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 RESENDIZ Member
SHARON THOMASON, Member
LEO VASQUEZ, Member

TIMOTHY K. IRVINE, Executive Director

ON THE RECORD REPORTING
(512) 450-0342
INDEX

AGENDA ITEM

CALL TO ORDER
ROLL CALL
CERTIFICATION OF QUORUM

Resolution recognizing October as National Energy Awareness Month

CONSENT AGENDA

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

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

18409 John Cramer Apartments El Paso
18410 Ambrosio Guillen Apartments El Paso
18411 MLK Memorial El Paso
18420 Walnut Creek Austin
18422 Elysium Grand Austin (PULLED)

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)

ON THE RECORD REPORTING
(512) 450-0342
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

ON THE RECORD REPORTING
(512) 450-0342
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 §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 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

ON THE RECORD REPORTING
(512) 450-0342
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:

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
   b) Report on Department's Fair Housing Activities

ITEM 4: INTERNAL AUDIT
   a) Report on the meeting of the Internal Audit and Finance Committee
   b) Presentation and possible approval of the Annual Internal Audit Plan for Fiscal Year 2019
   c) Presentation and review of the Internal Audit of the Neighborhood Stabilization Program close out process

ITEM 5: BOND FINANCE
   Presentation, discussion, and possible action regarding Resolution No. 19-004 approving amendments to program documents for Taxable Mortgage Program; authorizing the execution of documents and instruments relating to the foregoing; making certain findings and determinations in connection therewith; and containing other provisions relating to the subject

ITEM 6: EXECUTIVE
   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,
concerning Fee Schedule, Appeals and Other Provisions, and directing publication for public comment in the Texas Register

b) Presentation, discussion, and possible 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 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 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 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 action on the proposed amendment of 10 TAC Chapter 10 Subchapter E, concerning Post Award and Asset Management Requirements, and directing
its publication for public comment in the Texas Register

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

EXECUTIVE SESSION 111
OPEN SESSION 111
ADJOURN 112
MR. GOODWIN: I call to order the Texas Department of Housing and Community Affairs Board meeting for September 6, 2018.

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

MS. BINGHAM ESCAREÑO: Here.

MR. GOODWIN: Mr. Braden?

MR. BRADEN: Here.

MR. GOODWIN: Mr. Goodwin.

Ms. Reséndiz?

MS. RESÉNDIZ: Present.

MR. GOODWIN: Ms. Thomason?

MS. THOMASON: Here.

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

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

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

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

Does anybody else have anything else you want pulled?
MR. GOODWIN: If not, I'll entertain a motion to approve the consent agenda as amended.

MS. BINGHAM ESCAREÑO: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

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

MR. LYTTLE: The resolution reads as follows:

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

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

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

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

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

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

"Now, therefore, it is hereby resolved, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate October 2018, as
Energy Awareness Month in Texas.

"Signed this sixth day of September 2018."

MR. GOODWIN: Thank you.

Do I hear a motion to approve this resolution?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. BINGHAM ESCAREÑO: Second.

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

Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Hold your applause, please.

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

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

MS. RESÉNDIZ: So moved.

MR. GOODWIN: Moved. Seconded?

MS. THOMASON: Second.

MR. GOODWIN: Okay. Discussion. Ma'am, did you want to speak?
SPEAKER FROM AUDIENCE: I do but I was wanting to speak to item 18422. May I still?

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

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

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

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

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

The neighborhood is not opposed to affordable housing in general but rather is opposed to the scale of this project at this site, which has several shortfalls. Flooding has occurred on the sole street, our neighborhood street, accessing the site, and there was a high water
rescue in front of this site in October 2013. In early 2016 the applicant presented a preliminary site plan of several three story residential buildings. The neighborhood realized that such a plan sprawled too much of the site as much of the site is located in the 100-year flood plain and critical water quality zone. Later the applicant must have realized that too because then the project morphed to include four and five story buildings.

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

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

"The neighborhood does have their facts correct, it does have flood plain on the property, critical water quality zone, that covers a significant portion of the property. There are at least two critical environmental features, or karst features, likely a third one. Our geologist thinks it's likely another sinkhole. The applicant does understand they will need to work around all these three and maybe more once we dig into it more."
Not only are four and five story structures completely out of place along a neighborhood street with the site bordering single family two and rural residential zoning, but are such building heights desired on land with known critical environmental feature with a 50-foot buffer perimeter as shown on the site plan? It was acknowledged by the applicant that it will comply with recommendations of the environmental site assessment. But do we know to what extent other environmental hazards, sinkholes or caves and karst may be uncovered and at what cost to resolve those?

Regarding zoning, the city pushed through a change only just before the 2017 application and not 2016. Multifamily rules changed in that the site could not be within 500 feet, not 100 feet, of an active railroad track, which this site is. So the city passed the zoning to include an ordinance likely so that the application would not be disqualified. So why this zoning with taller building heights? Is it simply because it's for this affordable housing project?

Accessibility from the site to amenities is limited by foot, and the city gave the site a low walkability score and residents will be car-dependent. The state representative did not give her support for the 2016 application, citing one reason as the lack of public
transportation. In 2017 she gave her support because there were plans to provide transportation. Now again, there is no formal plan that we're aware of for providing transportation. This past May 24 -- may I continue?

MR. GOODWIN: You may.

MS. DEEDS: I appreciate that.

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

The purchase price of the property was well above the asking price of $1.4 million. Back in 2015 the contract purchase price was $2.4 million, a full one million dollars over asking, and Travis County Appraisal District had it assessed at only $557,000. So why has Austin Housing Finance Corporation served as the lender of funds on December 28, 2017, closing date for the purchase price of $2.075 million, when the listing price still showed only $1.4 million and which TCAD appraised at $835,000 for 2016 to 2018?
For all intents and purposes is the funding for this project seemingly considered a done deal by the applicant and the city when we're still in the midst of a hearing for this 4 percent housing tax credit and we have yet to have another hearing with the city for the $10 million private activity bonds?

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

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

Any questions?

(No response.)

MR. GOODWIN: Thank you.

MS. DEEDS: Thank you.

MR. GOODWIN: Any other discussion?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

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

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

MR. GOURIS: I am.

MR. GOODWIN: Okay.

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

I'm going to give a little background about the
migrant labor housing facility licensing activity because it's probably one you're not very familiar with, but unlike the typical program activity conducted by the Department, it does not begin with funding from the Department.

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

The actual inspection and processing of the licenses are currently handled by our sister agency, the Manufactured Housing Division, and that occurs when providers of such housing self-identify that they wish to be licensed, that they operate such a facility. So our regulatory or enforcement activity is not a result of providing funds for housing a it is for almost all of our
other activities, and at the same time we are not a
typical law enforcement agency with resources to patrol
the streets to find unlicensed facilities. We do,
however, let people know about the legal requirement for
licensing whenever we're told about unlicensed facilities.

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

So just a little bit more background, if I
could. Bear with me. The U.S. Department of Labor uses
two standards for the inspection of labor facilities: the
ETA standard and that's a standard for facilities in
operation prior to 1980, and the OSHA standard for
properties beginning in operation after 1980. Our Texas
statute does not specify a federal standard to use but
instead directs this Board to enact a Texas standard for
inspection and address eleven areas identified in the statute and allows the Board to add any other matters appropriate or necessary for the protection of the health and safety of the occupants of such housing.

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

So TWC currently does inspections under the ETA or OSHA standard for the H-2A program and we have been working on revisions to our rule to accept their inspections and the federal minimum standards that they use in the inspection process. However, we’ve received considerable feedback from advocacy groups and a group of interested legislators who expressed compelling concerns with regard to the differences in the two federal standards and how abandoning our current standard could lessen the housing protections for all migrant workers. They identified a number of instances where the lesser standard would weaken these protections. For example, the ETA standard requires electricity to be available at a housing facility, whereas, the OSHA standard only regulates electricity if it's already
available at the facility.

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

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

One other item that we discussed yesterday was the fact that the draft rule wanted to reduce the burden on new licensees who are a part of the TWC regiment, and doing that by limiting their licensing fee to $25 for the first two years, as long as we receive the TWC inspection with our application. This would apply for the first two years the licensing was being considered since we only
have fee appropriations for fiscal 2019 of $10,500 which was the anticipated fee collections for the year when the last appropriations were made and before we understood how many H-2A potential licensees we might receive. So this is all something we need to continue to work on and work with TWC and the advocates and the legislators to try to work through.

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

We will continue to reach out to these groups and soon we'll be able to receive copies of application material for the H-2A program as they send that in to TWC. TWC is going to forward it to us and then we will be able to contact them directly and indicate to them their need to be licensed then.

Okay. So now on to some more exciting news. One of the things we recognized right away is that we needed to improve the recognition of this program, the understanding of this program, and so we want to better
communicate the value of obtaining a license, so we
developed a brand logo for the licensing program.

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

MR. GOODWIN: Thank you, Amy.

(Applause.)

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

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

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

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

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

MR. GOODWIN: Okay. Any questions?

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

So just to make sure we understand, so there's 140 employers that employ H-2A visa folks in Texas?
MR. GOURIS: At least. It's hard to know exactly because what we have information on today is folks that have made application in the past year and a half, and so we've sent out to 180 folks, about 140 of them were employers.

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

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

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

MR. GOURIS: That's correct.

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

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

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

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

MS. BINGHAM ESCAREÑO: It's statutory. Good. I don't have any other questions.

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

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

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

MR. GOURIS: Tim and Beau can speak to this too. That's one of the most difficult things we have to do because, one, we don't have a whole lot of law enforcement tools. We have the ability to get injunctive relief to prevent them from providing that housing, which then the alternative is those workers would have to
provide someplace else to live which may not exist, and/or
we can apply a fine for each violation of up to $200 per
day by statute. By rule it's just $200 per violation
right now.

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

MR. IRVINE: Essentially, the folks who are
arranging for H-2A visas are required by federal law to
arrange for housing also, and the TWC inspections or
verifications of that housing are to a different standard
than our licenses. So you've got all of these people who
are coming here under H-2A visas and they were cleared
under a lower standard, frankly. We have contacted them
to let them know you need a license from us if you hit the
triggers provided for in our statute and we are going to
be looking at them. If we find that somebody has said,

oh, I don't want to get a license, I'm just going to go
ahead under my H-2A visa, that's probably going to serve
as the predicate to some sort of an enforcement action.

MR. GOURIS: And just to kind of further that
point, the H-2A providers who are going through the
process at TWC are probably not the worst actors out there, they're probably trying to do the right thing, and probably are going to be cooperative, and that's good, that's what we want. It's those folks that are going outside the system and those are the folks that are hardest to find. So the whole idea behind the branding campaign is to make it a positive reinforcer of the licensing activity so that folks will want to do that so that they can garner employees, good employees, and by doing that, we were hoping to improve the lot of the entire process because without the tools for enforcement, we've got to provide some incentives to be licensed, and that's the point of the branding campaign.

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

MR. GOURIS: Yes.

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

MR. GOURIS: I think it's a different standard for migrant farm worker housing than it is for other housing, not because I think that personally or because that's a Department policy, but because the statutory requirements are different. In fact, that's the case for
all of our different types of housing, whether it be HOME
funded or tax credit funded, there are different standards
that are required in many cases.

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

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

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

    MR. IRVINE: We've defined it in our rules, and
I would characterize it as housing that keeps the
residents safe from the elements, provides access to
things like restrooms and cooking facilities, is controlled for health and safety issues, and it's not a place that would pose a danger to them. And because many of these workers travel with their families, it would also provide a modicum of privacy for family members.

MR. GOODWIN: Okay. Any other questions?

MS. RESÉNDIZ: Mr. Chairman.

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

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

Another comment that was made had to do with the sheer number of migrant workers. Now, we don't have data to support this, but it was claimed that there are some 750,000 migrant workers in Texas, and that's a lot of folks. If it's a tenth of that, it's still a lot of
folks. They're all finding housing someplace. Some of it is required to be regulated and it seems clear that we're not regulating enough of it at this point, so trying to build that is what we're trying to do.

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

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

MR. GOODWIN: Mr. Braden.

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

And I think the gist of all of that is it's a bigger problem than our rules, and so I think the decision
was, well, let's just not move forward with these rules as is, let's try greater coordination with the Texas Workforce Commission, maybe the Department of Labor and see what we can do to address the problem generally. So I think that was the outcome of all of it.

MR. GOODWIN: Any other questions?
(No response.)
MR. GOODWIN: If not, do I hear a motion to accept Tom's report.
MS. BINGHAM ESCAREÑO: Move to approve.
MR. GOODWIN: Move to approve. Second?
MS. RESÉNDIZ: Second.
MR. GOODWIN: It's been moved and seconded.
Any further discussion?
(No response.)
MR. GOODWIN: If not, all in favor say aye.
(A chorus of ayes.)
MR. GOODWIN: Opposed?
(No response.)
MR. GOODWIN: Thank you, Tom.
MR. GOURIS: Thank you.
MR. GOODWIN: Next we have a report on the Department's fair housing activities.
MS. BOSTON: Good morning, Chairman Goodwin, Board members. I'm Brooke Boston, I am not Suzanne
Hemphill, who is in your agenda. I'm pleased to say that she delivered a healthy baby girl a few days ago which is why she's not here.

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

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

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

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

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

Media advisories were sent in English, Spanish and Vietnamese to press contacts in the twelve different market areas where our public meetings were held which
included Amarillo, Abilene, Austin, Brownsville, Corpus, Denton, El Paso, Houston, Midland, Nacogdoches, Seguin, and Texarkana.

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

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

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

So that was really what I wanted to share with
you today was just to give you an update on where we are
with that process. It's going very well and we've been
glad to get as much input as we have.

Any questions?

MR. GOODWIN: Thank you, Brooke. And

congratulations to Suzanne.

Any questions?

(No response.)

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

MS. THOMASON: So moved.

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

MR. BRADEN: Second.

MR. GOODWIN: Moved and seconded. Any
discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you.

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

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

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

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

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

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

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

(No response.)

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

MS. BINGHAM ESCAREÑO: Move to approve.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

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

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

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

MR. GOODWIN: Any questions before I ask for a
motion?

(No response.)

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

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. BINGHAM ESCAREÑO: Second.

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

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

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

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

We tested the reconciliations between the housing contract system and the Disaster Recovery Grant Reporting system, or the DRGR. We also tested other requirements such as subrecipient compliance with the
Single Audit Act, proper draw amounts and other elements, and we found no audit exceptions. So that concludes my presentation.

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

MS. BINGHAM ESCAREÑO: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you, Mark.

MR. SCOTT: Thank you very much.

Bond Finance, Monica.

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

This is item number 5 which is Presentation, discussion, and possible action regarding Resolution No. 19-004 approving amendments to program documents for Taxable Mortgage Program; authorizing the execution of documents and instruments relating to the foregoing;
making certain findings and determinations in connection therewith; and containing other provisions relating to the subject.

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

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

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

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

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

MR. GOODWIN: Questions?

(No response.)

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

MR. BRADEN: Move to approve.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?
(No response.)

MR. GOODWIN: Thank you, Monica.

MS. GALUSKI: Thank you.

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

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

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

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

MS. BOSTON: Board, this is item 1(bb) relating to the rule that proposes the repeal and then subsequent adoption. The rule being repealed is called Previous Participation, the revised rule being replaced is actually called Previous Participation and Executive Award Review and Advisory Committee. The rules include now a section that addresses how that committee internally within TDHCA
This rule contemplated a pretty significant series of changes to how previous participation is determined. As you guys know, previous participation is the process that we got through with any application that gets turned into the Department, whether that's Community Services Block Grant, Multifamily, HOME Single Family, regardless of which funding source, this process is how we review that applicant's past history with the Department, and we look through that and then make a determination as to whether we think that they should get an award, and if necessary, what the conditions would be.

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

Overall the changes for the rule, we added clear purposes for each section, we more clearly aligned the processes with 2 CFR Part 200. That is the federal
rule that relates to how we have to review our federal funds, so for instance, HOME, LIHEAP, and so we made sure that it's clear that this process of previous participation and EARAC is the process by which we're satisfying our federal requirements.

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

So we also streamlined what triggers would include you into different categories, we clarified several circumstances where we actually don't think you need to have a very extensive PPR review, that if you meet this, this or this criteria, it will be pretty straightforward and you're just approved, which was intended to streamline things.
We clarified language relating to the single audit submission because that's a big part for our non-multifamily applicants that we have to make sure we've seen their single audit and had a chance to review that.

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

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

MS. BOSTON: We heard about it yesterday morning.

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

MS. BOSTON: Three business days.

MR. GOODWIN: Three business days?

MS. BOSTON: Yes.

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

MS. BINGHAM ESCAREÑO: So moved.

MR. GOODWIN: Moved. Second?

MR. BRADEN: Second.

MR. GOODWIN: All approved say aye.

(A chorus of ayes.)

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

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

I would like to speak specifically with regard to the problems that this redraft creates for those developers who have large portfolios. This changes to a category 1-2-3 scenario: 1 is the good guys, everything
goes for them; 2, problematic possibly, might even be
denied an award; and 3, unlikely to get an award, have to
work extra hard to convince the EARAC committee to
recommend.

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

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

And we have a lot of clients that have a number
of those failure to respond items. When you have a
portfolio of 20-30 different properties, as do a lot of
the housing authorities, for instance, who partner with
other developers to do deals, it is very likely that you
have more than three failure to responds currently on your PPR.

I think that this could be solved by making it a ratable situation that for category 2 that would be triggered if there was no failure to respond for 50 percent or fewer of the properties that that particular developer has and has control of, because this is very, very important. Frequently you have joint ventures between developers, one of them controls the communications regarding compliance, the other does not. The one that does not have control over whether or not a response was made really shouldn't be dinged for the other party's lack of response. To do so is going to create a lot of hardship for the larger operators within the state. And so I request instead that we have something on the order of under category 2 -- if I could just finish this one?

MR. GOODWIN: Very quickly, very quickly.

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

MR. GOODWIN: Thank you.

Any questions?

(No response.)

MR. GOODWIN: Next speaker.

MR. ALCOTT: Tim Alcott, San Antonio Housing Authority. It's been a while since I spoke to this Board.

I want to thank staff for working on these rules, they did a really good job.

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

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

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

So if there's a way that you could look at this
rule in a way that we could still apply for tax credits,
my concern is that housing authorities who provide the
most affordable housing to people under 30 percent -- we
have one development where we have over 200 units of
public housing units -- those of us who are providing some
of the most significantly affordable housing may not be
able to participate in the Tax Credit Program the way it's
currently written, this rule is currently written. And
it was posted for three business days, I missed that, I
would have hit that earlier, but when I saw this and
started going through it and realizing the impact on us,
this is my first opportunity to talk to y'all about it.
So I thank y'all for looking at this, but if there's some
way we could do an addendum that said our previous deals,
because we have a couple of them that our partner didn't respond because it happened two years ago and previously what would happen would be a hand slap if you did something wrong but they didn't submit something because the server was down at TDHCA, so several years ago they said, oh, whatever, this is our first one so they didn't try and fix that issue.

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

Thank you very much.

MR. GOODWIN: Thank you.

Any questions?

(No response.)

MR. GOODWIN: Next speaker.

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

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

Responding to what Brooke mentioned, yesterday I attended the compliance workshop and there the
participants asked why the previous participation rules were not on the agenda for that workshop or on the agenda for yesterday's Rules Committee for an opportunity for stakeholder input. As we looked into it, we all realized that there was that distribution August 10 through 15 when many people were out of the office or missed it, and so here's my proposal.

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

That's my suggestion. Thank you.

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

(General laughter.)

MR. GOODWIN: Next.

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

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

The rule, as we look at it as a housing authority, has got some issues specifically to us. As you
know, we're doing RAD, we're converting 52 separate properties, right now we're working with six different developers of which we then have to own every single one of their demerits. Not to mention when you look at the problems housing authorities have -- I'm just going to talk about it from a government perspective -- making a shift from being a government entity to basically having to run as efficiently as a non-government entity, is a massive transformation, it takes 100 percent of all of your resources. You're going to make issues, you're going to have problems.

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

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

Thank you.

MR. GOODWIN: Any questions?

(No response.)

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

In the event that it is not delayed, I did want to have one recommendation that I was able to think about and speak about today. In order to get to this category 3 which is this very red category and potential automatic denial of your award. The rule states that you have at least three or 50 percent or more dings on your portfolio. For a medium sized portfolio, which is where we stand with TDHCA, that's six to twelve, six properties in our portfolio, 50 percent, that's three dings. Under the previous rule, eight dings put you in that red category, so that's a huge reduction in the ability to move forward.
with your applications and that's really not very many.

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

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

MR. GOODWIN: Thank you.

Any questions?

(No response.)

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

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

And so it used to be under the old rule that if you had a certain number of compliance issues, you would
be subject to a conditional award and you could work out what those conditions were with the EARAC committee, and there's been a whole range of conditions that developers have agreed to to improve their compliance scores going forward. But this one says if you're a category 3 you're recommended for denial, and I don't think any of us know how many category 3s there are out there, but we ought to know. Is this disqualifying a third of the developers in the state?

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

Thank you.

MR. GOODWIN: Thank you.

Any questions?

(No response.)

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

(No response.)

MR. GOODWIN: Brooke.

MS. BOSTON: I was just going to say I can answer some of the specific comments that were brought up,
but I think we're willing to table it until October and do
a session with folks before then.

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

MS. BOSTON: So we can go either way.

MR. GOODWIN: A motion to table?

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

MR. GOODWIN: Okay. Second?

MS. BINGHAM ESCAREÑO: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Thank you, Brooke.

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

MS. VAN DUYNE: Thank you very much. I
appreciate your flexibility in the schedule. I just flew
in this morning, came right here from the airport, so I
hope I wasn't too late.

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

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

(Whereupon, a brief video was shown.)

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

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

My name is Beth Van Duyne. I'm the regional administrator for the Southwest Region of HUD which includes Texas, Oklahoma, Arkansas, Louisiana and New Mexico. It is a huge region. I feel like I live on a
plane these days trying to get around. I am based, however, in Fort Worth, and if anyone has any questions -- that's not just the Board but other members of the audience -- about HUD, please feel free to contact me. My office directly is at 817-978-5600.

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

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

Millions of people across the country still depend on some form of government assistance for housing or food or many other things, and as Secretary Carson has said, this is not a failing of our fellow Americans, it is a failing of our federal institutions to construct a society where these men and women may naturally prosper. But we're taking steps to better serve them at HUD. We're prioritizing work and job training, and for those in HUD
programs, we are able through our Section 3 programs and EnVision Centers to help them seek self-sufficiency.

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

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

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

The second is to restore the American dream in the sense that we're looking to tailor our programs to permanently improve lives, expand economic opportunity so that people can become self-sufficient again.
And the third is to rethink American communities and how we make them thrive. This means recognizing that active charities, religious institutions and private groups are often better at achieving their mission than heavy-handed government interventions. We support local control and homegrown solutions because cookie cutter approaches created in Washington just don't seem to work.

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

And this public housing, briefly, the housing authorities are our key partners and a key focus of RAD, and as you may know, there are 341 public housing authorities in Texas spread throughout the state, and
together they administer over 45,000 units of subsidized public housing, so that's the total universe of potential RAD applicable units, minus the 8,000 that have already been included in the program.

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

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

RAD maintains the public stewardship of the converted property through clear rules on ongoing ownership and use. This program is cost neutral and does not increase HUD's budget, but it does improve public
housing across the nation, and that's not without its challenges. I know that we skipped an item and I got to hear some of the comments from the crowd behind us and the public housing authorities, and it does have its challenges.

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

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

It also changes, though, the entire business model for some of these public housing authorities. It makes them have to act and work with the same kind of
efficiency and effectiveness as private industries. The
time lines are different. For example, if they are not completed with their construction, there's the possibility that they're going to have to pay each of the families that are affected, if they're moved for more than twelve months, $20,000. That's a pretty big hit on some of these housing authorities that are really small.

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

One of our largest conversions in the country is the RAD program in El Paso, which you saw in the video. They're using a variety of tools, 9 percent and 4 percent tax credits and FHA loans, to conduct a range of conversion types, new construction, extensive rehab, conversion of recently developed property, modernizing historical properties and transfers of assistance to rent bundling.
HACEP has closed already 27 properties under RAD, consisting of a total of 3,267 units, featuring $256 million of hard construction work being performed. We know HACEP aims to submit financing plans for most of its remaining projects over the next few months, with an expectation to close all of them by the end of 2018. They had a vision back in 2013 of five years; they're well on their way of modernizing the inventory. And by the way, that's their entire inventory of affordable housing.

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

Section 3 is a key component of our HUD programs toward building the block for self-sufficiency. Section 3 of the Housing and Urban Development Act of 1968 ensures that HUD-funded jobs, training and contracts are provided to local low income residents, particularly those that reside in public housing. HUD is working to lift many of the barriers to employment for people in public
housing through its Section 3 program. It requires recipients of certain HUD grants to provide job training, employment and contract opportunities for low or very low income residents with projects and activities in their own neighborhoods. Often this involves matching unemployed able-bodied people in public housing with jobs in construction or other opportunities. Helping people discover and develop the skills they need to compete for today's jobs can transform lives and strengthen economies.

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

Businesses can recruit in the neighborhood and public housing developments to inform residents about available training and job opportunities. They distribute flyers, post signs, place ads, and they contact resident organizations and local community development and
employment agencies to locate potential workers. Recipients and HUD program partners are required to the greatest extent feasible to provide all types of employment opportunities to low and very low income persons, including seasonal and temporary employment, as well as long term employment.

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

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

In today's very tight labor market, employers are desperate for workers and we need to rise to the
challenge, and that will result in a win-win for everyone, with tenants earning more money so they can move out, and the local economy getting the manpower it needs. And that's why HUD is focused far more on policies and partnerships for the public and private sector and nonprofit community to further develop the skills and talents of our residents, with the end goal of an independent life out of public assistance.

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

One last thing that I'd like to mention is that this year marks the 50th anniversary of the passage of the Fair Housing Act. On April 11, 1968, one week after Dr. Martin Luther King, Jr. was assassinated in Memphis, President Johnson signed this landmark legislation into law and declared: Fair housing for all, all human beings who live in this country is now a part of the American way of life. It was a crucial moment in our country's history.
when the ideals of equality and fairness were embodied in
a law that continues to shape our communities and
neighborhoods 50 years later. Half a century later, the
Fair Housing Act remains the centerpiece of HUD's work.

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

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

MR. GOODWIN: Thank you.
Any questions?

(No response.)

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

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

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

MR. IRVINE: Thank you.

MR. GOODWIN: Thank you.

(Applause.)

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

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

Item 7(a) is presentation, discussion and possible action Presentation, discussion, and possible action on the proposed repeal of TAC Chapter 10, Subchapter A, B, C, D and G.
So as you know, Chapter 10, the Uniform Multifamily Rules, contain all of the eligibility, threshold and procedural requirements relating to applications requesting any of our multifamily funds or tax credits. In order to better meet statutory requirements, the listed subchapters of Chapter 10 have been moved to the QAP and we'll be discussing that in the next agenda item. Chapter 12, the Multifamily Housing Revenue Bond Rule, and Chapter 13, the Multifamily Direct Loan Rule, have relied on Chapter 10 for threshold and eligibility requirements. They are proposed later in this agenda with changes to assure that they continue to reflect those requirements.

Staff recommends the proposed repeal of 10 TAC Chapter 10, Subchapter A, Subchapter B, Subchapter C, Subchapter D and Subchapter G, along with the preambles to be approved for publication in the Texas Register for public comment. Staff further recommends that because the subchapters named are essential to the continued operation of the Department's multifamily programs, if 10 TAC Chapter 11, the Qualified Allocation Plan, is not accepted and ultimately adopted in a form that incorporates all of these subchapters, this proposed repeal will not be presented for final adoption and 10 TAC Chapter 10 would continue in its current format with no repeal.
MR. GOODWIN: Any questions for Marni?
(No response.)

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

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: It's moved and seconded. Any discussion?
(No response.)

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

MR. GOODWIN: Opposed?
(No response.)

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

All right, Marni.

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

So as I just mentioned, in order to better meet the statutory requirements for the QAP, which is that it
provide information regarding the administration of and
eligibility for the competitive housing tax credit
program, we've merged most of Chapter 10 into Chapter 11,
which is the QAP. Remaining in Chapter 10 will be the
asset management and compliance sections, they will
continue to stand there. As I mentioned, the bond rule
and the direct loan rule will now reference the QAP for
threshold criteria where previously they would have
referenced Chapter 10 parts.

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

In the course of our conversation yesterday
afternoon during the Rules Committee meeting, there were a
number of changes that the committee and staff felt were
important to bring forward to the Board for further
discussion. There is on the table behind me and I think I
have left with all of you this supplemental materials
piece. So last night after the committee meeting, we went
back and the parts of the rules that we had discussed with
the suggested changes, we accepted all of the changes that
are in the draft and then just added the new language to
them just so that you can see what that new language looks
like and how it fits into that rule. There are a couple
of things, like the definition of control moves around a
number of pieces and just want to make sure that everybody
understands the proposed changes rather than me just
reading them in.

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

MR. GOODWIN: Good.
MS. HOLLOWAY: Is that acceptable?
MR. GOODWIN: That's acceptable.
MS. HOLLOWAY: Perfect.

So Subchapter A has been renamed to Pre-
application, definitions, threshold requirements and
competitive scoring. In the general provisions we've made
changes to reflect the new rule structure and some changes
in process. We've made several changes to definitions.
We've modified the adaptive reuse definition to allow for
a broader range of developments. We've added a definition of common area. And in your supplement there is a change that came out of the meeting yesterday regarding the definition of control. Ms. Bast pointed out that we have described control in different ways in different parts of our rules. What this seeks to do is pull them all together in one place and then those other parts of the rule, like 204 and something else further on where we described controlling individuals is all referenced back to the definition now which was the conversation that came out of the committee, so that's what that change is in the supplement.

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

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

MR. GOODWIN: Hearing none, move on.

MS. HOLLOWAY: Moving on. We've brought in topics that could be addressed through a request for staff determination. Previously, staff determination prior to
application were limited to a very small subset of topics, but we've expanded that a little bit just so that there's more flexibility for people to access that process. Of course, we've updated the calendar for the 2019 competitive round, and that is the calendar.

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

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

We have added sites in qualified opportunity zones to the list eligible for basis. Qualified opportunity zones came out of the spending bill that gave us the additional 12.5 percent credits and then also the income averaging that we're addressing later in the rule. We're not sure yet how tax credits are going to work with
qualified opportunity zones, the IRS hasn't published any information yet, but we're just getting that in there so that we can work through that together.

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

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

So how this new tiebreaker will work -- and we've eliminated most of the tiebreakers that we used in 2018 and replaced them with this one item -- we're looking for developments proposed in census tracts with poverty rates below that three-year average. So once that
universe is established, we'll look for the census tracts with the highest rent burden. If a tie still remains, the second tiebreaker is the furthest distance from any other development awarded in the past 15 years serving the same population. For proposed developments in census tracts above the median, the only tiebreaker will be distance.

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

MR. GOODWIN: Okay.

MS. HOLLOWAY: Would you like to speak?

MR. KROCHTENGEL: Zachary Krochtengel.

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

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

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Thank you for your comments. Would you mind addressing what this gentleman just said philosophically?

MS. HOLLOWAY: Philosophically, yes, there are a lot more awards out of those large urban regions and so that's going to drive that median to a certain extent, it's also going to drive the average to a certain extent. The adjustments in 11 and 13 are ones that we have made
in other parts of our rules for very specific reasons. You know, we're talking about populations in the Valley tend to have a higher poverty rate.

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

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

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

MS. HOLLOWAY: I would add that if we continue
with this tiebreaker over a number of years, either he median or the average is going to start to trend down. As applicants are looking for the sites that are below whatever the number is for that year, we'll get more and more and more, and so that poverty rate number will trend down over the course of years and may require adjustment later on.

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

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

MR. BRADEN: I think the input we got at the committee meeting was the developers and the other stakeholders wanted some measure, they didn't want to wait till this year's process so they wanted some independent measure the could figure out early in the process, which was a good comment, I'm glad we could address it. But I'm okay with picking average. I don't know if anybody has any other issues, but it seems like if, Marni, you're saying that things are probably going to start going down, then for 3.5 percentage points, maybe we ought to pick the
slightly higher level and maybe we can leave it as average for a little while and see how it works out. I don't know if you have any input, sir.

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

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

Moving on to 11.8, Pre-application.

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

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

MR. TAMEZ: Okay. Thank you.

MS. HOLLOWAY: Moving on to 11.8, Pre-application requirements. For pre-apps we are limiting the number of pre-applications to one per site control document. This will eliminate the recent practice of
submitting multiple pre-applications for a single site. Part of the reason the pre-application process exists is so that everyone kind of has a sense of whether or not they should be submitting a full app, but when we have multiple pre-applications for one site, it's hard for other applicants to judge what will be submitted as full apps and whether they should be moving forward with that process.

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

So in response to that, we are taking out that whole big section that starts with "An applicant should retain." What we will be doing is changing 11.8(b)(2) to say evidence in the form of the certification -- and this
is in the supplement -- have been made, and then adding at
the end of that "and that a reasonable search for
applicable entities has been conducted." And then all of
this information about ways to search and things to search
for will be going into the manual as suggested means to
get to the appropriate neighborhood organizations.

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

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

Then on underserved area we've added a new item
that seeks to address issues of gentrification by looking
for census tracts with both high poverty and high rents.
We've also added an item that addresses at-risk or USDA
set-aside properties that are more than 30 years old and have not received federal funds for rehabilitation in the past. Under the new underserved area item, we are adding language -- that's also in your supplement -- making sure that everybody knows that it's rents for two-bedroom units is what we're looking at, that's the measurement for the comparison.

The Section 811 rules have been modified for accuracy.

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

MR. GOODWIN: Yes.

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

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

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

MR. IRVINE: And the public has the correct one.
MS. HOLLOWAY: I certainly hope so. If you don't have a page that starts with 11.7 at the top, then you have one of the incomplete sets and there's some complete sets not the table behind you.

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

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

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

And that's all -- no wait, that's not. So on the readiness to proceed item that was new for last year, we've added a provision for applications that are in non-priority status at any point during the cycle. So if someone submits an application claiming readiness to proceed items and points and it looks like they're not
going to be receiving an award so they're not moving forward with plans or whatever else that they need to get to, this item says as long as you're in that status, if the list changes later so that you are getting an award, you basically get an extension on the deadline.

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

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

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

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

Then regarding third party requests for
administrative deficiency, language has been added to the RFAD section regarding requests that are questioning staff's decision regarding an item rather than presenting new information. If an RFAD is submitted that's really questioning what we have done as staff, we are going to disregard that RFAD.

And that would be it for QAP items.

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

MR. KROCHTENGEL: Yes, sir. Once again, Zach Krochtengel.

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

In 2016 there were three projects in the same census tract in Urban 11, two projects in the same census
tract in Rural 4, two projects in the same census tract in Urban 6, and two projects in the same census tract in Urban 7. Those are all projects that happened in the same census tract because the two-mile same year rule did not apply. In 2017 there were two in the same census tract in Urban 11, two in the same census tract in Urban 6 and two in the same census tract in Rural 4. And then in 2018 there were two in the same census tract in Urban 11 twice and then there were three in the same census tract in Urban 6. This has occurred in Whitehouse, Missouri City, Georgetown, Lindale, Olmito, Midway, Stafford, and various other places in Fort Bend County.

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

The proposal that I've made would award one point to a project in each census tract that is closest to an impactful amenity, and when I say that I mean a grocery store, a library, I'm not proposing a specific amenity, just whichever one is closest to that amenity that staff would choose would automatically receive one point and would elevate that one point above the other projects in
that census tract. So if you were alone in a census
tract, you would automatically get that extra point and
score the maximum, but if you were in the same census
tract as two or three other projects, those two or three
other projects would be a point behind.

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

Thank you.

MR. GOODWIN: Any questions?

MS. RESÉNDIZ: Mr. Chairman.

Will you restate your name for me? I
apologize.

MR. KROCHTENGEL: Zachary Krochtengel.

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

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

MR. IRVINE: It's a statutory provision that
only applies in certain very large counties.

MS. RESÉNDIZ: Okay.

MR. GOODWIN: Any other questions?

MS. RESÉNDIZ: Thank you.

MR. GOODWIN: Thank you.

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

MR. GOODWIN: Anything else, Marni?

MS. HOLLOWAY: No, not on that item.

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

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

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

MR. BRADEN: Okay.

MR. GOODWIN: You said you had more?

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

MR. GOODWIN: Sorry.

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

MR. GOODWIN: Okay.

MS. HOLLOWAY: Subchapter B, Site and development requirements and restrictions. The railroad item under the undesirable site features has been modified
to reflect local board decisions. In undesirable neighborhood characteristics, we've renamed to neighborhood risk factors. The distance to adjacent census tracts with a high crime rate has been changed and there's some additional information regarding mitigation.

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

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

Moving on within that same subchapter, the maximum size for developments in rural areas financed with direct loan or bond funds has been increased from 80 to 120. A rehabilitation standard was added as an alternative to spending a minimum amount per unit. Then further on, the common amenities section was reorganized.
for clarity and items reevaluated for points based on the
cost or difficulty of providing the amenity.

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

MR. GOODWIN: Okay. Any comments?

MR. BRADEN: So for the chair, this was brought
up yesterday and the developer who came in was from El
Paso, and I'm from El Paso so I understand that there's a lot of evaporative coolers there. But how are we going to determine what area of the state is arid enough that we're going to allow for evaporative coolers?

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

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

(General laughter.)

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

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

Sharon has got something.

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

MS. GAMBLE: Sharon Gamble, TDHCA.

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

MR. BRADEN: Okay, good. Thanks. And even though I do recognize in El Paso there are still evaporative coolers commonly used, there is a trend in
that city of using refrigerated air too, so if we end up
the end of the day requiring that, I'm not sure that's
such a terrible thing.

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

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

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

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

In that section the accessibility requirements
was modified to meet the HUD requirements that were
previously discussed by the Rules Committee.
And that is it for Subchapter B.

MR. GOODWIN: Okay.

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

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

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

And that is it for C.

MR. GOODWIN: Okay.

MS. HOLLOWAY: Subchapter E, Fee schedules, appeals and other provisions. The appeals process in this rule is available only to competitive tax credit applicants by statute. For tax exempt bond developments or direct loan only applications, the applicant or owner
would be able to appeal under 1.7 of our administrative
rules. It's basically the same process, it's just
different sections of the rule that apply.

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

Staff recommends acceptance of --

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

MS. HOLLOWAY: There we go. Yes.

MR. GOODWIN: Any questions?

(No response.)

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

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any questions or discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

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

(No response.)

MR. GOODWIN:  Moving on to 7(c)

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

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

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

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

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

We have made explicit the Department's
prioritization of fund sources when more than one source is available to award within a set-aside.

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

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

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

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

We have accelerated the deadline for an
environmental review in order to try to mitigate some of our commitment deadline risk, and we've also deleted the closing deadline requirement since we had a closing requirement twice so we took one of them out.

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

MR. GOODWIN: I'll entertain a motion

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

MR. GOODWIN: Second?

MS. BINGHAM ESCAREÑO: Second.

MR. GOODWIN: Any questions or discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MS. HOLLOWAY: Thank you.

MR. GOODWIN: Thank you.

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

Is Teresa going to do this? Hi, Teresa.
MS. MORALES: Good morning. Teresa Morales, manager of Multifamily Bonds.

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

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

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

MR. GOODWIN: Any questions?

(No response.)
MR. GOODWIN: Do I hear a motion to approve staff's recommendation?

MR. BRADEN: I move.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

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

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

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

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

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

And under right of first refusal, which is Section 10.407, staff suggests adding language to clarify the operation of the right of first refusal process as set forth in statute, particularly for developments that have a minimum purchase price. The proposed changes are intended to implement what staff believes is the most reasonable reading of statute which is that a minimum sales price as stated in Section 42(I)(7) is only a sales price floor that if not met would trigger tax
consequences, but negotiations for a higher price and
ultimately a higher sales price are allowed.

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

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

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

MR. GOODWIN: Okay. Any questions?

(No response.)

MR. GOODWIN: Do I hear a motion?

MS. THOMASON: So moved.

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

MR. BRADEN: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: That concludes item 7.

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

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

The closed session will be held within the anteroom to this room, Capitol Extension Room E2.016. The date is September 6, 2018 and the time is 10:20 a.m.
Anticipate that we will be in executive session for approximately ten minutes.

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

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

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

(No response.)

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

MS. THOMASON: So moved.

MR. GOODWIN: Second?

MR. BRADEN: Second.

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

(A chorus of ayes.)

MR. GOODWIN: We are adjourned. We'll see you next month.
(Whereupon, at 10:40 a.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: September 6, 2018

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

DATE: September 12, 2018

(Transcriber)

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