TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

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

July 26, 2018
8:00 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
## AGENDA ITEM

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### CONSENT AGENDA

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

#### LEGAL

**a)** Presentation, discussion, and possible action regarding the adoption of an agreed final order concerning Elmridge Apartments (HTC 10400 / CMTS 758)

**b)** Presentation, discussion, and possible action regarding the adoption of an agreed final order concerning Red Oak Apartments (HTC 10226 / HOME 1001235 / CMTS 4763)

#### MULTIFAMILY ASSET MANAGEMENT

**c)** Presentation, discussion, and possible action regarding Material Amendments to the Housing Tax Credit Application: 17259 Mistletoe Station Fort Worth

**d)** Presentation, discussion, and possible action regarding Material Amendments to the Housing Tax Credit Application and Change in Ownership Prior to IRS Form(s) 8609: 17347 Alton Plaza Longview

#### COMMUNITY AFFAIRS

**e)** Presentation, discussion, and possible action on the Federal Fiscal Year 2019 Low Income Home Energy Assistance Program Community Energy Assistance Program award for Galveston County Community Action Council, Inc.

**f)** Presentation, discussion, and possible action on the Program Year 2018 Department of Energy Weatherization Assistance Program award for Greater East Texas Community Action Program
MULTIFAMILY FINANCE

g) Presentation, discussion, and possible action on Determination Notices for Housing Tax Credits with another Issuer:
18418 LIV at Boerne Boerne

HOME AND HOMELESSNESS PROGRAMS

h) Presentation, discussion, and possible action on State Fiscal Year 2019 Homeless Housing and Services Program awards

BOND FINANCE

i) Presentation, discussion, and possible action on Resolution No. 18-028 authorizing the filing of one or more applications for reservation to the Texas Bond Review Board with respect to Qualified Mortgage Bonds and containing other provisions relating to the subject

j) Presentation, discussion, and possible action on Inducement Resolution No. 18-029, Treymore Eastfield Apartments, for Multifamily Housing Revenue Bonds regarding authorization for filing applications for Private Activity Bond Authority on the 2018 Waiting List

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) TDHCA Outreach Activities, (June-July)

b) Report and possible action on changes to items to be included in the Texas Department of Housing and Community Affairs Legislative Appropriations Request for state fiscal years 2020-21

c) Report on the Department's Swap Portfolio and recent activities with respect thereto

ACTION ITEMS

ITEM 3: LEGAL

Presentation, discussion, and possible action regarding the adoption of a final order concerning Southmore Park Apartments Ltd., with respect to Southmore Park (HTC 94004 / CMTS 1204 / LDLD 141 /

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SOAH Docket #332-17-5544HCA)

ITEM 4: MULTIFAMILY FINANCE

a) Presentation, discussion, and possible action regarding Awards of Direct Loan funds from the 2018-1 Multifamily Direct Loan Notice of Funding Availability to 9% Housing Tax Credit Layered Applications:
   18000 Evergreen at Garland Senior Community   Garland
   18002 Evergreen at Basswood Senior Community   Garland
   18036 Clyde Ranch Clyde
   18040 Farmhouse Row Slaton
   18052 Nacogdoches Lofts San Antonio
   18054 Piedmont Lofts San Antonio
   18099 Waters Park Studios Austin
   18322 Las Casitas de Azucar Santa Rosa
   18369 The Residences at Canyon Lake
   18391 Merritt Manor Manor

b) Presentation, discussion, and possible action regarding awards from the 2018 State Competitive Housing Credit Ceiling and approval of the waiting list for the 2018 Competitive Housing Tax Credit Application Round and confirming obligations to the Section 811 Project Rental Assistance Program for those properties that sought and were awarded points for providing program units:
   18000 Evergreen at Garland Senior Community   Garland
   18002 Evergreen at Basswood Senior Community   Garland
   18009 Rosemont Estates Rosenberg
   18010 Edgemere Palms El Paso
   18012 Jamie O Perez Memorial Apartments Socorro
   18013 Dayton Retirement Center Dayton
   18015 Cambrian East Riverside Austin
   18018 Columbia Renaissance Square II Senior   Fort Worth
   18019 Highlander Senior Village Bulverde
   18024 Palladium Celina Senior Living Celina
   18026 Maple Park Senior Village Lockhart
   18033 The Miramonte Fifth Street CDP
   18036 Clyde Ranch Clyde

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18039 Orchid Circle Homes & Las Palmas Homes Gregory
18040 Farmhouse Row Slaton
18043 Huntington at Miramonte Fifth Street CDP
18047 Miramonte Single Living Fifth Street CDP
18052 Nacogdoches Lofts San Antonio
18053 Alazan Lofts San Antonio
18054 Piedmont Lofts San Antonio
18057 Granbury Manor Granbury
18058 Huntington at College Station College Station
18064 Palladium Parn Street Fort Worth
18067 Palladium Crowley Crowley
18068 Palladium Teasley Lane Denton
18069 Palladium Farmersville Farmersville
18077 Park Forest Liberty
18081 Pathways at Chalmers Courts East Austin
18084 Artisan at Ruiz San Antonio
18086 The Village at Overlook Parkway San Antonio
18087 Residences of Long Branch Rowlett
18091 Lavon Senior Villas Garland
18093 Green Oaks Apartments Houston
18095 Retreat West Beaumont Beaumont
18096 Patriot Park Family Plano
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18118 Sandstone Foothills Apartments
     Mineral Wells
18126 Caldwell Heights Caldwell
18127 Metro 31 Senior Community El Paso
18129 Emerald Manor Horizon City
18130 Skyway Gardens Alpine
18137 New Hope Housing Dale Carnegie Houston
18138 Lancaster Senior Village Houston
18142 San Juan Mission Villas
     San Antonio
18148 Palmview Village Palmview CDP
18159 Rutherford Park Houston
18161 Monroe Crossing Houston
18162 Guadalupe Villas Lubbock
18166 The Legacy at Buena Vista
     San Antonio
18171 Poinsettia Gardens at Boca Chica
     Brownsville
18186 Avanti at Greenwood Corpus Christi
18188 Avanti at Sienna Palms Legacy
     Midway North CDP

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APPENDIX
Multifamily Application Logs

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR
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EXECUTIVE SESSION none

ADJOURN 81
MR. GOODWIN: We will convene the July 26th Board meeting for the Texas Department of Housing and Community Affairs. We will start with roll call.

Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. GOODWIN: Mr. Braden?

MR. BRADEN: Here.

MR. GOODWIN: Goodwin, here. Ms. Reséndiz?

MS. RESÉNDIZ: Present.

MR. GOODWIN: Ms. Thomason?

MS. THOMASON: Here.

MR. GOODWIN: Mr. Vasquez?

MR. VASQUEZ: Here.

MR. GOODWIN: We have a quorum. And I would ask all of you to rise and let Tim lead us in the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

(Whereupon, the Pledge of Allegiance to Texas was recited.)

MR. GOODWIN: On our consent agenda, we are going to pull Item number 1(i) under bond finance. Are there any other items that anyone on the Board would want to pull from the consent agenda?
(No response.)

MR. GOODWIN: If not, I will entertain a motion to approve the consent agenda.

MS. THOMASON: So moved.

MR. GOODWIN: I have a motion. And a second?

MS. BINGHAM ESCAREÑO: Second.

MR. GOODWIN: Moved and seconded. Any discussion?

(No response.)

MR. GOODWIN: All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Those opposed?

(No response.)

MR. GOODWIN: Okay. I guess we will move into the action items. And we will start with -- oh. The one we are going to do is I, 1(i) under bond finance. Monica?

MS. GALUSKI: Good morning, Mr. Chairman, members of the Board, staff. I am Monica Galuski, Director of Bond Finance and Chief Investment Officer.

So the Department has a very robust Single Family program, through which we assist primarily first-time home buyers through our to-be-announced program, which is a taxable program. Our -- through the issuance of single family mortgage revenue bonds, and through the issuance of mortgage credit certificates.
Both tax-exempt single family mortgage revenue bonds and mortgage credit certificates, or MCCs, require what is called an allocation of private activity cap, or volume cap. And that is, it flows down from the federal level to the state. It is based on a per capita amount.

And so the state receives a set amount, based on population. And the Bond Review Board manages allocating that cap, and the entire process, based on statute.

With our program right now, basically, TDHCA's allocation of volume cap for single family bonds, or mortgage credit certificates, we are allocated approximately $277 million per year, and our needs are great. We are using right now, just for our MCC program, we are using about a billion dollars a year in cap.

So what we have done with this request, is, we are requesting a total of what is called reservations of cap, of $1.2 billion. Of that amount, $500 million would be a request for new cap.

And about $700 million is the composite of our allotment of $277 million, plus we have carry-forward cap amounts from prior years, when all of the cap wasn't being used. And we stepped in and requested unused cap amounts.

So that is my summary. I would be happy to answer any questions.
MR. GOODWIN: Yes, sir.

MR. BRADEN: How does this request relate into past requests? Is it larger, in general?

MS. GALUSKI: No. It is actually, substantially similar. We have -- sorry. If it weren’t for the fact that we are very aware that there is going to be a lot more requests for cap, and sort of a sensitivity to us not prohibiting others from having access to that cap.

I mean, in a perfect world, we would ask for a lot more. Even with this, we are going to be scaling back our MCC program significantly. And in going back to working on the percentage of MCC credit, et cetera, to try to be a more effective manager of that cap.

But we recognize that, you know, bonds are sort of back across the board, and there is going to be a lot of demand. And so we are making adjustments accordingly.

MR. BRADEN: Exactly what I was concerned about. Thank you.

MR. GOODWIN: Okay. Any other questions? Anybody want to speak to this issue?

(No response.)

MR. GOODWIN: Let me remind everyone that comes up, that wants to speak, please come and sit in the front few rows. And please print your name when you sign in, so
that we can read it, after you have been here.

MR. PALMER: Good morning. My name is Barry Palmer, with the Coats, Rose Law Firm. And I am here to speak and urge the Board not to pass this resolution.

The resolution is for $1.2 billion of bond cap, currently. The state has $2.5 billion of bond cap available. The agency is talking about taking 1.2 billion for single family, and at the same time, the sister housing agency, TSAHC, is planning to go in with a request for a billion dollars of bond cap for single family.

That would be $2.2 billion out of the $2.5 billion that is available for 90 percent of the available bond cap, roughly, going to single family at a time when we have terrible needs for multifamily. It would only leave $300 million left, which is enough to do maybe ten deals across the state.

The way that the rules currently work on multifamily bond cap, is you are limited to $20 million allocation until August 15th. And many developers are finding that $20 million is not enough bond cap to build a 4 percent project. So they have been holding off.

And there are a lot of developers that have been waiting until August 15th to get an allocation of bond cap. And now, it is all going to be taken up by TSAHC and TDHCA for single family.
I would like to point out that for a number of years, there was plenty of bond cap available. It wasn't used up until last year.

Last year, the same thing happened. TDHCA went in for a billion dollars of bond cap. TSAHC went in for $800 million, I believe. And so there was no bond cap available for multifamily after that.

That billion dollars that TDHCA went in for last year, none of it has been used. It is still sitting there. You currently are sitting on $1.2 billion of bond cap for single family that has not been used.

So I would suggest that rather than come and take another 1.2 billion, that you use the bond cap that you have for multifamily first. And then if there is money available, go in for more single family at that time. But don't come in on August 15th, and take up 90 percent of the available bond cap, and leave no money for single family.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Thank you. Jean, did you want to speak to this issue?

MS. LATSHA: Good morning. Jean Latsha with Pedcor Investments. I really just want to reiterate what Barry said, that we are multifamily developers. We
utilize the taxes and bond program, the 4 percent tax credit program.

And it is true that if this gets done, I am concerned -- very concerned that the three deals, just the three deals that we have in our own pipeline, each of which need about on average, $40 million in volume cap. They won't just be delayed. They won't get done at all.

If we are not able to come in and get that volume cap, we will lose those contracts. You know, we have got three deals under contract right now, that would total maybe 900 units, a little less. And they won't get done.

And I appreciate that there is some need on the single family side. But there is a great, great need on the multifamily side, too. And without volume cap, it doesn't get met. It is pretty much that simple.

I won't take your time and repeat what Barry said. But I stand behind him.

MR. GOODWIN: Thank you. Something new to add?

MR. ARECHIGA: Jason Arechiga with the NRP Group. Also, in an effort not to reiterate, and repeat, and echo what Barry and Jean said. Actually, I am going to reiterate what Jean said. Ironically, we have three deals, $40 million each, about 900 units. It is almost exactly what Jean said.
And if this passes, this may be the first time that I have ever seen bonds oversubscribed on day one. And so if the $1 billion was successfully used last year, then I could see there being, certainly, a case for getting in August 15th and reserving it.

But as Barry said, I think it might be better to at least let, to some degree, a few other multi-family developers, whether it is us, whether it is Pet Core. Whether it is other private developers or non-profits and municipalities that want to develop multifamily have an opportunity to reserve some of the bond cap.

And then if there is remaining left over, to be able to fund, to keep filling the gap, as TDHCA has done in the past, through carry-forward allocations. Thank you.

MR. GOODWIN: Anybody else want to speak to this?

MR. YARDEN: Good morning. David Yarden with Am Tex. I will. David Yarden with Am Tex Multihousing. I don't mind echoing what has previously been said.

I just learned about this pretty recently. And I think that if this item were more widely known, you
would have a lot more people here, echoing all the same sentiments that have been expressed. We just learned about it.

This is extremely troubling, and detrimental to us in the development community. We have a lot of challenges already that are external to the Board in terms of getting affordable housing built. And for the Board to be considering an action which will further jeopardize our projects and our pipeline of upcoming deals is extremely disturbing.

I urge the Board to deny this action. Or, at least in the alternative, not to consider it today. Thank you.

MR. GOODWIN: Anybody else want to speak?

(No response.)

MR. GOODWIN: Any questions or comments from Board members?

MS. GALUSKI: Can I speak?

MR. GOODWIN: Yes.

MS. GALUSKI: I just wanted to clarify a couple of points. First of all, we are not asking for $1.2 billion of new cap. We are asking for $500 million of new cap.

We have already stated in the Board item, and I stated standing here, that we are using approximately $725
million of existing carry-forward cap that we hold, plus our appropriated amount.

Number two, we don't automatically go in front of anybody. That August 15th collapse is -- everybody is in the pool. It is a first come, first serve. We have no control over how that is allocated.

And to the extent that we as an issuer are the only one who pulls out, which I am not recommending that we do, that doesn't guarantee that this is going to multifamily or to any specific projects. We, as an agency, we have done this for several years, as far as -- we have in the past been picking up the unencumbered at the end.

So this is last year and this year, we are both slightly scaled back from prior years. Because there wasn't this great access of cap that wasn't being used. But we have never wasted a dollar of cap.

We use every dollar. I guess it is a dollar of cap. And so while I sympathize, and I recognize that cap is scarce, we are all sort of in the pool of needing more cap than might be available.

And to the issue of applications not having come in, because of the limitation, there are structural things within the allocation formula, et cetera, that appear to really need to be fixed. Because if you go on
BRB's website right now, no one is claiming cap, because it doesn't work for them.

So instead of this being a mad race on August 15th, perhaps some of those structural issues can be fixed, so that people are aware as things are going through. And things are done in a more orderly fashion, and make more logical sense, as opposed to basically a big pool and a mad fight at the end.

So having said that, in order to even go in for our allocated amount, even though we are assigned the 277 million, to go in for these reservations, I will need a certain amount of authority, and even just to claim our cap. That is part of the item, here. So I guess I can answer any --

MR. GOODWIN: Any questions?

MR. BRADEN: So I understand what is going on, sort of. But in the application, and when I read this, I understand the confusion, too. Because when I read this, it does say, maximum.

You know, the resolution is prepared, using the maximum aggregate amount of $1.2 billion. But what you are saying is that is really only $500 million of new?

MS. GALUSKI: Yes, it is. It is because of the way the Bond Review Board system works, as far as going in and reserving your cap. Part of this is a reservation of
cap that statutorily, we were assigned: the $277 million. And cap that we already have as carry-forward cap. So again, what I would call the newly requested amount is $500 million.

MR. BRADEN: So of the $2.2 billion or so of the state cap, we are really only asking for $500 million for this round?

MS. GALUSKI: That is correct.

MR. BRADEN: Okay.

MR. GOODWIN: Okay.

MR. IRVINE: Can I ask one question? Do we have carry-forward available for multifamily activity?

MS. GALUSKI: I believe we have a small piece of carry-forward for multi. It is really -- it is pretty nominal, I believe.

MR. GOODWIN: Other questions of Monica?

MR. VASQUEZ: Just also to clarify, and make sure the Board understands, so where does the multifamily allocation, how did -- if we are asking for $500 million for single family, where do we -- who asks for the allocation for multifamily?

MS. GALUSKI: My understanding is with, for our multifamily deals that come through us, our 4 percents? Is that what you are asking for?

MR. VASQUEZ: If we are asking for 1.2 billion
approval and TSAHC is asking for a billion -- and there is only 300 million left, is my understanding. Although now I am hearing something a little bit different. But under that scenario, is the 300 billion [sic] of the 2.5 automatically to go to the multifamily?

MS. GALUSKI: No. So you have -- right now, you have a reservation. You have an amount that is all single family, right. And basically, no one has come in and claimed any single family yet.

So I think at a minimum, any amounts that are taking single family, nobody should have an issue with. Because those were already set aside for single family, including our $277 million.

Then you have a whole allocation set up for multifamily. Nobody has come in for any of those funds, or maybe a small little amount.

MR. VASQUEZ: Who would come in for those funds?

MS. GALUSKI: Those would be other.

MR. VASQUEZ: The developers directly?

MS. GALUSKI: No. Those would be local HFCs. And those are going to come in through us. But none of those have come in yet.

Because until August 15th, they can only do 20 million. They can only come in for $20 million per
transaction, and that is not enough. So that is why you see this race at the end, for everyone to sort of come in and get the amount that they actually need for their project.

MR. IRVINE: But multifamily deals come in, deal by deal.

MS. GALUSKI: They come in on a deal by deal basis.

MR. IRVINE: They come in through us. And they also come in through local issuers.

MS. GALUSKI: Yes.

MR. IRVINE: In the statutory allocation of bond cap, we are given a certain amount. And each of the local issuers is provided allocation as well. So that is where they are coming in for multifamily activities.

MR. VASQUEZ: But I think, if we were taking 1.2 billion, which we are not.

MR. IRVINE: We are only taking 500 million.

MR. BRADEN: What they are saying is correct. The pool of money for all those other HFCs out there, trying to do multifamily would be severely reduced.

MR. VASQUEZ: Okay. So bottom line, we are only asking for an additional 500 million.

MS. GALUSKI: Right.

MR. VASQUEZ: And does that knowledge help
alleviate the concerns of the development community?

MR. PALMER: Well, that would be better than 1.2 billion. But I guess the question is, why would you come in for 500 million when you took a billion dollars last year, and you haven't used any of that.

MR. GOODWIN: Monica, do you want to address that question?

MS. GALUSKI: I can address that. Actually, we have used a fair amount of our cap last year.

And what we are looking at now is, we issued in November of 2017, we released a $1 billion allocation amount, MCC program. And we are already out of those MCC funds. And we have got a waiting list going.

So we are looking at, for our fall issue, we are looking at only doing 500 million. Because we are recognizing cap is becoming scarce. We need to scale back. We are adjusting our credit amounts, et cetera.

All I can say is, we have been using every dollar. We have been trying to manage it so that we do have cap available when the MCC program runs out. But we have been an effective user of cap now for as far back as I can see.

MR. GOODWIN: Any other questions?

MR. PALMER: Could I make one last point?

MR. GOODWIN: Sure.
MR. PALMER: In the write up, staff's write up on this point, they mention that 500 million of single family cap will serve 300 families. If you take that same 500 million and put it into multifamily, that would do 20 $25 million projects.

Each of those would serve 250 families. So you could serve 5,000 families with the same money that you are serving 300 families with.

MR. GOODWIN: Thank you. Monica, I see you shaking your head.

MS. GALUSKI: Can I just correct that.

MR. GOODWIN: You disagree with that, I think?

MS. GALUSKI: I think the actual write up says that by changing our credit formula using the 500 million in cap, we would increase by 300 home buyers just by changing our MCC credit amount. We are serving -- so far this year, with our MCC program, we have served just under 4,000 home buyers with the purchase and ownership of approximately $550 million in mortgage loans.

So I apologize if the wording on the Board item was not correct. That was simply showing the benefit of moving to the tiered MCC structure, in changing the credit rating. That wasn't how many borrowers we are serving.

MR. GOODWIN: Thank you for that clarification.

Any questions?
MR. BRADEN: I guess I will just make a comment. I appreciate the fact that staff seems to be cognizant of this issue. I think we do need to be cognizant of this issue, as cap becomes more scarce. We obviously need to take that into account, when we make our application.

MS. GALUSKI: And if I could also point out, we are asking for the ability to request up to these amounts. If it is easier for the Board, if we can get this, the authority to go up to these amounts, you know. We will go back and we will take a hard -- we recognize this is an issue.

We are not trying to prevent anybody from having cap. That is not our role here. And so you know, we can go back, you know. And we can find a way to see if we can scale back any of that.

MR. GOODWIN: All right. Do I hear a motion?

MR. BRADEN: I am going to make a motion to approve.

MR. GOODWIN: Motion to approve. Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Any further discussion?

(No response.)

MR. GOODWIN: All those in favor, say aye.

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

(No response.)

MR. GOODWIN: It passes. Okay. We are moving on to Action Item 3. Jeff, I think you were going to come up on legal.

MR. PENDER: Good morning, everyone. Jeff Pender, Deputy General Counsel.

MR. GOODWIN: Good morning.

MR. PENDER: At most of your meetings, you consider approval of agreed final orders concerning administrative penalties under the consent agenda. In those cases, staff and the Respondent will all agree to all the terms of the final order, such as violations, penalty amounts, and time allowed for making corrective actions.

These cases, in these cases, there is no need for you to act on these agreed final orders under an action item agenda. Now, you may have wondered what happens if the Respondent doesn't agree to the proposed penalties, or doesn't agree with the proposed terms, or the agreed final order?

What happens, is they get to request a trial of the matter before an administrative law judge, otherwise known as an ALJ from the State Office of Administrative Hearings, what we call SOAH. Before this, in this matter
before you today, staff has alleged the Respondent, Southmore Park Apartments, Limited failed to timely correct 15 violations of the UPCS, the Uniform Physical Condition Standards, eleven of which are L3 violations -- which, as you probably know, is egregious physical violation.

Following the hearing before the ALJ, and the presentation of quite a bit of evidence, the ALJ issued a proposal for decision, upholding substantially all of staff's allegations. This PFD is now being presented to you for your consideration in adopting your final order on this matter.

The proposed final order incorporates all of the ALJ's findings, conclusions and recommendations, without changes from the PFD. Just to be real clear on this issue, staff hasn't altered them in any way. By law, only you can change the findings and the conclusions.

And you can do that only if permitted by the APA, which is also known as the Texas Administrative Procedures Act. In general, the APA prohibits state agencies from arbitrarily changing the ALJ's findings of facts and conclusions of law.

But it does allow you to change findings of fact if you find that a technical error in a finding of fact should be changed. And I am emphasizing technical
error. You can also change a conclusion of law, but only if you determine that the ALJ didn't properly interpret or properly apply the applicable law.

You are not bound by any of the ALJ's recommendations regarding your ordering paragraphs. However, your orders must be based on the facts and the law, as provided by the ALJ, or as appropriately modified by you.

You must also state the specific reasons, and a legal basis for your changes in a final order. If you do want to make corrections for inclusion in your final orders, staff would make those corrections for you, and bring the final order back at a later meeting.

At this meeting, the Respondent may ask you to make changes in the proposed final order. Staff is not proposing any changes to the ALJ's decisions.

If Respondent wishes to argue for changes, the Respondent is limited to the facts on the record. No new evidence may be offered at this time.

You may have also wondered, why do I have to review the entire administrative record before entering an order? Well, certainly, you may do that if you want to. You can review the record. However, the purpose of providing you with the ALJ's proposal for decision is to provide you with a neutral fact-finders evaluation of all
the evidence.

The APA permits you to enter a final order even though you did not sit for the hearing or read the entire record, so long as number one, the proposal for decision has been served on all the parties, and number two, the parties were given opportunities to file what are called exceptions and replies with the ALJ. At which point, she can either accept them or reject them, and modify her PFD reporting to you.

These requirements have been met. The ALJ's April 6, 2018 letter to Mr. Irvine provides a copy of the PFD to staff and the Respondent, and solicits exceptions and replies from the parties.

Also, her letter to Mr. Irvine, dated May 10, 2018, indicates that exceptions and replies were incorporated in her PFD. Accordingly, the statutory requirements, prerequisites for you to render a final decision today have been met.

Finally, there is no separate notice required to be served on the Respondent for this meeting, other than the normal requirements of the Open Meetings Act. However, staff did notify Respondent on July 6, 20 days ago, by email, certified mail, and first class mail, with the fact that this item would be placed before you today.
So unless there are any more questions about your role, I will proceed with a brief summary of the case.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Okay. Jeff, go ahead.

MR. PENDER: First of all, all factual assertion that I am going to make here at the podium are taken directly from the ALJ’s proposal for decision. I am not offering any new evidence today.

Southmore Park received a $237,523.00 per year tax credits in 1996. And Charles V. Miller, President of CVM Interests, Inc., which is the Respondent’s General Partner, executed a land use restriction agreement. As you know, they are also referred to as LURAs.

In 2014, Respondent was referred to the Enforcement Committee for failure to timely correct compliance violations. On February 15, 2015, this Board approved an agreed final order with the Respondent, requiring the Respondent to pay $5,000 of administrative penalty, $11,160 in delinquent compliance fees, and those were for the years 2006 through 2013. And to submit documentation showing that the violations had been corrected.

The Respondent paid those administrative
penalties and the delinquent fees, but didn't submit
documentation to the CMTS system as required by our rules,
showing that the violations had been corrected.

The violations cited in the 2015 agreed final
order included UPCS violations, failure to submit annual
owners' compliance reports, failure to properly calculate
and implement a utility allowance. Failure to complete
tenant files, demonstrating units were leased to only low
income households, failure to submit requested pre-onsite
documentation. Failure to pay annual compliance fees, and
failure to provide an affirmative action marketing plan.

To be clear, these previous uncorrected
violations from that 2015 agreed final order are not part
of the violations which staff is seeking penalties for
today. They are not.

However, an earlier violation, cited in that
2015 agreed order, that continues past -- continues to
exist at the time of any subsequent inspection, that is
considered a new violation, or a continuing violation.
And new penalties are available for those infractions.

So in March 2015, a month after the issuance of
that 2015 agreed final order, a regularly scheduled UPCS
inspection was conducted on the property. In that
inspection, numerous serious property conditions --
condition deficiencies were found.
And a corrective action deadline was set.

Partial corrective action was received, but 15 deficiencies remained outstanding.

At the hearing, the ALJ found 13 of the 15 deficiencies to be substantiated by staff, by their evidence. Of the 13 substantiated violations, 11, or nearly 85 percent of the remaining UPCS violations were L3 violations, again. Which, as you know, are the most egregious violations.

Then in January 2016, Compliance conducted an onsite monitoring review, sometimes called a file review. The unresolved violations identified in the file review are also part of the matter before you today, in addition to the recent unresolved UPCS violations.

Again, the unresolved file monitoring violations were identified, and a corrective action deadline was set. And the following violations were not corrected by the corrective action deadline and are included in the proposed final decision, final order before you today.

Number one, failure to maintain written tenant selection criteria. Two, failure to post a copy of the tenant rates and resources guide. Three, failure to collect complete tenant file information, so that the income qualification could be verified. This finding
remains unresolved for nine of the 92 units, or almost 10 percent of all the units.

Number four, failure to collect complete new tenant file information, so that the income qualification could be verified. This finding remains unresolved for 17 of the 93 units, or 18 percent of all the units.

Number five, failure to provide annual eligibility certifications. The findings remain unresolved for 20 of the 93 units, or almost 22 percent of all the units.

Number six, failure to execute required lease provisions or exclude prohibited lease language. The finding remains unresolved for 21 of the 93 units, or almost 23 percent of all the units.

Number seven, failure to calculate and implement a current applicable utility allowance for the property. This remains unresolved. Failure to submit requested pre-on-site inspection documentation. This is also unresolved.

Failure to pay annual compliance fees for the years 2014 through 2016, totaling $4,185. This is also unresolved.

Number ten, failure to provide a compliant affirmative marketing plan. Unresolved. Eleven, failure to complete, to submit parts A and B of the 2015 annual
owners compliance report. The missing parts were submitted, but 236 days past the deadline.

In the ALJ's analysis section of her PFD, beginning on page 46, she makes several statements that are very revealing of her overall emphasis on the case. I would like to close with two of those statements.

When discussing the effectiveness of past enforcement efforts by the Department, the ALJ stated, "Respondent's conduct, shown in the evidence, indicated the administrative penalty imposed in the agreed final order was considerably too small to deter future violations."

And when discussing the Respondents' efforts to correct any violations brought to its attention, the ALJ stated, "The evidence shows a clear pattern for years of Respondent not taking seriously the need to correct violations promptly and completely, to document corrections, and to submit the documentation to CMTS so it can be promptly and efficiently reviewed by TDHCA as required by the LURA, the Texas Government Code, and TDHCA rules."

Wrapping it up. Staff recommends that the Board adopt the final order as proposed, requiring Respondent to pay an administrative penalty of $73,890, and to correct and properly document outstanding
violations within 60 days of the date this order becomes final. I would be happy to answer any questions you may have.

MR. GOODWIN: Any questions from the Board members?

(No response.)

MR. GOODWIN: If not, do I hear a motion to accept staff's recommendation and adopt this final order?

MR. BRADEN: So moved.

MR. GOODWIN: Moved. Second?

MS. BINGHAM ESCAREÑO: Second.

MR. GOODWIN: Any discussion? Anybody want to speak to this?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Thank you, Jeff.

MR. PENDER: Mr. Chairman, if I could, I would like to use one more minute and just recognize a member of the Legal Division who is also the Secretary of your Enforcement Committee. And that is Ysella Kaseman.

She is sitting right over here. Raise your
hand up there, so we can see you. She has been the Secretary of the Enforcement Committee for almost ten years now. It has had various incarnations. It is now known as the Enforcement Committee.

Ysella gets all the referrals that come to her from Compliance. She is the person who individually contacts everybody. She tries to work with responsible parties the best she can.

She does a lot of hand holding, does an awful lot of technical assistance, probably some arm wrestling. I don't know, I have never really seen it happen. But anyway, she does a lot of this.

And this has resulted in an amazing percentage of the number of referrals being taken care of and resolved before they ever wind up before you. And I am probably talking a little -- I don't have numbers. I am probably talking on the order of 90 percent of them get resolved at this point, due to the efforts of Ms. Kaseman.

MR. GOODWIN: Well, thank you for those efforts, and your service.

(Applause.)

MR. PENDER: But her work doesn't stop there, either. If that doesn't work, she takes them to the Committee. The Committee usually recommends an agreed final order. And it winds up before you. You get two or
three of these a month.

Ysella is the person that drafts those final orders, and she does an excellent job of doing it. If final orders don't work, the only thing left to do, unless the Respondent wants to sell their property to somebody who can take care of the property. In that case, Ysella works with Asset Management to make sure that we don't trip over each other with Enforcement and property transfer matters.

So it is quite a juggling act. I am watching.

I try to stay out of it, and just watch her from afar on that. If that doesn't work, she refers them to SOAH for a hearing. And at those hearings at SOAH, Ysella also provides expert testimony on the workings of the Enforcement Committee.

So I just remembered the words of our first Chairman of the Enforcement Committee, Mr. Tim Irvine. And he used to tell everybody that came before that committee, he would say. Look, we are not here to impose penalties.

We don't really want to impose penalties. What we really want is compliance. And I can assure you that that is exactly what Ysella tries to do every single time she works with a Respondent. Thank you, Ysella, for everything.
MR. GOODWIN: Thank you, Jeff.

MR. PENDER: Thank you.

MR. GOODWIN: Item 4(a), Andrew. Presentation, discussion of awards for direct loan funds.

MR. SINNOTT: Good morning, Chairman Goodwin, members of the Board. My name is Andrew Sinnott, multifamily direct loans administrator.

So these are the 9 percent layer direct loan awards being made today, in conjunction with the 9 percent tax credit awards. So in total, there are five direct loan layered 9 percent applications that are going to be recommended for direct loan awards.

Three are eligible for HOME funds under the general set-aside, totaling $2.38 million. They are, $660,000 for Clyde Ranch, 18036. $660,000 for Farmhouse Row, 18040. And $1,060,000 for Residences at Canyon Lake, 18369.

In addition to those three HOME awards, we are recommending another HOME award under the CHDO set-aside. And that is to Las Casitas de Azucar, application 18322. And that is for $1.6 million in HOME funds.

And then finally, there is one application for TCAP repayment funds, the National Housing Trust Fund, and that is, Waters Park Studios, application 18099. They are
being recommended for a million dollars of direct loan funds out of those two sources of funds, TCAP and National Housing Trust Fund.

In total, these five direct loan awards will result in 57 direct loan assisted units, and further support a total of 305 units. In addition to these five 9 percent layered applications being recommended for a direct loan awards, five more 9 percent layered applications are being maintained on the waiting list for credits, in the event that credits become available later this year.

And you can see those in the Board action. Okay. So if you have any questions, I would be happy to answer them.

MR. GOODWIN: Any questions?
(No response.)
MR. GOODWIN: If not, do I hear a motion to entertain this, receive this?
MS. BINGHAM ESCAREÑO: Move to approve.
MR. GOODWIN: Okay. Moved to approve.
MS. RESÉNDIZ: Second.
MR. GOODWIN: Any discussion?
(No response.)
MR. GOODWIN: All those in favor, say aye.
(A chorus of ayes.)
MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. It passes. Thank you, Andrew.

MR. SINNOTT: Thank you.

MR. GOODWIN: Before we move on to 4(b), Sharon, I think we have a letter, Michael, that you wanted to read. You know, we try to give everybody we can a voice. I think this letter just came in last night. I haven't actually seen it.

MR. LYTTLE: Yes, Mr. Chairman. That is correct. Last evening, we received a letter from an El Paso County Commissioner regarding two applications under Item 4(b). So that letter now is -- you know, it is up to you and the Board if you want to accept it or not.

MR. GOODWIN: I would say, why don't you read it into the record?

MR. LYTTLE: Okay. Very well.

MR. ECCLES: If I could interject. This is a letter from a public official on an application that is coming up for a 9 percent award.

MR. LYTTLE: That is correct.

MR. ECCLES: I will point out that this is certainly fine for public comment. But the time under the rules for public official input to be counted as evidence
in a scoring matter is long past. So it cannot be considered as evidence or count as a scoring matter for the application it discusses.

MR. LYTTLE: The letter is addressed to Chairman Goodwin. It reads, I write to express my opposition to Housing Tax Credit applications 18012, Jaime O. Perez Memorial Apartments. And 18707, Nevarez Palms, located within the city of Socorro, and the County of El Paso.

My concerns are rooted in the selection of a site that is not compatible with general accepted land use practices as well as the mission of the Texas Department of Housing and Community Affairs, quote, invest its resources strategically, and develop high quality affordable housing which allows Texas communities to thrive. In the past, I have worked with all of our community's Housing Tax Credit applicants to support and coordinate expanded access to affordable multifamily housing.

As the County Commissioner who represents some of the most impoverished areas in El Paso County, I am an ardent advocate of initiatives that foster partnership between the public and private sector to provide critical services to the community, including affordable housing. However, within one quarter mile radius of the proposed
developments are a high number of incompatible land uses and geographic features, including eight individual parcels of land utilized for industrial purposes.

Currently, these intense developments near the proposed development generate significant heavy commercial and trailer traffic. The roadway that serves the area is substandard, and in certain stretches, measures only 24 feet in width.

Construction of the new multifamily housing in the area would place the development’s residents in an already dangerous traffic situation. If constructed, the area would generate well over 1,000 trips during the afternoon peak hours alone.

While I recognize that the City of Socorro and Representative Mary Gonzales have submitted letters of support, both have not been presented with this information pertaining to traffic conditions that exist today. The city zoning laws do not require traffic impact analyses to be conducted, preventing the City Council from fully understanding the unsafe conditions that currently exist that would only be exacerbated for new residents of the proposed development.

I respectfully request that the Board deny the recommendation to provide tax credits to applications 18012 and 18707. The Department's charge to provide for
high quality affordable housing development is not met by
investing the state's limited resources in developments
that would place residents in a highly unsafe and
incompatible area.

The Applicant acknowledged the incompatibility
of the site for residential uses at the May 1, 2018
meeting of the Socorro Planning and Zoning Commission.
Specifically, Mr. Bowling stated that the property is,
quote, not conducive to a single family development.

It backs up to trailer parks. There is a
junkyard down the road. Around the corner is semi truck
coloring. His comments recognize that this land is not
suitable for development of single family homes, but
contends that such conditions are acceptable for low
income residents.

Thank you for your service and consideration of
this matter. Respectfully, Vincent M. Perez, County
Commissioner, Precinct Three, County of El Paso.

MR. GOODWIN: Thank you, Michael. Sharon, we
are ready to move on to Item 4(b).

MS. GAMBLE: Mr. Chair, may I speak to that

MR. GOODWIN: Yes.

MS. GAMBLE: Good morning, Board, Mr. Chairman.

My name is Sharon Gamble. I am an administrator for the
Competitive Housing Tax Credit program. Better? Okay.
Item 4(b) is the presentation, discussion and possible action regarding awards from the 2018 State Competitive Housing Tax Credit Ceiling, and approval of the waitlist for the 2018 Competitive Housing Tax Credit Application Round. And confirming obligations to the Section 811 Project Rental Assistance Program for those properties that were awarded points for providing program units.

It seems like just yesterday we were doing this, but a lot has happened since the last time we were here. Back on January 9, 2018, we received 362 eligible pre-applications. On March 1st, we received 138 full applications, requesting more than $159 million.

And there are currently 120 applications eligible for consideration today, which are collectively requesting credits totaling more than $136 million. Our credit ceiling for 2018 is just over $76 million.

In determining awards, we started with the regional allocations. Regional allocations are developed in compliance with a formula, described in Texas Government Code Chapter 2306.115, and are published prior to the start of the application cycle. Scoring is finalized through application reviews, and applications are sorted, based on regional allocations, set-aside requirements and scores.
To make the award recommendations, staff relies on the allocation methodology set out in 10 TAC Chapter 11.6 of the 2018 Qualified Allocation Plan, the QAP. We first ensure that we have enough applications that qualify for the non-profit set-aside.

We don't usually have a problem meeting that requirement, and this year was no different. We then turned to the at-risk set-aside, as required by Texas Government Code, Chapter 2306.6714. The Department sets aside 15 percent of the state housing credit ceiling for allocation to eligible at-risk developments.

This year, for the first time that I can remember, not enough applications were received for eligible at-risk developments to reach that threshold. The Department also sets aside 5 percent of the at-risk credits for allocation to rural developments which are financed through USDA, as required by Texas Government Code, Chapter 2306.111(d)(2).

Again, not enough applications financed through USDA were received to reach that threshold. Which is fine, if we don't have those applications to do that.

Next, the highest scoring applications within each of the 26 sub-regions are selected, as long as there are sufficient funds within the subregion to fully award the next application. There are statutory limits that we
consider in making those selections.

In regions containing a county with a population that exceeds $1 million, the Board may not award more than the maximum percentage of credits allocated to the subregion for elderly developments, unless there are no other qualified applications in the subregion. Urban Regions Three, Six, Seven and Nine are effective by this requirement.

In regions containing a county with a population that exceeds $1.7 million, the Board shall allocate credits to the highest scoring development, if any, that is part of a concerted revitalization plan that meets the requirements of the QAP, as located in an urban subregion, and is within the boundaries of a municipality with a population that exceeds $500,000. Urban Regions Three, Six and Nine are affected by this requirement.

If the Department determines that an allocation recommendation would cause a violation of the $3 million credit limit per applicant, the Department will not recommend such allocation. This year, two applications are not eligible for an award for this reason.

Once there are not enough funds left in a subregion to fully fund the next application, the remaining funds from the subregions are pooled into what we call the collapse. We have the rural collapse and the
statewide collapse. We do the rural collapse first.

We find the most underserved rural subregions, as compared to the subregions allocations, then award the next application in line in that subregion. This rural distribution continues through the rural subregions until at least 20 percent of the funds available in the state are allocated to applications in rural areas.

This year, with fewer applicants participating in the at-risk and USDA set-aside, staff reached further into the rural subregions in order to meet the required 20 percent rural set-aside. For instance, in 2017, the rural set-aside was met with ten at-risk applications and five applications from the rural set asides.

This year, there were only six rural Applicants in at-risk. And ten applications were selected from the rural subregions in order to achieve the set-aside requirement, which we met at 20.54 percent.

The statewide collapse takes all the remaining credits, and like the rural collapse, goes through the subregions, based on the most underserved. Where there are not enough credits left to award the next application, we ensure that at least -- again, at least 10 percent of the allocation is made to applications from the qualified non-profit organizations. And the allocation ends there.

If the Department secures enough credits
through credit returns or national pool to award the next application, those awards will be made from the waiting list with any determined conditions applied to them. The applications being recommended for award today are reflected in Report 1, the list that says, Award Recommendations.

These are all the recommended applications from the at-risk USDA and non-profit set asides and the rural and urban regional allocations. This report includes one application that is still being reviewed by multifamily program staff; 18293, Silver Spur Apartments in Region Eleven, Urban.

And our recommendation for that application is conditioned upon completion of that review and a subsequent real estate analysis review. If that application is found to be deficient in any way, the Applicant will have the same ability to provide clarification for further information as other applications had, and will have the right to appeal any of staff's decisions that are appealable.

The posted list includes 21 applications still being underwritten. Since the list was published that number has been cut to ten. So they have been working their little butts off.

All five of the underwriting decisions are also
subject to appeal. Any issues that arise from
underwriting will be resolved at or by the next Board
meeting.

All eligible applications are reflected in
Report Two. These are all of the active applications from
the at-risk USDA and non-profit set asides and the rural
and urban regional allocations.

This is a complete list of all of the
applications recommended for award, and the waiting list
of all active applications not recommended for an award
today. Those recommended for awards are reflected on that
report in the recommendation column.

Report Three lists the obligations made by
Applicants that were awarded points under the Section 811
project rental assistance program. Through this program,
the Department provides affordable housing units for
persons with disabilities and other special needs
populations. Based on the number of program participants,
we will add over 400 units to the Section 8 program this
year.

Report Four is the summary of the award results
which includes funding amounts for the rural and urban
regional allocations and for at-risk USDA and non-profit
set-asides. It also shows the amount of funds that remain
after all of the awards are made, in the amount of
$162,247 in credits.

Report Five includes the Real Estate Analysis Division application summaries that were available when the Board materials were posted. Subsequent summaries have been posted to the Department's website. These are a handy two pager for you to use that give the gist of the whole underwriting report.

Report Six is a summary of conditions recommended by EARAC to be placed on awards as a result of pre-participation reviews and conditions that resulted from staff review. Not all applications have conditions. This report includes all of the applications that do.

Report Seven includes information regarding public input received for each active application. This year, we didn’t receive as much public comment as we usually do. And so all of the comment that we received is included in that report.

A lot of dedicated staff contributed to what is indeed a ton of information for you. Our review staff has worked tirelessly to complete the reviews and to gather information so that we can put it into a nifty little format to present to you today.

My fab five: Ben Sheppard, Elizabeth Henderson, Liz Cline-Rew, Nicole Fisher, and Shannon Roth are still, after all this time, the undisputed hardest working most
dedicated people in the universe. Jason Burr, our old
mountain man is our database guru.

Patrick Russell has -- had to introduce Russell
last year. I think this year, everybody knows who Patrick
is. So I don't even really have to talk about it.

But he is awesome. He is great. He has made a
name for himself with everyone through his hard work and
his dedication to making what we do better, which is
great.

Andrew Sinnott with the direct loan program and
his staff, Cris Simpkins and Marie Esparza, not only
handle their own business but they also assist us in any
way that we ask. And we really appreciate them.

I still thank Teresa Morales, even though she
is not with us anymore. Well, in physical space, she is
not with us any more. But she is still with us. She was
stolen from us, though. And I will just leave it at that.

And Marni Holloway, of course. I thank God
every day for Marni. She has a like zen quality that kind
of helps to keep me focused and keep me from running off
the rails. And I admire her leadership and her smarts.

And of course, it is not just about
multifamily. Patricia Murphy is Compliance Division.
Brent Stewart is Real Estate Analysis Division. Brooke
Boston is Section 811 team. Captain Tweety is Policy and
Public Affairs Division. Bo is Legal Division — have all
be just indispensable to this process.

Terri Roeber, she is a godsend. I know you
know that. But I want to make sure that you know that.
You know, it is all hands in, really all the time.

And last, but certainly not least, our
Executive Director Tim Irvine brings us all together, and
kind of keeps us all moving forward. Keeps the ship
moving forward, I guess, is a good way to say that.

And this Board, you know, you guys make some
really tough decisions up here every month. And it gets
tough, I know. And so I appreciate all of the things that
you do.

I am proud to say that with this action today,
we are going to rehabilitate 560 units, approximately, and
put approximately -- put over 4,900 brand new affordable
units of housing on the ground for working Texans.

And with that, staff recommends the approval of
the recommended awards and the waiting list -- well, it is
not going to meet it yet -- for the 2018 Competitive
Housing Tax Credit application round. I can answer any
questions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Do I hear a motion to approve?
MS. RESÉNDIZ: So moved.

MR. GOODWIN: A second?

MR. VASQUEZ: Second.

MR. GOODWIN: It has been moved and seconded.

We will now have discussion. And this is about the ORDS list, not about individual projects.

MS. HOLLOWAY: May I?

MR. GOODWIN: Yes, you may.

MS. HOLLOWAY: I need to add to the discussion that Sharon just presented. We have one application, the Star of Texas Seniors, number 18305 in Montgomery, Texas.

This is a readiness-to-proceed application. So it claimed five points for that item. Part of the requirements for readiness to proceed is that they have zoning at award.

At a City Council meeting on this past Tuesday, we are informed that they did not receive that zoning. This award for this application, 18305, Star of Texas seniors is conditioned on resolution of that question. We will be issuing a scoring notice. And of course, they will have rights of appeal.

MR. GOODWIN: Okay. Any other items? One time there was one that might have gotten pulled, that you had in this?
MS. HOLLOWAY: Might have gotten pulled. No.

MR. GOODWIN: Okay. So 18305 is conditionally --

MS. HOLLOWAY: Is conditioned on resolution of the zoning question.

MR. GOODWIN: Okay. Any questions?

MS. STEEL: Good morning. I am Andrea Steel from Coats, Rose, here on behalf of Blazer Building in support of application 18353. Heritage Seniors in Region Six rural.

The request is in connection with the readiness to proceed provision added to the 2019 QAP by the Governor prior to this approval Marni just spoke about. This provision allows Applicants in FEMA-declared disaster areas to earn five additional points if they can prove that they will close on all financing and have the construction contract executed by October 31st.

The provision in the QAP includes a list of items that the application may provide to support its assertion that it is ready to proceed. But it expressly states that all applications requesting these points must include evidence that appropriate zoning will be in place at award.

The provision further instructs that the Board cannot and will not waive the deadline, and will not
consider waiver under its general rule regarding waivers. Application 18305, Star of Texas, is the only other application in Region Six rural. And it never provided evidence that appropriate zoning would be in place at the time of award. At best, it showed that it was attempting to do so.

On Tuesday evening, this Montgomery City Council denied the Applicant's request for rezoning. As such, it has been confirmed that the Applicant does not and will not have appropriate zoning in place to be eligible for the five points for readiness to proceed.

While we understand that this is very recent information, the scoring notice provided to applicants are very clear, that all information is further subject to Board approval. We are not dealing with an issue of lack of sufficient notice, and there is no publication of new information by staff about something new that the Applicant hasn't had time to consider.

This application's rezone request has been ongoing for a few months, and while a final decision by the City was not made until Tuesday evening, it has been something that the Applicant has known for some time was a risk. I don't think this is something that staff can decide, but it is rather an issue for the Board at this point.
I believe the QAP is clear. The Board doesn't really have any leeway to extend or postpone this decision. The very recent denial of the rezone request, we believe, requires the Board to deny the five points granted to application 18305, Star of Texas.

And we are asking the Board to amend the award log to reduce that applicants score from 117 to 112.

Thank you.

MR. GOODWIN: Thank you.

MR. IRVINE: If I might, under Texas Government Code 2306.6715, statutory, that there are rights of appeal on scoring matters. And although he may have facts that you believe establish a different outcome, we don't believe we can deny them the due process of this hearing.

MR. STEELE: I think that statute is clear, that it is when there is a publication by staff. In this instance, there has been no publication by staff. This comes down to a Board decision on information that is recently been decided.

It is not as though the City Council is delaying the vote on the rezone, or postponing his decision. They said no. So at this point, the Star of Texas application doesn't have zoning in place at time of award. And it is not going to get zoning any time soon.

It is not really a feasible project for this...
application round at this point. And certainly not eligible for readiness to proceed.

   MR. ECCLES: Respectfully, that may be grounds that you have a winning appeal. But it doesn't mean that they don't get appeal. That is what Mr. Irvine is saying. And I tend to agree that if the Department is going to remove five points, that is what gives that the right of appeal.

   MR. STEEL: I believe the Board does have that. But I agree. I understand what you are saying.

   MR. ECCLES: Just so I can clarify. If 18305 loses its points, then the next highest score slides into the slot.

   MR. IRVINE: That is correct.

   MR. ECCLES: Okay. So it is handled by the wait list.

   MS. PALMER: Claire Palmer, representing the developer at Star of Texas. When this application was filed, my client presented a letter stating that the property was industrial, which allowed for multifamily development. And in fact, the next door property in the same RD zoning is a multifamily project.

   We believe that there was no need for rezoning. And in fact, are working with the council right now to explain to them that we can go ahead with the project,
without rezoning. Rezoning because of the industrial use which does in fact allow for multifamily.

MR. GOODWIN: I think the motion as amended is that we are taking this conditional on some things happening.

MS. PALMER: Right.

MR. GOODWIN: So I don't want to turn this into a debate on this one project.

MS. PALMER: Right. I just didn't want the Board to rule that the project was losing the points today.

MR. GOODWIN: Okay.

MR. STEEL: Good morning. Andrea Steel again. I do want to clarify that the industrial zoning the City of Montgomery does not allow for multifamily use. That was the question that I inquired about with the Montgomery City Attorney, and confirmed that that was current, that this site is not properly zoned.

MR. GOODWIN: Again, the motion to do this conditioned on this. I think this is something that is going to be resolved one way or the other, whether that is right or not, without turning this into a full debate on this one application.

MR. STEEL: Understood, sir. I just did want make the mention that readiness to proceed is an urgent
item, that the Applicants do need to close by October 31st.

The whole purpose of that award was to make sure Applicants were ready today to move forward. To postpone that decision tends to undermine the spirit of that rule.

MR. GOODWIN: Duly noted.

MR. STEEL: Thank you, sir.

MR. GOODWIN: Any other discussion on this motion?

MR. BOWLING: Mr. Chair, members of the Board. I am Bobby Bowling. I am a developer from El Paso. The letter that was read into the record is referring to the two applications that I submitted from Urban 13.

I would like to just clarify some things and give you some more background information. First of all, I agree with your legal counsel's stated direction with regard to the elected official. The deadline has long since passed.

And I would also like to note that the County Commissioner in this case doesn't even have any jurisdiction or any opportunity to weigh in, in the form of a selection criteria item. The two properties in question are located within the municipal boundaries of the City of Socorro, and so the elected officials that
would weigh in for points would be City Council, of the City of Socorro.

The City of Socorro at several introductory hearings, and then at the final hearing, at every step of the way, unanimously endorsed and provided a resolution of support for these two developments. Furthermore, after the resolutions were submitted, I have already had the zoning hearings on both of these cases.

Both of these sites were located within their comprehensive plan, and identified for multifamily use, and multifamily development. The zoning hearings at City Council went right through, regarding the industrial nature of Socorro that was mentioned.

Socorro is a growing city. It is right near a major border crossing corridor called the Bridge of the Americas. It is just east of that bridge.

Of course, there is a lot of warehouses and industrial type of development along the border, especially across from one of the most trafficked -- and this is really the preferred bridge for the semi tractor trailer traffic, because they are able to go around El Paso. And they will have to come through the city limits. So they go. This is their preferred port of entry for major containers and shipping through the border.

Again, I already have the zoning. I think it
is very unfair. The quotation that he is attributing to me came out of an hour-long back-and-forth debate at the Advisory Planning and Zoning Commission at the City of Socorro.

The way they do it, the City Council approved zoning, but prior to that, they have a hearing with an advisory board. This specific Commissioner's Chief of Staff, I guess, lives in Socorro. But he was on the planning and zoning commission.

He had about 20 items that he wanted to debate with me. That hearing took over an hour long. I think it is very disingenuous to take an hour-long transcript, circle one sentence, and put it in a letter, and say, aha. This is what the context of that discussion was.

It wasn't that at all. At the end of that hearing, they recommended approval for one of the zoning hearings. One of the sites and not for the other. The City Council heard the whole hearing and adopted the zoning, and endorsed the project.

MR. GOODWIN: Thank you.

MR. BOWLING: Thank you.

MR. GOODWIN: Any other comments?

MR. VASQUEZ: Just to clarify, are those projects on our approved list that we just voted?

MR. IRVINE: Yes. They are.
MR. GOODWIN: They are.

MR. VASQUEZ: Can we set a new Board policy for removal, deduction of points for unnecessary comments?

(Simultaneous discussion.)

MR. GOODWIN: Be careful, Tamea, now.

MS. DULA: Good morning. Tamea Dula with Coats, Rose. I am here on behalf of the developer. However, I am here with a question concerning the process, and it needs to be addressed now because my issue has to do with the process of this statewide collapse.

My developer is the developer number 18052, Nacogdoches Lofts in San Antonio. San Antonio Region 9 Urban has more than a million people in it. Therefore, it is subject to the elderly limitation that provides a limit on the amount of tax credits that can go to elderly developments in that urban subregion.

However, when you get to the statewide collapse, the rules in the QAP under Section 11.63(e) for the statewide collapse states -- in uniform, states service regions containing a county with a population that exceeds 1 million, which is Bexar County, of course, the Board may not allocate more than the maximum percentage of credits available for elderly developments unless there are no other qualified applications in the subregion.

Now, this doesn't come at the beginning of the
process, where you have the initial application selection. The staff is totally correct in graying out those applications that are subject to the elderly limitation. But when you get down here to the very end, in the statewide collapse, there is an exception to that which, we feel, has not been followed.

In San Antonio, there are three general population and one elderly population application that are recommended. Then there are two prohibited under the two mile senior rule, and two that cannot be funded because of the elderly limitation.

But this exception provides the opportunity to fund that elderly limitation project -- that elderly project in San Antonio. And it is required to be funded under that circumstance if San Antonio's region, the Region Nine Urban, subregion, is one of the underserved regions, which it is.

Sarah Andre is going to tell you about the analysis that we have done. And it appears that the staff, in looking at it, saw the grade out applications, said these applications are ineligible, and skipped to the next most underserved subregion, which we think is inappropriate. Thank you.

MR. GOODWIN: Thank you. Marni, can you address these comments?
MS. HOLLOWAY: Certainly. So stepping back a little bit to what Shay was discussing, our cap is based -- the amount that we have to allocate is based on a formula from the IRS.

Then we go through all the set-asides, and then we get to the subregions. The subregion allocations are determined by our regional allocation formula, the RAF. The RAF is required by statute.

It is published annually by our housing resource center. It goes through a public hearing and comment process. And it is part of the state low income housing plan, which is a rule.

A number of factors are considered in the RAF, including the cost burden of renters, overcrowded renter households, and households at or below 200 percent of poverty. The RAF determines how many credits are allocated to each subregion with the caveat that all subregions receive at least $500,000.

As Shay explained and Tamea mentioned, the elderly cap applies to counties with populations that exceed one million. The formula for the cap is contained in statute and it is applied to the amount of credits that are allocated to the subregion by the RAF.

So we have all of these statutory and rule-required calculations that get us to those numbers.
statute and rule both state the Board may not allocate
more than the maximum percentage of credits available for
elderly developments, unless there are no other qualified
applications in the subregion.

The statute and rule regarding the elderly cap
speaks to credits that are available in the subregion that
are determined by the RAF. It is not credits that go into
the collapse.

As the collapse happens, we are not adding
credits back into the subregion because that would violate
the Regional Allocation Formula. In this particular
instance, there are no more general applications available
within the subregion.

Even if there were another general application,
there aren't enough credits left to award most
applications. So it went into the collapse. So the San
Antonio, or the Urban Nine subregion has received the
maximum credits that it can under the regional allocation
formula at this point.

So it is not like they have lost out on
anything. It is not like, you know, San Antonio is
getting less than they should have gotten. The issue is
that the collapse -- by the time we get to the collapse,
these elderly applications had already been dealt with
during the regional allocation process.
So that is why we have conducted the collapse in the way that we have. We have been doing it this same way ever since that elderly maximum formula was added to statute.

MR. GOODWIN: And the exception at the end, that Tamea brought up, does not apply in this case?

MS. HOLLOWAY: No. The elderly maximum is calculated at the subregion level. By the time we get to collapse, we are done with the subregions. And we were moving on with the collapse.

So you know, it has been allocated according to the formula. It has been capped according to the formula. We are done with that part of the process. We are moving through collapse.

MR. GOODWIN: Any questions? Marni. Tamea, do you want to speak again?

MS. DULA: I would like to respond. Tamea Dula. When you are construing a statute, a rule, a law, you are required to assume that words are there for a purpose.

In the provision under 11.63(c), it talks about the initial selection of each subregion. Then you go to the rural collapse in subsection (d).

And finally, you go to (e), which is the statewide collapse, absent any additional funds coming.
into the state. The statewide collapse is the only place
where that exception is referenced, where it says unless
there are no other qualified applications in the
subregion.

Well, that means that that exception is
specific to the statewide collapse. The staff is totally
appropriate in saying all the way down through the rural
collapse that elderly allocations cannot exceed this
limitation. But it specifically says in the statewide
collapse that if there are no other eligible applications,
you do exceed that.

In San Antonio, two of the other applications
that were left unfunded were ineligible because they were
too close to an application being funded. But there were
two otherwise eligible applications for elderly that
simply couldn't be funded because of this limit on the
elderly funding.

That limit is specifically suspended when you
get to the statewide collapse. It is the only place where
that exception exists. And it has got to mean something.

MR. GOODWIN: Thank you. Any questions for
Tamea?

MS. HOLLOWAY: If I may. The statement, the
Board may not allocate more than the maximum percentage of
credits available for elderly developments, unless there are no other qualified applications in the subregion, is included in statute. And is included in the rule, before we get to collapse, when we discuss what that elderly cap is going to be.

MR. GOODWIN: Okay. So we have a difference of opinion.

MS. ANDRE: First, and foremost. Sarah Andre.

MR. GOODWIN: Sign in.

MS. ANDRE: I will. To say that we have always done it this way since this elderly limitation came up is fine and dandy. But this is the first time we have been in this position.

What we are asserting here is not -- I thought everything they said was great. They did it all correctly. The award, the next to last award is Urban Seven. That is correct. And then the way the statewide collapse works is, you go through every region that is now, quote, underserved.

And the next in line after Urban Seven would be Urban Nine. Then Urban Three, then Urban Eleven. And my understanding of it is that staff has skipped Urban Nine and Urban Three, based on this elderly limitation issue, and gone straight to Urban Eleven.
That is not coming from me, because I think I am so clever, and I know how to do the collapse better than the staff. That was brought to my attention by one former staff member, and then verified by four other former staff members who have worked in this arena for many, many years.

Granted, they didn't work under the elderly statute. But I think that one person ran the collapse. And you know, she is sitting in this audience, and has verified these numbers.

So it is not -- I am not trying to hold up the entire process. But I do think there is an issue here that needs to get worked out, whether it is Urban Nine, Urban Three, or Urban Eleven.

I don't know the mechanics of how you could do this. But I think you need to take a pause right before that award, and make sure that it is not just a disagreement of opinion, that it is actually correct.

MR. GOODWIN: Thank you. Any other speakers?

MR. ECCLES: I would like to just inject something, because we are talking about a couple of terms here. There is allocation, and there is discussion of the collapse.

Allocation and the elderly cap that is being discussed, that is in 2306.6711(h) of the Texas Government
Code. It is, I think it is the only time I have ever seen a word problem in statute. But there it is.

And it talks about the allocation that the Board may make. Allocation is discussed in a couple of other places in 2306, including the regional allocation formula in 2306.1115. And then before that, talking about how allocations are made in 2306.111.

Collapse is not a term that exists in statute.

That comes into the rule with how the Department deals with excess credits and moves them from region to region. But it is not part of the Regional Allocation Formula.

So to the extent that we are talking about, what are the funds allocated to a subregion, if we are just looking at the statute, allocation amounts are done when we deal with the Regional Allocation Formula.

When we are talking about collapse, that is more an administrative function of how to most efficiently move things from one region or to various developments in kind of distributing that excess around. But in terms of what do we plug into that word problem, I think we are dealing with what the statute would say is allocation. And that is dealt with in the round.

MS. ANDRE: Well, then I would respectfully like to ask for the math on that. Because we are not disagreeing with -- I don't disagree with what you just
said.

What I disagree with is the statewide collapse. 

It says right here, any credits remaining after the rural collapse, including those in any subregion will be combined into one pool. Staff did that.

The funds will be used to award the highest scoring application not previously selected in the most underserved subregion in the state, compared to the amount originally made available in each subregion. So staff did that, until the award, the next to last award.

And then they skipped two most -- most underserved regions and went straight to Eleven. And that, I don't understand. So I am happy to be wrong. That is totally fine. But show me the math.

MR. GOODWIN: You didn't appear to be all that happy.

MS. HOLLOWAY: Just as a point of correction, on Urban Three, we skipped because the next application was actually excluded, due to the $3 million cap. There is a $3 million cap on the amount that any one applicant can receive in any round. By the time we got to Three, the next Applicant was not able to get that award, because they were going to hit the cap.

So then we went to Eleven. I think it is important to -- that the Board understand that, you know,
if you take action that would allow the Nacogdoches Lofts
application to be awarded, that next application in Region
Eleven will not receive an award.

MS. GUERRERO: Hi. My name is Debra Guerrero, and I am with the NRP Group. I am writing my name down.

MR. GOODWIN: Print. Make sure you print.

MS. GUERRERO: Yes. I did. My name is Debra Guerrero. I am with the NRP Group and we are the Applicant for Nacogdoches Lofts. That last statement is -- we are not trying to, in any way, have somebody else not get an award.

It is not about playing us against each other.

What it really is, honestly, is a process question. I do want to assure the Board that we did contact the agency.

And I understand that they didn't want to necessarily visit with us individually. But just to kind of walk us through what this process is. Because we did hear from so many that had formerly been involved in the collapse, and have been involved in reading statutes.

And so once we compared our analysis with theirs, we felt that it was warranted. And that we could have avoided just this very -- I guess, getting points taken away from us for coming up here. And we are having this discussion.

But honestly, in San Antonio, this happened
back in -- I think it was 2005. I went through. I learned the collapse. I did it.

I went to the agency, and said hey. You know what. I think there might be an issue here. It ended up being correct. Haven't been back since.

But in this particular case, we felt that because San Antonio Urban Region Nine was leaving money on the table, and it was an underserved area, we wanted to understand why in the statewide collapse it would have been skipped. We now understand with Urban Region Three why it was. Still don't quite understand why in Urban Region Nine.

And I know Marni says that if we are not leaving any money on the table -- but it is underserved, and so that is all we are asking for, today, is the pause. Is to understand the process, and to be able to make sure, not that somebody else doesn't get an award, but that the process is followed. And the integrity of the process is transparent. Thank you.

MR. GOODWIN: Thank you.

MR. COMBS: Ryan Combs, with Palladium USA. I do not have a pen, but I will write this down when I do. My application is in Urban Three. Marni just spoke about it.

It is a little bit different than Urban Nine.
We were skipped over because of the $3 million cap. However, we have been in communication with the Department at least a couple of times, a couple of weeks ago, requesting that, you know, we would like the opportunity to know if we have the ability to choose that application in Urban Three.

A couple of weeks ago, there was another application that had an appeal that came before the Board; that appeal was granted. We didn't hear anything from the Department after that.

I requested again last week, to find out if we had the opportunity to choose that application. The answer was no. Found out this morning that that actually we could have.

My request is that we have the ability to choose that application and not have the Department choose it for us. Thank you.

MR. IRVINE: Might I clarify that. When you speak to choosing, if you have two applications that are on the list. You are saying, we want this application to get the award, rather than this one, that is one thing.

And the rules specifically provide that up until the publication of the list at the end of June, you had that right. At this point, we are past that, I do not believe you have the opportunity to choose and leave both
deals on the list. If you want to withdraw an
application, pull it off the list, then whatever is left
on the list gets treated accordingly.

MR. COMBS: Sure. And so respectfully, I
understand that. Respectfully, this collapse, we didn't
know, and we don't know if that is even an option until we
see how the collapse is calculated.

And so how could we even make that decision on
June 29th, when the collapse is not done. There was a
Board meeting that happened earlier this month. We can't
make that determination.

And so my request is that we just have the
opportunity to make an informed decision. We can't make
an informed decision on June 29th.

MR. GOODWIN: Marni.

MS. HOLLOWAY: The rule that Mr. Irvine
mentioned and that Ryan is discussing says, prior to June
29th, an applicant that has applications pending for more
than $3 million in credit may notify staff in writing or
by email of the applications they will not pursue in order
to bring their request within the $3 million cap. Mr.
Combs is with an organization that had applications
totaling more than $5 million, I believe.

They were further down on the list. If the
Applicant has not made this self selection by this date,
staff may make the selection.

The methodology for making this determination will be to assign first priority to an application that will enable the Department to comply with -- it goes on and on. I am not going to read you the whole rule.

MR. GOODWIN: Okay.

MS. HOLLOWAY: On July 2nd, Sharon sent in an email to Mr. Combs and said, okay. You have hit the deadline. What do you want to do. And we did not hear back until very recently.

The two applications that are being recommended for funding do not total $3 million. I will tell you that. So but there isn't enough room there to get to their next application.

MR. COMBS: May I ask a question.

MR. GOODWIN: Sure.

MR. COMBS: At this point, just a process question. At this point in the process, if we were to withdraw one of those applications today, would we be eligible?

MS. HOLLOWAY: That would be the Board's decision. If you make that decision, it throws the rest of the list. You know, then we don't -- we can't tell you with certainty that the other recommended applications on your list are still valid.
MR. GOODWIN: Okay.

MS. HOLLOWAY: Because we are talking about a difference of $700,000, roughly.

MR. COMBS: Roughly.

MS. HOLLOWAY: Yes. So that -- yes, would throw a lot of things off. I also would say again, you know, we contacted Mr. Combs. He did not respond to us until recently.

MR. GOODWIN: Just sit down, sir.

MR. COMBS: Sure.

MS. HOLLOWAY: So we prompted the Applicant regarding the rule, and that rule exists for a reason.

MR. GOODWIN: Right. Any questions for Marni?

(No response.)

MR. GOODWIN: Any further discussion?

MR. COMBS: I would.

MR. GOODWIN: Please come back up to the podium, if you would.

MR. COMBS: Yes. Thank you for the pen, by the way. I would like to clarify. I did talk with Sharon after all of those conversations. And it was exactly what I said.

On June 2nd, there was a Board meeting happened on June 15th. There was an Applicant in front of us that went for appeal. That appeal was granted.
We didn't hear anything from the Department after that, that gave us any indication that things had changed in our behalf. And so we -- if there was communication that the Department was seeking from us, we were not aware of it.

MR. GOODWIN: I have got a question for you.

MR. COMBS: Yes, sir.

MR. GOODWIN: I thought I understand Marni to say that your combined applications were over our $3 million limit. They were in the $5 million range.

MR. COMBS: We have a number of applications that are out there. The Department today is recommending two of them. One of them --

MR. GOODWIN: I understand. But you are not answering my question.

MR. COMBS: I am sorry.

MR. GOODWIN: Do I understand correctly, you had multiple applications that far exceeded the $3 million range?

MR. COMBS: We have a number of applications in this application round. Is that what you are asking?

Yes, sir.

MR. GOODWIN: I asked you if they exceeded the $3 million? If all of them were funded, they would be.

Yes.
MR. GOODWIN: Okay.

MR. COMBS: But I don't believe that is on the agenda.

MR. GOODWIN: That is not going to happen.

MR. COMBS: Right. Correct.

MR. GOODWIN: Ms. Happy? I am sorry.

MS. ANDRE: Don't worry. Nobody has ever accused me of being too cheerful.

MR. GOODWIN: You are the one that said you were going to be happy to be wrong.

MS. ANDRE: I am fine with being wrong, let me put it that way. You know. You didn't hear me crying after the last Board meeting. Let's just -- you know, we can put that out there.

Now that it is really getting muddy, I truly apologize. I don't -- you know, I am not concerned with that. What I am concerned with is the process.

And I have lovely communication from Sarah Anderson. I believe everybody knows who she is. She is a consultant that has worked on a number of projects.

And last year, she pointed out at the award meeting, her project was terminated in Region Six and a deal was awarded in Region Six Urban that was a senior deal. There was no other deal left, except for a senior deal. It went over the cap. So exactly what we are
talking about has taken place.

All we are asking for is a pause in the process to determine the math. I see no reason why, if San Antonio is underserved, they should not be awarded a deal prior to the next underserved region.

MR. GOODWIN: Okay. Thank you. Any other comments?

MS. HOLLOWAY: If I may, Beau. I think you have your statute right in front of you. When did that elderly cap become -- when was that applied for the first year?

MR. ECCLES: I think it was passed in 2015, in September. So that would have made 2016 its first application.

MS. HOLLOWAY: Correct. So I would say that none of the former TDHCA staff who are opining at this point have been involved in the conversations and in that -- working through that process.

MR. GOODWIN: Okay. Any questions for Marni?

(No response.)

MR. GOODWIN: Okay. We have a motion on the floor and a second. I would entertain -- all those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?
MR. GOODWIN: Okay. The list passed. Thank you, Marni.

MS. HOLLOWAY: Thank you.

MR. GOODWIN: Thanks to all of you. We have now hit the stage in our agenda where we take comments from the public for future agenda items. Are there any public comments?

MS. LATSHA: Really quickly, Jean Latsha, with Pedcor Investments. Just because of my history here, I just want to say that wasn't me who ran any of those numbers. I am not sure. Because sitting in the audience, it sounded like it was me.

MR. GOODWIN: This isn't the time for debating what we have already done. This is a time for new items. So should we put on the next agenda, don't blame Jean?

MS. LATSHA: That is right. And really, just really thanks to you all. Because I do know how much work it takes. So cheers to all of you.

MR. GOODWIN: Thank you. All right. Any other public comments?

(No response.)

MR. GOODWIN: If not, all the people that have worked on this 9 percent round, in this tax credit round, if you would, please stand up and let the Board show our
appreciation for all that you have done. Thank you so much.

(Applause.)

MR. GOODWIN: If there are no additional comments, I will entertain a motion to adjourn.

MR. VASQUEZ: So moved.

MR. GOODWIN: Second?

MS. BINGHAM ESCAREÑO: Second.

MR. GOODWIN: All in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: We are adjourned.

(Whereupon, at 9:42 a.m., the meeting was concluded.)
CERTIFICATE

MEETING OF:       TDHCA Board
LOCATION:        Austin, Texas
DATE:            July 26, 2018

I do hereby certify that the foregoing pages, numbers 1 through 82, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Donna Boardman before the Texas Department of Housing and Community Affairs.

DATE:    July 31, 2018

/s/ Carol Bourgeois
(Transcriber)

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