this concept that a craft deal is like a little bit of a moving target I think is the problem. I can't speak for the room, but I
personally don't think that there's anything wrong with
the concept behind this policy. It's how it's written in
a five-page rule and how it takes so much staff time and
also developer time and money. I mean, Joy spent $75,000
getting through this process on one of her deals. And so
that's the problem I really see and we really need to make
some more changes here.

So those are my comments. Thank you for your
time.

MR. OXER: Thanks, Janine.

Sarah.

MS. S. ANDERSON: Sarah Anderson, S. Anderson
Consulting. And I'm actually just here to make one
comment and this is my own personal comment, and it has to
do with Neighborhood Scout.

One, I'd like to thank staff for listening and
doing some of the research on Neighborhood Scout. They
did put in the provision that allows us to bring in local
data. We actually -- I can't say we but a person who
works with me actually called and spoke with the CEO of
Neighborhood Scout. She found the anomalous data for an
area in rural that had almost no crime rate in real terms
but because of the way that they extrapolate and they do
projections, showed it to be over the 18 threshold which
made absolutely no sense. And she went through, she spent
days going through their online technical support and ended up literally calling the CEO on this, who verified that they do strange extrapolations with their data in some areas and said, yes, that there were going to be problems.

So I think that as long as you guys are looking and understanding that there are problems and you allow us to come in, I think hopefully everybody here will be able to bring data that will show if there isn't a problem, they can show real data. And so I'd like to thank staff for doing that, and I just wanted to reiterate that even the owners of Neighborhood Scout will tell you that it's not that they're just taking data and reiterating it, that they're actually manipulating it to fit boundaries and to do things and there will be anomalous responses.

DR. MUÑOZ: But Sarah, to your point, just this morning is a perfect example of a reported number that was discussed, debated, additional evidence, the captain came in, it was reinforced, and a different outcome.

MS. S. ANDERSON: And what you guys did today I think is exactly what the rule allows and I think is very fair.

MR. OXER: And the point about, just to reiterate this, at least my understanding of it, Neighborhood Scout is not there as a disqualifier, it's an
indicator of a need for closer consideration.

MS. S. ANDERSON: Absolutely. And I think that the language change completely reflects that and I think what you did today reflects, and hopefully the development community will understand what they've seen today shows that this isn't 18 and you're disqualifying.

DR. MUÑOZ: A closer look at where these projects are being placed, the desirability, the characteristics and the general likelihood for success living in those neighborhoods.

MS. S. ANDERSON: Right. And I think short of doing what Scott says and getting rid of all of it, I appreciate the ability to have a dialogue on it.

Thank you.

MR. OXER: Thanks for your comments.

Bobby.

MR. BOWLING: I'm Bobby Bowling. I'm the president of TAAHP and I'm a builder-developer from El Paso.

I wanted to go back to the school issue and I wanted to add some more testimony to the debate about the high school. I think that's an excellent point that Scott made and the way that he made the analogy about the neighborhood being more in tune with an elementary school boundary and then gets larger with a middle school and
then really in some cases very huge for a high school. And I want to make sure that the data that we look at from TEA differentiates between the way the scores are for elementary, middle and high school as well.

So we're tied to a score and it's not that difficult for the elementary schools to beat the state median because it's more heavily weighted on attendance and participation amongst the elementary school kids, and it gets a little away from that and more on testing with middle school, and at the high school level becomes almost entirely test-driven. And so again, when we've got in some instances -- you heard this morning there's a high school that's going to have 6,000 (sic) students.

And I also agree with what Scott is saying about the vast majority of our kids are elementary school children, and to your question, Dr. Muñoz, well, don't they progress. I mean, ideally in our program in El Paso, we're trying to get these people into homeownership at some point. So they come in as a young family, as a young couple and they've got young children, hopefully they're making it through with our social services and our programs and our homebuyer counseling and our credit counseling that we're able to sell them a home by the time their children are high school children. So it's not as important what the high school is if we have one out of
100 units with a high school kid but yet we have maybe 70 or 80 with elementary school kids. So I think it's something that needs to be looked at. If you're going to reopen that, I want to just provide that testimony and support you on that. The elementary school is way more important than the high school or the middle school, and I would advocate that you have testimony, you have good reasoned comments from the development community and not that much objection to taking the high school out of the formula. It limits us on the sites we can get, like Janine testified to. In El Paso Independent School District, sometimes we have one or two high schools that meet the criterion, and it just limits where we can go, it's not a good utilization of tax credit dollars, and we have to pay more for those sites if there's only five of them in the whole city.

So I wanted to provide that testimony. Thank you.

MR. OXER: Good. Thanks, Bobby.

MR. ALLGEIER: Dan Allgeier, speaking on behalf of Texas Rural Housing Association today. I want to reiterate the high school issue. Particularly in a rural area, a high school may cover half the county, not just the town and certainly not the neighborhood.

And secondly, Neighborhood Scout our research
would indicate that they use a very small amount of data, particularly in rural areas, to come up with their percentages. Sometimes they don't really have data to work with, and as a result, yeah, I don't know of a better way to start but we need to look and see if there's a better one.

MR. OXER: Okay. Thanks, Dan.

DR. MUÑOZ: Marni, I'm going to say that I think in the case of rural communities, at least in terms of the high schools, that's something that we should really look at. I've got friends that live in towns like Crosbyton or Ralls and Lamesa and they've got kids coming from way, way out, Tahoka. And so if you put a little development somewhere, the kids that feed into the high school, they might be 15 miles away. I hadn't thought about rural towns.

MS. HOLLOWAY: And I think it's important to remember --

DR. MUÑOZ: You're hearing this theme over and over. Right?

MS. HOLLOWAY: Right. But the other part of it is this is undesirable neighborhood characteristics, this isn't QAP scoring, and we've done some new things with scoring in the QAP, and yes, there's a bunch of comment about that. And again, undesirable neighborhood
characteristics is not a full stop.

MR. OXER: And there is an appeal process.

MS. HOLLOWAY: And we talked today about Sterling High School and how it has gone through this progress and it's getting better. And I would imagine in the case of a rural high school, part of that conversation would be, look, these kids are coming from all over the place.

DR. MUÑOZ: This was my way of bringing you up to the mic, Marni, given that there's clearly a theme from the comments with the schools and with the crime rate.

MS. HOLLOWAY: Yes.

DR. MUÑOZ: This is my way to bring you up and provide some proactive remarks.

MS. HOLLOWAY: Can I answer any other questions?

MR. OXER: Thanks, Marni.

Terri. You know --

MS. T. ANDERSON: Yes, sir, Chairman Oxer, as I hang my head low.

Good afternoon, sir. Thank you Board members.

Terri Anderson, Anderson Development and Construction. I do apologize for telling Chairman Oxer earlier that I had no comments.

So I just have a brief comment, and that is as
we're looking at neighborhood characteristics and features, and the group that we heard from earlier today from Houston, and we're going and essentially -- I hate to use the term redlining but that's almost what it is when we're discussing crime, we're discussing schools, there are plenty of neighborhoods within the State of Texas that need safe, decent and affordable housing. And for the people who live there, I think they definitely deserve an opportunity to live in neighborhoods they're comfortable with, and it's difficult when you have a particular governing board or a staff that isn't necessarily living in their neighborhoods or experiencing the things that they're experiencing.

I understand the responsibility we all feel to make sure we're developing in areas that are going to be successful and the residents are going to be successful, but I'd like for us all to keep in mind, certainly in the rules and certainly in threshold, when you put certain criteria in the rules that preclude particular types of development, the necessity for appeal to go into those neighborhood, those neighborhoods that are being left behind, in my opinion at this point, should have more consideration and not explicitly be precluded.

MR. OXER:  Good comment.  Thanks, Terri.

MS. T. ANDERSON:  Thank you.
MR. OXER: Mr. E-D.

MR. IRVINE: Actually, I have several comments. In a moment I'm going to read another letter into the record, but I'm going to borrow a page from a former Board member's book, Mark McWatters, who said, Always go back and reread the statute. And the statute doesn't talk in terms of safe, decent and affordable housing, it talks in terms of a decent, safe, affordable living environment. And I think that it's very important to think of the environment in which we are putting housing and making sure that it meets those statutory attributes.

I think that Marni's point about it not being a full stop that you have a disclosable undesirable characteristic is really key and essential, but staff is absolutely committed to engaging in whatever process we need to to help work through these issues so that when we make Board recommendations to make awards, we're confident that it lines up with those statutory policies.

I'm dismayed that somebody would blow through $75,000 trying to work through these issues, and I certainly pledge to you, call us, let's meet and let's figure out the most expeditious way to get to the bottom line of whether your trip wire that you've hit is something that you can get past. And quite honestly, from a staff perspective, we think it's a fairly easy formula.
We are not the experts on education, we are not the
experts on safety. Bringing in expert opinions from
school administrators, from law enforcement officials and
so forth, that's the way that we get to the place where we
have documented bases for comfort in making
recommendations to you.

MR. OXER: Go ahead and I'll make a few
comments.

MR. IRVINE: And I'm sorry if it's a cumbersome
process. I think that the process does look a lot
different in the proposed rules, and this is a continuum.
We don't want to be making radical changes, we want to be
making incremental changes so that we have something that
makes sense from year to year and is easily
understandable.

As for the letter I want to read into the
record, it's hard to read off my little teeny tiny phone.
This is from State Representatives Larry Phillips, Byron
Cook, Drew Darby, Trent Ashby, DeWayne Burns, Travis
Clardy, Chris Petty, Drew Springer, Gary VanDeaver, and
John Raney.

"Dear Mr. Irvine, We were recently made aware
of proposed changes to the criteria for the affordable
housing tax credit program administered by TDHCA. As
representatives of many historic and small and mid-size
cities, we're concerned with two sections specifically.

"The first is that under the draft 2017 Qualified Allocation Plan, cities with a population under 100,000 are not eligible to receive any points for the concerted revitalization plan."

We've addressed that issue; that's treated separately in the QAP. But he does go on to indicate:

"Also of concern is the separation of requirement for rail lines from 100 feet to 500 feet. Many downtowns in Texas were centered around a rail line and the increase in the separation unduly disqualifies potentially important projects in our cities. With the recent interest in downtown revitalization across the nation, we in Texas should not discourage downtown housing projects where appropriate.

"Accordingly, we respectfully request the TDHCA Board reopen the comment period to accept this letter and to revise the proposed rules as discussed herein.

"Thank you for your consideration."

Signed by the members I named.

MR. OXER: All right. Thanks, Tim.

Marni, anything else on 6(b), as I recall?

MS. HOLLOWAY: No, sir, I have nothing else.

MR. IRVINE: Would you like to say anything on that issue about the representatives' request to address
the railroad separation?

MS. HOLLOWAY: Well, I explained earlier staff's reasoning behind the 500 feet. I would also remind you that we have added historic preservation as a potential exemption from that requirement, so that those small towns or small cities or anywhere else that when you're working on revitalizing these older areas, there is a path to not have these vehicles stop.

MR. ECCLES: And there's something about ordinances that allow for closer development. Is that part of it as well?

MS. HOLLOWAY: That's part of the rule and that was in the draft and it's continued through to the final.

MR. IRVINE: And how about rehab deals?

MS. HOLLOWAY: The rule as it sits allows for a path to exemption for affordable housing projects that are being rehabilitated. And that's from last year and probably many years before.

MR. OXER: We post this, we adopt this, we're basically posting it into the Register. Right?

MS. HOLLOWAY: Chapter 10, the section we're discussing right now, along with the QAP, will go to the governor by November 15. The governor has a couple of weeks to review, make any changes. Once the governor approves the final, at that point we will publish in the

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MR. OXER: Any other questions from the Board?

(No response.)

MR. OXER: Regarding item 6(b) on the rules, motion by Mr. Goodwin, second by Dr. Muñoz to approve staff recommendation on item 6(b). There's been public comment. There's no request for additional comment.

Those in favor?

(A show of hands.)

MR. OXER: And those opposed?

(No response.)

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

Good job, Marni. 6(a).

MS. HOLLOWAY: Item 6(a).

MR. OXER: I'll give you the option. The chair has the option to change the order.

MS. HOLLOWAY: I appreciate you taking care of me on that one.

Presentation, discussion and possible action on an order adopting the repeal of the 2016 10 TAC Chapter 11 and adopting the new 2017 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan. The Department is required by Section 42(m)(1) of the Internal Revenue Code and Texas Government Code 2306.67022 to develop a Qualified Allocation Plan that
establishes the procedures and requirements relating to an allocation of housing tax credits. The Board approved the proposed new QAP at the September 8 meeting, and it was published on the Texas Register on September 23 for public comment. In keeping with the requirements of the Administrative Procedures Act, staff has reviewed all comments received and provided a reasoned response to those comments. Texas Government Code 2306.6724(b) requires that the Board adopt and submit to the governor a proposed Qualified Allocation Plan no later than November 15.

More than 70 commenters participated in the QAP public comment process this year. I need to say publicly in front of everyone that Teresa and Shay rock, they absolutely do.

(Applause.)

MS. HOLLOWAY: And Patrick helped. They gathered all of these comments, read through all of them, summarized them, provided responses, worked like fiends, and I am so honored and I am so glad they did it.

So as you will recall, during 2016, staff met monthly with stakeholders to gather input for the 2017 QAP. A number of topics were discussed, but the bulk of the conversations were around the opportunity index and educational excellence. As a result of those
conversations, a number of changes have been made to the 2017 QAP draft in order to promote dispersion of affordable housing, including dispersion into new areas of high opportunity, areas undergoing concerted plans of revitalization, historically underserved areas, and a new initiative, dispersion into urban core areas undergoing or having the potential for gentrification.

So a couple of highlights. We increased the threshold poverty rate for the opportunity index which increased the number of eligible census tracts just at that level, going from 15 percent to 20 percent. We increased eligible census tracts by 18-1/2 percent. We've added an option for third quartile census tracts to potentially access opportunity index points that has added up to 666 census tracts. We have also added an option to the concerted revitalization plan that now allows sites in those neighborhoods to gain additional points if they have some of the features of the high opportunity area and that effectively evens scoring between opportunity and concerted revitalization. The new menu of 15 options for gaining maximum opportunity index points should allow for a broader range of sites.

We have decoupled opportunity and educational quality as a direct result of stakeholder input, and we've regionalized scoring and acknowledgment of the differences.
across the state. Our research indicates that 77 percent of the schools that meet educational quality scoring criteria are in high opportunity areas, but that also means that 23 percent of the schools are not in high opportunity areas but they can still get educational points. This creates a potential that concerted revitalization or urban core areas may be able to access those points. We've added a menu of options to educational quality in order for developments to maximize points in that area.

A number of the comments we received were too big of a swing to be considered changes for 2017. These comments and our own observations will be the basis for the 2018 QAP planning process which we will start in December by meeting to lay out the agenda for the next year.

So working through the comments that we received, just some highlights, there was a great deal of comment on tiebreakers, and as a result, moving to the final we have removed one of the educational quality tiebreakers and we have excluded urban core from tiebreaker in the at-risk set-aside. We have narrowed the number of undesirable neighborhood characteristics that must be disclosed at pre-application to those items that are easily discerned with an internet search. We've
clarified the new tenant services item.

There were a number of requests for
clarification of opportunity index items which we have
tried to provide, along with some requested adjustments to
distances. One menu item regarding nearby retail centers
was struck as it really needs further development before
we use it for scoring.

There continues to be a great deal of comment
regarding educational quality. We've added clarification
in response to the large number of comments that continue
to express concerns. We've lowered the total point value
on educational quality to three, so it was five points,
we're taking it down to three points, we're making that
recommendation.

We have lowered the population limit for the
highest scoring underserved area item so that smaller
cities are able to access that item, and we have expanded
the cities that qualify for the proximity to urban core
item and again excluded it from at-risk set-aside. We've
added some clarifying language from the state
representative item, and the population threshold for
concerted revitalization has been removed which speaks to
the letter that Tim just read to us.

These rules involve incremental yet significant
changes. We believe that thoughtful and steady us of
incremental improvement is preferable to sweeping change, providing greater opportunity to examine the effects of each change to see if it produced the desired outcome in the desired amount, or if additional adjustments are warranted. This approach also ensures that if some change produces an undesirable outcome, we have optimal information on how to make that correction for the 2018 QAP.

Staff recommends that the final order adopting the repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Qualified Allocation Plan and the final order adopting the new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan be approved as presented.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Motion to consider.

MR. GOODWIN: Move staff's recommendation.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation.

MR. GANN: Second.

MR. OXER: And second by Mr. Gann.

Tracy did you want to say something on this one? This is on the QAP. For the record, this is 6(a), the QAP.
MS. FINE: Sure. Tracey Fine with National Church Residences, and I really appreciate the open dialogue that staff has allowed throughout this past QAP creation.

And I have a very minor comment and it has to do with the rural concerted revitalization plan targeted to the rural areas. In this last draft, the year that you needed to have built your project to qualify, you did move it up 59 1985 which is 32-year age to get our building qualified, and I was going to ask that we could move that to a 25-year look-back. Twenty-five years would be 1992. Twenty-five years is not an arbitrary number. Twenty-five years is when major systems in multifamily buildings really start to break down.

Fannie Mae has an estimated useful life chart for multifamily properties and I pulled some of those major systems off and I just wanted to highlight them: Pavement 25 years, vinyl siding 25, exterior stucco and composite wood 20, roofing 25 years, exterior doors 25, all exterior amenities such as tot-lots, swings, pools and kiosks by up to 25 years, exterior lighting 25 years, hot water systems 15, furnace 20, boiler room 20 to 25, elevator equipment 25, emergency generator 25, smoke and fire detection systems 15, common area fixtures 10 to 20, unit fixtures 10 to 20.
Systems really start to break down between 20 and 25 years, so I don't want to wait too long to have these properties eligible to access these really important revitalization plans, so I just ask that the qualifying year be moved to only 25 years to 1992 as opposed to 1985.

MR. OXER: Okay. Thanks for your comment.

You guys up here on the front row, do all three of you have something to say? Janine, you go first.

MS. SISAK: We're going to be quick too.

Janine Sisak, again, from TAAHP QAP committee. I really appreciated Marni's rundown of the changes we made and the process of the roundtables. I think that was a really fair assessment that we've made kind of small, incremental changes. The roundtables were really geared towards those topics that she mentioned, and then late in the day, the ICP litigation was dismissed and at that point I, in my role as the TAAHP QAP chair, started pushing for more than small tweaks to the QAP. I mean, I feel like this is the time. You guys know I was here last time pushing for educational quality to be removed altogether. And mostly because this framework that we have of HOA and undesirables and schools, it's just still leaving urban areas that are good strong areas that are undergoing gentrification, it is leaving them behind, and this tweaked QAP is still leaving large swaths
of our cities, good neighborhoods that cannot compete.

So in looking forward to next year, we really need to look at HOA again. We did pick up some census tracts, quite a number or census tracts, as Marni noted, but most of them are large census tracts on the outlying parts of town with not a lot of population, so therefore, these are not the areas of greatest need. Yes, we're picking up census tracts, we're not picking up the right census tracts. So I think we need to look at that closely for next year.

The second is schools. I really appreciate the consideration given to lowering the educational quality points to three, especially in conjunction with the urban core points. I think that's a step in the right direction. We still need to look really closely at charter schools and Choice districts because without those issues being addressed, again, large, large portions of Dallas ISD, San Antonio ISD, Houston ISD, Austin ISD, they cannot compete. We need to really figure out a way to do that. I know it's challenging but I'm sure we can get there. Again, going back to the undesirable, I think there's too much focus on middle and high schools in the school choice.

And then deconcentration and dispersion, again, I like the urban core points but they're offset by the
deconcentration or dispersion points for census tracts that don't have tax credits because that's always going to favor the most outlying areas.

So as I said to Tim last week, I hope the incremental changes kind of result in some urban deals this year. I'm willing to kind of see what happens, I'm also willing to work closely with staff if the result isn't achieved to kind of get us there next year. All this stuff looks really good on paper, but on the ground I'm still a little skeptical that we're going to get to where we need to get. So again, I'm committed to working with everyone to get there next year, get closer to the desired place next year.

Thank you very much, and thanks to staff.

MR. OXER: Thank you for your thoughts.

Okay, Sarah.

MS. S. ANDERSON: Again, Sarah Anderson. This time I'm wearing my that as representative for Texas Coalition of Affordable Developers.

And we'd like to start off with just a big thank you. The processes can always be improved, but I can tell you that at the end of the day you're probably seeing the fewest number of comments here at the end, and really we're talking about next year. So we had several comments between the draft and this one that came out, and
I feel like the most important ones were addressed and we feel like the QAP is very workable. So thank you. Tim met with us separately, we've met with staff, we did public comments, and we feel like we did our part and I feel like it was listened to. So thank you.

The only comment related to this QAP, and I'm not asking for a change, but I do want to bring it as we've seen the final changes and we see where scoring is going to lead us, I did want to point out that essentially what this QAP does is says that your biggest priority is going to be historic preservation this year. Now, I don't know if that was an intended or unintended, but when you work through the QAP and when you start looking at scoring and what way you're going to go, that ends up being the deal breaker, and that essentially happened when we lowered the school points.

So again, I don't have a dog in this fight one way or the other but I think it's important to note that that was the end result of changes. I think that's fine, but I think that as we look at this, it may be something for next year that that may not be what we want the top priority to be. Maybe we won't have that many at the end of the day that come in, but I do think that I wanted that in front of you and knowing it as we go forward and that maybe next year that won't be the direction that we want.
to go.

Thank you.

MR. OXER: Thanks for your thoughts.

MR. GUTTMAN: I'm think I'm the only one that has to look this up. John Guttman, JAS Development Company.

I just have one quick comment today that I'd like to make regarding changes to the latest draft of the QAP under the opportunity index scoring. As Marni mentioned, one of the key concerns throughout the roundtables this summer has been opening up new areas for development, and I think they've done a tremendous job with the new opportunity index, the scoring items, how they've redrafted the scoring and tiebreakers, but in this latest draft, as it reads, third quartile areas are not able to score the full seven points.

As it's broken out, Part A allows you to score two points and then Part B allows you to score a total of five points, so a third quartile site would only score up to six points. I would just request that staff either return to the previous draft of how the language read for the opportunity index, or add language which would allow a site that's scores only one point in Part A to score up to six points for a maximum of seven.

MR. OXER: Good. Any questions?
MR. ECCLES: Was this a comment that you made during the public comment period, or is this new?

MR. GUTTMAN: This is a new comment. I don't know if anybody made comment to this during the public comment period. It was only I noticed the change from the previous draft to the new draft.

MR. OXER: This addresses an item that is in the new draft.

Shay, have you got something to say on that?

MS. GAMBLE: Shay Gamble, administrator for the Housing Tax Credit Program.

The comment focused on the fact that the language in that Section B was unclear as far as how the scoring could be done, and so what staff did was try to clarify the language, and I think that what this commenter is saying is that in making that clarification, it is equally unclear. So I think that's what he's saying, but there was a change made to that section based on public comment.

MR. OXER: Okay, good. Thanks.

MS. SISAK: I think this is really important. I'm sorry. Can I not?

MR. OXER: Yes. You need to say who you are first.

MS. SISAK: Janine Sisak, again.
I think the intent, though, was always to have those two scenarios score the same, so I think there's a drafting problem in the current draft.

MR. OXER: Okay. Message received. You guys got that. That's a thought on the current draft so it's not a new comment.

MR. ECCLES: So this would be like a drafting thing that could be done after adoption, or is there language that would fix this right now that you'd like to propose?

MR. IRVINE: Two ways you could address it. You could either make something up on the fly and probably sit down with the folks that had made the comment and see that everybody agrees on how it works, or the Board could give general direction in its resolution authorizing staff to refine it reflect an intent.

MR. OXER: Here's the chairman's thought on it. Shay recognized that there's some lack of clarity that could probably be polished, so what I'm going to suggest is that staff take that, figure it out, and in between now and when you ship it over to the Governor's Office, you address whatever way you can to clarify that.

MS. HOLLOWAY: Yes. The intent was not to limit those third quartile census tracts to six points.

MR. OXER: So we're basically taking John's
point.

MS. HOLLOWAY: I'm seeing where the issue is here and we absolutely will make that clear.

MR. OXER: Got it.

Terri, not once but twice.

MS. T. ANDERSON: Not once but twice. I won’t sing Three Times a Lady, so we're just going to keep it at twice and that's it. Terri Anderson, Anderson Development and Construction.

I did want to take the opportunity to thank staff and compliment them for allowing us to have so many meetings for the 2017 draft QAP. And the one suggestion I would have is that when we go into the 2018 draft work sessions that we actually have a draft of the proposed changes so we can review it and we can understand what's in there so we can look at it on a global basis instead of just small bits and pieces as we go along.

And I did make the comment earlier but the one item that remains under opportunity index which gives me a little bit of consternation is the fact that the third quartile census tracts that abut either first or second quartile census tracts that are either two miles away from the border or are separated by physical barriers or other natural barriers are excluded from the ability to receive points. And that continues to be a concern for me because
I do believe it still fits within the general redlining provisions of either a census tract is eligible for points or it isn't eligible for points, and those points obviously translate into lending and investment.

So as a state, I would hope that we're certainly more interested in looking at census tracts that either eligible or ineligible as opposed to neighborhoods that may sit on the opposite of the river or the opposite side of the railroad tracks which historically have been very discriminatory for minority neighborhoods.

MR. OXER: Message received. Thanks for your comments.

MS. T. ANDERSON: Thank you, sir.

MR. OXER: Marni, you're good on all this then?

MS. HOLLOWAY: Yes, sir.

MR. OXER: You've taken notes, you're working on all those points.

MS. HOLLOWAY: Yes. We will make the changes directed to the opportunity index, the description of the threshold items in order to clarify that the maximum score under this item is seven point, no matter how the threshold is reached.

And we will most certainly take into consideration, as we move into the 2018 planning session, the comments and concerns that were raised. I'd like to
remind everyone that we have a new staff person. Patrick is going to be devoting his time to those real-time updates but also to coordinating that effort and making sure that we're all using the very best data and sources as we're making decisions.

MR. OXER: Good. Welcome to the team, Patrick. With regard to item 6(a), do you have anything else you need to say on this item?

MR. IRVINE: Actually, can we have a quick sideline conversation?

MR. OXER: Yes. So how about those Cubs?

(General laughter.)

MR. OXER: We are taking a brief timeout for the E-D and counsel to counsel.

(Pause.)

MR. OXER: Okay. With respect to item 6(a), motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation regarding the QAP, we've heard public comment, there's no request for more public comment.

Motion by Mr. Goodwin, second by Mr. Gann to approve staff recommendation. Those in favor?

(A show of hands.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: There are none. It's unanimous.
Brent, you get the last shot -- I'm sorry --
next to last.

Hold on, Brent. I've got something I need to
take care of here.

With respect to item 6(b), Marni, the one we
just took care of, there was the component of the nuclear
plant distance and we didn't exactly address that.

MS. HOLLOWAY: So the ten-mile measure that is
suggested by staff, we received one comment or a couple of
comments and the comment from the legislators. They're
all related to one piece of property that's within nine
miles of a nuclear plant. Please keep in mind that there
are only two nuclear plants in the State of Texas. Ten
miles is considered the plume exposure pathway radius from
a reactor in an emergency planning zone by the Nuclear
Regulatory Commission. So this is not about daily
exposure to radiation, this is about a safe distance in
case of an accident. We do not recommend a change based
on the comment.

MR. OXER: So the NRC, Chairman Klein, Dale
Klein, who's the chairman of the NRC, basically is telling
all the nuclear reactor operating utilities they've got to
have a safety plan for everybody within five miles, if I
recall your earlier commentary.

MS. HOLLOWAY: There's a five-mile zone that I
believe is the most intense, and then there's this ten-mile zone. And there's actually a 50-mile zone but that seems a little excessive for purposes of this rule. And yes, nuclear plants will have emergency plans, but this plume exposure pathway radius seems, from our research and form information that's posted on the NRC's website, to be sort of the key measurement.

MR. OXER: Okay. This is not an arbitrary number, this is a number you have data to backup and process and thinking logically. And I understand that whatever we say will exclude that area inside that. Fundamentally, we can say it's not about where the absolute line is on the safety risk, nor do we think that it's going to be absolutely safe anywhere.

MS. HOLLOWAY: Or eleven miles.

MR. OXER: Exactly.

MS. HOLLOWAY: This the data that we have, the information that we have available to us from the Nuclear Regulatory Commission, and in their FAQ about emergency preparedness and response.

MR. OXER: Does any Board member want to offer any other consideration for that item with respect to safety on the nuclear facilities? Otherwise, it's been voted on. If you do that, if you want to offer anything else, we have to reconsider that item.
MR. OXER: Okay. Everybody is good on that one.

Brent.

MR. STEWART: Brent Stewart, Real Estate Analysis.

So this is the remaining part of Chapter 10, this is Subchapter D which is the Real Estate Analysis rules. Presentation, discussion and possible action on ordering a final adoption of a repeal of the existing rules and adopting the new rules concerning the underwriting and loan policy, and directing those final rules in the Texas Register.

On September 9, the Board approved the proposed repeal and new underwriting and loan policies that were published in the Texas Register for public comment. Fifteen commenters provided comments regarding the proposed new rules which are included in your Board writeup, along with the reasoned responses for each.

Kind of in summary, there are two comments related to debt coverage ratio issues, two related to the methodology of valuating acquisition costs that are determined and used in the tax credit sizing, three comments related to developer fee issues, one comment related to the treatment of allowable reserves, again used
in the tax credit sizing, and there were five comments related to the market study rules, and they were kind of technical comments. Staff has evaluated each of these and has provided reasoned responses in your Board book.

Before we get into that, I wanted to emphasize that the basis of the REA rules is to size credits appropriately and ensure that transactions are at least preliminarily, based on information known today, feasible.

Pursuant to IRC 42(m)(2), the Department is legally bound to allocate tax credits in an amount no more than necessary to make the development financially feasible. Part of that determination requires that the Department determine the reasonableness of developmental and operational costs of the project.

Chapter 2306.6701 requires the Department to administer the Tax Credit Program to maximize the number of suitable affordable residential rental units added to the state's housing supply. The impact of providing more credits than needed on one transaction affects the amount of tax credits available for other applications. Over-sourcing one provides fewer units for others.

So one of the comments related to debt coverage ratio was to allow for an increase in debt coverage ratio for properties that have 80 percent or greater Section 8 units. Staff provided a reasoned response there, but
basically, the rules already provide for an exception to
debt coverage when there's more than 50 percent of the
units covered with Section 8 vouchers, so we didn't
recommend any changes to that section.

The other comment related to DCR is with
respect to limiting the amount of deferred developer fee
on direct loans, and while we agree that limiting that
developer fee issue is probably an issue that warrants
some discussion, we kind of feel like that's outside the
bounds of where we can go with this year's rules. Also,
the direct loan rules are out for comment now, and some of
that may be appropriate for discussion in that rule as
well.

Acquisition from seller without current title,
this one staff ended up pulling in total the proposed
language. This proposed rule related to situations where
there's an intermediary buyer-seller where the
intermediary is purchasing the land from the current
title-holder and selling it to tax credit applicant, and
both of those contracts are simultaneous close and
contingent upon one another. And we've seen stations
where --

MR. OXER: Is it a back-to-back swap without
any escalation in it, or do they have that step up?

MR. STEWART: Step up. And clearly there's
appropriate situations where that step up is certainly
valid, legitimate reasons for that. There could be
scenarios where they're entitling the property, there
could be a host of scenarios. And I think that's kind of
part of what we wanted to drill down on. We have seen
situations where it's hard for us to understand that
situation.

So with respect to this year's rules, in this
final version of the rules we have pulled that proposed
language out.

MR. OXER: It can be modified next year as
needed.

MR. STEWART: We'd like to explore it. Yes, sir. And again, it kind of gets back to keep in mind that
rule would not be limiting anybody's sales price. All
that rule is doing is saying this is the amount that we
would use in the tax credit sizing, which again, I just
talked about Section 41(m) and our statute about sizing.
We're not going to be dictating what somebody can or can't pay on a transaction.

The other comment related to developer fee was
that basically we allow for a 20 percent developer fee on
the building acquisition basis on RAD transactions. This
issue was discussed last year, the same comment was
discussed last year, and the response last year was
there's no relationship between the value of a building and what somebody should be paid a developer fee. A developer fee is for risk, it's for work, it's for a lot of things, but it's not tied to the value of a building. So last year what we said was let's bump it from 15 percent to 20 percent on eligible basis. We felt that would accommodate somebody for working harder on a RAD transaction than they might work on another type of transaction. So that's what we did last year. This year it's back to we would request 20 percent on the acquisition basis of the building and staff just has recommended no change to the rule on that.

There was comment about reserves which was basically lenders will require reserves in situations where it's a project-based Section 8 property and there's a big difference between that and the tax credit rents, for example, and what they want is a reserve for some period of time that covers that difference in case something should happen to the Section 8 contract. We acknowledge that those reserves exist and that lenders require them, but those aren't something that staff feels like should be funded with tax credits, it can be funded through other means.

The market study section, there's comments related to primary market area, secondary market areas and
some data that we were requesting from both of those, that after talking through with the market analysts kind of realized that the extra work that goes into that may not, at the end of the day, prove up totally useful. So we've pulled those out.

So probably the biggest issue has related to value estimates on public housing transactions going through a RAD conversion. And the issue is when you have a related party sale, a public housing authority is selling it to a partnership of which it is the general partner, the controlling partner, and you're taking a public housing property that has no income, therefore, you can't value that, there's nothing there, so what value do you use to transfer that asset from public housing property to a tax credit property. And so the two choices really are do you do that based on restricted rents, what the future restricted rents would be, or can you do it on what the market rate units would be if that property had no restrictions on it at all.

When we worked on the Austin transactions, we had quite a bit of discussion over that issue, and staff came down to kind of accepting the concept that there is an opportunity cost for the housing authorities on these RAD transactions. They could, under various scenarios, certain scenarios, ask HUD for approval to sell those
public housing properties into the market unrestricted and take those funds and the RAD contract and go do another property that's unrelated to it. And if they choose to do that, they would achieve a market value based on market rents for that property.

Under the tax credit scenario, the property at the end of the day is going to end up with the RAD rents or tax credit rents, whichever one is in control, so they've given up this opportunity to realize the cash that's in the value between the restricted rent value and the market value. There was a theory that was thrown out there that was kind of the point in time theory that we had a hard time getting our heads around, but when we kind of realized that the opportunity cost kind of approach made some sense, that's how we ended up getting comfortable with the Austin deals.

So now it comes down in the rule as published, the draft as published basically said we're going to use the restricted rent valuation. Between that point in time and today, we've dealt with the Austin deal and come to -- you know, we learned. So we have changed the language that allows the use of the market rents in valuing the properties, and we've asked that when that appraisal comes in that establishes that value, that that appraisal be reviewed so that we're making sure that the value we're
using is appropriate in, again, sizing the tax credits. We are not going to tell the housing authority the price to actually transfer the property into a LIHTC partnership, all we're doing is coming up with a value that we're going to use to size the tax credits in that transaction.

The last item is 10.307(a)(2) is the direct loan requirements, and you'll see in the rules that that has been struck completely because those provisions have been transferred over to the new rule which is specifically related to direct loans. So stricken from REA, put in the new rule, changed and what happens through public comment on the new rule for direct loans.

So that's the REA rules for 2017.

MR. OXER: So staff recommends approval as you've described?

MR. STEWART: Yes, sir.

MR. OXER: Any questions from the Board?

MR. GOODWIN: Motion to approve staff's approval and recommendation.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation on item 6(c) on the REA rules. Do I hear a second?

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. There's no
request for public comment.

Motion by Mr. Goodwin, second by Dr. Muñoz to approve staff recommendation on item 6(c). Those in favor?

(A show of hands.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none.

MR. STEWART: Thank you.

MR. OXER: Good work, Brent. Thanks.

All right. We are now at the point where we will accept public comment on matters other than those items for which there were posted agenda items. This is for the purpose of building future agendas. Do we have any request for public comment?

(No response.)

MR. OXER: There's nobody up here.

Any of the staff? You guys get to come up here and say anything you want, in addition to the happy hours, you can say anything there too.

Ms. Holloway.

MS. HOLLOWAY: Marni Holloway, director of Multifamily Finance.

We will be holding a public hearing in this room 15 minutes after the Board meeting ends in order to
take public comment on the Multifamily Direct Loan rule. We are currently accepting written comment. This is an opportunity for anyone who wishes to provide verbal comment. Nancy is going to stick around and record it all for us.

MR. OXER: Great. Thank you.

Do you have any comment, Tim?

MR. IRVINE: No.

MR. OXER: Any of the rest of the staff, anybody else in the audience, any of the staff or members of the Board have comment to make?

(No response.)

MR. OXER: Once again, as chairman I get the last word. It's a lot of work we do here and we grind this awfully fine, but it's worth doing and it's worth doing right.

So that said, I'll consider a motion to adjourn.

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to adjourn.

Do I hear a second?

MR. GANN: Second.

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

(A show of hands.)
MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. We stand adjourned, folks. See you next month.

(Whereupon, at 3:30 p.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: November 10, 2016

I do hereby certify that the foregoing pages, numbers 1 through 208, 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.

11/16/2016
(Transcriber) (Date)

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