TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

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

September 7, 2017
9:00 a.m.

MEMBERS:

J.B GOODWIN, Chair
LESLIE BINGHAM ESCAREÑO, Vice Chair
PAUL BRADEN, Member
ASUSENA RESENDIZ Member
SHARON THOMASON, Member
LEO VASQUEZ, Member
TIMOTHY K. IRVINE, Executive Director

ON THE RECORD REPORTING
(512) 450-0342
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LEGAL

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ON THE RECORD REPORTING
(512) 450-0342
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Presentation, discussion, and possible action on adoption of amendments to 10 TAC Chapter 23, Single Family HOME Program Rules Subchapter B, Availability of Funds, Application Requirements, Review And Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds, §23.25 concerning General Threshold and Selection Criteria; and Subchapter F, Tenant-Based Rental Assistance Program, §23.61 concerning Tenant-Based Rental Assistance ("TBRA") General Requirements, and directing their publication for public comment in the Texas Register.

CONSENT AGENDA REPORT ITEMS

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b) Report on Department's Fair Housing Activities

c) Report on the Reallocation of Program Year 2016 Low Income Home Energy Assistance Program ("LIHEAP") Comprehensive Energy Assistance Program ("CEAP") funds

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ON THE RECORD REPORTING
(512) 450-0342
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PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS

EXECUTIVE SESSION
none

OPEN SESSION
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ADJOURN
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MR. GOODWIN: I call to order the Board meeting for the Texas Department of Housing and Community Affairs, September 7, 2017.

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

MS. BINGHAM ESCAREÑO: Here.

MR. GOODWIN: Mr. Braden?

MR. BRADEN: Here.

MR. GOODWIN: Ms. Reséndiz?

MS. RESÉNDIZ: Present.

MR. GOODWIN: Ms. Thomason?

MS. THOMASON: Present.

MR. GOODWIN: Mr. Vasquez?

MR. VASQUEZ: Here.

MR. GOODWIN: We have a quorum, and we will begin with Tim leading us in the pledge.

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

MR. GOODWIN: Before we ask for a motion to approve the consent agenda, we have a few items that are going to be pulled, item 1(p) 17413 Flora Lofts, and item 1(q) presentation, discussion and possible action on determination notices for Palladium Glenn Heights.

Does any Board member have any other item that they want to pull from the consent agenda? Anybody in the
public have anything they want pulled, the staff have
anything they want pulled?

(No response.)

MR. ECCLES:  Mr. Chair, by pulled, on Flora
Lofts, at least, that's not being removed from the agenda,
it's just being pulled from consent and being moved later.

MR. GOODWIN:  Right. And in fact, also we're
doing the same with Palladium Glenn Heights. Right,
Marni?

MS. HOLLOWAY:  Yes.

MR. GOODWIN:  So both of these items will be
taken outside of consent for approval.
If not, I'll take a motion to approve the
consent agenda as modified.

MR. BRADEN:  So moved.

MR. GOODWIN:  So moved. Second?

MS. THOMASON:  Second.

MR. GOODWIN:  All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN:  We have a resolution recognizing
October as National Energy Awareness Month. Michael, is
that something you want to address?

MR. LYTTLE:  Yes, sir. The resolution can be
found in our board book, it reads as follows:

"Whereas, the U.S. Department of Energy has
designated October as National Energy Awareness Month;

"Whereas, the Weatherization Assistance Program, the nation's largest residential energy efficiency program, was established by the U.S. Department of Energy in 1976 to make homes more energy-efficient, safer, and healthier for those with low and moderate incomes;

"Whereas, the Texas Department of Housing and Community Affairs administers a Weatherization Assistance Program, funded with both U.S. Department of Energy funds and Low Income Home Energy Assistance Program funds, which is operated by a network of community organizations, nonprofits and local governments;

"Whereas, the Texas Weatherization Assistance Program has injected millions of dollars into communities to improve thousands of homes, thereby helping Texans, including many of whom are elderly, disabled, or families with young children, conserve energy and reduce utility costs;

"Whereas, the Program conducts computerized energy audits and uses advanced diagnostic technology, investing as much as $7,212 in a home and providing an array of improvements that include weather stripping of doors and windows; patching cracks and holes; insulating walls, floors, and attics; replacing doors, windows,
refrigerators, and water heaters; and repairing heating and cooling systems; and

Whereas, weatherization efforts contribute to the state's economic, social, and environmental progress by creating jobs; prompting the purchase of goods and services; improving housing; stabilizing neighborhoods; eliminating carbon emissions; and reducing the risk of fires;

"Now, therefore, it is hereby resolved, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate October 2017, as Energy Awareness Month in Texas.

"Signed this Seventh Day of September 2017."

MR. GOODWIN: Do I hear a motion to approve the resolution?

MS. BINGHAM ESCAREÑO: Move to so resolve.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Moved and seconded. All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Any opposed?

(No response.)

MR. GOODWIN: So it is passed.

We have a couple of distinguished guests in our
midst today that I'd like to recognize. First, State Representative Eddie Lucio, III, and Mayor of Harlingen Chris Boswell. Glad to have both of you. Thank you for attending. Oh, I apologize, State Representative Oscar Longoria.

So we're going to take up item 7(a) first.

MS. HOLLOWAY: We're going to do that later on.

MR. IRVINE: So we're just going straight through the agenda.

MR. GOODWIN: We're going to take 7(p) Flora Lofts first. We need a break before Flora Lofts.

MR. IRVINE: Would you please come to the microphone and clarify any changes in the agenda order?

MS. HOLLOWAY: My apologies, we had some confusion. Marni Holloway, director of Multifamily Finance.

The first item we'd like to take up is 7(a) in deference to our guests that are here this morning.

MR. GOODWIN: And that's Baxter Lofts?

MS. HOLLOWAY: Yes.

MR. GOODWIN: And, Brent, you're going to talk about that first?

MR. STEWART: Yes, sir.

Brent Stewart, Real Estate Analysis.

Item 7(a) is the presentation, discussion and
possible action on an appeal under 10 TAC 10.901 for application number 17010 Baxter Lofts in Harlingen. Baxter Lofts is a proposed 24-unit adaptive reuse of a nine-story historic building in downtown Harlingen.

I should point out that none of what we're going to talk about here has anything to do with the merits of revitalizing this building, it has to do with some technical aspects of the application and the underwriting.

During underwriting, Real Estate Analysis determined that the property condition assessment filed with the application, dated February 20, did not meet the requirements of 10 TAC 10.306(a) which are the guidelines and rules for the property condition assessments. Instead of immediately denying the application, the program issued an administrative deficiency on July 12 to provide the applicant an opportunity to submit a compliant PCA report. In response, the applicant submitted a supplement to the original PCA, dated 7/17/17, which staff also determined failed the requirements of the rules. Subsequent to that, Underwriting issued an underwriting report which denied the application.

A little background. The PCA is a critical component of the application on things like rehabilitation projects and adaptive reuse projects. Unlike new
construction transactions where the underwriter has a multitude of data that can be used to cost a new construction transaction, each rehab development, each adaptive reuse development is very specific, very unique, has its own rehab plan, its own scope of work, its own thing, and so the underwriter has zero ability to cost out one of those transactions without the PCA report. It is the document that tells staff here's what the scope of work is in enough detail to understand it and here's the cost of that scope of work.

So part of that is the outgrowth of understanding the scope of work and the cost is under REA rules we're supposed to determine financial feasibility, and from there we're also to determine the amount of tax credits to award to a transaction, and that responsibility comes from IRS Code Section 42(m). Without that cost information in a way that we feel confident is the number to be underwritten, we're unable to meet the rules and we're unable to meet the responsibilities that we have under Section 42.

So first, before we get into the specifics of the rule violations, I think there's some things that I need to share with you regarding some other issues. First, generally the PCA lacks information, detailed information about the scope of work. I put the PCA and a
First, there's a major lack of information regarding some asbestos, lead-based paint and potential lead in the plumbing of the building. These are certainly big to us, certainly big health and safety concerns, and we would expect to see a significant amount of discussion about asbestos and lead-based paint and lead in the plumbing in the report. The original PCA only stated that the presence of these things was probable and that a Phase II study should be performed, and that comment is on page 16 of the revised PCA.

We don't expect the PCA report provider to go and do testing for asbestos or lead; they're not an environmental consultant, we don't expect them to do that research. But we do expect is that they have a good enough understanding of what potentially could be in that building to be able to say here's how much it might cost to abate the building of the asbestos or the lead. In this case, there was no indication at all about the seriousness of the problem of the asbestos. The report did not talk about where the asbestos was, was it all over the building or was it localized to a specific part of the building, how much of it might be there, what the cost implications were to abate it, was it a $50,000 issue, was it a $500,000 issue. We had no way of knowing, zero, it
was unknowable based on the PCA.

Additionally, there were no pictures inside that building to show us where the asbestos might be. In fact, there were no pictures of the interior of the building at all. As a result of this, combined with other issues in the report, we basically came away with no confidence that that budget was described well enough for us to rely upon to issue an underwriting report. And again, to kind of highlight the absence of information, the entire environmental section in the report was two sentences, one of which was the asbestos and the lead was probable.

So we raised that issue with the applicant and said we have these concerns, and with other concerns that we kind of talked through with them, we issued the administrative deficiency and said, Go fix it. They came back with a revised PCA with the same comment that the asbestos and lead was probable but provided no more useful information in that report about the asbestos and lead. It did in the budget provide money, $88,000 for the asbestos and $25,000 for the lead for abatement of those two items, but again, we didn't know where it was, how much of it it was, et cetera. So that was in the budget. We didn't know how that money was estimated, we didn't know if they had talked with an environmental person,
there was just no information in the report. All of that is on page 36 of the revised PCA.

So we published the underwriting report with a do not recommend based on the lack of information about the asbestos and the lead in the building. So what's most disturbing is post-publication of that underwriting report, we found out from the city manager of Harlingen that the asbestos had already been abated, it was abated in 2015 which was much earlier than either of these PC reports were dated. And again, there was no information about the asbestos, there was obviously no information that it had already been abated.

On questioning the report provider about the asbestos and the money being put into the budget for abatement of this stuff, it was clear that the PCA report provider didn't know that the asbestos had been abated, at least that's what it looks like from the report itself. So I think there's some issues there with respect to what was in that PCA versus the reality of the conditions on the ground.

There are other significant concerns outlined in your board material related to the budget, the overall lack of information in the report, but to underscore and illustrate the concerns about it, PCA reports are generally pretty extensive documents, and granted, they're
probably more extensive on a rehab development than they are on an adaptive reuse development, but there's still pretty comprehensive reports. For example, they're supposed to outline what codes and conditions relate into it, are there code violations that are going to be fixed, how are you going to fix they, what are they, how does the scope of work fix those, what does that cost. There are items like that in the report, and the report just basically says all code violations will be fixed. There's no tie from that statement to what is it in the scope of work that you're going to do to fix the code violations. Again, no information at all.

So again, PCA reports are pretty long, extensive, and so not that the number of pages tells how good a PCA is or not, because they're going to be different, you may have PCAs that are 400 pages long because they have all the research that they did, all of the discussion, the notes of conversations, the interviews that they did with the folks at the city, with other folks. It's documented in the report what those conversations were and what that person said regarding that building.

This report, the entire original report, was 23 pages long. Three of it were the cover, the transmittal letter and the table of contents, five of it was resume
information about the provider of the report, eight pages
of it were pictures of the outside of the building, there
were 13 pictures, that leaves seven pages for narrative to
discuss the scope of work on a nine-story historic
rehabilitation deal that I don't understand how an
underwriter was going to get a full understanding of the
scope of work of that deal and be able to tie it to the
adequacy of the budget.

The revised PCA that came in after the
administrative deficiency in large part was a
rearrangement of the information in the original PCA
report. We had provided to the applicant an example of a
PCA report that was done in accordance with ASTM, which is
kind of a standard that's used for PCA reports. I went
out on the web and just grabbed one from a commercial
retail center and said, Here is one, not saying you have
to do that, not saying that that's what it's going to look
like, but here is an example. So the revised one that
came back had a revised table of contents, it had the
information more organized according to the ASTM, but
there wasn't a lot of additional information or narrative
or description of that scope of work for us to rely on

They did include a page that kind of outlined I
guess you could call it the scope. For example, it would
list 24 toilets, 24 sinks, 24 lavatories, stuff like that,
and then there was a budget that's on a TDHCA form that
tied to those line items. The problem was there was no
description in the report about those items and the dollar
amounts associated with those items were not clear. The
toilets, lavatories and sinks were a thousand bucks
apiece, and so we were unclear what that meant, is it just
the toilet, is it the punch-out to get the plumbing to the
toilet, you know, what was it. We had no information
about what that was.

So 10.306(a) is in our underwriting rules and
it lays out the actual aspects of the rule that the PCA
report is supposed to meet, and I'm not going to go
through them all. They're outlined in your book, but I
think there's a couple of them that are important to
highlight. One of them I mentioned previously is a review
and documentation of any violations of any applicable
federal, state or local codes, developing cost estimates
to take care of those code violations. The report just
simply states that all violations will be fixed.

There's a require that the PCA assess to the
extent to which any systems or components must be
modified, repaired or replaced in order to comply with any
specific requirements of the housing program under which
the development is being proposed. So there should have
been a tie between the scope of work and the QAP and the
Department's rules stating specifically how this development is going to meet those rules and the amount of money it is going to take to meet those rules.

Another requirement is -- and I don't need questions on this one because this a Megan issue, a Megan question -- relating to accessibility issues. Again, the report simply states that the building will meet all accessibility requirements. There's some narrative about how high the switches have to be and the turning radiiuses in the kitchen and some things like that, but that's only a smart part of the accessibility of a building. So there's kind of three subsets of that that relate to accessibility. And again, 10.306(a)(6) is the operative section of the rule that allows the underwriter to tie the scope of work to the budget so that the underwriter can be confident that that is the number to underwrite to that allows us to determine the amount of tax credits to award to the project.

So I'm happy to answer any questions that you have, and again, I don't think any of this relates to the merits of the development itself. Underwriting is not saying anything with regards to the merits of the development itself. This PCA did not meet the requirements of the rule, the underwriter was not able to underwrite, even after administrative deficiency was
issued, to underwrite the application. And that's the presentation.

MR. GOODWIN: And staff's recommendation is?
MR. STEWART: To deny the appeal.
MR. GOODWIN: To deny the appeal.
MR. STEWART: Right.
MR. GOODWIN: Any questions for Brent?
MS. BINGHAM ESCAREÑO: I have a question just regarding the timeline. So our board book said that the PCA was basically the same PCA that was provided with the 2016 application with some minor revisions.
MR. STEWART: That's correct.
MS. BINGHAM ESCAREÑO: How far did that one get? What did you guys do with that one?
MR. STEWART: So Baxter was not underwritten on that deal. They submitted some other applications that were awarded in 2016. They were also adaptive reuse transactions. They submitted those with essentially the same form of PCA and the same information within that PCA about those transactions. We missed it. In the haste to finally get everything 2016 underwriting report done last year, we missed it. That doesn't mean that that's a pass on the rules or that this report needs to conform to the rules.
MS. BINGHAM ESCAREÑO: So there was a PCA in
2016 that was not really -- that didn't meet standard
either and it slipped through, but are you saying it's
from the same applicant or the same architect or the same
developer?

MR. STEWART: All of it. So there was the 2016
report filed with that application. The 2017 report, that
was dated in February, was basically an update to the 2016
report, and then the administrative deficiency was issued,
and then July 7 the revised PCA came in. In between
there, there was some discussions with them about issues,
some questions about the transaction, but that's what we
had.

MS. BINGHAM ESCAREÑO: In the board book it
says we issued the administrative deficiency on the 12th
of July, they submitted a revised one on the 19th. Did I
get that, or no?

MR. STEWART: It was on the 19th; it was dated
the 7th.

MS. BINGHAM ESCAREÑO: And what was the
turnaround time on that? If we issued the administrative
deficiency on the 12th, how much time did they have to
like materially go back and get a more thorough
assessment?

MR. STEWART: Seven days is the clock.

MS. BINGHAM ESCAREÑO: I don't have any other
questions.

MR. GOODWIN: Any other questions?

(No response.)

MR. GOODWIN: Before we hear comments, I would like to entertain a motion to listen to comments regarding this issue.

MS. BINGHAM ESCAREÑO: I'll so move.

MR. GOODWIN: Moved? Second?

MR. VASQUEZ: Second.

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Any opposed?

(No response.)

MR. GOODWIN: I want to remind you if you're wanting to come up to speak to please sign in and we're going to adhere to the three-minute rule.

MS. ANDRÉ: Good morning. My name is Sarah André. I'm here to speak on behalf of the project.

At issue here is not whether this project met the rules. Rule violations are not the case; we met the rules. At issue here is whether or not TDHCA had enough information to underwrite this deal. I think you're going to hear testimony from a number of people, that's because we're very passionate about this project. It goes above and beyond meeting all the scoring criteria. We were the
number one scoring deal in Region 11 with 156 points, but it truly furthers the mission of the Department which is to improve the quality of life and achieve better communities in Texas, and this project really does that.

By way of introduction, the developer in this case, MRE Capital, has extensive experience with this type of project. They have eleven historic projects under their belt; all of those projects are bigger than the one we are talking about today. They get glowing recommendations from the communities they work in; they definitely know what they are doing.

The PCA report providers, Mike Klefner and Jim Holub are both here today. They, between the two of them, have done more than 600 of these reports in multiple states; they've never had one rejected, not in Texas, not in any state in the nation. The developer and the design team and the city are all intimately familiar with this building. There have been 14 site visits from the team to the building over the time.

And from Brent's perspective, you heard about one report. What he has left out is that we submitted an environmental site assessment which would cover all kinds of things, in addition to the PCA. You have accessibility certifications from the architects, and a number of other assurances about this project.
Further, I'd like to state that this is not a rehab project, this isn't some garden apartments that we're going to put new cabinetry in and new carpet and call it a new deal, this is gut rehab, it's adaptive reuse, it is basically new construction inside a historic shell. PCAs are intended to give you information about rehabilitation. They are useless in this case. When you are doing all new construction, you don't write a list that says every code violation that you're going to mitigate with your new construction. This would be all new wiring, all new plumbing, all new systems, all new interior walls. I mean, there's nothing in there that is salvageable. I don't think a 100-page report, a 10,000-page report detailing that would have provided the information that was needed.

Further, the rules did not change. The very first thing I did when I heard that we had a deficiency on this was I thought I missed something, and I went and looked and word for word they were exactly the same. It's going to be very difficult to wrap up. May someone donate their time to me?

MR. GOODWIN: Sure.

MS. ANDRÉ: Thank you.

The rules have not changed from 2016 to 2017. The team did submit identical PCAs for two projects that
are currently under construction, they were awarded last year. And I find the idea that the excuse we missed it is good enough for TDHCA but it's not good enough for an applicant appalling.

You know, you have got a very long list from us in your board report going point by point about how we believe this met the requirements of the PCA, so I'm not going to go through that. What I want to talk to you about is how the underwriting team had many opportunities and ways to determine the costs on this. You know, you heard that they had zero ability to determine the costs, but you know, they have many other means at their disposal which they use all the time, because I'm familiar with these, I do all kinds of projects and I get these questions and provide this information. They could use their extensive database of projects that have been developed in Texas.

You know, Mr. Stewart has extensive contacts in the construction industry, he used to be a developer, he has a lot of knowledge about these things, and he does talk to those contacts, I know that he does. They have online resources at their disposal. They could have looked at other projects submitted this year, and I know that they do that, comparative analysis, because I get questions about, hey, this other project had XYZ costs,
why is yours different. Our costs per square foot are 
amost identical to another project, a historic adaptive 
reuse rehabilitation project in Longview this year. We're 
literally maybe two dollars a square foot off of those. 

And you know, I just want to emphasize, once 
again, is really for rehab. This is not rehab, it is a 
complete new construction inside a shell. And I think for 
us we just felt like the Department kept changing its tune 
about why they didn't like the project. We went through 
numerous questions about the underwriting on this deal, 
including the structure, the operating costs, the 
staffing, talking about the numbers in this project, and 
then at the eleventh hour in July we received this 
deficiency. The deficiency was vague, it said, Hey, your 
PCA isn't sufficient. The only thing I have, other than 
the example that Mr. Stewart sent us -- which was very 
kind -- is what the rules say, and we went point by point 
through those and tried to make it match. I really had no 
way of knowing. 

After we were denied, we were told that there 
were concerns with the roofing, the HVAC, the asbestos. 
All the Department had to do was issue a deficiency if 
they truly wanted to know about those issues and we could 
have answered those. I believe that the PCA was deficient 
and at issue is the project is doable and feasible, it's
very doable.

Thank you so much for your consideration today, and I'll let the other speakers have a turn.

MR. GOODWIN: Any questions?

(No response.)

MS. BAST: Good morning. Cynthia Bast from Locke Lord, representing the applicant.

As you just heard from Mr. Steward and from Ms. André, each rehab, particularly each adaptive reuse is unique, and therefore, the PCA that is presented for that particular development must suit that particular situation. And as Ms. André said, the applicant believes that the provided a PCA that is fully compliant with the rules. If you go to 10.306, you see six categories that require analysis and discussion. The underwriting report says that the PCA was deficient in these categories and gives examples of the deficiencies, but if you look at their appeal, which is on page 208 of your board book supplement, you will see that they addressed each and every one of these deficiencies and identified where the item was or how it could be found in the PCA that was presented.

The underwriting report goes on to say that in order to grant this appeal that the Board must waive the requirements of Section 10.306 with regard to PCAs, and
the applicant disagrees with that. If the PCA does contain the items required by the plain language of the rule, then the Board doesn't need to waive anything to grant this appeal, rather they just need to instruct staff to address any of their questions that they have about the PCA through the administrative deficiency process. And as you heard, there was one administrative deficiency issued that basically said. This is not what we want, fix it. With more opportunity to talk about the specific items of concern through administrative deficiencies, which would be appropriate to this kind of development, I believe that the questions could be addressed.

Thank you.

MR. GOODWIN: Any questions?
(No response.)

MR. GOODWIN: Thank you, Cynthia.

MR. SERNA: Good morning. My name is Dan Serna, the city manager for Harlingen. Thank you for your time and thank you for hearing us out.

I can tell you that we've been working on this project, I've been with the City of Harlingen now going on 28 years, and as long as I can remember, we've been talking about this nine-story building that needs to be rehabilitated and put back in service. It's a beautiful building in our downtown that needs to be re-energized and
I want to address the asbestos. When we had the opportunity to take over the building and purchase the building about four years ago, we knew as a city that in order to make it appealing and feasible to undertake a project like this, we were going to have to find a private partner to come in and help with this renovation. So what we did was we took on the responsibility of abating the asbestos in the building, so we performed a full environmental on the building and removed all the asbestos-containing material. That was done in June of 2015.

Inclusive of that, as part of that project we also removed the asbestos-containing material on the roof. I know that's one of the items in the underwriter's report. So when we removed the asbestos-containing material on the roof, we had to put a new roof in place so that, of course, you don't get water damage inside the remaining building, so we went ahead and put a polymembrane roofing system as part of that project, and we spent about $144,000 on that abatement process. So I wanted to address that because I thought that was important. I saw that in the underwriter's report and I wanted the Board to know that we did that to make it more appealing for a private partner to come in and help us.
I can tell you that this project is vital to our downtown, the renovation of this project is vital to our downtown, and without private assistance from a private partner and without the low income housing tax credits, this historic structure will remain as is for a long time to come, and we'd really like to get this back in play, and we ask for your help and for your approval of the appeal.

Thank you.

MR. GOODWIN: Thank you.

Any questions?

MR. VASQUEZ: I do have a question. So just to reiterate the asbestos material have already been abated.

MR. SERNA: Is gone. I have a binder where we not only abated all the asbestos-containing material, we also hired a third party consultant to do the air quality monitoring during the abatement process, and then we also filed the necessary certification with the Texas Department of Health once it was completed. All those components were finished in 2015.

MR. VASQUEZ: And I was going to save this question till the end, but since it's on the same topic, the lead-based paint probability, that's being addressed because you're stripping out everything and basically taking it out to the shell.
MR. SERNA: This project is a complete gut rehab, even the windows are going to have to come out, so you're going to end up essentially with a brick exterior shell and new construction inside completely. There are no usable parts. I've been in this building several times. There are no usable components that exist in the building right now, especially after the asbestos removal. We went as far as removing the boiler in the basement because it contained some asbestos insulation, so that's as far as we went, and that was not an easy task. So we did that to make it more appealing, and we're fortunate that we did find a developer like MRE Capital, Interstate Holdings to come in and take this challenge on, something we really want to do.

MR. GOODWIN: Any other questions?

MS. BINGHAM ESCAREÑO: I have just a followup question. It really goes to Sarah's comments, but now that you've made these. So one of the observations about the PCA was that, you know, it just had the couple of sentences on the lead-based paint and asbestos, but given what you said and what Sarah said, so the PCA looks like it pretty much focused on the infrastructure, the overall exterior of the building. As city manager, since you had already done all the pre-work on the interior, plus you knew it was a complete gut project, when you guys saw the
PCA, did you think that it was appropriate because it was really focused?

I know there some photos where there's some weaknesses in the concrete at the base of one of the corners of the building, or something like that. Was your thought, hey, the main focus of the PCA would be the actual structure and not necessarily all the interior issues because you had already corrected the asbestos ones and you knew the rest of them would be taken care of through the gutting of the interior?

MR. SERNA: That's a great question, and I'll be honest with you, I did not see the PCA prior to it being submitted. So I'm going to be truthful, I did not see it, and so I wasn't aware until we received the denial that that was the issue, and then I chimed in saying, well, in 2015 all that stuff was done. Now, us and the developer, we had talked about that, they knew that, and somehow it didn't make it into the report. But I will say, just like with all construction projects, new or renovation, you always have a contingency for certain unforeseens, and I suspect that that's what the architect did on the probable comment is that he was trying to cover himself just in case on a nine-story building something comes up that wasn't caught in the original abatement process. So you've got to cover yourself.
MS. BINGHAM ESCAREÑO: Thank you. Nothing further.

MR. SERNA: Thank you.

MR. GOODWIN: Thank you.

MAYOR BOSWELL: Good morning. My name is Chris Boswell, and I'm the mayor of the City of Harlingen. Mr. Chairman, members of the Board, Mr. Irvine, thank you for the opportunity to address you all here this morning on what is a very, very important project for our community.

We have our Harlingen Area Chamber of Commerce executive director, Chris Gonzales, here this morning and some of his staff, we have our Economic Development Corporation director, Raudel Garza here, also to stress the importance of this project to our community.

I want to say three things, really, I want to make three points. One is in Harlingen we're very passionate about affordable housing. In the last five years we've partnered with the Texas National Guard to go into neighborhoods and tear down old dilapidated houses and structures which are safety concerns for the neighborhoods, which are drug hangouts, which are graffiti magnets, and we've eliminated those structures. And then we're partnered with Habitat for Humanity to come in and rebuild new housing in those areas, in those neighborhoods where we've torn down those hold dilapidated structures.
We want to see more affordable housing in our community and we've taken it upon ourselves to do that, and over the last five years we've done 156 of those teardowns and we're working as hard as we can to build new houses in their place.

The second thing I'd like to ask you to consider is what's been mentioned before. These are the two property condition assessments for projects that were submitted by the same developer, by the same architect in Plainview and Cisco last year, and they're both 28 pages long, just like the one that was submitted for Baxter last year. We're not asking you to treat Harlingen any differently, we're not asking for a special pass, we're not asking for anything different than to be treated like these two projects were treated. These two PCAs passed muster last year and they were funded. They're underway right now. They're the same kind of '20s era building, they're old Hilton Hotels. The communities that they are working in, this developer is working in, are delighted to have rehabilitated in their downtown area.

And finally, I just want to say that this is one of many projects for you, it's one of many projects for the staff, one of many projects for most of the people in this room who do this for a living, and I know that everyone takes pride in their work and I know that you
take each and every project seriously, but this is not one of many projects for the City of Harlingen, this is the project of a generation, maybe two generations. We've been trying to do something with this building for 35 years, and if we can add, to what we've already done in our neighborhoods, another 24 affordable housing units in our downtown where they are desperately needed, then this will be a project that you can be proud of, that our community can be proud of, and it desperately needs to be done.

I ask you to sustain our appeal and allow this project to go forward. Thank you.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Thank you, Mr. Mayor.

MR. Longoria: Good morning, Chairman Goodwin and members. My name is Oscar Longoria, and I'm actually the state representative for House District 35 which encompasses the City of Harlingen.

Today I appear on behalf of my constituents and on behalf of somebody living in South Texas to explain to you the importance of this project to the area. I commend Mayor Boswell, the city council, various entities that have been involved with this project throughout the years, and it's been a true collaboration with everybody working
together.

The Baxter Lofts will not only promote the economic activity in the area, but it's going to help revitalize the downtown Harlingen area as well. The remodeling of the house will be beneficial not only to provide housing to the community, but it's also going to provide a historical resemblance of the area, so it's truly a remarkable project. I stand side by side with the City of Harlingen. I think this is a regional project where the implications for South Texas can be profound.

So I ask for your consideration on this appeal and I'm open for any questions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Thank you.

MR. LUCIO: I appreciate it. Thank you very much.

MR. LUCIO: Good morning. My name is Eddie Lucio, III. I'm a state representative for the other half of Harlingen. Oscar and I share this wonderful city that we have the honor of representing.

I have just finished serving my sixth session in Austin. I can't believe it's gone by so quickly. But in those eleven-twelve years I've been working with the city, I've seen a true passion for local government to
make a difference in the community. I do represent House District 38, I have one of the poorest districts not only in the State of Texas but in the entire country, so affordable housing down there, every unit is extremely critical and vital. I'm fifth generation to be born and bred and then moved back to Brownsville to make the home.

The Brownsville-Harlingen area, we are making strides in terms of the quality of education. I'm so proud of the school district of Harlingen. They had a tremendous summer program, that I went and toured, in robotics. There are so many projects that are going on there, both commercial and industrial that are going to make a difference for the future and quality of life for our community, but these affordable housing projects are truly critical.

You've heard a lot of information, a lot of back and forth. I just finished and moved in this week to a restoration project back in my district, a 100-plus year old home. We gutted everything, there was nothing salvageable, no wires, no plumbing, it didn't even have HVAC, so we added all of that. So if someone were to ask me what do you plan on doing to get your building into code, I would have said, Well, we're going to have to start from scratch. And that would have been the exact details that I would be able to give. For me to say,
well, this existing wiring doesn't meet code because of
XYZ wasn't really relevant to me at the time, so when the
city came in and I met with them, I said, Look, I'm
gutting the whole thing. The only thing that was usable
for me was the shell of the building, and I think we have
the same scenario here.

If you've ever been involved, and I know you
have, in evaluating these applications, I'm in my time in
office becoming more and more concerned with how
cumbersome the application process is for people applying
to do either work with the city or seek funding from
government. I just tried to get an SBA loan -- I don't
know if you've ever tried to do to that -- for a project
I'm working on. I spent two months on the project and
gave up and just went the commercial route. These are
government types of applications and they're so cumbersome
that it requires experts in the field that cities like
Harlingen or small businessmen like me just don't have
resources for. So the number of people that can
participate in the programs that we create as state
government or federal government becomes more and more
limited and we make it more and more cumbersome.

What is very important to understand is that
this applicant scored very, very high on numerous scoring
criteria, and if it wasn't for this one technicality, this
project is considered a good one by this very agency. So I ask for that consideration.

It's interesting to be on this side of this panel, I usually sit over there. But I thank you very much for your service. I know it takes away from the work you do to put food on the table, and we appreciate those at state agencies who volunteer their time. Thank you so much.

MR. GOODWIN: Thank you.

Any questions? Anybody else that wants to speak?

MR. LYTTLE: Mr. Chairman, I have a letter, one more letter from Senator Lucio, to read on this issue. It's addressed to you and the Board, reads as follows:

"Please accept this correspondence as my full support to the City of Harlingen on a formal appeal before you on Housing Tax Credit project 17010 Baxter Lofts. Because of the critical affordable housing needs that we have in our region and the importance of this housing tax credit project in Harlingen, I respectfully request that the Board consider the substantive merits of the matter before you and approve the formal appeal.

"My longstanding support for this affordable housing endeavor is well documented with TDHCA and evidenced through a letter of support I submitted to your
Board on May 23, 2016. As I shared with you then, I restate today, this project is well deserving of the State's support. I hope that after reviewing the substantive elements of the appeal that you will agree that Harlingen's effort to preserve and revitalize the historic downtown Baxter Lofts property by converting it into an affordable housing project, which will provide needed housing to low income families, is a commendable endeavor.

"For these reasons, I respectfully request that the Board take into consideration the community-wide support that this project has garnered, especially the stakeholders, institutions and partners that have come together in support of this noteworthy effort, such as Habitat for Humanity, United Way, Harlingen Chamber of Commerce and the Harlingen Boys and Girls Club, while you review the substantive merits of the appeal.

"In closing, I thank you for providing me the opportunity to reaffirm my support to the City of Harlingen's effort to revitalize the downtown area by transforming the Baxter Lofts property into an affordable housing project. With the housing needs of my district in mind, I respectfully ask that the Board focus on the fundamental elements before you and hope that you see the appeal in a favorable light."
"Please do not hesitate to contact me if you have any questions. Sincerely, Eddie Lucio, Jr., State Senator."

MR. GOODWIN: Thank you, Michael.

MR. VASQUEZ: Mr. Chairman, I'd like to ask Brent a couple of followup questions.

Just so the Board understands, the fundamental problem and the staff's concern is that the PCA noted probable asbestos and lead paint at the site. Is that really what it fundamentally comes down to?

MR. STEWART: No, sir. It does not materially meet the requirements of the rule.

MR. VASQUEZ: The PCA report does not meet the requirements of the rule.

MR. STEWART: That's right. And yes, they did provide kind of a side-by-side of how the report did meet the rule, and I'd be happy to go through what they pointed to as satisfaction of the rule that they're pointing to, and again, it doesn't meet the requirements of the rule.

Code violations, for example, and maybe you guys can find other places that it talks about code violations, but there's a reference to code violations about smoke detectors, and then somewhere, and I couldn't find it, it just said there are multiple code violations and that they will be fixed.
MR. VASQUEZ: And again, just help me work through this.

MR. STEWART: Sure.

MR. VASQUEZ: We understand that this is going to be a complete gutting of the building, so even if there were smoke detectors there, it's all going to be torn out and replaced anyway. I mean, regardless of the report, but the reality of the situation is that any code violation in there is going to get pulled out and restarted.

MR. STEWART: So Ms. André outlined the fact that -- and I spoke to it earlier -- that each adaptive reuse transaction, each rehabilitation transaction is different, different specifications. There's different parts of the building that are there that may be reused and not reused; there were aspects of the building that we were unclear that was going to be reused or not; we had schematics of the units and the floor plans. There was a piece of the PCA that referenced wall trim: We observed that the base trim in the units was present, was likely original, in most cases in poor condition, the trim should be replaced with a replication base trim as part of the rehabilitation. That doesn't tell me that they're keeping the walls and that trim and they're trying to match the trim to the existing walls. No place in the report does
it say we're ripping out the walls, and we had no
photographic evidence that there were any walls in the
building to begin with.

There's a reference to in terms of code as it
relates to accessibility, it talks about some stuff on the
inside of the units with respect to 30-inch work spaces at
the countertops, wall cabinets should be lower. It goes
into those types of requirements, which, great, that's
what we would expect to see in the report. Then it says:

We recommend that the units be located on an accessible
route from the accessible parking spaces at the new
covered parking garage. There is no new covered parking
garage. Later it goes into the fact that there should be
onsite parking, and there is no onsite parking.

We are supposed to take a totally self-
contained document that tells the story of that building.

If it's a gut rehab, it's a gut rehab and there needs to
be specifications and information about how much stuff is
going to cost. If you look in your board materials at
this document, this is a side-by-side of the budgets that
were submitted between the 2016 application, the 2017
original application and the supplement that was dated
July 7, and I'll point your attention on the second page
for that, if you look across at doors, windows and
drywall, you'll see quite a bit of fluctuation over the
period of the cost of those items. Okay. Why? We don't know. There's probably a good explanation, but it's not in a self-contained report.

MR. VASQUEZ: Well, I just want to make the statement that I understand, and I believe the Board understands that the staff needs to operate on that self-contained report that was submitted in the application, and it appears to me that the application didn't quite clearly define the scope of how things were going to get redone in this case, so I agree with your analysis. Given the strict letter of our rules and regulations and such, you're left with no alternative but to recommend denial of the application.

MR. STEWART: Correct.

MR. VASQUEZ: So I'm thanking you for following the rules and continuing with your job, however, I think this is what the whole appeals process is for is that the Board can look at the reality of things and the other extenuating circumstances. Even in the QAP Committee meeting yesterday, we were trying to fight through the battle of there is no one size fits all for every type of project across the state. And in my mind, this is clearly an exceptional project and from the speakers and the description of the project, personally, I'm satisfied with the application and the appeal to grant the appeal, given
the information that we've heard today and in all the materials.

MR. GOODWIN: Any other questions for Brent?

MS. BINGHAM ESCAREÑO: Yes. So my question might piggyback on that one, which is you have no choice, as staff you have no choice but to recommend denial of the appeal because the PCA doesn't meet the rules. So our question would be what would the Board need to do -- and maybe this is a question for counsel -- what would the Board need to do to allow the appeal and to allow you to gather the rest of the information you need to completely underwrite the project? Is that a question for you or a question for counsel?

MR. IRVINE: Before you jump into that, I would point out that in accordance with the Internal Revenue Code, when tax credits are awarded, they are underwritten at multiple stages. The way that I understand it right now, the amount of the award that is in consideration is something that the applicant certainly believes is sufficient to carry out their development. You have not been able to reach firm and final conclusions on that or on the ability of them to operate in accordance with their budget. So if, hypothetically, it were to move forward from this point, it would be moving forward with some uncertainty over it. However, after the development was
completed and it underwent cost certification, it would come back for further underwriting, and if it turned out that too many credits had been awarded, the credits could be cut. Is that accurate?

MR. STEWART: That's accurate for every transaction, yes. Again, the procedure, the process for us to determine that award is based on, in part, cost, and what underwriting is saying is we have a sorely deficient document to be able to determine cost.

MR. GOODWIN: What I hear you, Brent, is you can't underwrite this based on the information that you have today, so if we granted this appeal, something would have to happen subsequent to this to provide you enough detailed information to do that underwriting, I assume.

MR. STEWART: We would accept their cost number in the underwriting.

MR. GOODWIN: The other question I have is was the $88,000 for asbestos removal in the original PCA or was it in the one modified on, I think you said, July 7?

MR. STEWART: The $88,000 for the asbestos removal was new to the development cost schedule on the revised PCA.

MR. GOODWIN: So the last PCA had this $88,000 for asbestos removal that was not on the initial PCA. Do I understand that correctly?
MR. STEWART: That's correct. That line item was not on the original PCA.

MR. GOODWIN: It was not on the original PCA, but after we issued a deficiency, it was added to the one that was prepared on July. Is that correct?

MR. STEWART: That's correct.

MR. VASQUEZ: But to clarify, that's an additional line item, budget line item in the event there's still some asbestos left.

MR. STEWART: Maybe. We don't know. I'm just saying that the report was deficient and we don't know.

MR. GOODWIN: Any other questions for Brent? If not, does somebody wish to make a motion?

MR. BRADEN: I'll make a motion.

MR. GOODWIN: Okay.

MR. BRADEN: I'll make a motion that the appeal be granted.

MR. GOODWIN: Do I hear a second?

MR. VASQUEZ: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Any opposed?

(No response.)
MR. GOODWIN: The appeal is granted.

MR. IRVINE: Might I seize the soapbox for just a moment?

MR. GOODWIN: You may.

MR. IRVINE: I think that this really underscores the incredible complexity of all developments, but especially things like historic rehabs, and I sympathize with the challenge of coordinating all of the pieces, but I implore everyone, when you go forward on these deals make sure everybody knows what everybody else is doing and that it all makes it into the final document. Thank you.

MR. GOODWIN: We're going to go back to the action items and start with item number 3. Tim, do you want to talk about what item number 3 accomplishes?

MR. IRVINE: Sure. And I have Jennifer here to present.

MR. GOODWIN: Thank you, Jennifer.

MS. MOLINARI: Thank you, Tim.

Good morning, Chairman, Board members.

Jennifer Molinari, and I'm the director of our HOME and Homeless Programs.

So item 3 is a recognition by staff that some programmatic, contractual and other actions may be necessary with respect to the use of state and federal
funds for disaster response and recovery efforts to provide urgent assistance for qualified persons and households most impacted by Hurricane Harvey. The item lays out awarding contracts for discretionary funds, de-obligating and reprogramming and awarding uncommitted funds to provide emergency shelter assistance and providing the necessities of life to eligible households and individuals using Community Services Block Grant funds, Low Income Home Energy Assistance Program funds, and other state and federal funds that may be lawfully used for such purpose.

It also specifically provides authority for the Department to program or direct state or federal funds that may be lawfully used for disaster related assistance to subrecipients serving eligible households and individuals displaced by Harvey, including but not limited to using de-obligated and reprogrammed funds available under the HOME Investment Partnerships Program and the Emergency Solutions Grants Program.

In addition, it directs staff to provide assistance to affordable rental properties in the Department’s portfolio that have sustained damage as a result of Harvey that need emergency repairs to enable them to serve households or individuals, and such assistance may be made available using the HOME Program,
National Housing Trust Fund, and Tax Credit Assistance Repayment funds.

It provides the Department should seek such state or federal waivers or suspensions or approvals as may be deemed necessary or advisable to effectuate the foregoing, as well as providing authority for the Department to execute, deliver and cause to be performed on behalf of the Department awards, contracts, loan documents, land use restriction agreements, and other such document and instruments in writing as they or any of them may be deemed necessary or advisable to effectuate the foregoing, and execute and deliver and cause action on Department loans and properties in our Single Family and Multifamily portfolio, granting deferments or other remedies necessary to assist the Department's borrowers.

Any action taken under this authority will require executive director approval, in consultation with the Board chair, and subsequent ratification by the Board, and as such, will be limited to actions that must be taken only for matters where legal rights, opportunities or remedies may lapse prior to the Board having the opportunity to hear the matter at the next meeting.

Given the specificity of this action and the recognition that some elements of potential needed action may not have been clearly identified in the written action
item, we would also like to include in the record the authority of the executive director to extend benchmarks or other deadlines which otherwise could only be extended through Board action which do not violate federal or statutory restrictions unless waived by the appropriate federal or state authority, and that this will only be available to the extent that such action may be taken for matters where legal rights, opportunities or remedies may lapse prior to the Board having the opportunity to hear the matter at the next meeting, and must be subsequently reported and ratified at the next available meeting.

So that was a lot of information and there's a lot of staff that are also here to answer any questions you might have. Basically, and in summary, this is asking for authority to take actions that we might need to take to immediately help in those ways that we can with the available resources that we have at our disposal.

MR. IRVINE: And while that was very lawyerly -- and I confess to participating in writing it --

MS. MOLINARI: Can you tell:

(General laughter.)

MR. IRVINE: -- the bottom line is things may come along, and I'm sure they will come along, that require immediate action. They would certainly be actions
that would be consistent with law and they would be actions that this Board would have the full authority to approve but we just don't have time to wait on posting a Board meeting. Our scale of values puts health and human safety first and foremost, and when you're responding to a disaster, act like it's a darn disaster. So that's what we're asking for.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: If not, I'll entertain a motion to approve.

MS. BINGHAM ESCAREÑO: Move staff's recommendation.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Moved and seconded. Any other discussion?

(No response.)

MR. GOODWIN: If not, all in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: The motion passes.

Next, Mark, Internal Audit.

MR. SCOTT: Good morning, Chairman Goodwin, Board members.

We had a very productive Audit and Finance
Committee meeting this morning. I went over the audit of Information Systems and I went over the 2018 audit plan. Ms. Thomason chaired the meeting, and the committee recommended approval of the 2018 audit plan that is in your books, so I would like to ask for Board approval of the 2018 internal audit plan.

    MR. GOODWIN: Do I hear a motion?
    MS. THOMASON: Motion.
    MR. GOODWIN: Motion made. Second?
    MS. BINGHAM ESCAREÑO: Second.
    MR. GOODWIN: Any comments? Sharon, anything you want to share with us?
    MS. THOMASON: No. Short and sweet.
    MR. SCOTT: Thank you very much.
    MR. GOODWIN: Okay. All in favor say aye.
    (A chorus of ayes.)
    MR. GOODWIN: Opposed?
    (No response.)
    MR. GOODWIN: It passes. Thank you, Mark. Thanks for the great job you do, you and your staff.

    MR. IRVINE: While you're giving shout-outs, he did provide an update on a recently completed audit of Information Systems, and I've just got to say our Information Systems team absolutely rocked. We could not serve Texans as well as we do without the critical
infrastructure that they provide. And also, I'd like to shout-out our information security officer, Jordan. He really keeps front and center at all times the importance of safeguarding the information that we have. So thanks to them.

MR. GOODWIN: Our next item, Community Affairs, Brooke.

MS. BOSTON: Thank you, Chair Goodwin and Board members. I'm Brooke Boston, one of our deputies.

This is item 5(a). I'd like to draw your attention to a revised Board action item that's been provided to each of you and has been made available to the meeting attendees, so that should be in front of you as a handout.

As was noted in the original writeup, we had anticipated that revisions would be needed because this is related to Hurricane Harvey assistance and we had expected there would be changes potentially in the areas needing assistance from the time we posted the book. So I'll first brief you on just the item overall, and then I'll mention a few changes from the time that we posted.

This item relates to the reprogramming of several sources of Community Services Block Grant funds, which we call CSBG, for the immediate responsiveness to Hurricane Harvey. To refresh you, CSBG is a program
funded by the U.S. Department of Health and Human Services, and typically, 90 percent of the funds are considered non-discretionary and are provided to designated eligible entities to reduce poverty, revitalize low income communities and to empower families to become self-sufficient. The type of services and programs supported with CSBG funds typically include case management, employment and educational services, emergency assistance and coordinating local assistance efforts.

The CSBG funds are disbursed by the Department through a network of 39 agencies that are designed to serve all the counties in the state. Staff has identified two sources of CSBG funds for reprogramming to immediate disaster assistance. First, one area of the state, Dallas County, does not currently have an eligible entity providing services, as they have been removed in accordance with appropriate federal procedures. We've been taking steps to identify a replacement provider for the area, however, their 2016 CSBG non-discretionary funds for that area in the amount of just over $3 million are available. Those funds require obligation by September 30, 2017, so this month, to prevent the possible loss of those funds to the state. Staff has spoken with U.S. HHS and they've concurred that our proposal of reformulating those funds to be used for this activity and putting them
towards Hurricane Harvey assistance is an acceptable proposal.

The other source of CSBG funds that we have is approximately $575,000 in 2016 and 2017 discretionary and administrative funds. Under the immense and immediate needs for Hurricane Harvey, staff is recommending that those funds, combined totaling about $3.6 million, be used for disaster recovery. The funds would be provided only to CSBG eligible entities and only for delivery of services in those counties have a FEMA disaster declaration for individual assistance. Uses of the funds will be for immediate expenditure relating to direct assistance for the provision of food, cloths, fuel, temporary housing, personal items, or other CSBG eligible activities as needed buy households at or below 125 percent of federal poverty who were directly impacted by Hurricane Harvey.

Because the need for assistance is immediate and the deadline to expend funds is very short, and at this time the disaster estimates are not readily and reliably available yet, the methodology that we've suggested is as follows: any county with a FEMA disaster declaration for individual assistance by the close of business today would be included in our calculation tomorrow morning. Because there's an immediate need
prevalent for the type of assistance in all of the affected counties, the Department has set a minimum assistance amount, or essentially a floor for each county. When we had originally tried to calculate things just based on a formula, some of the counties just got so little that we felt like that was almost just insulting for the households that live there.

After applying the floor, we then applied a formula based on each county's proportion of the poverty population which is typically the way we evaluate CSBG is based on poverty population. We did that with the exception of Harris County, we kind of pulled them out of the calculation. This was to make sure that Harris didn't eat up all of it. After applying the floor and the poverty calculation, Harris would get everything that remained. Doing it that way ensures that each county receives a sufficient amount to be impactful, while still directing a large amount of funds to the densest poverty population in Harris County.

The list of counties and amounts in your new board item is reflective of the county status as of yesterday afternoon and revised amounts. A table is also provided that shows you the aggregate amount for each eligible entity based on the counties in their service area. If not additional counties are added by the end of
the day today, that list before you will be the list
that's approved for the awardees and the amounts that they
would receive. We're prepared to execute contracts
tomorrow and get those out to the network.

Now, I'll be the first to tell you that we are
not sure that all of the subrecipients are immediate in a
position to sign right away, although they're prepared to
get the funds out over time. Several of us were talking
before the meeting about the fact that some of the
community action agencies are themselves going through
struggles with their own staffs and trying to just get
their personal lives back in order.

Since the time of posting, several revisions
were made: eleven counties were added, one new
subrecipient was added, the total available funds was
reduced by $100,000, and EARAC approval has been obtained
for the subrecipients, with two of the subrecipients
having conditions placed on their award as noted in your
writeup.

On a last note, I would mention that to make
every effort at being transparent with our use of the
money, we have posted today's meeting as a public hearing
opportunity if anyone wanted to come and comment on the
possible reprogramming of funds, so they could do that if
they wanted right now. And with that, I'd just be happy
to answer any questions you have.

    MR. IRVINE: I'd like to offer a comment on the reprogramming, and correct me if I'm wrong in this. If, for example, you had an existing CSBG recipient that served five counties that each got $50,000 per county, there would be $250,000 available in that Community Service Block Grant's jurisdictional area to expend in an appropriate manner to assist in IA impacted counties.

    MS. BOSTON: Correct. And actually to clarify -- and I'm glad you brought that up -- the case with most of these is that their whole service area isn't fully affected, and so let's say if it's a community action agency with ten counties and four were affected they're giving whatever the amount listed on the county list was and aggregated only for use in the four counties. Well, I clarify, only for people affected from those counties. If, in fact, let's say Jane was in one of the affected counties and is choosing to move an get assistance in a county that's not currently designated, we can still help her.

    MR. GOODWIN: Any question?

    MS. BINGHAM ESCAREÑO: Yes, Mr. Chair.

    Tell me again what was the methodology once you carved Harris County out and then to make sure that they did get an allocation?
MS. BOSTON: Well, we looked at poverty population, which typically is one of our key criteria for CSBG funds, so we identified the poverty population in all of the affected counties and then figured out each one's kind of pro rata share of that. We then made sure we applied a floor of at least 50% for each of them, so if that pro rata share had been less than 50%, we boosted them up, and then out of what was left, we took that and gave it to Harris.

MS. BINGHAM ESCAREÑO: I really appreciate and acknowledge the quick work that you guys did to get some money out there. I'm overwhelmed seeing 39 counties on the list.

I'll move to approve.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Any other questions, discussion?

Anybody out there want to speak to this?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Any opposed?

(No response.)

MR. GOODWIN: Motion passes.

5(b), Brooke.
MS. BOSTON: Yes. So 5(b), this is actually just based off what's in your posted board book. This relates to approval of a recommendation to the governor to designate an eligible entity to administer the Community Services Block Grant program in Dallas County.

As I mentioned in the prior item, Dallas County doesn't have a current designated eligible entity to serve its residents. The provider that previously had been serving as a CSBG eligible entity was called Urban Community Centers of North Texas. They were not performing effectively, and in October 2016, the Board approved an order to terminate our relationship with them, and you directed staff to proceed with trying to find a replacement provider.

Eligible entities are actually designated by the governor, and so the Department identifies an entity, we'll recommend that entity to the governor after your approval, and then the governor will actually make that official designation.

In February 2017, the Department released a request for applications, which is the process we use to try and find a replacement. In April 2017, before the response submissions were due, we did receive confirmation from the U.S. Health and Human Services Department that the process we had used in terminating UCC was appropriate.
and sufficiently documented, which let us officially proceed. In May 2017 we received two responses by the deadline. One of those submissions did not satisfy the criteria. The other submission, the Community Council of Greater Dallas, Inc., CCGD, is a strong Dallas nonprofit entity with great breadth in providing human and social services in the area. They fully satisfied the threshold criteria and have also been reviewed for previous participation requirements and been recommended for approval from our Executive Board Review and Advisory Committee.

With this action, CCGD will be recommended to the governor to be designated as the CSBG eligible entity for Dallas County, and if approved, they will receive an award of 2017 CSBG funds for Dallas County in the amount of $3,236,718. And with that, I'd be happy to answer any questions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: If not, do I hear a motion for approval?

MS. RESÉNDIZ: So moved.

MR. GOODWIN: It's moved. Second?

MS. THOMASON: Second.

MR. GOODWIN: Moved and seconded. Any other
discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Any opposed?

(No response.)

MR. GOODWIN: Thank you, Brooke.

MS. BOSTON: Thank you for your support.

MR. GOODWIN: Item 6(a), Raquel.

MS. MORALES: Good morning. For the record, my name is Raquel Morales. I'm the director of the Asset Management Division for the agency. Today I will be presenting item 6(a) which are material amendments and changes in the ownership structure for two competitive tax credit applications that were submitted back in 2016. One is for application number 16352 Commissioners' Corner, and the other is for 16354 Gonzalez Apartments. I was just asked by Barry if we could take them out of order and take Gonzalez first before Commissioners' Corner.

MR. GOODWIN: I don't have any objection to that.

MS. MORALES: If that's okay with you guys, I'm fine with doing that.

MR. GOODWIN: Raquel, I had mentioned to Marni, because I believe staff's recommendation on this is...
neutral.

MS. MORALES: On Gonzalez, it is an approve recommendation. Commissioners' is a neutral, and we'll get to that one.

MR. GOODWIN: I just ask that you advise the Board beforehand.

MS. MORALES: Sure.

MR. GOODWIN: So let's do Gonzalez.

MS. MORALES: So Gonzalez Apartments, as I mentioned, was allocated in 2016 during the competitive tax credit round. The Housing Authority for the City of El Paso, or HACEP, as I will refer to them moving forward, is the applicant. And what they are asking to do in terms of a material amendment is to significant modify the site plan which includes a reduction in the number of the residential buildings from sixteen to seven. They have also proposed changes to the architectural design of the development, reduced common area square footage. In your board book in the board action request there is a table that kind of gives you a visual of what the application submitted and proposed at application, what they're asking to do now on the right-hand side as the amendment.

The total number of units for Gonzalez remains unchanged. They committed at application to build 153 and it was actually a relocation and one-for-one replacement
of existing public housing units from the City of El Paso. They are continuing on and moving forward with the 153 units as originally proposed.

In staff's board writeup, it was a quite verbose writeup, if you will, because we discussed in detail other changes that were reflected in the amendment request, including changes to the construction costs for the development for this amendment and for Commissioners' Corner. It's a pattern that we've noted with this particular applicant with amendments that they have submitted, material amendments that have been brought to the Board, costs increasing significantly, and so we just wanted to disclose that to the Board in that board action request so that they could see the pattern that we're seeing, and if there were any questions about that.

I know that our Real Estate Analysis Division, at the time that we initially posted this amendment -- which is required to be posted 15 days before this Board meeting, it did go out as a neutral -- and that was because underwriting wasn't complete with their analysis. They had questions about some of the cost increases that were reflected between application and the amendment. I think ultimately, though, by the time we posted this in the board book, the analysis had been completed, underwriting concluded a feasible transaction despite the
cost increases, noted those cost increases, but the
development remains eligible for the tax credit award that
they received previously.

One of the bigger things that's going on with
Gonzalez, besides the changes that I've previously
summarized, is that they are adding a new partner, if you
will, into the development owner, the guarantor and the
developer structure. HACEP has acquired quite a bit of
housing tax credit pipeline with our previously awarded
applications, and so in efforts to help them execute and
deliver on those previous applications, they have sought
assistance by adding in other experienced developers to
help them do that. In this case, the addition of Franklin
Development, which is owned by Aubra Franklin, is proposed
to be incorporated and added into the ownership structure,
again, of the development owner added as a guarantor,
added as a developer.

I think with Gonzalez, like I said, the
amendment is pretty self-explanatory. They are going
through some changes, material changes, according to the
amendment request, to deal with the changes in the equity
financing that several of our 2016 awardees have mentioned
that they have gone through. At application they had a
price maybe of a dollar or so; after November of 2016,
that all changed and so they've had to deal with the
decrease in equity as a result, and so one of the ways they've been doing that is to redo their deal, value engineer where they can, or what-have-you.

So for Gonzalez Apartments, staff is recommending approval of the amendment.

MR. GOODWIN: Before I ask for a motion, because we're moving for approval, did you want to comment? Nobody wants to talk about Gonzalez?

MR. PALMER: (Speaking from audience.) No, sir.

MR. GOODWIN: So do I hear a motion to approve staff's recommendation?

MS. BINGHAM ESCAREÑO: Move approval.

MR. GOODWIN: So moved. Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: Moved and seconded. Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Any opposed?

(No response.)

MR. GOODWIN: Okay. So 16354 is approved.

Now we move on to 16352.

MS. MORALES: Right. And that one is
Commissioners' Corner. This one, as you mentioned, was presented at the time we posted 15 days before the Board meeting, still is being presented as a neutral. There is no recommendation one way or the other from staff for this request.

Commissioners' Corner, again, is another HACEP application submitted during the 2016 competitive round. They submitted the application under the at-risk set-aside, and it was formerly submitted under a different name, Salazar Park. It's not uncommon for developers to change the name of their developments just to keep staff on their toes and make sure we know which deal we're talking about. But it is now known as Commissioners' Corner.

HACEP currently owns several existing public housing developments. Salazar Park is one of those and it's an existing 286-unit public housing development. The application in 2016 for Commissioners' Corner proposed the relocation and the new construction of 185 of those units over to an eleven-acre site that's located about ten miles or so from where the current Salazar Park development exists.

The request before the Board today is to materially amend this 9 percent application such that the number of units is reduced by half. They are going from
185 units to 93 units. They have also identified other changes that would trigger a material amendment, according to our statute and our rule. In your board book on page 485 in the board action request for Commissioners' Corner, you will also see a before and after the application and a picture of the site plan, characteristics of the development that were proposed at the beginning. As you can tell from that, again, 185 units on eleven acres, 20 residential buildings. Now at application with the 9 percent piece they are proposing to reduce the number of units and the other items that I mentioned.

Now, I should note that there is an agenda item later on under item 7(e), I believe, under the Multifamily Finance section, and it is regarding a determination notice for what is referred to as Commissioners' Corner. That agenda item is for the other half of the original 185-unit development. Again, on page 485 in your board book you'll see on the right-hand side under the amended site plan there is a grayed out area of the site plan that isn't there anymore. That shaded area is the piece that the applicant is now proposing under the later agenda item 7(e) to do as a 4 percent transaction. They've termed it a hybrid 9 percent/4 percent transaction. And so the other half of the original 185 units, 92 units are proposed to be done through that 4 percent application.
And I just wanted to point that out because whatever action you guys take on this amended piece, on the 9 percent piece, will have some impact on whatever action you take on that item. And Marni will come up after I'm done with my presentation to offer some detail on that other piece.

So in addition to the physical characteristics of the development that are proposed to be changed by this amendment, the other proposed change is to also add a new partner into this transaction, as they did with Gonzalez. Versa Development, which is owned by Manish Verma, is being added to this transaction.

Again, as I mentioned, HACEP has taken on a bit of housing tax credit activity. Just to give the Board some perspective, since 2014, HACEP has been awarded with tax credit allocations for 25 developments total. Six of those have been with competitive housing tax credits, the 9 percent tax credits, and the other 20 have been with the 4 percent noncompetitive housing tax credits. So they've definitely increased their pipeline in the last two years, and we expect very soon, if they haven't already, to see the first tranche of those come online, submit cost certifications to see at the end of the day what happened, and I think it's the 4 percents that we should be seeing coming online.
The amendment request identifies the fact that the equity price dropped since the time of application for this deal, and in fact, attributes the reason for this proposed hybrid structure directly related to the equity adjustments experienced for this transaction. At application the credit pricing for Commissioners' Corner came in $1.02. Currently on the 9 percent piece, the credit pricing is 88 cents. I believe the credit pricing on the 4 percent piece is at a slightly higher 95 cents.

Also, in your board book a study on page 501, I believe, you will see a combined sources and uses comparison that was prepared by our Real Estate Analysis Division as they were re-evaluating the transaction under the proposed amendment. As I mentioned, our board writeup for Commissioners' Corner, similar to Gonzalez, disclosed the significant cost increases that were reflected in this amendment at the end of the day. And I'll say that we've been working with this applicant since March. That's when the original amendment request came in. It's not what ended up ultimately before you today. That original amendment request proposed 185 units on the 9 percent piece, but through their working through, figuring out a way, came up with this proposed hybrid structure, and you have the request before you.

So the amendment on the 9 percent piece, which
is what I'm speaking to under item 6(a) for Commissioners' Corner, as I mentioned, proposes to reduce the development size in half; however, what doesn't change on the 9 percent piece is the amount of the tax credits. In other words, the applicant, when they came in originally in 2016, proposed to develop 185 units, requested $1.5 million in annual housing tax credits, and received that award. They are now requesting to keep $1.5 million in annual housing tax credits to develop half the units, or 93 units.

In terms of the amount of tax credits on the 9 percent piece, $1.5 million is the maximum amount that an application could have received, similar to a credit cap per applicant that we impose on the tax credit round. The reason that we do that, the reason that we have these caps in the competitive tax credit program is because it provides the Department with an efficient distribution among developers and among the state. This is a limited housing tax credit resource that we have; we don't have an unlimited amount to give to every transaction that requests funds, and so the cap on a per-deal basis and the cap on a per-applicant basis helps the Department to efficiently allocate those credits and spread the wealth, if you will.

I think that it's important to note during the
Discussions that I know I have had with the applicant's representative on Commissioners' Corner as well as the current lender, Citibank, I tried to wrap my head around what is being requested here. As we do with all of the amendments, we work with our owners on these tax credit deals when they come in and they seek to change materially a transaction for whatever reason. And so understanding that in their amendment request they cited the fact well, you know, our equity just fluctuated so much that we had to figure out a way how to make this deal continue to work.

One of the things that came through the conversations with the lender was that, while not the only reason -- I will say that for sure -- one of the reasons was that this application came in at the front-end with so much additional basis to support more than the $1.5 million in annual credits, and so one of the reasons that they proposed this structure, this hybrid, is to allow this applicant to access additional credits that they would not otherwise be available to get under the 9 percent tax credit program -- again, competitive program. Everybody coming into that program knows that there's a limit, knows that there's a cap, and I'm sure that this applicant and this application wasn't the only application that came in on the front-end demonstrating more basis to
support more credits than what the request was or what the
cap was.

And so, you know, their going about the request in this hybrid structure allows them to, again, keep the $1.5 million in annual credits on the 9 percent piece, albeit to develop half the units, but then also allows them to access additional equity and additional credits through the 4 percent application. I think it's an additional $538,000 in annual credits on the 4 percent to do the other half, to do the 92 units, whereas, before they could do the 185 with the $1.5-.

So like I said, this one, from my perspective as director of Easement Management, overseeing the amendments process, working through owners on all sorts of material amendments. We typically bring amendments to you guys with an approval, they're usually on consent, you never really hear me speak in front of you. But this one was a unique situation, it is a unique structure. I get what they're trying to do here and I guess the concern from my perspective, from staff's perspective is the allocation of the original credit, the efficiency that we're going to get out of that original $1.5 million to develop half the units.

I'm sure that the applicant will come up here and plead their case and explain how at the end of the day
we're delivering 185 units, we're doing what we said we were going to do. And when you look at it from a 30,000 foot level, yep, they are, they are going to deliver 185 units. But with the 9 percent piece, with that limited tax credit resource, we're getting half the units that we were originally promised at the front-end.

So unless you guys have any questions.

MR. GOODWIN: And staff's recommendation is neutral on this issue?

MS. MORALES: Yes. It's presented as neutral.

MR. VASQUEZ: A question on the 4 percent, is it future 4 percent program, they have to apply for that?

MS. MORALES: They did. They actually submitted an application through our 4 percent program, and I don't know if Marni wants to come up and speak to it, but they did submit it subsequent to submitting the amendment request that you guys have on the 9 percent piece. It was, like I said, a structure that they were working through and trying to figure out to see how they could come together. It's the reason why it's being presented at the same Board meeting; it was really important for this applicant to present both pieces.

MR. VASQUEZ: If we granted the request, are we approving the additional half million dollars.

MS. MORALES: So item 7(e) is also presented as
a neutral because of the fact that the 9 percent piece is
coming to you as a neutral. So the recommendation from
staff on item 6(a) on Commissioners' Corner and on item
7(e) with respect to the determination notice for
Commissioners' Corner are both neutral.

MR. VASQUEZ: So when we total everything
together for the project, in order for them to get the
same number of units that they had promised in their
original application, we need to give them another half
million dollars, roughly, in 4 percent tax credits.

MS. MORALÉS: That is what they have presented.
That's one of the questions when I picked up the phone
initially and talked to Mahesh -- who is going to be here
representing Citibank, the current lender -- my question
from the beginning was: There's absolutely no way this
deal can get done on the 9 percent piece at 185 units? I
was looking for that, like this deal dies. And I don't
know, maybe they'll be able to come and address that.

I think what I've heard during the discussions
with Mahesh and Manish both is that, look, we can make a
deal work. But his approach was brought before the Board
for its consideration because, again, additional equity
was there that we couldn't access in the 9 percent and
there was also the piece that HACEP originally in the 9
percent application provided gap funding, I want to say in
the amount of $2 million. And so combined, they're still providing gap funding, I think that went up to about $5 million, but they were trying to find a way to not have to provide as much gap funding maybe that would be needed if they were to proceed with this 9 percent application, 185 units, versus going this route where it wouldn't be so much of their own gap funding that they would need to provide.

MR. GOODWIN: And this route is it $5 million in gap financing?

MS. MORALES: I believe so.

MR. GOODWIN: I see some people nodding.

MS. MORALES: So I'm looking at the combined sources and uses, and it looks, again, at the 9 percent/4 percent hybrid combined compared to the original 9 percent application. It looks like from what I'm seeing here the gap funding that HACEP was providing originally in the 9 percent was $2 million, now it's $5.3 million, strictly on the 4 percent piece, not on the 9 percent, but when you look at it combined, their gap funding has gone up.

MR. GOODWIN: I'm also under the impression that the second one, 17431 will not underwrite unless we approve 16352. Is that accurate?

MS. MORALES: I will let Brent or Marni come up and discuss the piece on the 4 percent. I know just in
having discussions internally -- and Brent, if I'm misstating this, you can come up and correct me -- he has stated that this 4 percent piece could not move forward without the 9 percent piece because you have to drive through that first 9 percent piece to get to the 4 percent piece.

Remember, it was all one development; now, technically, as they've presented it now, they're going to have separate legal entities, separate legal descriptions, separate land use restriction agreements. I think there's a plan for them to share the common amenities between the 4 percent and the 9 percent. So I believe that the answer to your question is, yes, if the Board decides not to approve the 9 percent amendment, I don't know that the 4 percent amendment would be able to stand.

MR. GOODWIN: The question in front of us is the material amendment basically gives this project an additional $500,000 tax credit.

MS. MORALES: Through the 4 percent application it does.

MR. GOODWIN: Through the 4 percent application to get both projects done and for us to end up with the same number of units.

MS. MORALES: Yes.

MR. GOODWIN: Other questions? Tim?
MR. IRVINE: I actually would frame it at a little higher level, and correct me if I'm wrong. First of all, you've got to understand that this is a public housing authority, and public housing authorities are required when they destroy units of public housing to replace the same number of units of public housing. So regardless of the initial basis surplus situation here, going and applying to build a smaller number of units when you're destroying the entire development is not an option for a public housing authority. So there's the one-for-one replacement issue.

Then you look at the 9 percent credits and you deal with the changes in equity pricing and so forth, you've got the available basis, so you create that piece. That certainly addresses the financial piece, it reduces the demand on the housing authority to contribute gap financing from its available cash into that side of the piece. The other thing that it does that is important is it's now September and the cliff of placed in service is approaching, so it enables them to do half the number of units facing that cliff instead of all of the units facing that cliff, then it allows the 4 percent bond side to play out as it would play out.

MR. GOODWIN: Additional questions?

(No response.)
MR. GOODWIN: I see we have a number of people that want to speak, so I would entertain a motion to hear comments.

MS. BINGHAM ESCAREÑO: So moved.

MR. GOODWIN: It is moved. Second?

MS. THOMASON: Second.

MR. GOODWIN: Moved and seconded. All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Any opposed?

(No response.)

MR. GOODWIN: Okay. We'll start to hear comments. Again, we're going to keep the three minutes.

MR. AIYER: Good morning. Mahesh Aiyer with Citibank, Citi Community Capital, the lender on both pieces of the transaction.

Thank you, Mr. Irvine. I think you summarized it well.

Thanks, Raquel.

Essentially, if you go back to the February Board meeting, what we were looking at -- and I had conversations with staff prior to that Board meeting -- is how do we effectuate -- it was really important for the housing authority to maintain the number of units, it's a RAD development, public housing -- how do we maintain the
characteristic of it. It so happens, this is unusual in the sense that there's a lot of excess basis related to this transaction, that if go back through other tax credit transactions, you don't typically see the magnitude of the excess basis.

So we've done this in other states, we've done it quite often, and we had an ability here, since the 4 percent program is not a competitive program, it's an as of right credit with tax-exempt bonds, it wasn't going to cost -- we weren't going to displace anybody else coming in per se for credits, it's not a competitive program. It was a really equitable way to shift economics over to one area. The reason why you saw the number of units shifted over, when you deal with a tax-exempt bond transaction you need a certain amount of scale within that, so economically, what the housing authority and Versa Development did is said, okay, how do we stay within the characteristics of the 9 percent application -- they still scored as they would have otherwise scored to maintain the award -- and how do we shift the economics structurally over.

We worked through and we said, look, I'll do the financing on my own bucks. We're not securitizing, doing anything, it's a Citibank balance sheet loan on both the debt on both pieces and I'm also buying the equity.
We're doing it so that we can keep the characteristic in place, shared amenity agreement, same partners on both sides, economically the housing authority is still putting in $3 million more.

There are two things that occurred post-election. One is not only did equity pricing drop, in a market like El Paso, which is not a real large CRA market for bank investors, it dropped further. The other thing was interest rates went up about 70 basis points higher than what they are today. The combination of the two really affected how you would structure economically.

Now, could they shift a lower number of units? That's not really practical for what as a housing authority they have to do. But say they kept the same number and they went a different route altogether, they would highly, highly, highly leverage the properties. Even if they could try to get there, I couldn't see a way to get there. And we don't just look at something on how we get in, we look at sustainability over 15 years. So there's more equity in the project, there's sustainable debt. Remember, the tax-exempt portion has a lower interest rate than a taxable, so they were able to keep debt manageable, more equity in the project, they're still putting in $5 million, and they're sticking with their commitment to build the same number of units.
I financed the Tays development across the street from the original Salazar. It's the same thing. They've never gone back to have an amendment to reduce the number of units, maintaining the unit characteristic is really important for them. So that's why we came up with this.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Thank you.

MR. VERMA: Good morning. My name is Manish Verma.

As you know, our amendment request is unique in its nature and it's come after months of discussion with our team and the Department, but the premise for our request is to ensure the full development of 185 units as originally contemplated in our application.

As Mahesh has said and as Raquel has stated, there's been a fluctuation in the equity markets, I think we all understand that. And over there past few months there have been numerous amendments submitted by other developers for their 2016 applications in order to best account for this loss in equity, and most, if not all of these amendments were for either to modify their design, or two, and most importantly, to reduce the unit count for their proposed development. All these amendments were
supported by staff and recommended for approval by the Board.

So Commissioners' Corner is very similar but different in one respect in that we are trying to preserve all the units that we originally submitted, and so if you'll look at the 9 percent and the 4 percent together, as stated, there is no change in the number of units, there's no change in the number of affordable units, there's no change in acreage, and there is no change in the net rentable square footage.

The other thing I wanted to comment on was the comment about the amount of credits that are being allocated for the 9 percent piece, the million and a half in credits for 93 units. If you look at that metric, credits per unit, it is at a reasonable level compared to what other 2016 awards were granted. Is it higher than average, yes, but there are several applications that have a higher credit per unit allocation. And if you look at it further, if you dig deeper, these are big units, we have two-bedroom, three-bedroom, four-bedroom, five-bedroom and six-bedroom units, so if you look at it from tax credits per net rentable square footage, tax credits per bedroom, and tax credits per households served, we are at average or below average compared to 2016 awardees, making it actually a highly efficient transaction even at
And lastly, and going back to HACEP's contribution, as we know, they have a huge RAD commitment, they're looking to develop over 6,000 units by the end of 2020, and there's significant financial commitment that HACEP has to develop all of these units. But they are in no way curtailing what they originally intended to provide in the Commissioners' Corner. As Raquel had mentioned, in the original application they were looking to provide $2 million in funding, they are now looking at $5.3 million in funding for Commissioners', and if you look at Gonzalez where they were not intending to fund any money in Gonzalez, there's more than a million and a half in funding in Gonzalez.

So big picture, this amendment is meeting a lot of these tests, we are preserving all of the units, it is actually highly efficient, and we believe this amendment is well submitted.

Thank you for your time.

MR. GOODWIN: Thank you.

Any questions?

(No response.)

MR. GOODWIN: Anybody have anything new they want to bring to the table?

MR. DELOYE: Good morning. My name is Tom
Deloye. I'm with staff at the Housing Authority of the City of El Paso. Gerry Cichon sends his best; he was not able to be here, he had some prior commitments. So on behalf of Gerry and on behalf of my entire team at the housing authority, we're pleased to have the opportunity to provide just a few more remarks, and I promise you it will be less than three minutes.

So like you, our business is housing economically challenged people, these people that look to housing, and favorably, for themselves and for their family. Our work provides and fulfills housing for them. This is a fundamental and foundational need, in my opinion. Our work also is valued by these people in that we provide safe and decent housing to the possibly homeless. So in El Paso we are busy building and renovating in RAD, as previously mentioned. We are committed to the conversion of our entire housing portfolio, over 6,000 units.

What's before you with this request is important because you will assist us in this significant conversion and in helping us drive towards this commitment. So your approval today is not only important to the City of El Paso and vital, it's important to the housing authority and vital, but mostly, it's important and vital to the residents, the people today that are in
our projects, but also to the people in future years to come. Because why? Because they will have a place to call home.

Thank you for your consideration.

MR. GOODWIN: Thank you.

Any questions?

MS. BINGHAM ESCAREÑO: Just a comment. Obviously, we've been watching what's going on in El Paso for a while, and I know that it has required tremendous work on all parties' part, including staff's, and I appreciate the commitment that you have to your portfolio. I don't think that's an easy goal and I'm not sure how you inherited it, or maybe you were the one that thought of it, but it's a huge undertaking. We did Blue Flame? Didn't we do Blue Flame last time around? And I'm from the Valley from an area that's similar, and I think that's a huge undertaking, and I commend you for your commitment to that in the housing authority.

MR. PALMER: Barry Palmer with Coats Rose. Thank you, Ms. Bingham. It is a huge undertaking. When HUD originally came out about four years ago with the RAD program as a demonstration program of how they could provide a mechanism for housing authorities to get access to private capital to repair and some places replace obsolete public housing, the Housing
Authority of the City of El Paso was one of the first to sign up, and they signed up to convert their entire portfolio, 6,000-plus units, which together with San Antonio they're neck and neck as the largest housing authorities in the State of Texas. It's been a massive undertaking, they're about halfway through, they've got 24 or so properties under construction, and some completed.

When the meltdown in the equity markets came after the election, we all knew in the industry that we had a problem, and Tim was at the leading edge of that and he came to the Board in February and said: All of the 2016 tax credit deals are at risk, they all assumed they were going to get pricing of over a dollar and now it's going to be much less, and we need to come up with a game plan of how we can make some for these work and at the same time we don't have a lot of money to put into it.

So what was suggested, and the Board approved, was that the agency be a little more flexible in looking at material amendments than it had in the past, and agreed to allow some things that previously would have been somewhat unheard of, like applying for 120 units and then coming back and saying I only have enough money to build 80. But that's what a lot of folks have done as a way to make this work.

If we look back over the amendments that have
come in over the last few months, in many cases people
have reduced the number of units. And if this were a
private developer, that's what they would be doing on
Commissioners' Corner. But when I suggested to HACEP that
that was an option, they said, No way, we've got to build
the full number of units, we're not going to build less
units than we have, we've got to replace all of the units
that are going away from the public housing complex.

So we looked at other options that would make
it work, and this was an innovative idea that we talked to
our banker and our developer about to bifurcate the site.
I had seen it done in other states, never before here in
Texas. But we haven't been using all of our 4 percent
bond cap for years, we've been underutilizing the 4
percent cap, so here was an opportunity to take an
underutilized resource and use that to make up a gap and
still build the 185 units and not come back and cut the
number of units we were building.

So I really think that this has been a good
financing plan to achieve that, and would urge the Board
to approve it.

MR. GOODWIN: Any questions for Barry?

MR. IRVINE: I have a comment. Barry is always
good at making me sound more articulate than I actually
am, and whatever I did or didn't say is well documented in
previous transcripts and Board action items, but as I recall, the sentiment, it was that we certainly would encourage people thinking out of the box to save their 2016 deal, we would entertain such concepts as value engineering, we would look for the possibility that some of these changes might require material amendments, but I also have to underscore that the material amendments process is embedded in statute, and statute specifically requires the addressing of issues of foreseeability and preventability as a prerequisite to the granting of material amendments, so I think that's the issue before you.

MR. ECCLES: And actually, that leads to my question. I was going to offer to Mr. Palmer the opportunity to couch the arguments and the discussion that's been had in terms of the statutory requirements for the Board to look at, namely, Texas Government Code 2306.6712. The Board is to make its decision on a material amendment based on a number of factors that include the question: Would this amendment materially alter the development in a negative manner, as well as would this amendment have adversely affected the selection of the application in the application round? There are a couple more after that. If you want to hear it now, you can just run all of the arguments.
MR. PALMER: I'll take those two first.

MR. ECCLES: Okay, go ahead.

MR. PALMER: And I think staff has mentioned in their writeup that there wouldn't have been any point change, there wouldn't be any loss of points, so this application would have gotten selected if they had come in originally at 95 units for a million five in credits, they would have scored the same, they still would have gotten awarded.

In terms of the unforeseeability of it, I think it's fair to say not many folks foresaw that President Trump was going to win the election, frankly, and none of us even when that happened realized what an effect it would have on the equity markets when folks started to realize that now that the Republicans control all three branches and they had run on a campaign of reducing taxes and President Trump had spoken of reducing the corporate tax rate from 35 to 15 percent, people started thinking all of a sudden for the first time in November that that was really going to happen. So that certainly wasn't foreseen by any of us or any of the development community when they turned in their applications in March of 2016 that credit pricing would take such a serious hit because of the election of a new president.

MR. ECCLES: The last one of those factors is
the beyond foreseeability, could this amendment have been prevented. In other words, the value engineering, is there a way that it could have been done without this amendment.

MR. PALMER: Well, as we said a number of times, the way we could have done this is the way a lot of the previous amendments you've seen come in is they've reduced the number of units. That would have been the other option to complete the project with the credit allocation that we have. But rather than do that, we've come up with another option that's not taking anything away from anybody else, we're not getting any more 9 percent credits, we're getting the same 9 percent credits that we already have, we would just be getting additional 4 percent credits that for the last number of years have gone underutilized and been turned back in to the Federal Government.

MR. ECCLES: Thank you.

MR. GOODWIN: Thank you, Barry.

Any other questions?

(No response.)

MR. GOODWIN: Since we have a neutral recommendation by staff, I suspect Ms. Bingham is going to craft a motion.

MS. BINGHAM ESCAREÑO: So I'd like to recommend
that the Board approve the material amendment request from Commissioners' Corner, number 16352, and just in answer to the question, so in support of the applicant's position that the factors that affected credit pricing were unforeseen, that the material amendments don't alter or affect the development in a negative manner, that the staff in the staff writeup stated that the material amendments do not result in selection of threshold criteria that would have affected the application score, and that the alternative which may have been to reduce the number of units is not an option for the Housing Authority of the City of El Paso. How's that?

    MR. GOODWIN: That's a pretty nice motion.
    Thank you.

    Can I have a less winded second?

    (General laughter.)

    MS. THOMASON: Second.

    MR. GOODWIN: Motion has been made and seconded. Any questions? Any additional comments?

    MR. VASQUEZ: I just would like to make a question and a comment.

    This motion that we're voting on now effectively says that we're going forward with the 4 percent additional amount, because this doesn't work if we don't do that.
MR. GOODWIN: I want to clarify that.

MR. VASQUEZ: I understand we have to vote on it separately, but we're recognizing that.

MR. GOODWIN: The 4 percent doesn't work without this. And Marni, speak to that, if you would. Didn't you say that staff's recommendation, if we approve this material amendment, would be to approve 17431?

MS. HOLLOWAY: So item 7(e) which is the 4 percent is presented as a neutral based on EARAC and staff not knowing what the Board's decision would be on the first part, on the 9 percent piece. And we can talk about it under that item, but the 4 percent piece would stand alone financially, which would be required in order for the basis to be split, it would not stand alone operationally.

MR. VASQUEZ: Operationally, this doesn't work without us operationally doing the 4 percent as well.

MS. HOLLOWAY: I believe the 9 percent doesn't have the issues that the 4 percent does because the 4 percent piece is in the back of the property and the 9 percent piece includes the community center and the leasing office and all of those necessary bits.

MR. VASQUEZ: Yes. You answered my question.

MR. GOODWIN: Does that answer our question.

MR. VASQUEZ: That was my question. Now my
comment is that just hearing the applicant talk about
cutting the number in half from what was approved on the 9
percent, I was ready to start screaming about -- excuse
me -- hell, no. But given the fact that they are -- and
my understanding I want to clarify -- putting in another
$3 million of equity, or $3.3- or whatever it is, to get
the 4 percent $500,000. Is that really what I'm hearing?
So they're not just asking us to cut it in half, they're
putting in a lot more, the $3 million in equity to get
this extra $500,000. I just want to make sure I
understand. Is that correct?

MR. AIYER: Mahesh Aiyer, Citibank.

That's correct. In order to maintain the full
number of units, full intention is we've got the
application ready, we've already got deal calls going,
we're trying to close as closely together as possible on
both pieces. The same number of units, putting in more
money, and it's just split into two pieces of financing,
but operationally they need to go together.

MR. VASQUEZ: Thank you.

And again, I just want to say for my opinion on
this Board going forward, such a material change as just
the 9 percent alone, effectively cutting it in half for
the same dollar amount, I just think we should push back
hard in the future. However, given that they're putting
in more equity, substantially more, I'm comfortable with

MR. GOODWIN: Any other comments or questions?

MR. IRVINE: I'd like to just clarify one

thing. At present, the 4 percent credits, which are tied
to private activity bond cap, are an underutilized
resource, but I've got to just point out to everybody that
they are picking up steam. Teresa Morales may have some
comments on that. And to the extent that the 4 percent
program and the bond program continue to grow, this would
reduce the amount of bond cap that would be available for
carryforward ultimately, hopefully to be re-utilized in a
more aggressive program.

MR. GOODWIN: No other comments, I'll call for

a vote on the question. All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: It is granted.

Raquel, 6(b).

MS. MORALES: 6(b) is presentation, discussion

and possible action regarding direct loan terms for 2016
tax credit and direct HOME awards for 16185 Merritt
Heritage and 16210 Merritt Monument. Both of these
applications also submitted competitive tax credit
applications under the tax credit cycle, as well as
competitive applications under the 2016-1 Multifamily
Direct Loan Notice of Funding Availability, or 2016-1
NOFA, as I'll refer to it moving forward.

The 2016-1 NOFA required that all loans, except
those awarded under the deferred forgivable loan set-
aside, be structured as fully repayable loans at not less
than the terms set out in that NOFA. I'll say with both
of these items, both of these BARs that were posted in
your board book, the recommendation is a neutral, as well,
from staff for both Merritt Monument and Merritt Heritage.

So I'll take Merritt Heritage first. The Board
previously approved the change in terms on our HOME loan
for Merritt Heritage back at the May meeting when both of
these items were on the agenda. Ultimately, I think
Merritt Heritage was the only one that hate Board took
action on, and the Board approved to extend the term of
our direct HOME loan from 18 years to 40 years to enable
the applicant to take advantage of FHA financing.

Just as a kind of quick background. When these
applications came in originally in 2016, the financing
structure proposed by the applicant included a
conventional first lien loan, as well as our subordinate
$2 million HOME funds and the tax credit equity. These
deals have not closed on the direct HOME loan with the
Department, so while it's presented as an amendment, it's not something that's happening post-closing, we're still trying to work through and getting to closing on these transactions.

But the financing structure has changed such that the first lien conventional loan is now being substituted with a HUD FHA first lien loan, and as is required by HUD through their Multifamily Accelerated Processing guide, or its MAP guide as we refer to it, whenever they're coming in on a transaction and there are subordinate loans such as our direct HOME loans, HUD requires that any subordinate debt not be structured as hard pay, as a fully repayable loan. We, of course, structure our loans that way so that we can refill our coffers, have that funding available for future affordable housing that people can apply for.

However, when it comes to HUD transactions, HUD requires, again, that any subordinate debt, including ours, be structured as a surplus cash flow structure. And then they further restrict in their MAP guide that any subordinate debt get repaid not just from surplus cash but only 75 percent surplus cash, so it places subordinate lenders like us in a riskier position on transactions there first lien financing goes up, the amount of first lien debt goes up on top of our debt, and then asks us to
restructure our loans such that we can't get fully repaid and structured as a fully repayable loan, we go from a hard debt to a surplus cash flow loan structure.

The amendment request, or the request that was submitted on behalf of the applicant's counsel, suggested that this requirement from HUD has been in the MAP guide since August of 2011, and of course, the Department is fully aware of that requirement, but we have previously and successfully come to an agreement with HUD to be able to close on transactions where we're a subordinate lender and they're the first lien lender and they don't mention this 75 percent surplus cash restriction, or in other words, they've waived that particular requirement.

We are willing to accommodate and work with HUD to partner up as a financing partner on these deals and provide that gap financing, but as a lender, in this case we're acting as a lender here, we want to be able to have access to 100 percent of the surplus cash flow to repay our funds, not just the 75 percent, and in previous transactions, HUD has been amenable to that request through a waiver. Now, as I understand it, that waiver has come primarily through our work with the local HUD offices in Fort Worth, San Antonio and so forth.

We've tried, I've tried to reach out to our HUD contacts locally at the San Antonio and the Fort Worth...

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offices, as well as the D.C. offices. My understanding is -- and the attorneys in the room that work with HUD lenders can correct me if I'm wrong -- something changed where now the underwriting piece of these transactions don't go maybe to the local HUD offices, they go directly to the D.C. offices, and D.C. is just not providing a waiver for that, or they just changed their position altogether on that piece, on that waiver with respect to their relationship with Texas and not providing waivers on that 75 percent restriction.

That being the case, our rules under the direct loan rules, again, provide us to accommodate an FHA first line financing structure, provided that we can come in as a surplus cash, although it's not specific, it doesn't specifically address 100 percent surplus cash, 75 percent surplus cash. The applicant's counsel will come up here, likely, and say: Therefore, your rule gives you the room to make that interpretation. I would say that while it's not specifically laid out that staff meant 100 percent, that is how we have closed on all previous transactions, that is how we enter these transactions and underwrite them when we're looking at them is that we're going to have availability of 100 percent of that surplus cash.

And so this is the discussion that I guess is a long-awaited discussion that we've been meaning to have
what you, as our Board, to give us direction and why it's a neutral recommendation -- or just a neutral at this point, it's not a recommendation on or the other. Staff would seek your guidance and how you would like us to approach these transactions where applicants are wanting to take advantage of favorable financing, not just through HUD but with us -- we provide favorable terms on our direct loans -- but when it comes to subordinating to HUD's requirement and they're no longer providing a waiver to say that we'll have access to 100 percent of the surplus cash, what would this Board like us to do.

Now, we will address this during our rulemaking cycle coming up. I believe the direct loan rules will be coming up for the Board's approval, a draft version in October. This will be an issue that we kind of hash out more fully through that process. In the meantime, and under the rules that we have in place, staff didn't feel like it had the authority, that authority goes to the Board, to approve the change in terms of repayment on our HOME loan for these two specific deals. And we have been bringing these deals on a case-by-case basis to you.

I will add that as mitigation that the applicant has offered to the Department for our increased risk and our concern -- we've had various discussions with the owner and the owner's counsel on this matter -- they
have offered, the owner has offered a guarantee for full repayment of the direct loan through one of its affiliated LLC entities. The Board has been presented with and has previously accepted a personal guarantee on another request such as this. It was a different scenario, the owner was asking to refinance his first lien debt with an FHA product, but they offered, again, a guarantee knowing that HUD was not providing a waiver on the 75 percent restriction, and the Board accepted that guarantee as mitigation for our increased risk.

Staff's writeup talks about that mitigation and appreciate the applicant's intent to help mitigate the Department's risk that we're incurring with this kind of a structure. I would just caution that receiving those guarantees without the Department having any real formal way of evaluating the guarantees, I'm not sure how useful that will be as a mitigation on moving forward, we might want to vet that out a little bit more, but they have provided that in this case for both Merritt Monument and Merritt Heritage.

And so, unless you guys have any questions for me.

MR. GOODWIN: Raquel, I have a question. Did this applicant refuse to offer a personal guarantee?

MS. MORALES: They just didn't offer. I don't
know that he refused to, they just offered up in their formal request a guarantee from their LLC.

MR. GOODWIN: Okay. And did you say we have information regarding the financial wherewithal of that LLC?

MS. MORALES: No. We have no way of evaluating those guarantees.

MR. GOODWIN: But we have no information from that LLC either as to whether there's any value to that guarantee.

MS. MORALES: That's correct, we do not have that information.

MR. GOODWIN: Any other questions?

MR. IRVINE: Mr. Chairman.

MR. GOODWIN: Yes.

MR. IRVINE: Just a couple of comments. While we would love Board guidance and direction, we cannot have an informal rulemaking, so until and unless the actual rules are changed, we will continue to bring requests such as this to the Board for individual consideration.

On the subject of the 75 percent cash flow subordination requirement, I hope HUD is either monitoring this meeting or reads our transcript. Partners don't treat each other that way, partners are on a pari passu basis. We don't try to shift risk from one side to the
MR. GOODWIN: Any other questions?

(No response.)

MR. GOODWIN: So since we have a neutral, I assume we have people that want to speak to this, we need a motion to hear comments regarding this issue.

MR. BRADEN: So moved.

MR. GOODWIN: So moved. Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: Moved and seconded. All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Any opposed?

(No response.)

MR. GOODWIN: Okay. We'll start to hear comments.

MR. DENISON: Hello, Chairman and Board members. Thank you.

First, I want to apologize because I've been before you a couple of times on these deals. I closed a nearly identical transaction in November with HOME and 221(d)(4) FHA for a project in Dripping Springs and HUD waived this rule, so when we were before you trying to solve some of the gap problems that the people before me came and talked to you about solving with the fancy bond
thing, we approached the problem of losing funds with
going to FHA financing because it's 40-year amortization
and much lower interest rates which helped us fill the gap
that we lost when we lost the equity.

So when we came before you in May, I didn't
know that HUD had changed their tune and didn't do the
waivers, but I'm just here to tell you on Monument,
Monument's credits came to us at the end of 2016 when I
actually had to return the credits on Leisure in Midland
the year before because of the oil price collapse and I
had too many market units and we lost rent and the ability
to source funds and I couldn't make the deal work
feasibly, so the credits came to my next deal for the next
year of 2016 for a much smaller deal, a majority of which
was affordable, and therefore, much more feasible. And so
we're coming back with the FHA financing to make the exact
same deals work as originally contemplated with the same
allocation of tax credits, no change in affordable units,
and we did that really quickly with Monument, it took us a
little bit longer on Heritage in Georgetown, but both
really complicated transactions.

And then the last thing I'd like to say is we
are submitting our closing application to HUD today on
Heritage, so we're literally within 15 to 21 days from
closing and breaking ground, so everybody is ready to go.
I believe we have all the affordable units spoken for already and we haven't even broken ground, so there's huge demand there. And on Monument, we should be getting our firm commitment next week and we are going to be prepared to immediately submit our closing package, so I think we're within 30 to 45 days of closing and getting under construction. So both deals are completely permitted, completely designed, so just respectfully ask that you accept this.

Oh, and on the comment on the financials really quickly, it's a limited partnership that's in every single one of the deals that TDHCA has done under Merritt Communities except for two, and so it is the recipient of all the cash flow on those deals, so you do have the limited partnership agreements, you have the financials on those deals. All of our portfolio at Merritt is nearly 100 percent full and very cash flow positive, so I think it's a very strong financial limited partnership for you for the guarantee and I was hoping that that would be something that you could look at.

Thank you.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: So I'll be the one to ask the question. Are you unwilling to do the personal guarantee?
MR. DENISON: I'm happy to do the personal guarantee.

MR. GOODWIN: Other comments?

MS. BAST: Good morning. Cynthia Bast for the developer.

We really appreciate the opportunity to come before you again. I feel like I've spoken to you four or five times on this particular topic now, and I'm sorry that it has to be rehashed. Again, what we're trying to do here is solve the loss of credit pricing problem, and this developer chose to solve it not by reducing the number of units, not by reducing the quality, keeping all of those elements, but by finding a way to change the financing structure to make it work, and therefore, shifted to this HUD financing in early 2017.

Unfortunately, that was right at the time when HUD central was identifying this issue going on at the local HUD area offices -- as you'll hear perhaps more about from Mr. Shackelford, the lender's counsel -- and so we got caught in that and their position that they wanted to take that they're not going to waive this surplus cash 75 percent issue anymore.

And I've spoken to you before, I've written multiple letters, I think you all know that I believe that your rules and your statutes do support approval of this.
You have statutory authorization that says that your application programs and cycles shall be administered in accordance with federal requirements. You have a rule that does acknowledge that when there's FHA financing, a direct loan can be repayable from surplus cash. All of the elements are there for you to be able to approve this.

I do want to emphasize that this is not a last-minute change by a developer. As I mentioned, the HUD financing was first proposed in the early part of this year and we actually came to you with a request in March that was heard in May that addressed complying with the MAP guide in certain respects, and looking back, we probably should have dealt with this issue in full back in May. We got the 40 years on Heritage but we didn't get the 40 years on Monument, and we didn't address the 75 percent cash flow back then, and I'm sorry for the cost on your time on that.

While we do appreciate staff's concerns about repayment of these HOME loans and their obligation to repay HUD if something goes wrong, I do want to point out to all of you that when HOME funds are layered with tax credits, that's probably the most secure HOME loan you can make. Nationally, the Tax Credit Program has less than a one percent foreclosure rate, and foreclosure and loss of those restrictions is what is going to cause that
catastrophic event where the Department would have an obligation to repay HUD. So while I do appreciate the concern about the risk, I just want to point out that this layered transaction actually provides you with some security.

So we are ready to close, as Mr. Denison mentioned, we've offered a guarantee, we could offer balance sheets to the extent necessary. Our letter did specifically say, although it suggested a guarantee by this entity, it did say or such other mitigation as the Department may determine is appropriate.

So we appreciate your consideration, and hope that you will grant the appeal for both properties. Thank you.

MR. GOODWIN: Thank you.

MR. SHACKELFORD: Good morning, Mr. Chairman, members of the Board, Mr. Irvine, Mr. Eccles. John Shackelford. In this instance I represent the lender.

I've been before you a couple of times on this issue and I think earlier this year with some other Board members, but Ms. Bingham, you probably remember we had another issue like this as well. And I know you're taking these on a case-by-case basis, but essentially, I'll say the same thing that I said earlier this year to the other Board members and yourselves that are still on the Board,
and that is I don't have an explanation like Ms. Morales
to get to the bottom of why HUD has made a change and why
they're no longer granting these waivers in Texas.

I can tell you, from representing a couple of lenders, we do deals in other states, the other states
don't ask for waivers, they approve these transactions, so
I don't know if it's just a matter of in D.C. HUD decided
to change their policy and make it's a blanket across the
country no longer giving waivers to the State of Texas.
I've also gotten a little bit of information that they
feel like by having it be 100 percent cash flow, you're
taking away the developer from having any kind of
incentive because they're not pulling any cash out to put
in their pocket, all their money that they're making is
going to serve as debt and operating expenses.

So whether it's a matter of they feel like they
just want to have a blanket rule that covers all states
and no longer give Texas a waiver, or what exactly it is,
it's just gotten to be where, unfortunately, developers
find themselves caught between a rock and a hard place
between TDHCA's goals of trying to have it be where
they're not taking a subordinate position with HUD on
their financing by having only 75 percent financing, but
HUD's rule and the MAP guide being a max of 75 percent
cash flow for the payment of that subordinate debt.
So that's really all I can tell you. Sometimes I represent developers and we have the same issue and it is a difficult position for the developer to be in because what's hard is -- and I agree with Ms. Bast on this -- I think the Board could make a determination that they could instruct staff to interpret the language a little differently than what they do, I think you've got the ability to do that, but it makes it very difficult for the developer at this late point in the game to be coming seeking approval from the Board because if the Board says no, they're out of a lot of money, I mean, we're way down the path. As Mr. Denison said, we're submitting the package to HUD and we're requesting a closing date of September 26, so the deal is teed up, it's ready to go, and the one for Monument is coming right in behind.

So if you have any questions, I'll be glad to answer any questions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Anybody else that was going to comment?

MS. McDONALD: Good morning, Chairman Goodwin and Board members. My name is Joyce McDonald, and I am the executive director and founder of Frameworks Community Development Corporation, so thank you for allowing me to
stand before you today.

I will say that this deal is at the core of Frameworks’ mission. Affordable housing, especially for senior housing, is a need and the deficit is growing.

We are a nonprofit organization dedicated to serving the low income housing community in Austin and the surrounding areas, so we are thrilled to partner with Merritt Communities on Merritt Heritage in Georgetown because the exemplary reputation of the Merritt team is evidenced by their consistent high compliance scores and beautiful product.

This is our first tax credit funded affordable housing community, and as luck would have it, it seems to be immensely challenging. After the election and the subsequent of tax credit syndication market resulting in the loss of 15 percent of the value of the tax credits, the Merritt team immediately pursued the 221(d)(4) FHA financing to source additional funding to fill the gap. As you know, the Austin market is booming and the construction activity is at an all-time high which has caused labor and material costs to skyrocket. As a result, Heritage was impacted by both cost increases and loss of funding sources.

A few months back we brought a request for an additional million dollars in HOME funds, and TDHCA staff
underwrote the new FHA financing and approved the 40-year term required of the HOME funds by HUD. Somehow the request for HUD mandate at 75 percent cash flow provisions wasn't addressed at that time. We sincerely apologize that we're back seeking this approval now before you.

Merritt Heritage is a remarkable project in that it is one of the few projects funded by tax credits where half of its units are not rent-restricted. We believe mixing incomes is so positive on those involved. Heritage is located in Williams Drive in Georgetown, the entrance of the thriving senior community of Sun City and of the major east-west arterial for one of the fastest growing communities in America. There is significant retail and services surrounding this location and much is within walking distance.

Heritage is heavily supported by the community, receiving the only support letter from the State Representative Marsha Farney. City council and the Georgetown Affordable Housing Task Force joined the support of multiple local community groups to support our project. We are within 30 days, as they've said, of breaking ground as we are submitting our closing package to HUD today and our interest list is already full for all the affordable units, which we're thrilled about. We hope you will see this tremendous support as significant.
security for your loan.

The Merritt team has additionally agreed to guarantee your loan to mitigate any concerns that you may have, which was mentioned by Mr. Denison.

We thank you for your time and devotion to affordable housing and request that you approve our request for the approval of the HUD required cash flow provision for the HOME funds for Merritt Heritage.

Thank you for allowing me to speak before you today. If you have any questions, I'd be more than happy to address them.

MR. GOODWIN: Thank you.

Any questions?

(No response.)

MR. GOODWIN: I will entertain a motion. I would love for it to include a guarantee from Mr. Denison, as well as the LLC. I'll entertain any motion that anyone would like to make.

MS. BINGHAM ESCAREÑO: Raquel, would the motion be relative to the change in the direct loan terms? Is that what we're either approving or not approving?

MS. MORALES: A change in the direct loan terms for Monument because that never got dealt with at the May Board meeting, so they're asking to extend their term to 40 years and then asking to change the repayment terms.
I do want to just clarify for the Board's consideration, in the board action writeup we did include that in the case that the Board decided to go ahead and approve the request, staff recommended approving that request subject to some conditions that we set out in addition to any other conditions that the Board would like to impose. I'm just going to read through those because I believe it's the same in both cases.

MS. BINGHAM ESCAREÑO: Are they in our board book, Raquel?

MS. MORALES: Yes, they're in the board action request for both Merritt Heritage and Merritt Monument.

But what staff laid out was that should the Board approve the request, staff recommends making the approval subject to: one, the owner's ability to meet any additional conditions imposed on the 2016 loan commitment as stated in the latest underwriting report performed by our REA Division; and two, that the owner's agreement based on general staff concerns regarding timing for placement in service, that neither force majeure or an extension to the placed in service deadline, or waiver of the carryover agreement provisions, that all units be placed in service by the placed in service deadline.

When we've had meetings with the applicant, they've assured us that there would be no problem placing
these units in service on time, so we just kind of want to put that out there that if the Board chooses to approve this request that we hope that they can deliver those units timely without a request for an extension.

MR. GOODWIN: Do I hear a motion?

MS. BINGHAM ESCAREÑO: I have a question. So do those conditions sound good to Colby, those two conditions are acceptable? That would be to meet any other conditions as identified by REA in the underwriting and then to meet the placed in service deadline.

MR. DENISON: I don't have any issues with that other than being a little bit scared about what's going to happen to all of us in Texas after this hurricane in materials and labor, and so I'm a little bit nervous about force majeure.

MS. BINGHAM ESCAREÑO: Did you just except force majeure? Included force majeure?

MS. MORALES: You mean in our recommendation? We just said that they wouldn't come back and ask for an extension either under force majeure or an extension to placement in service, again, based on our concerns on the timing and their indication that they didn't believe they would have any issues.

MS. BINGHAM ESCAREÑO: I'll move to approve the requested change, the terms for -- should we do Merritt
Monument, can we do them together?

MR. GOODWIN: We can do them both together, or should we do them separate, Beau?

MR. ECCLES: Hang on for a second. Just on the issue of foreclosing the ability for an applicant to claim force majeure, are we talking about for events that have occurred to date or are we talking prospectively?

MR. IRVINE: I'm not comfortable foreclosing the possibility of raising a force majeure claim in the future should unanticipated things arise.

MS. THOMASON: Me neither.

MS. MORALES: That's fine. Whatever you want to do.

MS. BAST: If a building burns down, that's what force majeure is supposed to be there for.

MR. GOODWIN: We're going to exclude force majeure from this.

MS. BAST: Thank you.

MS. BINGHAM ESCAREÑO: So my other question was do we take Heritage and Monument separately, or does the motion can be for both?

MS. MORALES: Let me just clarify on that. So for Merritt Heritage, you already extended the term to 40 years, this is just the payment structure modification. If you want to take that first separately, you can do
that.

MS. BINGHAM ESCAREÑO: So move to approve the applicant's request to change the direct loan terms for Merritt Heritage, to include personal guarantee from applicant for the other 25 percent repayment.

MR. GOODWIN: Motion. Second?

MR. BRADEN: Second.

MR. GOODWIN: Moved and seconded. Any questions? We have a comment?

MS. SYLVESTER: Megan Sylvester, Legal.

I just wanted to clarify, did your motion mean in addition to the guarantee from the LLP

MS. BINGHAM ESCAREÑO: Yes.

MR. GOODWIN: Any other questions?

MS. BINGHAM ESCAREÑO: The LLP guarantee was in the writeup and then the chair asked for the personal guarantee on top of.

MR. GOODWIN: And you're comfortable with that, Colby?

MS. BINGHAM ESCAREÑO: So amended.

MR. IRVINE: Could I just offer a clarification of what I would contemplate to be the scope of guarantees. If, for reasons we hope never come to pass, the deal is unable to perform in accordance with applicable requirements and that triggers a federal repayment
liability, we want the guarantee of that repayment liability. That's the real issue.

MR. GOODWIN: You understand that, Colby, and you're comfortable with that?

MR. DENISON: (Speaking from audience.) Yes.

I don't have a choice.

(General laughter.)

MR. GOODWIN: I didn't ask that question.

MR. DENISON: Yes, sir.

MR. GOODWIN: You're comfortable with that. So we'll take that motion and we have a second.

Any other discussion?

MR. VASQUEZ: Can we add guarantees from the lawyers?

(General talking and laughter.)

MR. GOODWIN: All those in favor say aye. (A chorus of ayes.)

MR. GOODWIN: Opposed? (No response.)

MR. GOODWIN: Okay. Now we'll take Monument.

MS. MORALES: And Monument is requesting both to extend the term to 40 years to match the first lien FHA term, and the repayment structure of our direct loan.

MR. GOODWIN: And again, excluding force majeure from the provision.
MS. BINGHAM ESCAREÑO: Mr. Chair, I would move
to accept applicant's request to change the repayment
terms for the direct loan from 18 to 40 years on Merritt
Monument, and to allow the repayment terms as requested in
the prior application, to include meeting the conditions
as requested by the Department and a guarantee by the LLC
and a personal guarantee by the applicant.

MR. GOODWIN: Do I hear a second?
MS. RESÉNDIZ: Second.
MR. GOODWIN: So it's been moved and seconded.

Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.
(A chorus of ayes.)

MR. GOODWIN: Opposed?
(No response.)

MR. GOODWIN: That motion passes as well.

Thank you.

So I think we had pulled from the agenda 1(p)
which we're not going to take up at this time, but also
1(q) Palladium Glenn Heights.

Andrew, you're going to present?

MR. SINNOTT: That's correct.

MR. GOODWIN: Okay. So this is item 1(q).

MR. SINNOTT: Good morning. Andrew Sinnott,
Multifamily Direct Loan Program administrator.

So item 1(q) is presentation, discussion and possible action on a determination notice for 4 percent credits with another issuer and an award of direct loan funds.

So the reason that this was pulled from the consent agenda was so that we could discuss some unique aspects of the direct loan request for this transaction that we were hoping to get into the BAR but were ultimately unable to due to the continuing conversation we had with the applicant after the BAR was posted.

Specifically, there are two adjustments that need to be made to the terms of the direct loan award. First, regarding the terms of the TCAP repayment fund loan that is recommended to be awarded to Palladium Glenn Heights out of the soft repayment set-aside, the applicant was unaware of the ramifications of receiving the award as a deferred forgivable loan prior to conversations that staff had with the applicant as the underwriting was being finalized this week. So it's an $800,000 TCAP repayment funds loan, and the applicant was unaware that if it's structured as a deferred forgivable loan, it could potentially be deducted from basis at the time of cost certification and could result in a loss of credits, and therefore, a loss of equity.
Having recently discussed this prospect with the applicant, the applicant has requested, and staff is amenable to restructuring the $800,000 TCAP repayment funds loan to be a deferred payable loan in accordance with 10 TAC 13.4(a)(1)(A). So this is just an allowable structure under the direct loan program. We have deferred forgivable, deferred payable, or surplus cash flow as the available options under this supportive housing soft repayment set-aside.

Second, there are two sub issues regarding the FHA insured debt in front of TDHCA's loan, one for staff to resolve with HUD and one for the Board to resolve. Regarding the issue for staff and HUD to resolve, this direct loan award for Palladium Glenn Heights, like the direct loans for the two Merritt transactions that you just heard about, will be subordinate to an FHA insured first lien loan under the 221(d)(4) program, however, the direct loan for Glenn Heights is being made with TCAP repayment funds, whereas the direct loans for the two Merritt transactions were composed of HOME funds.

So this will be the first time that a TCAP repayment funds loan, which we're using as HOME match, will be subordinate to an FHA insured loan, so there will have to be conversation with HUD and/or the FHA lender regarding this specific fund source being subordinate to
FHA insured debt and an allowance of the HUD rider restrictive covenant agreement to be modified so that TDHCA's TCAP RF LURA is not subordinate to the FHA insured security instrument. Despite having to have this conversation with HUD and/or the FHA lender, staff expects approval of this fund source as subordinate debt and approval of the HUD rider restrictive covenant agreement to be modified within the next few weeks. So we just want to make sure that our LURA cannot be extinguished by foreclosure, the TCAP LURA.

Regarding the issue requiring Board approval, as you just heard with the two Merritt transactions, HUD recently began requiring the 75 percent surplus cash flow language to be included in TDHCA's subordinate promissory notes, whereas, in the past TDHCA was able to not specify a percentage of surplus cash flow from which TDHCA's loan would be repaid, resulting in all of surplus cash flow being available to repay TDHCA's loan.

Unlike the Merritt transactions, the loan for Palladium Glenn Heights is being made out of the supportive housing soft repayment set-aside, meaning that if there is an annual payment to the loan, the annual payment will not be subject to default. Additionally, unlike the Merritt transactions, the 2017 NOFA that this application was submitted under is still open so these
modifications are available to applicants under this 2017 NOFA as long as that NOFA is still open.

Staff requests explicit authority from the Board to have the 75 percent surplus cash flow language in the note should HUD require that language. Also, staff notes that this decision does not serve as a precedent for future transactions. As Raquel said, we're going to try and get this taken care of in the rewrite of the rule, the Multifamily Direct Loan rule for 2018 so that we don't have to come back here on a case-by-case basis.

EARAC met yesterday and recommended approval of this transaction subject to staff working out with HUD the matter discussed within this action item, and subject to an updated underwriting report reflecting the terms of the loan before closing, which potentially will be next month.

Staff recommends approval of the $800,000 direct loan funds and issuance of a determination notice for 4 percent credits in the amount of $1,104,990, with the condition noted herein, as well as any conditions included in the underwriting report. If you have any questions, I'll be happy to answer them.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Do I hear a motion to hear comments? I see a couple of people want to talk.
MS. RESÉNDIZ: So moved.

MR. GOODWIN: So moved. Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Moved and seconded. All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: We'll entertain comments.

MR. SHACKELFORD: John Shackelford on behalf of the developer.

We don't really have any comments, just available for questions, really, because you're recommending approval and we're good with that. Thank you.

MR. GOODWIN: Any questions for the developer, for John?

(No response.)

MR. GOODWIN: Okay. I'll take a motion to approve staff's recommendation.

MS. BINGHAM ESCAREÑO: I'll so move.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: Any comments or questions?

(No response.)

MR. GOODWIN: If not, all those in favor say aye.
(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: It is granted.

Let's move into Multifamily Finance. Item 7(b).

MS. HOLLOWAY: Good morning.

Item 7(b) is presentation, discussion and possible action regarding the issuance of multifamily housing revenue bonds for the Casa Brendan development and a determination notice of housing tax credits.

The Board adopted the inducement resolution on June 28 for this project and a certificate of reservation was issued in August 18 with a bond delivery deadline of January 15, 2018. The applicant has disclosed the presence of undesirable neighborhood characteristics, specifically relating to the poverty rate that exceeds 40 percent according to Neighborhood Scout. Staff has visited the site on August 30 and found the neighborhood to be older and established with several small businesses, values in the neighborhood have appreciated in the last year, and in addition, the percentage of households in the census tract with incomes at roughly the county median increased from 32 percent in 2011 to 43 percent in 2015, indicating an upward trend in incomes. Based on this
information, staff believes the undesirable neighborhood characteristic related to the poverty rate is not of a nature and severity that should render the site ineligible.

Casa Brendan Apartments is located in Stephenville and it proposes the acquisition and rehabilitation of 86 units originally constructed in 1985. The development will serve an elderly population. All of the units will be rent and income restricted at 60 percent of AMI, and the development is covered by a project based Section 8 HAP contract.

A public hearing for the proposed development was conducted by staff on August 30 of 2017, and there was no one in attendance. The Department has not received any letters of support or opposition for this development.

This transaction involves a Fannie Mae multifamily pass-through mortgage-backed security. The mortgage loan will be originated by the Department to the borrower on the closing date and funded with the bond proceeds. Simultaneously with the closing, the loan will be assigned to the Fannie Mae lender, which is Wells Fargo, and the funds used by the lender by which to acquire the loan will be deposited into a collateral account to secure the bonds. With this structure, the project will be 100 percent cash collateralized at all
times, thus offering protection for the bondholders.

Payments on the bonds will be guaranteed by Fannie Mae.

Staff recommends that the site for Casa Brendan be found eligible under the undesirable neighborhood characteristics rule. Staff further recommends approval of the issuance of up to $6 million in tax-exempt multifamily housing revenue bonds, and the issuance of a determination notice of $305,948 in 4 percent housing tax credits for Casa Brendan, of course, subject to any previous participation and underwriting concerns.

MR. GOODWIN: Questions?

(No response.)

MR. GOODWIN: Seeing that nobody wants to comment, I'll entertain a motion to approve staff's recommendation.

MS. BINGHAM ESCAREÑO: Move staff's recommendation.

MR. GOODWIN: Moved staff's recommendation.

Second?

MR. BRADEN: Second.

MR. GOODWIN: Moved and seconded. Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)
MR. GOODWIN:  Opposed?

(No response.)

MR. GOODWIN:  Okay.  7(c).

MS. HOLLOWAY:  Item 7(c) is presentation, discussion and possible action regarding the issuance of multifamily housing revenue bonds for the Nuestro Hogar development and a determination notice of housing tax credits. This is the same applicant and moves in the same timeline and has the same structure as the Casa Brendan item that we just approved.

The applicant has requested a waiver of one of the mandatory development amenities under the Uniform Multifamily Rules, specifically the requirement that all units must have central heating and air conditioning. The development is three stories tall, includes efficiency units sized at 415 square feet and one-bedroom units sized at 540 square feet. Both unit types currently have packaged terminal air conditioners. PTAC units meet the requirement for central heating and air conditioning for single room occupancy or efficiency units only, so under the rule, the waiver request is really about the one-bedroom units.

Given that both rooms are heated and cooled with the PTAC units and the relatively small size of the units, staff believe that the PTAC system would be
effective in cooling and heating. Moreover, the scope of
the work for the rehabilitation includes replacing the
current PTAC units with newer more efficient ones. It has
been estimated that the cost to add central HVAC could add
as much as $5,700 per unit, or an increase of
approximately $372,000 to the project cost, with
ultimately no positive net effect.

Regarding the waiver, in accordance with rule
and statute, the Department is to provide for the housing
needs of individuals and families of low, very low and
extremely low income and families of moderate income, as
well as the preservation of government assisted housing.
Staff believes the proposed development meets the stated
purpose. Additionally, considering the structural
challenges and estimates cost associated with installing a
central HVAC system, staff believes an economic and
practical approach would be to upgrade the current
systems, and therefore, recommends that the waiver be

Nuestro Hogar is an existing development
located in Arlington. The project will acquire and
rehabilitate 65 units originally constructed in 1986. It
is serving an elderly population. All of the units will
be rent and income restricted to 60 percent of AMI, and
they are covered by a project based Section 8 HAP
A public hearing for the proposed development was conducted by staff on August 30 of 2017, and there was no one in attendance. The Department has not received any letters of support or opposition for this development. Staff recommends waiver of the mandatory community amenities rule as described be granted and that the issuance of up to $6 million in tax-exempt multifamily housing revenue bonds be approved, along with a determination notice of $194,510 in 4 percent housing tax credits, subject to previous participation conditions and underwriting conditions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Do I hear a motion to approve staff's recommendation?

MR. VASQUEZ: Move to approve staff's recommendation.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Moved and seconded. All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)
MR. GOODWIN: Okay. 7(c) passes. Now we can go to 7(d).

MS. HOLLOWAY: This is the third of the applications that we're taking up today from the same applicant, so this will have the same timeline and financial structure as Casa Brendan and Nuestro Hogar that we just discussed. This is presentation, discussion and possible action regarding the issuance of multifamily housing revenue bonds and a determination notice of housing tax credits for Casa, Inc.

Casa, Inc. Apartments is located in Fort Worth and proposes the acquisition and rehabilitation of 200 units serving an elderly population. All of the units will be rent and income restricted at 60 percent of AMI, with one employee occupied unit. Currently all of the units are covered by a project based Section 8 contract.

This application also requests a waiver regarding the PTAC units, and similarly, they are replacing current existing PTAC units with newer more energy efficient PTACs. The architect and engineer on this project have estimated the cost to install central heat and air conditioning into these units could be as much as $5,100 a unit, or an increase of approximately a million dollars on the project cost. Staff believes the waiver is warranted under the same rule and statute as the
Nuestro Hogar project which was our previous agenda item.

A public hearing for the proposed development was conducted by staff on August 30 of 2017, and there was no one in attendance. The Department has not received any letters of support or opposition for this development.

Staff recommends that the waiver of the mandatory community amenities rule be granted and that the issuance of up to $25 million in tax exempt multifamily housing revenue bonds be approved, along with the issuance of a determination notice of $993,773 in 4 percent housing tax credits, subject to any previous participation conditions or underwriting conditions.

MR. GOODWIN: Any questions?
(No response.)

MR. GOODWIN: Do I hear a motion for staff's approval?

MR. BRADEN: I'll make a motion to approve.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Moved and seconded. Any discussion?
(No response.)

MR. GOODWIN: Hearing none, all those in favor say aye.

(A chorus of ayes.)
MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: 7(e).

MS. HOLLOWAY: 7(e) follows on the Commissioners' Corner item that we discussed earlier on the 9 percent amendment. This is presentation, discussion and possible action on a determination notice for housing tax credits with another issuer. The proposed issuer for the bonds in this transaction is Alameda Public Facilities Corporation which has partnered with HACEP on a number of transactions.

As I mentioned, this application is part of the reconfiguration of an application that received 2016 competitive allocation into two developments, one with the 9 percent, the other with the 4 percent. Commissioners' Corner Phase II involves the new construction of 92 units, of which 62 will be rent and income restricted at 60 percent of AMI, 20 will be restricted at 50 percent, and the remaining ten units will be restricted at 30 percent.

Based on various deadlines, staff has identified the need for a waiver of application requirements. The application was submitted in a time frame that adhered to our 75-day deadline which allowed staff the time it needed for evaluation, however, it was submitted without evidence that the request for bond
volume cap had been approved by the issuer. Staff was aware of the intent to submit the application and was aware that the request had been placed on the issuer's board agenda for consideration shortly after the application was submitted. Considering the continuing partnership of the applicant and the issuer, staff believes the constraints in obtaining the inducement resolution were primarily related to posting requirements and the Board's meeting schedule, and that waiver of that application requirement is appropriate.

We earlier discussed Board action in March of 2017 regarding the 2016 applications. This particular transaction seems to step outside of that sort of broad approval that was granted to us at that time, so of course, staff has had some concerns with it. EARAC considered the proposed application and concluded that they could neither recommend approval nor denial of the proposed development without prior Board action on the related amendment request on this agenda as 6(a) which directly impacts the feasibility of this development.

Based on the earlier action regarding the 9 percent application, staff recommends that the issuance of a determination notice of $538,417 in 4 percent housing tax credits, including necessary waivers of existing rules pursuant to the Board's prior action at the March 2017
meeting, be approved, subject to the previous participation and underwriting conditions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Do I hear a motion to approve staff's recommendation?

MR. BRADEN: I'll make that motion.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: It's been moved and seconded.

Any discussion?

(No response.)

MR. GOODWIN: Anybody want to speak? No?

Thought you might feel that way?

All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. That's passed.

MS. HOLLOWAY: 7(f) is presentation, discussion and possible action regarding alternative financing structures under the 2017-1 Multifamily Direct Loan Notice of Funding Availability. We're not asking you to take action on a particular application, we are presenting an idea and saying is this something that you as the Board
believe we should pursue.

So the 2017-1 NOFA was approved on December 15 and has been amended several times to add funds, adjust set-asides or timelines. The Department has typically awarded direct loan funds as construction to perm through which a borrower closes on the loan, draws on funds over the course of construction, and then the entirety of the loan converts to a permanent loan, generally amortizing or it may be a deferred forgivable loan.

A current applicant has requested that the Department consider the use of direct loan funds as a construction loan only. The applicant has proposed drawing down the entirety of the direct loan funds at closing and paying a nominal interest rate over a 24 to 36 month course of construction. The loan would be paid off in full upon rent stabilization or closing of the permanent financing. Using the direct loan funds as a bridge or construction loan would allow some of the equity contributions to be deferred until later in construction, thereby increasing the equity price.

In order to achieve the applicant's request, the Board would have to waive requirements in the direct loan rule which require no more than 50 percent of the direct loan award be drawn in the first draw and that the remaining 50 percent be drawn at an even level with
construction completion. We are not asking you to waive that today, we're just saying that's part of what would be included as we move forward if we take this path.

While not explicitly prohibited by the NOFA or rule, this type of loan structure is different enough from previous direct loan structures that staff believes its departure from the normal course of business deserves Board consideration. Staff recommends approval of a plan to continue to explore this loan structure, including evaluation and underwriting of applications so long as the construction loan structure does not expose the Department to undue risk and in such a way that all necessary federal and state requirements continue to be met. Of course, any applications would come back to you for approval and with that request for waiver of those requirements in rule.

MR. GOODWIN: Questions?

MR. VASQUEZ: Question. Marni, so you say we're trying to structure it where we loan them all the construction costs?

MS. HOLLOWAY: A portion. I don't know for sure what the numbers are. At this point what we're looking for is is this okay with the Board for us to continue to look at, and if we spend some time on this application and in this underwriting and bring it back to you, is that okay. I have no specifics about the
MR. VASQUEZ: I would just want the Department staff to just ensure if you continue down this path, we have to ensure that the equity is in the deal up front to match the loan amount. I just don't know how they're going to put together -- it sounds like they're just trying to say, well, if we get it almost done, it will be easier to get the equity, which is on any deal.

MS. HOLLOWAY: So just a question for clarity so we know moving forward, are you looking for equity contribution to match ours, or are you looking for equity commitment?

MR. VASQUEZ: As close to contribution as possible.

MS. HOLLOWAY: Okay.

MR. GOODWIN: My question when you brought this up is why are we getting in the interim construction business. Are these deals having trouble getting interim construction lending?

MS. HOLLOWAY: Potentially. Part of the attraction for us is it turns those funds over for us that much more quickly, so we're receiving that program income back in and we can put it back out into another project, whether it's a construction loan or a longer term loan, it kind of turns the dollars over more.
Part of it, if the applicant is able to achieve a better equity price through this structure, one would hope that we would be able to prove through the underwriting process that this creates a healthier development in the long run, which can only serve to benefit everyone involved.

The other important piece to keep in mind is that our affordability period, our LURA would be continuing on beyond that loan repayment.

MR. VASQUEZ: And so on each of these then would we be expected to then be putting in the permanent finance and take out the construction loan?

MS. HOLLOWAY: So the current structure for most of our direct loan transactions is construction to permanent. So we're coming in at construction with a portion of the financing that's limited by the direct loan rule, and then we roll over to permanent financing. In this instance, they're staying we just need you at the front-end and then we'll pay you off.

MR. VASQUEZ: So under this scenario, we would not be doing the permanent lending.

MS. HOLLOWAY: A permanent lender. No.

MR. VASQUEZ: Just to add on to my parameters that I think we should examine, if we have a commitment from one of Citibank or whatever as a permanent lender, if
they have that in place up front, that commitment, I'd be
more open to exploring providing the construction finance.
If we're providing all the construction finance and the
permanent finance and then we hope they get their equity,
I mean, we're being the developer at that point.

MS. HOLLOWAY: So you're looking for more
solidity at the front-end before we commit to the
transaction.

MR. VASQUEZ: Ideally, yes.

MR. GOODWIN: Other questions? I've got a
couple more questions. Do we have a department that does
interim construction lending now?

MS. HOLLOWAY: We have done construction, like
draws, five draws on single family, that kind of thing.
We have done that kind of financing in the past, and
again, currently we're set up for construction to perm, so
we are, in fact, receiving those interim draws through the
construction process. In this instance we're just not
rolling over to the permanent financing when the
construction is completed. So we absolutely are set up
for receiving, evaluating, inspections, going through that
whole process of drawing construction funds.

MR. GOODWIN: If as a Board we gave you
guidance and said go forward, would you be developing
interim construction rules for these types of loans and
how they may be granted?

MS. HOLLOWAY: It's something we would be rolling into the updated Chapter 13 rules that we're going to bring back to you in draft next month.

MR. GOODWIN: Okay. Brent, any comments you want to make, being a former multifamily developer, on how you see this?

MR. STEWART: Sure. Brent Stewart, Real Estate Analysis.

I think what happens here is we're bridging the equity. The repayment for our loan comes from an equity payment once the project is completed, not so much the permanent lender, which is a way better place to be. By bridging that equity, the equity comes in later, the pay-in schedule gets protracted you over the construction period. That creates a higher yield for the equity which then allows that to translate into a higher credit price going up front. Some of the repayment would potentially come from perm debt. My bet is most of it would come from kind of that last capital contribution that comes into the partnership.

And then on the other piece, we effectively do this now. Actually, this can be done now because there's nothing that says that somebody can't pay us off at the end of 24 months now. I think this is just a program that
helps the equity guys understand that it's a true program, it's something that we're looking to do and they can bank on that in terms of committing to those equity prices.

MR. IRVINE: The way I look at it is by bridging the equity, you provide a more stable, predictable, long-term equity structure, therefore, your HOME repayment risk that you created on the front-end is operating in a more stable environment.

MR. GOODWIN: What are you looking for from us?

MS. HOLLOWAY: We are looking for Board approval of our plan to continue to explore this loan structure, of course, with an understanding that any of these awards we would be bringing back to you for approval individually.

MR. GOODWIN: Do I hear a motion?

MR. BRADEN: Move to approve.

MR. GOODWIN: Move to approve. Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: It's been moved and seconded.

Any discussion?

MR. PALMER: Brent covered most of the points I was going to make. One of my clients is the one who proposed this. It would result in a number of positive things for the Department, including being able to touch a lot more deals. Rather than having your money in for 30
years, you would be in for two, two and a half years. Bridging the equity from the investor will allow more equity proceeds, they can pay more for the credits if they pay their money in later.

And to Mr. Vasquez's point on protection on the construction side, the construction lender will be in there also along with your money, and typically the construction lender will require and you can require that a certain amount of the equity come in at closing, 15 percent or whatever amount of the equity has to come in at closing, so it's not like the equity investor is not putting in any money at closing.

MR. GOODWIN: Any other comments or questions?
(No response.)
MR. GOODWIN: If not, I'll call for a vote on the motion. All in favor say aye.
(A chorus of ayes.)
MR. GOODWIN: All opposed?
(No response.)
MR. GOODWIN: Motion passes.
Before we move on, we're going to end up having to take about a 30- to 45-minute recess for Beau to visit with staff over some issues, and then we'll come back and cover item 1(q) and item 8(a) and 8(b). So I think right now it is 12:15. Let's reconvene back at 1:00 p.m.
(Whereupon, at 12:15 p.m., a brief recess was taken.)

MR. GOODWIN: We'll reconvene, and we'll start with item 1(p) that we pulled off the consent agenda, 1(p) Flora Lofts.

MS. HOLLOWAY: Item 1(p) is presentation, discussion and possible action on a determination notice for housing tax credits with another issuer, so this is a 4 percent deal. The application was submitted to the Department on May 8, the reservation from the Bond Review Board was issued on the 26th, and will expire on the 23rd. The proposed issuer of the bonds is the Dallas Housing Finance Corporation.

The applicant disclosed the presence of undesirable neighborhood characteristics, specifically that the proposed site is located in a census tract or within a thousand feet of a census tract in an urban area where Part 1 violent crime rate exceeds 18 per 1,000, according to Neighborhood Scout. Local police beat data indicates that the Part 1 violent crime rate within the census tract is lower and that it continues to drop such that staff believes the site should be found eligible.

A little bit about the project. Flora Lofts is proposed to be constructed in downtown Dallas. It involves the new construction of 52 units, of which five
will be rent an income restricted at 50 percent of AMI, 38
will be rent and income restricted at 60 percent of AMI,
the remaining nine units will be market rate with no rent
and income restrictions. The proposed development will be
a condominium structure part of the larger high-rise
development, which is a separate condominium from our tax
credit development, in a larger high-rise development in
the arts district in downtown Dallas. It is anticipated
that other floors within the high-rise will contain retail
and residential uses as well as structured parking.

While the development will serve the general
population, the units are planned to be offered as living
space for local artists. The lofts will have common areas
throughout each of the residential floors for resident
use. The proposed development is in an area that's
heavily developed with a variety of uses and has easy
access to public transportation, including the Dallas Area
Rapid Transit, as well as large employment hubs.

Adjacent to the property to the north is the
Museum Tower which is luxury development. The subject
property is unique in that it has a generally high
proportion of apartment complexes or high-rise apartments,
while others tend to have more of a mix of housing types
and real estate. The subject census tract has multiple
market rate properties. The only other affordable
property within that census tract was completed in 2009. The applicant's portfolio through PPR is considered to be a small category one and previous participation was deemed acceptable by EARAC without further review or discussion. The applicant provided a letter of support dated March 29, 2013 from Senator Royce West. The letter was submitted previously as part of the competitive housing tax credit application in 2013. That application was awarded and those credits were returned later.

Staff recommends issuance of a determination notice for 4 percent tax credits in the amount of $673,756, subject to underwriting conditions, including receipt and acceptance before the determination notice of a possible structure of the units and buildings that conform to Section 42 with respect to minimum set-aside requirements and any other related building designation issues, and receipt and acceptance by cost certification is an executed 40-year parking agreement for the 31 spaces designated for our development.

I'll be happy to answer any questions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: I see that we have some people that want to speak. Do we have a motion to hear comments?
MS. BINGHAM ESCAREÑO: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Moved and seconded. All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Okay.

MR. GEHEB: Phil Geheb from Munsch Hardt.

We're only here to answer any questions you may have, so just let us know.

MR. GOODWIN: Anybody have any questions?

MS. BINGHAM ESCAREÑO: Question. Are you comfortable with the conditions that staff is recommending in terms of submitting some kind of proof that the structure conforms and the other building designation issues and then the commitment to the parking?

MR. GEHEB: We are comfortable with those conditions.

MR. GOODWIN: I'll entertain a motion for staff's approval.

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

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Moved and seconded. Any
discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay.

MS. HOLLOWAY: Item 8(a) is presentation, discussion and possible action on the proposed amendment of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan and directing its publication for public comment in the Texas Register.

The Qualified Allocation Plan and Rules Committee met yesterday to discuss the staff draft of the QAP. We discussed how we arrived at the draft QAP under consideration, the timeline for rulemaking and walked through all of the changes proposed for 2018. It was a 3-1/2 hour long got through it all meeting. There weren't any changes directed out of the committee meeting that require changes to the draft posted in the board materials. That said, some small fine-tuning changes will be presented in the final rule and committee members may have changes to propose to the Board based on the input we received yesterday.

I'd like to thank Representative Collier for
attending our meeting yesterday. She's the author of House Bill 3574 that removed educational quality from scoring. She attended the meeting to discuss those changes and some of her suggestions for mitigation measures on the threshold.

So during 2017 staff met six times with stakeholders to discuss the 2018 QAP through our QAP project. Most of the meeting topics were identified during the initial planning meeting in December of 2016, and this is a process we plan to continue in the coming year as we look forward to the 2019 rules. Beyond the QAP project meetings, several times were posted to the Department's online forum so that stakeholders could comment on aspects of new proposals from staff. We also met with stakeholder groups, including TAAHP and the Rural Rental Housing Association, to gain their input.

I would also add that we will be continuing, as part of this project in the coming year, we have regular meetings scheduled with rural development which is the USDA side. They're officed up in Temple and we'll all be meeting on a regular basis to make sure that we're all meshing well in rules, and that's something that I think we're all looking forward to.

We published an initial staff draft of the QAP on August 11, and a second draft on August 29. The
proposed 2018 QAP is presented today for acceptance and publication for comment. We've tried to limit changes to only those that are necessary to clarify issues from this past round. There are a couple of new items that generated quite a bit of discussion yesterday and even those on ones that we've considered in the past.

As I mentioned, we have removed educational quality scoring and tiebreaker items as a result of legislative action. Requirements for disclosure and mitigation for schools that don't have a Met Standard rating remain in the undesirable neighborhood characteristics section of Chapter 10.

So for the rulemaking timeline, on your approval the proposed 2018 QAP will be posted to the Department's website and published in the Texas Register. Public comment will be accepted between September 22 and October 12. The final QAP will be presented to the Board in November for approval, followed by the statutorily mandated submission to the governor by November 15. Upon the governor's approval or approval with modifications, no later than December 1 the adopted QAP will be published in the Register.

During the course of yesterday's meeting several items rose to the top as concerns for committee members and stakeholders, so rather than going through the
whole thing, I thought I would just cover the highlights from the meeting yesterday and save us all a couple of hours at least.

The program calendar has been modified to reflect dates for 2018. The only significant change is that staff is proposing an earlier third party request for administrative deficiency deadline of May 1. You'll recall that last year it was June 1 and we received more than 40 RFADs on June 1, and that led to a great deal of uncertainty as we were headed into awards, and we're trying to prevent that.

Under Section 11.4 on the tax credit request and award limits, we've added language in subsection (a) that proposes that applicants must limit their total credit request to $3 million by June 29. Without this change, staff is concerned that an applicant with multiple applications totaling more than the $3 million cap will use the waiting list as a means of insurance to buy time and hedge against risks or error.

We've also removed the 10 percent developer fee as an allowance. Previously, if a developer received 10 percent or less of the fee, it was not considered in calculating the cap. Some groups of individuals have used this allowance to exceed the $3 million cap, a clear violation of the spirit of the rule.
We initially removed the $150,000 cap on consultant fees with an eye toward the market limiting those costs, but have received comment that without that limitation some parties may seek to gain the cap through the consultant fee. So a couple of comments that were received during the committee meeting that I think are important, requesting that the applicant tell us which applications to pull out by June 29. For us, it ties to our statutory requirement to bring the list of eligible application to you by the end of the month, so that's how those two tick and tie. A suggestion was made that that date should be later in the process, perhaps at commitment, and I think that that's a change that could be made through the public comment process if, in fact, we receive that comment.

The other concern that was raised was that the $150,000 cap on consultant fees, this is just the number that's been there. If the number needs to change, that's absolutely something that we can change, again, through that comment period with some substantiation. I mean, I think if we just get a comment that says it should be half a million dollars, you are going to need a little more information behind that to make that change, but that's absolutely something that can come through public comment.

MR. VASQUEZ: Marni, to clarify, that was per
project, not across the board.

MS. HOLLOWAY: Right, not across the board.

There was a concern that we were capping consultants at $150,000 for all projects. If a single consultant did all the applications, that would be fine.

Moving to 11.7 on tiebreakers, staff has removed two previous tiebreakers and added a new one, and we've provided some clarification regarding measurement by adding language that better describes the boundaries of a development for this purpose. Tiebreakers regarding the menu items of opportunity index, so the extra opportunity index items, has come out simply because it created such -- and the bulk of our RFADs last year was on those. And the ratings, of course, for elementary, middle and high school have been removed due to legislative action.

A new tiebreaker regarding underserved places or if located outside of a place, counties has been proposed as the third item. This item would count the total number of tax credit units and divide that number by the total population, which is something that we already do for our site demographics reporting. The proposed development with the lowest score for this calculation will win the tiebreaker. Staff believes this tiebreaker methodology will be an effective means of dispersion.

There was quite a bit of conversation about
some of the other tiebreaker items that we have not
changed. Urban core is one that some folks like and other
folks don't like. There were some suggestions around
reordering them and moving for this distance, which is the
last one, up the list of the tiebreakers. My concern with
doing that, with moving distance up is that that will
always be the first one, and so these other items that are
in the list that we have decided as a group have value,
like the lowest concentration, we would never get there if
distance was up at the top.

Also, on section 11.9, so headed into the
competitive criteria, under general information at
subsection (a) we've added language clarifying boundaries
and measurements. Mr. Braden had concerns with some of
our language, both here and in the tiebreaker section,
that we need to try to clarify a little bit, and I think
that we can get there.

In underserved area, the requirement that a
census tract fall entirely within the boundaries of an
incorporated area remains true for subparagraph (e). This
is the five-point scoring item which staff refers to as
the flower. In 2017 that paragraph (e) item was limited
to places with populations of 300,000 or more, but for the
2018 cycle, staff has lowered the population floor to
150,000. This will increase the number of eligible cities
from eight to eighteen. So this five-point scoring item
for underserved area, your site is in this census tract
and then every census tract around it does not have a
development in it.

We've received some question about
rehabilitation deals and how those are considered. We
will be inserting language into this item that says if
you're a rehab deal, you don't count against yourself
because you're already there, so we're not going to make
you say, well, I'm already here so I can't get this five-
point item.

Tenant populations with special housing needs,
participation in the Section 811 Project rental assistance
program is back in the QAP as a scoring item rather than
threshold as it was last year. The specific requirements
of the 811 Program are in the proposed 10 TAC Chapter 8,
which was approved on the consent agenda today.

On proximity to urban core, we have lowered the
population threshold that qualifies a city for points from
300,000 minimum to 200,000. This increases the number of
qualifying cities from eight to thirteen. We focused on
three criteria to determine where to set the population
threshold: that would be population and population
growth, so growing cities; the presence of low to moderate
income jobs; and the physical attributes of those cities'
cores. That scoring item is still worth five points.

On commitment of development funding by local political subdivisions, there was a change in the last couple years QAP based on Senate Bill 1316 from the 84th Legislature. That bill included language that made the commitment of funding amount de minimis only for 2016 and 2017. So while Texas Government Code reads that the subsection will expire September 1, 2019, subsection (e) states that this de minimis provision applies for the 2016 and 2017 qualified allocation plans.

Because over the last two years many applications have included local political subdivisions providing something of value equal to ten dollars or even a dollar, staff has proposed $500 for urban developments and $250 for rural developments. Mr. Vasquez thinks the numbers should be much higher.

On concerted revitalization plan, other types of urban revitalization plans which may not be called a concerted revitalization plan but fit the description in the rule will now be allowed. We are requiring that the plan be current at the time of application and continuing for three more years. We've also added language that allows plans with cities that cover more than one distinct area to submit resolutions for each plan or area rather than limiting the city to one per year.
Under readiness to proceed, we have been trying to get to a readiness to proceed item for some time, but have struggled with finding a structure that isn't punitive if an applicant is not able to begin construction by the deadline. Staff has proposed the addition of a scoring item that will not necessarily affect applications in the 2018 competitive round but will affect the scoring of apps in the 2019. If an application that receives an allocation can commence construction by the last business day of the calendar year, then an individual associated with that application can add a point to any one application they are involved in for the 2019 cycle.

This was not a real popular item. As Ms. Bingham said, people don't seem to like carrots. We were looking for a carrot and it was not real popular. I would imagine we'll receive comment on requesting that it be removed.

Adaptive reuse or rehabilitation cost per square foot. Staff has proposed removing the cost of acquisition on a cost per square foot basis from this scoring item. Instead, applicants will provide hard costs per square foot for the purposes of this item in subparagraph (e), thus the numbers are lower, but again, this is because we've removed acquisition costs. This change came out of a concern that our amounts are not
indicative of real costs at the request of the Rural Rental Housing Association.

There was a good deal of comment about this yesterday. Our numbers may not be where they should be, so the dollars per square foot or the measurement about the size of the unit. These are things that can be adjusted through public comment, so I would expect that we would receive some comment on those.

Staff recommends that the proposed amendments to the 10 TAC Chapter 11, the Qualified Allocation Plan, be approved for publication in the Texas Register for public comment.

MR. GOODWIN: Do I hear a motion to forward staff's recommendation?

MS. HOLLOWAY: I'm sure that there are people who have things to say.

MR. GOODWIN: I know we're going to have comments, but I'll look for a motion to approve staff's recommendation before we start listening to comments.

MR. ECCLES: Well, and to that end, if there are Board members who would like to move to change staff's recommended like in any provision before it goes out for publication, this would be their opportunity. Again, that would just be to change the draft that's going to the Register and put out for public comment. Rather than
moving to accept staff's draft.

MR. GOODWIN: Then let's move for a motion to
hear comments.

MS. BINGHAM ESCAREÑO: So moved.

MR. GOODWIN: So moved. Second?

MR. VASQUEZ: Second.

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Before we start with public
comments, are there any Board members who want to make
comments?

MR. BRADEN: Well, I had a couple of things
that I was going to mention, and no doubt it's going to
come out as part of some of this.

So on Section 11.9 I guess where maybe it's
going to come up, and it's page 19, I think, of this
report where the new language was added. So we're adding
new language now that when we're measuring these locations
it's from boundary line to boundary line, and I think
there was some discussion of whether that was an
appropriate measurement. And there was some discussion
yesterday about whether should there be a designated point
on the site that the measurements move from. I think
that's open to discussion and we can talk about that.

But I do think that the language as written is
somewhat self-contradictory and I have some edits to that first sentence of the language, but I think at a more substantive level, we ought to make sure that the Board is comfortable the way we're going to measure these things is from boundary line to boundary line as opposed to a point on the site for accessibility purposes and measured along that. That's one question or comment I had.

And then on the readiness to proceed, and maybe we can wait until we get comments as part of the rulemaking process, but I'd probably advocate for deleting that now. I think that's a fairly hard thing to police and work, and I agree with the idea, but in terms of giving somebody a point in next year's allocation, I don't know if that's the right carrot. I understand it's kind of hard to reward or penalize that behavior and so I commend the staff's looking for something, but I'm not sure that's the right solution.

Those are the two general comments that I had.

MR. GOODWIN: Other Board comments?

(No response.)

MR. GOODWIN: Public comments?

MS. SISAK: Yes. Good afternoon, Board, Board Chair. My name is Janine Sisak. I'm here today on behalf of the TAAHP QAP Committee. I just want to take a quick opportunity to thank staff and Marni and Patrick in
particular for all their efforts in getting a draft posted to the board book last week that didn't have a huge amount of surprises. If some of you remember from last year, there was a little consternation when the board book was posted before this meeting and there were a lot of kind of new concepts. So we really appreciate staff's working through the summer and working through a heavy load of RFADs, as they call it, while also getting a draft out to us slightly earlier than before, which was an interest expressed by a lot of our stakeholders. So let me take an opportunity to thank staff on that.

And additionally, I look forward to working with staff in the coming year on some more kind of broader policy issues. The two things that I would like to work on that I mentioned yesterday were coming up with a new scoring concept to go into the scoring for next year that creates another opportunity for the scoring of applications not to be so flat. I think that's really important at this stage, especially in light of the educational quality points coming out of the QAP.

Additionally, I don't know, I had to leave early yesterday, I don't know if you talked about the Multifamily rules, but I really would like to visit undesirable neighborhood characteristics again. Marni has said several times that it hasn't really stopped any
developments going forward, which is great, but it is kind of eating up a lot of staff and applicant time and money in slashing through that, and if everybody kind of gets through it anyway, why are we spending valuable resources through that process.

Those are the two things I'd like to work with staff on in the coming year. Thank you.

MS. MEYER: Board, thank you for the opportunity. My name is Robbye Meyer, I'm with Arx Advantage Consulting.

Just two things. One, to address Mr. Vasquez from yesterday, in your comment about the big stick, and I understand that. Part of one of the questions that you had about the local political subdivision funding and having skin in the game, I started to speak yesterday and I thought I'm just going to let it go, but when that was first put in the QAP, or in statute, actually, back in 2001, the agency was under fire, and the advocates in the development community came forth and that was put in so that there would be some local control.

Since that time we've also had added in local resolution for support of the application, QCP is now in there, support from your state rep and state senator at one time, the senators have come out. So a lot of things have gone in the QAP or in statute that are required, so
that's one of the reasons why the state legislature made
that a little less a priority in the last legislative
session and so it went down to a de minimis amount because
there are other things in the QAP or in statute that make
local control a little bit more important. So I'd just
kind of give you a little bit of background.

One thing that I just want to introduce, and
I'm not really a strong advocate of forward commitments,
but in 2012 our language for forward commitments was
struck, and this is a prime opportunity to ask the
governor to be able to put that language back in. And Ms.
Bingham will remember the forward commitments. Like I
said, I'm not a supporter of forward commitments and when
I was with the agency I didn't like it then and I don't
like it now. However, this past year I had a 2016 deal
that my client also had deals in Mississippi and
Mississippi had the ability to forward commit additional
credits for the three deals in Mississippi, and had my
client not been able to get the additional on the
Mississippi deal, we would have lost our Texas deal
because we could negotiate with our syndicator on pricing
with those Mississippi deals.

So I ask that we consider putting language back
in the QAP and asking the governor to allow that language
under special circumstances and not give the Board willy-
nilly, let's pull something from the bottom of the list to put it up to be awarded. But in catastrophic events like Harvey, we haven't felt the full effects of Harvey yet, but I can guarantee you they're coming and we're going to have construction costs and things that are going to skyrocket, and it would be nice for the Board to have the ability to rescue some of the deals that are going to come before you later on.

Thank you very much.

MR. COMBS: Ryan Combs with Palladium.

I did want to mention just very briefly on Mr. Vasquez's comment about local political subdivision funding. You know, I work for Palladium USA and we're a developer and we work primarily in Urban Region 3, Dallas-Fort Worth and a lot of those areas, and we have been a market rate developer and now we are doing affordable and we've been doing that for five-six years now and have had a lot of success. And we know that in North Texas there's just a dramatic need for housing, for workforce, for aging people, I mean, tax credit housing, there's just an incredible need all over North Texas.

One of the things that we fight constantly is we first, all of us developers in this room, look for good real estate and so we're looking for the path of growth. We have to hit these rules, we have to do these things to
be competitive, but bottom line is we're looking for good real estate, and so we're going to places that people want to be, people want to live, where they want to work. And one of the big challenges that we have is not in my backyard, we're here but we don't want those people here kind of thing. And when we go and we ask for resolutions of support from a city, that's a big ask and it puts the elected officials in the hot seat to potentially do something that is politically volatile.

A lot of times when you go to high opportunity areas and you say I need a resolution of support, and oh, by the way, I need you to give me a whole bunch of money. The city wants to support it but then that becomes such a political hot potato that it's very, very difficult to overcome that.

And so I just want to put that out there that I do think that having that in the QAP is good, I don't think it being so large that it becomes such a political hot potato that you can't go to a lot of places that need it just because the NIMBY and the political issues that it brings out.

The other issue that I wanted to bring up very briefly is I completely understand and am fully on board with Brent Stewart and staff's desire to want there to be a readiness to proceed. I would love for our
applications, and I'm sure every developer in this room would agree that we would all love for our applications to be more fully vetted, more fully baked when we turn in our full applications March 1. As mentioned yesterday in the work session, there are just countless reasons as to why applications get delayed and are not able to close within 30 days after you get the award. You can't name all of those reasons, it's too many, but what we can do is we can incentivize, taking some of those roadblocks out in front.

I mentioned yesterday on the readiness to proceed, instead of taking it out, instead of forward committing points, if we were to rewrite that rule to say something like one point given to applications that can prove a level of readiness to proceed by demonstrating that appropriate zoning for the proposed use in place at the time of the full app, what that would do is that would incentivize me and every other developer to go work on sites earlier, spend some money and time and effort to go put zoning in place that can take months and months and months, I can do that, I can justify doing that if I know there's a reward for that to happen. So that's just a proposal.

Thank you so much.

MR. GOODWIN: Thank you.

MS. RICKENBACKER: Hi. Donna Rickenbacker.
Mine is a followup to what Ryan said with respect to the readiness to proceed. This is if everything holds in accordance with our current draft that's going out for publication it's another year of flat scoring, very unfortunate. That being said, this readiness to proceed provision, as drafted, nobody likes. So this is the time to come up with some draft language that we can put in the QAP that's going to go for publication to get comments on that will provide a scoring for deals that are more cooked and ready to proceed to go forward. Of all times, we really do need a provision like this, not only because of the flat scoring but because of the hurricane. We need to be in a position to incentivize people that can get the units on the ground sooner than later.

And I do encourage the Board to consider redrafting this provision such that you can seek comments in a format that then would become a logical outgrowth of the provision so that we can incorporate a ready to proceed provision into the QAP for 2018.

Thank you very much.

MR. GOODWIN: Thank you.

MR. BOWLING: Hi. I'm Bobby Bowling. I represent TAAHP, I'm the immediate past president. Our president, Nicole Asarch could not be here today, so I'm
in her stead.

I'm speaking to support what Robbye Meyer spoke to you all about is to put the forward commitment tool back into the draft. I think what she's talking about is all relatively new, it's only been a week since the hurricane hit, but I think you all are hamstringing yourselves by not putting that tool out there in the QAP. It doesn't say you have to award forward commitments.

I'm actually going to speak on the open forum about a discussion item that I'm going to request that you place on for your next month's agenda to talk more specifically about some of the things that are going to happen with our price increases. Even to me like in El Paso, like for example, I got a letter from my concrete supplier telling me that his price is going up $30 per yard effectively immediately. I know that's because he's worried about his cement supplier in Mexico filling orders to rebuild Houston and the Gulf Coast. So we're all going to see on our awarded deals tremendous price shocks in both labor and materials and delays. Again, I'll speak to that at open forum and ask you to place an agenda item specific to that next month.

But for now, this QAP draft, I agree with Ms. Meyer, what she said, please place back in the ability for you all to forward commit in this draft. It doesn't
finalize it today but at least we can have the discussion, you can have the discussion with the Governor's Office and you can have your internal kind of thought process as to whether that's a good idea or not. But I'm asking you, again, to please put that in the draft so you can have that discussion.

Thank you.

MR. GOODWIN: Thank you.

Comment?

MR. ECCLES: Bobby, my just off-the-cuff, legal reaction to that is that which the governor removes, the governor is going to have to put back in. I think that putting it back into our rules, despite the fact that it was directed by the governor to come out of the rules, I'm not really sure that that would be an appropriate use of this.

MR. BOWLING: Could we call his office and ask him if it's okay?

(General talking and laughter.)

MR. BOWLING: Just something to consider.

Beau, let me ask you a question, a legal opinion, if it's not in there, can it not be placed in when you vote on the final QAP?

MR. ECCLES: The unique rulemaking process that the QAP goes through makes it so that once it goes to the
Governor's Office, he can remove or add stuff, so that's how that would work.

MR. BOWLING: Okay. I understand what you're saying. Thank you.

MS. BINGHAM ESCAREÑO: Bobby, and I really appreciate that from you and Robbye both, but if that were off the table, is it worth it for you guys and staff to put your heads together and see if there's any other language or solution? I appreciate this and there are people in this room that know that we used to administer the disaster relief related housing which, I think everybody would agree is horrendous and bureaucratic and heartbreaking to see areas that are in need go a long time, and then the ripple effect that that has for the rest of the housing market, dealing with what's mentioned today, supply shortage issues and labor issues and that kind of thing.

But I mean, my gut reaction is no way is forward going to come back, but I don't know, I can't predict the future, and maybe somebody will decide that's a vehicle. But in the vacuum of that as a vehicle to accomplish what I think what you guys have is a noble and shared priority, maybe it's worth putting our heads together and seeing if we can figure out some other language.
MR. BOWLING: Yes, ma'am. And I appreciate you've been on this Board for a long time, so you remember what your Board did, theTDHCA Board back in -- I actually did some research on Katrina and Ike -- in '04, '05 and '06, you took credits from '07, '08 and '09 to supplement those deals because they had tremendous price shocks. It wasn't just hurricanes back then, it was also the housing bubble, and so from application to the time we started construction, prices were increasing easily 10 percent into that twelve-month period over that period of time.

So I do have some ideas that I'm going to talk about in open forum that aren't posted here in addition to, but I just was presenting this and I jumped to come speak to this because I think you should have as many tools as possible available to you. But without a forward commitment, we have another idea too.

So thank you.

MR. GOODWIN: Any other questions?

MS. BOWYER: My name is Teresa Bowyer. I'm with Herman & Kittle Properties.

I just wanted to respectfully disagree with what Donna said earlier. I think the readiness to proceed item has the potential to be really detrimental to a variety of different types of projects and disincentivize things with a mix of sources. And Houston, it's great to
say that because, of course, there's no zoning, you don't have to work through that in the same respect that you do in Austin. And so I think doing that is really going to box in what type of projects you're going to see and you're not going to have as much diversity.

And I think Sarah André was the one yesterday who said there's already a big stick, there's already a mechanism, we lose our credits if we don't get it placed in service by a certain date. It behooves us all to get it funded, closed and constructed as soon as possible. So I just urge you to take that language out, that language out. I think it has the potential to go the opposite way of what it's intended to.

Thank you.

MR. GOODWIN: Thank you.

Any other comments?

(No response.)

MR. GOODWIN: Paul, did you want to make some motions as it related to the two items or any of the additional items that were brought up?

MR. BRADEN: And maybe let me ask Marni something. I haven't heard anybody come up and propose this points thing that we talked about yesterday, so let's assume we leave boundary to boundary in place in 11.9, my edits end up being deleting four words from one sentence
and changing the order.

MS. HOLLOWAY: The entire site, that language?

MR. BRADEN: Yes. Can I just give you my suggestion? I guess we should do that. Should I give my suggestions here? Let me find the page again. So it's in Section 11.9. What I would suggest is that new language that's added in 11.9(a), that first sentence that currently reads: "All measurements will include the entire site, including ingress/egress requirements and any easements, regardless of how they would be held." My understanding of what that's supposed to address, I think, is more clear if we delete the words "entire site, including" so it reads: "All measurements will include ingress/egress requirements and any easements, regardless of how they will be held." And then I would move that sentence to after the sentence to where you have "distance to be measured from the nearest boundary of the development site to the nearest boundary of the property easement" so it comes after that. Because I think that's at least the clarifying sentence where you talk about distances are to be measured from the nearest boundary to the nearest boundary, and then you have that sentence where it talks about including driveways and other things too.

MS. HOLLOWAY: And if you'll accept a change to
that and something we talked about yesterday was adding
language that says "For purposes of this section."

MR. BRADEN: In 11.9?

MS. HOLLOWAY: We talked about it in tiebreaker
also.

MR. BRADEN: That's fine.

And in terms of readiness to proceed, I'll
defer to the Board. It sounds like we're going to get
input from that section and I think, again, everybody
seems like it's a good idea, it's just not the right stick
or the right carrot. So maybe it's easier if we leave
something in place and we can get input, but I'm flexible
either way in terms of removing that or leaving that.

MR. GOODWIN: Why don't we take the measurement
issue first and do a motion to change the measurement
language to your proposed language.

MR. BRADEN: I make a motion to change the
language in 11.9 to what I just described.

MR. GOODWIN: And a second?

MR. ECCLES: Including the for purposes of this
rule only?

MS. HOLLOWAY: For purposes of this section.

MR. ECCLES: This section.

MR. BRADEN: Yes.

MR. GOODWIN: And a second?
MS. BINGHAM ESCAREÑO: I'll second that.

MR. GOODWIN: Any discussion about that?

(No response.)

MR. GOODWIN: Hearing none, all in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Now, what about readiness, do you want to strike readiness to proceed, Paul, or leave it in?

MR. BRADEN: I'll ask the other committee members who listened to the whole discussion yesterday. I don't know if you guys have a feeling for it.

MS. BINGHAM ESCAREÑO: I think I lean towards striking. I do appreciate, who was it, Ryan, that suggested zoning in place, but then what I just heard from Teresa is then there's going to be some markets that that's not even applicable, right, the whole zoning thing. So I think if you're asking my impression after feedback yesterday, I would lean toward striking it. I think it's a good goal, I think everybody would like some kind of incentive and believe that there are plenty of disincentives already in place, I just don't know that we've landed on the correct one yet.
MR. GOODWIN: Other opinions from Board members?

MR. VASQUEZ: I could see striking it, but also leaving it as we're going to expect a lot of public comment on it to incorporate some of these ideas.

MS. HOLLOWAY: And that's true. If we strike it, because this is an amendment, what we publish for comment wouldn't include that language at all, there wouldn't be a readiness to proceed at all, so there wouldn't be any comment received about potential readiness to proceed measures.

MS. BINGHAM ESCAREÑO: My concern was would it be considered a material change if you had a lot of public comment that said this isn't a workable solution.

MS. HOLLOWAY: Then we absolutely would strike it.

MR. ECCLES: We can delete it. I think we kind of talked about the options. If you remove it here and then put it out for publication, you can't add a readiness to proceed rule back in. Further, though, if you put it out as it currently exists, you are generating about a million comments on how bad it is and then probably some will say what it should be is a carrot in a different way, for the current cycle it should be one point and making it for zoning, and I'm not really sure that that really
naturally grows out of this language. So if there is a proposal for a readiness to proceed that is more likable by the Board at this point, that might be the only way that you could get to something that resembles the mechanism on a ready to proceed that could naturally grow out of it and then be adopted as a final rule.

How's that for nebulous lawyer advice?

MR. BRADEN: And sadly, I understood what you said.

(General laughter.)

MR. BRADEN: So after yesterday's committee meeting, and actually I read Donna's comments again because she has sent in written comments dealing with this section, and there were some components of it that I like, but the problem is the zoning issue that was just brought up, Donna also brought up. If you added something in place that you get a certain amount of points at the time of adoption, the development site is zoned to allow for the proposed development, what do you do with those entities that don't have zoning. And we had somebody yesterday that came in and said zoning takes a year, that's just the way it is in Austin, or whatever city they're talking about.

I guess my inclination is I think everybody recognizes it's a problem or it's something we'd like to
see addressed, so maybe we should leave it in, but I guess
the result is we're not going to find the right carrot
because really the carrot right now is what's in there.
You could probably change the point to something else but
you're kind of dealing with it right then.

MR. ECCLES: And I'll add to that another
scenario that I've certainly seen over the years, folks
say, well, look, this is a great site but I don't have the
ability to change zoning on it yet, I don't have that
amount of control over the site, and before you close on
it, they don't want it changed over to multifamily. And
if you happen to fortuitously find a site that is already
zoned multifamily, it may be a totally different deal, but
does that warrant excluding the other site from the
ability to get that point just because they happened
across a site that doesn't just happen to have the right
zoning yet.

MS. HOLLOWAY: So if I may, the suggestion that
Brent just whispered in my ear is add the zoning item here
under the readiness to proceed, maybe add something else
that we think of, and then use the public comment period
to sort of winnow out what is acceptable and what will
work and what won't. And ultimately, what we're trying to
get to is receiving really good strong applications in
this program that's oversubscribed by double.
And so Beau, what is your lawyerly thought on that?

MR. ECCLES: Are you saying add a second readiness to proceed?

MS. HOLLOWAY: Like a B that's about the zoning.

MR. BRADEN: Have a laundry list, we have several things, and then if we end up editing some out, would it still be in the nature of the rule that we could edit it down.

MR. ECCLES: You could do that, yes. So should we just like have an open mic riff of readiness to proceed? Marni, if you could lay down a fat B for us, that would be great.

(General laughter.)

MS. HOLLOWAY: I got nothing left in me right now.

But it's a potential, and the other potential is if the Board believes that this is something that staff should devote some time to, then we absolutely can do that over the coming year and come in for 2019 with something that hopefully there's a little more buy-in on it. We can put this one and we can put the zoning thing and anything else up on forum and we could go that route, but that means that the 2018 applications aren't going to be
subject to that measurement.

Mr. Irvine: I apologize. I was across the hall testifying to Urban Affairs and I'm kind of jumping in late to this discussion.

I've long been a big proponent of finding a way to craft incentives for readiness to proceed, but I'm a little nervous about the concept of having a laundry list to be winnowed down, because reality is folks are already looking for sites and the less uncertainty we can inject in this process, the easier it will be for them.

Ms. Holloway: True.

Mr. Irvine: I do think that having your zoning in place is a really great thing and that to me makes a ton of sense.

Ms. Holloway: The conversation that we were having, part of it was Houston there's no zoning, Austin takes forever to get zoning, so how to sort of normalize that zoning measurement or what's an alternative to zoning, is it zoning or something else.

Mr. Vasquez: And just to be fair, in Houston there's no zoning per se but there's all kinds of permit issues that effectively is zoning control.

Ms. Holloway: True.

Mr. Goodwin: What are the readiness issues that you're running into with applications?
MS. HOLLOWAY: So today you took up major issues on three 2016 awards that haven't hit the dirt yet. So here we are, September of 2017 and they're still working out their deals.

MR. BRADEN: But wasn't that associated with the collapse of the tax credit market? I mean, we're talking about more normal things. We want readiness to proceed barring hurricanes and collapses of the tax market.

MS. HOLLOWAY: I think that there were issues in the equity markets, yes. I also think that there are a number of applicants that timely started.

MR. GOODWIN: Do you want to leave readiness in this draft of the QAP? We need a motion to take it out.

MR. BRADEN: I guess we'll leave it in for discussion.

MR. GOODWIN: Are there any other items that you want to modify, Board members?

(No response.)

MR. GOODWIN: I see we have somebody else who wants to comment.

MR. BRADEN:

MR. SCHMIDTBERGER: Thank you. Russ Michael Schmidtberger. I'm a real estate attorney were in Austin and also down in Houston, I represent some developers down
there.

My biggest concern -- Beau, I hear you, I tracked with you, as a lawyer, everything that came out of your mouth, I really liked it -- the outgrowth is what my fear is because the moment this stays in, I'm just curious if there's a way for the point to change after this. Because if we carry a point going into next year, I think that's where that's going to cause problems down the road. If the normal outgrowth of this does not include keeping the point when we start to redraft it, I'm worried that if we keep it in here that we're going to get a lot of different versions of this and then the point is going to stay there, and then we're going to be in situations where this particular sentence isn't cleaned up: "The application must include designation of the individual who will use the point in the next competitive cycle and the additional point may be transferred to other applicants."

I don't know who that's going to be. It's like go give this point to your other application down in the Valley, give it to the one up in Urban 3, give it to the guy that's down there in Houston trying to get his deal done because of hurricane funding now. I mean, I just see a lot of outgrowth from this that's problematic, and what I would suggest, humbly suggest, at least, is if we strike it now, we don't have to worry too much about it, we can
bring it up on public comment like for the next year and
the following year and really hone in on it. If it stays
now, the outgrowth may not be what we want, and if the
point stays in there, then the outgrowth might even be
more problematic.

I don't know if you guys could address that, if
the point could come out and be changed to a fee waiver or
something along those lines, that might be something that
you think about. Thank you.

MR. ECCLES: I can say the fee waiver is not
going to work because that's statutorily linked to the
amount of efforts and refunds, and that's too intertwined
within the system to be waived, as the carrot, the new
carrot.

MR. SCHMIDTBERGER: Could the carrot not be a
point, I guess is what I'm saying.

MR. ECCLES: You're talking steak knives, we
give out steak knives now.

MR. SCHMIDTBERGER: That's what I'm saying, becausethat the normal outgrowth of this is not to get it
out of scoring or to not make it be a point category, does
mean that the whole thing has to be struck or does that
mean that the point could be struck out of this and then
it be replaced with something that makes sense as opposed
to a point.
MR. ECCLES: Lacking what the tortured analogy of a carrot would be, it's theoretically possible that that would be a natural outgrowth. Beyond a point, and since we can't talk fee waivers, I just don't know what that incentive would look like.

MR. SCHMIDTBERGER: So just to clarify, my fear is that if we keep it in and we don't strike --

MR. ECCLES: Four minutes of public comment, how about that?

(General laughter.)

MR. SCHMIDTBERGER: Exactly. Or like I said yesterday, a $500 fee for RFADs. The only thing is that if it gets truck today, then it comes out and we can keep talking about. And I think everybody agrees that it's a great idea; I do too, I think it's a great idea. If we strike it today, it can become a long-term conversation; if it stays in, we may have outgrowth that makes it a scoring item this year. That might be problematic because people will come up with ideas as to how this one point will benefit it, and then we may not have a really good definition of what that means.

So I'm just suggesting in order to avoid all the comment on this, we strike it today and possibly revisit the issue going into next year and the following year. I think it's a great idea but I feel like the one
point scoring item in here and keeping it in scoring is going to show up as problematic in terms of outgrowth going forward.

Thank you.

MR. GOODWIN: Thank you.

MR. IRVINE: If it goes in the draft as a scoring item, it would stay a scoring item, and that means that you could tinker with the criteria to get the score, but you would still have a scoring item, or pull it out in its entirety, and either one of those approaches would have to be supported by specific public comment.

MR. SCHMIDTBERGER: Okay. Thank you.

MS. BINGHAM ESCAREÑO: Mr. Chair?

MR. GOODWIN: Yes.

MS. BINGHAM ESCAREÑO: May I make a motion to strike the readiness to proceed language?

MR. GOODWIN: You may. Do I hear a second?

MR. BRADEN: Second.

MR. GOODWIN: So we have a motion and its seconded. Comments? Comments about striking readiness?

MS. BINGHAM ESCAREÑO: I know I always talk about work groups, and you are probably drowning in work groups, but really, almost as soon as you're finished with this, you'll start brainstorming the 2019 QAP. Right?

MS. HOLLOWAY: We'll start for 2019.
MS. BINGHAM ESCAREÑO: So maybe the Board just
goes on record as saying that it sounds like this is
universally the concept is supported by everyone in the
community or by the majority, and that it is worth some
extra time brainstorming in the community some opportunity
to Incentivized readiness.

MS. HOLLOWAY: We certainly would accept and
welcome direction that we, moving into 2019 and as part of
our 2019 QAP project planning, include readiness to
proceed as one of the topics we take up.

MS. BINGHAM ESCAREÑO: I think it will pay huge
dividends to everybody, you know what I mean, in terms of
just everybody, to the state, to the great use of
resources. I don't think we've quite hit on something
that we have a level of confidence will make it through
the draft and public comment.

MR. GOODWIN: Any other comments or
suggestions? If not, all in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: We will strike readiness.

Any other changes you want to make?

(No response.)

MR. GOODWIN: So we need a motion with those
changes to accept to publish into the Texas Register the QAP as modified.

MR. BRADEN: So moved.

MR. GOODWIN: So moved. Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Moved and seconded. Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you, Marni, for a great job.

MS. BINGHAM ESCAREÑO: Great job.

MR. ECCLES: And I want to point out that drowning in work groups is the working title of Marni's biography.

(General laughter.)

MS. HOLLOWAY: But I have all these great folks that can be volun-told to man the work groups. That's why we've got Patrick, and we're very happy to have him.

MR. IRVINE: Comment about readiness to proceed?

MS. HOLLOWAY: Yes.
MR. IRVINE: I think that in our meetings over the course of the year everybody has said, yeah, it would be really great if everybody were really ready to proceed, but they have gotten prickly when you talked about things that involved significant additional investment. And I honestly do not believe there is a way to make a deal ready to proceed short of spending a fair amount of money to get it ready to proceed, so I don't see a lot of reason to have an extended discussion about developing that. To me, the more useful concept to approach is how do you sharpen the line and say this is what you said you were going to do, can you do that, and if you can't do that, give us the credits back.

MR. GOODWIN: Thank you.

8(b).

MS. HOLLOWAY: Item 8(b) is presentation, discussion and possible action on proposed amendments 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 for applications, and Subchapter G concerning fee schedule, appeals and other provisions, and directing their publication for public comment in the Texas
Register.

You'll note that there are a couple of subchapters here that are missing. One of them is asset management, the other is real estate analysis, those will follow next month. The real estate analysis rule, Subchapter D, is in your board book, but it's published as part of the National Housing Trust Fund allocation plan, so while that subchapter is in the book, it's in the book for a different purpose and there are no amendments or anything, it's just part of that trust fund plan.

And also following, next month, I hope I mentioned, Chapter 12 which is our bond rule and Chapter 13 which is our multifamily direct loan rule, we'll be talking about all of those next month, to give you something to look forward to.

The uniform multifamily rules contain eligibility, threshold and procedural requirements relating to applications requesting multifamily funding or tax credits. Staff has proposed changes to improve the efficiency of the funding sources involved and enhance their effectiveness in achieving policy objectives. The rulemaking timeline for these subchapters will follow the QAP.

So an important thing to keep in mind as we're talking about Chapter 10 is that this applies to all of...
our fund sources. There are some places in Chapter 10 where we say for a 4 percent application or for a direct loan application, but these are the basic requirements for all of the fund sources come out of Chapter 10.

So in Subchapter A we've made changes to a couple of definitions. We've modified the administrative deficiency definition to reflect how staff will evaluate information. And the supportive housing definition has been modified to better define how the Department will evaluate these developments. That supportive housing definition change was made by a group of people actually in TAAHP and folks who work on supportive housing, and staff, that's something that we've spent some time on.

Subchapter B outlines the site and development requirement and restrictions. Under undesirable site features, language has been added to underscore that even if an exemption is being requested, mitigation may still be required. We've also added language to reflect that if a state or federal agency has minimum separation distances to the site features listed, then the Department will defer to that agency and require the same. The list has been modified to add illegal dumping sites as an undesirable site feature.

So part of what's going on here and what we all learned in this last year with our concrete crushing plant
is that TCEQ has this body of regulation that says you can't put this undesirable thing next to a house or you have to be this distance away, so we will be adopting those distances because they're the experts about how far away is a safe distance. And so by adding that language, we're adopting those larger bodies of regulation.

Under mandatory development amenities in 10.101, we're modifying the requirement that all units be wired with phone and data cabling to reflect that it has to be current technology. And modifications are also made to the requirement that all units have air conditioning and heating, and that speaks to the bond transactions that we approved earlier and the PTACs. We're seeing more and more deals come in with PTACs and the PTACs improving, so we are changing up that section.

Common amenities. Some of the common amenities listed in the section have been modified to provide clarification based on the Department's expectations.

Under accessibility requirements, our requirement regarding visitability has been modified to reflect the specific features that a unit must have. This is something that we've been working on for several months, started from our old rule that was difficult to administer, and basically what it did, it said if you were a townhouse development, at least 20 percent of your units
of each type had to have a bedroom and a bathroom on the first floor, which led to all sorts of waivers and floor plan changes and other issues.

What we've done now is basically said there are no exempt units, everything that is accessible, has an accessible path to it per the Fair Housing Design Manual, must be visitable. So it has to have wide enough doorways, it has to have a bathroom that fits the Fair Housing design requirements. This is not about creating additional accessible units, it's just, I think, a way to get us to a better end product, and actually the disability community, the folks that I've spoke to are very much in support of this change and I think it will be much easier for us moving forward.

Subchapter C includes procedural requirements for submitting an application, including the documentation, the criteria that would render an applicant or an application ineligible, how applications will be prioritized for review, information about Board decisions and the waiver process. There is a list of things that we've changed here. We've allowed a certification process for 4 percent applications where the application has changed but the changes do not have a material effect on original underwriting. We've clarified how staff may initiate withdrawal of a 4 percent application. We have
described how traditional carryforward applications will be treated as it relates to deconcentration and capture rate provisions. We describe how 4 percent and direct loan applications with outstanding deficiency items will be suspended from review.

Also included is the time frame by which outstanding items need to be resolved once the funding source becomes oversubscribed. We modified the ineligibility criteria associated with applicants and applications to include false certifications contained in the application. And we are requiring building and unit floor plans to be submitted on rehabilitation and adaptive reuse developments and that they indicate the accessible units. We've added language regarding the information that must be submitted and the case that must be made when requesting a waiver be granted by the Board.

In Subchapter G, this subchapter contains information regarding Department fees and other general requirements, including the appeals process, adherence to obligations, and alternative dispute resolution. We have changed this section by removing the administrative deficiency notice late fee to be consistent with revisions in other sections of the rule. And a provision that building inspection fees paid may be refunded if the development does not move forward, so if you've paid
inspection fees and you're not moving forward, we can refund.

Staff recommends that the proposed amendments of 10 TAC Chapter 10, Subchapter A, General information and definitions, Subchapter B, Site and development requirements and restrictions, Subchapter C, Application submission requirements, ineligibility criteria, board decisions and waiver of rules for applications, and Subchapter G, Fee schedule, appeals and other provisions, be approved for publication in the Texas Register for public comment.

MR. GOODWIN: Do I hear a motion?

MR. BRADEN: Move to approve.

MR. GOODWIN: Move to approve. Second?

MS. THOMASON: Second.

MR. GOODWIN: Questions for Marni? Public comment?

MR. VASQUEZ: Is this the public comment period or on 8(b)?

MR. GOODWIN: This is comment about 8(b).

MR. BOWLING: So I'm Bobby Bowling again, and I'm representing TAAHP. I'm speaking to the development accessibility requirements on page 20 of 21 on Subchapter B, Site and development requirements and restrictions.

And we have unanimous consent on this item that
we still object to unit types that are exempt from federal accessibility standards having that exemption removed in our rules. This is the first time we're doing this. The building type in section (8)(b) where it says regardless of building types, all units accessed by the ground floor or elevator, this is not what's in the Fair Housing Act, this is not what's in UFAS. There is a unit type and a building type that is exempt.

And like Marni stated to you, you are in this draft making that requirement more restrictive than the Federal Government's requirement for the State of Texas. And with deference to what she said, I have not seen -- I come to most of these Board meetings and I have not see this outcry from the disabled community who is saying that this is creating a burden or hardship or this is unfair or this is a problem. I have almost 3,000 units in El Paso County in the Tax Credit Program in 9 percent credit awards, we have a tremendously hard time filling up the units we have now that we've set aside for accessible at some point, they're the last units we rent.

I just don't, as a practitioner, see there's this outcry or this urgent need to make Texas's rules more stringent than the Federal Government's rules with regard to accessibility. I don't know why we just don't adopt federal accessibility requirements. And we voiced this
concern when the draft first came out, and not everything
does TAAHP wholeheartedly agree upon because we have 324
members of our association, and we're 100 percent
unanimous on this one. I don't know of one practitioner
that thinks this is a good idea or that there's a need for
this.

MR. IRVINE: I would respectfully ask if TAAHP
really understands what we're proposing. I agree that if
a federal exemption for accessibility applies, that one
would call into question why would you impose an
accessibility requirement on it, and it's not an
accessibility requirement, it's a visitability
requirement. So if you were building an exempt unit, if
you were building a multi-story unit --

MR. BOWLING: Townhome.

MR. IRVINE: -- a townhome, first of all, the
route to the townhome would already be covered by existing
laws and design manuals which have numerous exceptions for
steeply graded lots and all those kinds of things, so
we're talking about from the threshold in. And what we're
basically talking about is a no-step entrance, which
doesn't seem like a problem, having a bathroom on the
ground floor. Wouldn't you typically build a bathroom on
the ground floor of a townhome?

MR. BOWLING: Right.
MR. IRVINE: And heights for switches, and
that's pretty much it, isn't it?

MS. HOLLOWAY: Yes.

MR. IRVINE: That's it.

MR. BOWLING: The route --

MR. IRVINE: The route is covered by something
completely different. It relates to the design of your
development and the requirements for external routes to be
accessible in accordance with the design manual which
provides for exemptions.

MS. HOLLOWAY: Which you're already doing, I'm
sure.

MR. BOWLING: But you're removing the
exemptions for grade.

MR. IRVINE: No.

MS. HOLLOWAY: May I?

MR. IRVINE: I don't think we're asking you to
do anything that you would not already be doing.

MR. BOWLING: But we still struggle with
understanding why we're changing language that is pretty
clear in the federal standard that provides exemption for
building type.

MR. IRVINE: I think that we have identified
that you do not understand the Fair Housing Design Manual
as relates to external routes, this exercise was worth its
weight in gold.

MR. BOWLING: Well, again, we hire professionals, we hire architects and engineers to make sure that our plans are compliant with Fair Housing.

MR. IRVINE: And they probably are.

MR. BOWLING: And so I can tell you with absolutely certainty, once it's permitted it has met those requirements. And I just see this as more restrictive, and when I compare the language in the federal law to this language, there's an exempt building type.

MR. IRVINE: Apples and oranges. I think we're actually giving you the opportunity to take credit for doing what you're already doing.

MS. STEPHENS: Lisa Stephens.

We build quite a bit of townhome product. The difference between what we're doing in the townhome product is that the half bath that's on the ground floor does not meet the accessible turning radiuses for visitability, it just doesn't, it doesn't have to, it's exempt. So under the new 2010 guidelines, a bathroom that's going to meet your accessibility requirements requires a five-foot turning radius. That means I can no longer build it under the stairwell.

Now, I'm going to caveat all of this with saying I haven't looked at the change in this to see if
that half bath has to be a fully accessible bath or if it can be the same half bath that we're building regardless if it is not an accessible bath, then I think you're correct, that half bath under the stairwell still works.

MR. GOODWIN: Marni.

MS. HOLLOWAY: We've had this conversation with a number of people. This change is coming about because our previous requirement was actually more than federal law regarding those exempt units and what it required was that 20 percent of those townhouses have a bedroom and bathroom on the first floor. That's every unit size, every unit type. It created I don't know how many issues. It's difficult to administer and the sense is that it wasn't getting us to something useful.

This is not about accessibility, this is not about making anything accessible that isn't required to be accessible already. This is about can my friend in a walker, and my sidewalk is already flat --

MR. IRVINE: Or exempt.

MS. HOLLOWAY: Or exempt. But can my friend with a walker get through my front door, comfortably use the bathroom, comfortably come visit me. It's not about turning radiuses, it's about the bare minimums that are in the Fair Housing Design Manual. Turning radiuses are about accessibility. So the Fair Housing Design Manual
includes 20 pages of exemptions just for difficult to
develop sites. What we are doing is saying the ground
floor of your townhouse, if you can get there on an
accessible route per the Fair Housing Design Manual, has
to be one that someone can get into with a walker or small
wheelchair. That's what we're looking for.

MR. GOODWIN: Other comments? Questions from
Board members?

(No response.)

MR. GOODWIN: Did you have a comment?

MS. ANDERSON: Yes, sir. Good afternoon.

Terri Anderson, Anderson Development and Construction.

I would respectfully maybe request that staff
discuss with architects just to make sure that there are
no additional requirements and criteria and maybe report
back before the rules become final, even though they're
going out for a draft.

Thank you, sir.

MR. GOODWIN: Additional comments?

MR. ECCLES: And of course, this is perfect
fodder as well for public comment. Bring forward that
here's the law, here's this rule, that's good stuff for
public comment.

MS. ANDERSON: Thank you.

MR. SCHMIDTBERGER: Russ Michael Schmidtberger,
This is also under Subchapter B, it kind of takes us in a different direction. I commented a little bit on it yesterday, it has to do with undesirable site features, specifically the radius distances or the distances between undesirable site features and how it might affect development down in areas that are close to refineries, specifically those that have been hit because of Hurricane Harvey.

From Corpus Christi all the way up to Beaumont, everybody knows -- I don't know if you guys have been there or not, I know I've driven quite a bit of Houston myself, because I went to law school there, I've got a ton of family and friends down there too -- a lot of these places that were hit are in areas that refineries were at, things of that nature, from Beaumont, Port Arthur, through Deer Park, down to LaPorte, League City, Texas City, all the way down to Corpus.

Right now inside undesirable site features we have distances from certain things that we don't want to be close to, for example, 300 feet of junkyards, 300 feet of solid waste sanitary landfills, 300 feet of sexually oriented business, 100 feet of the nearest power line structure, 500 feet from active railroads, 500 feet from heavy industry, but for some reason, refineries are carved
out to be two miles at this point, and I think at this point without doing too much changing, we could potentially change that two miles down to maybe 1,000 feet or a half mile today and send the right message to the places that are actually affected by the hurricane.

And so that's what I would suggest that we do today is that we take out the two miles and that we replace it with either 1,000 feet or perhaps half a mile. It has been that way in the past, I'm not sure how many years it's been two miles, but I know it hasn't been that long. For some reason the policy around making it two miles extended it and I'm not really sure why. I've worked with personal injury attorneys down in League City and Texas City and Friendswood, and I understand that Texas City might blow up every ten years and there might be a benzene plume that reaches 1,000 feet or something along those lines, but two miles seems pretty big, especially the way it's affecting Hurricane Harvey now.

So if you guys could take issue with that or maybe explain a little bit about why the policy is at two miles and why we can't narrow it, at least as the TDHCA Board and staff, I think it sends the right message to the cities that they don't have to pass a resolution or an ordinance to actually narrow it themselves, which is also included in this. It allows us to come to them first and
say we believe that we can narrow it first for you, and
then if you want to narrow it from there, you can do that.

Thank you. I can take any questions too, if
you have any.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Thank you.

Any additional comments?

(No response.)

MR. GOODWIN: Any Board members want to strike
anything from these rules before they're put in the
Register?

(No response.)

MR. GOODWIN: We have a motion and a second.

All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: It passes.

Thank you, Marni.

MS. HOLLOWAY: I believe we have some public
comment.

MR. GOODWIN: We are at that stage where we
take public comment for developing agenda items in the
future. I would remind everyone that we cannot get into a
debate here but we'll be glad to listen to your comments.

MR. BOWLING: Good afternoon, Mr. Chairman and members of the Board. I'm Bobby Bowling, I'm representing TAAHP.

I have a few comments that might take a little more than three minutes.

MR. GOODWIN: Three minutes.

MR. BOWLING: I'll do the best I can, Mr. Chair, but I might ask for your deference to give me another minute or so.

So again, I'm speaking for TAAHP. We have over 300 members, we represent most of the tax credit industry in the State of Texas. I'm going to ask you for two things to be placed on agenda items for further consideration.

One is to take -- and I don't know if this is an agenda item actually, but we want to plead with you all to do everything you can, in light of Hurricane Harvey, to ask the Federal Government to please provide proper relief, including additional tax credits for our state. It's what we've gotten in past disasters with Hurricane Ike and Hurricane Katrina, we got a sizable addition to our tax credit pool. And we just want to reach out to all of you and any stroke that you have with the Governor's Office and any representatives, any Congress people and
for TDHCA staff to please do everything within your power
to ask the Federal Government to send more tax credits our
way.

The next thing that I wanted you to consider
placing on a future agenda item is to consider the effects
of the price increases and supply delays and labor
shortages that we're going to be facing really on the
awards that you just made for the 2017 year. In the
past -- and I did some research, I've been in this program
since our first awards were in 2001, and like I said
earlier in my testimony, in 2004, 2005 and 2006 deals, you
took money from '07, '08 and '09 pools up to 10 percent if
the developer could demonstrate the cost increases to
supplement and make sure that those deals got placed in
service in time.

And I just want to implore upon you all -- I
gave you my testimony earlier that I've already heard from
my concrete supplier that we're getting a $30 per yard
increase, really no explanation, but I know it's because
of the rebuilding efforts that he sees coming and he's
going to try to sell his product of have a shortage for
demand in Houston and the Gulf areas. This is going to be
a real problem, and you're going to have a situation where
you're going to be faced with providing additional credits
to see that some of these deals get constructed, or these
deals are going to get turned back.

And you might say, well, so what if these deals will get turned back, the money will go into the next pool, but you're going to lose a year on that, so if a 2017 deal gets put back into the pool you can re-award it in 2018 but you've lost a year on that deal. And I don't really think that that necessarily is a forward commitment, so I'm asking that you put this on the agenda to consider.

And then the last thing that I wanted to ask you about is I don't know if there's some kind of blanket motion that you could all take to declare that a force majeure event has taken place with this storm but it's the biggest rainfall event, from what I read, in the history of the contiguous United States. So I think you're going to have some deadline and some placed in service issues. You have the ability in Section 42 from the Federal Government to extend placed in service up to a year if a force majeure event has occurred. Definitely along the coast you're going to be seeing requests from our members, but I think it's going to affect our entire state.

So my ask, in wrapping up, is that you place an agenda item to consider this in October. Thank you.

MR. BROWN: I'm Jed Brown, Brownstone Affordable Housing.
I'm glad we're talking about the 2018 QAP.

Some of us are still hung up on 2017. The QAP and the rule are what we as developers and applicants are required to work under and we do so, but it's a two-way street. The rules must be administered by staff according to how they're laid out.

We need to bring up an issue today that occurred with the tax credit collapse at the July 27 Board meeting. The collapse did not follow the award recommendation methodology outlined in 11.63 of the QAP. Step 5 of the methodology states that any remaining credit after rural collapse will be used to award the highest scoring application not selected in a prior step in the most underserved subregion in the state compared to the amount originally made available in each subregion.

On July 27, the tax credit ceiling accounting summary showed that Region 11 Urban was the third most underserved subregion in the state at 17.39 percent. This did not include Baxter Lofts, as it should have. With Baxter Lofts, Region 11 Urban would have been 11.23 underfunded on the day of the awards. Despite being more underfunded, Region 11 Urban was bypassed in the collapse and their credits were instead awarded to the fourth most underfunded region which would be Urban 2 which was 11.05 percent underfunded.
Since the July 27 Board meeting, the two recommended applications which were still under review by staff have lost tiebreaker points and are no longer competitive. While this affects its underfunded percentage, Region 11's position in the statewide collapse, more underserved than Region Urban 1. Region 11 Urban is now 15.39 percent underfunded and did not receive an allocation in the statewide collapse. Region 2 is 11.05 percent underfunded and did receive an allocation in the collapse.

This, unfortunately, creates a math problem as the statewide collapse is approximately $240,000 short, making both 11 Urban and 2 Urban whole. Being that our application is the next on the wait list in Region 11 Urban, we request that the Board ask staff to work with us to find a proper solution to the situation.

I've been involved in the Tax Credit Program for the last ten years, our firm has participated as a developer and general contractor on 30 different tax credit applications, approximately, across Texas. This is the second time in ten years you've seen me come before the Board, so this is a big deal to us. We believe we earned an allocation of credits and we'd like to receive it.

Thank you very much. Have a good day.
MR. GOODWIN: Thank you.

MR. PADILLA: Arnold Padilla, McAllen Housing Authority.

Jed just came up here to give you the unfortunate situation of what occurred this past July 27. McAllen Housing Authority is the application that we're talking about that should be getting funding.

Unfortunately, errors occur, we're not here to blame anybody other than when errors occur what we normally do is we go back and fix the error, we take care of things correctly. And what I'm up here to do is to ask you to please put on the next agenda an item -- unless we're able to fix it before the October 12 meeting -- is put an item on the agenda to take care of this award correctly, as the QAP states it should be done as the rules apply, and as McAllen Housing Authority's application has been done correctly, and is the next application that should be awarded. Without you going back to correct the issue, you are at a $240,000 shortage of funds to be able to fund our application.

And I will tell you ours already has the zoning, something that everybody keeps talking about. Zoning is a problem and I bring it up from the previous matter about how to give incentive points. Zoning is not going to resolve your issue, unfortunately. I think
there's too many variables that play a role as to why people don't get started on time. For example, why I'm up here today, here we are at the end of September, we still can't get an award, it may be October before we get our award, by the time we get our commitment it may be the end of the year. There are too many facets that affect the entire process of how and when people actually get to construction.

But in our case what we'd like to do is let's go back and correct unfortunately what has occurred, let's award the credits properly to McAllen Housing Authority's application, Las Palomas, as we should. We are, again, already zoned. We'll do everything we can to expedite the process and get our construction started on time.

Thank you very much.

MR. GOODWIN: Thank you.

MS. STEPHENS: I'm Lisa Stephens and I'm actually speaking on behalf of the Texas Coalition of Affordable Developers. We were glad to work with TAAHP this year on the proposals that Bobby actually brought to you a few minutes ago.

I want to point out that the extensions on placed in service deadlines may actually be consideration for areas outside of the impacted counties because on sites that are under construction currently that may have
12/31/17 placed in service deadlines and those that are trying to get underway, we're seeing issues with getting both materials and labor on those jobs right now. It's going to have a direct impact on particularly the next 30-60-90 days as we're looking for materials that may have been flooded out in warehouses and/or labor, businesses that are flooded out that they need some time to get back before they can show back up on the job.

So I'd like for you to take that into consideration under the force majeure provisions. It may be outside of the impacted counties, it may affect both '15 and '16 allocations that are under construction currently that are going to see issues as a result of Harvey.

And then secondarily, TexCAD unanimously also supported the request for some allocation from future year cycle, perhaps 10 percent out of 2018, to be set aside if there is in fact cost increases on the 2017 awards. Certainly getting those units on the ground sooner rather than later, I think, is preferred by everyone, in particular given the amount of disaster we've had recently.

So thank you for your consideration of those.

MR. GOODWIN: Thank you.

Any additional public comment?
(No response.)

MR. GOODWIN: Staff, anybody on staff have anything they want to say? Any Board members?
(No response.)

MR. GOODWIN: If not, I'll entertain a motion to adjourn.

MS. BINGHAM ESCAREÑO: So moved.

MR. GOODWIN: Moved. Seconded?

MR. BRADEN: Second.

MR. GOODWIN: All in favor?

(A chorus of ayes.)

MR. GOODWIN: We're adjourned.

(Whereupon, at 2:45 p.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF:     TDHCA Board
LOCATION:      Austin, Texas
DATE:      September 7, 2017

I do hereby certify that the foregoing pages, numbers 1 through 217, 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.

9/14/2017
(Transcriber)         (Date)

On the Record Reporting
3636 Executive Cntr Dr., G22
Austin, Texas 78731