

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

Texas Capitol Building
Capitol Extension
Room E2.016
1100 Congress Avenue
Austin, Texas

September 6, 2018
8:00 a.m.

MEMBERS:

J.B GOODWIN, Chair
LESLIE BINGHAM ESCAREÑO, Vice Chair
PAUL BRADEN, Member
ASUSENA RESÉNDIZ Member
SHARON THOMASON, Member
LEO VASQUEZ, Member

TIMOTHY K. IRVINE, Executive Director

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER	10
ROLL CALL	
CERTIFICATION OF QUORUM	
Resolution recognizing October as National Energy Awareness Month	11
CONSENT AGENDA	
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	10
EXECUTIVE	
a) Presentation, discussion, and possible action on Board meeting minutes summaries for May 24, 2018; June 28, 2018; July 12, 2018; and July 26, 2018	
LEGAL	
b) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Champions at North Dallas f/k/a Brighton's Mark (Bond 06018 / CMTS 2559)	
c) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Ridge at Trinity (HTC 04608 / BOND 04608B / CMTS 4198)	
MULTIFAMILY FINANCE	
d) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer	13
18409 John Cramer Apartments El Paso	
18410 Ambrosio Guillen Apartments El Paso	
18411 MLK Memorial El Paso	
18420 Walnut Creek Austin	
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e) Presentation, discussion, and possible action regarding a change in the ownership structure of the Development Owner prior to issuance of IRS Form(s) 8609 for Sandstone Foothills Apartments (HTC #18118)	

PROGRAM CONTROLS AND OVERSIGHT

- f) Presentation, discussion, and possible action to authorize and delegate signature authority to the General Land Office Land Commissioner to execute any releases of lien for Community Development Block Grant Disaster Recovery Hurricane Rita, Round II, activities

MULTIFAMILY ASSET MANAGEMENT

- g) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement

99118 Rosemont of Hillsboro Phase I
Hillsboro

01001 Rosemont of Hillsboro Phase II
Hillsboro

01108 Logan's Pointe Mount Vernon

- h) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Trust Fund Land Use Restriction Agreement

853339 Stone Ranch Apartment Homes Killeen

- i) Presentation, discussion, and possible action regarding a change in the ownership structure of the Development Owner prior to issuance of IRS Form(s) 8609

14414 The Savannah at Gateway Plano

15303 Reserve at Engel Road New Braunfels

15407 Reserve at Quebec Fort Worth

16184 Reserve at Hagan Whitehouse

- j) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application

15232 Cardinal Point Austin

- k) Presentation, discussion, and possible action to consider a waiver of 10 TAC §10.101(b)(4)(i)

17347 Alton Plaza Longview

BOND FINANCE

- l) Presentation, discussion, and possible action regarding Resolution No. 19-001 authorizing the implementation of Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program 90; approving the form and substance of the program manual and the program summary; authorizing the execution of documents and instruments necessary or convenient to carry out Mortgage Credit Certificate Program 90; and containing other provisions relating to the subject
- m) Presentation, discussion, and possible action authorizing publication of a Notice of Public Hearing for the issuance of Single Family Mortgage Revenue Bonds
- n) Presentation, discussion, and possible action regarding Resolution No. 19-002 authorizing request for Unencumbered State Ceiling and containing other provisions relating to the subject

RULES

- o) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.1, Reasonable Accommodation Requests, and an order adopting new 10 TAC §1.1, Reasonable Accommodation Requests to the Department, and directing their publication in the *Texas Register*
- p) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.2, Department Complaint System, and an order adopting new 10 TAC §1.2, Department Complaint System, and directing their publication in the *Texas Register*
- q) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.4, Protest Procedures for Contractors, and an order adopting new 10 TAC §1.4, Protest Procedures for Contractors, and directing their publication in the *Texas Register*
- r) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.6, Historically Underutilized

Businesses, and an order adopting new 10 TAC §1.6, Historically Underutilized Businesses, and directing their publication in the *Texas Register*

- s) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.9, Texas Public Information Act Training for Department Employees, and directing its publication in the *Texas Register*
- t) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.7, Staff Appeals Process, and 10 TAC §1.8, Board Appeals Process; and an order adopting new 10 TAC §1.7, Appeals Process, and directing publication in the *Texas Register*
- u) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.10, Public Comment Procedures, and an order adopting new 10 TAC §1.10, Public Comment Procedures, and directing publication in the *Texas Register*
- v) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.17, Alternative Dispute Resolution and Negotiated Rulemaking, and an order adopting new 10 TAC §1.17, Alternative Dispute Resolution, and new 10 TAC §1.12, Negotiated Rulemaking, and directing publication in the *Texas Register*
- w) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.13, Contested Case Hearing Procedures, and an order adopting new 10 TAC §1.13, Contested Case Hearing Procedures, and directing publication in the *Texas Register*
- x) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, and an order adopting new 10 TAC §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers,

- and directing publication in the *Texas Register*
- y) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.18, Colonia Housing Standards, and directing publication in the *Texas Register*
 - z) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.19, Reallocation of Financial Assistance, and an order adopting new 10 TAC §1.19, Reallocation of Financial Assistance, and directing publication in the *Texas Register*
 - aa) Presentation, discussion, and possible action on an order adopting the rule review in compliance with Tex. Gov't Code, §2306.039, without changes, for 10 TAC §1.22, Providing Contact Information to the Department, and directing publication in the *Texas Register*
 - bb) Presentation, discussion, and possible 45 action on an order proposing the repeal of 10 TAC Chapter 1, Subchapter C, Previous Participation; and an order proposing new 10 TAC Chapter 1, Subchapter C, Previous Participation and Executive Award Review and Advisory Committee, and directing their publication for public comment in the *Texas Register*
 - cc) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule; and an order proposing new 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule, and directing publication for public comment in the *Texas Register*
 - dd) Presentation, discussion, and possible action on an order adopting amendments to 10 TAC §8.3, Participation as a Proposed Development, relating to the Section 811 Project Rental Assistance Program, and directing its publication in the *Texas Register*

- ee) Presentation, discussion, and possible action on an order to readopt with changes 10 TAC §1.11, Definition of Service-Enriched Housing, and directing that it be published for readoption in the *Texas Register*
- ff) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §1.15, Integrated Housing Rule, and an order adopting new 10 TAC §1.15, Integrated Housing Rule, and directing publication for adoption in the *Texas Register*
- gg) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §6.404 Distribution of WAP Funds, and an order proposing new 10 TAC §6.404 Distribution of WAP Funds, and directing publication for public comment in the *Texas Register*
- hh) Presentation, discussion, and possible action on an order proposing new 10 TAC Chapter 7, Subchapter D, Ending Homelessness Fund, and directing publication for public comment in the *Texas Register*

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS: 10

- a) Report on the Department's Interim Balance Sheet/Statement of Net Position for the period ended May 31, 2018
- b) Report on the Department's 3rd Quarter Investment Report in accordance with the Public Funds Investment Act
- c) Report on the Department's 3rd Quarter Investment Report relating to funds held under Bond Trust Indentures
- d) TDHCA Outreach Activities, (July-September)

ACTION ITEMS

ITEM 3:	REPORT ITEMS	
	a) Report on the Migrant Labor Housing Facilities Licensing Program	20
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ITEM 5:	BOND FINANCE	42
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ITEM 6:	EXECUTIVE	61
	Presentation by Beth Van Duyne, HUD Regional Administrator for Region VI, on the Rental Assistance Demonstration Program	
ITEM 7:	RULES	
	a) Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 10, Subchapter A, concerning General Information and Definitions, Subchapter B, concerning Site and Development Requirements and Restrictions, Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications, Subchapter D, concerning Underwriting and Loan Policy, and Subchapter G,	74

concerning Fee Schedule, Appeals and Other Provisions, and directing publication for public comment in the *Texas Register*

- b) Presentation, discussion, and possible 76 action on the proposed repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and a proposed new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan (which will incorporate into Chapter 11 substance from the Uniform Multifamily Rules being repealed from 10 TAC Chapter 10, Subchapters A, B, C, D, and G), and directing its publication for public comment in the *Texas Register*
- c) Presentation, discussion, and possible 103 action on the proposed repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, and proposed new 10 TAC Chapter 13, Multifamily Direct Loan Rule, and directing publication for public comment in the *Texas Register*
- d) Presentation, discussion, and possible 106 action on an order proposing the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules, and an order proposing new 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and directing publication for public comment in the *Texas Register*
- e) Presentation, discussion, and possible 106 action on an order proposing the repeal of 10 TAC Chapter 90, Migrant Labor Housing Facilities, and an order proposing new 10 TAC Chapter 90, Migrant Labor Housing Facilities, and directing publication for public comment in the *Texas Register* (PULLED)
- f) Presentation, discussion, and possible 107 action on the proposed amendment of 10 TAC Chapter 10 Subchapter E, concerning Post Award and Asset Management Requirements, and directing

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P R O C E E D I N G S

1
2 MR. GOODWIN: I call to order the Texas
3 Department of Housing and Community Affairs Board meeting
4 for September 6, 2018.

5 We'll start with roll call. Ms. Bingham?

6 MS. BINGHAM ESCAREÑO: Here.

7 MR. GOODWIN: Mr. Braden?

8 MR. BRADEN: Here.

9 MR. GOODWIN: Mr. Goodwin.

10 Ms. Reséndiz?

11 MS. RESÉNDIZ: Present.

12 MR. GOODWIN: Ms. Thomason?

13 MS. THOMASON: Here.

14 MR. GOODWIN: Mr. Vasquez is absent. We do
15 have a quorum.

16 I would ask that you all stand and join us in
17 the pledge to the Texas and the American flag.

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

20 MR. GOODWIN: On our consent agenda we will be
21 pulling item 1(d) to take up in our action agenda, and we
22 will also be pulling item number 1(bb) to take up in our
23 action items.

24 Does anybody else have anything else you want
25 pulled?

1 (No response.)

2 MR. GOODWIN: If not, I'll entertain a motion
3 to approve the consent agenda as amended.

4 MS. BINGHAM ESCAREÑO: So moved.

5 MR. GOODWIN: Second?

6 MS. THOMASON: Second.

7 MR. GOODWIN: Any discussion?

8 (No response.)

9 MR. GOODWIN: All in favor say aye.

10 (A chorus of ayes.)

11 MR. GOODWIN: We have a resolution to be read
12 into the record from Michael. If you would, please.

13 MR. LYTTLE: The resolution reads as follows:

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

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

22 "Whereas, the Texas Department of Housing and
23 Community Affairs administers a Weatherization Assistance
24 Program, funded with both U.S. Department of Energy funds
25 and Low Income Home Energy Assistance Program funds, which

1 is operated by a network of community organizations,
2 nonprofits and local governments;

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

9 "Whereas, the Program conducts computerized
10 energy audits and uses advanced diagnostic technology,
11 investing as much as \$7,261 in a home and providing an
12 array of improvements that include weather stripping of
13 doors and windows; patching cracks and holes; insulating
14 walls, floors, and attics; replacing doors, windows,
15 refrigerators, and water heaters; and repairing heating
16 and cooling systems; and

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

23 "Now, therefore, it is hereby resolved, that
24 the Governing Board of the Texas Department of Housing and
25 Community Affairs does hereby celebrate October 2018, as

1 Energy Awareness Month in Texas.

2 "Signed this sixth day of September 2018."

3 MR. GOODWIN: Thank you.

4 Do I hear a motion to approve this resolution?

5 MR. BRADEN: So moved.

6 MR. GOODWIN: Second?

7 MS. BINGHAM ESCAREÑO: Second.

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

9 Any discussion?

10 (No response.)

11 MR. GOODWIN: All in favor say aye.

12 (A chorus of ayes.)

13 MR. GOODWIN: Hold your applause, please.

14 So we have item 1(d) that we pulled off of the
15 consent agenda. 1(d) is also being modified and we are
16 pulling item number 18422 from that so it will not be
17 discussed, and I think we have somebody that wants to
18 comment.

19 Before we do that, do I have a motion to
20 approve item 1(d)?

21 MS. RESÉNDIZ: So moved.

22 MR. GOODWIN: Moved. Seconded?

23 MS. THOMASON: Second.

24 MR. GOODWIN: Okay. Discussion. Ma'am, did
25 you want to speak?

1 SPEAKER FROM AUDIENCE: I do but I was wanting
2 to speak to item 18422. May I still?

3 MR. GOODWIN: You may still, since it was
4 posted, speak to it, but it will not be voted on until
5 some later date.

6 MS. DEEDS: Good morning. I'm Farida Deeds.

7 MR. GOODWIN: We need your name, and sign in if
8 you would, please.

9 MS. DEEDS: Thank you. I'm Farida Deeds,
10 speaking on behalf of neighbors in opposition to
11 application 18422 Elysium Grand at 3300 Oak Creek in
12 Austin, which was previously application 17272 in 2017 and
13 16161 in 2016 for the 9 percent housing tax credits.

14 Several within our neighborhood have shared
15 concerns. In fact, in 2016 there were over 1,000
16 signatures from residents in the nearby neighborhoods for
17 a petition against apartments on Oak Creek and the zoning
18 change needed to achieve that, and it was submitted to the
19 TDHCA. In 2016 and 2017 the neighborhood filed opposition
20 QCPs with the TDHCA.

21 The neighborhood is not opposed to affordable
22 housing in general but rather is opposed to the scale of
23 this project at this site, which has several shortfalls.
24 Flooding has occurred on the sole street, our neighborhood
25 street, accessing the site, and there was a high water

1 rescue in front of this site in October 2013. In early
2 2016 the applicant presented a preliminary site plan of
3 several three story residential buildings. The
4 neighborhood realized that such a plan sprawled too much
5 of the site as much of the site is located in the 100-year
6 flood plain and critical water quality zone. Later the
7 applicant must have realized that too because then the
8 project morphed to include four and five story buildings.

9 When asked if the applicant could reduce the number of
10 units or building height, its response was that it could
11 not because it would not be profitable. Our interest
12 shouldn't be to force a site to fit a project, rather a
13 project should be suitably designed for the site.

14 We know the land to be karst. The City of
15 Austin's watershed department did a preliminary assessment
16 and here is an excerpt from the zoning hearing transcript.

17 "The neighborhood does have their facts
18 correct, it does have flood plain on the property,
19 critical water quality zone, that covers a significant
20 portion of the property. There are at least two critical
21 environmental features, or karst features, likely a third
22 one. Our geologist thinks it's likely another sinkhole.
23 The applicant does understand they will need to work
24 around all these three and maybe more once we dig into it
25 more."

1 Not only are four and five story structures
2 completely out of place along a neighborhood street with
3 the site bordering single family two and rural residential
4 zoning, but are such building heights desired on land with
5 known critical environmental feature with a 50-foot buffer
6 perimeter as shown on the site plan? It was acknowledged
7 by the applicant that it will comply with recommendations
8 of the environmental site assessment. But do we know to
9 what extent other environmental hazards, sinkholes or
10 caves and karst may be uncovered and at what cost to
11 resolve those?

12 Regarding zoning, the city pushed through a
13 change only just before the 2017 application and not 2016.

14 Multifamily rules changed in that the site could not be
15 within 500 feet, not 100 feet, of an active railroad
16 track, which this site is. So the city passed the zoning
17 to include an ordinance likely so that the application
18 would not be disqualified. So why this zoning with taller
19 building heights? Is it simply because it's for this
20 affordable housing project?

21 Accessibility from the site to amenities is
22 limited by foot, and the city gave the site a low
23 walkability score and residents will be car-dependent.
24 The state representative did not give her support for the
25 2016 application, citing one reason as the lack of public

1 transportation. In 2017 she gave her support because
2 there were plans to provide transportation. Now again,
3 there is no formal plan that we're aware of for providing
4 transportation. This past May 24 -- may I continue?

5 MR. GOODWIN: You may.

6 MS. DEEDS: I appreciate that.

7 This past May 24 one Austin council member
8 stated that although the project has a good range of
9 incomes and mix of units, she questioned why we continue
10 to place people in situations where they will be car-
11 dependent, and she voted no on a bond proposal for this
12 site. Affordable housing options are limited for
13 prospective residents and is it necessary to subject them
14 to such a site: flooding, sinkholes, railroad track,
15 inaccessibility, lack of public transportation?

16 The purchase price of the property was well
17 above the asking price of \$1.4 million. Back in 2015 the
18 contract purchase price was \$2.4 million, a full one
19 million dollars over asking, and Travis County Appraisal
20 District had it assessed at only \$557,000. So why has
21 Austin Housing Finance Corporation served as the lender of
22 funds on December 28, 2017, closing date for the purchase
23 price of \$2.075 million, when the listing price still
24 showed only \$1.4 million and which TCAD appraised at
25 \$835,000 for 2016 to 2018?

1 For all intents and purposes is the funding for
2 this project seemingly considered a done deal by the
3 applicant and the city when we're still in the midst of a
4 hearing for this 4 percent housing tax credit and we have
5 yet to have another hearing with the city for the \$10
6 million private activity bonds?

7 We hope that you will at least consider some of
8 these comments and decide to either decline consent or
9 postpone a decision. As mentioned before, we are opposed
10 to the scale of this project whether it be for affordable
11 housing or luxury apartments or otherwise. If the state
12 and city still want to move ahead with an affordable
13 project at this site where there is no suitable access to
14 public transportation, so be it, but it is
15 counterintuitive and essentially seems we will be
16 subsidizing a resident's need for a car and perhaps not
17 addressing overall affordability. But with the site's
18 environmental concerns of flooding, sinkholes, karst, a
19 project of this scale may be questionable as to how much
20 additional costs, and hopefully no impact to safety, may
21 be incurred as we go into the future.

22 Regardless of what happens, please know whether
23 it be 90 units or fewer, prospective residents will be
24 welcome into our neighborhood community. Thank you for
25 your consideration.

1 MR. GOODWIN: Thank you.

2 Any questions?

3 (No response.)

4 MR. GOODWIN: Thank you.

5 MS. DEEDS: Thank you.

6 MR. GOODWIN: Any other discussion?

7 (No response.)

8 MR. GOODWIN: We have a motion in front of the
9 Board and a second. All those in favor say aye, as
10 amended.

11 (A chorus of ayes.)

12 MR. GOODWIN: Opposed?

13 (No response.)

14 MR. GOODWIN: So 1(d) is passed.

15 WE move on to report items, action report
16 items, and we start. Tom, are you going to report on the
17 migrant labor housing facilities?

18 MR. GOURIS: I am.

19 MR. GOODWIN: Okay.

20 MR. GOURIS: Good morning, Mr. Chairman, Board
21 members. My name is Tom Gouris. I'm a director at TDHCA
22 here to report to you about the licensing and inspection
23 rules for migrant labor housing facilities and an exciting
24 new branding campaign for the licensing activity.

25 I'm going to give a little background about the

1 migrant labor housing facility licensing activity because
2 it's probably one you're not very familiar with, but
3 unlike the typical program activity conducted by the
4 Department, it does not begin with funding from the
5 Department.

6 In Texas before you can provide housing for two
7 or more migrant families or three or more individuals for
8 three or more days as living quarters, you have to be
9 licensed by the Department. We've been licensing
10 facilities for more than ten years and over the past year
11 have licensed 48 facilities. The names and addresses of
12 each of these licensees are on our website, along with
13 information about how to get licensed, how to complain
14 about a facility, how to make TDHCA aware about a
15 potential unlicensed facility, and a variety of other
16 things about the migrant farm worker housing program. The
17 website is available in English and Spanish. Licenses
18 last for a year and they cost \$250.

19 The actual inspection and processing of the
20 licenses are currently handled by our sister agency, the
21 Manufactured Housing Division, and that occurs when
22 providers of such housing self-identify that they wish to
23 be licensed, that they operate such a facility. So our
24 regulatory or enforcement activity is not a result of
25 providing funds for housing a it is for almost all of our

1 other activities, and at the same time we are not a
2 typical law enforcement agency with resources to patrol
3 the streets to find unlicensed facilities. We do,
4 however, let people know about the legal requirement for
5 licensing whenever we're told about unlicensed facilities.

6 Last summer it was identified to us that a
7 large segment of the migrant labor population is regulated
8 by the U.S. Department of Labor through the
9 H-2A visa program. We learned that this program is
10 administered here by the Texas Workforce Commission, and
11 requires, among other things, that employers who wish to
12 temporarily employ foreign workers in the U.S. provide a
13 temporary place for those workers to live. So we have
14 engaged with our counterparts at TWC and DOL and have been
15 working with them to find ways that we could minimize
16 duplication of effort in the pact with the employer but
17 still get everybody lawfully licensed.

18 So just a little bit more background, if I
19 could. Bear with me. The U.S. Department of Labor uses
20 two standards for the inspection of labor facilities: the
21 ETA standard and that's a standard for facilities in
22 operation prior to 1980, and the OSHA standard for
23 properties beginning in operation after 1980. Our Texas
24 statute does not specify a federal standard to use but
25 instead directs this Board to enact a Texas standard for

1 inspection and address eleven areas identified in the
2 statute and allows the Board to add any other matters
3 appropriate or necessary for the protection of the health
4 and safety of the occupants of such housing.

5 Our current rule, which dates back as far as
6 2005, contains inspection standards that address all
7 eleven statutory requirements through primarily a
8 combination of the two federal standards generally using
9 what could be characterized as the more worker-friendly
10 standard.

11 So TWC currently does inspections under the ETA
12 or OSHA standard for the H-2A program and we have been
13 working on revisions to our rule to accept their
14 inspections and the federal minimum standards that they
15 use in the inspection process. However, we've received
16 considerable feedback from advocacy groups and a group of
17 interested legislators who expressed compelling concerns
18 with regard to the differences in the two federal
19 standards and how abandoning our current standard could
20 lessen the housing protections for all migrant workers.

21 They identified a number of instances where the
22 lesser standard would weaken these protections. For
23 example, the ETA standard requires electricity to be
24 available at a housing facility, whereas, the OSHA
25 standard only regulates electricity if it's already

1 available at the facility.

2 So we drafted a rule that included nine
3 specific inspection standards that are already in the
4 current rule, most of which are either in one or the other
5 federal standard but not both, and that proposed rule
6 maintains them as part of the Texas standard going
7 forward. This would allow us to minimize the duplication
8 of effort and impact by the employer by accepting the TWC
9 standard and also along with a certification and
10 documentation of the nine Texas standards.

11 In testimony we received yesterday, four
12 additional items which were previously identified by the
13 advocates but not included in the revised standard were
14 again mentioned, and staff will continue to work with them
15 to explore ways to reconsider these excluded standards.
16 And other comments were made to facilitate more discussion
17 and so the decision was made to bring these rules back at
18 a future meeting.

19 One other item that we discussed yesterday was
20 the fact that the draft rule wanted to reduce the burden
21 on new licensees who are a part of the TWC regiment, and
22 doing that by limiting their licensing fee to \$25 for the
23 first two years, as long as we receive the TWC inspection
24 with our application. This would apply for the first two
25 years the licensing was being considered since we only

1 have fee appropriations for fiscal 2019 of \$10,500 which
2 was the anticipated fee collections for the year when the
3 last appropriations were made and before we understood how
4 many H-2A potential licensees we might receive. So this
5 is all something we need to continue to work on and work
6 with TWC and the advocates and the legislators to try to
7 work through.

8 So we've already reached out to 180 H-2A
9 employers, grower organizations and consultants who help
10 employers through the H-2A process. As I mentioned
11 before, we have 48 actual licensees that aren't H-2A
12 employers. That's the most we've had in the ten years
13 we've operated this program, but we expect with the H-2A
14 program to significantly increase the number of licensees
15 if they all choose to become licensees.

16 We will continue to reach out to these groups
17 and soon we'll be able to receive copies of application
18 material for the H-2A program as they send that in to TWC.

19 TWC is going to forward it to us and then we will be able
20 to contact them directly and indicate to them their need
21 to be licensed then.

22 Okay. So now on to some more exciting news.
23 One of the things we recognized right away is that we
24 needed to improve the recognition of this program, the
25 understanding of this program, and so we want to better

1 communicate the value of obtaining a license, so we
2 developed a brand logo for the licensing program.

3 Many thanks go to Amy Kincheloe. Amy, if you
4 can stand. She's in our communications and marketing
5 group for our Policy and Public Affairs Division, and she
6 went through a bunch of different versions of this logo
7 and helped design it and develop it and she does an
8 extraordinary job, so really appreciate the work that you
9 did, Amy.

10 MR. GOODWIN: Thank you, Amy.

11 (Applause.)

12 MR. GOURIS: That logo is in your book but this
13 is a small copy of it.

14 I also want to thank our executive director
15 because he had significant input on the design of the logo
16 as well. It should provide a powerful positive
17 recognition of a licensed facility so that employees will
18 know that a facility is up to standard.

19 We also want to thank the focus groups of farm
20 laborers put together by motivation, education and
21 training, and by the Texas Rio Grande Legal Aid to help us
22 develop this logo so it could speak to those employees as
23 laborers, as workers, without words and to represent what
24 a migrant labor housing license meant.

25 It's expected that this brand will be used by

1 employers wishing to self-identify, that along with
2 employment opportunity, they are offering safety in
3 licensed housing. The plan is to provide a hard copy of
4 the logo with the year inside so that folks can tell that
5 they were licensed that year. It shows right there inside
6 the house there. We'll also be providing licensees with
7 access to an electronic form of the graphic so that they
8 can use it in connection with any advertising that they
9 might do when they're soliciting workers. We will also be
10 able to begin to use this logo from now on on our migrant
11 worker web page and all the correspondence and promotional
12 activities regarding licensing activity.

13 With that, I'll be glad to answer any questions
14 about the logo or the licensing process or the rule that's
15 going to be coming back to you.

16 MR. GOODWIN: Okay. Any questions?

17 MS. BINGHAM ESCAREÑO: It looks great. So
18 years ago we were able -- I think we were visiting Lubbock
19 to somewhere and we were able to visit some kind of legacy
20 migrant housing and get some background on how
21 unacceptable those conditions have been historically, so I
22 think it's a great thing that the agency does to improve
23 housing for migrants.

24 So just to make sure we understand, so there's
25 140 employers that employ H-2A visa folks in Texas?

1 MR. GOURIS: At least. It's hard to know
2 exactly because what we have information on today is folks
3 that have made application in the past year and a half,
4 and so we've sent out to 180 folks, about 140 of them were
5 employers.

6 MS. BINGHAM ESCAREÑO: Okay. Very good. And
7 48 is the max that we've had that have actually been
8 licensed through our program.

9 MR. GOURIS: And none of that 140 are included
10 in that 48.

11 MS. BINGHAM ESCAREÑO: Oh, okay. So it's 140
12 outside of the 48.

13 MR. GOURIS: That's correct.

14 MS. BINGHAM ESCAREÑO: Okay. Very good. And
15 the four rules that are the four items that the advocacy
16 groups have been talking to us about that are going to
17 come back to us possibly?

18 MR. GOURIS: The direction we got yesterday was
19 to work with TWC. TWC's plan was to do a more streamlined
20 version which would exclude not only those four but the
21 nine that we did include, so we're working on figuring how
22 we can do both things.

23 MS. BINGHAM ESCAREÑO: Good. And we re-license
24 every year?

25 MR. GOURIS: Yes, we do. That's statutory.

1 Yes.

2 MS. BINGHAM ESCAREÑO: It's statutory. Good.

3 I don't have any other questions.

4 MR. GOODWIN: Did I hear you say that we are
5 relying on TWC's inspection?

6 MR. GOURIS: We haven't yet. The plan for this
7 rule was that we would. As of right now, if one of these
8 H-2A providers, employers wants to be licensed, we would
9 have to do our own inspection and charge them the full
10 \$250. The rule proposed to reduce the fee and to use the
11 TWC inspection in lieu of our own inspection, along with
12 certification documentation as we felt necessary to prove
13 up the other standards that they're not testing for.

14 MR. GOODWIN: So we're now dealing with the
15 people that are licensed or have filed for license. What
16 about those people who have not filed for a license and
17 have inadequate housing for these farm workers? Why don't
18 you talk a little bit about what happens as it relates to
19 the Department involved in that?

20 MR. GOURIS: Tim and Beau can speak to this
21 too. That's one of the most difficult things we have to
22 do because, one, we don't have a whole lot of law
23 enforcement tools. We have the ability to get injunctive
24 relief to prevent them from providing that housing, which
25 then the alternative is those workers would have to

1 provide someplace else to live which may not exist, and/or
2 we can apply a fine for each violation of up to \$200 per
3 day by statute. By rule it's just \$200 per violation
4 right now.

5 And we, of course, in the meantime without
6 those things we would pursue them as vigorously as
7 possible with making them recognize they need to be
8 licensed, they need to do corrective action, but as far
9 as what kind of hammers we have, it's a little more
10 challenging.

11 MR. IRVINE: Essentially, the folks who are
12 arranging for H-2A visas are required by federal law to
13 arrange for housing also, and the TWC inspections or
14 verifications of that housing are to a different standard
15 than our licenses. So you've got all of these people who
16 are coming here under H-2A visas and they were cleared
17 under a lower standard, frankly. We have contacted them
18 to let them know you need a license from us if you hit the
19 triggers provided for in our statute and we are going to
20 be looking at them. If we find that somebody has said,
21 oh, I don't want to get a license, I'm just going to go
22 ahead under my H-2A visa, that's probably going to serve
23 as the predicate to some sort of an enforcement action.

24 MR. GOURIS: And just to kind of further that
25 point, the H-2A providers who are going through the

1 process at TWC are probably not the worst actors out
2 there, they're probably trying to do the right thing, and
3 probably are going to be cooperative, and that's good,
4 that's what we want. It's those folks that are going
5 outside the system and those are the folks that are
6 hardest to find. So the whole idea behind the branding
7 campaign is to make it a positive reinforcer of the
8 licensing activity so that folks will want to do that so
9 that they can garner employees, good employees, and by
10 doing that, we were hoping to improve the lot of the
11 entire process because without the tools for enforcement,
12 we've got to provide some incentives to be licensed, and
13 that's the point of the branding campaign.

14 MR. GOODWIN: Somewhere in your presentation
15 you used the phrase "good and decent housing."

16 MR. GOURIS: Yes.

17 MR. GOODWIN: Could you describe to me what
18 constitutes good and decent housing for these people,
19 maybe at the lowest possible level so I can imagine from
20 there up?

21 MR. GOURIS: I think it's a different standard
22 for migrant farm worker housing than it is for other
23 housing, not because I think that personally or because
24 that's a Department policy, but because the statutory
25 requirements are different. In fact, that's the case for

1 all of our different types of housing, whether it be HOME
2 funded or tax credit funded, there are different standards
3 that are required in many cases.

4 Obviously, the tax credit standard is going to
5 be a very different standard than the migrant farm worker
6 housing standard primarily because the tax credit standard
7 is one that we fund and a lot of resources are brought to
8 bear to help bring that standard to be where it needs to
9 be.

10 As I said in my beginning remarks, we don't
11 provide funding for migrant farm worker housing, or at
12 least not a significant amount. Occasionally we'll have
13 an opportunity to participate in a project, but primarily
14 the housing is being created as stopgap measure by the
15 employer, so what we're trying to do with these rules is
16 making sure that that minimum level is a level that's safe
17 and decent.

18 MR. GOODWIN: But my question is more specific,
19 Tom. My question is what does a minimum level of migrant
20 housing look like. Is it a container that's been modified
21 that has electricity and air conditioning and a port-a-
22 potty outside, or is it, you know --

23 MR. IRVINE: We've defined it in our rules, and
24 I would characterize it as housing that keeps the
25 residents safe from the elements, provides access to

1 things like restrooms and cooking facilities, is
2 controlled for health and safety issues, and it's not a
3 place that would pose a danger to them. And because many
4 of these workers travel with their families, it would also
5 provide a modicum of privacy for family members.

6 MR. GOODWIN: Okay. Any other questions?

7 MS. RESÉNDIZ: Mr. Chairman.

8 And, Tom, what were some of the comments made
9 at yesterday's hearing?

10 MR. GOURIS: Well, one of them had to do with
11 the reduction to the \$25 fee because there is an interest
12 in seeing that we have more resources available to pursue
13 enforcement or other activities. That we're struggling
14 with because we also don't want it to look like we're
15 suddenly charging these employers a new amount of money
16 that they weren't expecting to have to do when they
17 started with the H-2A program. So that was one of the
18 conversations that we're going to have to continue; they
19 would like us to continue to charge \$250 a year instead of
20 \$25.

21 Another comment that was made had to do with
22 the sheer number of migrant workers. Now, we don't have
23 data to support this, but it was claimed that there are
24 some 750,000 migrant workers in Texas, and that's a lot of
25 folks. If it's a tenth of that, it's still a lot of

1 folks. They're all finding housing someplace. Some of it
2 is required to be regulated and it seems clear that we're
3 not regulating enough of it at this point, so trying to
4 build that is what we're trying to do.

5 MS. RESÉNDIZ: Do you know where that source
6 came from, the 750,000? Where did they get that number
7 from?

8 MR. GOURIS: The gentleman from Texas Rio
9 Grande Legal Aid.

10 MR. GOODWIN: Mr. Braden.

11 MR. BRADEN: Mr. Chair, so with respect to
12 yesterday's hearing, they took place at the Rules
13 Committee and our Rules Committee was a four-hour long
14 meeting, probably about the last hour of it or so was with
15 respect to this topic. And there was some very good
16 testimony, including a migrant farm worker who testified
17 about his personal situation and his conditions and what
18 he has to go through. It was heartfelt. I think Leo and
19 I both listened intently, as did everybody else who was in
20 the audience. And we had a good representative from Texas
21 Rio Grande Legal Aid who went through a lot of significant
22 issues, and we also had other stakeholder representatives
23 who spoke.

24 And I think the gist of all of that is it's a
25 bigger problem than our rules, and so I think the decision

1 was, well, let's just not move forward with these rules as
2 is, let's try greater coordination with the Texas
3 Workforce Commission, maybe the Department of Labor and
4 see what we can do to address the problem generally. So I
5 think that was the outcome of all of it.

6 MR. GOODWIN: Any other questions?

7 (No response.)

8 MR. GOODWIN: If not, do I hear a motion to
9 accept Tom's report.

10 MS. BINGHAM ESCAREÑO: Move to approve.

11 MR. GOODWIN: Move to approve. Second?

12 MS. RESÉNDIZ: Second.

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

14 Any further discussion?

15 (No response.)

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

17 (A chorus of ayes.)

18 MR. GOODWIN: Opposed?

19 (No response.)

20 MR. GOODWIN: Thank you, Tom.

21 MR. GOURIS: Thank you.

22 MR. GOODWIN: Next we have a report on the
23 Department's fair housing activities.

24 MS. BOSTON: Good morning, Chairman Goodwin,
25 Board members. I'm Brooke Boston, I am not Suzanne

1 Hemphill, who is in your agenda. I'm pleased to say that
2 she delivered a healthy baby girl a few days ago which is
3 why she's not here.

4 So Suzanne last came before you to speak in May
5 about the Department's outreach and citizen community
6 participation plan as it relates to the 2019 Analysis of
7 Impediments to Fair Housing Choice, which we
8 affectionately call the AI. So the AI is a process that
9 recipients of grant funds from HUD are required to pursue
10 and we undertake that as part of our obligation relating
11 to furthering fair housing under the Fair Housing Act.

12 At the state level the Texas General Land
13 Office, the Department of State Health Services, the Texas
14 Department of Agriculture, and TDHCA are jointly
15 responsible for carrying out the work of the AI. TDHCA is
16 the central kind of repository and coordinator for that.

17 So prior to drafting our five-year consolidated
18 plan for 2020-2024, which will be forthcoming in the
19 future months, all state agencies that I named that
20 receive the funding from community planning and
21 development funds at HUD are required to go through this
22 process. So the state, through this process, analyzes
23 challenges to fair housing choice, we look back at the
24 past impediments that we had named, evaluate where we've
25 come from that, and then take significant public

1 consultation.

2 So in the consultation phase, which has just
3 wrapped up, we conducted over 40 separate consultations.
4 We sought input and feedback regarding fair housing
5 issues, particularly relating to protected classes.
6 Thirty of those consultations were conducted around the
7 state and were advertised to the public and the
8 stakeholders. Four of those 30 consultations were held as
9 hearings which were published in the *Register*. All
10 meetings were posted on TDHCA's website. In your books
11 there's a map of where we held the different
12 consultations. We also used email blasts to contact local
13 officials, advocacy groups, stakeholder groups, the public
14 at large, and asked people to give input.

15 We created an analysis of impediments web page,
16 listing all the information in English, Spanish and
17 Vietnamese to reach people of limited English proficiency
18 per our language access plan. Accommodations were
19 available to individuals requiring auxiliary aids or
20 services, and sign language interpreters were available to
21 participate in meetings if needed. Spanish and Vietnamese
22 interpreters were available upon request.

23 Media advisories were sent in English, Spanish
24 and Vietnamese to press contacts in the twelve different
25 market areas where our public meetings were held which

1 included Amarillo, Abilene, Austin, Brownsville, Corpus,
2 Denton, El Paso, Houston, Midland, Nacogdoches, Seguin,
3 and Texarkana.

4 Four additional opportunities for consultation
5 were given at already scheduled meetings with certain
6 stakeholder groups. Those include the Interagency Council
7 for the Homeless, the Housing and Health Services
8 Coordination Council, our Disability Advisory Work Group,
9 and at the regular meeting of the Texas Affiliation of
10 Affordable Housing Providers, TAAHP, at their annual
11 conference. So lastly, we also did six targeted online
12 consultations that were conducted through webinars and
13 that were for specific subject areas.

14 In addition to all of those we encouraged
15 written feedback. Written input was accepted through
16 August 10. Across all of those consultation sessions we
17 heard from 495 individuals and then there were an
18 additional 15 people who submitted comment in writing.

19 So we are now compiling all of that and also
20 looking at objective data analysis and research efforts on
21 rules and regulations. A draft AI will be presented to
22 you guys for consideration in late 2018. After that it
23 will then go out for public comment and come back to be
24 approved in the final format.

25 So that was really what I wanted to share with

1 you today was just to give you an update on where we are
2 with that process. It's going very well and we've been
3 glad to get as much input as we have.

4 Any questions?

5 MR. GOODWIN: Thank you, Brooke. And
6 congratulations to Suzanne.

7 Any questions?

8 (No response.)

9 MR. GOODWIN: If not, do I hear a motion to
10 accept and approve Brooke's report?

11 MS. THOMASON: So moved.

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

13 MR. BRADEN: Second.

14 MR. GOODWIN: Moved and seconded. Any
15 discussion?

16 (No response.)

17 MR. GOODWIN: All in favor say aye.

18 (A chorus of ayes.)

19 MR. GOODWIN: Opposed?

20 (No response.)

21 MR. GOODWIN: Thank you.

22 MS. BOSTON: And can I ask was item (bb)
23 pulled from the agenda entirely or just moved?

24 MR. GOODWIN: No. It's moved. It will be what
25 we take up under item 7, it will be the first thing under

1 rules.

2 Next we have a report on the meeting of the
3 Audit and Finance Committee. Ms. Thomason.

4 MS. THOMASON: Yes. The Audit and Finance
5 Committee met this morning at 7:30. Staff will be here to
6 address any questions that we may have.

7 Our director of Internal Audit, Mr. Mark Scott,
8 presented the 2019 Internal Audit Plan for approval. The
9 committee voted to recommend approval to the full Board,
10 and Mark will present that in a few minutes and it has to
11 be approved by the full Board by statute.

12 Mr. Scott also went over the audit of the
13 Neighborhood Stabilization Program, or the NSP, closeout
14 process, and then he also presented a newly written
15 standard operating procedure for fraud, waste and abuse.

16 So in addition to those items, the Finance
17 Division also presented an item. The committee was
18 presented a report item relating to a statutorily required
19 schedule providing information on revenues that are
20 collected by the Department in the last three years and
21 containing explanations of any variances of fees budgeted
22 within the operating budget and fees collected within the
23 last year if the variance is above 3 percent. So David
24 Cervantes, who is the director of Administration, is here
25 to answer any questions that we may have on that as well.

1 MR. GOODWIN: Any questions?

2 (No response.)

3 MR. GOODWIN: If not, do I hear a motion to
4 accept and approve Ms. Thomason's report?

5 MS. BINGHAM ESCAREÑO: Move to approve.

6 MR. GOODWIN: Second?

7 MS. RESÉNDIZ: Second.

8 MR. GOODWIN: Any discussion?

9 (No response.)

10 MR. GOODWIN: All in favor say aye.

11 (A chorus of ayes.)

12 MR. GOODWIN: Opposed?

13 (No response.)

14 MR. GOODWIN: Next I think, Mark, you're going
15 to present the possible approval of the Internal Audit
16 Plan.

17 MR. SCOTT: Good morning. I'm Mark Scott, the
18 director of Internal Audit.

19 And we did go over the audit plan at the
20 committee meeting this morning. By statute the Internal
21 Audit Plan has to be approved by the full Board. I'm
22 happy to answer any questions there may be. It was in the
23 book. Otherwise, I will ask for approval of the 2019
24 Internal Audit Plan.

25 MR. GOODWIN: Any questions before I ask for a

1 motion?

2 (No response.)

3 MR. GOODWIN: If not, do I hear a motion to
4 approve?

5 MR. BRADEN: So moved.

6 MR. GOODWIN: Second?

7 MS. BINGHAM ESCAREÑO: Second.

8 MR. GOODWIN: Moved and seconded. Any further
9 questions or discussion?

10 (No response.)

11 MR. GOODWIN: All in favor say aye.

12 (A chorus of ayes.)

13 MR. GOODWIN: Opposed?

14 (No response.)

15 MR. GOODWIN: Item 4(c), Mark.

16 MR. SCOTT: Yes. We did an audit of the
17 Neighborhood Stabilization Program closeout process. OIA,
18 Internal Audit, reviewed the closeout procedures for
19 individual contracts, and this is in preparation to an
20 overall closeout that's going to be done by the federal
21 funding agency.

22 We tested the reconciliations between the
23 housing contract system and the Disaster Recovery Grant
24 Reporting system, or the DRGR. We also tested other
25 requirements such as subrecipient compliance with the

1 Single Audit Act, proper draw amounts and other elements,
2 and we found no audit exceptions. So that concludes my
3 presentation.

4 MR. GOODWIN: Do I have a motion to accept
5 Mark's presentation?

6 MS. BINGHAM ESCAREÑO: So moved.

7 MR. GOODWIN: Second?

8 MS. THOMASON: Second.

9 MR. GOODWIN: Any discussion?

10 (No response.)

11 MR. GOODWIN: All in favor say aye.

12 (A chorus of ayes.)

13 MR. GOODWIN: Opposed?

14 (No response.)

15 MR. GOODWIN: Thank you, Mark.

16 MR. SCOTT: Thank you very much.

17 Bond Finance, Monica.

18 MS. GALUSKI: Good morning, Mr. Chairman,
19 members of the Board, staff. I'm Monica Galuski, the
20 director of Bond Finance and chief investment officer.

21 This is item number 5 which is Presentation,
22 discussion, and possible action regarding Resolution No.
23 19-004 approving amendments to program documents for
24 Taxable Mortgage Program; authorizing the execution of
25 documents and instruments relating to the foregoing;

1 making certain findings and determinations in connection
2 therewith; and containing other provisions relating to the
3 subject.

4 In late 2012, the Department implemented its
5 taxable mortgage program which is an adaption of a private
6 sector mortgage model, also known as the TBA program.
7 This program has become the primary financing mechanism
8 for our single family homeownership program, assisting
9 over 5,800 homebuyers in fiscal year 2018 by financing
10 just under one billion in first mortgage loans and second
11 loans for down payment assistance and closing costs.
12 Since inception the program has maintained IRS mandated
13 requirements associated with tax exempt bond issues,
14 including the first time homebuyer requirement, income
15 limits and purchase price limits.

16 With this item staff is seeking approval of the
17 addition of a new loan option to the program. Applicable
18 to this additional loan option only would be expanding the
19 eligible homebuyers to include those homebuyers that don't
20 meet the definition of a first time homebuyer, allowing
21 lenders to calculate borrower income for eligibility using
22 what's known as 1003 income, sort of their standard way of
23 determining income for credit qualifying purposes, versus
24 using the IRS required methodology for tax exempt bonds,
25 and eliminating the tax exempt documentation such as

1 borrower notices of recapture, et cetera, that by
2 definition are really only associated with tax exempt
3 bonds or mortgage credit certificates.

4 We are excited about the opportunity to assist
5 low and moderate income homebuyers that currently are not
6 eligible for the this program because they don't meet the
7 definition of a first time homebuyer, and we can assist
8 them without negatively impacting and potentially
9 improving the overall program.

10 So in summary, what we are asking is the
11 ability to add a taxable loan option to our taxable
12 mortgage program. I'd be happy to answer any questions or
13 expand on any areas.

14 MR. GOODWIN: Questions?

15 (No response.)

16 MR. GOODWIN: If not, do I hear a motion to
17 approve the report?

18 MR. BRADEN: Move to approve.

19 MR. GOODWIN: Second?

20 MS. THOMASON: Second.

21 MR. GOODWIN: Any discussion?

22 (No response.)

23 MR. GOODWIN: All in favor say aye.

24 (A chorus of ayes.)

25 MR. GOODWIN: Opposed?

1 (No response.)

2 MR. GOODWIN: Thank you, Monica.

3 MS. GALUSKI: Thank you.

4 MR. GOODWIN: Next we have item 6 and we're
5 going to have a presentation.

6 MR. IRVINE: I don't believe she's here yet.

7 MR. GOODWIN: I don't believe she's here yet,
8 so we're going to move beyond that and go into item 7, the
9 rules, and we're going to start with number 1(bb) which
10 was pulled from the consent agenda.

11 And I would remind everyone if you want to
12 speak to these, these are the rules that are being
13 proposed to be published in the *Texas Register*, so we're
14 not moving to adopt them, but if you want to speak to
15 these, anyone in the audience, please come up and sit in
16 the first row, and then when you're up, please sign in,
17 state your name, and we are going to limit discussion to
18 three minutes.

19 MS. BOSTON: Board, this is item 1(bb) relating
20 to the rule that proposes the repeal and then subsequent
21 adoption. The rule being repealed is called Previous
22 Participation, the revised rule being replaced is actually
23 called Previous Participation and Executive Award Review
24 and Advisory Committee. The rules include now a section
25 that addresses how that committee internally within TDHCA

1 will operate.

2 This rule contemplated a pretty significant
3 series of changes to how previous participation is
4 determined. As you guys know, previous participation is
5 the process that we got through with any application that
6 gets turned into the Department, whether that's Community
7 Services Block Grant, Multifamily, HOME Single Family,
8 regardless of which funding source, this process is how we
9 review that applicant's past history with the Department,
10 and we look through that and then make a determination as
11 to whether we think that they should get an award, and if
12 necessary, what the conditions would be.

13 Up until now, those conditions are things that
14 were determined by the EARAC Committee and one of the big
15 changes in this rule before you is that those conditions
16 are now being formalized in rule. That way an applicant
17 knows ahead of time what the possible scenarios are for a
18 condition, and it lays out if you have X category of
19 issue, Y will be your condition. So it's very
20 forthcoming, it's a nice process for EARAC so that EARAC
21 is not in a position of having to come up with conditions
22 in that manner.

23 Overall the changes for the rule, we added
24 clear purposes for each section, we more clearly aligned
25 the processes with 2 CFR Part 200. That is the federal

1 rule that relates to how we have to review our federal
2 funds, so for instance, HOME, LIHEAP, and so we made sure
3 that it's clear that this process of previous
4 participation and EARAC is the process by which we're
5 satisfying our federal requirements.

6 We historically in this rule had divided the
7 portfolios in multifamily up by size and then evaluated,
8 then we categorized them to where we thought they were as
9 a rating score for whether they have no problems at all to
10 some to uh-oh. So we took out that process of
11 categorizing by portfolio size and just came up with a
12 more straightforward approach. Over the years we have
13 gotten a lot of input on the process and so during -- I
14 can't remember which month it was but during one of the
15 months where we did the multifamily work groups, in one of
16 those we had talked pretty extensively with folks about
17 the EARAC rule and the PPR process and what they thought
18 should happen.

19 So we also streamlined what triggers would
20 include you into different categories, we clarified
21 several circumstances where we actually don't think you
22 need to have a very extensive PPR review, that if you meet
23 this, this or this criteria, it will be pretty
24 straightforward and you're just approved, which was
25 intended to streamline things.

1 We clarified language relating to the single
2 audit submission because that's a big part for our non-
3 multifamily applicants that we have to make sure we've
4 seen their single audit and had a chance to review that.

5 We added more clarity relating to how EARAC
6 will communicate with an applicant and let them know what
7 direction we're going. As I mentioned, it includes what
8 the conditions will be. And then we also added a very
9 clear dispute process, so if someone doesn't agree with
10 the direction we're going, it lays out for them how they
11 can kind of come and appeal that. It's not called an
12 appeal but it's a dispute. And then also, there's
13 language in there relating to the Board's ability and
14 discretion to accept, reject or revise EARAC's
15 recommendations, so you guys aren't limited by the
16 recommendation from EARAC.

17 And with that, I would say we did take this out
18 for a staff draft before this, however, it was a pretty
19 short turnaround time. Within a few days of that we have
20 only heard positive feedback or a couple critiques here
21 and there. We did address a few audits in response to
22 what we heard, however, in the last 48 hours we've heard
23 more comment, and I think some folks have concerns. So
24 those were things we'd had much chance to hear until just
25 recently.

1 MR. GOODWIN: When you say short, would you
2 define short?

3 MS. BOSTON: We heard about it yesterday
4 morning.

5 MR. GOODWIN: No. I mean you said when we put
6 them out they had a chance to comment. Was that a week or
7 was that ten days?

8 MS. BOSTON: Three business days.

9 MR. GOODWIN: Three business days?

10 MS. BOSTON: Yes.

11 MR. GOODWIN: Any questions? Do I hear a
12 motion to hear comments? Obviously we have people who
13 want to talk about this item.

14 MS. BINGHAM ESCAREÑO: So moved.

15 MR. GOODWIN: Moved. Second?

16 MR. BRADEN: Second.

17 MR. GOODWIN: All approved say aye.

18 (A chorus of ayes.)

19 MR. GOODWIN: Okay. Who wants to speak first?

20 MS. DULA: Good morning. Tamea Dula with Coats
21 Rose.

22 I would like to speak specifically with regard
23 to the problems that this redraft creates for those
24 developers who have large portfolios. This changes to a
25 category 1-2-3 scenario: 1 is the good guys, everything

1 goes for them; 2, problematic possibly, might even be
2 denied an award; and 3, unlikely to get an award, have to
3 work extra hard to convince the EARAC committee to
4 recommend.

5 But what is the problem is that category 2 and
6 3, one of the elements that puts you there is a provision
7 that says since January 1, 2017 no response was received
8 during the corrective action period for three or fewer
9 monitoring events for category 2, or for more than three
10 monitoring events for category 3.

11 Now, in the past TDHCA had kind of encouraged
12 no response during the corrective action period by sending
13 out instructions that said you have to cure everything at
14 the same time, only submit one submission that covers
15 everything, and then they didn't look at until the
16 corrective action period was over, and then they sent back
17 comments that might say you didn't adequately cure these
18 items. So there would appear on the previous
19 participation report: No response during the corrective
20 action period.

21 And we have a lot of clients that have a number
22 of those failure to respond items. When you have a
23 portfolio of 20-30 different properties, as do a lot of
24 the housing authorities, for instance, who partner with
25 other developers to do deals, it is very likely that you

1 have more than three failure to responds currently on your
2 PPR.

3 I think that this could be solved by making it
4 a ratable situation that for category 2 that that would be
5 triggered if there was no failure to respond for 50
6 percent or fewer of the properties that that particular
7 developer has and has control of, because this is very,
8 very important. Frequently you have joint ventures
9 between developers, one of them controls the
10 communications regarding compliance, the other does not.
11 The one that does not have control over whether or not a
12 response was made really shouldn't be dinged for the other
13 party's lack of response. To do so is going to create a
14 lot of hardship for the larger operators within the state.

15 And so I request instead that we have something
16 on the order of under category 2 -- if I could just finish
17 this one?

18 MR. GOODWIN: Very quickly, very quickly.

19 MS. DULA: An applicant or an incoming owner
20 should be determined by whether no response was received
21 during the corrective action period for monitoring events
22 equal to 50 percent or less of the number of properties in
23 the combined portfolio over which the applicant or the
24 incoming owner had control, and for category 3 it would be
25 more than 50 percent.

1 Thank you.

2 MR. GOODWIN: Thank you.

3 Any questions?

4 (No response.)

5 MR. GOODWIN: Next speaker.

6 MR. ALCOTT: Tim Alcott, San Antonio Housing
7 Authority. It's been a while since I spoke to this Board.
8 I want to thank staff for working on these rules, they
9 did a really good job.

10 I spoke to Tim Irvine yesterday, Beau, Brooke,
11 everyone about this particular rule because this has an
12 impact on housing authorities, not just my housing
13 authority, the San Antonio Housing Authority, but several
14 of them, and the reason is is how the deals are
15 structured.

16 Whenever a housing authority applies for tax
17 credits -- and I want to thank y'all, we've gotten tax
18 credits the last few years through you guys -- typically a
19 for-profit developer who is our partner provides all the
20 guarantees and they provide a lot of the financing, and
21 because of providing the guarantees, they provide the
22 management company as well. And so as issues come up, the
23 non-compliance issues come up, because they're providing
24 all the tax credit guarantees, they respond to the TDHCA.

25 And we're a large portfolio provider, we have

1 over 25 tax credit properties through you guys, and the
2 challenge we have is that our partners are some of the
3 biggest tax credit developers in the state but also in the
4 country, and so each one of those may have one or two
5 dings, and the problem is, because I'm the co-developer
6 the way these structures are set up, they all roll up to
7 me, even though I'm not the one who is responding. And so
8 because I have these large developers that each have one
9 or two dings, I could have four dings, even though I'm not
10 the one who's directly responding to the TDHCA.

11 So if there's a way that you could look at this
12 rule in a way that we could still apply for tax credits,
13 my concern is that housing authorities who provide the
14 most affordable housing to people under 30 percent -- we
15 have one development where we have over 200 units of
16 public housing units -- those of us who are providing some
17 of the most significantly affordable housing may not be
18 able to participate in the Tax Credit Program the way it's
19 currently written, this rule is currently written. And
20 it was posted for three business days, I missed that, I
21 would have hit that earlier, but when I saw this and
22 started going through it and realizing the impact on us,
23 this is my first opportunity to talk to y'all about it.
24 So I thank y'all for looking at this, but if there's some
25 way we could do an addendum that said our previous deals,

1 because we have a couple of them that our partner didn't
2 respond because it happened two years ago and previously
3 what would happen would be a hand slap if you did
4 something wrong but they didn't submit something because
5 the server was down at TDHCA, so several years ago they
6 said, oh, whatever, this is our first one so they didn't
7 try and fix that issue.

8 So if we could start the rule now and not go
9 back three years, or have some sort of agreement I could
10 have with TDHCA and my partners saying that they're
11 primarily responsible for responding to these so that way
12 the housing authorities are not negatively impacted.

13 Thank you very much.

14 MR. GOODWIN: Thank you.

15 Any questions?

16 (No response.)

17 MR. GOODWIN: Next speaker.

18 MS. BAST: Good morning. Cynthia Bast of Locke
19 Lord.

20 First, I do want to say thank you very much to
21 the staff for digging into this issue. The previous
22 participation rules have been difficult to work with and
23 we appreciate some new ideas coming forth.

24 Responding to what Brooke mentioned, yesterday
25 I attended the compliance workshop and there the

1 participants asked why the previous participation rules
2 were not on the agenda for that workshop or on the agenda
3 for yesterday's Rules Committee for an opportunity for
4 stakeholder input. As we looked into it, we all realized
5 that there was that distribution August 10 through 15 when
6 many people were out of the office or missed it, and so
7 here's my proposal.

8 Because the compliance rules and the previous
9 participation rules are pretty inextricably linked and the
10 compliance rules are not coming to this Board for approval
11 for publication until October, would it be possible to put
12 previous participation with compliance at the October
13 meeting which would give us an opportunity between now and
14 then to go back and have a stakeholder input session.

15 That's my suggestion. Thank you.

16 MR. GOODWIN: Thank you. Any questions for
17 Cynthia, even though she walked off.

18 (General laughter.)

19 MR. GOODWIN: Next.

20 MR. CICHON: Good morning. How are you doing.

21 Gerry Cichon with the Housing Authority of the City of El
22 Paso. I want to say thank you for allowing me to be here
23 today and to speak to you.

24 The rule, as we look at it as a housing
25 authority, has got some issues specifically to us. As you

1 know, we're doing RAD, we're converting 52 separate
2 properties, right now we're working with six different
3 developers of which we then have to own every single one
4 of their demerits. Not to mention when you look at the
5 problems housing authorities have -- I'm just going to
6 talk about it from a government perspective -- making a
7 shift from being a government entity to basically having
8 to run as efficiently as a non-government entity, is a
9 massive transformation, it takes 100 percent of all of
10 your resources. You're going to make issues, you're going
11 to have problems.

12 And the problem is if you try to do a RAD
13 transaction -- like right now we're trying to close \$700
14 million in the next six months, all of these are 4
15 percent, we got our reservations in -- basically what
16 we're going to do is we're going to end up creating
17 problems for the future of this housing authority. We're
18 80 years old, we plan on being another 80 years old. And
19 in taking these transactions forward, we put ourselves at
20 great risk, and what we want to do is we want to do RAD,
21 we want to save the housing for these 20,000 people that
22 we're currently housing. This rule actually puts that in
23 jeopardy because the way that we're having to change
24 ourselves is going to be fraught with risk.

25 The inability for us to have commented on

1 this -- or at least that was our perception -- I adopt
2 Cynthia's perspective, if we could just have some time to
3 try to work with staff a little bit more to try to look at
4 this and figure this out, we'd greatly appreciate it.

5 Thank you.

6 MR. GOODWIN: Any questions?

7 (No response.)

8 MS. FINE: Hi. Tracey Fine. I definitely want
9 to echo what Cynthia said and what this gentleman just
10 said. Three business days, unfortunately, wasn't long
11 enough for many of us to comment and I was on vacation
12 those three days and wasn't able to pay attention, so our
13 first request is that it is delayed that we can have the
14 chance to talk about it.

15 In the event that it is not delayed, I did want
16 to have one recommendation that I was able to think about
17 and speak about today. In order to get to this category 3
18 which is this very red category and potential automatic
19 denial of your award. The rule states that you have at
20 least three or 50 percent or more dings on your portfolio.

21 For a medium sized portfolio, which is where we stand
22 with TDHCA, that's six to twelve, six properties in our
23 portfolio, 50 percent, that's three dings. Under the
24 previous rule, eight dings put you in that red category,
25 so that's a huge reduction in the ability to move forward

1 with your applications and that's really not very many.

2 And it also puts your dings in the same bucket,
3 one bucket meaning you didn't ever correct those issues,
4 and one bucket looks like you didn't correct them but you
5 perhaps made your best effort and then it wasn't reviewed
6 in 90 days and it turns out that your best effort wasn't
7 good enough and so you're going back and having to do
8 something over again, and that counts as a ding against
9 even though you made your best effort.

10 So those two things are combined and it ends up
11 potentially creating more marks against your portfolio,
12 and I'm just requesting that that number of 50 percent
13 minimum of three be increased.

14 MR. GOODWIN: Thank you.

15 Any questions?

16 (No response.)

17 MR. PALMER: Good morning. Barry Palmer with
18 Coats Rose.

19 And I would echo Cynthia's request that this
20 get tabled to have more time to consider it. I think that
21 there are far-reaching effects of this rule that may serve
22 to disqualify a large number of developer who don't even
23 know about this yet.

24 And so it used to be under the old rule that if
25 you had a certain number of compliance issues, you would

1 be subject to a conditional award and you could work out
2 what those conditions were with the EARAC committee, and
3 there's been a whole range of conditions that developers
4 have agreed to to improve their compliance scores going
5 forward. But this one says if you're a category 3 you're
6 recommended for denial, and I don't think any of us know
7 how many category 3s there are out there, but we ought to
8 know. Is this disqualifying a third of the developers in
9 the state?

10 So I would say that we ought to postpone this
11 and have more time for input from the community as to what
12 effects it will have as currently written, or if there are
13 just some changes that can be made here and there that
14 would make the rule work for the vast majority of the
15 community.

16 Thank you.

17 MR. GOODWIN: Thank you.

18 Any questions?

19 (No response.)

20 MR. GOODWIN: Is there anybody that has
21 something new they'd like to say?

22 (No response.)

23 MR. GOODWIN: Brooke.

24 MS. BOSTON: I was just going to say I can
25 answer some of the specific comments that were brought up,

1 but I think we're willing to table it until October and do
2 a session with folks before then.

3 MR. GOODWIN: I kind of got the hint that you
4 said you wouldn't mind having a little more time.

5 MS. BOSTON: So we can go either way.

6 MR. GOODWIN: A motion to table?

7 MR. BRADEN: I make a motion to table until the
8 October meeting.

9 MR. GOODWIN: Okay. Second?

10 MS. BINGHAM ESCAREÑO: Second.

11 MR. GOODWIN: Any discussion?

12 (No response.)

13 MR. GOODWIN: All in favor say aye.

14 (A chorus of ayes.)

15 MR. GOODWIN: Opposed?

16 (No response.)

17 MR. GOODWIN: Okay. Thank you, Brooke.

18 Now we're going to move back to item 6, and Ms.
19 Van Duyne, the HUD regional administrator, is going to
20 come up and make a presentation. We welcome you and thank
21 you for your cooperation and help and the coordination
22 with the TDHCA programs with HUD. Nice to meet you also.

23 MS. VAN DUYNE: Thank you very much. I
24 appreciate your flexibility in the schedule. I just flew
25 in this morning, came right here from the airport, so I

1 hope I wasn't too late.

2 I do have a video. I want to talk a little bit
3 about some of the programs that HUD is prioritizing over
4 this year and the next few years, and one of those is RAD,
5 and so I had sent a video beforehand.

6 MR. GOODWIN: Do you prefer to do the video
7 first? Because if so, I think we will all come out and
8 watch from the audience.

9 (Whereupon, a brief video was shown.)

10 MS. VAN DUYNE: I appreciate the opportunity
11 that you gave to allow us to show one of our partner's
12 examples of what they're doing with the RAD program. I
13 think it's really important to actually hear from the
14 residents firsthand that have been living in public
15 housing before these conversions happened and to see the
16 difference that that actually has on their lives
17 firsthand.

18 I'm very pleased to be here today to address
19 the Board of TDHCA. HUD absolutely appreciates all the
20 work that you do awarding tax credits and increasing the
21 supply of affordable housing in Texas.

22 My name is Beth Van Duyne. I'm the regional
23 administrator for the Southwest Region of HUD which
24 includes Texas, Oklahoma, Arkansas, Louisiana and New
25 Mexico. It is a huge region. I feel like I live on a

1 plane these days trying to get around. I am based,
2 however, in Fort Worth, and if anyone has any questions --
3 that's not just the Board but other members of the
4 audience -- about HUD, please feel free to contact me. My
5 office directly is at 817-978-5600.

6 It's a pleasure to be here and to share with
7 you about HUD, a few of our initiatives, and of course,
8 the RAD program that you just witnessed and HUD's rental
9 demonstration program.

10 First I'd like to mention just a little bit
11 about Secretary Ben Carson's vision for HUD. We've made
12 progress in a lot of areas but there are still half a
13 million chronically homeless Americans. Texas has worked
14 hard towards eliminating veteran homelessness and getting
15 to a functional zero in Austin, Houston and San Antonio,
16 but 40,000 of our nation's homeless are veterans of our
17 armed forces.

18 Millions of people across the country still
19 depend on some form of government assistance for housing
20 or food or many other things, and as Secretary Carson has
21 said, this is not a failing of our fellow Americans, it is
22 a failing of our federal institutions to construct a
23 society where these men and women may naturally prosper.
24 But we're taking steps to better serve them at HUD. We're
25 prioritizing work and job training, and for those in HUD

1 programs, we are able through our Section 3 programs and
2 EnVision Centers to help them seek self-sufficiency.

3 Section 3 helps tenants of HUD subsidized
4 housing obtain jobs and skills and even operate as
5 contractors themselves, thus leading out of poverty. In
6 various cities, and right here in Texas with the Fort
7 Worth Housing Authority we're planning EnVision Centers
8 which were designed to be hubs for communities and private
9 enterprises to directly address the educational and
10 economic needs of families.

11 We're promoting the idea of housing first when
12 it comes to homelessness because underlying problems like
13 addiction, mental illness and unemployment are far harder
14 to solve on the street than they are in a home. And once
15 we give someone an address and a personal stake in their
16 future, permanent change is possible.

17 We've rolled out our forward initiative at HUD,
18 a three-part reform program. The first goal is to re-
19 imagine how HUD works, and that means internal
20 improvements, better working conditions and more efficient
21 internal processes.

22 The second is to restore the American dream in
23 the sense that we're looking to tailor our programs to
24 permanently improve lives, expand economic opportunity so
25 that people can become self-sufficient again.

1 And the third is to rethink American
2 communities and how we make them thrive. This means
3 recognizing that active charities, religious institutions
4 and private groups are often better at achieving their
5 mission than heavy-handed government interventions. We
6 support local control and homegrown solutions because
7 cookie cutter approaches created in Washington just don't
8 seem to work.

9 In the last 15 years the country has lost at
10 least 170,000 affordable homes to sale or demolition.
11 There's an estimated backlog of about \$35 billion in
12 capital needs for public housing, and it's been growing at
13 over \$1.5 billion annually. Just six years since HUD made
14 its first awards in the RAD program, PHAs have clearly,
15 clearly cleared a major milestone. More than 98,000 units
16 have been completed, more than \$5.8 billion in new private
17 and public funds have been leveraged for construction
18 activity. The construction activity has stimulated an
19 estimated 90,000 jobs. And it would have taken these PHAs
20 46 years to accumulate enough public housing capital funds
21 to complete a similar level of construction.

22 And this public housing, briefly, the housing
23 authorities are our key partners and a key focus of RAD,
24 and as you may know, there are 341 public housing
25 authorities in Texas spread throughout the state, and

1 together they administer over 45,000 units of subsidized
2 public housing, so that's the total universe of potential
3 RAD applicable units, minus the 8,000 that have already
4 been included in the program.

5 This program, RAD, the rental demonstration
6 program, gives public housing authorities a powerful tool
7 to preserve and improve its properties. Bottom line, for
8 each unit of affordable housing we can preserve through
9 RAD as the department's rental housing preservation
10 strategy, there is a family that has a safe and decent
11 place to call home.

12 Essentially, RAD allows public housing agencies
13 to leverage public and private debt and equity to reinvest
14 in public housing so they can relieve the backlog of
15 capital improvements affecting our nation's public housing
16 stock. In RAD, units move to a Section 8 platform with a
17 long term contract that by law must be renewed. This
18 ensures that the units remain affordable to low income
19 households. Residents continue to pay 30 percent of their
20 income towards the rent and they maintain the same basic
21 rights they possessed under a public housing program.

22 RAD maintains the public stewardship of the
23 converted property through clear rules on ongoing
24 ownership and use. This program is cost neutral and does
25 not increase HUD's budget, but it does improve public

1 housing across the nation, and that's not without its
2 challenges. I know that we skipped an item and I got to
3 hear some of the comments from the crowd behind us and the
4 public housing authorities, and it does have its
5 challenges.

6 Typically, when RAD units are converted, 98
7 percent of them are occupied and that has the housing
8 authority responsible for actually having to make sure
9 that those people are moved someplace, that they're safe,
10 that they've got a unit to move into and it also shortens
11 their period of time to make sure that they have the
12 construction completed to twelve months. Now, for some of
13 these units that seems like a really long time when you're
14 having to move out of your unit, but when you're having to
15 complete that many units, it's really not that long.

16 Sometimes if you look at it, they're not
17 exactly the great sites that we'd like to have some of our
18 housing in. Well, that's because these are existing sites
19 that already have public housing, but what they do do is
20 allow an opportunity for public housing that's gone stale,
21 that's gotten old, that needs rehabilitation to be able to
22 have the funds to be able to do that.

23 It also changes, though, the entire business
24 model for some of these public housing authorities. It
25 makes them have to act and work with the same kind of

1 efficiency and effectiveness as private industries. The
2 time lines are different. For example, if they are not
3 completed with their construction, there's the possibility
4 that they're going to have to pay each of the families
5 that are affected, if they're moved for more than twelve
6 months, \$20,000. That's a pretty big hit on some of these
7 housing authorities that are really small.

8 However, RAD is very active in Texas and
9 currently 18 of our housing authorities have closed RAD
10 deals with HUD, and right now there are over 8,400 units
11 that are being upgraded thanks to the program. That
12 equates to over \$476 million in construction costs which,
13 again, means jobs and payroll for communities throughout
14 the state. It also includes tax credits valued at over
15 \$310 million, so you can see how impactful the tax credits
16 you distribute are in preserving affordable housing as
17 well as creating it.

18 One of our largest conversions in the country
19 is the RAD program in El Paso, which you saw in the video.

20 They're using a variety of tools, 9 percent and 4 percent
21 tax credits and FHA loans, to conduct a range of
22 conversion types, new construction, extensive rehab,
23 conversion of recently developed property, modernizing
24 historical properties and transfers of assistance to rent
25 bundling.

1 HACEP has closed already 27 properties under
2 RAD, consisting of a total of 3,267 units, featuring \$256
3 million of hard construction work being performed. We
4 know HACEP aims to submit financing plans for most of its
5 remaining projects over the next few months, with an
6 expectation to close all of them by the end of 2018. They
7 had a vision back in 2013 of five years; they're well on
8 their way of modernizing the inventory. And by the way,
9 that's their entire inventory of affordable housing.

10 And in Austin just last month, HACA held a
11 groundbreaking for Pathways of Chalmers South, part of
12 their phased redevelopment of their inventory, and as with
13 El Paso, they intend to update their entire inventory to
14 RAD. They've closed seven deals with HUD so far under the
15 program to help update their public housing, and those
16 seven deals equal over 1,000 units and over \$28 million in
17 new construction and investment of over \$25 million in tax
18 credits.

19 Section 3 is a key component of our HUD
20 programs toward building the block for self-sufficiency.
21 Section 3 of the Housing and Urban Development Act of 1968
22 ensures that HUD-funded jobs, training and contracts are
23 provided to local low income residents, particularly those
24 that reside in public housing. HUD is working to lift
25 many of the barriers to employment for people in public

1 housing through its Section 3 program. It requires
2 recipients of certain HUD grants to provide job training,
3 employment and contract opportunities for low or very low
4 income residents with projects and activities in their own
5 neighborhoods. Often this involves matching unemployed
6 able-bodied people in public housing with jobs in
7 construction or other opportunities. Helping people
8 discover and develop the skills they need to compete for
9 today's jobs can transform lives and strengthen economies.

10 There must be a path forward, a path out of
11 poverty. Everyone would benefit, those in public housing,
12 employers, taxpayers and the nation. Section 3 helps
13 foster local economic development, neighborhood
14 improvement, and provides an avenue for individual self-
15 sufficiency. The requirements apply to approximately
16 5,000 recipients of HUD funding and their subrecipients
17 and contractors. That's up to 40 percent of HUD's annual
18 budget is subject to Section 3 requirements, and that's
19 quite a potential resource to engage something we are
20 actively encouraging throughout Region VI.

21 Businesses can recruit in the neighborhood and
22 public housing developments to inform residents about
23 available training and job opportunities. They distribute
24 flyers, post signs, place ads, and they contact resident
25 organizations and local community development and

1 employment agencies to locate potential workers.
2 Recipients and HUD program partners are required to the
3 greatest extent feasible to provide all types of
4 employment opportunities to low and very low income
5 persons, including seasonal and temporary employment, as
6 well as long term employment.

7 Employment goals are based on new hires which
8 are defined as full-time employees for permanent,
9 temporary or seasonal employment, and after three years
10 the employee may no longer be counted as a Section 3
11 employee to meet the 30 percent requirement, and this
12 requires recipients to continue hiring, and these
13 residents, once they have skills, can move on, they can
14 become contractors themselves and they can continue
15 working at the same time while we're training additional
16 opportunities under Section 3.

17 For generations the idea of government
18 providing housing assistance meant only one thing, and
19 that was helping to pay the rent so families can have a
20 roof over their heads, but we must think about also how we
21 can help families access financial, educational and other
22 opportunities. In short, we must think beyond investing
23 in just bricks and mortar and invest in human capital.

24 In today's very tight labor market, employers
25 are desperate for workers and we need to rise to the

1 challenge, and that will result in a win-win for everyone,
2 with tenants earning more money so they can move out, and
3 the local economy getting the manpower it needs. And
4 that's why HUD is focused far more on policies and
5 partnerships for the public and private sector and
6 nonprofit community to further develop the skills and
7 talents of our residents, with the end goal of an
8 independent life out of public assistance.

9 We need to envision a new path forward for our
10 residents, one that takes a holistic approach and goes
11 beyond simply providing housing. I'm certain that we can
12 all agree with this approach and the ultimate goal of
13 helping able-bodied tenants toward self-sufficiency, and
14 by working together we're going to make these major
15 changes in how affordable housing systems operate so that
16 it encourages economic advancement and well-being for
17 vulnerable families.

18 One last thing that I'd like to mention is that
19 this year marks the 50th anniversary of the passage of the
20 Fair Housing Act. On April 11, 1968, one week after Dr.
21 Martin Luther King, Jr. was assassinated in Memphis,
22 President Johnson signed this landmark legislation into
23 law and declared: Fair housing for all, all human beings
24 who live in this country is now a part of the American way
25 of life. It was a crucial moment in our country's history

1 when the ideals of equality and fairness were embodied in
2 a law that continues to shape our communities and
3 neighborhoods 50 years later. Half a century later, the
4 Fair Housing Act remains the centerpiece of HUD's work.

5 We've covered quite a lot in just a very few
6 minutes about HUD's programs, affordable housing and our
7 reasoning behind proposals intended to change the way that
8 we approach subsidized housing and tenant self-
9 sufficiency. I'm convinced that a huge part of the future
10 of affordable housing is actually in what we do to help
11 people get out of it. No one will deny that a certain
12 number of citizens, for various reasons, the disabled, the
13 elderly, need our assistance, assistance from HUD that
14 will be ongoing, but that means the need to maintain
15 public housing stock is real and that's why RAD is so
16 important for a vast number of public housing residents,
17 multifamily project based tenants or housing choice
18 vouchers. That's why Section 3, the EnVision Centers and
19 other programs that increase self-sufficiency are equally
20 as important. We will be providing the tools for those
21 that are able to climb out of poverty, get a better job,
22 and build a better way of life for their families.

23 Thank you very much for your time today, and
24 let me know if you have any questions.

25 MR. GOODWIN: Thank you.

1 Any questions?

2 (No response.)

3 MR. GOODWIN: Tim, I think you had a comment
4 you were going to make.

5 MR. IRVINE: I just really want to say that we
6 so much appreciate our partnership with HUD, and
7 especially the Fort Worth office, and I'd like to give a
8 big shout-out to Shirley Henley, and especially to Jerry
9 Jensen. Our day-to-day relationship with him is just so
10 valuable and he's a real asset.

11 MS. VAN DUYNE: That's very good to hear. And
12 again, if anybody needs to get in touch with me, I'm easy
13 to find. It was a privilege to be able to stand in front
14 of you today, and thank you again for your flexibility.

15 MR. IRVINE: Thank you.

16 MR. GOODWIN: Thank you.

17 (Applause.)

18 MR. GOODWIN: Moving into item 7, 7(a), Marni.

19 MS. HOLLOWAY: Good morning, Chairman Goodwin,
20 members of the Board. I'm Marni Holloway. I'm the
21 director of the Multifamily Finance Division.

22 Item 7(a) is presentation, discussion and
23 possible action Presentation, discussion, and possible
24 action on the proposed repeal of TAC Chapter 10,
25 Subchapter A, B, C, D and G.

1 So as you know, Chapter 10, the Uniform
2 Multifamily Rules, contain all of the eligibility,
3 threshold and procedural requirements relating to
4 applications requesting any of our multifamily funds or
5 tax credits. In order to better meet statutory
6 requirements, the listed subchapters of Chapter 10 have
7 been moved to the QAP and we'll be discussing that in the
8 next agenda item. Chapter 12, the Multifamily Housing
9 Revenue Bond Rule, and Chapter 13, the Multifamily Direct
10 Loan Rule, have relied on Chapter 10 for threshold and
11 eligibility requirements. They are proposed later in this
12 agenda with changes to assure that they continue to
13 reflect those requirements.

14 Staff recommends the proposed repeal of 10 TAC
15 Chapter 10, Subchapter A, Subchapter B, Subchapter C,
16 Subchapter D and Subchapter G, along with the preambles to
17 be approved for publication in the *Texas Register* for
18 public comment. Staff further recommends that because the
19 subchapters named are essential to the continued operation
20 of the Department's multifamily programs, if 10 TAC
21 Chapter 11, the Qualified Allocation Plan, is not accepted
22 and ultimately adopted in a form that incorporates all of
23 these subchapters, this proposed repeal will not be
24 presented for final adoption and 10 TAC Chapter 10 would
25 continue in its current format with no repeal.

1 MR. GOODWIN: Any questions for Marni?

2 (No response.)

3 MR. GOODWIN: If not, I'll entertain a motion
4 to approve this recommendation.

5 MR. BRADEN: So moved.

6 MR. GOODWIN: Second?

7 MS. RESÉNDIZ: Second.

8 MR. GOODWIN: It's moved and seconded. Any
9 discussion?

10 (No response.)

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

12 (A chorus of ayes.)

13 MR. GOODWIN: Opposed?

14 (No response.)

15 MR. GOODWIN: Okay. Before you move on, we
16 have a special guest in the back from the Governor's
17 Office, Katrina Gonzales. Would you stand up and let
18 everybody see who you are. Thank you. Glad to have you
19 here.

20 All right, Marni.

21 MS. HOLLOWAY: Item 7(b) is presentation,
22 discussion and possible action to make recommendations to
23 the Governing Board on the 2019 Qualified Allocation Plan.

24 So as I just mentioned, in order to better meet
25 the statutory requirements for the QAP, which is that it

1 provide information regarding the administration of and
2 eligibility for the competitive housing tax credit
3 program, we've merged most of Chapter 10 into Chapter 11,
4 which is the QAP. Remaining in Chapter 10 will be the
5 asset management and compliance sections, they will
6 continue to stand there. As I mentioned, the bond rule
7 and the direct loan rule will now reference the QAP for
8 threshold criteria where previously they would have
9 referenced Chapter 10 parts.

10 The resulting QAP now has multiple subchapters
11 which roughly correspond to Chapter 10 subchapters in
12 order to make this change as clean and simple as possible
13 and easy for everyone to understand where things have
14 moved to. The only place we're really combining is in
15 Subchapter A which now is definitions in the QAP, also in
16 Subchapter A now is dates for other fund sources that were
17 previously in G, so all of those things are in Subchapter
18 A.

19 In the course of our conversation yesterday
20 afternoon during the Rules Committee meeting, there were a
21 number of changes that the committee and staff felt were
22 important to bring forward to the Board for further
23 discussion. There is on the table behind me and I think I
24 have left with all of you this supplemental materials
25 piece. So last night after the committee meeting, we went

1 back and the parts of the rules that we had discussed with
2 the suggested changes, we accepted all of the changes that
3 are in the draft and then just added the new language to
4 them just so that you can see what that new language looks
5 like and how it fits into that rule. There are a couple
6 of things, like the definition of control moves around a
7 number of pieces and just want to make sure that everybody
8 understands the proposed changes rather than me just
9 reading them in.

10 Mr. Chair, we didn't really discuss how to run
11 this part of the meeting. During the Rules Committee,
12 what we did is I went through a section and anybody who
13 wished to speak to that section had an opportunity to
14 speak, and then we went on to the next one so that we're
15 all kind of on the same topic together.

16 MR. GOODWIN: Good.

17 MS. HOLLOWAY: Is that acceptable?

18 MR. GOODWIN: That's acceptable.

19 MS. HOLLOWAY: Perfect.

20 So Subchapter A has been renamed to Pre-
21 application, definitions, threshold requirements and
22 competitive scoring. In the general provisions we've made
23 changes to reflect the new rule structure and some changes
24 in process. We've made several changes to definitions.
25 We've modified the adaptive reuse definition to allow for

1 a broader range of developments. We've added a definition
2 of common area. And in your supplement there is a change
3 that came out of the meeting yesterday regarding the
4 definition of control. Ms. Bast pointed out that we have
5 described control in different ways in different parts of
6 our rules. What this seeks to do is pull them all
7 together in one place and then those other parts of the
8 rule, like 204 and something else further on where we
9 described controlling individuals is all referenced back
10 to the definition now which was the conversation that came
11 out of the committee, so that's what that change is in the
12 supplement.

13 We have simplified the definition of elderly
14 development by removing the limitation and preference
15 subcategories. We've expanded the definition of material
16 deficiency to provide clarity regarding the application
17 faults that could lead to loss of points or termination.
18 We've added a definition of preservation to frame our
19 preservation work required by statute.

20 And that is it for definitions. I don't know
21 if anybody wants to speak to those.

22 MR. GOODWIN: Hearing none, move on.

23 MS. HOLLOWAY: Moving on. We've brought in
24 topics that could be addressed through a request for staff
25 determination. Previously, staff determination prior to

1 application were limited to a very small subset of topics,
2 but we've expanded that a little bit just so that there's
3 more flexibility for people to access that process. Of
4 course, we've updated the calendar for the 2019
5 competitive round, and that is the calendar.

6 So moving on, we've clarified the additional
7 phase rule and added a restriction on the developer fee
8 for the additional phase so that developers aren't able to
9 build two phases of less than 50 units and gain the larger
10 fee on both.

11 For proximity of development sites, we've added
12 a requirement that sites be separated by at least 1,000
13 feet and that the area in between was not created as a
14 means to meet the separation requirement. Additionally,
15 sites may not have been under common ownership at any time
16 in the preceding two years. This item addresses the issue
17 we had in the 2018 9 percent round regarding the sites
18 with that 10-foot landscape strip between them, so that's
19 what that one does.

20 We have added sites in qualified opportunity
21 zones to the list eligible for basis. Qualified
22 opportunity zones came out of the spending bill that gave
23 us the additional 12.5 percent credits and then also the
24 income averaging that we're addressing later in the rule.

25 We're not sure yet how tax credits are going to work with

1 qualified opportunity zones, the IRS hasn't published any
2 information yet, but we're just getting that in there so
3 that we can work through that together.

4 We have increased the minimum amount available
5 to each subregion under the regional allocation formula to
6 \$600,000. We have clarified the statewide collapse rule
7 to prevent the misunderstanding that happened at the end
8 of 2018 regarding the elderly cap.

9 And then we move on to tiebreakers. In your
10 supplement is a suggested change. I didn't number these
11 pages, I apologize for that. I guess it's the fourth page
12 up at the top, 10 TAC 11.71. The tiebreaker that was
13 originally proposed in the draft published in your Board
14 book uses the median poverty rate below the median of all
15 census tracts for submitted pre-applications. Out of the
16 conversation yesterday, the suggestion was that we go to
17 applications that were awarded in the past three years and
18 then allowing Region 11 an additional 15 percent to that
19 value and Region 13 an additional 5 percent which is in
20 keeping with other parts of our rules.

21 So how this new tiebreaker will work -- and
22 we've eliminated most of the tiebreakers that we used in
23 2018 and replaced them with this one item -- we're looking
24 for developments proposed in census tracts with poverty
25 rates below that three-year average. So once that

1 universe is established, we'll look for the census tracts
2 with the highest rent burden. If a tie still remains, the
3 second tiebreaker is the furthest distance from any other
4 development awarded in the past 15 years serving the same
5 population. For proposed developments in census tracts
6 above the median, the only tiebreaker will be distance.

7 And this is an unverified number that we
8 figured out this morning. The median for the last three
9 years is 12 percent, the average is 15.38 percent, so
10 those are sort of estimates, those are estimates. We will
11 go back through and verify those numbers and make sure
12 that everybody knows what they are.

13 MR. GOODWIN: Okay.

14 MS. HOLLOWAY: Would you like to speak?

15 MR. KROCHTENGEL: Zachary Krochtengel.

16 I did some numbers on this as well, and I would
17 just argue that we should probably use the average which I
18 came up with about 15.4 percent. The reason I state that
19 is because looking at awards and the percentage of awards
20 that comes from three specific regions, the percentage of
21 applications that also comes from those three specific
22 regions encompasses about 45 percent of all the awards and
23 that's Region 3 Urban, Region 6 Urban, and Region 7 Urban,
24 and that's Dallas-Fort Worth, Houston and Austin, and
25 those are three of the areas with far lower poverty rates

1 than a lot of other subregions.

2 You know, looking at 11 and 13, they made an
3 adjustment but I think that there are other subregions
4 that would probably need a slight adjustment if we went to
5 an 11 at the median and that's because it's weighted so
6 far in the direction of those three specific subregions,
7 and I think an average just is a better reflection on
8 where a lot of the subregions would end up in terms of
9 poverty rate, in terms of having more census tracts be
10 competitive. I think that a lot of thought went into this
11 tiebreaker and I think if we set that median so low, we're
12 going to throw out the tiebreaker in a lot of subregions
13 because there won't be competitive census tracts that are
14 below that poverty rate that then can use that CHAS data
15 to put housing where it's meant to be placed.

16 MR. GOODWIN: Any questions?

17 (No response.)

18 MR. GOODWIN: Thank you for your comments.

19 Would you mind addressing what this gentleman
20 just said philosophically?

21 MS. HOLLOWAY: Philosophically, yes, there are
22 a lot more awards out of those large urban regions and so
23 that's going to drive that median to a certain extent,
24 it's also going to drive the average to a certain extent.

25 The adjustments in 11 and 13 are ones that we have made

1 in other parts of our rules for very specific reasons.
2 You know, we're talking about populations in the Valley
3 tend to have a higher poverty rate.

4 I think that it's six of one and half a dozen
5 of the other. You could say it's the median so at least
6 half are going to win this first tiebreaker, with the
7 average being several points higher, more applications
8 would go through that first tiebreaker and get to that
9 rent burden part rather than just relying on distance.

10 MR. IRVINE: I think that the policy thrust of
11 this is if you look at maps of where people are rent
12 burdened, they tend to congregate around either high
13 poverty areas or high concentrations of student housing,
14 and those would not be places where you would say as a
15 matter of policy you want to concentrate additional
16 affordable housing. So under the tiebreaker, by having
17 someplace to put the bar, you're precluding using the
18 tiebreaker in those areas of rent burden and you're
19 rewarding other areas of rent burden for the tiebreaker.

20 So I think that whether you use median or
21 average, it effectively does what it was intended to do
22 and it ensures that you're not using this to promote an
23 incentive to develop in either high poverty or high
24 student concentration areas.

25 MS. HOLLOWAY: I would add that if we continue

1 with this tiebreaker over a number of years, either he
2 median or the average is going to start to trend down. As
3 applicants are looking for the sites that are below
4 whatever the number is for that year, we'll get more and
5 more and more, and so that poverty rate number will trend
6 down over the course of years and may require adjustment
7 later on.

8 MR. BRADEN: Mr. Chair. So you made that point
9 yesterday at the Rules Committee, so shouldn't that argue
10 for us to take average then? The difference between the
11 two right now, one is around 11 and the other one is at
12 15?

13 MS. HOLLOWAY: Median is at 12, average --
14 these are estimates -- median is at 12, average is at
15 15.38, 15.4.

16 MR. BRADEN: I think the input we got at the
17 committee meeting was the developers and the other
18 stakeholders wanted some measure, they didn't want to wait
19 till this year's process so they wanted some independent
20 measure the could figure out early in the process, which
21 was a good comment, I'm glad we could address it. But I'm
22 okay with picking average. I don't know if anybody has
23 any other issues, but it seems like if, Marni, you're
24 saying that things are probably going to start going down,
25 then for 3.5 percentage points, maybe we ought to pick the

1 slightly higher level and maybe we can leave it as average
2 for a little while and see how it works out. I don't know
3 if you have any input, sir.

4 MR. GOODWIN: I don't have a problem with that.

5 MS. HOLLOWAY: The other thing I would mention
6 about this item, staff is proposing on 11.71 to strike the
7 last sentence talking about a census tract's median
8 poverty rate will not be counted more than once if
9 multiple applications propose to construct. That tied
10 back to the large number of pre-applications that we
11 receive, so if we're going to actual awards, it's a much
12 smaller universe, we're not talking about 400 pre-apps and
13 trying to limit the impact of that larger volume.

14 Moving on to 11.8, Pre-application.

15 MR. TAMEZ: I'm Michael Tamez. I actually have
16 a question about that not counting census tracts twice.
17 Is that going to be assuming the awards if we're using
18 that, are you going to delete duplicates or are you going
19 to include duplicates?

20 MS. HOLLOWAY: We're going to include them.

21 MR. TAMEZ: Okay. Thank you.

22 MS. HOLLOWAY: Moving on to 11.8, Pre-
23 application requirements. For pre-apps we are limiting
24 the number of pre-applications to one per site control
25 document. This will eliminate the recent practice of

1 submitting multiple pre-applications for a single site.
2 Part of the reason the pre-application process exists is
3 so that everyone kind of has a sense of whether or not
4 they should be submitting a full app, but when we have
5 multiple pre-applications for one site, it's hard for
6 other applicants to judge what will be submitted as full
7 apps and whether they should be moving forward with that
8 process.

9 All right. Moving on 11.8(b)(2), this was
10 talking about certifications for notifications. We had
11 the problem at the end of last year, or questions,
12 discussions about searches for neighborhood organizations.
13 In response to that, we had added quite a bit in the way
14 of requirements to document a search into the rule. There
15 was some concern at the meeting regarding these
16 requirements and concern that putting this in the rule
17 would seem to contradict the statutory requirements
18 regarding notification must be made. Having this in the
19 rule, I think the concern was that it looked like it was
20 okay to not follow the statutory requirements if you had
21 done all of these other things.

22 So in response to that, we are taking out that
23 whole big section that starts with "An applicant should
24 retain." What we will be doing is changing 11.8(b)(2) to
25 say evidence in the form of the certification -- and this

1 is in the supplement -- have been made, and then adding at
2 the end of that "and that a reasonable search for
3 applicable entities has been conducted." And then all of
4 this information about ways to search and things to search
5 for will be going into the manual as suggested means to
6 get to the appropriate neighborhood organizations.

7 Now we're moving into scoring items, and it's
8 not included in my presentation, it came out of a
9 different conversation, 11.9(b)(1)(B), which is also in
10 the supplement down at the bottom of that page, we didn't
11 realize when we increased the points required for unit and
12 development features that we hadn't made a corresponding
13 increase in the base score that rehab deals start with, so
14 if we had moved forward with what we had, we were making
15 it more difficult for rehab developments to meet those
16 requirements and a lot of those features they are not able
17 to accomplish. So that change will be made.

18 11.9(c)(1), income levels of tenants, we are
19 adding income averaging which is the new method for owners
20 to comply with IRS requirements. We've made some minor
21 adjustments to the opportunity index.

22 Then on underserved area we've added a new item
23 that seeks to address issues of gentrification by looking
24 for census tracts with both high poverty and high rents.
25 We've also added an item that addresses at-risk or USDA

1 set-aside properties that are more than 30 years old and
2 have not received federal funds for rehabilitation in the
3 past. Under the new underserved area item, we are adding
4 language -- that's also in your supplement -- making sure
5 that everybody knows that it's rents for two-bedroom units
6 is what we're looking at, that's the measurement for the
7 comparison.

8 The Section 811 rules have been modified for
9 accuracy.

10 MS. BINGHAM ESCAREÑO: Mr. Chair, just a point.

11 MR. GOODWIN: Yes.

12 MS. BINGHAM ESCAREÑO: So Marni is referencing
13 things in our supplement and unless there's a supplement
14 we're not aware of, so we have the one that's marked
15 "Draft." It's got definitions and then it kind of skips
16 to -- I can't find.

17 MR. GOODWIN: You can't find what she's talking
18 about?

19 MS. HOLLOWAY: And I had wound up with one that
20 was missing a page, which is what happens -- I
21 apologize -- when you set something to print 100 copies.
22 That page starts at 11.7 at the top? I was hoping that
23 mine was the only one.

24 MR. IRVINE: And the public has the correct
25 one.

1 MS. HOLLOWAY: I certainly hope so. If you
2 don't have a page that starts with 11.7 at the top, then
3 you have one of the incomplete sets and there's some
4 complete sets not the table behind you.

5 MS. BINGHAM ESCAREÑO: I think I followed. I
6 just wanted to make sure that when we make the motion that
7 we have what we need.

8 MS. HOLLOWAY: Technology is a wonderful thing
9 until it doesn't work right.

10 The distance in the urban core item has been
11 changed and then there is a change out of the conversation
12 yesterday. We had proposed a smaller measurement for some
13 of the smaller cities. Out of the conversation yesterday,
14 we will be using within four miles of the main municipal
15 government building if a place has 750,000 or more
16 population, or within two miles of the main governmental
17 administration building if the population of the city is
18 between 200,000 and 749,999. So we're taking out that one
19 mile measurement.

20 And that's all -- no wait, that's not. So on
21 the readiness to proceed item that was new for last year,
22 we've added a provision for applications that are in non-
23 priority status at any point during the cycle. So if
24 someone submits an application claiming readiness to
25 proceed items and points and it looks like they're not

1 going to be receiving an award so they're not moving
2 forward with plans or whatever else that they need to get
3 to, this item says as long as you're in that status, if
4 the list changes later so that you are getting an award,
5 you basically get an extension on the deadline.

6 The state rep scoring item has been modified to
7 allow the representative to provide a letter that says my
8 constituents support this development rather than
9 requiring a personal statement of support.

10 The concerted revitalization plan item has been
11 modified for urban developments to clarify our
12 requirements. We'll also be putting together a submission
13 package just to help applicants package everything up and
14 make it easier for us to review.

15 The cost per square foot scoring item has been
16 increased by 5 percent, and the common area that is
17 included in the net rentable area in that calculation for
18 supportive housing developments has increased 25 square
19 feet to 75 square feet total.

20 The leveraging percentages were increased by
21 one percent. And the section regarding penalties has been
22 modified for clarity. There was some question about
23 exactly what penalties applied to which items so we've
24 tried to clarify that.

25 Then regarding third party requests for

1 administrative deficiency, language has been added to the
2 RFAD section regarding requests that are questioning
3 staff's decision regarding an item rather than presenting
4 new information. If an RFAD is submitted that's really
5 questioning what we have done as staff, we are going to
6 disregard that RFAD.

7 And that would be it for QAP items.

8 MR. GOODWIN: Did you have another comment,
9 sir?

10 MR. KROCHTENDEL: Yes, sir. Once again, Zach
11 Krochtengel.

12 Yesterday at the meeting and in previous
13 roundtables I proposed to add a scoring item and the
14 reason I proposed to add a scoring item is because in the
15 past three years there has continued to be a problem with
16 projects being awarded in the same census tract. There's
17 the two-mile same year rule that applies to counties with
18 population over a million and the irony is that works for
19 those counties that probably could support two projects
20 within two miles of each other, but for other subregions
21 that do not have the two-mile same year rule, there
22 continues to be projects that are awarded in the same
23 census tract.

24 In 2016 there were three projects in the same
25 census tract in Urban 11, two projects in the same census

1 tract in Rural 4, two projects in the same census tract in
2 Urban 6, and two projects in the same census tract in
3 Urban 7. Those are all projects that happened in the same
4 census tract because the two-mile same year rule did not
5 apply. In 2017 there were two in the same census tract in
6 Urban 11, two in the same census tract in Urban 6 and two
7 in the same census tract in Rural 4. And then in 2018
8 there were two in the same census tract in Urban 11 twice
9 and then there were three in the same census tract in
10 Urban 6. This has occurred in Whitehouse, Missouri City,
11 Georgetown, Lindale, Olmito, Midway, Stafford, and various
12 other places in Fort Bend County.

13 Now, the reason I bring this up is because
14 without the two-mile same year rule, with all the
15 tiebreakers, they just go down to the last tiebreaker and
16 it ends up being project A in the same census tract,
17 project B is second place, so the tiebreaker doesn't solve
18 this issue.

19 The proposal that I've made would award one
20 point to a project in each census tract that is closest to
21 an impactful amenity, and when I say that I mean a grocery
22 store, a library, I'm not proposing a specific amenity,
23 just whichever one is closest to that amenity that staff
24 would choose would automatically receive one point and
25 would elevate that one point above the other projects in

1 that census tract. So if you were alone in a census
2 tract, you would automatically get that extra point and
3 score the maximum, but if you were in the same census
4 tract as two or three other projects, those two or three
5 other projects would be a point behind.

6 And I think the effect of that would be the
7 first project would be awarded and then it would go to the
8 next best scoring census tract and one project in that
9 census tract would be awarded, and it would really create
10 dispersion of housing that right now for the past three
11 years we're not seeing, and I just think it's a problem
12 when three projects in the same census tract are all being
13 awarded because this statutory limitation of the two-mile
14 same year rule only applies to counties over one million.

15 Thank you.

16 MR. GOODWIN: Any questions?

17 MS. RESÉNDIZ: Mr. Chairman.

18 Will you restate your name for me? I
19 apologize.

20 MR. KROCHTENGEL: Zachary Krochtengel.

21 MS. RESÉNDIZ: Zachary, thank you for the
22 information.

23 And will someone from staff address the two-
24 mile same year rule?

25 MR. IRVINE: It's a statutory provision that

1 only applies in certain very large counties.

2 MS. RESÉNDIZ: Okay.

3 MR. GOODWIN: Any other questions?

4 MS. RESÉNDIZ: Thank you.

5 MR. GOODWIN: Thank you.

6 MR. IRVINE: If I might interject just to throw
7 a little more chaos into the meeting. We did work with
8 various concepts that would have addressed this idea. I
9 understand Zach's idea about proximity to an impactful
10 amenity. The actual approach that we took was a little
11 bit different, and it did not make it into the draft
12 document, and that was a point for a deal if it was in a
13 census tract in which there were no other pre-apps in that
14 census tract, so the decision to go forward at full app
15 would be predicated upon there being no other deals in
16 that census tract. That would for sure achieve the kind
17 of dispersion you're talking about. I also think it would
18 really screw with the development plan in process and
19 that's why we didn't put it in.

20 MR. GOODWIN: Anything else, Marni?

21 MS. HOLLOWAY: No, not on that item.

22 MR. GOODWIN: So I need a motion to approve and
23 are we going to amend this?

24 MS. HOLLOWAY: Still have a little bit more to
25 go.

1 MR. BRADEN: I would make one comment on the
2 item. So obviously, I think what Zachary pointed out, and
3 we kind of talked about it yesterday too, that two
4 projects in the same census tract doesn't seem like a good
5 idea, but right now what we're saying is we can't see an
6 easy solution to that so we're going to realize that it's
7 an issue and then maybe in future deals be able to figure
8 something out. Is that what the consensus was?

9 MR. IRVINE: I think that that's one
10 possibility. I think another possibility is that we do
11 have a legislative session coming up, and if anybody wants
12 to get with their members and pursue some sort of a
13 legislative resolution to that, then that's an option.

14 MR. BRADEN: Okay.

15 MR. GOODWIN: You said you had more?

16 MS. HOLLOWAY: Yes. I said that's the QAP but
17 that's just the scoring part.

18 MR. GOODWIN: Sorry.

19 MS. HOLLOWAY: So now we get to move through
20 the rest of the subchapters that were moved into Chapter
21 11.

22 MR. GOODWIN: Okay.

23 MS. HOLLOWAY: Subchapter B, Site and
24 development requirements and restrictions. The railroad
25 item under the undesirable site features has been modified

1 to reflect local board decisions. In undesirable
2 neighborhood characteristics, we've renamed to
3 neighborhood risk factors. The distance to adjacent
4 census tracts with a high crime rate has been changed and
5 there's some additional information regarding mitigation.

6 There is some language that I'd like to read
7 into the record that I received this morning, so this is
8 Subchapter B which is site and development standards,
9 we're talking about neighborhood risk factors. The
10 citation is actually 11.101(3)(c) in the first paragraph.

11 We're adding at the end of that paragraph this language:
12 "The mitigation offered by an applicant may be, as
13 applicable, either one or more of the mitigations
14 described in (i) through (iv) of the section below, or
15 such other mitigation as the applicant determines
16 appropriate to support a Board determination that the
17 proposed development site should be found eligible." So
18 it just further clarifies the information regarding
19 mitigation.

20 Moving on within that same subchapter, the
21 maximum size for developments in rural areas financed with
22 direct loan or bond funds has been increased from 80 to
23 120. A rehabilitation standard was added as an
24 alternative to spending a minimum amount per unit. Then
25 further on, the common amenities section was reorganized

1 for clarity and items reevaluated for points based on the
2 cost or difficulty of providing the amenity.

3 We have added several options to unit and
4 development construction requirements. And then under
5 development construction features which is part of that
6 rule, there was conversation yesterday about adding
7 evaporative coolers for developments in certain parts of
8 the state that have very dry climates. Staff has not had
9 an opportunity to evaluate what would be an energy
10 efficient evaporative cooler. You'll see that in this
11 section we're talking about 15 SEER HVACs and insulation
12 between units based on the resident survey that talked
13 about wanting their units to be quiet, so just having an
14 evaporative cooler, we haven't had an opportunity to
15 evaluate if that's just what's going to be installed
16 anyway or if there's some more energy efficient
17 measurement that we could add. So what we are proposing
18 is that we will add evaporative coolers here, do some
19 research, find out what that more efficient measure if one
20 exists if we can find one. If we can't find one we can
21 strike it at final, or we can move forward with what that
22 higher standard is.

23 MR. GOODWIN: Okay. Any comments?

24 MR. BRADEN: So for the chair, this was brought
25 up yesterday and the developer who came in was from El

1 Paso, and I'm from El Paso so I understand that there's a
2 lot of evaporative coolers there. But how are we going to
3 determine what area of the state is arid enough that we're
4 going to allow for evaporative coolers?

5 MS. HOLLOWAY: I would bet that there's some
6 way to get to that.

7 MR. BRADEN: I don't want somebody in Houston
8 to come say we're putting evaporative coolers in.

9 (General laughter.)

10 MS. HOLLOWAY: I would imagine something like
11 annual rainfall.

12 MR. IRVINE: I know there's HUD data on
13 different climate zones like humid fringe climate zones
14 along the Gulf Coast and so forth. I would imagine that
15 would be a potential source.

16 Sharon has got something.

17 MS. HOLLOWAY: We just simply have not had an
18 opportunity to research it.

19 MS. GAMBLE: Sharon Gamble, TDHCA.

20 Our Weatherization Assistance program actually
21 has information about evaporative coolers and we will be
22 conferring with them to come up with a standard.

23 MR. BRADEN: Okay, good. Thanks. And even
24 though I do recognize in El Paso there are still
25 evaporative coolers commonly used, there is a trend in

1 that city of using refrigerated air too, so if we end up
2 the end of the day requiring that, I'm not sure that's
3 such a terrible thing.

4 MS. HOLLOWAY: And this is not necessarily a
5 requirement, it's an option, so this is an option for more
6 efficient HVAC, for better insulation, those kinds of
7 measurements, these are not requirements.

8 MR. IRVINE: So the real question then is would
9 an evaporative cooler address the policy objective of
10 promoting energy efficiency.

11 MR. BRADEN: So that's a distinction that I'm
12 not sure we focused on yesterday at the committee. If
13 it's just an option, I think go forward as discussed, but
14 I wouldn't feel as bad about not having evaporative
15 coolers in that description because they can make the
16 decision whether they want to continue with evaporative
17 coolers or use the more efficient 15 SEER.

18 MS. HOLLOWAY: Also in that subchapter resident
19 supportive services was also reorganized and evaluated for
20 the weighted score of each item. Services that are more
21 expensive to provide are of course going to have a higher
22 value than ones that are less expensive to provide to the
23 residents.

24 In that section the accessibility requirements
25 was modified to meet the HUD requirements that were

1 previously discussed by the Rules Committee.

2 And that is it for Subchapter B.

3 MR. GOODWIN: Okay.

4 MS. HOLLOWAY: Moving on to Subchapter C, this
5 is Application submission requirements, ineligibility
6 criteria and Board decisions and waiver of rules.

7 The administrative deficiency section has been
8 modified to encompass material deficiencies. You'll
9 remember that I mentioned that we've expanded or clarified
10 the material deficiency definition, so now the deficiency
11 process will be administrative or material, it's the same
12 process to deal with both. So if it's a material
13 deficiency there will still be a notice and an opportunity
14 to respond the same way there would be with an
15 administrative deficiency.

16 Ineligible applicants, we have added to
17 ineligibility failure to disclose a voluntary compliance
18 agreement.

19 And that is it for C.

20 MR. GOODWIN: Okay.

21 MS. HOLLOWAY: Subchapter E, Fee schedules,
22 appeals and other provisions. The appeals process in this
23 rule is available only to competitive tax credit
24 applicants by statute. For tax exempt bond developments
25 or direct loan only applications, the applicant or owner

1 would be able to appeal under 1.7 of our administrative
2 rules. It's basically the same process, it's just
3 different sections of the rule that apply.

4 And then we have added information or added a
5 line in the appeals process which also speaks to statutory
6 limitations that say applicants can't supplement their
7 application without a request from us. So a witness in an
8 appeal may not present or refer to any document,
9 instrument or writing not already contained within the
10 application as reflected in the Department's records. And
11 that's it.

12 Staff recommends acceptance of --

13 MR. IRVINE: Approval to publish for comment
14 the QAP with the changes described.

15 MS. HOLLOWAY: There we go. Yes.

16 MR. GOODWIN: Any questions?

17 (No response.)

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

19 MR. BRADEN: So moved.

20 MR. GOODWIN: Second?

21 MS. THOMASON: Second.

22 MR. GOODWIN: Any questions or discussion?

23 (No response.)

24 MR. GOODWIN: All in favor say aye.

25 (A chorus of ayes.)

1 MR. GOODWIN: Opposed?

2 (No response.)

3 MR. GOODWIN: Moving on to 7(c)

4 MS. HOLLOWAY: 7(c) is presentation, discussion
5 and possible action on the proposed repeal of 10 TAC
6 Chapter 13, which is our Multifamily Direct Loan Rule, and
7 the proposed new 10 TAC Chapter 13 Multifamily Direct Loan
8 Rule and directing publication for public comment in the
9 *Texas Register*.

10 Most of the changes for this year's rule are
11 clarifications. There are a few alterations here that
12 I'll just run through really quickly.

13 We've added a definition of surplus cash flow
14 with a specific calculation of surplus cash flow when the
15 Department's loan is subordinate to an FHA insured first
16 lien loan, so that applicants at underwriting, everybody
17 knows, asset management, everybody knows what we're going
18 to be looking at.

19 We have added pre-development and preservation
20 as potential activities that could be reimbursed with
21 direct loan funds so that we're aligning with statute and
22 federal regs.

23 We have added a less stringent market analysis
24 requirement for rehab deals that are direct loan only.

25 We have made explicit the Department's

1 prioritization of fund sources when more than one source
2 is available to award within a set-aside.

3 We have also described what rules will apply to
4 applications and awards that span more than one year's
5 rules from the time of application submission to the time
6 of loan closing.

7 We have deleted the interest rate specified
8 previously in the rule. We are going to be publishing
9 that interest rate in the NOFA instead.

10 We have added an option for applicants to
11 request less than 20 percent owner equity requirement a
12 direct loan only transaction, and we have set the
13 requirements for that request. That is also in your
14 supplement on the page that is topped 13.8. Down here at
15 the bottom the language that's added is what was drafted
16 in the course of the committee meeting yesterday. So
17 previously the requirement was you must have 20 percent
18 equity, this sets forth ways to request that the Board
19 approve less than 20 percent owner equity investment in
20 the property, so there's a little more structure around
21 that.

22 We have added language that addresses direct
23 loan applications that are layered with 9 percent credits
24 or 4 percent that elect income averaging.

25 We have accelerated the deadline for an

1 environmental review in order to try to mitigate some of
2 our commitment deadline risk, and we've also deleted the
3 closing deadline requirement since we had a closing
4 requirement twice so we took one of them out.

5 Staff recommends the approval of the proposed
6 repeal of 10 TAC Chapter 13 and the proposed 10 TAC
7 Chapter 13 Multifamily Direct Loan Rule be approved for
8 publication for comment in the *Register*.

9 MR. GOODWIN: I'll entertain a motion

10 MR. BRADEN: I move to accept staff's
11 recommendation.

12 MR. GOODWIN: Second?

13 MS. BINGHAM ESCAREÑO: Second.

14 MR. GOODWIN: Any questions or discussion?

15 (No response.)

16 MR. GOODWIN: All in favor say aye.

17 (A chorus of ayes.)

18 MR. GOODWIN: Opposed?

19 (No response.)

20 MS. HOLLOWAY: Thank you.

21 MR. GOODWIN: Thank you.

22 Now, we are pulling, just for everyone's
23 knowledge, item number (7)(e) from today's agenda. So we
24 have 7(d), Monica.

25 Is Teresa going to do this? Hi, Teresa.

1 MS. MORALES: Good morning. Teresa Morales,
2 manager of Multifamily Bonds.

3 Chairman Goodwin and members of the Board, item
4 7(d) involves the presentation, discussion and possible
5 action relating to the 2019 draft Multifamily Housing
6 Revenue Bond Rules.

7 The Department is authorized under its
8 governing statute to issue multifamily bonds and the rules
9 before you establish some of the procedures and
10 requirements that govern those issuances. Specifically,
11 these rules outline the scoring and threshold requirements
12 for bond pre-applications and also speak to the full
13 application requirements which, for the most part, mirror
14 those requirements on the tax credit side, however, there
15 are bond specific requirements relating to bond documents
16 and how those are drafted, public hearings, notably the
17 TEFRA hearings, and Department fees are also addressed
18 through this rule.

19 Staff recommends that the proposed repeal of
20 the current 10 TAC Chapter 12 and proposed new 10 TAC
21 Chapter 12, Multifamily Housing Revenue Bond Rules be
22 approved for publication in the *Texas Register* for public
23 comment.

24 MR. GOODWIN: Any questions?

25 (No response.)

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

3 MR. BRADEN: I move.

4 MR. GOODWIN: Second?

5 MS. THOMASON: Second.

6 MR. GOODWIN: All in favor say aye.

7 (A chorus of ayes.)

8 MR. GOODWIN: Opposed?

9 (No response.)

10 MR. GOODWIN: Moving on to 7(f).

11 MR. BANUELOS: Good morning. Rosalio Banuelos,
12 acting director of Multifamily Asset Management, and I am
13 here for item 7(f) which is presentation, discussion and
14 possible action on the proposed amendment of 10 TAC
15 Chapter 10, Subchapter E, concerning post-award and asset
16 management requirements and directing its publication for
17 public comment in the *Texas Register*.

18 Several of the proposed changes are
19 clarification items and some are changes for consistency
20 with other sections of the rule, so I won't focus on
21 those. I will point out the most significant changes
22 which are in the sections which are amendments, ownership
23 transfers and right of first refusal which are sections
24 10.405, 10.406 and 10.407, respectively.

25 Under amendments to the housing tax credit

1 application and amendments to the LURA, Section 10.405,
2 staff proposes the addition of an item to allow for
3 amendment requests seeking to implement a revised minimum
4 set-aside election, mainly for income averaging as
5 permitted by amended Section 42(g) (1) of the Internal
6 Revenue Code as adopted by the Federal Consolidated
7 Appropriations Act of 2018. This would be a material
8 amendment requiring Board approval for both application
9 amendments and amendments to the LURA.

10 Under 10.406(e) for ownership transfers, staff
11 suggests that the executive director be given the
12 authority to approve transfers prior to the issuance of
13 8609s or completion of construction rather than these
14 transfers having to go before the Board for decision-
15 making. This would allow such transfers to be more
16 quickly and efficiently approved.

17 And under right of first refusal, which is
18 Section 10.407, staff suggests adding language to clarify
19 the operation of the right of first refusal process as set
20 forth in statute, particularly for developments that have
21 a minimum purchase price. The proposed changes are
22 intended to implement what staff believes is the most
23 reasonable reading of statute which is that a minimum
24 sales price as stated in Section 42(I) (7) is only a sales
25 price floor that if not met would trigger tax

1 consequences, but negotiations for a higher price and
2 ultimately a higher sales price are allowed.

3 So those are the changes that we're proposing,
4 but I would like to touch on a item that was discussed
5 yesterday at the Rules Committee in particular regarding
6 Section 10.406(f) and this is for transfers to nonprofits.

7 Section (f) (1) and (f) (2) both deal with the requirements
8 of the LURA, so basically if the LURA requires that a
9 nonprofit be participating, we would expect that to be
10 during the specified period of time indicated in the LURA,
11 mainly throughout the compliance period which may be
12 extended. 10.406(f) (3) is the section that establishes
13 the circumstances under which the LURA could be amended to
14 remove that requirement, and after looking into it
15 yesterday, it looks like that section is very
16 conservative, it probably requires more than it needs to
17 in terms of having developments that were not in the
18 nonprofit set-aside or not, but it mainly deals with
19 amendments after the federal affordability period or the
20 federal compliance period.

21 So I discussed this with Ms. Bast yesterday
22 after the Rules Committee and we agreed that it would
23 probably be best to receive comments about this during the
24 public comment period and make changes accordingly, so
25 unless the Board has a different direction, I would

1 anticipate that we would address that then.

2 MR. GOODWIN: Okay. Any questions?

3 (No response.)

4 MR. GOODWIN: Do I hear a motion?

5 MS. THOMASON: So moved.

6 MR. GOODWIN: Moved to approve staff's
7 recommendation. Second?

8 MR. BRADEN: Second.

9 MR. GOODWIN: Any discussion?

10 (No response.)

11 MR. GOODWIN: All in favor say aye.

12 (A chorus of ayes.)

13 MR. GOODWIN: Opposed?

14 (No response.)

15 MR. GOODWIN: That concludes item 7.

16 We find a need to move the Board into executive
17 session. If you'll bear with me, I need to read this.

18 The Governing Board of the Texas Department of
19 Housing and Community Affairs will go into closed or
20 executive session at this time pursuant to Texas
21 Government Code 551.071 to seek and receive the legal
22 advice of its attorney.

23 The closed session will be held within the
24 anteroom to this room, Capitol Extension Room E2.016. The
25 date is September 6, 2018 and the time is 10:20 a.m.

1 Anticipate that we will be in executive session for
2 approximately ten minutes.

3 (Whereupon, at 10:20 a.m., the meeting was
4 recessed, to reconvene this same day, Thursday, September
5 6, 2018, following conclusion of the executive session.)

6 MR. GOODWIN: The Board is now reconvened in
7 open session at 10:40 a.m. During the executive session
8 the Board did not adopt any policy, position, resolution,
9 rule, regulation or take any formal action or vote on any
10 item.

11 We have hit a point in the agenda where we will
12 hear public comment for the purposes of only creating
13 items to discuss in future Board meetings. Is there any
14 comment?

15 (No response.)

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

18 MS. THOMASON: So moved.

19 MR. GOODWIN: Second?

20 MR. BRADEN: Second.

21 MR. GOODWIN: A lot of excitement over that
22 motion. All in favor say aye.

23 (A chorus of ayes.)

24 MR. GOODWIN: We are adjourned. We'll see you
25 next month.

1 (Whereupon, at 10:40 a.m., the meeting was
2 adjourned.)

C E R T I F I C A T E

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2
3 MEETING OF: TDHCA Board
4 LOCATION: Austin, Texas
5 DATE: September 6, 2018

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 113, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Nancy H. King before the
10 Texas Department of Housing and Community Affairs.

11 DATE: September 12, 2018
12
13
14
15
16
17

18 _____
(Transcriber)

19
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