TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

William B. Travis Building
Room 1-111
1701 Congress Avenue
Austin, Texas

January 26, 2017
9:00 a.m.

MEMBERS:

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

TIMOTHY K. IRVINE, Executive Director
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SINGLE FAMILY OPERATIONS AND SERVICES

g) Presentation, Discussion, and Possible Action on Authority to Enter Into a Memorandum of Agreement ("MOA") between the Texas Department of Housing and Community Affairs ("TDHCA") and the General Land Office ("GLO") regarding the administration of the Community Development Block Grant Disaster Recovery ("CDBG DR") Program

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99043 Arbor Terrace Townhomes Odessa
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i) Presentation, Discussion and Possible Action regarding Placed in Service Deadline Extensions

14088 Mariposa at Spring Hollow Saginaw

MULTIFAMILY FINANCE

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

16435 Oak Valley Apartments San Antonio

HOME AND HOMELESS PROGRAM

k) Presentation, Discussion, and Possible Action to authorize the issuance of the 2017 HOME Investment Partnerships Program ("HOME") Single Family Development Program Notice of Funding Availability ("NOFA"), and the notification of the posting of the NOFA to the Department’s

ON THE RECORD REPORTING
(512) 450-0342
Presentation, Discussion, and Possible Action to authorize the issuance of the 2017 HOME Investment Partnerships Program ("HOME") Single Family Programs Homebuyer Assistance ("HBA") and Tenant-Based Rental Assistance ("TBRA") Open Cycle Notice of Funding Availability ("NOFA"), and the notification of the posting of the NOFA to the Department’s website and in the Texas Register

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) TDHCA Outreach Activities, December 2016-January 2017

b) Report on the Department’s Swap Portfolio and recent activities with respect thereto

c) Report on Advisory Groups to the Department

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

ACTION ITEMS

ITEM 3: REPORTS

a) Report on allegations of a "cover up" at the Hidalgo County Community Service Agency ("Hidalgo")

b) Report on 2018 Qualified Allocation Plan ("QAP") Project

c) Report on the submission of National Housing Trust Fund Allocation Plan to the U.S. Department of Housing and Urban Development ("HUD")

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

Recognition of J. Paul Oxer, Chair

EXECUTIVE SESSION

OPEN SESSION

ADJOURN
MR. OXER: Good morning, everyone. I'd like to welcome you to the January 26 meeting of the Texas Department of Housing and Community Affairs Governing Board.

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

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum is not here.

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, that gives us five, we've got a quorum, so we're in business.

Before we make the salute to the flags, Tim, did you have a comment?

MR. IRVINE: Yes. I just have a comment that when J. Paul began his gig as our chair, he instituted reciting the Pledge of Allegiance to the national flag and to the state flag, and it was pretty impressive that he either knew already or learned instantaneously, with his eidetic memory, the Texas Pledge. And for those of you who don't seem to be joining in from month to month, it is
printed on the agenda

MR. OXER: So read along in your hymnals.

MR. IRVINE: Short and easy to learn.

(General laughter.)

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

MR. OXER: that sounds so much better in a chorus.

All right. We've got some guests to recognize today. Rudy England from the House Urban Affairs Committee. Oscar, good morning, welcome. I'll be offering you welcome today and apparently somebody else will be offering it next month. Zack Cochran. There's Zack over there with the Lieutenant Governor's Office. I stopped by to see Julie Frank yesterday and she said she'd send somebody to say hi to us today.

Okay. We have a resolution to consider, Michael.

And everybody, just for the record, everybody will notice that we're in a new location, new building, where we've been in the Reagan Building for, what, 18 months since the circus was in town the last time. So they kicked us out so they could let the elephants and the clowns play over there, so we're all sort of getting up to our rhythm here in this new location, so bear with us for
a moment.

Michael, good morning.

MR. LYTTLE: Yes. As legislative affairs
director for this agency, if anybody from the legislature
is listening, he was just kidding.

(General laughter.)

MR. LYTTLE: Yes, sir, we do have a resolution
this month before the Board.

"Whereas, February 2017 is Black History Month,
and has a nationally designated theme of the "The Crisis
in Black Education;"

"Whereas, the Texas Department of Housing and
Community Affairs recognizes the significance of Black
History Month as an important time to acknowledge and
celebrate the contributions of African Americans in Texas' history and that of the nation;

"Whereas, the Department recognizes the central role of education in improving lives and fostering success
and the role of stable housing in enhancing academic performance and achievement; and

"Whereas, the Department recognizes that the ethnic and racial diversity of Texas enriches and
strengthens our nation;

"Now, therefore, it is hereby

"Resolved that the Texas Department of Housing
and Community Affairs

"(1) recognizes the significance of Black History Month as an important time to acknowledge, better understand and celebrate the history of African Americans, and encourages the continued celebration of this month to provide an opportunity for all peoples of the State of Texas to learn more about this crisis and its effects on the past, present and future of our Lone Star State, and

"(2) recognizes that in pursuit of the goal and responsibility of providing equal housing opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate February 2017 as Black History Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in this observance for equal education as well as equal housing treatment and opportunity for all.

"Signed this 26th day of January 2017"

MR. OXER: Great. We'll have a motion to accept the resolution as described.

(Several members made the motion at the same time.)

DR. MUÑOZ: Great enthusiasm.

MR. GOODWIN: So moved.

MR. OXER: Who wanted that one?
MR. GOODWIN: So moved.

MR. OXER: Okay. Motion by Mr. Goodwin to resolve as read by Michael, and a second by Dr. Muñoz. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

So since we're here recognizing guests, we have a few folks that are here that were former players on the dais up here. Barbara Deane, raise your hand. There you are. She was the one that kept the cattle prod close to my ribs so if I really screwed up, I could tell quickly. Thanks very much for showing up and being here today, Barbara.

 Anything else in preparation?

MR. ECCLES: Barbara, we have an app for that now.

(General laughter.)

MR. OXER: All right. With respect to the consent agenda, I understand there's somebody who wishes to speak on item 1(f). And for purpose of housekeeping, since we're in a new location, we'll keep this row right up here in the front for those who wish to speak, and we'll go from this side over there.
So let's hear your comment on item 1(f) and then we'll consider the consent agenda.

MS. VOICE: Hi. My name is Snowy Voice. I am a member of the Creek Nation of Oklahoma and I and the program for our CSBG grant at the Urban Inter-Tribal Center of Texas in Dallas.

We're just here this morning to thank you guys for giving us that grant. It's beneficial to our American Indian community. Our organization is the only urban Indian health organization in the State of Texas. We serve all American Indians, they all have to come to Dallas to use our services. We have a clinic, medical, dental, pharmacy, and we also have an employment and training department which that's where I work and we get our CSBG grant through that.

In our clinic we have over 4,000 patients, with over 22,000 patient encounters every year, and we're very small. Our employment and training department, we see over 1,200 people every year, and our poverty rate for American Indians is very high compared to the national average. American Indians, we have about a 29 percent poverty rate, where compared to the national average it's about, I think, 17 percent.

So we're just here, again, to say thank you for considering us for that CSBG. Again, it helps so much.
We offer job search and training, but again, like I said, I'm just here to thank you guys for that. And I'm here on behalf of Angela Young; she's our newly appointed CEO. And we're working really hard to spend that money, so again, thank you guys.

MR. OXER: Well, for the record, we didn't give you the money to hold onto, and we're glad to see you're trying to spend it, so we appreciate the compliment, and that's a compliment to the staff and to the work that they're doing on behalf of the program.

MS. VOICE: And this is my case manager, Samantha, for our CSBG grant.

MR. OXER: Hi, Samantha.

MS. VOICE: She's working really hard. I'm trying to get her trained and get that money.

MR. OXER: Well, you know the way the Marine Corps teaches you how to swim, they just drop you in deepwater and point to you and that's your direction, so that's the quick way to get her to learn.

MS. VOICE: That's kind of how it's happened with Samantha.

MR. OXER: It's the confirmation pledge. Is that not correct?

DR. MUÑOZ: Highly effective approach.

MR. OXER: It sort of weeds out the swimmers...
and the survivors too.

(General laughter.)

MR. OXER: Thanks very much for your comments.
With that comment on 1(f), which I gather we will not have to pull 1(f) to consider, do I hear a motion to consider the consent agenda?

DR. MUÑOZ: So moved.

MR. OXER: Motion by Dr. Muñoz to approve the consent agenda.

MR. GANN: Second.

MR. OXER: And a second by Mr. Gann. Is there any other further comment?

(No response.)

MR. OXER: There appears to be none.

Motion by Dr. Muñoz, second by Mr. Gann to approve the consent agenda. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. The vote is unanimous.

Okay. Let's get down to number 3. Patricia, it looks like you're in the box first.

MS. MURPHY: Good morning. Patricia Murphy, chief of Compliance.
This is a report item for the Board that we just discussed with the Audit Committee but wanted to bring it to the full Board as well about an email that was purported to be sent by a TDHCA employee to members of the community action network, alleging that some non-compliance issues were covered up by myself and Tim Irvine and Michael De Young, and so we just wanted to explain what happened and answer any questions from the Board or the public on the matter.

The Hidalgo County Community Action Agency, the county that runs the program for the Comprehensive Energy Assistance Program which helps low income Texans pay their utility and they were very much struggling to get the funds flowing and help people with those bills. So staff from the Department went down and worked side by side with that staff and helped them get the money moving, which has been commended as a best practice by the U.S. Health and Human Services to really partner with our agencies and help them get things done.

We did monitor and we reviewed client files and everybody was eligible for the program, there was nobody found to be served that was not eligible to receive these federal funds. There were some immaterial deficiencies noted in the files but did not impact eligibility, and a group of us discussed that and those issues were omitted.
from the report, and this matter has been reviewed internally and by several other groups. And so it's just a report to the Board about what happened and if anybody has any questions for me or any of the staff members, I'd be happy to answer any questions, or if anybody would like to make a comment on the matter.

MR. OXER: Mr. Gann.

MR. GANN: I'd like to ask Chief Murphy a question or two.

It's my understanding that they had a lot of new personnel and you went down there to help them because they were not as knowledgeable because they're first-timers, basically.

MS. MURPHY: There was an existing staff working the program and the county judge was not aware there was hundreds of thousands of dollars that were being returned every year to Texas and eventually back to U.S. Health and Human Services that was not reaching the intended recipients of these funds. And Brooke Boston reached out to the county judge saying are you aware of this, and there was a wholesale change in staff. So our own staff went down and did training and technical assistance with the new folks to get them up to speed.

MR. OXER: Took them another tractor to plow the ground. Right?
MS. MURPHY: There you go, J. Paul. Yes.

MR. OXER: Check the box, Tom.

(General laughter.)

MR. OXER: Ms. Bingham, do you have any other questions or anything to share?

MS. BINGHAM ESCAREÑO: I don't. The Audit Committee this morning expressed gratitude for management bringing it to our attention, but I think the consensus was that we were satisfied that it had been duly responded to.

MR. OXER: Good. Okay. Thanks, Patricia.

MR. GANN: Mr. Chairman.

MR. OXER: Yes, sir.

MR. GANN: I'd like to hear from Hidalgo.

MR. OXER: Do we have a representative of Hidalgo County here who wishes to speak?

MR. GANN: Let's hear what he has to say.

MR. LONGORIA: Good morning, Chairman Oxer and Board members. My name is Jaime Longoria. I'm the executive director of the Hidalgo County Community Service Agency.

Hearkening back to March of 2015, the county judge asked me -- I was on his staff -- asked me to head up this agency on an interim basis because we had lost the three top leaders in that agency. The county judge and
the commissioners court was made aware from Brooke Boston that we were returning money unspent, so the county judge asked the director at the time to come in and give a presentation. Three folks decided to resign en masse, so I was kind of the odd man out and I was asked to go over and run the agency.

MR. OXER: Odd man out or the last one left?

MR. LONGORIA: That's right. I tell you, the smartest thing I ever did, Chairman, was to put a phone call into Michael De Young and to Brooke and I got to meet Michael De Young and they came in and provided assistance. We have a very capable staff that really weren't in a position to run the agency on a day-to-day basis. Michael and Cathy and Laura Saintey from your staff came in and did a tremendous job in working with us and providing training. We had a backlog of 3,800 applications in the back room that hadn't been touched, and that was potentially $1,000 or $1,200 worth of assistance to each of those 3,800 applications in the back room — this is March 15. And I remember looking at Michael and saying, well, if I do the math right, 3,800 applications times $1,000, we're done for the entire year.

So we had to work through all of that, we did. We've taken the staff of originally 48 staff members become more efficient, and through natural attrition,
we're down to 29 and we're serving more clients, we're
serving them the day they walk in the door, we're
providing services the same day. We're a completely
different agency in terms of processes. We do customer
surveys with our clients as they're walking out the door.
I believe we're a very responsive agency to the folks
that need the help in Hidalgo County. We're very grateful
to you all, to the staff and to the folks that work with
us at the agency.

MR. GANN: Mr. Chairman, that's what I wanted
to hear.

MR. OXER: I believe I understand your point,
Mr. Gann.

Thank you very much, Mr. Longoria.

MR. LONGORIA: Thank you so much.

MR. OXER: Thanks, Brooke, and thanks to the
team that you had on this making that work. So it sounds
like if you ever need an example, we can use Hidalgo
County now as an example of how this is supposed to work
for us.

Any other comment on that item?

(No response.)

MR. OXER: Okay. Let's go to number 4. Mark.

MR IRVINE: Wait. We've got 3(b).

MR. OXER: I'm sorry. 3(b). Marni, you're up.
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 3(b) is a report on the status of the 2018 Qualified Allocation Plan and Multifamily rules project. You'll recall that in 2016 we had the meeting the afternoon before most Board meetings to discuss potential changes to the 2017 QAP. Out of those conversations, we were able to identify a number of priorities for changes to the QAP, including decoupling education and opportunity, using regional measures wherever possible, and a new menu structure for the opportunity index.

On December 14 of 2016, we held the first monthly meeting for the 2018 QAP project plan. The plan has been updated to include these initial topics that we'll be taking up during the monthly meetings this year. The first one is dispersion and underserved area, the next one is timing issues related to the 9 percent cycle, opportunity index, undesirable neighborhood characteristics -- that's the one everyone wants to talk about -- tenant services and compliance requirements, and then real estate analysis and market demand. There was a good discussion at the meeting and several participants described refinements of the broader topics that we'll incorporate as we're moving forward.
We've posted a forum on the TDHCA website requesting the stakeholders tell us what they believe are the three most important policy objectives for the Housing Tax Credit Program. We will continue to use the forums this year as a tool to gather input and allow those who aren't able to attend the meetings a chance to participate in the discussions.

Questions?

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: The public outreach and the opportunity for the sector that participates in this program was one of those things that I had actually wanted when I first got here. I'm glad to see that this seems to be generating a lot of attention. I managed to attend a couple of those meetings, tried to sit in the back and be obscure, but that didn't work all the time. I'm glad to see that we have a process now for engaging those folks that are out there that have some ideas because far be it said for me certainly, and I think anybody else on this Board, that all the ideas on how to do this come from us, this comes from out there.

Are there any other comments from any members on the Board?

(No response.)
MR. OXER: What do we need to do, Marni? Is this just a report item?

MS. HOLLOWAY: It's just a report.

MR. OXER: So we're perking along in the direction we want to go?

MS. HOLLOWAY: We are, and we have Patrick now to kind of keep us on track, so I think that this year will make even more good progress on the QAP and on the list.

MR. OXER: Great. Thanks very much.

MS. HOLLOWAY: All right. Item 3(c) is report on the submission of the National Housing Trust Fund allocation plan to the U.S. Department of Housing and Urban Development.

At the September 8 Board meeting, you approved the final allocation plan for submission to HUD. That was the final step before we're to receive the 2016 allocation of National Housing Trust Fund. We submitted the plan to HUD on September 14 of 2016.

On October 22, the Department was notified that HUD was disapproving our allocation plan. The Texas plan was one of 46 that were disapproved at that point. We later learned that all of the National Housing Trust Fund allocation plans have been disapproved by HUD at least once. One state's plan has been disapproved six times.
MR. OXER: Who is that, by the way?

MS. HOLLOWAY: It was Illinois, I think.

MR. OXER: I'll keep my political comments to myself.

MS. HOLLOWAY: I'm sure you can imagine there was a very spirited conversation regarding the trust fund and CSHA this year.

The disapproval has requested that the Department include sections of Chapter 2306 and the Multifamily rules that would be applicable to the Trust Fund rather than referencing those requirements by citation. This level of detail and specificity has not typically been required by HUD in the past. The Department submitted corrected documentation on December 9 to HUD and had a conference call with them on December 22. During the call, HUD indicated that all of the corrective documentation would have to be incorporated into the 2016 one-year action plan and the consolidated plan.

HUD has requested that the Department be more explicit in its maximum per-unit development subsidy limits, even though we plan to apply the HUD promulgated maximum. So we're using their number and they want us to explain why it's okay to use their number. They also want us to be far more specific in our rehabilitation standard requirements. We have a number of concerns with these.
latest requests as they potentially have us creating a
different set of requirements for Trust Fund than we have
for our other programs.

As you know, in the past year we've worked
really had to correct the direct loan rule that
streamlines and aligns administration of all of these fund
sources. HUD's request would have us create a program
outside of that rule structure. We've expressed our
concerns to HUD and will continue to work with them on a
solution.

Our response on this latest disapproval is due
back within 60 days of their letter. We don't anticipate
making any changes to the program in responding to this
disapproval. If we do wind up make changes, of course,
we'll come back to the Board for your approval of those
changes.

Also, in Trust Fund on December 21 we received
a notice that there was an error in HUD's calculation of
the 2016 allocations. Texas will receive an additional
$11,113 so that our total Trust Fund grant is now
$4,789,477. So once we receive the grant agreement, which
hopefully will be in the next few months, we will propose
either an amendment to the current direct loan NOFA to add
those funds, or we'll bring a separate NOFA, just depends
on the timing and what makes sense at that point.
MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: So it sounds like Texas, through TDHCA, is struggling with HUD to figure out what HUD wants, but we're not the only ones struggling.

MS. HOLLOWAY: We are not. And as I said, every National Housing Trust Fund allocation plan was disapproved at some point.

MR IRVINE: If I might just inject in my usual glib fashion. It was my sense that largely we had a plan that laid out exactly what we were going to do and it incorporated references to rules and other requirements that would govern the operation of the program, and HUD has asked that rather than making those references, please go back and restate the rule and then explain line by line exactly how it fulfills the requirements that HUD imposes which they have already monitored when they monitor our activities.

MS. HOLLOWAY: And including rule in the con plan and action plan creates a number of concerns because the cycles don't necessarily line up, and then it also would mean that every time we change our rule, we would have to go back and amend the action plan and the con plan which is not going to work, so we need to find another solution with HUD. I've had some preliminary
conversations with them and we're going to continue that
process.

MR. OXER: What has been the tenor of those
conversations? Contentious, she says.

MS. HOLLOWAY: I pointed out to HUD in a
session during NCSA these issues, particularly with the
subsidy limit and the rehab standards and aid, I'm going
to have trouble aligning Trust Fund with our other fund
sources, and these other fund sources are what will create
viable Trust Fund units. You'll remember that these are
all 30 percent AMI units. I said, This is going to be a
problem trying to make all of this match up. And the
people who were presenting started to respond, but then a
much more senior HUD person in the back of the room said,
Oh, well, maybe we need to talk about that.

MR IRVINE: And I think on the relationship
with HUD it's important to distinguish that there are
multiple HUDs. Our day-to-day HUD is our CPD office in
Fort Worth, and I think we've got a very, very fine
relationship with them. They are exceptionally
knowledgeable, they've been there since the inception of
these programs, they totally get it, they're wonderful to
work with. But I think that when some of the folks in
Washington get a little more removed from the day-to-day
administration of the program and focus on more
theoretical policy approaches, the relationship gets a little more difficult. 

MS. HOLLOWAY: This is the entirely the D.C. office. 

MR. OXER: So HUD Fort Worth gets caught in the crossfire between what Washington wants and what we can do. 

MS. HOLLOWAY: But they've been very supportive as we've been working through this. 

MR. OXER: Good. Keep working and stand your ground. 

MS. HOLLOWAY: Thank you. 

MR. OXER: Any other questions, any comments? 

(No response.) 

MR. OXER: Okay. Now we go to number 4. Mark, good morning. 

MR. SCOTT: Good morning. Mark Scott. I'm the director of Internal Audit. I have two action items and two report items for this morning. 

We met this morning in the Audit Committee and the first item I talked about was the Internal Audit Charter update. The Internal Audit Charter is a formal document that defines the Internal Audit activities, purpose, authority and responsibility. The chief audit executive must periodically review the Internal Audit
Charter and present it to senior management and the Board for approval. The TDHCA charter was last updated in January of 2015. We have updated it again based on the peer review checklist. We've added a reference to the IIA's code of ethics, in addition to expanding the quality assurance section. And this item has to be approved by the Board.

MS. BINGHAM ESCAREÑO: Mr. Chair.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: Mark reviewed it with the Audit Committee this morning, which I'd like to add Mr. Goodwin joined our Audit Committee, so we're appreciative of his participation this morning, and we didn't have any questions. The changes to the charter looked appropriate.

MR. OXER: So they've approved it but we have to formally take this up as a Board to approve that change.

MR. SCOTT: Yes, sir.

MR. OXER: All right. In that case, you're offering that now?

MS. BINGHAM ESCAREÑO: I'll motion to approve.

MR. OXER: Motion by Ms. Bingham to approve the auditor's recommendation for modifications of the Audit Plan. Is that correct?
MR. SCOTT: The Audit Charter.

MR. OXER: Audit Charter. Make sure we're right here.

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin.

Is there any other questions? Anybody that wishes to speak?

I would remind you that we've reserved this row for those that want to speak. I mean, you're welcome to stay but we'll keep asking you if you want to speak.

(General laughter.)

MR. OXER: Any public comment?

(No response.)

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

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. It's unanimous. Okay, Mark.

MR. SCOTT: The next item is the annual audit of the agency's financial statements. This is a very complex audit and State Auditor's staff is here to present it and they'll ask for acceptance of the audit.
MR. OXER: Good morning.

MS. ECKFORD: Good morning, Mr. Chairman and Board. I'm Hillary Eckford with the State Auditor's Office. I'm the audit manager for this particular engagement for the financial statement audits of Department of Housing and Community Affairs.

I have Philip Stringer here who was the project manager for this audit, and I'll let him present the reports, and we're happy to answer any questions you have.

MR. OXER: Great. Thank you.

MR. STRINGER: Good morning, Mr. Chairman and Board. I'm Philip Stringer. I'm the project manager with the State Auditor's Office.

Before it get started, I wanted to say thank you to David Cervantes and his staff. I wanted to make sure to do that. Audits can go really poorly or really well, and these audits always go really well.

MR. OXER: That's always a good sign, as far as I can tell.

MR. STRINGER: We really appreciate all their help.

As far as this audit, we issued several reports. On December 20, 2016, we expressed unmodified opinions on the Department's basic financial statements, the Revenue Bond Program Enterprise Fund financial
statements, and the computation of unencumbered fund
balances of the Housing Finance Division. We also issued
a report on compliance with the Public Funds Investment
Act. And previously during the audit, we issued a report
on September 6, 2016 that concluded that the financial
data schedule prepared by the Department was fairly stated
in material relation to the 2015 basic financial
statements, and on September 28, 2016, we issued a report
that concluded that the Department's electronically
submitted financial data schedule to the U.S. Department
of HUD agreed with related hard copy documents.

Additionally, on January 6, we emailed you a
document titled "Required Communication with Those Charged
with Governance" that includes several items that we're
required to communicate as part of our audit. I can go
over that or if you have any other questions on that or
any other parts of the audit, I'll be happy to answer
those.

MR. OXER: Great. Thanks, Philip.

Any questions from the Board? Any comments
from the Board or from the Audit chair?

MS. BINGHAM ESCAREÑO: No. We were
appreciative of the SAO and the good audit report.

David brought to our attention -- do you want
to bring to the Board's attention just the one change?
MR. CERVANTES: Sure.

MS. BINGHAM ESCAREÑO: We had one nonmaterial disclosure item that they're going to probably submit an amendment for, but they just wanted to make sure that we were aware of that.

MR. CERVANTES: Good morning, Mr. Chair, members of the Board. David Cervantes, chief financial officer for the Department.

I mentioned at the Audit Committee, and I guess let me take a step back first, because I too would want to echo a thank you to the State Auditor's Office for their efforts in the engagement. We really appreciate all their efforts and working very closely with us as we moved through the engagement for these audits.

Having said that, there was one item that I mentioned to the Audit Committee this morning, and it is that there may be one point of clarification that we may want to make in the future, possibly in February, maybe present a report item. When we issued the financial statements and subsequent to the opinions, there was a subsequent event that we think maybe would be beneficial and prudent for us to publish, and it has to do with disclosure.

There's a note 5 and some supplementary information that we included related to our bonds, and in
this particular case we issued some bonds, and as you know, Mr. Chair, we've been trying to eliminate variable rate debt and what-have-you, and in doing so part of this transaction was a refunding. And so one of the requirements that we're required to state and disclose in our financial statements and in our notes has to do with the calculation associated with this transaction here.

So to make a long story short, as we were reviewing subsequent information, we realized that in the codification of some of the standards there was one additional step that we needed to potentially include to clarify the outcome of the transaction, and that was to bring in the derivative instrument to the calculation and use the interest rate applicable for the derivative. So we've been having preliminary discussions with our auditors to make sure we're on this particular circumstance, and we have not made a final decision on exactly how to disclose and how to move forward, but we believe it probably will be in the form of a report item that we would bring to you.

I know the Audit Committee meets every two or three months so I don't know if we'll have an opportunity, but I wanted to disclose that to the Audit Committee this morning and to you as the full Board because we may be coming back to you this coming month, if appropriate, to
bring that item. And republish what would be a standalone
document, present it to the Board, hopefully approve, and
then it would kind of accompany the financial statements
that we publish out there on our site in the event that
any third parties looking at our financials and the
information, we certainly want to be clear that they
understand what the outcomes are associated with this
transaction.

MR. OXER: Okay. So for the record, the Audit
Committee meets every quarter, more or less, generally
quarterly, but we have the option to do so at your request
any time that's necessary. So this item, I gather, you're
speaking of is an effort since we were between the
publishing and the opinions when they made it, there was a
modification there, and you're bringing this item out of
an abundance of caution and transparency.

MR. CERVANTES: Right.

MR. OXER: Does this constitute a material
difference in any of the financial statements?

MR. CERVANTES: I believe it's fair to say that
it does not. We have like $1.4 billion worth of bonds
outstanding at this time, and so this particular
transaction we believe is immaterial to that in that
respect. And like I said, we're having preliminary
conversations with the auditors, obviously to make sure
we're all clear on what would be an unaudited subsequent event. So the answer is no.

MR. OXER: Well, having just celebrated my 40th anniversary with a woman whose lifetime pursuit has been audit and financing, I understand the pursuit of meticulous attention to detail, so I appreciate that you're bringing this up. Trust me, if you're not worried about it, we're not worried about it.

Anything else we need to do on this particular item? This is an information item.

MR. SCOTT: I don't think so. That was just a clarification.

MR. OXER: Okay. Good.

MR IRVINE: And I just want to emphasize that the note that we would issue would not within the scope of the audit, it would be just the Department's note.

MR. OXER: Just to say this happened between the audit and the opinions.

MR. CERVANTES: Right.

MR IRVINE: And putting it all in plain English. When you disclose the value of the financial transaction, we typically look to the face rate, and in variable rate debt in this particular situation it was negative, but when you add the offsetting value of the hedge, it was marginally positive. Obviously, a perfect
hedge is going to be no impact, it's going to be zero, but in this particular situation it is what it is, and when you add the synthetic rate produced by the instrument plus the hedge, you get a slight pickup.

MR. OXER: Slight positive.

MR. CERVANTES: Right. And we just want to make sure anybody relying on this information they can go out there and they'll see both pieces and they'll have the information. The flip side of that would have been us being prepared with documentation for anybody having any questions. Had it been just on the published information, we would have that documentation internally to provide.

MR. OXER: What you're essentially doing is taking that available documentation and making it available to anybody that wants to read it.

MR. CERVANTES: And we want to make it official.

MR. OXER: As far as I'm concerned, that's just one more reason to get rid of the variable rate debt.

MR. CERVANTES: I agree.

MR. OXER: Thank you very much, David. Mark, do you have anything else to add on this, or should we have Philip finish it up here?

MR. SCOTT: No, sir. Since we engaged them to do this audit, we go through the process of accepting the
audit, so now the Board needs to vote to accept the audit.

MR. OXER: Okay. Ms. Bingham, as chair of the Audit Committee, I'd like to have you offer that.

MS. BINGHAM ESCAREÑO: Yes, sir. I move to accept.

MR. OXER: Motion by Ms. Bingham, chair of the Audit Committee, to accept the audit as prepared by the State Auditor's Office.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Is there any other public comment?

(No response.)

MR. OXER: No public comment.

Motion to Ms. Bingham, second by Mr. Gann to approve staff recommendation to accept this audit. Those in favor?

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

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

Thanks, Mark. And thank you to the Auditor's Office, Hillary and Philip, we appreciate your work on our behalf.

MR. SCOTT: The next item on the agenda is the internal audit of the Compliance Monitoring Division, and
we looked at the Tax Credit properties, the section of the Compliance Division that monitors the Tax Credit properties. They monitor for attributes such as rents charged, income eligibility, continued use of property in compliance with terms, and fair housing issues, and we found that the division accomplishes the monitoring effectively. We had recommendations related to timeliness of reporting and reporting of time worked, and that was the conclusion for that audit. So if there's any questions on that audit.

MR. OXER: Any questions? So is that simply a report item?

MR. SCOTT: Yes, sir. That's one of the items that was on the 2017 Audit Plan that we've now checked off.

MR. OXER: All right. If there are no questions, we'll assume that's approve and move on.

MR. SCOTT: The next item on the agenda is the report on the meeting of the Audit Committee. We met this morning at eight o'clock, we had a very productive meeting, and I'm going over some of the stuff we talked about.

MS. BINGHAM ESCAREÑO: Mr. Chair, I think actually the agenda report items are hitting most of the most critical things that we discussed. We had an end of
the committee discussion about the fraud, waste and abuse hotline, and I think you've seen historically we don't get a whole lot of relevant complaints through there, so management and Mark were nice enough to bring it to the committee's attention and brainstorm just a little bit if there are other opportunities to accomplish the same thing, you know, have transparency, have a vehicle for communication. Mark said he's good with it until he has to write that check every few months for overage fees for handling complaints that aren't even relevant, and so I appreciate his fiscal responsibility that he wants to make sure that the agency is using their resources wisely. So it's to be continued; they're going to think about it.

MR. OXER: So your discussion is in process about how to approach this.

MS. BINGHAM ESCAREÑO: Yes, sir.

MR. OXER: And this is my own observation, I defer to the Audit Committee entirely and to your expertise on this, Mark, but in the arena of public transparency for issues of concern that they have, we want to err on the side of transparency. Maybe it costs us some more money than we expect, that's okay.

MR. SCOTT: We discussed the net claims contract which is what we're talking about where we have this huge intake of fraud claims or waste claims or
whatever type of complaints they have, and I just wanted
to lay it out, this is what it costs the agency, this is
what we get out of it, and if we want to keep it, then
that's fine.

MR. OXER: So the real question is that's what
it costs the agency and that's what we get out of it. Is
there any other way to get that same value or more for the
same amount of money or less?

MR. SCOTT: Yes. And we discussed ways of
doing that, as she said.

MR. OXER: So you're still in process. Is that
right?

MS. BINGHAM ESCAREÑO: Yes, sir.

MR. OXER: All right. Good.

MR. SCOTT: And then the final item was the
self assessment of the Internal Audit program I preparing
for the peer review. So we went through the checklist
that is used in every peer review and identified a few
things where we can improve, mainly had to do with the IT
audit, so we're moving forward with that, and we discussed
the procurement of the peer review.

MS. BINGHAM ESCAREÑO: No problems there.

MR. OXER: No formal action on this, it's a
report item.

MR. SCOTT: Yes, sir. That is a report item
and it does not require formal action.

MR. OXER: Good. You're simply advising us that that's underway.

MR. SCOTT: Yes.

MR. OXER: Good.

MR. SCOTT: And that concludes my presentation. I'll answer any questions there may be.

MR. OXER: Any other questions? I'd like to say, first off, many thanks to Mr. Goodwin for taking the assignment to give us three on the Audit Committee. Appreciate that, J.B. With Mr. Chisum's departure from the Board, we were short one there and we needed somebody to step in and J.B. has agreed to do that for us and I much appreciate it. Irrespective of my short term tenure, I still appreciate you taking it on.

Any other questions for Mark?

(No response.)

MR. OXER: Thank you, sir.

MR. SCOTT: All right. Thank you very much.

MR. OXER: Okay. Marni, you're back in the box.

MS. HOLLOWAY: Good morning. Marni Holloway. Right now I'm wearing my chair of the Enforcement Committee that.

MR. OXER: Lucky you.
Item 5 is presentation, discussion and possible action on a recommendation to debar Ebenezer Anene for a period of ten years. Mr. Anene is the president and director of Ebenz, a Texas nonprofit corporation that had a reservation system participant agreement in 2012 to participate in the HOME program homeowner rehabilitation program.

You have received reports in the past regarding violations that were revealed during monitoring of that agreement, including failure to meet procurement requirements and adequately document costs. On February 9 of 2016, TDHCA demanded that Ebenz repay disallowed costs totaling $73,720.78, which Mr. Anene has repeatedly refused to pay.

Texas Government Code 2306.0504(c)(1) addresses debarment and indicates that the Department shall debar a person from participation in a Department program if they materially or repeatedly violate any condition imposed by the Department in connection with the administration of a program. 10 TAC Chapter 2.401(f) lists those material and repeated violations that may be grounds for debarment. Specifically, Ebenz has violated 10 TAC 2.401(f)(3) by failing to repay the disallowed costs.

This matter was referred to the Enforcement
Committee for an information conference to discuss the disallowed costs with Mr. Anene. After considering the information presented, the Enforcement Committee recommended debarment for a term of ten years, based on the statutory factors detailed in your Board materials.

I will be happy to answer any questions about the enforcement action. Jennifer Molinari is here if you have questions about the original HOME contract.

MR. OXER: All right. So we've apparently had an issue with this particular individual for some time. Over what period of time did you say?

MS. HOLLOWAY: This was a 2012 agreement.

MR. OXER: So we've been wrestling this for going on five years then. Right?

MS. HOLLOWAY: I believe that the monitoring that started to trigger concerns was in 2014-2015.

MR. OXER: So a couple of years. So the discussion about the repayment of the funds has been at least going on for some time.

MS. HOLLOWAY: Demand was made for the $73,000 on February 9 of 2016. That was after quite a bit of back and forth between Mr. Anene and our Compliance Division regarding documentation of costs.

MR. OXER: I recall, I think, that we had another debarment action sometime ago, and it was
estimated at ten years.

MS. HOLLOWAY: We recommended at ten years, yes.

MR. OXER: It was recommended at ten years; it would up going significantly larger.

MS. HOLLOWAY: To twenty years.

MR. OXER: Mr. Chisum said we have to think about letting these things trail on. So in this case, this individual has been given an opportunity to make his case and he hasn't made it.

MS. HOLLOWAY: He has addressed the Board in the past, I believe. He attended the informal conference and presented his case to the group.

MR. OXER: And he's simply doesn't accept the decision. That's what it sounds like.

MS. HOLLOWAY: Yes.

MR. OXER: Dr. Muñoz.

DR. MUÑOZ: Here it says that upon receiving notice of disbarment, did not submit a written appeal, and still that's the case as of today?

MS. HOLLOWAY: So far as I know, yes. As of the posting of the Board book, we had not received anything. I haven't heard from Ysella that she has received anything.

DR. MUÑOZ: He's made no overtures to the
Department?

MS. HOLLOWAY: No.

MR. OXER: And that's after a couple of years of this discussion going on.

MS. HOLLOWAY: Leaving the Enforcement Committee meeting, he knew that our recommendation was going to be debarment.

DR. MUÑOZ: All the more reason to appeal as strenuously as possible before this moment, seems to me.

MS. HOLLOWAY: And he absolutely has had that opportunity.

MR. OXER: Is there any questions? Nobody has requested public comment. Motion to consider?

MS. BINGHAM ESCAREÑO: So moved.

MR. OXER: Motion by Ms. Bingham to approve staff recommendation on item 5. Do I hear a second?

MR. GOODWIN: Second.

MR. OXER: There's a second by Mr. Goodwin. There's no request for public comment. Does any of the Board have any questions?

(No response.)

MR. OXER: All right. Motion by Ms. Bingham, second by Mr. Goodwin to approve staff recommendation on debarment in item 5. Those in favor?

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

(No response.)

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

Lucky you, Marni. Number 6 has been pulled so
you don't have to go sit down, you get to stay right
there.

(General talking and laughter.)

MS. HOLLOWAY: Item 7(a) is presentation,
discussion and possible action regarding an exception
under 10 TAC 10.101(a)(2) for 2017 Housing Tax Credit
application number 17010. This is for Baxter Lofts.

Under 10.101(a)(2)(E), undesirable site
features, development sites within 500 feet of active
railroad tracks may be considered ineligible unless
certain conditions exist that will allow the Board to make
a determination that the site is eligible under the
Department's rules. One of the conditions that allow the
Board to grant an exemption from the undesirable site
features limitations is if the proposed development
qualifies as a historic development under 10 TAC
11.9(e)(6), and the exemption is requested at the time of
or prior to filing of the application.

The applicant for Baxter Lofts has timely
requested exemption on the basis that the development will
meet the requirements and has provided evidence of its
eligibility to receive historic tax credits. Staff is recommending that the requested exemption under 10 TAC 10.101(a)(2) regarding undesirable site features for Baxter Lofts be approved.

MR. OXER: So they did everything they need to do on time.

MS. HOLLOWAY: Yes, they did.

MR. OXER: And it fits our rules.

MS. HOLLOWAY: Yes.

MS. BINGHAM ESCAREÑO: So moved.

MR. OXER: Motion by Ms. Bingham to approve staff recommendation on item 7(a). Do I hear a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin.

Do you want to speak on this item?

MS. BURCHERT: Good morning. I am Sally Burchert, construction development on behalf of the applicant Baxter Lofts Housing Partners.

In preparing for today I found a newspaper article from July 1926 from the Harlingen Star that had three articles in it. The headline is "Harlingen will have seven-story office building" and the second story describes the route of the new railroad. The two linked development and transportation hand in hand back then too.

The Baxter Building was built between '26 and
'28. This is a uniquely tall and narrow long building that was a business center of economic activity in downtown for many years. The location of Baxter Lofts will be a great place to live. It will have large Texas views. It's at the corner of A and Jackson Street which is the term I've heard locals describe downtown as Jackson Street. It's in walking distance of parks, libraries, entertainment, job opportunities, all the things that the QAP asked for high opportunity this year.

And finally, the QAP allows for a waiver for historic projects with the buffer requirements of a railroad, and we respectfully request that you follow staff's recommendation and approve the waiver.

MR. OXER: So you're arguing in favor of what we just moved to do. Is that correct?

MS. BURCHERT: I'm supporting your motion, yes.

MR. OXER: Good. Glad we got that right.

Any other questions from the Board?

(No response.)

MR. OXER: Motion by Ms. Bingham, second by Mr. Goodwin to approve staff recommendation on item 7(a).

Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)
MR. OXER: There are none. It's unanimous.

Okay, Marni.

MS. HOLLOWAY: Item 7(b), presentation, discussion and possible action regarding an exemption under 10 TAC 10.101(a)(2) for 2017 Housing Tax Credit application number 17255. This is Trinity Oaks Apartments.

This is exactly the same as the last item. The development site is within 500 feet of active railroad tracks and it may be considered eligible as determined by the Board. This one is for a little bit different reason.

One is the conditions under which the Board may grant an exemption is for rehabilitation developments with ongoing and existing federal assistance if such exemption is requested at the time of or prior to the filing of the application. The applicant for Trinity Oaks Apartments has timely requested the exemption from the 500 foot distance separation requirement and provided evidence that the existing property is supported by financing and rental assistance both from HUD and USDA.

Staff is recommending that the requested exemption under 10 TAC 10.101(a)(2) regarding undesirable site features for Trinity Oaks Apartments be approved.

MR. OXER: Hold on just for a second. Any questions from the Board?
MS. BINGHAM ESCAREÑO: It was just short of the 500, right, it was like 460-something

MS. HOLLOWAY: I don't recall the exact number.

MS. BINGHAM ESCAREÑO: And it's a rehab.

MS. HOLLOWAY: Yes, this is a rehab with existing federal financing.

DR. MUÑOZ: Four sixty-six.

MS. BINGHAM ESCAREÑO: Oh, then forget it.

(General laughter.)

MS. BINGHAM ESCAREÑO: I move to approve.

MR. OXER: Motion by Ms. Bingham to approve staff recommendation on item 7(b). Do I hear a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. No request for public comment. Motion by Ms. Bingham, second by Mr. Gann to approve staff recommendation on 7(b). Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none.

Okay, Marni.

MS. HOLLOWAY: Item 7(c) is presentation, discussion and possible action regarding a request for rural designation under 10 TAC 10.2045.

So each application must identify whether the
proposed site is located in an urban area or rural area of the Uniform State Service Region. Certain areas located in the boundaries of a primary metropolitan statistical area or a metropolitan statistical area may request a rural area designation if they meet certain requirements, including submission of a letter from a duly authorized official of the political subdivision in which the development is located requesting the designation. The request for rural designation for Country Terrace Village Apartments did not include the required letter, and therefore, did not meet the requirements of the rule.

On this basis, staff is recommending that the requested designation for Country Terrace Village Apartments be denied.

MR. OXER: Any questions? Motion to consider?

DR. MUÑOZ: So moved.

MR. OXER: Motion by Dr. Muñoz to approve staff recommendation on item 7(c).

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin.

Do you want to speak on this one?

MS. McGUIRE: Good morning. I'm Ginger McGuire, speaking on behalf of the Rural Rental Housing Association on general comments about the definition and designation of this rule, but I would also like to
disqualify that today I am the HUB on Country Terrace Apartments, and that's the property in question. We are not going to challenge staff's recommendation in this instance, but I would like to make some general comments, both on definition and designation as rural.

This is a USDA property, it's an existing property. They were built initially as rural properties all in rural areas initially. They are maintained as a rural properties, they were built under cost containment guidelines originally.

MR. OXER: Means cheap.

MS. McGUIRE: Which means it saved the government money initially but in the back years it cost the owners a lot more to maintain the properties.

They are regulated by the USDA as rural. The USDA approves or disapproves rent increases annually, and they're incremental at best. And we would like to pursue further conversations with staff regarding a permanent designation of USDA properties that are existing with existing USDA financing as rural designation.

In this instance, it was confusing, A, from the designation standpoint. The letter from a taxing authority, we went to Harris County, and a letter for the commissioners court would not be acceptable in this instance. It was confusing to the school district in the
short period of time after the QAP came out, and because of all those reasons, we're not going to challenge. We understand the rules that you're working under but we would like to have further discussion on those rules.

MR. OXER: Thanks Ginger. I think it's fair to say that we're always willing to have further discussion to get those clarified. This maybe is just one more quirk we've got in these things, Marni, just something to iron a wrinkle out of. But we appreciate your comments, and since you're not opposing or not challenging the recommendation, we'll take care of this, but we'll make sure that you get that conversation.

MS. McGUIRE: Thank you.

MR. OXER: You're welcome.

Any other questions? So that was a motion by Dr. Muñoz and a second by Mr. Goodwin to approve staff recommendation on item 7(c). Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none.

Cranking it today. Go for it.

MS. HOLLOWAY: Item 7(d) is presentation, discussion and possible action regarding a request for waiver of rules for Bishop Courts. This is Housing Tax
Credit application number 16049.

Bishop Courts received a 9 percent Housing Tax Credit award in the 2016 round for the construction of 60 new units in the City of Bishop. They have requested approval of a design change which may require a waiver of 10 TAC 10.101(b)(8)(B) for otherwise exempt units by proposing to treat all three bedroom, 2-1/2 bath units as the same unit type and not differentiate their exempt or non-exempt status in order to count them together to meet the 20 percent requirement for a bedroom at the entry level.

Staff previously did not recognize that the 20 percent otherwise exempt unit requirement in this rule could not be met through provision of other units in this development, and we believe that the applicant has acted in good faith in their interpretation of the rule.

The proposed change substitutes twelve one-story units for twelve two-story townhouse or otherwise exempt units of comparable size with the same bedroom and bathroom count. Going to the one-story units eliminates the elevators that were included in the original plan that were to meet accessibility requirements.

Staff is recommending approval of the requested change and the accompanying waiver.

MR. OXER: Is this just procedural, more or
less?

MS. HOLLOWAY: This rule has been a little problematic.

MR. OXER: Because I recall we had an item last meeting.

MS. HOLLOWAY: Right. So for the 2017 round we've made some changes in the application and in the certifications to try to catch these issues before we even get this far down the road. We're also considering some changes to the 2018 rule that we're hoping will create more meaningful visitability features in developments moving forward. So those were a couple of things we're working on to address these issues.

MR. OXER: So you're essentially asking for the approval of this waiver in the new rule the rule would accommodate and we wouldn't have to ask for a waiver.

MS. HOLLOWAY: If we wind up with that rule change.

MR. OXER: Assuming that change goes through.

All right.

MR. GOODWIN: So moved.

MR. OXER: Okay. Motion by Mr. Goodwin to approve staff recommendation on item 7(d).

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: And a second by Ms. Bingham. No
request for public comment.

Motion by Mr. Goodwin and second by Ms. Bingham to approve staff recommendation on item 7(d). Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

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

7(e).

MS. HOLLOWAY: 7(e) follows on with the item that we just discussed. This is presentation, discussion and possible action regarding a material amendment to the Housing Tax Credit application of Bishop Court.

As part of the change, they've requested approval to reduce the net rentable square footage by more than three percent due to a redesign of twelve of the units from two-story town homes to one-story flats. So previously there previously had been larger town homes that they're now taking down to the one-story flats. Board approval is required for a decrease of three percent or more in the square footage of the units, and the owner has complied with the amendment requirements under the Multifamily laws.

Staff finds that the reduction in net rentable square footage does not negatively affect the development,
impact the viability of the transaction or affect the amount of tax credits awarded, and recommends approval of the requested material amendment.

MR. OXER: Okay. So what was the net differential in percentage?

DR. MUÑOZ: How much more than three percent?

MS. HOLLOWAY: Four percent, four point something, it was just over the 3 percent.

MR. OXER: So Brent, you're good with the REA on this? Okay.

Any questions from the Board?

(No response.)

MR. OXER: Motion to consider?

MS. BINGHAM ESCAREÑO: I move to approve.

DR. MUÑOZ: Second.

MR. OXER: Okay. Motion by Ms. Bingham, second by Dr. Muñoz to approve staff recommendation on item 7(e).

No request for public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

Does this seem particularly easy to you today?

(General talking and laughter.)

MS. HOLLOWAY: 7(f) is presentation, discussion
and possible action on a waiver relating to 10 TAC 10.101(b)(5) concerning common amenities associated with Multifamily applications submitted in the 2017 program year.

The 2017 Multifamily rules were adopted on November 10 and subsequently published in the Register and were effective on December 29. There is a reference error relating to common amenities required as part of the threshold requirements for all developments. The error involves an incorrect reference in the opening paragraph of 10 TAC 10.101(b)(5) that requires that all developments include a porte-cochere which was something that we had added to the list for 2017 as an option, so by missing that reference, it looks like everyone has to put one in.

The Department has historically required that a portion of the common amenities come from the green building features listed in this section. This requirement has been in place for a number of years and was not contemplated to be changed in the 2017 rulemaking process. With the addition of the new porte-cochere amenity at the bottom of the list, the reference to the green building features in the opening paragraph was not updated, so we added another one to the list and it bumped the green building down.

To address the error, staff recommends a waiver
be granted to all 2017 Multifamily development applications so that a porte-cochere would not be required as found under 10 TAC 10.101(b)(5).

MR. GOODWIN: So moved.

MR. OXER: Well, apparently there are no questions from the Board, so there's been a motion by Mr. Goodwin to approve staff recommendation on item 7(f). Do I hear a second?

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: And there's a second by Ms. Bingham. There's no request for public comment.

We're just straightening out a quirk on this, a kink?

MS. HOLLOWAY: Yes.

MR. OXER: Well, it's like we handle our audit in the finance group, meticulous attention to detail where we'll buff off these mistakes so we can have a nice smooth process, so I appreciate the effort that you're going to on that, Marni.

There's a motion by Mr. Goodwin, second by Ms. Bingham to approve staff recommendation on item 7(f). Those in favor?

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)
MR. OXER: There are none. It's unanimous.

Everybody has got an agenda in front of them, and we recognize that we've had this thing up running at flank speed, making good turns today and on our vector and so we're pretty well down the road. What we're going to do right now, since we have an odd location and we don't have a break room for the gang up here to stop to, we're going to take a little bit longer break than we need, and that will give Tim and the crew time to hand out the paintball guns and set up the fireworks because I understand there's something coming after this. But we'll be right back. Let's be back in our chairs, it's ten after 10:00 right, let's be back at quarter to 11:00.

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

MR. OXER: Okay. We'll come to order again, and we have reached the point in the agenda where we'll take public comment to create the agenda for future meetings, and I believe Tim has got something to do beyond that, a little effort that we're going to participate on. But I would remind everybody one more time that I'll have a few comments as we close our public meeting today.

So anyone wish to make public comment? Walter, come on up. I expected to hear the list from you today.

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

I have to admit I threatened a time or two that all the Oxerisms would surface at the appropriate time.

I have never seen the chair or leader of a legislative or executive or public body do so much good with honesty, with fairness, with objectivity, humility, and humor. I'm going to really miss your service and I think the development community and staff will as well.

I really have only one Oxerism that stuck with me perhaps personally because more than one occasion with a single word you told me to breathe.

MR. OXER: I remember that. It was in a major auditorium in there, you were waiting for a decision from the Board and it came down on your side. I think you had your representative with you at the time.

MR. MOREAU: That was awesome advice.

(General laughter.)

MR. OXER: It works short term and long term.

MR. MOREAU: That's number one on my ten hit list, I'm sorry I don't have the other nine but maybe others do.

Thank you.

MR. OXER: My pleasure.

If there's anybody else, we'll be happy to recognize you, you'll get a shot at this, but if there's
nobody else who wants to make a public statement to add to the agenda, then I think, Tim, you have the next to the last word.

MR IRRINE: We're getting close. Actually, I could recite a compendium of Oxerisms and this would be a very long meeting.

MR. OXER: Don't tell me it's going to be a greatest hits list here. Right?

MR IRRINE: Okay. Our staff has compiled a resolution.

MR. ECCLES: Resolution of the Governing Board, Texas Department of Housing and Community Affairs.

"Whereas, J. Paul Oxer, appointed by Rick Perry, began his illustrious service on the Department's Governing Board by being sworn in by the Chief Justice of the Texas Supreme Court, Wallace B. Jefferson, on May 5, 2011;

"Whereas, J. Paul experienced immediately trial by fire, enduring 128 requests for forward commitments --" MR. OXER: I have to interrupt, I'll interject on that. I might add that Mr. Gann was going to prepare a T-shirt that said he survived both of the first meetings that I had.

MR. ECCLES: You have to let me continue. And after I say forward commitments, you have to go SSSSSSSSSS.
MR. OXER: The word that will not be said.

MR. ECCLES: It's the direction and word that shall not be said.

" -- 128 requests for forward commitments heard over the next two meetings, an episode that to this day Tom Gann refers to by using the phase I survived J. Paul's first two meetings;

"Whereas, J. Paul was appointed by Governor Perry to serve in the role of presiding officer, a/k/a chair, a position which Kathy Walt, former chief of staff for Governor Perry, advised him I would require him to work really hard for which he would receive no compensation and where virtually everything he did would piss someone off.

"Whereas, consistent with this advice from Kathy, J. Paul would frequently advise folks that if they had a problem with the job he was doing, they should call 512-463-2000 and ask for the Governor;

"Whereas, consistent with his engineering background and attention to detail, he would confirm meeting start times by checking the Naval Observatory atomic clock from his phone;"

MR. OXER: That was true.

MR. ECCLES: "Whereas, J. Paul lent his skill and expertise in the arena of corporate reorganizations
and corporate cultures to oversee a major restructuring of the Department's staff, positioning it to be responsive to programmatic compliance and other demands for promoting greater flexibility and nimbleness, equipping it to respond to the inevitability of change;

"Whereas, J. Paul also presided over a major revision to rules governing programs, beginning with the wholesale rewriting of the Qualified Allocation Plan;

"Whereas, these rule revisions extended to rules governing public testimony and Board materials, assuring that the Board and public were operating in a consistent and transparent manner and that everyone had a full and fair opportunity to make their position known, and that the Board was functioning as a questioning and deliberative body, drawing upon the unique depth and differing experiences and perspectives of each member;

"Whereas, J. Paul honored and frequently acknowledged Tom Gann's adage that a rule without a hard edge is just a guideline, even in exceptionally challenging circumstances that brought to tears to his eyes, either virtually or metaphorically;

"Whereas, during his time as chair of the Department had accomplished many notable things, including the construction and rehabilitation of nearly 48,000 units of affordable housing, the commitment of over $1.1 billion
to support community affairs and homelessness prevention
programs which assisted approximately 4,190,000
households, the reduction of variable rate debt-related
need for liquidity support from over $350 million to about
$116 million, and the financing of nearly 10,000 new Texas
homeowners, and perhaps most notably, working with fellow
Board members, including not only the current Board but
Messrs. Kieg, McWatters and Thomas, navigating the
defensive litigation that took him and the former chief of
staff, Cameron Dorsey, the Department being represented by
Scott Keller and Beth Klusman of the Solicitor General's
Office, all the way to the United States Supreme Court and
ultimately back to Federal District Court in Dallas where
the case was dismissed;
"Whereas, J. Paul put in long and selfless
hours, making the rounds to ensure that oversight offices
under two administrations and four legislatures were kept
apprised on a current basis on what was going on at the
Department;
"Whereas, on numerous occasions J. Paul
undertook to represent the Department at groundbreaking,
grand openings, conventions of developers and community
action agencies and other important events;
"Whereas, J. Paul taught us the meaning of
pithy aphorisms such as having enough ass on one's

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tractor;

"Whereas, J. Paul has taught us time and time again that the difference between Patricia Murphy and a terrorist is that you can negotiate with a terrorist;"

(General laughter.)

MR. ECCLES: "Whereas, J. Paul only had two rules for behavior at Board meetings which included no yelling and no live ammunition;

"Whereas, J. Paul concluded every meeting with the express acknowledgment that it is indeed a good things we do and made each one of us feel valued.

"Now, therefore, it is hereby resolved that this, the Governing Board of the Texas Department of Housing and Community Affairs, acknowledges with gratitude and admiration the work that J. Paul Oxer has done for this Department, the State of Texas, for the Texans served by the Department's programs, for the communities strengthened by these programs, and for reinforcing the importance of following laws and rules."

(Appause.)

MR. OXER: All right. I can see now why this little thing was here because the big one is over there.

MR IRVINE: Staff recommends that the Board adopt that resolution by acclaim.

MR. GANN: I so move.
MR. GOODWIN: Second.

MR. OXER: I think the vice chair has to take over on this one because the chair will recuse himself on this vote.

DR. MUÑOZ: It's been moved and seconded. All those in favor?

(A chorus of ayes.)

DR. MUÑOZ: Nobody has the courage to say no.

(General talking and laughter.)

MR IRVINE: We also want to recognize that you have got one authoritative whack with that gavel, and we wanted to provide you with this lovely gavel and whatever you call the whacky thing for the gavel, the striker, and it says "Thanks for the Whacks." Congratulations.

(Applause.)

MR. OXER: And my approach to the gavel, there was a purpose for that, and that was to make sure that even in the auditorium when I hit it those three times, I wanted the guy in the far left corner in the back with his back to me talking to somebody else to recognize that it was time to turn around, sit down and shut up.

Thank you very much for that, Tim.

MR. LYTTLE: J. Paul, we have two other things to provide to you. One is a picture of you with the Board that Amy did.
MR. OXER: That's a very good picture, by the way.

MR. LYTTLE: And then finally, in your honor this is a flag of the State of Texas that was flown over the Capitol during the first day of the legislative session. In fact, I was told this is one of the first five flags flown over the Capitol that morning which would have been January 10, 2017, in your honor.

MR. OXER: Thank you very much.

(Applause.)

MR. OXER: We're going to have to have much more pictures out of this.

MR IRVINE: The only other thing I wanted to say is, you know, a great chair is a reflection of a great Board and the efforts of staff and a love for Texas. So Thanks.

MR. OXER: Appreciate that.

Anybody else care to make any comment? This is your last shot. Okay?

MS. MURPHY: One thing I'm really going to miss about you, and I don't know if you have become aware that you do this or not, but Cameron pointed it out to me. This is J. Paul. Everyone is doing the Pledge of Allegiance to the flag, and then the whole Board does this to go to the Texas state flag, but not J. Paul, J. Paul
does this.

MR. OXER: And that's recorded on those videos.

(General laughter.)

MR. OXER: Well, as your chairman, one last time I get the last word one last time. There's a thousand things but it would only reinforce what I've said a number of times, and that is it's a good thing that we do here, and I appreciate that the cake we had last night said "It's a good thing that we've done here." So it's a good thing that we've done, we've done a lot since I've been here, but there's always going to be more to do, and I know that TDHCA is going to be able to do it.

I've said many times I hold it to be a hallmark as well as a fundamental moral obligation on a truly civilized society that we freely choose to devote some measure of our resources towards helping meet the basic human needs of those least able and those vulnerable among us in a manner that protects their humanity and respects their dignity. And so TDHCA is the embodiment of that philosophy and I think all of Texas can rightly be proud of the program management that we have, the governance and the financial management that the entire team puts together.

Sitting up here one a month for let's see, how many meetings have I missed, Michael?
MR. LYTTLE: Zero.

MR. OXER: Sitting up here once a month for going on just about six years, I'm acutely aware of the effort that's put in by everybody to make this work, and would offer up that the staff is spectacular, the senior staff and the presentations you make, it's always a comfort to know that it's going to be so complete and well founded and well considered. The current and former Board members, you guys are just the best, period. It's hard to say I'm really just the ringmaster in the circus trying to keep the clowns in the box and the elephants in line, but it only works when everybody else here does it. You guys do the work and we get to take the credit for it.

Tim, there's a reason you sit on the right side. Thanks for your strength and perseverance and insight.

You'll probably find it to be an anomaly, another one, for an engineer to be quoting a classic poet, but in the words of William Butler Yeats, Think where a man's glory most begins and ends, and say that mine was to have such friends.

My last thought is that this agency will forever be a part of me and I will be better for having been a part of what you've done.

I'll entertain a motion to adjourn.
MS. BINGHAM ESCAREÑO: So moved.

DR. MUÑOZ: Second.

(Applause.)

MR. OXER: We have to finish this. Regarding the motion to adjourn, the chair asks a special voice vote. Regarding the motion by Ms. Bingham to adjourn, second by Dr. Muñoz, how do you say, Ms. Bingham?

MS. BINGHAM ESCAREÑO: Aye.

MR. OXER: Mr. Gann?

MR. GANN: Aye.

MR. OXER: Mr. Goodwin?

MR. GOODWIN: Aye.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Aye.

MR. OXER: God bless each of you. May he be gracious to you, grant you his favor and bring you his peace.

The chair votes aye, the vote is unanimous.

Time to go. Thanks everybody.

(Whereupon, at 11:00 a.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF:     TDHCA Board
LOCATION:      Austin, Texas
DATE:      January 26, 2017

I do hereby certify that the foregoing pages, numbers 1 through 73, 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.

01/30/2017
(Transcriber)         (Date)

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