TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

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

February 22, 2018
8:00 a.m.

BOARD 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
AGENDA ITEM

ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

EXECUTIVE
a) Presentation, discussion, and possible action on Board meeting minutes summary for December 14, 2017

LEGAL
b) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Third & Florence (HTC 91130 / CMTS 995)

c) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Parkview Place Apartments (HOME 535031 / CMTS2652)

ASSET MANAGEMENT
d) Presentation, discussion and possible action regarding a change in the ownership structure of the Development Owner, Developer and Guarantor prior to issuance of IRS Form(s) 8609 12415 Gardens of San Juan Square San Antonio

e) Presentation, discussion and possible action regarding a material amendment to Housing Tax Credit Land Use Restriction Agreement ("LURA") 99053 Killeen Veranda Killeen

f) Presentation, discussion and possible action regarding a material amendment to the Housing Tax Credit Application and Waiver of 10 TAC §10.405(a)(7)(A) 15119 Liberty Square and Liberty Village Groesbeck

ON THE RECORD REPORTING
(512) 450-0342
COMMUNITY AFFAIRS

g) Presentation, discussion, and possible action on the reprogramming of Program Year ("PY") 2017 Community Services Block Grant ("CSBG") Discretionary funds

h) Presentation, discussion, and possible action on approval of the Draft Federal Fiscal Year ("FFY") 2018 Department of Energy ("DOE") Weatherization Assistance Program ("WAP") State Plan for Public Comment

HOUSING RESOURCE CENTER

i) Presentation, discussion, and possible action on the draft 2018 State of Texas Consolidated Plan: One-Year Action Plan

MULTIFAMILY FINANCE

j) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer

17438 McKinney Falls Austin ETJ
17448 Sun Plaza Apartments El Paso
17449 Quail Chase Houston ETJ

k) Presentation, discussion and possible action on Inducement Resolution No. 18-014, Santa Maria Apartments, Fairway Village Apartments, and Forestwood Apartments, for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2018 Waiting List

l) Presentation, discussion, and possible action regarding an award of Direct Loan funds from the 2017-1 Multifamily Direct Loan Notice of Funding Availability

17511 AHA! at Briarcliff Austin

RULES

m) Presentation, discussion, and possible action on adoption of the 2018 State of Texas Low Income Housing Plan and Annual Report, and an order adopting the repeal and new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of
Texas Low Income Housing Plan and Annual Report, and directing their publication in the Texas Register.

n) Presentation, discussion, and possible action adopting new 10 TAC §1.5, Waiver Applicability in the Case of Federally Declared Disasters, and directing that it be published for adoption in the Texas Register.

o) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 5, Community Affairs Programs: Subchapter A, General Provisions; Subchapter B, Community Services Block Grant ("CSBG"); Subchapter D, Comprehensive Energy Assistance Program; Subchapter E, Weatherization Assistance Program General; Subchapter F, Weatherization Assistance Program Department of Energy; Subchapter G, Weatherization Assistance Program Low-Income Home Energy Assistance Program; Subchapter J, Homeless Housing and Services Program ("HHSP"); Subchapter K, Emergency Solutions Grants ("ESG"); Subchapter L, Compliance Monitoring, and directing that they be published for public comment in the Texas Register while renaming Chapter 5 Community Affairs Programs to Chapter 5 Section 8 Housing Choice Voucher Program.

REPORT ITEMS
The Board accepts the following reports:

1. Report to the Board on a contract renewal for the Community Action Partnership ("CAP")

2. TDHCA Outreach Activities, (January 2018 B February 2018)

3. Report on the Department's 1st Quarter Investment Report in accordance with the Public Funds Investment Act ("PFIA")

4. Report on the Department's 1st Quarter Investment Report relating to funds held under Bond Trust Indentures
5. Report on change in reporting to the Internal Revenue Service ("IRS") regarding eligible basis

ACTION ITEMS

ITEM 2: MULTIFAMILY FINANCE

a) Presentation, discussion and possible action regarding site eligibility under 10 TAC §10.101(a)(2) related to Undesirable Site Features 18259 Cannon Courts Bangs

b) Presentation, discussion and possible action regarding site eligibility under 10 TAC §10.101(a)(3) related to Undesirable Neighborhood Characteristics for Residences of Stillwater in Georgetown

c) Presentation, discussion, and possible action regarding extension of due date for local government resolutions for affected applications in the 2018 Competitive Housing Tax Credit Application Cycle

d) Presentation, discussion, and possible action on Timely Filed Appeals under any of the Department's Program Rules

18269 2400 Bryan Street Dallas 50
18159 Rutherford Park Houston 26
18161 Monroe Crossing Houston 26
18164 Lafayette Park Apartments 26
La Porte (WITHDRAWN)

e) Presentation, discussion, and possible action regarding an amendment to the Construction Loan Agreement for TX Majors Place Apartments, LP

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MR. GOODWIN: I call to order the February 22 Board meeting of the Texas Department of Housing and Community Affairs, and we'll begin with a roll call.

Ms. Bingham is not here. Mr. Braden is not here.

Ms. Reséndiz?

MS. RESÉNDIZ: Present.

MR. GOODWIN: Present.

Ms. Thomason?

MS. THOMASON: Present.

MR. GOODWIN: Mr. Vasquez?

MR. VASQUEZ: Here.

MR. GOODWIN: And myself, so we have a quorum. I will now ask Tim to lead us in the Pledge of Allegiance to both the U.S. and Texas flags.

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

MR. GOODWIN: We will begin with the consent agenda, and are there any items that anyone on the Board or any staff member or public member wants to see pulled from the consent agenda?

(No response.)

MR. GOODWIN: If not, I will take a motion to approve the consent agenda.
MS. RESÉNDIZ: So moved.

MR. GOODWIN: It's been moved. I'd take a second.

MS. THOMASON: Second.

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

All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. We will move on to the action items.

The record will reflect that Mr. Braden has graced us. Welcome.

MR. BRADEN: Apologies.

MR. GOODWIN: That's all right. Most of us in the room are familiar with Austin traffic and the travails of the weather that we have today. We're glad to have you.

So action item number 2, Multifamily Finance, and I understand Marni has also been delayed because of traffic, so who is going to present? Sharon, you're going to present for Marni?

MS. GAMBLE: I would never presume to be Marni and ask everybody in this room to please remember that, but I am extremely familiar with all of these items
because, of course, Marni and I work very closely together on all these things.

Mr. Chair, Board, my name is Sharon Gamble. I'm the administrator for the competitive HTC program at TDHCA.

Item 2(a) is presentation, discussion and possible action regarding site eligibility under 10 TAC 10.101(a)(2) related to undesirable site features, and it relates to pre-application at this time, number 18259, Cannon Courts which is located in Bangs, Texas.

So we received this request last week from an applicant and it's related to 10.101(a)(2) which is part of the rules that deals with site eligibility, and this site located in Bangs, Texas, is 60 units for new construction for general population and it's located near railroad tracks. The railroad tracks themselves are located across from the site, across a state highway that is a four-lane split highway, and then there are other buildings, and then a parcel of land and then the railroad tracks, and I believe 492 feet is the distance of the railroads tracks from the site, and the rule states that if the tracks are within 500 feet, then it's to be reported to the Department as an undesirable site feature.

So the language in the rule is clear regarding the type of mitigation that is to be provided for the
Board to find the development eligible despite the proximity. The applicant concedes that the City of Bangs has not adopted a railroad quiet zone and does not have a local ordinance that regulates the proximity of a railroad development that would have a smaller distance than 500 feet. The applicant provided no evidence of a state or federal cognizant agency that would require a new facility under its jurisdiction to have a minimum separation from housing, and the railroad is not a commuter or light rail line, and all of those are in the rule as mitigating issues for the railroad.

As I said, this is a pre-application at this point, we don't have an application yet so we can't look at the funding planned for the application. The applicant did say, however, that this application would be using either FHA or USDA funds and they have pledged that they would comply as a condition of award, if they get one, they would comply with HUD noise standards.

So staff considered that, and the rule says that the Board has to make the determination, and as a determination per 10 TAC 10.101(a)(2), the Board may determine whether the information regarding mitigation of the applicable undesirable site feature is sufficient and supports site eligibility. The Board could also require the development to meet the requirements under 24 CFR,
Part 51, Subpart B to be determined by an exterior and interior noise study and sufficient mitigation is incorporated into the development to obtain 65 decibels or below daylight average sound level and 45 decibels or below average sound level.

And so staff doesn't have a recommendation on this because it really is up to the Board to determine if what the applicant has presented convinces you that the site is eligible.

MR. GOODWIN: I just want to make one clarification. The applicant has stated that they would do whatever FHA or USDA requires for sound mitigation, whether they use that financing or not?

MS. GAMBLE: I'm hearing a yes.

MR. GOODWIN: So that makes it very similar to the request that we had last month on the Georgetown projects.

MS. GAMBLE: Exactly. In fact, the applicant stated that they are pending their argument on the decision that was made at the last Board meeting. Correct.

MR. GOODWIN: Okay. Any questions?

(No response.)

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

MR. GOODWIN: A second?

MR. BRADEN: Second.

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. We'll now take comments.

And please, if you would, sign in and state your name clearly for us.

MS. KIDWELL: Good morning, Mr. Chairman and members of the Board. My name is Susan Kidwell. I'm here today on behalf of Cynthia Bast, so just as she was trying to conjure up Marni, I'm doing my best to conjure up Ms. Bast who is speaking at a national housing conference over in Florida and could not be here today.

We represent Cannon Courts, which is the applicant, and I believe the Board understands the close relationship between our application and the one that you considered last month.

I've blown up a map that we've actually included in the board packet, and this is on page 657 of your board packet, but I wanted to just kind of orient you to this town. This is the town of Bangs, a typical Texas
town, it grew up along a railroad, it's out in central west Texas, about ten miles west of Brownwood, and one of the main features, here's the town, here's the railroad that runs right smack through the middle of the town. Most of the housing is built just south of the railroad. In fact, many of the residential houses in the City of Bangs, they're very close to the railroad, so that is normal, you know, the city hall is right there next to the railroad.

Then there's this four-lane highway, although highway as it goes through Bangs, the speed limit slows down to 35, you best not go above 35 or you may find yourself contributing to the local treasury. So it's the main road but it's not like cars are just crashing through there like on I-35 or something.

Just north of the highway you've got the high school, this big white building that you can see on your map. There's a middle school that's actually very close to the high school and is actually closer to the railroad tracks than our proposed development. And then here's our proposed development, it's up in this area right here, and what you can perhaps see from this and see in your packet is the development has kind of an interesting shape because it's cut around some existing buildings.

And so the distance, the reason why we are here
today is because, yes, we are within 500 feet of a railroad track but it's actually 492 feet to get to this very edge which would only be the entranced driveway. The proposed buildings that are going to go up for the 60 units, there are three buildings that are planned, and they're all planned for the northern part, and so actually all the buildings are going to be well over 500 feet from the tracks. In fact, the closest building is going to be approximately 695 feet from the tracks.

So you know, again, to compare it to the application from Georgetown, Georgetown, the closest point was 427 feet, we're at 492 feet. Georgetown, most of the buildings were going to be built about 450 feet, our buildings are going to be built 600, 695 and over 700 feet from the tracks. And Georgetown and our property both looking at federal financing so we are both going to be complying with the HUD regulations which means we will conduct a noise study and we will do any abatements that are necessary if our sound goes outside of acceptable limits.

A couple of other features that I would like to just point out, although I think that the Board will hopefully be consistent with what it did last month, but I think our case presents even more compelling mitigating circumstances. First is that Georgetown, there is
basically just a field between the proposed development and the railroad tracks. In this instance, again, you've got the highway that goes through, you've got some buildings, there are things that sort of get in the way of people, like kids couldn't just go run out and run across a field and run to the railroad tracks if safety is an issue. The existence of these things will also mitigate noise a little bit just on their own without having to do anything, noise study, but those are things that HUD will take into account or that we will take into account when we do our noise study.

And then finally, I know the Board was interested last month in kind of safety and community concerns, and I would just point out, you know, study your maps but when you see this number of residential houses that are that close to the tracks, the idea of building some affordable housing that's up much further away from the tracks than all of these houses, that's further from the tracks than their middle school, and that's about the same distance from the tracks as their high school, I would suggest that this is very consistent with what is normal for the community of Bangs.

So we would ask that the Board make the determination that this site is suitable, despite that it exists within 500 feet of the railroad tracks. Thank you.
for your time.

    MR. GOODWIN: Thank you.

    I don't want to cut discussion short, but if
you'll allow me the opportunity to see which Board member
would like to make a motion as it relates to this, after
they make a motion we'll still ask again for further
comments and then we can be discussing whether the Board
is making a motion to approve that the site is eligible or
ineligible.

    So is there a Board member?

    MR. VASQUEZ: Mr. Chairman, I would like to
move that we accept the location as eligible.

    MR. GOODWIN: Do I have a second?

    MS. RESÉNDIZ: Second.

    MR. GOODWIN: Okay. We have a motion and a
second. Any additional comments?

    MS. ANDRÉ: Good morning. My name is Sarah
André, and I am here to comment and to ask you not to
compare this project to Georgetown and the other cities
that don't comply with the rule but compare it to all of
the other sites that will be before you this year that do
comply with the rules.

    I hate rules, everyone in this room has heard
me complain about the rules. That said, they persist and
they persist for very good reasons. Some people don't
know what to do, they receive guidance from rules; some people don't do the right thing, rules check their impulses. Other people don't have control over what happens or where they live, they don't have many choices, like our tenants, and these rules exist to protect them. In the case of the Tax Credit Program, these rules are protecting our taxpayer investment, where the funds go.

Staff spends a solid year crafting these rules, they seek input, they have public meetings, they talk to constituents on the telephone, they do research, they debate endlessly, we pour over every word in these rules, and then finally, one beautiful day in the fall the rules are set for the year and applicants have the opportunity to go out and find a site that complies with those rules. It is like finding a needle in a haystack but it is possible. For every 100 sites you look at, one of them complies, and meets all the scoring criteria, I might add -- they're a bit more intense than the rules even.

So I'm asking you today to consider what is the point of all that if the rules are not going to be upheld. Today it's a railroad, next month it's going to be a nuclear power plant that someone wants to put a development next to. Regardless of your ruling today, I'm just here to provide these thoughts and ask that you ponder the rules and ponder their purpose and ponder the
consequences of bending those rules.

    Thank you.

MR. GOODWIN: Thank you.

Any questions?

MS. KIDWELL: Just one quick response.

MR. IRVINE: State your name, please.

MS. KIDWELL: Susan Kidwell from Locke Lord.

We are following the rules. The rules say a site will be ineligible unless the applicant presents information regarding mitigation of the undesirable site feature. So mitigation is built into the rule, that's why we're here today. And I believe the mitigating circumstances that I spelled out in my opening part, those are more than sufficient to support a determination of eligibility in our instance. So we would ask that you be consistent with last month and recognize that this is even a less close call to the extent that last month was.

    So we are following the rules, that's the main response to that.

MR. GOODWIN: Any questions? Any other discussion or comments?

(No response.)

MR. BRADEN: Mr. Chairman, just to be clear, I think last month when we passed that motion we did include language that they have to comply with the HUD guidelines,
and that was one of the things I would suggest that we add with respect to this as well.

MR. GOODWIN: Would the maker of the motion accept that?

MR. VASQUEZ: Accept the amendment to the motion.

MR. GOODWIN: Accept the amendment. Does the seconder accept it?

MS. RESÉNDIZ: Yes.

MR. GOODWIN: So the motion is made and amended. Now any discussion on the amended motion?

(No response.)

MR. GOODWIN: If not, I'll entertain a vote. All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Passed. Thank you.

Item 2.B. Welcome, Marni.

MS. HOLLOWAY: Good morning.

MR. GOODWIN: Good morning.

MS. HOLLOWAY: Rain, traffic.

MR. GOODWIN: We know.

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

I thank Ms. Gamble for pinch-hitting for me. I'm sure she did a great job.

Item 2(b) is presentation, discussion and possible action regarding site eligibility under 10 TAC 10.101(a)(3) related to undesirable neighborhood characteristics for Residences of Stillwater in Georgetown.

The Residences of Stillwater is a proposed development which was brought to our last meeting for a decision regarding eligibility based on proximity to a railroad track, so that's the item that you were just discussing in relation to the first one. The applicant now seeks a Board determination regarding an undesirable neighborhood characteristic. Specifically, the proposed development is located within the attendance zone of an elementary school that did not achieve the Met Standard rating by the Texas Education Agency for 2017.

Staff has conducted a review of the proposed development site and surrounding neighborhood, and based on the record of achieving Met Standard for the previous four years and correspondence from a Georgetown ISD official, staff is recommending that the proposed site be found eligible under the Uniform Multifamily Rules.

MR. GOODWIN: Any questions for Marni?
MR. GOODWIN: Jean, did you want to speak to this?

MS. LATSHA: (Speaking from audience.) Only if there are questions.

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

MR. BRADEN: Move to approve.

MR. GOODWIN: Move to approve. Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Any discussion or questions?

(No response.)

MR. GOODWIN: I'll call for a vote. All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Thank you, Marni.

Item 2(c) is actually an item that staff is bringing to the Board. This is presentation, discussion and possible action regarding extension of the due date for local government resolutions for affected applications in the 2018 Housing Tax Credit application cycle.

Our rules require a governing board resolution in support of a development located in a census tract with
20 percent or greater tax credit units per household in order for the application to be eligible for funding. This rule was revised for the 2018 cycle to remove the previous requirement that the place in which the development is located have a population greater than 100,000, and that revision was not reflected in the data included in the 2018 site demographic characteristics report which was posted on January 4. This error resulted in a number of census tracts that would require the resolution being omitted from the original list.

When the revised list was posted on January 25, an additional 150 census tracts were added, affected 13 9 percent pre-applications and at least two 4 percent applications. The last posting of this revised data may mean that affected applicants will not be able to secure the required resolution by the current deadline of March 1 for a complete application.

Staff is recommending approval of an extension of the deadline to provide a governing body resolution until April 1 for applications located in a census tract that was added to the 20 percent HTC units tab of the 2018 site demographic characteristics report after January 4 of 2018. All other application deadlines would remain as published.

So we didn't catch this change when we posted
the site demographics and this is on us, and we are asking
the Board to allow affected applicants a little more time
so that they can get through city council processes and
get that resolution.

MR. GOODWIN: Any questions?

MR. VASQUEZ: Quick question. So will delaying
that a month have other ripple effects for compressing
time frames, or would we have to move other dates?

MS. HOLLOWAY: I would hope not. This is 13
pre-applications in the 9 percent cycle. We don't know
how many of them will wind up as full applications. This
is one resolution and one would think, one would hope that
if the city resolutions supporting the project are also in
the application that if the applicant has to go back and
get this other resolution that council would continue to
support the development. So I think that we'll be okay.
And we'll know the minute full apps are submitted which
ones are impacted and be able to be on watch for them.

MR. GOODWIN: Any other questions?

(No response.)

MR. GOODWIN: If not, do I hear a motion to
approve staff's recommendation?

MR. BRADEN: So moved.

MR. GOODWIN: It's moved. Do I have a second?

MR. VASQUEZ: Second.
MR. GOODWIN: Moved and seconded. Any other additional questions or comments?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Marni, let's go a little out of order now. Let's take item (e), if you don't mind.

MS. HOLLOWAY: Item (e), absolutely. 2(e) is presentation, discussion and possible action regarding an amendment to the construction loan agreement for TX Majors Place Apartments. This loan closed on August 14 of 2015 with a construction agreement that stipulated a completion date of not more than 18 months from the date of the agreement, so the original completion date was February 14 of 2017.

The CLA has been previously amended administratively, which is allowed by our rules, extending the completion date to 30 months which puts it at February 14 of 2018. Our Multifamily Direct Loan Rule requires Board approval for an extension beyond 12 months to the construction completion date, as well as documentation that the extension is necessary to complete construction and that there is good cause for the extension. The
Multifamily Direct Loan Rule requires substantiation of necessary and good cause for extensions such as the one being requested.

The development owner claims that construction was substantially completed by October of 2017 but a final inspection request was not submitted to TDHCA because the owner was waiting for certificates of occupancy from the city. It is anticipated that the development will receive a final inspection in March, with an inspection letter likely issued in April. Many final construction inspections require some corrective actions which is anticipated to be completed within 60 to 90 days from the date of the letter. When all corrective action has been cleared, the development receives a closed final construction inspection and is able to draw $191,000 in retainage that's left on the loan.

Staff recommends extension of the completion date of the construction loan agreement up to 38 months from the date of the agreement, making the new completion date no later than October 14, 2018.

MR. GOODWIN: That's staff's recommendation?

MS. HOLLOWAY: Yes, it is.

SPEAKER FROM AUDIENCE: If need be, I'm glad to answer questions.

MR. GOODWIN: Okay. Well, then I'm going to
entertain a motion for approval of staff's recommendation or denial.

MR. VASQUEZ: Could I just ask one question?
So effectively construction is complete at this point?

MS. HOLLOWAY: That's what the applicant has told us and they've told us that they're starting to occupy the development, but because of these delays, we don't have the official --

MR. VASQUEZ: We have to still finish all the paperwork and everything.

MS. HOLLOWAY: Right. It's just getting through our process.

MR. VASQUEZ: Okay.

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

MR. GOODWIN: Do I hear a motion?

MR. VASQUEZ: I'd like to make a motion to approve staff's recommendation to extend the date on this.

MR. GOODWIN: A second?

MS. THOMASON: Second.

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

Any other questions or discussion?
(No response.)

MR. GOODWIN: All those in favor say aye.

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

(No response.)

MR. GOODWIN: Okay. Now, Marni, let's move to 2(d), but let's take 18159, -161 and -164 first, and then we'll come back to -269, 2400 Bryan as our last.

MS. HOLLOWAY: Absolutely.

So under item 2(d), this is presentation, discussion and possible action on a timely filed appeal of pre-application termination under the Department's Multifamily Program Rules. This appeal relates to pre-applications 18159 for Rutherford Park and 18161 for Monroe Crossing. Late yesterday the applicant has withdrawn their appeal for 18164, so we're just talking about two applications here.

Both of these applications were filed by the same applicant and have the same fact pattern behind them, so I don't think it's necessary to split them off as separate actions between the two. The pre-applications were timely submitted to the Department and notices of termination were provided for failure to attach required documentation for the pre-application to be considered complete. The applicant timely filed an appeal which the executive director has denied.

The QAP states that pre-applications will be terminated unless they meet the threshold criteria
described in the rule which includes site control and a map of the census tract in which the proposed development is located with an outline of the proposed development site. Staff was unable to review the site control documents in the submitted pre-application for Monroe Crossing and the site control documents or census tract map for Rutherford Park because the hyperlinks to these documents were inoperable.

So just as a point of background, we use an online service called Jotform to receive all of our pre-applications. There were close to 400 of them this year. The applicants upload their supporting documentation to Jotform and it creates a hyperlink within the pre-application that we receive. So if you go on our website right now today and open up one of the pre-applications and click on the hyperlink, it actually takes you to Jotform to look at what that supporting documentation is.

So staff guidance on the pre-application submission repeatedly made it very clear that applicants should check each uploaded document to ensure that it was properly uploaded. Guidance suggested that applicants check the hyperlinks prior to submission of the pre-application and again after the submission in order to make sure that those documents could be accessed.

Instructions for both operations were provided to
applicants, along with instructions on how to fix any
missing documents.

In its appeal, the applicant insists that the
hyperlinks were tested and functioned properly when they
were tested. The applicant presents multiple potential
reasons for document hyperlink problems, including using a
Safari browser when submitting the application. Of the
almost 400 pre-applications submitted, it's likely that
more than those from this applicant were submitted from
machines using Safari, so submitted from Apple machines.
Unusually long names for hyperlinks was used as part of
the defense, and staff counted the number of letters in
several of the broken hyperlinks and determined that there
were links with longer names even within the applicant's
own submission.

The applicant did not resubmit the pre-
applications after checking that the hyperlinks were
working, and resubmission is not necessary if a change is
made to the pre-app. If the applicant had checked the
pre-applications after submission, as suggested by staff
guidance, they would have realized that the links did not
work and could have taken care of the issue at that time.

Because site control documentation and census
tract maps were not included in the pre-applications, in
accordance with the rule, the pre-applications are deemed
to have not been made. Staff recommends denial of the appeal.

MR. GOODWIN: Any questions?

MR. BRADEN: Marni, have you had any other reports of issues like this on any of these other deals?

MS. HOLLOWAY: No. These issues were limited to this applicant and they actually submitted more additional pre-applications beyond these. Those are clearly ones that they're not planning on moving forward with so they're not included in this appeal, but it was really all of the pre-applications submitted by this applicant had this issue.

MR. BRADEN: Thank you.

MR. GOODWIN: And how many applications did this applicant submit?

MS. HOLLOWAY: There were eight ten? Eight.

MR. GOODWIN: Eight. Okay.

Any other questions?

(No response.)

MR. GOODWIN: Obviously we have people here that want to comment, so I'm going to entertain a motion to receive and hear comments.

MR. BRADEN: So moved.

MR. GOODWIN: So moved. Second?

MS. THOMASON: Second.
MR. GOODWIN: It's been moved and seconded.

All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MS. DULA: Good morning. Tamea Dula with Coats Rose, appearing on behalf of the developers here, Steve Ford and Dwayne Henson.

Before I begin, Marni has described how the TDHCA uses a Jotform type of application for the pre-applications, and I have here a four-page letter, correspondence with Jotform that we would like to present.

We would have presented it in time to get it into the Board book but we didn't get the correspondence until after that date. I did talk with Sharon about it yesterday and described what the correspondence said, suggested that maybe the appeal should be granted by the executive director or asked if she wanted to delay the appeal here to the Board until March, and she preferred to go ahead today. So TDHCA is aware of the letter, they haven't received it yet, but we'd like to have permission to provide you with a copy of it, and we have brought 100 copies.

MR. GOODWIN: Can we take a look at it, have counsel take a look at it for us, please?
Very clear. They could have done it in smaller print.

MS. DULA: I'm sorry. That's the best we could do on that.

So are we good to go on that?

MR. GOODWIN: Let's hold off until we hear from Beau.

(Pause to review document.)

MR. GOODWIN: We'll accept it.

MS. DULA: Okay. Thank you.

All right. Indeed, this is an appeal of two out of eight pre-applications that were terminated, and we have here a situation where the rules were followed and technology rears its ugly head.

Lilly Kathekar is the person who did the submissions on these pre-applications. She is extremely experienced. She did them last year with the same Jotform type of application, no problems. She's never had an application terminated since 1998. She has been successful using virtually the same process last year. All the steps were followed, she goes by the procedures manual, she submitted it, they received a confirmation of the submission with a link in it. Lilly checked the link as required, checked to see that the links online were working, which she'd already done before she submitted it,
but she also checked it then, they were working. Then on the day of the application she entered the link again just to make a printout of what was there, and when you print it out, it shows the URL, the name of the file for the attachments, but it doesn't print out the attachments and she did not enter the attachments then.

So we were very confused when we found that all eight of the applications were being terminated because the URLs did not work, there was no link that was workable to get to the documents that were attached. This was not a situation where at 4:30 on the day of the deadline she was frantically trying to submit things. These were submitted in advance; one was submitted on the 5th, the deadline was the 9th of January. All of them were submitted before noon on the day of the application, so she had plenty of time in which to do all of this process and she did do so.

It's not a situation where there was any incentive to try to delay because we had all the earnest money contracts. One of them is a year old and it's still there, signed and receipted well in advance of the deadline. The census tract data is public data so there's no reason to try to delay filing an application or a pre-application because you don't have that kind of data, so there was absolutely no incentive and the record shows
that she did it all in terms of timing well in advance of
the deadline, and Lilly is here to talk to you about how
she did it.

In looking at the eight applications, trying to
figure out what happened, we noticed that the attachments
that were not accessible were two to three lines in
length, the description of the attachment, and they were
broken off, and we thought initially that perhaps the name
was just too long. Then we did some research to find out
what caused linkage breaks in Jotform, and this is just
online research, and we found that there were many
instances of people complaining that their links were
broken and what happened, why did it happen, and these
were reported from 2011 through the end of January 2018
there were reports. And basically, the gist of what was
said was that if you have a URL that has a space in it or
it has an unusual symbol in it that that can sometimes be
a contributory factor toward the link breaking.

MR. GOODWIN: Isn't all of that said in here?

MS. DULA: Well, it says even more. Yes, it
does say that in here. But then one of these people at
the developers group corresponded with Jotform, that is
what you're looking at, the correspondence that they had
about the particular the particular pre-applications that
we're talking about, and so Jeremy Bartholomew will tell
you about that.

MR. GOODWIN: The basis of yours is we did what we were supposed to do, our staff didn't receive what they're supposed to, it wasn't your fault, it wasn't staff's fault, and it wasn't Jotform's fault.

MS. DULA: Basically.

MR. GOODWIN: Or something happened in cyberspace that none of us can figure out.

MS. DULA: That is basically it, yes.

MR. GOODWIN: I know you have other people that want to comment, so kind of bring it, since we're a little past the three minutes.

MS. DULA: We'll give it to Lilly.

MR. GOODWIN: Okay. Before you leave the podium, does anybody have questions of Tamea?

(No response.)

MR. GOODWIN: Okay. Thank you.

MS. DULA: Thank you.

MS. KATHEKAR: Good morning. My name is Lilly Kathekar. I've been working on TDHCA applications for Mr. Steve Ford and Mr. Dwayne Henson since 1998 and the applications were typed volumes and submitted in binders and now evolved to online submissions. I study the QAP and rules, then follow directions from the procedures manual to complete pre-applications and applications. In
addition to 9 percent competitive application submissions,
I have also submitted carryover allocation documentation,
10 percent test documentation, construction inspection
documentation and cost certification documentation to
TDHCA in a timely manner and without any problems. I have
also submitted successful applications for SECO grants,
HTF loans, and TCAP funds. I'm familiar with the TDHCA's
FTP server, CMTS server and I've never had any issues and
I've never had any applications terminated so far.

In 2018 pre-application round, with my
handwritten planning template, I followed instructions per
the procedure manual to complete the pre-application for
Rutherford Park and Monroe Crossing, uploaded three files
as required, earnest money contract, census tract map, and
list of amenities, and submitted the pre-application prior
to the January 9 deadline to avoid any problems.

When Mr. Ford and Mr. Henson received the
development owners email of acknowledgment of submission,
using the link provided in the email, I followed
directions, verified the applications, tested the links to
ensure they were working. On January 9, using the same
link provided, I once again accessed the application to
make sure everything was working and wanted to just go
basically to print the form to make sure I have a copy of
it for our records. I was not aware of any problems.
Thank you.

MR. GOODWIN: Thank you.

Any questions?

(No response.)

MR. GOODWIN: Anybody else want to speak?

MR. BARTHOLOMEW: Good morning. Jeremy Bartholomew. I'm part of the development team for these two projects. And what I want to do briefly is just go through this dialogue with Jotform to just highlight some of the points of what the conversation concluded for us.

As Marni pointed out, they use the system, the Jotform system is a third party system. So you see the first, John is from our office, he's asking the questions, he says: We've uploaded these documents and what it appears -- and it's not the notification that we received, we asked for the notification that staff received to be sent back to us, when we got that notification, that's when you can mouse over the email and determine it's splitting one file into two different hyperlinks.

So you'll notice on this first page were it says Monroe Crossing, if you look down in blue it says Monroe Crossing, and then it says "Fully executed and receipted earnest money contract." That's actually one file, and what it did, once it went into their system we don't control the links that this system makes, we have
one file, it splits it into two links, so obviously when you click on just Monroe Crossing that's where nothing happens. But we never had a file just named Monroe Crossing, there's no PDF, .pdf or .doc associated with. So we were inquiring to say it appears it's splitting it into two links. You'll see the response is he's saying he cloned the form which just means he cloned TDHCA's form, he wanted to test the name. So moving on to page 2, you see he cloned the name, he retested the name, and he said, So far the files are working and downloadable. He said he also tries the files in each of the email notifications and they're working. So again, what he's doing here is testing the full correct name of the file.

The third page he says, "I investigated further by checking the mail log." So he's going back into the actual logs, into our actual submission. He goes in and says, "I looked at the actual submission you mentioned. I found out that the problem occurred in your customized email notification named Notification 1." Again, we don't control any of this, this is in their system, this is the notifications that TDHCA creates within the Jotform system. He said, "The notification shows the file just fine. To fix it, delete Notification 1, then create it again."
Our response is that, "Well, we're the user, we're not the creator, but would it be correct in saying that this error was not due to anything on my end?"

Jotform support says, "Yes, it has nothing to do on your end. It's the customized notification of the user form, specifically the Notification 1." He's saying you have a bug, you have a problem in this Notification 1 that is taking one file and splitting it into two hyperlinks.

The fourth page is a followup question regarding Rutherford asking similar questions. The gentleman says, he alludes to the fact saying unfortunately some of the files were uploaded before the fix, so alluding that there was a fix, it had a broken link, and he says, "Two links were being created instead of one." So he indicates that it's problem within the system. This is beyond reasonable doubt, this is him explicitly stating we have a problem within this, you had a bug within this that's splitting one file into two links.

All we're trying to do is compete for this project, and we've spent a lot of time, we have a tremendous amount of support, and we're here because we have a bug in a notification and I don't think it's a material reason to be able basically to say these projects are out.
MR. GOODWIN: Thank you.

Any questions?

(No response.)

MR. GOODWIN: Anybody else want to speak?

Marni, do you have anything you want to add?

MS. HOLLOWAY: Yes, please.

MR. GOODWIN: Okay.

MS. HOLLOWAY: So a couple of things, and we did receive this letter via email late yesterday. I'd like to point out that on the second page, the links that are listed here are not the links that were in the Jotform that we received, these are different names, so I don't know that Jotform has done in order to recreate these links.

I also would point out in the line about "Apparently there must have been a bug in the URL creation," that sentence continues to say "or these files were not uploaded correctly." Also, in our Uniform Multifamily Rules, 10.2011(c) which addresses uploading applications and providing application information to the Department, it says, and I'm reading, "Where there are instances of computer problems, mystery glitches, et cetera, that prevents the application from being received by the Department prior to the deadline, the application may be terminated.
So again, apparently there was some issue with these documents being uploaded to Jotform. I don't know what it was and I don't know that it's really clear here exactly what happened, but ultimately we did not receive the attachments for eight pre-applications from one applicant, and so those pre-applications did not meet threshold criteria.

MR. GOODWIN: Any questions for Marni?

Mr. Ford wants to speak.

MR. FORD: Steve Ford. I am the sponsor of this and many others.

Quite honestly, I don't understand anything about what hyperlinks are. I tried to figure it out on the way in but it baffles me. All I do know is that it seems like if there's a chance that the flaw was not in our uploading, that we didn't do anything wrong, if there's a chance of that and maybe the Department can tell me with 100 percent certainty that there was no flaw, all we're asking for is the pre-app points, which nobody is giving us any credits, nobody is telling us we won. This is like one of those 30K cross country ski races and we just got the first tag, we're a long way from winning.

But we've done a lot of this. I started in 1988 and we've done 12- or 15,000 affordable units, we used to turn them in packages like this and now we're not
allowed to. We went from that package to a disk and now we've gone to this, and I don't have a clue once that button is pushed what actually happens. Maybe everybody up here is better than I am but I'm just not there. But it appears, from the documentation we have, it appears that there could have been a flaw in the upload system that was not on our side of the equation, and if that's the case, it seems like -- I don't know, how many points are we dealing with here?

SPEAKER FROM AUDIENCE: Six.

MR. FORD: Six. Six is the difference in even competing at all. So anyhow, that's all I have to say under the minutes.

MR. GOODWIN: Any questions for Mr. Ford?

MS. DULA: Tamea Dula once again. Claire Palmer has just told me that she has a client that this happened to in this 2018 round also but he chose not to appeal.

MS. ANDERSON: Good morning. My name is Sarah Anderson, and I have nothing to do with this deal. As a matter of fact, I have deals that are probably competing with it, so it is not in my best interest to be up here speaking, but that doesn't usually stop me.

And I would like to say that it is entirely possible that this was a Jotform issue. We had a lot of
problems, the day of submission. I was almost crying because Jotform was so problematic and buggy the day of application. From what I've read of that letter, I think it's pretty compelling if there's any question, I personally would have more conversations with Jotform. I think every single applicant has had issues, has seen bugs. We can't control it.

    Again, I'm probably speaking against my interest on this, but I would hope that if I were in the same position that somebody would come up and say what I'm saying, and I think if this is going the wrong direction that you should spend more time looking at it because I think the evidence they submitted was pretty compelling, from what we read.

    MR. GOODWIN: Thank you.

    Any questions?

    (No response.)

    MR. GOODWIN: It looks to me like we have no other speakers. Do I hear a motion from a Board member? And as I understand it, staff's recommendation is to remain that these two applications are ineligible for pre-submission.

    MS. HOLLOWAY: Yes. Staff recommendation is to deny the appeal on the basis that these were not complete applications, they did not meet threshold.
MR. VASQUEZ: Did you say they were using the Safar browser?

MS. HOLLOWAY: That was one of the potential reasons for this issue that was listed in their initial appeal letter -- or their appeal to the executive director, actually.

MR. VASQUEZ: If we grant this, can we at least deduct points for them using the Safari browser?

MR. GOODWIN: Steve, do you know what a Safari browser is? You take a big gun and you hunt.

(General laughter.)

MR. GOODWIN: Any other questions for Marni?

MR. BRADEN: Marni, I'm not suggesting that we delay this, but is there any reason if we wanted to delay this to allow you more time to look into this, would there be any benefit or problems with that?

MS. HOLLOWAY: Well, one problem would be the applicant would either -- because we would be at the March meeting earliest, would either be submitting a full application or not submitting a full application, not knowing whether they have those six points. If the applicant is willing to move forward with that uncertainty, that would certainly be up to them. I'm not seeing, at first glance, anything in the information from Jotform that leads me to question the conclusions that we
came to. If you look in -- and I don't know what page it is in the Board book supplement, we actually did quite a bit of work to try to correct these issues. We went back and tried to repair the links, we tried to put the broken links together to see if it was just some odd thing and could we still get there, we went back and looked at access logs, and we actually did a lot of work behind this hoping to get to, no, we're not going to terminate, but we just were not able to get there.

MR. BRADEN: Because we also just heard, mind you, at least from a couple of different people say that they were having problem too.

MS. HOLLOWAY: So Jotform is imperfect, and we know that and we've all known that. It was put in place a few years ago and we started working for the 2018 round on an internal pre-application system, something that we've designed and we control, we were not able to get to a finished product in time for this year. It is on IS's list of projects for the coming year to create a pre-application system that we control internally rather than dealing with an outside vendor.

MS. THOMASON: Did we just hear that there was another applicant who also had this same problem and chose to appeal, so were there other applicants?

MS. HOLLOWAY: Did we have others? She's going
to remember terminations.

MS. GAMBLE: Sharon Gamble, administrator for the 9 percent program.

I don't recall another applicant having this particular situation. There was one applicant that I know of that thought that they uploaded something but there was nothing there, there was no link there, there was no indication of anything at all, and so that is the one that I remember. I'm not exactly sure which applicant that person was speaking of. And there were absolutely other applicants that were having problems with their uploads on that day. In just about every instance, though, staff was contacted either by phone or by email and I was able to talk every single one of them through getting their documents uploaded.

MS. THOMASON: Thank you.

MR. GOODWIN: Any additional questions?

(No response.)

MR. GOODWIN: Did you want to speak, ma'am?

MS. PALMER: Claire Palmer. I'm not really representing anybody here today on this issue.

One of my clients, in fact, had a similar issue, not the same issue with the upload but his printouts, when he got to the end and hit the button and printed out his own copies, showed the link there but the
document that came back from TDHCA did not have the link. He didn't open it up again to check so he decided that was his fault, but it was clearly shown that the link uploaded in the printout of the initial pre-application. So I don't know where that broken piece was but a lot of people have had a lot of problems with Jotform and the upload.

That's all I have.

MR. GOODWIN: Any questions for Claire?

(No response.)

MR. GOODWIN: No further comments. John, did you have a comment?

MR. BARTHOLOMEW: Again, Jeremy Bartholomew.

MR. GOODWIN: Jeremy, sorry.

MR. BARTHOLOMEW: I have to oppose what was said. If you look on page 3 of his response, it clearly states that there is a problem in the notification. I don't know what else we could produce that would be as emphatic as this. He's saying, "I investigated the actual logs of your submission and it shows the problem. I found out the problem occurred in your customized email notification, Notification 1." Again, that's not what we control, that's within the system. He's saying you have a problem with this notification. We don't know where that notification goes, but he's saying, "You have a problem
with this notification. To fix it, delete it and start over again." That's not something we control.

MR. GOODWIN: Thank you, Jeremy. Sorry about that.

Any questions?

MS. RESÉNDIZ: Mr. Chairman, I would just like a little bit of clarity on the browser user. Now, according to this, what was submitted, we used Chrome to upload everything. Is that correct?

MS. DULA: Tamea Dula. No. Safari was used to upload.

MS. RESÉNDIZ: Okay. So why is the Chrome application being shown.

MR. BARTHOLOMEW: What he has done first, before that conclusion on the third page, is he has recreated the file names to test the file name, to say he's recreating some names to test them and see if it works. Then he further, on page 3 says, "I investigated further." This was the Jotform support's work, this second page is what he was doing, the test that he was doing.

MS. RESÉNDIZ: So there are no instructions stating that either Chrome or Internet Explorer or Safari need to be used to create any applications?

MR. BARTHOLOMEW: Not to my knowledge, no.
MS. RESÉNDIZ: Thank you.

MR. GOODWIN: Other questions? Tim, do you have a question?

MR. IRVINE: Yes. Regardless of notification issues, can it be actually confirmed that the required document was, in fact, uploaded prior to the due date?

MS. DULA: Tamea Dula again.

The printouts f the pre-application show the unique name that Lilly Kathekar used in naming the documents, that name is there. It would not be there unless something had been uploaded. When the TDHCA responded to our appeal, they provided a copy of one pre-application that had three lines in the earnest money contract indicating that multiple lines were okay, the length of the URL was not an issue, but those three lines were three different documents, it was not a situation where there was an extremely long name, they were all different PDFs.

Here, I think what happened possibly is that there was a space between Monroe Crossing and the rest of the name and that might have triggered what was in the notification, number one, that bug. Because clearly other people, who may not have used spaces, did not have that problem, didn't trigger the notification. I don't think the notification is unique as to each pre-application, in
all likelihood. But there were no instructions on how you
name your document in order to upload it.

So our position is that it was properly done,
resubmitted because there were no errors in it and nothing
had to be corrected.

Thank you.

MR. GOODWIN: Additional questions?

(No response.)

MR. GOODWIN: If nobody else wants to speak, I
will entertain a motion from some like-minded Board
member.

MR. VASQUEZ: Mr. Chairman, while I still want
to deduct points for using Safari, I would move to accept
the request -- the appeal to accept the application as
timely.

MR. GOODWIN: As timely for pre-application
points?

MR. VASQUEZ: For pre-application.

MR. GOODWIN: Okay. Is there a second to Mr.
Vasquez's motion?

MS. RESÉNDIZ: Second.

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

Any further discussion or questions?

(No response.)
MS. HOLLOWAY: I would point out, as you are working through your motions, that we still do not have those threshold documents. So until those are submitted to us and we're able to evaluate them and make sure that they, in fact, meet the criteria, we still have a little more work to do.

MR. GOODWIN: Okay. So would you amend that motion to suggest that upon verification?

MR. VASQUEZ: To deem that it was filed timely pending -- I'm not saying we're granting the points, just deemed that it was filed timely. Is that sufficient?

MR. GOODWIN: Accept that for the second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: Yes, that's sufficient. Any other questions or comments?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you very much.

So we will move on to our last item on the action agenda which is 2(d), 18269, Bryan Tower.

MS. HOLLOWAY: All right. So this is our last
one. This is presentation, discussion and possible action on a timely filed appeal of pre-application termination under the Department's Multifamily Program Rules. This application is number 18269, this is 2400 Bryan Street.

This is one of the early applications submitted by January 26 in order to qualify for the ten points related to declared disaster areas, as we discussed in the meeting last month. The Department did not receive a letter from a state representative regarding the application prior to the early application due date of January 26.

On January 29, 2018, the Department received a request from the applicant to extend the submission deadline for the state representative letter stating that the representative was unable to complete the review and his due diligence of the information and materials provided to his office regarding the proposed development in Dallas. Based on the Board's interpretation of our statute that in order for an application to qualify for points under that provision under the disaster provision, it needed to be submitted in its entirety by the second anniversary of the disaster declaration, which in this case was January 26, so the executive director denied the request for extension.

The request cites the QAP related to the
program calendar says non-statutory deadlines specifically listed in the program calendar may be extended by the Department for a period of not more than five business days. This section is not applicable as a basis for seeking extension for disaster point eligibility because the deadline by which the letter was due is not a deadline specifically listed in the program calendar. The deadline the applicant is requesting to be extended has been interpreted -- the statute has been interpreted by this Board to be January 26.

It is important to note that although the application was not complete on January 26, it was completed prior to March 1 of 2018. Accordingly, staff acknowledges that the application may still receive full points for the state representative's letter of support but based on last month's decision, will not be eligible to receive the declared disaster area points.

Staff recommends the Board deny the request to extend the deadline.

MR. GOODWIN: Okay. Any questions for Marni? I have a question. What disaster was it that happened two years earlier?

MS. HOLLOWAY: I have no idea.

(General laughter.)

MR. GOODWIN: Okay. I'm sure somebody on this
front row is going to be able to tell us the answer to that question, and since we have people that want to comment, I will entertain a motion to accept comments.

MR. BRADEN: So moved.

MR. GOODWIN: And a second?

MR. VASQUEZ: Second.

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

All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: We will start hearing comments.

MS. PALMER: Thank you. Claire Palmer, representing the applicant in this matter. And I want to point out that Mayor Mike Rawlings of the City of Dallas was in route to come today, he's on the tarmac in Dallas still, and has sent a representative in his place, and we also have State Representative Morgan Meyer here to talk regarding his support to this project.

Really quickly, obviously as between the ten points for the declared disaster and an eight point representative letter, we would not be choosing between those two, so that was never a request, and when staff came back with that, I was a little surprised because that was not even in any of the materials that we provided to
you. This issue doesn't have to do with picking between the two.

Much like item 2(c) that you heard earlier about the 20 percent test, this is a matter of equity and clarity. Both involve statutory requirements in the statute that are also included in the QAP and in this context there was an extra deadline added this year for the very first time. In order to get the declared disaster points, you had to file those applications in the affected counties by January 26. We didn't find that out until December and it was never republished in the QAP calendar. The calendar remains to have the application deadline as March 1 with a separate line item for input from elected officials also due March 1.

We went immediately to the City of Dallas and they said, Oh, my gosh, we don't know anything about this, our process takes six to eight weeks, there's no way we can get you a resolution. So we were at a place where we thought we probably wouldn't be able to file because we couldn't possibly make that deadline. The City of Dallas waived multiple hearings and meetings in order to get our project, which they support a great deal, onto their calendar but it didn't go onto their calendar until their January 24 meeting and a resolution was issued on January 25.
MR. GOODWIN: January what?

MS. PALMER: 25th, the day before applications were due.

Representative Meyer, as he should, wanted to know that the city supported the application before he made his decision about sending in his letter. He did not have the city support resolution until the day before the applications were due.

To add to this confusion, on January 4 -- and you have a copy of this -- TDHCA staff sent an email to every single representative's office saying: The deadline for filing your support is March 1; don't file early because you can't rescind it, so the deadline is March 1. They already knew that there was a January 26 deadline that was going to come along as well, but that letter went out saying you have till March 1, and they really need till March 1 because it takes time to review these projects. It was very difficult to make the January 26 deadline.

At the January 18 meeting of TDHCA, this issue was brought to the Board and the Board ruled that a full application means every single piece of an application. I don't think that's actually what the Board meant, because that would mean that market studies were also due on January 26, and I can assure you there's not one single
market study in any application that was filed on January 26 because they're not due until April 1 in the calendar. And so the resolution, on its face, that was made on January 18 is clearly incorrect.

And I believe firmly that based on the calendar and precedent from TDHCA -- I took you back to 2011 -- for years and years and years, the input from elected officials was due two months after application, it was then due one month after application, and finally in 2016 it was put on the day of the final application deadline, but always as a separate line item in the calendar so that it's clear to the elected official that their date is March 1. This caused a lot of confusion this year.

To top it off, after the January 18 meeting, staff sent a letter to the representatives in the affected counties only saying that: Remember your deadline is March 1, but oh, maybe if you are in an affected county, it might be due early. It doesn't have a date, January 26 is never mentioned in there, and as a result, there was no way really for representatives to know other than what we told them exactly when that letter was due. We had told Representative Meyer -- and he's not blaming anyone and he's been awesome -- but he does support the application, he just wanted time to be able to review what the city was saying and to do his job and provide all the due diligence
he needed so that he could support a really worthy
project.

So really and truly, I think this is a matter
of not just equity but it's precedent that representative
letters have always been due separate from the application
and I think that the Board perhaps did not have all the
facts at the January 18 meeting, and I'm hopeful that you
will reconsider and allow us to have the representative
letter approved. It was sent in on February 1.

Thank you.

MR. GOODWIN: Any questions?

(No response.)

MS. PALMER: I'll let Representative Meyer up.

MR. MEYER: Good morning. Morgan Meyer. I am
the representative of this particular district in which
the project is going to take place. And as someone who
normally sits on the other side of that dais, I'm going to
be brief, I'm not going to tell you I'm going to be brief
and then speak for 20 minutes.

Truly, I didn't have the time necessary to be
able to review the background information to submit a
support letter. On these type of issues, I want to
personally make sure that I have vetted the project before
I put my name on it. The deadline came quickly, this is
not their fault, this is mine. I was made aware of it
very late to figure out, all right, I need to do my due diligence and I just didn't have the time to do it. Once I had the opportunity after the city passed its resolution, I submitted a letter that following Friday. And I believe that the end game here is to see if the state senator and the state representative actually do support it. Well, I do. And it was just due to the fact that the deadline was so short and I didn't have an opportunity to do my due diligence that it came in a little bit late.

So I'm happy to take any questions, but I respectfully request that you allow for the appeal, allow for the inclusion of my letter, and not deduct any points from this project.

MR. GOODWIN: Any questions? I've got a question. When were you notified that the date had been moved to January 26? You found out, I know, on the 25th and you had the letter done in six days. When were you notified by the applicant or the applicant's representative that that deadline had been shifted by our Board action on January 18?

MR. MEYER: Honestly, that week.

MR. GOODWIN: So if you had been notified on the 18th, you'd have had the same seven days to do the due diligence and get it in by the 26th, as you did once you
got notified on the 25th and got it in by February 1. Am I adding the days right there? I'm not saying it's your fault, I'm just asking that seems like from the 18th to the 26th there was nine days, from the 25th to the 1st of February, when it was represented that your letter came in, was also about nine days.

MR. MEYER: Yes, but to be completely frank with this Board, I have other responsibilities.

MR. GOODWIN: We all do.

MR. MEYER: I'm an attorney, I have three children, I missed carpool this morning to be here, so you guys are going to have to tell my wife about that. So no, quite frankly, it doesn't matter whether or not the nine days were before or the nine days were after, it's when I have an opportunity to actually sit down. And I know that every representative and senator deals with these type of issues differently, and probably frustrating to some, I sat down and read through the materials, I sat down and met with the developer, I spoke with the city. And I couldn't tell you I would have had that time before, all I know is that with the crunch of the deadline and the City of Dallas just doing their resolution the day before, I want to gather all of the facts necessary.

So no, honestly, it's not apples to apples for me because I have other responsibilities that I deal with
and it just happened that I had the opportunity after that
to take a look the following week, okay, so the city has
done this, I can take a look at this material, I've got
all the facts, all right, I'm going to sit down and I'm
going to do it. Does that make sense?

MR. GOODWIN: Obviously, the key to this is
your letter, not the City of Dallas's letter, so the other
question I have is what was the first date you were told
about this project and that you were going to be requested
a letter of support. Was that January 25 or had you been
told about it in November.

MR. MEYER: Oh, no, it wasn't November. I
honestly do not recall the first time that I was told
about this or also my staff. It was sometime in January,
I just don't know the specific date.

MR. GOODWIN: Is this the old Bryan Tower
building, the Trammell Crow building, or do I have it
mixed up with another building?

MS. PALMER: This is a new construction
building that's next door to the historical Crozier Tech
rehab building, and it's part and parcel of that master
development on that site. It's on the same site as
Crozier Tech.

MR. GOODWIN: Any other questions?

(No response.)
MR. GOODWIN: Thank you, Representative.

MR. MEYER: Appreciate it. Thank you.

MR. SPARKS: Good morning, Mr. Chairman and members. My name is Clifford Sparks, I represent the City of Dallas as the state legislative director. I'm here on behalf of Mayor Mike Rawlings, who, as my colleague has mentioned before, he is currently stuck on the tarmac and he wanted to be here sincerely, so he sends his apologies.

I won't belabor the issue. This project is very important to the City of Dallas. As you know, we expedited the process just to get it to the city council, and the city council voted for it unanimously, which if you know anything about Dallas politics, that is a tough feat, a Herculean feat. So it's something that's very important to us, we would like for Representative Morgan Meyer's letter to be considered, and I will leave it at that, unless you have any questions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Thank you, sir.

Additional speakers?

(No response.)

MR. GOODWIN: Okay. I will call for a motion from a Board member.

MR. BRADEN: I'd like to make a motion to go
into executive session.

MR. GOODWIN: Any discussion about that? If not, do I hear a second?

MS. THOMASON: Second.

MR. GOODWIN: So it's been moved and seconded.

All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. We will be moving into executive session and I think I have a little something I need to read to you.

The Governing Board of the Texas Department of Housing and Community Affairs will go into closed or executive session at this time. The Board may go into executive session pursuant to Government Code 551.071 to see and receive legal advice of its attorney. So we are recessing at 9:20 and we will be back at 9:35. Thank you.

(Whereupon, at 9:20 a.m., the meeting was recessed, to reconvene this same day, Thursday, February 22, 2018, following conclusion of the executive session.)

MR. GOODWIN: The Board is now reconvened in open session, and the time is 9:38 a.m. During the executive session, the Board did not adopt any policy, position, resolution, rule, regulation or take any formal
action or vote on any item.

So we are back to item 2(d), 18269.

MR. IRVINE: Mr. Chairman, if I might, I'd just like to offer what I think is a clarification and invite Marni to certainly chime in, as I invite Claire to chime in. Ms. Palmer indicated that the Board had created a new deadline at its action in the January meeting, and the way that staff understood that was not exactly the case. What the Board did as consider and arrive at a construction of the language in 67.10(b)(1)(H) and determined that in that statutory provision complete meant that an applicant was required to submit all of the stuff that they would ordinarily be required to submit by the application deadline under statute by the second anniversary of the date of the declaration of the disaster in order to claim the disaster points.

MS. HOLLOWAY: That, in fact, was our understanding moving forward.

MR. GOODWIN: Okay. Do I hear a motion from any Board member?

MS. THOMASON: Yes. I would like to make a motion to uphold staff's recommendation and deny the request for the extension of the deadline.

MR. GOODWIN: Okay. Do I hear a second?

MR. VASQUEZ: Second.
MR. GOODWIN: It's been moved and seconded. Any questions or comments?
(No response.)
MR. GOODWIN: If not, all in favor say aye.
(A chorus of ayes.)
MR. GOODWIN: All opposed?
(No response.)
MR. GOODWIN: Thank you very much. We have moved to a part of the agenda where we have public comment, and we are open for discussion, you can bring up items for future Board agendas if you would like. Is there any public comment?
MR. CICHON: Good morning, Board.
MR. GOODWIN: Good morning.
MR. CICHON: Mr. Irvine. Gerry Cichon with the Housing Authority of the City of El Paso.
I come before you today with an informational topic only. We had been set to talk to you back in September. Some things have happened. Really want to let you know what's going on within our industry because all of this is going to come before you and it's going to be statewide.
So what I'm talking about, seeing that I work in what has traditionally been known as public housing, El Paso is the 14th largest housing authority in the country,
you have the 13th largest housing authority in San Antonio, you have the most number of housing authorities in the country in the State of Texas. I don't know if you know or have had a chance to really understand what's going on with our industry. There was 1.3 million units available in the United States, that was ten years ago. You're down to less than 1.1 million available today because of lack of funding and capital infrastructure investment, and so what had been affordable housing 80 years ago is actually disappearing in all the cities across the United States.

If you look at New York alone, they estimate they're about $5 billion behind just making the units safe in order to be maintained right now in the State of New York. In El Paso our 6,400 units, or 20,000 people that we currently house, we were the strongest housing financial authority in the country and we were closing units, we have almost 200 that were offline based on our inability to fix them themselves.

The Federal Government created a new idea and the idea was called a Rental Assistance Demonstration Program, and it was the ability to bring in private investment into what had traditionally been public housing to be able to use tax credits, private equity and debt. See, up to this point in time we weren't able to mortgage
our properties, they were pretty much controlled by the Federal Government. And in doing so, we have been the recipient of 10 percent of the total allocation in El Paso for RAD converted units.

At the end of this year, public housing will cease to exist in El Paso -- let me say it again, at the end of this year on our 80th birthday, public housing will cease to exist, even though we had been the 14th largest in the country. And what that means is we're not going to stop housing the 20,000 people that had been in those units, what we're doing is we're converting them from what had been Section 9 money to Section 8 money, and to do so we had to also apply for bonds and tax credits. This year alone we're bringing 19 tax credits before this Board, so you'll see 19 applications for a total of over 3,000 units. We've already reserved over $4 million in bonds in order to make this actually occur. We are the largest fully converting agency in the United States.

Now, this program is going to have to start to move across -- I know, I'll do this real quick. Beth Van Duyne, who is the regional administrator for HUD, was in El Paso to celebrate our 80th birthday gala. I had a conversation with her and she has asked if it would be possible if we could set this on an agenda item in the future and HUD would like to come down and also present,
along with the housing authority, an informational update as to what this is and what's going to happen with the other housing authorities. It's not just us but I know Austin is also fully converting, I recognize Fort Worth is also fully converting, and it's going to be a big difference. Right now -- and I'll step down -- we are leveraging $1.3 billion in El Paso, at zero taxpayer expense, to public-private partnerships to make this happen.

And I just want to say thank you to staff in advance for this next year. This is going to be a massive year where we leverage up over $800 million.

Thank you, and I'll pass it off to my compatriot over here, Mr. Javier Camacho. Thank you.

MR. CAMACHO: I'll write both of our names down before I get started before I forget.

MR. GOODWIN: We won't start the timing until you finish writing.

MR. CAMACHO: Thank you. I'm not that much fast of a writer, it might take all three minutes.

Well, good morning, Governing Board, Chairman and Mr. Irvine. Javier Camacho with the Housing Authority of the City of El Paso.

Let me just quickly say thank you to the staff for allowing us and helping us through this process in
getting these presentations to you. We definitely appreciate the time.

And just to go off of what Mr. Cichon had mentioned, we are leveraging a very major investment, not just for the City of El Paso and our affordable housing infrastructure and celebrating those 80 years of service that have offer to our residents, but really thinking how much more we can offer to a growing. The City of El Paso stands as the second fastest growing city in the State of Texas and one of the fastest in the country, so we really have to think about this affordable housing conversation and how it impacts our community and really the entire conversation that the nation is having at this very moment.

And just to give you some physical standpoints, there is another presentation with my name on it, they both look very similar, but they're just some pictures that walk you through a lot of the work that were doing across the entire city. In the previous presentation that you had, there as an entire map of the City of El Paso. We cover every single are of our city's footprint, and just in our first tranche alone, we were able to complete 17 communities. That was not even half of what we are trying to do throughout the city with our rental assistance demonstration initiative.
If you go through the photos, you can see a lot of the improvements are doing through purely a redevelopment perspective, simply doing a gut rehab and improving them, bringing those units back to life, as Mr. Cichon mentioned, where instead of closing doors we are now opening them, not just to the families currently receiving assistance, but opening up our wait lists to those families who have not yet received this assistance and need it.

If you go in further to our presentation where you're looking at the interiors of our units, here you just look at a lot of the improvements we are making. Energy Star appliances, something that we all would like to have in our own homes and really that leaves a better footprint on our climate for our communities, and putting them in our affordable housing units and improving the quality of life for all of our families. Water efficient appliances, improving the accessibility which is major.

If you look at the units that were built back in the mid century in the last millennium, bathrooms were literally built upstairs only. That did not allow for our elderly or any families who needed that access to access their own bathrooms in their homes. So now as we're pursuing RAD, we're taking these very simple basic concepts that we take advantage today and improving them and how we serve the
needs of our citizens.

And when we look ahead, we have a lot more to go and we will be seeing lots of you over the next couple of months because we have a lot to cover for the City of El Paso and for the State of Texas. In fact, we've already branched into our downtown footprint, the very first time that the housing authority has been able to do this through a rehab and redevelopment initiative, taking on our third tallest building in downtown El Paso.

We have a lot to go, we are moving a lot of families we're impacting, and we want to again extend a huge thanks to your staff and to your leadership for working with us as we continue to share this conversation on RAD and the transformation of El Paso.

Thank you so much.

MR. GOODWIN: Thank you.

Any other comments?

(No response.)

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

MS. RESÉNDIZ: So moved.

MR. GOODWIN: It's been moved. Second?

MR. VASQUEZ: Second.

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

MR. GOODWIN: We're adjourned. Thank you.

(Whereupon, at 9:57 a.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF:       TDHCA Board
LOCATION:         Austin, Texas
DATE:             February 22, 2018

I do hereby certify that the foregoing pages, numbers 1 through 72, 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.

DATE: February 28, 2018

(Transcriber)

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