TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RULES COMMITTEE MEETING

William B. Travis Building
Room 1-111
1701 Congress Avenue
Austin, Texas

September 4, 2019
6:30 p.m.

MEMBERS:

LEO VASQUEZ III, Chair
LESLIE BINGHAM ESCAREÑO, Member
PAUL A. BRADEN, Member
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PROCEEDINGS

MR. VASQUEZ: Okay. Our third Board member is parking, we hope. So be here soon. So it is now 6:42, and I want to call to order the Rules Committee meeting of the Texas Department of Housing and Community Affairs, and the initial roll call. Leslie Bingham is not here yet. Paul Braden?

MR. BRADEN: Here.

MR. VASQUEZ: Leo Vasquez, here. Number present, two. Number absent -- okay. Thank you all for coming here today for this obviously very important part of the process that we have.

Apparently, there are microphones set up for the main speakers, so if you all can't hear somebody, let us know; you know, raise your hand, speak up.

MS. HOLLOWAY: All right. So yeah. I just turned, so hopefully --

MR. VASQUEZ: Yeah. Good idea. And I think the way we're going to do this is, Marni is going to start going through the changes that we made, and we'll pause periodically for asking if there's any comments or questions on those parts, so that will be your opportunity, so as it happens, we'll have you make your comments.

MS. HOLLOWAY: Do you want to do the usual
front row line-up?

MR. VASQUEZ: Okay. Well, I guess they have to be on the speaker -- on the microphone here. Right?

MS. HOLLOWAY: Right. No. They'll need to come here --

MR. VASQUEZ: Yeah, yeah.

MS. HOLLOWAY: -- if they want to speak to something. Come to the front row?

MR. VASQUEZ: Yeah. So if you know your topic's coming up that you want to speak on, like, save us time and please move up here to the front couple of rows.

So with that, we'll throw it to Marni.

MS. HOLLOWAY: Thank you very much. Good evening. Our one and only item this evening is presentation, discussion and possible action to make recommendations to the Governing Board on the 2020 Housing Tax Credit Program Qualified Allocation Plan entailing the proposed repeal and proposed new of 10 TAC Chapter 11.

There is a lot of discussion of time line that we'll go through tomorrow. I don't know that we really need to talk about that tonight, unless you'd like to?

MR. VASQUEZ: Are we going to talk about --

MS. HOLLOWAY: Public comment period --

MR. VASQUEZ: -- it tomorrow?

MS. HOLLOWAY: We're going to talk about it
tomorrow.

MR. VASQUEZ: Okay. Let's --

MS. HOLLOWAY: Let's skip it.

MR. VASQUEZ: -- move on.

MS. HOLLOWAY: Okay. So we have a couple, starting with statutory changes -- there were two
statutorily mandated changes, and a change that was
created by the expiration of a statute originally passed
in the 85th legislative session, starting with the two-
mile, same-year rule.

Senate Bill 493 provides exemptions to the two-
mile, same-year rule. Houston is the only municipality
that currently meets those requirements. Yeah.

MR. VASQUEZ: Houston.

MS. HOLLOWAY: All right. Moving on.

Community support from state representatives. House Bill
1973 allows a state representative's eight points to be
transferred to the applicable local government's scoring
category.

We have amended this rule to include the
scenarios that could transfer the points and the values of
the points, depending on the resolution received from the
local government. The highest possible score for
financial feasibility was also increased to maintain the
integrity of the hierarchy of scoring provided in statute,
so that if the state rep points are transferred, the local
government points will not exceed feasibility.

Okay. Other statutory change. An opportunity
index. The part of our statute that had limited the
consideration of educational quality to only threshold
expired on September 1. Educational quality can now be
incentivized in scoring, so we have added it to the menu
of items that are available under opportunity index.

Okay. So broadly, we have some changes in
definition. We have modified -- we made actually a
substantial revision to the definition of supportive
housing. We sought to clarify requirements for what
actually constitutes a permanent supportive-housing
development, and provided an alternative so that
supportive housing may carry foreclosable debt if certain
conditions are met.

MR. MOREAU: Can I come up there?

MS. HOLLOWAY: Uh-huh.

MR. VASQUEZ: Do we have a sign-in sheet?

MS. HOLLOWAY: Yes.

MR. MOREAU: I'm Walter Moreau, the director of
Foundation Communities, and we do a lot of supportive
housing. I wanted to comment in favor, that I think the
staff did a good job of coupling -- that you could have
debt if you have the rental assistance to support it.
We do have some comments we'll submit in writing about some other pieces of the SRO and supportive-housing definitions that we think are just tweaks to the rules. Like, sometimes we get federal grants like a Capital Magnet Fund grant.

We can't grant it to the partnership because it becomes taxable revenue, so we want to do a loan, which you're not allowed to have loans. Brent and I, we've talked about -- it's complex, but we want to try to figure that out.

There's 75 feet of common area, and sometimes we build walkways and courtyards outside of air-conditioned space. But anyways, I'll -- in general, we're in favor of the staff changes and we want to submit a few tweaks.

MR. VASQUEZ: Okay. And you've been in communication with staff already, if there's --

MR. MOREAU: Yes.

MR. VASQUEZ: -- the tweaks aren't any big speed bumps?

MR. MOREAU: I don't believe they're things that would -- you would need to introduce into the public comment draft at this stage.

MR. VASQUEZ: Okay. Great, great.

MR. MOREAU: So thanks.
MR. VASQUEZ: Thanks, Walter.

MR. GREER: I'm Gary Greer. I'm with the Coalition for the Homeless of Houston/Harris County. We are the lead agency with the Continuum of Care, the Way Home Continuum of Care for the Houston region, including Harris County, Fort Bend County, Montgomery County.

We are also in support of the changes particularly around the provision allowing the carrying of debt, and more substantially, the itemized out of more robust definition of supportive housing for us. We've managed the Homeless Response System, so we feel like coordination with the services that are provided which require permanent supportive housing that makes it functional, based on evidence-based practice targeting a household whose -- the head of household are experiencing homelessness, meaning the household pays no more than 30 percent of the income, provides households with a lease or sublease identical to non-supportive housing, proactively engages members of that household in voluntary, flexible and comprehensive supportive services without requiring participation in services as a condition of ongoing tenancy, effectively coordinates with key partners to address issues resulting from substance abuse disorders, mental illness and other crises, and a focus of fostering housing stability and supports households in
connecting with community-based resources and activities,
interacting with diverse individuals, including those
without disabilities, and building strong social support
networks.

So I think the amendments go a long way into
adding in the -- what we think defining more what is
supportive services and creating a standard. We had
offered some insight onto having a certification process
for developers and to coordinate with the COC when working
on housing that's going to be purposed for homeless
populations so they can meet the standards, the community
standards that are for coordinated access for our homeless
folks into permanent supportive housing.

So that would be our offering.

MR. VASQUEZ: Okay. Great.

MS. HICKS: Good evening. Jennifer Hicks with
True Casa Consulting. And I think I've been monkeying
with this supportive-housing definition since the
supportive-housing definition was part of the QAP, and I
just wanted to say that I am in favor of these changes. I
think the -- I want to thank the staff for their
thoughtfulness in crafting this definition.

It reflects a deep understanding of what
supportive housing truly is, and that it's less about the
real estate, but more about the people. I think the --
all the changes with the supportive services -- I think that's great.

I think allowing debt is huge, and it's going to enable some projects to move forward. The only couple of things that I'd be submitting some comments on are in regard to -- it says 100 percent of the units need to be covered by vouchers.

Unfortunately, I wish this wasn't the case, but most housing authorities aren't going to be able to project-base all the units, and they just don't have that many project-based vouchers. It also might not be good practice to voucher 100 percent of the units.

So maybe give some thought to making that a 75 percent or 50 percent, and maybe putting in a requirement that there is a percentage fee that goes to resident services. So ensuring that the property operates sufficiently with the right debt coverage ratio, but also that the most important thing are those services are getting funded, and so maybe requiring the percentage line item in the budget for those services, but maybe tiering down a little bit on the requirement for 100 percent vouchers.

That would be my only comment there. But again, I just want to commend staff for these thoughtful changes.
MR. VASQUEZ:  Great. Thanks, Jennifer.

MR. DROBENARE:  Good evening. My name is Neal Drobenare. I'm with The NHP Foundation. We're a national affordable housing developer, active in supportive and other housing. Here in Texas, we're actively in Houston.

And first of all, I'd like to say that I'm in favor of these changes that have been proposed by staff. I'd like to thank staff for having put together what is, from my perspective being active in numerous states, a very collaborative and involved process where they reached out to quite a lot of players and had quite a bit of back-and-forth with folks who submitted comments to them.

You know, we think that that probably should be the norm across the United States. We know it isn't, so we are quite thankful for that. We think that these changes will allow quite a few projects, including several projects we're working on in Houston involving several hundred units to go forward which might not otherwise go forward, if not for this provision along the lines of allowing the debt.

We support the beefing-up of the definition of what is homeless supportive services, including what's PSH. We believe that it serves a public purpose of not allowing false PSH and keeping the PSHs funded true to mission.
You know, I'm sure there are some tweaks that could be done, as there can be with any new provision and changes, but I'd just like to be on the record that we are very supportive of what the staff has put forward. Thank you very much.

MR. VASQUEZ:  Great. Thanks, Neal.

MS. BINGHAM ESCAREÑO:  I apologize for being late.

MR. VASQUEZ:  Let the record reflect that we have a full quorum now.

MS. BINGHAM ESCAREÑO:  Sorry I'm late. Nice to be here.

MR. VASQUEZ:  We all -- should we slide everyone over a little bit, because --

MS. BINGHAM ESCAREÑO:  You've got --

MR. VASQUEZ:  -- you're not going to be able to --

MS. BINGHAM ESCAREÑO:  Yeah.

MR. VASQUEZ:  How far will our mics go?

MS. BINGHAM ESCAREÑO:  A lovely side view of you. It's your profile.

MS. HOLLOWAY:  It's not my good side. We don't have a PA system.

MS. BINGHAM ESCAREÑO:  Got you.

MS. HOLLOWAY:  So --
MR. VASQUEZ: Everyone's over here, anyway.

MS. HOLLOWAY: Okay.

MR. VASQUEZ: Okay. Let's continue.

MS. HOLLOWAY: The next section that we modified was the program calendar so that reflects the dates for the 2020 application round. After that is proximity of development sites. This rule prohibits two or more competitive tax credit applications from being within 1,000 feet of each other.

Both the 2018 and 2019 QAPs only applied the 1,000-foot distance if certain conditions existed prior to the filing of an application. In an effort to simplify the rule, staff has removed those conditions, and the rule will only apply in a county with a population that is less than one million.

MR. MOREAU: Walter Moreau. I think this is one of the most important things in the whole QAP, and I'd like to recommend that you think not just about a 1,000-foot difference, but maybe 2,000 or 5,000 feet. The reason is that every time that the rules change -- like, four years ago, there was a spot in Georgetown, a suburb of Austin, on Williams Drive, that was sort of a magic, high-score spot.

So there were three projects on the same street, right in a row. This year, we've added points for
jobs, which is a great concept for gentrifying areas, and we've started to map those hot spots, and we found some hot spots where there's four census tracts that all come together, lots of jobs, and they're in the suburbs, and they're going to win all the projects.

That year that Georgetown won was also a year when Houston, San Antonio, Dallas, and Austin, like, all the big cities were shut out. So it's a case where there's really good policies in the QAP, but when they overlap, you end up -- unintended consequence -- where I think the policy is you want to spread some projects out, and so this concept of 1,000 feet is great.

I think you could go even further. Also, the 1,000 feet doesn't differentiate between elderly and family. So you could have an elderly and a family adjacent to each other. We think you should take that out. So it's just not ideal to make a huge investment in multiple projects in the same spot.

Everything else in the QAP, we could live with. If you could fix this one thing, we'd be thrilled.

Thanks.

MS. BINGHAM ESCAREÑO: Is that off the record?

MR. MOREAU: Yes.

MS. BINGHAM ESCAREÑO: May I ask Marni if they considered that, or --
MR. VASQUEZ: No. Let me --

MS. BINGHAM ESCAREÑO: Excuse me for just a minute. I'm going to ask one question.

MS. HOLLOWAY: Uh-huh?

MS. BINGHAM ESCAREÑO: Marni, did we consider increments like that? When we hit upon 1,000, did we think, 2,000, 3,000 was a little excessive, or --

MS. HOLLOWAY: So this item, you may recall, came out of a set of three applications that were originally a larger parcel of land and they were divided by a 10-foot --

MS. BINGHAM ESCAREÑO: Yes.

MS. HOLLOWAY: -- drainage easement.

MS. BINGHAM ESCAREÑO: Yes.

MS. HOLLOWAY: So we went to the 1,000 feet, and then it was -- well, you know, the 1,000 feet has to mean something or else they would have just had 1,000-foot drainage --

MS. BINGHAM ESCAREÑO: Uh-huh.

MS. HOLLOWAY: -- easements. And then that proved to be difficult. So we just stripped out all of the requirements about an economic purpose in between. We have not this year discussed a larger measurement. I think that that measurement should be what the Board believes it should be.
MS. BINGHAM ESCAREÑO: And then, can I ask too, was there any consideration for the different developments? In other words, what Walter was mentioning was -- it doesn't really differentiate. So you could have an elderly and a regular multifamily --

MS. HOLLOWAY: A general population -- yes -- right next to each other. So it's developments serving the same target population separated by 1,000 feet.

MR. VASQUEZ: Okay. So it already addresses that part of --

MS. HOLLOWAY: Well, it says, serving the same population --

MR. VASQUEZ: Right. So --

MS. HOLLOWAY: -- so you could have an elderly and a general --

MS. BINGHAM ESCAREÑO: Could have an elderly and a --


MS. HOLLOWAY: -- if it met all of the other requirements --

MR. VASQUEZ: Sure, sure.

MS. HOLLOWAY: -- you could have an elderly and a general right next to each other.

MS. BURCHETT: Sallie Burchett with Structure Development. So I'm seeking clarity. The way I read it,
or it seems as if in Harris County, you could have two
right next to each other, because counties with less than
a million are exempt. Is that what you want it to be?

MS. HOLLOWAY: Yes.

MS. BURCHETT: Okay.

MS. HOLLOWAY: Because of the statutory change
to the two-mile, same-year rule that allows the City of
Houston basically by resolution to allow developments
closer, we didn't feel it was appropriate for us to create
any other limitations, because the statute was so clear on
its intent.

MR. BRADEN: Is -- to the Chair, is Harris
County the only county in Texas?

MS. HOLLOWAY: Yes. All right.

MR. VASQUEZ: The others are important, too.

Okay.

MR. BRADEN: I'm kind of glad I don't have a
million people in my county.

MS. HOLLOWAY: All right. The next item is one
award per census tract limitation. So this is something
new. In the staff draft, we proposed limiting points
under underserved area to the highest-scoring application
in a given census tract.

This was actually -- came directly out of
stakeholder input. As a result -- okay. So we -- as a
result of stakeholder input, we actually took it out of underserved area and moved it to -- and I don't have it in my notes -- the de-concentration.

Thank you. What this means is that only one award will be made within any given census tract, and we have limited the applicability of the policy to urban subregions and exempted applications in the at-risk set-aside.

MR. VASQUEZ: So what happens if a development straddles a census tract?

MS. HOLLOWAY: Then hopefully, the applicant would request a pre-determination from us, so that we can address the issue.

MR. VASQUEZ: Let's keep going.

MS. HOLLOWAY: Okay.

MR. VASQUEZ: Keep going.

MS. HOLLOWAY: Keep going. Credit amount.

Applicants with applications in excess of the $3 million cap now must notify us which one they will not pursue prior to posting the agenda for the last Board meeting in June, as opposed to the previous deadline of July 15.

So this pushes the deadline back a little bit, gives us a little more time to make sure that we are reviewing all the current applications before the late July meeting.
MS. RICKENBACKER: Donna Rickenbacker with Marque. I don't think that works.

MS. HOLLOWAY: No.

MR. VASQUEZ: No, no.

MS. HOLLOWAY: We don't have a PA, so you've got to speak up.

MS. RICKENBACKER: So I think this is a great idea, and not one that's been in the rules, you know, to this point. My question is, what happens if you have a -- and this is a good place to be. I do recognize it. But if you have two applications that are in the money and have received scoring notices and -- but you have a non-priority application that's out there and has kind of risen to a priority one, and it's -- it becomes a priority potentially, after that June Board meeting, I just would like to see if there's a way that that applicant can, kind of, pick between now what will be, kind of, three applications at that point, that they wouldn't be made aware of, you know, at that June meeting?

MS. HOLLOWAY: I would say that -- and we're working really hard to make sure that we continue this practice -- by the late June meeting, we know which are the priority applications and which are not. You know, the -- you know, sure, if something blows up that's completely unforeseen, you know, that could happen, and it
could be that we should address that, but I would like to reiterate how important it is that we as staff have an opportunity to completely review and vet applications before we go to the July -- late July meeting, and if we're juggling and trying to see what's going to happen with the collapse, and we wind up not having that surety -- so your thoughts? Okay.

MR. BRADEN: I think we ought to try it to see what works. If there are problems, we can adjust it, but --

MS. HOLLOWAY: Well, and we have some applicants that have more than one, you know, or have multiple applications that go over the cap, and it's not unusual. We have some applicants that will submit five applications.

That's part of how they do their business, and that is in fact a risk. Moving on to credit returns resulting from force majeure events. We've strengthened the requirements to prove up that a development has been impacted by rainfall or material or labor shortages.

MS. RICKENBACKER: Donna Rickenbacker. This whole force majeure provision really has me very bothered. You all have coming before the Board tomorrow a transaction that is now asking for a fourth placed-in-service extension on it, 2016 application.
I just would like to see staff and the Board put a little more teeth in this force majeure provision, such that you've looked very closely at other developments in that same region, perhaps that same city or county or whatever, and if they were able to get their development finished and placed in service in a timely manner, we are going to have hurricanes in this state, in certain portions of the region, unfortunately, now and forevermore.

So you know, I just truly don't believe that, you know, one developer -- no disrespect to this developer at all. You know, it's the only one out there that had a rain cloud over its development. So I just hope that, you know, if -- and I may end up in this position one day, but if that developer, you know, needs to kind of sit out that year and get that development finished, then that, to me, is a better way to kind of look at it.

But I just really hope that we will put some more teeth behind this force majeure provision so that people are -- get their deals done, and if they can't, again, let them sit out that next year so that they can concentrate on completion of that development.

MR. VASQUEZ: Okay. And maybe staff can -- I think some of these changes are intended to put more --

MS. HOLLOWAY: They are.
MR. VASQUEZ: -- teeth into the --

MS. HOLLOWAY: They are.


MS. HOLLOWAY: And just as a point of information --

MR. VASQUEZ: Yeah.

MS. HOLLOWAY: -- the placed-in-service extension from the 2016 application is something that's available to that development federally due to the hurricane. So that's different from force majeure, where an applicant is coming back and saying I'm not going to be done in time.

I'd like to refresh my credits. We've seen -- I don't know if -- within the last couple of months, the development in Dallas that had been turned upside down by changes in Dallas City Council, that was awarded force majeure.

That was completely out of their control. There was no way that they could have gotten around that.

But we also see a lot of -- here's all the NOIA reports for six months, and this is why I can't -- I didn't get my deal done, or I'm not going to get it done on time.

And we're trying to tighten up those requirements. Okay. Moving on to pre-application requirements. In the pre-app notifications, applicants
will be required to provide information on how and when an interested party or a neighborhood organization can provide input to the Department.

And we actually will be including language in our templates for that one. Moving on to the competitive scoring criteria. Looking at income level of residents, in the past the QAP has had provisions that potentially award three extra points to supportive-housing developments, as compared to non-supportive housing developments.

We've moved one of those additional points from resident services to income levels of tenants. So they used to be able to get an extra one on resident services, but we've moved it to income levels. The change creates more stringent requirements for those seeking the scoring benefits of supportive housing, while reflecting the reality that supportive-housing developments generally serve populations that are extremely and very low income.

Okay. Moving on to underserved area. There's a new underserved area scoring item based on there not having been an award of Department funding in a census tract within the previous 20 years. Previously, we've had 15 years and 30 years, but we're adding that 20 years to be able to open up some more census tracts for -- potentially for scoring.
In this same category, we've changed the methodology for the gentrification scoring item that was new last year. The primary reason for this change is that it does not conflict with the first tiebreaker, because we had a conflict between those two items.

Residents with special housing needs, the Section 811 Program, has been removed from scoring in the QAP. A two-point item will remain if the applicant agrees to hold 5 percent of their units for persons with special housing needs.

Proximity to jobs is new for this year. We discussed this at a stakeholder roundtable and got a lot of really good input on it. So we're adding this new scoring item. This has a sliding scale for points, so distance and number of jobs.

These points will be exclusive from the proximity to urban core points, and will encourage development in areas near other employment centers. The addition was triggered in part by rising land prices for urban core apps.

In smaller cities and towns, whether on the -- whether it's a suburb or just a small city that doesn't qualify for the urban core points, the proximity to job scoring item may help to locate affordable housing in desirable locations where people would like to live and
MR. KROTCHTENGEL: I just have one quick comment about the proximity to jobs. In the staff draft, the proximity to jobs was a six-point scoring item versus the urban core, which was a five-point scoring item. I really enjoyed seeing that one-point advantage for the proximity to jobs because a lot of the larger urban areas get a one-point advantage for underserved. They have a one-point advantage in a scoring item that's not available to every municipality. So the proximity to jobs, that could have evened that out and allowed the maximum score in both the large urban areas and the secondary markets in those same regions, I think would have been valuable to disperse housing to secondary markets.

I know in the write-up, it start to speak to the rising costs, and once again, we're now putting a one-point advantage to those areas that possibly have the rising costs. So I would like to see that one-point advantage for proximity to jobs restored, as opposed to having urban core and proximity to jobs equal.

Thank you.

MR. VASQUEZ: Did you sign in?

MR. KROTCHTENGEL: No.

MS. ANDERSON: My name is Sara Anderson. And I
have a more theoretical comment with respect to the jobs. I think we all like it. We had a lot of comment on it, a lot of discussion. I think one of the things, though, that got lost in the final version is that the jobs numbers that are used are a one-size-fits-all right now.

The maximum scoring is at 16,000 jobs, and you go down the scale to about 2,000. What happens, though, and at the end of the day, what we're seeing in areas like Region 3, is that the only place that you have that number of jobs, puts us right back in urban core of Fort Worth, and so we could have a discussion that there be some sort of differentiation based on the size of the city.

If the city's 500,000, maybe your radius is larger than a mile. Maybe it's two miles. The smaller the city, maybe the larger the radius, or the smaller the number, to just allow -- I mean, the hope was that there would be a much larger dispersion of these nodes.

And the problem is with the particular numbers that are in the current QAP, there just isn't that dispersion. At least, we're not seeing enough of it, or as much as we had hoped. So that's food for thought. One of the other things that you're going to see is that another thing that's going to impact that is something to do with the schools that ultimately all of those areas -- that some of the areas, like in Austin, that qualify
for -- the only place in this region that will qualify
dends up being killed because they have a bad middle
school, as does east Austin, as does south Austin.

So all of our job areas -- because the schools
then drop out. So then we have even fewer of these nodes.

So I don't know if it's too late. I do think that, for
the issue of certainty -- I think at least we would prefer
whatever ends up in the QAP stays all the way through.

So any changes would need to be made, because
otherwise, we would be facing ourselves in December with a
whole new QAP and starting all over, which I think I'd
rather have a bad QAP and know it earlier than a better
QAP, that I have to start over in December.

So thank you.

MR. VASQUEZ: And I know we have discussed this
particular issue.

MS. BINGHAM ESCAREÑO: It would be interesting
to test your theory, though. Right? Like, in other
words, I'm going to oversimplify, but you're basically
saying there is a risk that the urban core and the jobs
proximity end up being, for lack of a better word,
redundant.

Right? Like, one type of location is going to
end up benefitting -- we're going to find more -- and I
don't know that to be true. I trust you guys --
MS. ANDERSON: Right.

MS. BINGHAM ESCAREÑO: -- because you're out there seeing there, but I think that would be important to test, because then it probably isn't -- they're great ideas. The test will be -- are we accomplishing what we're trying to --

MS. ANDERSON: And --

MS. BINGHAM ESCAREÑO: -- with those two in place.

MS. ANDERSON: -- Zach's point -- I'm sure Zach has already -- but I know in Region 3, we've seen that we're going back to --

MS. BINGHAM ESCAREÑO: Right.

MS. ANDERSON: -- urban core for --

MS. BINGHAM ESCAREÑO: Right.

MS. ANDERSON: -- that. Maybe some of the other areas aren't impacted as much, but I just feel like a one-size-fits-all -- and we have just so many different-sized cities is, like -- it's problematic.

MR. ALTER: Good evening. I'm Craig Alter. I'm with Commonwealth Development. A related issue to the jobs and distance from jobs is the urban core concept, and the jobs proposal was brought up as an offset, if you will, or an alternative to urban core.

Well, urban core has still languished, in my
opinion, in terms of the accessibility to urban core. There's approximately 450 places that are classified as urban, yet 13 in the whole state have access to urban core points.

So I think that disparity needs to be reviewed and adjusted, and I think the easiest way to do it is look at population and adjust what that threshold is that allows you access to the urban core, because there are ample examples of areas that are true urban areas that operate as an urban area, function as an urban area, and yet don't have that opportunity.

So -- and there are some important trade-offs and opportunities that can be had in urban core areas, whereas the proximity to jobs necessarily wouldn't provide the same benefit. So I'd ask for your consideration of changing the threshold for urban core.

MR. KROTCHTENGEL: Just to go back on what Sara said. Region 3 urban has just got a lot of problems in general because of the declared disaster area. So I like the one-size-fits-all, and it's really hard to quantify every area.

You know, we go and look at sites, and we put that point on the map, and we see how it works, and it may work. It may not. And it's kind of a hunt-and-peck, you know, looking site by site. But the things that worries
me when you start changing populations and adjusting
scoring is that it waters down the scoring category to the
point where if every single urban area in Urban 3 -- and
you went to a 5,000-person town can get the full points
for being in proximity between five miles to all these
jobs and every single one has an area where you get
maximum points, then you've now watered down the entire
scoring category.

So I think that adjusting for population size
is something that, to me, is worrisome, and a job is a
job. So I'd like to see at least for one year be that
one-size-fits-all and see how it works, because I think
that if we water down what I think is probably one of the
better data points that we have in this program, that
actually every piece of land seems to get a different
value -- if we water that down to let everybody score,
then, we're back to really it not making sense.

So that's just my take on it.

MR. COMBS: Ryan Combs. And I actually -- I
don't completely disagree with Zach, but I would offer is
that -- and I also agree with the gentleman who was here
momentarily, that urban core is not necessarily doing what
it was intended to do.

And we've had it for several years. This new
jobs thing, I think, has a lot of support with everybody,
and I support it as well. And so what I would propose is that the urban core points just kind of go away, and we focus on the jobs points, and maybe whether it's one-size-fits-all, or if it's a scale in cities -- I don't know where we end up with that, but I do think that right now, certainly in Urban 3, there are only two places you can go.

You can go to downtown Fort Worth or downtown Arlington, and that is it. And those are the only two places you can score in all of Dallas-Fort Worth, which is I don't know how many million people, but a lot. And so if you take away urban core, and you just go to jobs and you focus on -- okay -- what really is that jobs number? Is it 16,000, which is what it is right now to get the maximum? I don't know. Maybe it's less than that. Maybe that opens up a half a dozen places versus two places. And so that's what I would offer, is that the urban core points are not even -- that they don't even seem to be doing what they need to be doing, that the jobs points are really more important at this point -- would be my comment.

MS. MYRICK: I will do this first before I forget. Good evening. My name is Laura Myrick, and I'm with BETCO Consulting. So one of the interesting things about this is that we're talking about Region 3 and
talking about primarily urban areas.

This seems that this point category is going statewide, so I'm not quite sure -- you know, when you first read it, you kind of think to yourself, well, jobs are jobs, whether it's in a rural community or whether it's in an urban community, but the more, I guess, I started thinking about it and noodling with it is -- you know, in some of these rural places, we've also seen where there are certain jobs, and where there's quite a few jobs.

Sometimes there are only -- let's say that it's the prison system that is the main employer there or a factory, a plant that that's the main employer, and you sometimes run into situations where those jobs are actually paying higher than the income limits for some of these developments.

So I'm not sure that was intended to just go statewide, or if we thought anymore about the rural area, but a lot of the comments that I guess I was hearing was urban, urban, urban, and I understand, and jobs make a lot of sense in some of these urban areas, but I'm not sure we really thought about on the rural side.

Or maybe we have and I just haven't paid attention or didn't hear it or -- so I think we ought to kind of look at it from -- maybe it should just be urban,
especially since this is the first year that we're rolling it out, to kind of see how that works and to maybe work out some kinks before it's imposed on the rural side.

Thank you.

MS. RICKENBACKER: And I'll sign in this time. I didn't sign in the first two times. Donna Rickenbacker again. If -- these people that have all the data sets and all of that, or the techies of this community and they're very valuable to how we determine where we have sites -- but the nodes that Sara was speaking to make complete sense.

But aren't we already creating the dispersion by this, you know, one deal in this urban area, one deal per census tract? You know, in some of our larger metropolitan market areas, you've also got the two-mile, same-year rule.

You've got plenty of other scoring categories or thresholds that really will trigger more dispersion outside of those nodes, that those might be reached, easily reached, that aren't necessarily getting maximum points.

MS. MEYER: Robbye Meyer, Arx Advantage. I don't disagree with this and I like the concept of it. The only thing is that the indicator doesn't actually indicate the types of jobs that are -- that we're looking
at.

It just gives -- okay. There's X amount of jobs. And when you go to Austin, you know, you've got a lot of high-tech jobs, and so you don't necessarily have, you know, affordability. So you may be putting a development in an area that you don't necessarily need.

I say, in Austin. Austin, you know, we need 35,000 units somewhere. But you may be going into an area where you don't necessarily need it, and we're also putting this out there for, you know -- statewide, and I'll give you a prime example.

Dalhart -- if you'll remember back in 2007, when we put that development on the ground, it was all about the cheese factory that was going in, and now all of those are over income, and that development is struggling. So it kind of concerns me that we're putting this out statewide, and we're not actually looking at the types of jobs that are in this indicator.

So --

MR. VASQUEZ: All very good comments on this one. There's obviously a balancing act that we all try to do with jobs, rural --

MS. HOLLOWAY: Uh-huh.

MR. VASQUEZ: -- I mean, I don't know how there's going to be a --
MS. FINE: Can I ask a question?

MS. HOLLOWAY: Uh-huh.

MS. FINE: Tracy Fine, National Church

Residences. Marni, I don't recall the language.

On this 1,000-feet rule, does that -- if all of
the property projects and applications in one part are
within the 1,000-feet site -- I'm worried that that could
possibly be the case -- like would that rule go away if
there are no other projects to be awarded? Like could we
cancel out the entire pool for the top one?

MS. HOLLOWAY: So let me -- what we do -- it
would be just like we do with the two-mile rule. Right
now, we, you know, say, this is the highest-scoring
application, and this other is within two miles, so we
drop it to the bottom of the list and say it's within two
miles of this one.

There were some this year that it was three
applications deep that they were within that two miles,
and what we do is, if the highest-scoring one drops off
for some reason, the ones that had been too close to that
one, we would go back and look at those scores, and the
highest scoring would go to the top.

We'd do the same thing with the 1,000-foot.

MS. ANDERSON: Well, what happens if you run
out, if there's --
MS. HOLLOWAY: There will always be --

MS. ANDERSON: If they're all within two miles, but you still have a million dollars left to give out, or 2 million left to give out --

MS. HOLLOWAY: If -- yeah. If there are --

MS. ANDERSON: Investment Division.

MS. HOLLOWAY: -- yeah. If there aren't any more than we can award within the subregion due to the rule, then the funds would go into the collapse.

MR. VASQUEZ: Again, I don't know if we have any permanent solution to this at this point. I would just suggest we go ahead with what we have. My fear is -- and you know, I'm the de-complexification Board member -- my fear is that all these good points that y'all are bringing up about maybe scale it, and all these -- it just -- it will start making it even more complex, that --

MS. HOLLOWAY: Well, and we started out looking at that, and it could be that we will move to that over time, but basically came to a conclusion for this year that we really need to see how this works, what it looks like, and the minute we start saying, well, cities with a population over 300,000, you have to be this many miles from these number of jobs -- becomes even more ways that we're making it far more complicated, and it could be that, you know, looking at what happens in the next round
with these items, perhaps we can come up with a more
elegant solution.

Okay. Next one is readiness to proceed in
disaster-impacted counties. The period of eligibility was
expanded from two years to three years.

MS. MARTIN: Hi, there. Audrey Martin with
Purple Martin Real Estate and also the co-chair of TAPS
QAP committee. I wanted to make a comment on this. This
is one of those scoring items that continues to be a
concern to TAAHP's membership.

We kind of have consensus as an organization
that this is a scoring item that was helpful during its
time, and that has run its course, though, perhaps, and
what I think we've seen during the time that this has been
in the QAP is that developments are not -- and probably
overall in each round -- developments are not coming
online materially faster than they would otherwise.

And what we do see is that there's a lot more
pre-development costs at an earlier point without a
certainty of an award, and while some developments are
closing faster, there's this whole other group of
developments that are not getting the attention from their
lenders and investors and their attorneys and closing then
later than they probably would have otherwise.

So I think that we would just ask again if this
could be looked at for removal from the QAP. And Marni, I was wondering if it would be okay if I could just run through TAAHP's other comments? We just had a couple others --

MS. HOLLOWAY: That's --

MS. MARTIN: -- so I don't have to --

MS. HOLLOWAY: -- would be up to the Chair.

MS. MARTIN: Would that be okay? We -- I just have three other things.

MR. VASQUEZ: You don't want to stick around?

MS. MARTIN: Well, of course, I'd love to be here all evening, as I'm sure we all would.

MR. VASQUEZ: If you could wait for --

MS. MARTIN: Okay.

MR. VASQUEZ: -- as it comes -- we're moving along quickly.

MS. MARTIN: All right. Thanks.

MS. HOLLOWAY: Okay. Extended affordability. The number of options for extended affordability has been increased by adding a 40-year scoring item and a 45-year scoring item. For historic preservation, working in conjunction with the Texas Historical Commission, an issue was identified that some 9-percent applicants were requesting eligibility determinations, and not within the 30 days of THC's requirements.
They were going in, you know, a couple of weeks and wanting their eligibility. So in order to ease the burden on Texas Historical Commission, we are requiring that the application include evidence that THC received the request 30 days or more before the application delivery date in order for them to receive those historic preservation points.

So just working with a fellow State agency to ease the load on them a little bit.

MS. MARTIN: Hey, there. Audrey Martin again.

MR. VASQUEZ: See, look at that. Look. Just flipping right through.

MS. MARTIN: You guys were so -- you were so fast through affordability that I missed it. So that's the one I wanted to talk about --

MR. VASQUEZ: Oh.

MS. MARTIN: -- actually.


FEMALE VOICE: Too late.

MS. MARTIN: All right. Well, I know you're joking so I'm going to go ahead.

MR. VASQUEZ: I'm joking. I am joking.

MS. MARTIN: Okay. So related to affordability, I think that -- so TAAHP members kind of -- we had a lot of discussion about this generally, more of
the big picture than this individual scoring item, and I think the consensus we were able to reach is that, as a membership, I think there's more support for incentives for re-capitalizing existing affordable housing developments, rather than taking the approach to extend the affordability necessarily right up-front.

I think we'd like to see more of a holistic approach, just again, to kind of look at what are the ways that we can keep developments in the program and get them the rehab that they'll need along the way, which does result in kind of a perpetual extension of the affordability period.

And then that would include things like how do we deal with our at-risk developments? And what -- and again, that holistic approach. You know, what are our approaches to rehab developments? And I didn't know if interest transactions -- again, how do we keep those existing owners incentivized to come back, re-capitalize, rehab their existing deals and extend the affordability that way. So --

MS. ANDERSON: Hello. Terry Anderson, Anderson Development and Construction. I just wanted to echo what Audrey was saying about the extended affordability, and just look at the typical, expected useful life of a multifamily property, and when you're financing a
development and you have 40-year mortgages, that tends to be the longest extent that we currently have in the commercial financing world generally through HUD.

And most properties will need some form of rehab, and if you're extending the affordability, then you don't actually have the opportunity to consider your property to be at-risk. And in TDHCA's re-capitalization structure, to be competitive on another 9-percent transaction.

So I would certainly request that the Board look at lowering the extended useful life to match the extended affordability, and in many instances, properties just will not survive and will deteriorate prior to the affordability running out in 45 years.

MR. VASQUEZ: Okay. So you're saying to shorten the affordability period, not --

MS. ANDERSON: Short. Correct.

MR. VASQUEZ: -- go the other way, so --

MS. ANDERSON: Not go the other --

MR. VASQUEZ: Yeah.

MS. ANDERSON: -- way. So if you're looking at going 45 years, and your financing typically only goes up 40 years, you tend to refinance prior to that time in general, and if after your initial compliance period is over your property needs rehab, whether it's 15 years or
30 years, you're likely going to need to come back in to
either be competitive or go through a 4-percent tax credit
round.

The property, if you're going for 9-percent
credits, will likely not be as competitive. It would need
to be in an at-risk set-aside. If it's not at-risk, it
wouldn't qualify. So I would, you know, request looking
at shortening it to the 30 or 35 years, please.

MR. MOREAU: Walter Moreau. I strongly
disagree. I really applaud the staff to have 40 and 45
years affordability. That's the right thing to do.
You're making major investments in these projects,
sometimes $15 million, and to argue that, well, we don't
think our property's going to last more than 30, 35 years,
or it's going to be rundown and need reinvestment.

Therefore, don't put anything on the deed
restriction -- is just not good policy. It puts you in a
position in year 35 to have a stake because the equity
you've invested and what happens to that property? Look
at the other states around the country, and most of them
are at 40, 45, 50, 55, 60 years.

Texas is the outlier at 35 years. This is a
great process to deliberate the rules. You get great
feedback from developers and from staff. It's very
transparent, very policy-based. What you don't have in
this room are residents.

You don't have the voice of consumers that need affordable housing. So it's no surprise that the developer community would prefer a 35-year affordability.

MR. VASQUEZ: Would --

MR. MOREAU: Please do 45.

MR. VASQUEZ: Wouldn't the resident, looking at a 35-year-old place, want it to be rehabbed?

MR. MOREAU: They absolutely would, but what happens at 35 years when the deed restriction goes away and the affordability goes away, then they have to move. There's no choice to stay. If you have a -- as the State still has a deed restriction on that property, then there's an opportunity to make sure that there's a workout and a reinvestment, and that property really does stay affordable for that family.

I just can't wrap my head around the logic that you'd want to wash your hands of the property in 35 years, and then whoever's living there is -- we're seeing that happen now. LURAs are being wiped out sooner than 35 years.

Residents that are living at Country Club Creek and other apartments in Austin, they basically get three more years, and then they -- the rents go up 500 bucks a month or more and then they have to move, and that was
because the deals done in the '90s that didn't have more
than 15- or 20-year LURAs.

So this is a really big, important policy item, and I wish you would hear more from the consumer side.

Thanks.

MR. DROBENARE: I'd like to echo my colleague's statements on this.

MR. VASQUEZ: Which colleague?

MR. DROBENARE: From Foundation Community --

MR. VASQUEZ: Okay. All right. Okay.

MR. DROBENARE: -- Walter. We're very active in acquisition of year 15 properties here in Texas and around the country, and quite frankly, you know, we've refinanced many properties that are close to the end of their covenants, and we, just as a practical matter, haven't really seen much of a difference between the ability to refinance and re-capitalize, whether there's a LURA on it that runs for another 15 years or a LURA that runs another two or three years.

The only time it becomes different is when you're making a decision to go to market rate, and quite frankly, I see one of the crises coming, you know, across the country, is so many of our properties are built in good locations, places that you want to live, which you spend an inordinate amount of time defining in the QAP.
When it comes to the end of the initial affordability period, are going the qualified contract route. And any one day, I have 10 brokers' packages, you know, promoting how this is qualified contract eligible property.

So you know, I think that's really what you want to prevent. You don't necessarily need credits to re-capitalize, you know. Can you do conventional equity? We have a conventional equity fund that does that. Lots of other people do it as well.

It does reduce the value for the current donor, and that is the effect of longer covenants, and I don't think there's much other effect, in my opinion, and as an owner and as a developer. Thank you.

MS. ANDERSON: Sorry. Terry Anderson, Anderson Development and Construction. I just wanted to rebut that, just a bit. My background is as a lender. I am currently a developer. I also work with a nonprofit organization.

I understand nonprofit organizations have different goals. They also have equity in donations and things that typical properties, affordable properties, do not have. So it's nice if you have people contributing to a property in particular, or you have other abilities to go out and raise private equity and/or receive 501(c)(3)
type of donations for your property.

But generally speaking, the nonprofit that I chair actually owns a property in a very desirable location, but the nonprofit is actually driven to maintain the affordability. We still have a LURA on the property. We're trying to actually redevelop it, but using either 9-percent tax credits or 4-percent tax credits.

We still have time left on our LURA. A typical transaction really does need to be rehabbed, and there's only so much that you can do from a cash flow perspective, and when you look at the rents and the restrictions on those rents, they are not growing at a same -- at the same rate that a market rate property would grow, and typically, the owner is not going to have the funding or the additional cash flow to make the types of repairs that are required in order to even compete for market rents at the end of 30 years or 40 years or 45 years.

Thank you.

MR. KROTCHTENGEL: I will say that I looked at three or four qualified contract properties this year. Over the past, I think, 12 months, probably Region 3 Urban lost 750 units to qualified contracts, and it wasn't because the numbers didn't work.

It was because the cities refused to give support. So I think that's a bigger issue that we need to
look at is -- if you have an affordable property that
already had a resolution of support at one point in time,
you shouldn't need a new one.

The city shouldn't be able to say, we're not
going to help you re-capitalize. We're just going to let
it go by the wayside. Because that's what Region 3 Urban
did this year in Dallas and DeSoto and in other places
where they said, we're not really interested in keeping it
affordable.

So I think that there is bigger policies, just
in extending in affordability period, when we're trying to
keep them affordable, and a city or a politician is
allowed to stand in our way of that. I think that we
should be able to re-capitalize a property that's already
under a LURA without having to get a resolution of support
for a 4-percent or a 9-percent transaction.

But that's the hurdle that I saw in those
situations was -- the city wasn't interested in keeping it
affordable. So --

MS. ANDERSON: Sara Anderson, and actually, I'm
not speaking on the affordability. I'm speaking on the
second item that Marni got to quickly.

MR. VASQUEZ: The historic preservation?

MS. ANDERSON: Yes, the historic preservation.

MR. VASQUEZ: Okay. Well, let's --
MS. ANDERSON: The one --

MR. VASQUEZ: -- put this -- the affordability

to rest --

MS. ANDERSON: Yeah.

MR. VASQUEZ: -- or these comments first.

MS. ANDERSON: I think everybody looked like
they were finished on that. So I was going to hop back to
the historic preservation, and I think your staff are
taking some of our comments between the initial draft and
this draft.

There's one, I think, sort of housecleaning
item that probably still needs to happen with it. The --
we're bringing the letter forward, proof that we've
submitted to the Historic Commission, and the way it works
is, we'll spend the next year working on getting it
approved and finding out what we can and can't do to that
property.

Tangential to this, there's a statement in the
QAP that talks about for the historic preservation deals
that we have to request, prior to or at the time of
application, for the waiver of items that we will not be
able to provide because of the historic designation
limitations, which we won't know about for another year.

So I would ask for that particular item about
the waiver and it having to be brought forward before the
application, when we won't have gotten that determination yet, be moved to 10-percent test instead.

MR. VASQUEZ: Staff?

MS. HOLLOWAY: So I think that requesting a waiver of a rule after an award has been made is --

MS. ANDERSON: Right.

MS. HOLLOWAY: -- problematic.

MS. ANDERSON: Right. It would be an --

MS. HOLLOWAY: It would be an amendment.

MS. ANDERSON: Yes. Right.

MS. HOLLOWAY: So what that would be is an amendment coming in, saying we can't do these things because of the Historic Commission. Please amend our application and move forward that way.

MS. ANDERSON: Yes. As opposed to, right now, it says we have to request that prior to application.

MS. HOLLOWAY: Okay. Off the top of my head, I'm not -- I know that there are a number of things that you have to ask prior to application. Off the top of my head, I'm not remembering exactly what that language is, but I think that, yeah, it probably makes sense that you're not going to know at application whether or not you have to keep the windows.

MS. ANDERSON: Right.

MS. HOLLOWAY: Yeah. Okay. We'll look into
that. And I think that if that's something that's completely impossible to accomplish, that it could work as a technical correction.

MR. ECCLES: If you're looking at me, then, yeah, changing the dates on that, that could be a technical.

MS. HOLLOWAY: That could be a technical correction between draft and final?

MS. SYLVESTER: Yes, but it's a little more complicated than that, so --

MS. HOLLOWAY: Okay.

MS. SYLVESTER: -- we'll work through that.

MS. HOLLOWAY: Okay. But I don't think anybody is even -- well, no. We do have some direct loan in historic deals. Okay. Okay. Is that enough of affordability and historic? I think part of what I heard was going far afield from the QAP.

Talking about qualified contract is in the asset management rule that we'll be discussing next month, and also, what I heard was qualifying for the at-risk set-aside versus having to come in on -- in the subregion as an app rehab deal.

So those are some larger issues that we certainly could take a look at. Again, at least the at-risk -- you know, how to get into at-risk for next year --
but that would have us going beyond the statutory requirements.

So -- all right. Moving on to Subchapter B on site and development requirements and restrictions. We've made several changes here. To floodplains, we've added a requirement that rehab deals in the 100-year floodplain, the owner must state in its tenant rights and resources guide that it is in a 100-year floodplain and encourage residents to get insurance.

In neighborhood risk factor -- did you want to speak to floodplains?

FEMALE VOICE: No.

MS. HOLLOWAY: Oh. Neighborhood risk factors.

Due to changes in how campuses are evaluated by the Texas Education Agency, corresponding changes have been made to neighborhood risk factors regarding educational quality. Applicants will be required to disclose if the development site falls within the attendance zone of a school that has -- that was rated D in 2019 and improvement required in 2018.

Previously, disclosure was required if the school was rated improvement required for just one year. So we've extended the look-back period on Ds. We've added a limitation that any development that falls within the attendance zone of a school that is rated F will be
considered ineligible with no opportunity for mitigation, 
with an exception for properties that are part of our 
portfolio now or are elderly developments. 

We've heard tonight about some technical 
corrections that we need to make within those rules, and 
we will be taking a look at those. And they all sound 
like things that we can do as technical corrections 
between draft and final. 

Regarding mitigation for schools, the number of 
options has been reduced from four to three. There is a 
concern that the fourth option, busing children to the 
school that has met TEA standards may not be realistic. 

MR. VASQUEZ: Any comments? 

MS. SISAK: I'll start. Good evening. I'm 
Janine Sisak from DMA Development Company, but I'm here 
tonight on behalf of TAAHP. Audrey Martin had to leave, 
and she asked me to take the rest of the comments. And 
while she wanted to jump forward, I might want to jump 
back a little, because I didn't realize we were kind of 
closing the scoring item and opening up threshold issues. 

So just quickly on scoring, cost of development 
per square foot. There was no staff change here. TAAHP 
in its letter before the staff-issued draft was published 
requested an increase in cost per square foot across the 
board.
We had a roundtable several months ago where TDHCA presented to the group actual cost data from the cost cert, and the cost data showed significantly higher costs than what the cost per square foot limitation allows.

And we understand the reasoning behind that, and that TDHCA wants to leverage its resource and use credits efficiently, but still costs are a huge problem. They go up every year. It's not getting any better, and so we just want to see some sort of increase every year, and you're going to hear from us every year asking for an increase.

It would be nice to have some sort of indexing system worked out, and that's what Audrey was working on, and I won't get into the technical details, because it is in the TAAHP letter that we submitted, but we would like staff to reconsider that, or for the Board to reconsider an increase in cost per square foot.

On undesirable site features, you know, just -- I've testified on this issue for many, many years now in a row, and this concept is a remnant of the remediation plan that came out of the lawsuit several years ago, and it still is a huge problem in particular for 4-percent deals, who still have to meet, you know, this very robust rule that goes on for pages and pages and pages.
I think what's primarily problematic this year, and we're going to focus on schools, and I think other people are going to talk about schools, but two concepts that TAAHP wants to bring to light -- one is that a request that senior developments are just completely removed from the school criteria.

It just simply makes no sense that elderly developments are held to this standard, especially now that we're looking at a whole new scoring rubric for schools. It just doesn't seem to make sense. With regard to schools that rated F, and to be honest, I haven't -- I personally haven't kind of considered what that looks like, and I think Sara's going to speak to what she's learned about what that looks like.

But our concern about having any sort of school that is not subject to mitigation is problematic. Again, you know, real estate is a thing that you kind of see good real estate when you -- you know it when you see it, kind of thing, and to have kind of one point out of this long laundry list of one school that performs badly one year, and you're kind of done, with no ability to mitigate, and which I think means -- it's unclear, and maybe we can talk about this, or Marni can talk about it -- does that mean you can't appeal it?

Probably not. I think Marni's going to say you
can appeal it, but then what are you appealing, if you're not allowed to present any information to mitigate? You know, there's no ability to show why this should be, why the Board should overrule staff recommendation in this case.

So we firmly believe that any sort of school situation should be allowed to be mitigated and should be allowed to be appealed to the Board. And I think, you know, I could probably go on, on undesirables, but I think this year we're going to really focus on the school thing.

Again, we're changing a whole rating system. There are going to be some unintended consequences. We know that, when things change dramatically, and so we just want some flexibility to move forward on certain sites that are otherwise really good real estate, but might have one school that performs poorly in one particular year.

I'll sign in, and I think that might be it for the TAAHP comments.

MR. VASQUEZ: The comment on senior development, not having any impact with the schools, so that I think there's a lot of agreement with that sentiment. It doesn't make sense.

MR. MOREAU: My comment was along those lines. We build housing for single adults that are homeless, and
veterans, people with disabilities, that there's not -- they're not households with families with kids, so we'd like some exception on the school piece, too.

MR. VASQUEZ: I think we're working on putting that in somehow. Right? Yes?

MS. HOLLOWAY: Are you specifically meaning supportive housing?

MR. MOREAU: SROs --

MS. ANDERSON: Okay. So I get to speak about schools. Sara Anderson. The way the schools are being done this year is a pretty large departure from last year. Last year, you would have -- if you faced three years of improvement required, you were limited from being able to come in.

There were no mitigating factors, if you had three years of IR. What we are going to this year is now one year of IR essentially, and there's no mitigation. To me, that's a pretty substantial policy change that I don't believe we really saw until this last version came out.

With our conversations with TEA, the F grade is analogous to what used to be IR. So we literally have gone from three years IR to one year IR, and --

MR. VASQUEZ: I'm sorry. I thought that D would also be in that category.

MS. ANDERSON: No. According to our
conversations and emails we got from TEA, they say only F
is analogous. So unless you guys have gotten something
else --

MR. VASQUEZ: But there's more categories.

MS. ANDERSON: -- so right.

MR. VASQUEZ: There's the letters. There's
more categories --

MS. ANDERSON: Yeah.

MR. VASQUEZ: -- than we're --

MS. ANDERSON: Right, right. What they're
saying is they're -- at least, that's what they've sent
us, so --

MS. HOLLOWAY: If I may?


MS. HOLLOWAY: Speaking to the improvement
required question, TEA statute at -- it's probably
Texas -- I don't even know where it is -- school code of
some kind. Section 39.101, needs improvement rating.
Notwithstanding any other law, if a school district or
campus is assigned an overall or domain performance rating
of D, the Commissioner shall order the district or campus
to develop and implement a targeted improvement plan.
This comes up again later under -- it's Texas
Education Code, methods and standards for evaluating
performance. An overall or domain performance rating of D
reflects performance that needs improvement. An overall
or domain performance rating of F reflects unacceptable
performance.

And what we have sought to do in the change to
the rules is split that and where previously it was one
year IR -- you have to do all of this work -- now, we're
actually making it two years D or IR, and the F's are
ineligible.

Does that --

MR. VASQUEZ: Again, I mean, from my
understanding, we're not making it more difficult. It
just -- the worst of the worst --

MS. ANDERSON: Yeah.

MR. VASQUEZ: -- is being made ineligible, not
done before then, all these different --

MS. ANDERSON: Right. And I can't speak to
statute. I can just speak to the conversations we've had
directly with TEA, and you know, we can provide the emails
and what they've said and what they consider analogous.
It still is a, you know -- I would say still going from a
three-year history, because they're -- we're seeing
schools that were fined under the old rating that are now
Fs.

And we have a new rating system that, again,
obody really knows what the new rating system is.
There's been a lot of people that have been arguing about it, and you know, I just feel like going from looking at a three-year history to a one-year, you know, swing and you're out, seems a little drastic.

I'd like to at least, you know, see one-year look-back to see that there was some consistently -- some issues with the school or have a way to mitigate. I think the other concern that we have is that while overall the -- we -- the Fs that we have are 5 percent, and if you look at a macro level, that seems like not a big deal.

You look at a micro level, and that can be a very big deal. The attendance zones for high schools are significantly larger than those for middle schools and for elementary schools. If you have a high school that has this problem, you have now taken out in many rural areas, entire cities.

Same thing if -- in some of the middle schools. One of the examples that we're seeing in Austin -- five middle schools in Austin came up with an F this year that did not have bad scores before, not this bad, that have an F, and now 30 percent of Austin is ineligible.

So again, it seems like a very large change for a new scoring system that I'm not sure anybody understands enough to do a one-and-out, and so I'd like to at least see at least a chance to mitigate or an extra year look-
back to make sure that it's not a one-off anomaly that is
essentially in some cases redlining entire cities.

So I think that was it.

MS. BOSTON: I just wanted to just make sure

you guys are getting kind of the full picture --

MR. VASQUEZ: And who are you? Could you

introduce yourself, please?

MS. BOSTON: Sorry. Brooke Boston with TDHCA.

From a data perspective, there isn't a total equivalent

from IR last time to D or F this time. In 2018,

3.5 percent of all campuses were IR. In 2019, just

looking at Fs, 4.5 percent are Fs.

So you can't really say that one equates to the

other, because they became more rigorous. So even if you

were to say -- basically you could say that almost all of

the IRs from last time are a subset of Fs, but there are

more Fs than there were IRs in the past.

So I don't want you guys to feel like it was --

it's just a change in definition, because it actually, you

know, the whole methodology they used changed, so you

can't say it's apples to apples.

MR. VASQUEZ: Is -- would it be possible to do

a -- for the first -- this transition year, do a two-year

look-back on -- did not meet standards, and F? I mean,

I'm not saying --
MS. HOLLOWAY: So --

MR. VASQUEZ: -- absolutely that. I mean, I'm not convinced either way.

MS. HOLLOWAY: Well, so --

MR. VASQUEZ: Is that --

MS. HOLLOWAY: -- the same look-back that we're using for the D grade. So D in 2019 and improvement required last year, and also at least for this year, F in 2019 --

MR. VASQUEZ: And does not --

MS. HOLLOWAY: -- and improvement required the year previous. That would --

FEMALE VOICE: Yeah.

MS. HOLLOWAY: -- be the easiest thing for us to implement.

MR. VASQUEZ: I mean, at least that takes a step towards --

FEMALE VOICE: Yeah.

MR. VASQUEZ: -- so it's not just that one-year anomaly that -- no. That's --

FEMALE VOICE: Tough crowd.

MR. VASQUEZ: Wake up.

MS. FINE: If we could make that change by -- I still think -- I haven't --

MR. VASQUEZ: Okay.
MS. FINE: -- but a couple other little changes.

MR. VASQUEZ: Yeah. Come on.

MS. FINE: I want to echo the exclusion of elderly developments, and at the very, very least, the exclusion of at-risk elderly developments, so these projects are already existing. We primarily work on what's called the HUD 202.

This was a type of property that is specifically built for seniors under a HUD program. We cannot, by fair housing laws, explicitly exclude children, but the reality is, our units are no larger than about 500 square feet in studios and one-bedrooms.

We have just under 1,400 units in the state of Texas of these HUD 202s. We have zero children living in them. And I just don't want this to prohibit my seniors from being able to live at a renovated community that will help them age in place.

MR. VASQUEZ: I think staff is --

MS. HOLLOWAY: Yeah. If I --

MR. VASQUEZ: -- on board, I mean, with --

MS. FINE: Okay.

MR. VASQUEZ: -- that --

MS. HOLLOWAY: -- if I may? I --

MR. VASQUEZ: Yeah.
MS. HOLLOWAY: -- we -- as I mentioned, when we first got started, there are a couple of glitches in drafting, and this elderly piece is one of them, that it's in one part and not in another part.

MR. VASQUEZ: Yeah, yeah, yeah. We are in agreement, Tracy.

MS. FINE: And then to stress with everyone else, allow for mitigation of -- if you fall in this trap, to allow us to mitigate it.

MS. HOLLOWAY: Okay. All right. Moving on to Subchapter C, filing of applications for tax exempt bond developments. Staff has made changes to facilitate reviews of applications for bond funds and 4 percent credits, aligning with the Texas Bond Review Board, and their changes in statute out of the last session.

Under deficiency process, we somehow wound up with parts of our deficiency process all over the QAP, and we've tried to bring them all together in one place now, so you only have to look in one place. We've also added causes for termination of 4 percent for a direct loan application.

We've clarified those. Feasibility report. We've modified the requirements to assist applicants in performing due diligence, given their site constraints and local jurisdictional requirements. On appraisal, we'll
require appraisals for adaptive reuse developments.

Did you want to -- okay.

MS. FINE: I'm not sure if I missed this section, but this has to do with a disclaimer saying that if you missed an email, you're out of luck. Is that per this Subchapter C -- or B? C?

MS. HOLLOWAY: No. It's C.

MS. FINE: Are we -- is this the appropriate time?

MS. HOLLOWAY: Yeah. Sure.

MS. FINE: Okay. So I'm terrified of this happening. I know it happened this last session. You know, someone missed an email. It got lost in their server. I don't know what happened, but I hate that it's so definitive that if, God forbid, your email has a quirky deficiency, that your application's in the garbage, like, is there any way we could say, like, within 24 hours, you don't get a received email back, that you could make a phone call or is there a way to post online --

MS. HOLLOWAY: We have a plan.

MS. FINE: Oh, okay, okay.

MS. HOLLOWAY: Actually, as a result of what happened this past year, we've been working with IS, and what we'll be doing is, as we issue deficiencies or terminations or scoring notices or whatever else, we'll be
entering into a log, application number, application name, and it will update over night, just like the applicant -- like all the applications do, as we're doing reviews.

So check the list regularly. The volume of stuff that we send out, you know, trying to continue our work and make sure that we're getting -- yes, I received this back, is --

MS. FINE: I get it. I just --

MS. HOLLOWAY: -- would be problematic.

MS. FINE: -- don't want to lose an email and lose my application.

MS. HOLLOWAY: Yeah. Well, and the other piece of it is, everybody should make sure that there are a number of people listed on the application to receive those notices.

MR. VASQUEZ: But we'll -- so the system will be set for --

MS. HOLLOWAY: We're providing --

MR. VASQUEZ: -- blasting out or you know --

MS. HOLLOWAY: -- a public notice --

MR. VASQUEZ: Yeah.

MS. HOLLOWAY: -- that will be updated overnight, every night.

MR. BRADEN: We're not blasting it out, just sending on our website.
MS. HOLLOWAY: Right, right. Moving on to Subchapter D under acquisition costs, we have clarified how the acquisition costs will be determined for USDA developments and identity of interest transactions. We've made some changes in developer fee.

The provision that allowed a 20 percent developer fee on rehab transactions with 4 percent credits has been removed. The developer fee on acquisition costs has been limited to 5 percent for identity of interest sales.

And for multifamily direct loan only developments, the developer fee will be limited to 7-1/2 percent. Scope and cost review guidelines. So the name of the property condition assessment has been changed to scope and cost review to better reflect the number of changes in this section.

The requirements have been expanded with the goal of clear articulation of the capital improvement requirements of a development undergoing rehabilitation or adaptive reuse. So we've gone from a PCA to this, sort of, broader picture.

MS. BINGHAM ESCAREÑO: Do you have a nice acronym for it already --

MS. HOLLOWAY: Well, it's --

MS. BINGHAM ESCAREÑO: -- since y'all --
MS. HOLLOWAY: -- sort of SCAR, but --
MS. BINGHAM ESCAREÑO: SCAR, sucker?
MS. HOLLOWAY: Brooke says SCAR. You say sucker.
MR. ALTER: Craig Alter. An issue related to the topic of adaptive reuse is the points that you can get for the cost of adaptive reuse. Adaptive reuse has been pulled out and put back to a category that has new construction and reconstruction, which allows a much lower cost, eligible basis cost, to get a certain number of points.
So it doesn't seem appropriate at all to go put it in a lower cost category, when adaptive reuse is an expensive proposition as acq rehab is. So I don't -- I would propose that we keep with acq rehab, and allow it to access the points at a higher cost.
MS. HOLLOWAY: Okay. So our definition of adaptive reuse is, and has been for quite some time, that this is new construction. That happens for a number of reasons. You know, we're taking this structure and that is not housing and turning it into housing.
It's not really rehab. We are seeing more and more adaptive reuse developments coming in. I think this is a topic that we're going to have to take up and have a very detailed, serious conversation about. We had an
application in this last round that all end costs were $327,000 a unit for an adaptive reuse.

So you -- as we are seeing these developments come in, and more and more of them, you know, and it talks -- speaks to urban core, and it speaks to all of these other things, I think we need to have a much broader conversation, maybe next year, this coming year.

MR. ALTER: The category that's getting overlooked is the historic rehabilitation. So there's a policy priority to look at adaptive reuse of historic buildings. Historic buildings have an additional point value.

They are a priority, and yet the cost factor takes away from that priority. So it's difficult to meet the objective of the priority when you can't meet the cost that you face to rehabilitate an historic building, and they're most often adaptive reuse.

You're taking something and converting it into housing.

MS. FINE: I have a question. I have a question on -- under identity rules. I hope this is the appropriate time. But this might be more for you. I actually emailed you this question. There is a new part under identity of interest that talks about needing a second appraisal or a second appraisal opinion, and I was
unclear when that is triggered.

Is that -- my sort of understanding was, if you want to have an acquisition price higher than the appraised value, was that the only instance that that would be triggered? When is that triggered? Because I would comment against that second appraisal.

MR. STEWART: Yeah. So conceptually, you know -- so I think what's new in the rule is an ability -- if you have owned property greater than 60 months, that you are basically re-syndicated. Prior to this proposed change, you would not be eligible for certain credits on that transaction as an identity of interest transaction.

And what this is doing is opening up the door a little bit for hopefully incentivizing developer -- or owners who have properties that could, at the end of the day, opt out of our marketplace, reenter the program, and the owner could earn a developer fee and get acquisition basis -- get a developer fee on the acquisition basis portion of that transaction.

But what we've said is, is that appraisals are funny things, and so what we would like in those circumstances is to have a third party review that appraisal to set that value that we use. It's just simply a way for us to confirm what we're doing and what we're using without having to pretend like we're appraisal
reviewers.

MS. BINGHAM ESCAREÑO: We need to think about that.

MR. STEWART: Does that answer?

MS. FINE: I'll comment on that.

MR. STEWART: Okay.

MS. FINE: Thank you for clarifying. So I would request that we don't have the second appraisal review. I get where Brent's going, but appraisals have to be licensed. They have a rigorous training. They have to meet excessive standards within their own industry.

With TDHCA, that is going to require me to pay for two appraisals. I can't get an appraisal review without paying for a second appraisal to put in my application. That just raises my development cost.

MR. STEWART: So the short answer is yes, you have to pay for that. You're getting additional credits on a property that otherwise you would not have. That's the tradeoff there. Appraisals -- if TDHCA ordered the appraisal and paid for the appraisal, then the appraisal review wouldn't be important.

With an owner applicant submitting any document, market study, appraisal, what have you, there is a desire on our part to make sure that that information is right, licensed or not. Appraisals, you know, licensed or

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not.

MS. FINE: Have you seen people taking advantage of their appraised value or --

MR. STEWART: All I'm saying is, for me to get behind doing this, I want an appraisal review. I -- and you know, that's just --

MS. FINE: This is the 5 percent addition --

FEMALE VOICE: Uh-huh.

MS. FINE: -- that's in there?

MS. BURCHETT: Hi. Sally Burchett. I want to paint a little bit clearer picture of the historic stuff Craig was talking about. My background is in community and regional planning, and the benefit of restoring a derelict building in a central city has a huge impact on the community, which I think is important to the Texas Department of Housing and Community Affairs.

And I, you know, was excited about the legislature when they approved the historic preservation being a priority, and I think this does kind of contradict that statute which is what Craig was saying. But also, yes, that's a lot per unit, but it's not all housing tax credits.

You have other people participating. You have your state historic tax credit. You have your federal historic credit. So you have those three pieces of pie
coming in a funding it. So it's not as horrible as it sounds.

It's three different people or entities coming in to fund it, and it's -- you really can do a lot for the community.

MR. VASQUEZ: You're not saying that it's government funded, so let's -- who cares what it costs. Right?

MS. BURCHETT: No. I'm saying it's --

MS. BINGHAM ESCAREÑO: There's a method.

MS. BURCHETT: -- yeah. And it's -- like, it's a good use of funds. There are benefits that aren't measured exactly, and it shouldn't be in the same cost per square foot as new construction because it's not new construction, and there are other caps, like with the leveraging, I believe, and maybe needs to be tweaked, but I don't think the way it's proposed right now is -- will get the job done, to get another historic deal built.

MS. HOLLOWAY: Okay. And one last section. The fee schedule. The commitment and determination fees have been reduced to 2 percent as opposed to the previous 4 percent for 2020 only. In the compliance section, properties with both a direct loan and tax credits will only pay the tax credit fee for their compliance fees.

The public comment -- did you want to speak to
that one, Laura?

MS. MYRICK: No, ma'am. Well, wait --

MS. HOLLOWAY: Okay. I'm about to close, so if any --

MS. MYRICK: Well, then, yes. So is this --

MR. VASQUEZ: We will now accept some general comments.

MS. MYRICK: We're in Subchapter E. Right?

MR. VASQUEZ: Yes.

MS. MYRICK: Fees?

MS. HOLLOWAY: Yes.

MS. MYRICK: All right. Very good. Thank you very much. I'm still Laura Myrick, still with BETCO Consulting. There were a lot of changes at the beginning of this draft. There was some discussion about how there were substantial changes to 11.902, which is the appeals process, and we are very appreciate of those changes.

We certainly appreciate staff tightening some of that up for us. I think that what I would ask is under 11.902, under C, where it begins that an applicant for a development, owner must file its appeal in writing with the Department not later than the seventh calendar day after that little section there -- that we kind of add "the earlier of," the date the Department publishes the results of any stage of the application or otherwise
notifies the applicant.

I think just will provide a little clarity, but I think, for the most part, it does capture what we were looking for this last time around. I think in that same vein, when we talk about the appeals process, I think that when we publish, perhaps, the application log, there is a date that goes with it, and some of the correspondence that we received during an issue with the appeal process -- it was mentioned that a log was posted after hours.

Perhaps just like we have an application log date, maybe we have one that is date-stamped. I don't know how difficult that is, or we just make sure that it is published during the work hour, if that's something that's going to be looked at.

Again, in some correspondence that we received, there was mention about how it was -- an application log was posted after hours. So if that's going to be an issue that's going to be looked at, perhaps we try to publish it during business hours.

MR. VASQUEZ: What's the problem of coming in the next morning and seeing it published?

MS. MYRICK: Well, information on an application log is something that could trigger an appeal, so if it came in at seven o'clock on 5/15, it shouldn't
matter that it was -- the way I was reading the rules, it
didn't matter that -- whether it happened at eight o'clock
in the morning or seven o'clock at night.

   It was still the date.
MR. VASQUEZ: So you're saying when the clock
starts?
MS. MYRICK: Right, right. So if we're
going -- I mean, if -- in the correspondence that we
received, it said this was published after hours. You
really can't use that, so if that's the case, then maybe
we ought to publish the log during the work hours.

MR. VASQUEZ: If it's published after hours, it
triggers the next --

FEMALE VOICE: The next day.
MR. VASQUEZ: -- yeah.
MS. MYRICK: So maybe we ought to do it.
Right.
FEMALE VOICE: Yeah.
MS. MYRICK: Maybe what we also do or consider
is having a designated form for an appeal. That way, we
can all rely on a form or something that kind of gets us
moving. We see it in a scoring notice. We see it in a
notice that comes with your underwriting report.

   Maybe for some of these other things that don't
have a specific form, maybe we think about that, so that
there's a uniform method in which appeals are received by the Agency, and there isn't that -- I guess, that confusion or that is an email.

Does that suffice? Or maybe if there is a more formal, standardized format, that may help also. But we do appreciate the change that was made in 11.902. We thank staff very much for that. Thank you.

MR. VASQUEZ: Excellent.

MS. RICKENBACKER: Yeah, because once y'all are done, I'm done. So I'm going back to a scoring category that wasn't made part of staff summary, so I thought there would be some opportunities at the end of staff's summary of changes to speak to some changes that weren't recognized in the summary.

By the way, Donna Rickenbacker. Want to send the QCP scoring category, which by the way, I've really wanted to compliment staff for these changes. In the QCP scoring category, an applicant has the right to challenge a neighborhood -- qualified neighborhood organization that goes on record in opposition to their application.

And if it's deemed that the statement is found to be contrary -- I'm reading the rules -- to the findings or determination of the local government entity, then the application is eligible to receive four points in that scoring category, and points that are similar to those
applicants that are not within the boundaries of a qualified neighborhood organization. And that's a good thing. What they also did is make a change in the input from community organization to where they included -- if there is a qualified neighborhood organization that has given no statement or a statement of neutrality, then that applicant can also secure four points under the input from community organization in the same manner that the -- an applicant that wasn't within the boundaries of a qualified neighborhood organization could score.

What I would suggest that we also include is that -- or the letter of opposition has been found to be contrary to findings of determination of a local government entity described in Clause 4D, so that they can qualify for those four points.

Does that make sense, Marni?

MS. HOLLOWAY: Yeah. I'm sorry.

MS. RICKENBACKER: Did you understand?

MS. HOLLOWAY: Yes.

MS. RICKENBACKER: Anyway, and I do very much appreciate the changes that were made to those scoring categories.

MR. VASQUEZ: Good. And, Donna, you've submitted that last comment to staff already, or --
MS. RICKENBACKER: I have not, I have not. So I can certainly do so --

MS. HOLLOWAY: I've got it.

MS. RICKENBACKER: -- but she's got it figured out.

MR. VASQUEZ: Okay.

(Discussion away from microphone.)

MR. MOREAU: I have two more policy items that I think are really important for you to consider. The first is to try to put more emphasis on green building. You're investing over $700 million to build -- you have a big carbon footprint, a lot of water use, electricity use.

When the staff -- TDHCA did a survey of residents' issues, and one of the top three issues was lower utility bills, which is a big part of affordability.

In 2017, the QAP required that at least two of the points for unit requirements came out of this menu of green requirements.

I don't -- somehow, that got turned into a voluntary thing. So you can still meet all your unit requirements and not be incentivized or required to do any green building. We think you could make some minor tweaks to that, to just require that one or two of the points off that menu come from the green building list, like water-wise water fixtures, which you can buy at Home Depot, and
they don't cost any more.

They just -- they should be just standard. So I'd hope you'd look at that, and encourage staff to look at ways to improve the green building of this program. It's just important on so many levels.

MR. VASQUEZ: So remind me. I don't care who reminds me. But the whole -- the menu of all these different items that could qualify for two points, it just -- you can use any of them, and they could have nothing to do with green --

MR. MOREAU: Exactly. And it used to be that you had to pick at least two of the points from the --

MR. VASQUEZ: Yeah.

MR. MOREAU: -- limited green items.

MR. VASQUEZ: Sounds like a good idea. We like the environment.

MR. MOREAU: Yeah. Thank you. The other policy item, maybe trickier to implement this year, but I at least want to put it on the table so you start thinking about it -- the program's producing fewer units. A lot of that is a lot of different reasons.

Land costs, construction costs. What we're also seeing, though, is that there's outlier projects that are scooping up a huge amount of credits per unit, over $200,000 in value in credits per unit. There's no cap
right now.

Most states have a cap. So if you drew a bell curve of all the projects you award on -- just on amount of credits per unit, at one standard deviation, way out there on the high end, you've got a dozen projects that are getting 19,500 in credits per unit last year.

If you just capped it at that amount and said, look, if you have a really wonderful project, and it's very, very expensive, like the historic preservation project, that's fine. We're just not going to give you more than 19,500 in credits.

That was the standard deviation out there as an outlier. You would find one or two more projects statewide. I think it's in the interest of the Department and the developer community to just put some very high cap on the amount of credits per unit so that nobody's gaming it and getting more money than they -- makes sense.

Thanks. That's trickier, but really would -- you'd get two or 300 more units.

MR. VASQUEZ: For my personal opinion, I mean, I agree, despite all the positives about redeveloping preservation, you know, historical places, but trying to get the most number of units that we can across the state is --

MR. MOREAU: Exactly.
MR. VASQUEZ: -- yeah. How can we use our dollars to maximize that?

MR. MOREAU: Thank you.

MR. VASQUEZ: Wait. Marni, one more.

MS. LASCH: I just have two kind of small items. One of them is --

MR. VASQUEZ: Could you introduce yourself?

MS. LASCH: Yes. Sorry. Megan Lash. And I'll sign in. One of the items is requiring that a plat or vacation process being started at application. That can require quite a bit of engineering. There's some unforeseen that come up, like the city will turn around and require an appraisal.

I just think to have this requirement at application can be very problematic and very expensive, so I'm not sure what was kind of the thought process for adding this in. Do you want to address that?

MS. HOLLOWAY: Certainly. We actually are creating a path for applications, two applications, that were not able to make it through this past year because they need -- they required re-platting and vacation -- vacating dedicated roads, and our thought process was let's treat this like zoning, the same day we do with zoning.

You're not required to come in with your
zoning. You're not required to come in with your re-plat. You just have to show us that you've started the process and then prove it up, a commitment that you've had it done.

MR. VASQUEZ: It's going to have to be done if the project --

MS. HOLLOWAY: In order for the project to move forward, yes. And recognizing that it may not work well for larger cities. City of Austin will take forever to do a re-plat. I recognize that, but you know, this is about folks all over the state.

MS. ANDERSON: So a requirement just that you've started --

MS. HOLLOWAY: Yes.

MS. ANDERSON: -- and it doesn't -- there's not like a -- it has to have been approved by X?

MS. HOLLOWAY: I think it's half-started. Show us you've started.

MS. LASCH: It's just an additional cost at the application. I mean, it's -- that can run us an extra five to 10 grand.

FEMALE VOICE: But you're saying it has to be completed --

MS. HOLLOWAY: Yes, just like -- just as zoning, completed by approval.
MS. LASCH: And my other one -- this was kind of a small one. What was the change for the experience? Or previously, it was 2014 to 2018?

MS. HOLLOWAY: Uh-huh.

MS. LASCH: I think most of us in this room are going to have to reapply now, and so that's going to cause a lot of extra work on staff and all of us to go through this process again, and if we were eligible last year, we should be eligible this year.

MS. HOLLOWAY: So we changed it to 2017. So if you have an experience certificate, 2017, 2018, 2019, you're good for 2020. We're just bringing the years up because 2014 was a long time ago, 2015 was a long time ago.

If that's the last time you did a deal, how can we say that you actually have that experience?

MS. LASCH: Is there another way you can solve that? Because folks that have been doing deals year after year are just --

MS. HOLLOWAY: Well, so if you had -- yes. And what I recognize that if you've been relying on a 2014 experience cert, you may have to redo it. You know, if you're relying on a 2017, then you're good.

MS. LASCH: Okay. So are you suggesting that experience expires, that you no longer have that
experience?

MS. HOLLOWAY: I'm suggesting that this is something that needs to be refreshed.

MS. LASCH: So just recertified?

MS. HOLLOWAY: Yes.

MS. LASCH: And it's not a huge item. I'm just saying it's going to be --

MS. LASCH: Can you restart certification --

FEMALE VOICE: Yeah.

MS. LASCH: -- so we can reduce your work, so documentation could be done however many deals in the last two cycles will pump up your experience for many years?

MS. HOLLOWAY: That would require redrafting a -- you know, a big change to how this was drafted. I think that, you know, if you've -- it's what -- 150 units?

MS. LASCH: Uh-huh.

MS. HOLLOWAY: So I think for most developers, it's not difficult to prove up 150 units, and especially for those of you who've done 150 units with us. So I don't think that just bumping it up a few years is creating a big burden.

MS. LASCH: Okay. And then my last one, just to kind of follow with Walter's comments on the green build, we are all for that, but I want to be cautious with how we are writing that into the QAP, and I'll be honest.
I didn't check how it was exactly drafted in this last cycle, this last round.

But the one earlier this year specifically said, Energy Star. It didn't mention LEED, and I think we just want to cautious with not going after a brand specifically. There's lots of ways to solve energy conservation, and I think we need to have a broad approach to that, versus just calling out one of those items, because that's -- Energy Star is a brand. So --

FEMALE VOICE: Definitely.

MALE VOICE: Yeah. They have equivalents.

MS. LASCH: They have equivalents. Right.

MS. HOLLOWAY: Open mike. Going to drop it any second now. So with that, staff recommends that the Committee make a recommendation to the Board to accept the proposed repeal of 10 TAC Chapter 11, and a proposed new 10 TAC Chapter 11, thereby approving it for public comment -- or for publication in the Texas Register for public comment.

MR. VASQUEZ: So do we have to vote as a committee to put this forth to the full Board?

MR. ECCLES: Well, if there are -- if there's a motion you'd like to make, that includes --

MS. HOLLOWAY: Sir, please?

MS. BINGHAM ESCAREÑO: Good one.
MR. VASQUEZ:  No one is above the law.

MS. BINGHAM ESCAREÑO:  And introduce yourself.

FEMALE VOICE:  Introduce yourself and sign in.

MR. ECCLES:  Beau Eccles, general counsel of TDHCA.  At this point, since this is the lone action item, and it is not to adopt.  It is merely to make the recommendation of 10 TAC Chapter 11 substitution to the full Board, if there are suggestions or if there are recommendations to staff that you would like to see as what it will be presented to the Board tomorrow, like some changes that you heard and you say, I'd like for -- to make a motion that it be adopted with staff's changes on the -- and then describe the changes, then that can be presented orally tomorrow as the changes being put forward, and when you give your report to the Board, you can say that those were the changes that were recommended.

So do you have a motion --

MR. VASQUEZ:  So --

MR. ECCLES:  -- that includes those changes?

MR. VASQUEZ:  -- I was going to say -- and I've been looking at -- Brooke's been keeping track of --

MS. BOSTON:  Well, Marni had --

MR. VASQUEZ:  -- changes that we've --

MS. BOSTON:  But yes, yes.  I mean, I have a --

what I think from facial reactions and stuff like that, is
what you were wanting to do.

     MS. HOLLOWAY: Right. I think that we would --
     MR. ECCLES: Well, you know the --
     MR. VASQUEZ: I wish you had mentioned this a
     little earlier there, Beau.
     MR. ECCLES: No, the -- those -- the axiom that
     facial expressions are nine-tenths of the law. No.
     That's not an expression. This can inform the Board's
     motion.

     MR. WILKINSON: You want to talk to staff?
     MS. BOSTON: Do you want me to --
     MR. VASQUEZ: I think --
     MR. BRADEN: Yes. Do you want to make a
     motion --
     MR. VASQUEZ: Can you summarize the change --
     let's have her summarize the changes --
     MS. BOSTON: Sure, and Patrick and Marni, tell
     me if I --
     MR. VASQUEZ: -- that looks like the discussion
     here.

     MS. BOSTON: Sure.
     MR. VASQUEZ: Would you --
     FEMALE VOICE: Yeah, yeah, I did.
     MS. BOSTON: Okay. So what I have -- and this
     is kind of going in the order of the conversation -- is
that changes that I think you are contemplating were under
the historic preservation item, specifically that --
regarding waiving an item, you would not need to do the
waiver.

You could come in and do that as an amendment
at 10 percent test, or Megan, if it were MFDL at some
other measurable point that we would come up with in our
draft, because for MFDL, of course, which is the loan
activity, they don't do 10 percent test.

So we'd have to come up with some time.

MS. SYLVESTER: With also deals that are
layered with the -- they actually are MFDL with how we
have to take the property standards in the contract, if
the contract --

MS. BOSTON: We'll work it out.

MS. SYLVESTER: Right.

MR. MOREAU: Right. Thank you.

MS. SYLVESTER: It's more complicated.

MS. BOSTON: I had that for the educational
quality item -- the exception that we had had for our
portfolio would also now be an exception for seniors and
SRO supportive housing.

MS. SYLVESTER: I also -- there's a distinction
or two between efficiencies and SROs. Are you sure you
mean SROs?
MS. BOSTON: SROs and efficiencies.

MR. VASQUEZ: Well, why not both?

MS. SYLVESTER: Both?

MR. VASQUEZ: Okay.

MS. SYLVESTER: Well --

MS. BOSTON: Okay. The idea is that it's very -- I mean, the premise of it is the idea of it -- it's very unlikely there would be children in those units --

MS. SYLVESTER: Yes.

MS. BOSTON: -- on the whole at the property. So I think --

MR. VASQUEZ: Yes.

MS. BOSTON: -- saying SRO and efficiency would be fine. Then also in category -- instead of it being that F makes you ineligible, it would be that if it's IR 2018 plus F 2019, that would make you ineligible. Under -- and that's all I had in like that scoring and threshold stuff.

MR. BRADEN: Paul. On that one --

MS. BOSTON: Yeah?

MR. BRADEN: -- didn't we just decide, you know, the D and F were the same category?

MR. VASQUEZ: No.

MS. HOLLOWAY: Huh-uh.
MS. BINGHAM ESCAREÑO: No.

MS. HOLLOWAY: No.

MR. VASQUEZ: Because D is -- they can --

MS. BOSTON: It's up to you guys.

MR. BRADEN: So we're not mitigating that?

MR. VASQUEZ: No. I think -- and --

MS. BINGHAM ESCAREÑO: Not going to mitigate in F --

MR. VASQUEZ: The IR requirement.

MS. BINGHAM ESCAREÑO: -- if they were IR the year before.

MR. BRADEN: Okay. I'm okay with --

MR. VASQUEZ: Yeah.

FEMALE VOICE: Do we have any opportunity to mitigate?

MS. BINGHAM ESCAREÑO: No, not --

MR. VASQUEZ: Not with --

MS. BINGHAM ESCAREÑO: -- with those two.

MR. VASQUEZ: -- an F and an IR. That's two years, not just a one-year -- arguably a one-year thing.

MS. BINGHAM ESCAREÑO: Yeah.

MS. BOSTON: Okay. And then in the appeal section, we would clarify that it's the earlier of the posting of a log, or when you receive something.

And then let's see. Doing something to say
that if it's posted at night, that it would trigger the
next day or something about that.

    MR. VASQUEZ: After business hours --
    MR. VASQUEZ: -- one day, it goes to the next
day.
    MS. BOSTON: Right. And then I think, because
you said, yeah, we like eco stuff, that maybe a few of the
points would be required.

    MR. BRADEN: I'd be okay with that. Does
anybody recall why that changed? I mean --
    MS. BINGHAM ESCAREÑO: I don't --
    MS. BOSTON: Yeah. I don't know why it
changed.
    MS. BINGHAM ESCAREÑO: -- and I remember LEED.
    MS. HOLLOWAY: I'm sorry? I'm sorry.
    MR. VASQUEZ: Well, just taking --
    MS. BINGHAM ESCAREÑO: LEED was --
    MR. VASQUEZ: -- two items out of the eco list
for credit.
    MS. BINGHAM ESCAREÑO: The green --
    MS. BOSTON: That we used to require some of
the eco items to be used.
    MS. ANDERSON: It was a mistake two years ago.
    There was a citation mistake that took it out, and
then -- and we all missed it, and then -- so it wasn't relevant, and then it just stayed in error.

MS. BINGHAM ESCAREÑO: Got you.

MS. HOLLOWAY: Well, and limited green features have become sort of this big, long list of things --

MR. VASQUEZ: Yeah, so there's more options to choose from now.

MS. HOLLOWAY: -- and we actually -- what we have in this section now under green building features is the result of some work that we've done with stakeholders in a roundtable to get down to this list, but there isn't a requirement that anything come off of this list, when you're looking at the menu of potential options for those development features.

But I would say -- I would add, like, EPA water sense or equivalent toilets is not in green building. It's in just regular features. Sixteen SEER HVAC is not in green building. It's in regular features. The green building at this point is certifications.

So if what we're looking for is a section that says you must have water sense toilets or choose between a list of water sense toilets and rainwater harvesting and all of that, that would be creating a different category.

MR. VASQUEZ: I think that's what we're looking for --
MR. BRADEN: Yeah.

MR. VASQUEZ: -- but there's not already a list of -- a checklist of potential items --

MS. HOLLOWAY: So -- but also --

MR. VASQUEZ: -- that a developer could put in?

MS. HOLLOWAY: -- on that same list with the water sense toilets right now is a kitchen pantry, a kitchen island, walk-in closets --

MS. BINGHAM ESCAREÑO: Yeah. That's what Walter was saying. Those aren't really what we're talking about. Right? So they're all mixed in together. In other words --

MS. HOLLOWAY: Right.

MS. BINGHAM ESCAREÑO: -- you can choose them, and you don't necessarily have to choose efficient or green items.

MS. HOLLOWAY: Right. As it sits right now.

MR. VASQUEZ: How --

MS. BINGHAM ESCAREÑO: What if --

MR. VASQUEZ: -- or I'm sorry. Go ahead.

MS. BINGHAM ESCAREÑO: -- what if you moved some of the ones that do indicate green building into that category that just has the certifications?

MS. HOLLOWAY: My proposal would be that a -- that this certifications are a much more complicated
process than going out and buying some faucets --

MS. BINGHAM ESCAREÑO: Yeah, yeah.

MS. HOLLOWAY: -- so you know, there would need to be some point differentiation, and not -- so like the certifications could be one part, and the actual development features would be another section.

MS. BINGHAM ESCAREÑO: In the old one, it was the --

MS. ANDERSON: That's how it was.

MS. BINGHAM ESCAREÑO: -- certifications. Right?

MS. ANDERSON: There was four points for the certifications, and then one or two in the others. I think if you looked at the drafting three years ago, you could almost copy it, and just cut and paste it in.

MR. VASQUEZ: Okay. Well, I think for the purposes of a motion tonight, it's to incorporate that kind of features selection into the scoring criteria.

MS. HOLLOWAY: Okay. Huh?

MR. VASQUEZ: I think this Committee's unanimous on that. Yeah. So --

MS. ANDERSON: The threshold --

MR. VASQUEZ: Okay.

MS. ANDERSON: -- that threshold criteria.

FEMALE VOICE: Just the threshold.
MR. VASQUEZ: Okay.  Yeah.  In whichever section it's on.

MS. ANDERSON: Yeah, yeah.

MR. VASQUEZ: It's the threshold.  Yes.

MS. BOSTON: But it's that within --

MR. VASQUEZ: Is it threshold?

MS. BOSTON: -- the threshold, as they're picking among the scoring items, they need to pick some that are green?

MR. VASQUEZ: Yes.

MS. BINGHAM ESCAREÑO: Yes.  That's the intent.

MS. ANDERSON: Right.

MS. BOSTON: Right.

MR. VASQUEZ: Two?  At least two.

MS. HOLLOWAY: To start with.

MS. BOSTON: Okay.

MS. ANDERSON: If --

MR. VASQUEZ: Yeah.  If someone chooses all the green items --

FEMALE VOICE: [inaudible] two items.

MR. VASQUEZ: Two items.

FEMALE VOICE: Two items.

MR. VASQUEZ: At least two.

FEMALE VOICE: Okay.

MS. BOSTON: Okay.
MR. ECCLES: This concept is in a draft that goes out for public comment.

MR. VASQUEZ: Yeah, exactly.

MS. HOLLOWAY: Well, because we're doing a repeal/replace rather than an amendment, I think that we could just strike something? Correct? That we couldn't change it? And this would be creating another category within.

MR. ECCLES: Well, and that's classic. It needs to go into the proposed arena.


MR. ECCLES: We can't create a new thing --

MR. VASQUEZ: I see y'all will get it handled.

MS. BOSTON: We will. And then the only other thing I have besides that was the clarification that Donna mentioned, which would be in item 6 relating to input from community organizations, and it just specifies that right now there's an exception so that they can get those points if there's a qualifying neighborhood organization that's given no statement or a statement of neutrality, and she was pointing out that if in fact they -- on the QCP letter, they had actually done the challenge to the opposition, so they -- let's say, the owner -- or excuse me -- the applicant had -- a letter had come in.

It was negative. They challenged that, and it
was decided by the Department that that challenge was legitimate, i.e., the letter from the neighborhood was not okay, based on some of the reasons that are in the QAP, that that would then let them fall into these other points, and that's what she'd been explaining.

And so I think the clause we'd add is something along the lines of -- or the letter has been successfully challenged under D -- 4D of that section. And that will address that issue. It's just kind of putting them on equal footing, that if they've successfully challenged.

And that's all I have. Do you have other stuff --

FEMALE VOICE: [inaudible].

MS. BOSTON: Oh, no, I didn't.

MS. BINGHAM ESCAREÑO: That was --

MR. ECCLES: One quick caveat. As we're talking about Ds and F and school rating, the way it is in the draft that came today was if it is IR previous year and a D in 2019, then it can be mitigated --

MR. VASQUEZ: Yes.

MR. ECCLES: -- and then F in 2019 was ineligible. If we want to say that if it is --

MS. BINGHAM ESCAREÑO: Oh.

MR. ECCLES: -- IR last year and F --

MR. VASQUEZ: It's ineligible.
MS. BINGHAM ESCAREÑO: No mitigation.

MR. ECCLES: -- then it is ineligible. However, what if it is an F in 2019 and it was not IR? If it is this one-time unicorn, then what happens? Is there mitigation or not?

MR. VASQUEZ: Yes.

MS. BINGHAM ESCAREÑO: Yes.

MR. ECCLES: Okay. Then it's --

MR. VASQUEZ: If it --

MR. ECCLES: -- treated like a D?

MR. VASQUEZ: Yes.

MR. ECCLES: Okay.

MS. BOSTON: Okay. So go through the scenarios --

MR. VASQUEZ: Okay. Now, that's --

MS. BOSTON: -- again, just to --

MR. ECCLES: Okay.

MS. BOSTON: -- make sure I have it right.

MR. VASQUEZ: Yeah. No. That's a -- and it's a valid point.

MS. BOSTON: Yeah.

MR. VASQUEZ: It's --

MS. BOSTON: Yeah. The distinction --

MR. VASQUEZ: It could happen.

MS. BOSTON: -- between mitigation versus --
MR. ECCLES: If --
MS. BOSTON: -- ineligibility.
MR. ECCLES: -- it is a 2019 F --
MS. BOSTON: Uh-huh.
MR. ECCLES: -- but was not IR in 2018 --
MS. BOSTON: Uh-huh.
MR. ECCLES: -- it's treated like a D is, but it is --
MS. BOSTON: Right.
MR. ECCLES: -- able to mitigate.
MS. BOSTON: Okay.
MR. VASQUEZ: Okay.
MR. ECCLES: And that goes to Megan. She caught that one.
MS. BINGHAM ESCAREÑO: Go, Megan. Yay.
MS. FINE: Mitigation is to say that they would provide for a D versus an F.
MR. VASQUEZ: Correct. It's treated as a D.
MS. BINGHAM ESCAREÑO: Yes.
MR. ECCLES: In that circumstance.
MR. VASQUEZ: A D and an IR.
MR. ECCLES: Okay. Is -- does this encapsulate the guidance that this Committee would like to give staff in order to -- what to bring before the Board tomorrow?
MS. BINGHAM ESCAREÑO: I can make a motion that we should --

MR. VASQUEZ: Yes.

MS. BINGHAM ESCAREÑO: Mr. Chair, I would move staff's recommendation, with the additional points that have been made at the end, summarizing what appear to be support for some modifications to the proposed draft. I move staff's recommendation for that to be presented as a recommendation to the Board tomorrow morning for the repeal and replacement of --

MR. ECCLES: 10 TAC Chapter 11.

MS. BINGHAM ESCAREÑO: -- 10 TAC Chapter 11.

MR. BRADEN: Second.

MR. VASQUEZ: Motion's been made and seconded.

Anyone dare to have more discussion?

(No response.)

MR. VASQUEZ: Okay. All in favor?

(A chorus of ayes.)

MR. VASQUEZ: Motion carries. But as we wrap up the meeting here, I want to thank all of you for participating in this, working with staff. Again, this isn't the U.S. Constitution. This is a living, changing, evolving document that we're going to -- we're trying to make it better every cycle.

So please work with us. Don't give up. Don't
despair. We're going to make it -- I think this is better this year. It's going to be better next time. Thank you for participating. It's 8:50 and this meeting is adjourned.

(Whereupon, at 8:50 p.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF: Rules Committee of TDHCA Board

LOCATION: Austin, Texas

DATE: September 4, 2019

I do hereby certify that the foregoing pages, numbers 1 through 102, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Elizabeth Stoddard before the Texas Department of Housing and Community Affairs.

DATE: September 9, 2019

(Transcriber)

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