TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

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

September 5, 2019
8:03 a.m.

MEMBERS:

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

BOBBY WILKINSON, Executive Director
## INDEX

<table>
<thead>
<tr>
<th>AGENDA ITEM</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALL TO ORDER</td>
<td>7</td>
</tr>
<tr>
<td>ROLL CALL</td>
<td></td>
</tr>
<tr>
<td>CERTIFICATION OF QUORUM</td>
<td></td>
</tr>
<tr>
<td>Resolution recognizing October as National Energy Awareness Month</td>
<td>8</td>
</tr>
<tr>
<td>Resolution recognizing October as Hispanic Heritage Month</td>
<td>10</td>
</tr>
<tr>
<td>CONSENT AGENDA</td>
<td></td>
</tr>
<tr>
<td>ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:</td>
<td>13</td>
</tr>
<tr>
<td>EXECUTIVE</td>
<td></td>
</tr>
<tr>
<td>a) Presentation, discussion, and possible action on Board meeting minutes summaries for April 25, 2019, and May 23, 2019</td>
<td></td>
</tr>
<tr>
<td>b) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions in this regard</td>
<td></td>
</tr>
<tr>
<td>LEGAL</td>
<td></td>
</tr>
<tr>
<td>c) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Candle Chase Apartments (HTC 70064 / CMTS 903)</td>
<td></td>
</tr>
<tr>
<td>d) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Retirement Acres (HTC 70104 / CMTS 925)</td>
<td></td>
</tr>
<tr>
<td>ASSET MANAGEMENT</td>
<td></td>
</tr>
<tr>
<td>e) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application 18376 Lakeview Pointe Apartments Garland</td>
<td></td>
</tr>
<tr>
<td>f) Presentation, discussion, and possible action regarding a Placed in Service deadline extension for a development located in a Major Disaster Area 16258 Provision at West Bellfort Houston</td>
<td></td>
</tr>
</tbody>
</table>
RULES

g) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 23 Subchapter H, Homebuyer Assistance with New Construction or Rehabilitation, and directing publication for adoption in the Texas Register.

HOME AND HOMELESSNESS PROGRAMS

h) Presentation, discussion, and possible action directing closing of the Program Year 2017-2018 Emergency Solutions Grants Program Notice of Funding Availability.

I) Presentation, discussion, and possible action to authorize the issuance of the 2019 HOME Investment Partnerships Program Homebuyer Assistance with New Construction Reservation System Notice of Funding Availability and publication in the Texas Register.

j) Presentation, discussion, and possible action to authorize the issuance of the 2019 HOME Investment Partnerships Program Single Family Persons with Disabilities SetAside Reservation System Notice of Funding Availability and publication of the NOFA in the Texas Register.

k) Presentation, discussion, and possible action to authorize the issuance of the 2019 HOME Investment Partnerships Program Single Family Contract for Deed Reservation System Notice of Funding Availability and publication of the NOFA in the Texas Register.

BOND FINANCE

l) Presentation, discussion, and possible action on the Single Family Mortgage Loan and Mortgage Credit Certificate Programs Participating Lender List.

m) Presentation, discussion, and possible action on Inducement Resolution No. 20-001, Scott Street Lofts, for Multifamily Housing Revenue Bonds Regarding Authorization for Filing an Application for Private Activity Bond Authority and a Determination of Eligibility relating to 10 TAC §11.101(a)(3) regarding Neighborhood Risk Factors.
MULTIFAMILY FINANCE
n) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits

19412 Majestic Ranch Apartments San Antonio
19417 Green Oaks Apartments Houston
19419 Palladium Redbird Dallas
19434 Limestone Ridge Senior Apartments Austin ETJ
19430 Kyle Dacy Apartments Kyle ETJ
19431 Scharbauer Flats Midland

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS: 13
a) TDHCA Outreach and Activities Report (July-September)

b) Quarterly Report on Texas Homeownership Division Activity

ACTION ITEMS

ITEM 3: INTERNAL AUDIT 14
Report on the meeting of the Internal Audit and Finance Committee

ITEM 4: FAIR HOUSING 15
Presentation, discussion, and possible action to approve the Analysis of Impediments to Fair Housing Choice

ITEM 5: OCI, HTF, NSP DIVISION 23
Presentation, discussion, and possible action authorizing the Department to implement limited and specific forgiveness provisions associated with Land Bank activities within the Neighborhood Stabilization Program

ITEM 6: HOME AND HOMELESSNESS PROGRAMS 25
a) Presentation, discussion, and possible action on an appeal under 10 Texas Administrative Code §1.7, Staff Appeals, in regards to 2019 Emergency Solutions Grants Application for Randy Sams' Outreach Shelter, Inc.

b) Presentation, discussion, and possible action on Program Year 2019 Emergency Solutions Grants Program Awards
ITEM 7: ASSET MANAGEMENT
Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement
96038 2100 Memorial Houston

ITEM 8: RULES
a) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; an order proposing new 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; and directing that they be published for public comment in the Texas Register

b) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC, §1.10, Public Comment Procedures; and an order proposing new 10 TAC §1.10, Public Comment Procedures; and directing their publication for public comment in the Texas Register

c) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 6 Community Affairs Programs; an order proposing new 10 TAC Chapter 6 Community Affairs Programs; and directing that they be published for public comment in the Texas Register

d) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules, and an order proposing new 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and directing publication for public comment in the Texas Register

e) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and an order proposing new 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and directing their publication for public comment in the Texas Register

ITEM 9: MULTIFAMILY FINANCE
a) Presentation, discussion, and possible action on the Fourth Amendment to the 2019-1 Multifamily Direct Loan Annual Notice of Funding Availability

b) Presentation, discussion, and possible action regarding amendments and modifications to the Construction Loan Agreements and Promissory Notes for ADC West Ridge, LP

c) Presentation, discussion, and possible action regarding changes to the capital structure for Avanti at Sienna Palms Legacy (HTC #18188/ TCAP RF Contract 13150019504)

d) Presentation, discussion, and possible action regarding a request for waiver of rules for:

19126 3104 Division Lofts Arlington
19244 Mariposa at Harris Road Arlington
19319 Bardin Apartments Arlington

ITEM 10: RULES COMMITTEE
Report on the meeting of the Rules Committee

ITEM 11: MULTIFAMILY FINANCE
Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and a proposed new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan and directing its publication for public comment in the Texas Register

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS
none

EXECUTIVE SESSION
none

OPEN SESSION
--

ADJOURN
136
MR. GOODWIN: I call to order the Board meeting of the Texas Department of Housing and Community Affairs, September 5, 2019.

First we'll start with roll call. Ms. Bingham?

She's here, I know.

MS. BINGHAM ESCAREÑO: Here.

MR. GOODWIN: Mr. Braden?

MR. BRADEN: Here.

MR. GOODWIN: Ms. Reséndiz?

MS. RESÉNDIZ: Here.

MR. GOODWIN: Ms. Thomason?

MS. THOMASON: Here.

MR. GOODWIN: Mr. Vasquez.

MR. VASQUEZ: Here.

MR. GOODWIN: We have a quorum.

If you will stand and join me and Bobby in the pledge to the American flag and the State flag.

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

MR. GOODWIN: We have a guest from the Speaker's Office that we would like to recognize, Jennifer Saenz.

Jennifer, would you stand up? Glad to have you, Jennifer.
(Applause.)

MR. GOODWIN: We also have someone who is here at our last Board meeting who has served this Board very well, and our executive coordinator, Terri Roeber.

Terri, thank you for all that you have done for us as a Board and for the agency and for the people of the State of Texas. Thank you very much. We're going to miss you.

(Applause.)

MR. GOODWIN: Terri is in perfect health, she's retiring. I guess I should have stated that.

(General laughter.)

MR. GOODWIN: Michael, we have a resolution, two resolutions. All right.

MR. LYTTLE: The first one reads as follows. It says:

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

"Whereas, the Weatherization Assistance Program, the nation's largest residential energy efficiency program, was established by the U.S. Department of Energy in 1976 to make homes more energy-efficient, safer, and healthier for those with low and moderate incomes;
"Whereas, the Texas Department of Housing and Community Affairs administers a Weatherization Assistance Program, funded with both U.S. Department of Energy funds and Low Income Home Energy Assistance Program funds, which is operated by a network of community organizations, nonprofits and local governments;

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

"Whereas, the Program conducts computerized energy audits and uses advanced diagnostic technology, investing as much as $7,541 in a home and providing an array of improvements that include weather stripping of doors and windows; patching cracks and holes; insulating walls, floors, and attics; replacing doors, windows, refrigerators, and water heaters; and repairing heating and cooling systems; and

"Whereas, weatherization efforts contribute to the state's economic, social, and environmental progress by creating jobs; prompting the purchase of goods and services; improving housing; stabilizing neighborhoods; reducing emissions; and decreasing the risk of fires;
"Now, therefore, it is hereby resolved, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate October 2019, as Energy Awareness Month in Texas.

"Signed this fifth day of September 2019."

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

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

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

Any discussion?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay.

MR. LYTTLE: Okay. Mr. Chairman and Board, our second resolution reads as follows:

"Whereas, September 15, 2019, through October 15, 2019, is Hispanic Heritage Month, and has a nationally designated theme of "Hispanic Americans: A History of Serving Our Nation," to reflect on Hispanic Americans' service and contributions to the history of our Nation;
"Whereas, September 15th was chosen as the starting point for the celebration because it is the anniversary of independence of five Latin American countries: Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. All declared independence in 1821. In addition, Mexico, Chile, and Belize celebrate their independence days on September 16th, September 18th, and September 21st, respectively;

"Whereas, the Texas Department of Housing and Community Affairs (the Department) recognizes the significance of Hispanic Heritage Month as an important time to remind us of the many contributions and service to Texas and the United States by Americans whose ancestors came from Spain, Mexico, the Caribbean, Central America, and South America;

"Whereas, the Department recognizes the deep historical importance of generations of Hispanic Americans to the American story and how Hispanic American history, cultures and traditions shape our character, define our beauty, strengthen our patriotism, and enhance our future; and

"Whereas, the Department recognizes that the contributions and achievements of the diverse cultures within the Hispanic community positively influence, enrich and strengthen our nation as one diverse community of
"Now, therefore, it is hereby resolved, that the Texas Department of Housing and Community Affairs:

"(1) recognizes the significance of Hispanic Heritage Month as an important time to acknowledge, appreciate, and celebrate the history of Hispanic Americans, and encourages the continued celebration of this month to provide an opportunity for all Texans to learn more about Hispanic American history, culture, and tradition, and their contributions to the history of our Lone Star State and our Nation; and

"(2) recognizes that in the pursuit of the goal and responsibility of providing equal housing opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate September 15, 2019, through October 15, 2019, as Hispanic Heritage Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in amplifying our voice to continue to observe Hispanic Americans' history, cultures, and traditions and the importance of equal housing treatment and opportunity for all.

"Signed this 5th day of September 2019."

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

MR. GOODWIN: Second?

MR. BRADEN: Second.

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

Any discussion?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Sorry, Paul. My hearing is not what it used to be.

Next we move to the consent agenda. Are there any items on the consent agenda that anybody would like to see pulled for discussion?

(No response.)

MR. GOODWIN: If not, I'll hear a motion to approve the consent agenda and reports.

MS. BINGHAM ESCAREÑO: So move to approve the consent agenda.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: All opposed?
MR. GOODWIN: Okay. Moving to action items.

We start with action item number 3, Internal Audit, and we'll have a report from Ms. Thomason.

MS. THOMASON: The Audit and Finance Committee meeting was this morning at 7:30. We had no action items today so nothing to approve by the Board.

We had several report items that included the presentation and discussion of our Internal Audit reports. They were presented to us by Mr. Mark Scott, the director of Internal Audit. We discussed the complaint resolution process, the status of prior audit findings and recommendations, and site visits of the migrant labor housing facilities. He also provided a status update on external audit activity at TDHCA.

That really concluded our report items, and Mark is here if there are any questions from the Board.

MR. GOODWIN: Any questions from the Board?

(No response.)

MR. GOODWIN: If not, do I hear a motion to accept the report from the Audit and Finance Committee?

MR. VASQUEZ: So moved.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: It's been moved and seconded.
All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. At our last Board meeting, somebody came over to me when it was over and said I ran the meeting too fast and that they didn't get a chance to speak up.

Can y'all hear me back there in the back?

(Affirmative response from audience.)

MR. GOODWIN: Okay. So we've reserved these first two rows for people that are going to speak. If you've got any items on the action items of the agenda that you want to speak about, if you would, please move up, don't wait for your item to come up. Just get up here and let's fill up these first two. We won't stop the meeting until everyone who is going to speak on any item is in here and had a chance to be heard for three minutes.

MR. VASQUEZ: Or less.

MR. GOODWIN: Appropriately spoken, Mr. Vasquez. Thank you.

So now we'll have item number 4, Fair Housing.

Good morning.

MS. TRACZ: Good morning. Good morning Chairman and Board members. I'm Cate Tracz, Fair Housing
Item 4 requests your approval of the final Analysis of Impediments to Fair Housing Choice, or the AI. As you'll recall, a draft of this document was brought before you back in March and presented in detail, seeking approval to be released for public comment. So following that March meeting, the draft AI was released for more than 40 days of public comment between March 25 and May 6. During this time, staff held 13 public hearings around the state, one in each of TDHCA's service regions, and consistent with our HUD approved citizen participation plan. Notifications of these hearings was provided by Listserv email distribution, a posting in the Texas Register, postings to the TDHCA website, and several announcements through the Department's social media accounts.

Through the public comment process, eight individuals gave comment at the public hearings and six email submissions of written comment were also received. I should note that some of the in-person commenters also submitted email comments as well, and there were two comments that were received outside of the public comment period. So based on the public comment received on the draft AI, a few changes have been made to the AI before you today.
First, one comment requested that we extend the scope of the AI to the local level and assist local jurisdictions in the development of their own AIs. While this would be beyond the authority and capacity of the state and while the processes differ between the state and the local AIs, we have added language regarding coordination with local governments that are required to perform an AI and the sharing of best practices with those entities. So this new language appears in recommendation 5 which is titled, "Work or trade organizations, local jurisdictions, and regulatory agencies for mutual benefit."

Similarly, two comments critiqued the public comment process and indicated that the state should have utilized other methods to solicit input for the AI. While the Department did fully cooperate and comply with its citizen participation plan, we are open to broadening future communications, and therefore, changes to recommendation 5 have been made to indicate that the state will invite more local entities to its fair housing communications distribution list.

Next, in response to a comment, the title of Impediment 4 has been revised to include the location of accessible and visitable housing, since those topics are discussed in the description of Impediment 4. So the
title of Impediment 4 now reads, "The scarcity and location of accessible and visitable housing units limits fair housing choice for persons with disabilities."

Finally, one commenter noted that the definition of disability used in the analysis of the AI is not the same as the definition of disability as understood in the Fair Housing Act, and we recognize that there are differences between these two definitions, but we did use the U.S. Census data in the analysis sections of the AI, so we've added some disclaimers to the beginning of Chapters 2 and 5 explaining this difference in the definitions.

And then the same commenter also pointed out that there were discrepancies in the way the draft AI addressed the terms boarding homes and group homes, so changes have been to the final AI to keep the use of this terminology when consistent when discussing group home facilities.

So some of the other comments received that staff did not make revisions to the AI from the public comment are related to the following items: the scope of the AI, including the breadth of state, regional and local agencies covered, and providing a historical perspective on impediments; source of income discrimination; income levels for program eligibility; TDHCA's homebuyer programs
and lending and credit activities; scoring and administration of the Housing Tax Credit Program; the use of fair housing testing at a state level; timetables and metrics for the implementation of recommendations; and efforts to neutralize steering processes. Many of these topics are beyond the scope of the AI as required by HUD.

So it should be noted also that the Texas Department of Agriculture provided responses specifically made on the Community Development Block Grant Program, or CDBG, and then the General Land Office similarly provided responses to comments made specifically on disaster recovery efforts and the CDBG DR Program, and changes were not made to the final AI as a result of these comments as summarized by our partner agencies.

So once adopted, the AI will serve as a guide for the program areas and the Fair Housing team at the Department as we work on implementing the recommended actions to minimize identified impediments. Periodic reports of this process will be presented to the Board.

So that concludes my overview of this item and I'm happy to answer any questions.

MR. GOODWIN: Any questions from any Board members?

(No response.)

MR. GOODWIN: If not, do I hear a motion to
accept this report?

MS. BINGHAM ESCAREÑO: I'll move to accept the report.

MR. GOODWIN: And seconded?

MS. RESÉNDIZ: Second.

MR. GOODWIN: Any discussion? Somebody wants to speak? Okay.

MR. PIRTLE: Sorry to interrupt that process, I'm new to this.

MR. GOODWIN: That's all right.

MR. PIRTLE: Good morning, members of the Board. I'm Adam Pirtle. I'm the advocacy co-director for Texas Housers. We're a fair housing nonprofit.

MR. GOODWIN: Adam, I need for you to sign in.

MR. PIRTLE: Oh, beg your pardon. I sure will. Hope you can read my handwriting.

So as I said, I'm the advocacy co-director for Texas Housers. We're a fair housing nonprofit that works with low income Texans to help them achieve the American dream of living in a safe and decent home in a quality neighborhood.

I want to thank you so much for your service to Texas, and thank you, too, to the staff. Unfortunately, I come here today to ask you to vote against approving the AI until amendments can be made to bring it into line with
the state's obligation to affirmatively further fair housing.

The AI's refusal to take responsibility for some laws and policies that negatively and disproportionately impact protected classes, I think jeopardized the issue on some critical community development funds for our citizens in the state.

I want to refer you to the written comments that were submitted by colleague, Amelia Adams, as well as those comments offered by Madison Sloane of Texas Appleseed.

Because I have only have a limited time, I know three minutes is important, I'm going to highlight three key deficiencies which must be immediately amended.

First, the AI fundamentally misstates Texas's obligation to affirmatively further fair housing -- I'm going to say AFFH from now on because it's a long word -- by limiting its scope to the efforts of agencies participating in the HUD program. The fair housing planning guide and 24 CFR 5.152 state that the AFFH obligation isn't just restricted to HUD funded programs, rather, it expands to all housing and urban development activities in the state, so that really needs to be changed. More importantly, the Fair Housing Act flatly prohibits HUD from distributing money to jurisdictions
that aren't affirmatively furthering fair housing, so the AI wouldn't be able to ignore an agency action or state law that would be contrary to the AFFH obligation, so we think that that needs to be changed.

Second, we feel that the state's preemption of city ordinances prohibiting source of income discrimination is undoubtedly a fair housing impediment. As you know, the vast majority of housing voucher holders are people of color or people with disabilities, or both, and so in every major city we've done countless studies showing that source of income discrimination concentrates voucher holders in areas of racially and ethnically concentrated areas of poverty that severely limits their housing choice. And although we really appreciate the AI's identification of NIMBYism in impediment one is a major problem, we don't that the state can ignore the NIMBYism implicit in that law, so we think that this needs to be added as an impediment before the AI can move forward.

And then finally, the language in the AI suggesting that the Low Income Housing Tax Credit Program is not subject to the affirmatively furthering fair housing requirement needs to be removed immediately. The AFFH requirement, again, refers to all activities relate to Housing and Urban Development activities. The Tax
Credit Program, as you know, is the main program that is creating affordable housing in the state, so that language needs to be changed.

I really appreciate the time and your consideration.

MR. GOODWIN: Thank you.

Any questions from any Board members?

(No response.)

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

(No response.)

MR. GOODWIN: If not, I'll call for the vote.

All those in favor of staff's recommendation say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Moving on to item 5.

MR. GONZALES: Good morning, Chairman Goodwin and Board members. My name is Raul Gonzales, and I'm the director of the Office of Colonia Initiatives, Housing Trust Fund, and Neighborhood Stabilization Program.

Staff recommends approval of item 5 authorizing the Department to implement limited and specific forgiveness provisions through the Neighborhood Stabilization Land Bank Program. Under current rules, the
final sales price to an income eligible homebuyer may not exceed the lesser of the total development cost or the market value. In some markets the total development costs exceeds the market value, creating a situation in which sufficient funds to repay the Department at the time of a home sale will not be available. There is no federal requirement that these amounts be repaid, so the Department is requesting authorization to institute a forgiveness provision associated with NSP-1 Land Bank activities. It will only be exercised for the amount that the total development cost of a property exceeds the appraised value.

And with that, I conclude my presentation.

MR. GOODWIN: Do I hear a motion to accept staff's recommendation.

MS. BINGHAM ESCAREÑO: Move to approve.

MR. GOODWIN: Second?

MS. THOMASON: Second.

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

Any discussion? Anybody want to speak to this issue? Any questions from the Board?

(No response.)

MR. GOODWIN: If not, I'll call for the vote.

All in favor say aye.

(A chorus of ayes.)
MR. GOODWIN: Opposed?
(No response.)
MR. GOODWIN: Okay. Thank you, Raul.

Item number 6.

MS. VERSYP: Good morning, members of the Board. I’m Abigail Versyp, director of HOME and Homelessness Programs. I'm presenting item 6(a) which is an appeal from Randy Sams' Outreach Center regarding their application for funding to the 2019 Emergency Solution Grants local competition to the Balance of State Continuum of Care.

For the 2019 grant of the ESG, TDHCA utilized a provision in rule that allows us to procure vendors to run a local competition in each continuum of care rather than running the complete competition in-house. There weren't respondents in all CoC regions to our solicitation, but Texas Homeless Network submitted a proposal which was accepted, they were ultimately contacted to run a local competition for the Balance of State funds. This means that all organizations that would serve areas designated as the Balance of State would apply directly to THN for funding instead of TDHCA. THN would then, in turn, recommend applications to TDHCA for an award of ESG funds.

THN, as our vendor, was permitted great latitude in their selection criteria for an award, so long
as all applications were treated equally. This helps TDHCA meet our goal of collaborating with local CoCs to ensure that the program aligns with local need. THN did elect to utilize the scoring criteria that the Department adopted for applications submitted to us and did not add any additional scoring items. It's important to note that THN, even though they were not required to, utilized scoring criteria that had been through a full TDHCA rulemaking process, including roundtables before the rules were proposed and a formal public comment period during which no public comment was received.

Overall Randy Sams' application for emergency shelter scored 49 points. The lowest scoring emergency shelter application which TDHCA recommended for funding scored 51 points, and another application for Family Crisis Center scored 50 points, more than Randy Sams' but still not enough to be recommended for an award by THN. Randy Sams' appeal did not dispute the application score or rank. They acknowledged that their score fell below the funding threshold in their appeal. Furthermore, Randy Sams' appeal states that the points-based criteria is a fair way to make award recommendations.

The basis for their appeal centers around three points. First, that the scoring criteria doesn't reflect
all the services that Randy Sams' provides and that they would like an exception to the scoring criteria. The scoring criteria utilized by THN for services directly reflects the scoring criteria used by TDHCA for services. This is set forth in the ESG rules and we received no comment during rulemaking requesting addition of additional services to the criteria. In fact, we specifically solicited input on this criteria during roundtables prior to approval of the draft rule and no comment was received from Randy Sams' or any other entity.

Second, the appeal states that it appears that general population shelters, like Randy Sams', were at a disadvantage when competing for funding against special population shelters like those that serve victims of domestic violence. Although more domestic violence shelters were recommended for funding, they were not awarded additional points due to their special purpose. Points were awarded for serving special populations, and Randy Sams' requested and received the maximum possible points in this category, putting them on a level playing field with domestic violence shelters. Again, THN utilized scoring criteria that TDHCA utilized in our competition, which is in rule and for which comment was solicited, and no comment was received.

Third, the appeal states that Randy Sams' is
the only Texas-based general purpose shelter and not receiving 2019 ESG funds from TDHCA puts Randy Sams' at risk of closure by the end of the calendar year. Although Randy Sams' is the only Texas-based general purpose emergency shelter in Texarkana in the State of Texas, the Salvation Army operates a general purpose emergency shelter in Texarkana .6 miles from Randy Sams' Outreach Shelter, across the state line that bifurcates the city.

That being said, TDHCA has been in talks with the City of Texarkana to devise solutions to provide gap funding to Randy Sams' from the City of Texarkana's remaining balance of 2018 ESG funds and from the portion of the EH fund that was offered to the City of Texarkana as provided in the rule. The total of these funds is approximately $85,000.

This year funds requested in the Balance of State competition exceeded the available funding by almost 60 percent. Overall, funds requested across the state in all competitions were 180 percent of the funding available. The need outstrips the resources available, which is why a transparent fair system of award is critical to the integrity of the program.

Although we're sensitive to the needs of each applicant for funding, the appeal from Randy Sams' doesn't appear to include grounds for appeal as provided in rule.
They did not dispute that the processes were followed as outlined by both TDHCA and our contractor THN. They did not dispute that their application did not meet the threshold for funding based on the scoring criteria.

Additionally, if this appeal is granted today, then the Department must rework the funding for Balance of State outside of its regulatory framework and will have to reduce funding for other applications that have already been notified of their award so that we can identify funding for Randy Sams' and determine the fairest course of action for Family Crisis Center, the higher scoring unfunded emergency shelter application in the Balance of State. We'll need to bring both a waiver and a new award item to the Board in October. This reworking will cause us to violate our federal requirement to obligate the 2019 ESG funds by September 10.

Because of insufficient grounds for appeal provided by Randy Sams' and in order to ensure compliance with our federal obligation requirements, staff must recommend denial of this appeal.

I'm happy to answer any questions.

MR. GOODWIN: Any questions? You have a question?

MR. VASQUEZ: Just out of curiosity, you said the Randy Sams' had a 49 score?
MS. VERSYP: Yes.

MR. VASQUEZ: There was a 50 that did not qualify?

MS. VERSYP: Correct.

MR. VASQUEZ: And then the lowest was 51.

MS. VERSYP: That's correct.

MR. VASQUEZ: What was the range generally of the rest of the scores?

MS. VERSYP: They ranged from 66 to 51, those that were scored. The very lowest scoring application was 32. This is only for the emergency shelter component.

MR. VASQUEZ: But for the awardees it's 51 to 66.

MS. VERSYP: That's correct.

MR. VASQUEZ: Okay. Thanks.

MR. GOODWIN: Any other questions?

(No response.)

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

MR. VASQUEZ: Move to accept the recommendation.

MR. GOODWIN: Second?

MR. BRADEN: Second.

MR. GOODWIN: Any questions or discussion?

Anybody want to speak to this?
(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. 6(b).

MS. VERSYP: 6(b). The last one was long which makes this one much shorter.

(General laughter.)

MS. VERSYP: I'm now going to present 6(b) which constitutes an award recommendation for the 2019 ESG grant.

As you heard in the previous item, TDHCA was allocated funding for ESG from the 2019 federal budget. 4.5 percent of these funds are retained by the Department for administration, and 93.5 percent are distributed to subrecipients in the method previously described. A total of $8.7 million in awards to 50 subrecipients is presented for award today, exhausting the allocation.

Our solicitation for administrators of local competitions resulted in local competitions in three CoC regions: the Balance of State, San Antonio, and Tarrant County. In these regions applications were submitted to the administrator of the local competition, who in turn
made their recommendations for funding to TDHCA. Those recommended applications underwent a previous participation review by TDHCA and were subsequently approved by EARAC.

Applicants in the remaining eight regions competed in TDHCA's competitions. Applications competed first by region, and two regions, Houston and Dallas, were oversubscribed. One partial award offer was made and accepted by Shelter Ministries of Dallas for their rapid rehousing application under the regional round of funding. This offer exhausted the funds available to Dallas in round one, the regional competition. One partial offer of funding was made in the Houston CoC to the Houston Area Women's Center for their emergency shelter application, but it was declined. This means that although Houston was oversubscribed in round one, they were they most under-funded region with remaining funding, and so Houston Area Women's Center was eligible to compete in round two, where they are being recommended for a full award.

The funds remaining after round two of the competition were pooled and made available to the highest scoring applications regardless of CoC regional. CitySquare's street outreach's application is recommended for a full award of funding in the statewide competition. City House's street outreach application is the next
highest scoring application, but was offered and accepted a partial award as only 60 percent of ESG funds can be used for street outreach and emergency shelter combined. The remaining funds are recommended to be awarded to Shared Housing Center to partially fund their rapid rehousing application.

These awards have been approved from EARAC without conditions with the exception of City House, which was approved with a condition of repayment of disallowed costs further described in the board book. Should City House fail to meet this condition, the funds earmarked for their award will instead be awarded to Shared Housing Center's rapid rehousing application which was only partially funded.

Happy to answer any questions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Do I hear a motion to accept staff's recommendation?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

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

Any discussion?

(No response.)
MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Thank you.

Item 7, Asset Management.

MR. BANUELOS: Good morning. I am Rosalio Banuelos, director of Multifamily Asset Management.

Item 7 is presentation, discussion and possible action regarding a material amendment to the housing tax credit land use restriction agreement for 2100 Memorial, file number 9603. This request is to suspend monitoring under the LURA and extend the term of the LURA, which I will get into details further on.

2100 Memorial is a 197-unit development in Houston which was approved for housing tax credits in 1996 for the adaptive reuse of a former Holiday Inn originally built in 1969. The development is owned by Memorial Drive Elderly, LP which is an affiliate of the Houston Housing Authority. The tax credit LURA restricts 148 units for low income elderly households and requires a compliance period of 24 years and 10 months and an extended use period of 39 years and 10 months unless a note that is currently due to HUD is prepaid, and in that case then the compliance period is to be 20 years and the extended use...
However, in August of 2017, Hurricane Harvey caused significant damage to the development. The parking structure, the basement, the first floor of the building were flooded and no access points into the building could be reached by emergency vehicles, leaving residents stranded. After the flood, inspectors found that extensive damage had been incurred to the electrical system which is primarily located in the basement. The hurricane also caused damage to the laundry space, trash equipment, elevator, leasing office, business equipment, mailroom, meeting space and roof. In addition, the window walls leaked and caused sheetrock damage.

Due to all of the damage caused by the hurricane, the developer determined that the development was no longer safe or suitable for occupancy and needed to be vacated in order to accomplish the repairs. Notices were sent to the tenants that leases were being terminated due to the extensive damage and health and safety concerns arising from the damage. While most of the tenants relocated after the hurricane, a number of tenants, approximately 26, refused to move out. Those tenants then filed a lawsuit and obtained an injunction against the development owner. However, the Department has been informed that this lawsuit has been non-suited by all
tenants which has the effect of dissolving the injunction.

As of August 15, 2019, there were 18 tenants at 2100 Memorial, however, the Department was informed that each tenant voluntarily agreed to relocate within six months and the building is expected to be vacated by no later than March 1, 2020.

The owner states that repairing the development to its condition prior to Hurricane Harvey is estimated to cost $14 million, so instead of only repairing the development and risking flooding again, the development owner is planning a re-syndication of the development using tax exempt bond financing with 4 percent housing tax credits which would include demolishing the existing structure and rebuilding on the same site.

The 4 percent application has not been submitted yet, but in order to accomplish this re-syndication, the development owner is requesting that monitoring on the existing LURA be suspended for a period of three years to allow the necessary time to submit the application, demolish and reconstruct the development. In addition, the LURA needs to be amended to remove the provision preventing demolition of the units.

And to compensate for the suspension of the compliance monitoring, the owner proposes to extend the term of the LURA by three additional years. Furthermore,
due to the period of time that the majority of the units were not available for occupancy after the hurricane, the term of the LURA for the development will be extended by an additional two years which will result in an aggregate extension to the term of the LURA of five years.

Staff recommends approval of the requested material amendment to the LURA for 2100 Memorial, however, the amendment to the LURA to allow for demolition of the building will not be effective until March 1, 2020 or until the owner submits a certification confirming an earlier date when the project has been voluntarily vacated by all tenants and confirming that there is no pending litigation regarding the occupancy of the project.

That's all I have, but I'm available for questions.

MR. GOODWIN: Do I hear a motion to accept staff's recommendation?

MS. BINGHAM ESCAREÑO: I move to accept staff's recommendation.

MR. VASQUEZ: Second.

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

Any discussion?

(No response.)

MR. GOODWIN: Did you want to speak to this, sir?
MR. GUNSOLLEY: Good morning. My name is Tory Gunsolley. I'm the president and CEO of the Houston Housing Authority.

And I just wanted to thank staff for working with us through this difficult recovery process. Obviously, we didn't want to find ourselves in this situation but we believe that we have a plan that is going to ensure the long-term affordability of these units on this property and be a net positive that can come out of this disaster.

So happy to answer questions, but just wanted to acknowledge their help through this process.

MR. GOODWIN: Any questions for Tory?

MR. ECCLES: It's actually just a point of clarification in case any of the residents of 2100 Memorial are watching this and to make really clear some things that Rosalio said. This is to bring forward before the Board a material amendment to the LURA but it's prospective in nature that TDHCA will suspend its monitoring to allow for reconstruction but that's once all of the residents have voluntarily vacated the building. So it's not that they're being kicked out, it's that there is some agreement between the residents and the development owners to relocate them and to make sure that
they have a place to live. So they're not being streeted, they're being helped to move to another location.

The other thing is the non-destruction or the non-demolition clause of the LURA is only suspended once the building is vacated, so if between now and when the building is voluntarily vacated by tenants they still maintain their right to say you're not treating us well, you've effectively reduced our rights, you're not living up to your end of the bargain that was made with us, they still maintain their rights not only to complain to TDHCA but to seek any other legal redress that's available to them under the LURA. So I just wanted to make that clear, this isn't as of today the building can come down because there are people still living there.

MR. GUNSOLLEY: That is correct.

MR. ECCLES: Okay.

MR. GOODWIN: Any other questions?

MR. VASQUEZ: More of a comment.

Notwithstanding counsel's clarifications, but the location of this building and the disaster that occurred during Harvey, they're not overstating what happened to this structure, and the fact that the City of Houston and the developers are willing to demolish and reconstruct this and maintain housing at this prime location -- I mean, if this place went to commercial developers, the prices on
the sales or rentals would be astronomical. So it's so
good that I think we're hopefully taking this action to
suspend the LURA and preserve this incredible site for
affordable housing.

MR. GOODWIN: Any other questions or comments?

MR. GUNSOLEY: Thank you.

MR. GOODWIN: Thank you, sir.

Barry, did you want to speak?

MR. PALMER: (Speaking from audience.) No.

Just here to support.

MR. GOODWIN: Okay. All those in favor say

aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Moving to item number 8, the

rules.

Good morning, Brooke.

MS. BOSTON: Good morning. Brooke Boston. I'm

here for item 8(a). This is relating to Section 1.7, our

appeals process, and we are proposing this as a draft to
go out for comment.

This section relates to appeals other than our

housing tax credit appeals. So almost every appeal you
guys hear is related to tax credits, with the interesting
exception from this morning from Randy Sams', but keep in mind as you're looking at this it's catered to all the other programs that we have.

Basically, the rule makes revisions regarding the processing of appeals and staff has identified a need to update a citation to clarify the admissibility of documentation not originally part of an application and to clarify the timing and of when an opportunity to appeal is actually triggered.

The rule will be published in the Texas Register and go out for comment from September 20 through October 21 and returned to the Board for adoption.

And I'm happy to answer any questions.

MR. GOODWIN: Do I hear a motion to accept staff's recommendation from our Rules chairman?

MR. VASQUEZ: So moved.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Item 8(b).
MS. BOSTON: Thank you.

For item 8(b) this is for our rule at Section 1.10 of 10 Administrative Code relating to public comment procedures. This is specific to public comment that is received at Board meetings that are open to the public, and staff is recommending that the revisions be made to clarify when the registration form method of comment to be used, to clarify that deference may be provided to reading written communication from elected officials, to clarify that no new materials may be provided to the Board when the item for consideration is part of a competitive process, and to provide that persons needing translation services are afforded more time to make a comment.

Like the prior rule, this will be published in the Texas Register and be out for comment from September 20 through October 21 and then returned to the Board for final adoption.

And again, I can answer any questions.

MR. GOODWIN: Do I hear a motion to accept staff's recommendation?

MR. VASQUEZ: So moved.

MR. GOODWIN: Second?

MR. BRADEN: Second.

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

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

MR. GOODWIN:  Opposed?

(No response.)

MR. GOODWIN:  Moving on to item 8(c).

MR. REID:  Good morning, Mr. Chairman and Board members. I'm Gavin Reid, manager of Planning and Training in the Community Affairs Division.

Item 8(c) describes proposed rule revisions to Chapter 6 of the Texas Administrative Code which represents the annual cleanup of omissions, corrections and new ideas for the Community Services Block Grant, Community Energy Assistance Program, and the Weatherization Assistance Program. We've spoken with the network of subrecipients about these rule changes and received input, some of which is reflected on the proposal before you today.

If authorized by the Board, we'll proceed to publish the proposed rules in the Texas Register for the public comment process and return to the Board for final adoption a few months from now. Staff requests your approval to begin that process, and I'm available for any questions you may have.

MR. GOODWIN:  Motion to approve staff's recommendation?

MR. VASQUEZ:  Move to approve.
MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

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

Any discussion?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: 8(d), Teresa.

Thank you, Gavin.

MS. MORALES: Teresa Morales, director of Multifamily Bonds.

Chairman Goodwin and members of the Board, item 8(d) relates to the Multifamily Housing Revenue Bond rules which govern multifamily transactions where the private activity bonds are issued by the Department. These rules primarily address the pre-application requirements that include both threshold and scoring. The scoring component is required by the Department's governing statute, Chapter 2306. This rule also mentions some of the full application requirements with the majority of those application requirements addressed in the QAP.

Staff recommends approval of the proposed repeal and new of 10 TAC Chapter 12, as reflected in your
Board materials.

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

MR. VASQUEZ: So moved.

MR. GOODWIN: Second?

MR. BRADEN: Second.

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

Any discussion?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Raul.

MR. GONZALES: Good morning again, Chairman Goodwin and Board members. My name is Raul Gonzales, director of Office of Colonia Initiatives, Housing Trust Fund, and Neighborhood Stabilization Program.

Under item 8(e) staff recommends a repeal of 10 TAC Chapter 25, Colonia Self-Help Center Program rules and a new order proposing the new 10 TAC Chapter 25, Colonia Self-Help Program rules, and directing their publication for public comment in the Texas Register.

Some of the significant updates to the rule are under Section 25.3, Eligible and ineligible activities. It clarifies applicable requirements regarding fair
housing, affirmative marketing, homebuyer counseling, and reasonable accommodations.

Under Section 25.5 under Allocation, de-obligation, and termination and re-obligation, it provides more detail on the processes that addresses administrator violations of program requirements, such as failures to meet expenditure thresholds. The subsection covers mitigation plans, compliance with Texas Government Code Chapter 2105, and the process for publishing a request for administrators to utilize de-obligated funds.

Under Section 25.8, Colonia Self-Help Center contract operations and implementation, it clarifies that the Department may issue a one-time six-month extension to contracts, removes a requirement that liens be issued to program beneficiaries earning more than 50 percent of the area median income who receive new construction, reconstruction or rehab assistance, and provides that these types of assistance will now be offered as a grant. It also increases the maximum assistance for rehab activities from $45,000 to $60,000 per unit, increases the maximum assistance for new construction and reconstruction activities from $45,000 to $75,000 per unit, and it includes further clarification on inspection requirements for all contract activity types.

With that, I conclude my presentation, and I'll
answer any questions.

MR. GOODWIN: Move to approve?

MR. VASQUEZ: Before I make a motion, everyone seems pretty calm about this, but just to reiterate, this series of motions, all we're doing is approving for publication in the Texas Register for comment.

MR. GONZALES: That's correct.

MR. VASQUEZ: So part of the reason why we're sort of flashing through it.

So with that unnecessary comment, I move to approve.

MR. GOODWIN: Do I have an unnecessary second?

MS. BINGHAM ESCAREÑO: I'll unnecessary second.

MR. VASQUEZ: Well, the motion is necessary.

(General laughter.)

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Moving on to item number 9(a).

MR. SINNOTT: Good morning, Chairman Goodwin, members of the Board. My name is Andrew Sinnott, Multifamily Loan Programs administrator.
I've got three items for you today. First is item 9(a). This relates to possible action on the fourth amendment to the 2019-1 Multifamily Direct Loan annual notice of funding availability.

We've amended the NOFA three times already this year with all three amendments adding various amounts of HOME and TCAP repayment funds to meet demand under the general set-aside. This fourth amendment will add the state's 2019 allocation of NHTF, National Housing Trust Fund, to the supportive housing soft repayment set-aside, increasing the amount of NHTF available under that set-aside from $9,638,041 to $19,498,833, an addition of approximately $9.86 million.

Whereas the impetus for adding HOME and TCAP repayment funds to the general set-aside was to meet demand among the dozens of applications we received under that set-aside, the motivation for adding the 2019 allocation of NHTF to the NOFA is to ensure that the Department can meet the July 2021 commitment deadline associated with this allocation.

In addition to increasing the amount of NHTF available under the supportive housing soft repayment set-aside, this proposed fourth amendment will increase the maximum request for applications proposing new construction under the SHSR set-aside from $2 million to
$3 million. This action is again motivated by commitment deadlines associated with the 2017, 2018 and 2019 NHTF allocations that are currently available under the SHSR set-aside.

From September 20 through October 21, 2019, NHTF funds will be limited to the amount available in the region as reflected in the regional allocation formula, or RAF, provided in attachment B to the fourth amendment to the 2019-1 NOFA. NHTF funds will then become available statewide from October 22 through November 26, 2019.

With that, if you have any questions I'll be happy to answer them.

MR. GOODWIN: Do I hear a motion to accept staff's recommendation?

MS. BINGHAM ESCAREÑO: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Okay. Any discussion, any questions?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. SINNOTT: Item 9(b) relates to possible
action regarding amendments and modifications to the
construction loan agreements and promissory notes for ADC
West Ridge, LP.

This development received an award of direct
loan funds in July 2015, closed the HOME and TCAP
repayment funds loans in May of 2016 and started
construction soon thereafter. At the time of closing the
completion dates in the HOME and TCAP RF construction loan
agreements was November 19, 2017. Staff approved first
amendments to extend the completion dates to what was the
maximum allowable administratively, resulting in a
November 19, 2018 completion date.

In the summer of 2018, the percentage of
construction completion approached 95 percent and the
property received the necessary occupancy certificates
from the municipalities and HUD. Around this time the
borrower and general contractor began to dispute whether
or not construction had been completed in accordance with
the construction contract. On October 11, 2018, staff
recommended that the Board approve the second amendments
to the CLAs to extend the completion dates to September
18, 2019 in light of the ongoing dispute between the owner
and the contractor.

Since that time the contractor filed a lien on
the property and the owner subsequently sent a notice of
intent to file a claim on the contractor's performance bond. The development owner is here today, but my understanding is that the owner and contractor have made limited progress in resolving the dispute.

The owner has indicated that there are a number of incomplete items and construction defects that will require litigation to settle the matter. I'll let the owner speak to the status of the litigation if you have any questions about that. All the while the property has continued to lease up and it's currently at 92 percent occupancy.

Staff's recommendation before the Board today is to give the executive director or his authorized designee the ability to further extend the completion dates and the CLAs for good cause but in no event beyond May 11, 2020 as that is the date by which the project, as it relates to the HOME funds invested in the project, must be closed out in HUD's reporting system. Staff is also continuing to evaluate if any action needs to be taken with regard to the promissory notes related to these loans and may bring action related to those items at a future Board meeting.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Do I hear a motion to accept
staff's recommendation?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

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

Any discussion?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. VASQUEZ: I'm sorry. Just a quick question. As relates to the performance bonds, is the Department anywhere in that ladder or sequence where we can have security in that?

MR. SINNOTT: I don't believe so because we're in second lien position on this deal, so it's the first lien lender. I'll let the development owner speak to that.

MS. ANDERSON: Good morning. Terri Anderson, Anderson Development and Construction. Thank you all so much for your consideration. It's been an unfortunate set of circumstances.

As it relates to incomplete items as well as defective items, what Andrew indicated is we've kind of started this dispute after we received occupancy but the dispute started as soon as fixtures started showing up
that were unapproved and substitutions that had not been reviewed by the architect nor the owner and approved via change order. So a lot of the items that were installed are defective, don't necessarily operate the way that they're supposed to, so our dispute is continuing through litigation.

As it relates to the payment and performance bond, some of their subcontractors did file liens so the payment bond is covering those liens. The contractor himself also filed one lien, in March of 2018 he released it so that he could get paid, and then he turned around and filed it again.

And the performance bond, the bonding company has been notified, they're included in our litigation currently. The I guess recipients of the benefit of the bond will be ADC West Ridge, LP which is the property owner and it's something that HUD required but I do not believe that TDHCA is directly a beneficiary to the bond, but our regulatory agreement with HUD essentially inures the benefit to HUD and to the lender based on our construction contract. So there is access, essentially, to get to the bond from the lending perspective, and TDHCA as a second lien holder would essentially fall in line behind HUD.

MR. VASQUEZ: Okay. Just as a general matter
of practice, I know sometimes there are filing deadlines and things just to ensure that we are at least in line. I just encourage staff to make sure that we get in line wherever our place is.

MS. ANDERSON: Yes, sir. And you should know that the loan is currently performing. We are 92 percent occupied, as Andrew indicated, so the first lien is fully paid to date.

MR. GOODWIN: Any other questions?

(No response.)

MR. GOODWIN: If not, I'll call for the vote.

All in favor?

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Moving to item number 9(c).

MS. ANDERSON: Thank you.

MR. GOODWIN: Thank you.

MR. SINNOTT: Item 9(c) relates to possible action regarding an increase in the first lien loan and repayment amounts for Avanti at Sienna Palms. This deal received an allocation of 9 percent tax credits in July of 2018 and an award of $1.65 million in TCAP repayment funds under the general set-aside of the
2019-1 NOFA earlier this year. The applicant has recently provided updated financing documentation and a final development cost schedule with supporting documentation in anticipation of closing on the TCAP loan within the next 45 days. The documentation provided reflects an increase in the first lien loan amount from $2.575 million to $3.2 million and a decrease in the interest rate on the first lien loan from 5.65 percent to 5.35 percent, resulting in an increase in debt service ahead of the Department's TCAP repayment funds loan from $168,987 to $202,455.

Under the Multifamily Direct Loan rule, increases in the first lien debt or repayment amount on the first lien debt must be approved by the Board. Real Estate Analysis staff has not had an opportunity to complete their reevaluation of the transaction based on the updated financing documentation that the applicant submitted, but once they do, changes to the principal amount and/or a repayment structure for the TCAP RF loan that will allow the Department to mitigate any increased risk may be recommended.

In the meantime, staff recommends approving the increases to the first lien loan and repayment amounts at this meeting in order to preserve the ability for an October TCAP loan closing, with the understanding that any changes recommended by REA may need to be approved by the
executive director or returned to the Board as applicable.

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

MS. BINGHAM ESCAREÑO: Just a question. Is that already built in the condition and the contingency in terms of executive director versus Board?

MR. SINNOTT: I believe.

MR. GOODWIN: It states so in the resolution as being resolved that it would be the executive director. Is your question do we have the legal authority to transfer this responsibility to the executive director?

MS. BINGHAM ESCAREÑO: No, sir. My question was just did we need to specify. So it says, Further resolved, such changes will go to the executive director or returned to the Board for approval as applicable. Is as applicable already spelled out?

MR. SINNOTT: Yes. There are thresholds for what goes to the Board and what can be approved by the executive director within the rule.

MS. BINGHAM ESCAREÑO: Great.

MR. VASQUEZ: Another question. So what does this increase do the debt service coverage?

MR. SINNOTT: Like I said, REA hasn't fully reevaluated this transaction yet, but based on the documentation that the applicant submitted, it looks like
DCR on our loan or inclusive of the TCAP loan goes from 1.33 to 1.22, so it's still within the 1.15 to 1.35 DCR range.

MR. VASQUEZ:  Okay.  Great.  Thanks.

MR. GOODWIN:  Any other questions?

(No response.)

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

MS. BINGHAM ESCAREÑO:  I'll so move.

MR. GOODWIN:  Second?

MR. VASQUEZ:  Second.

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

Any discussion?

(No response.)

MR. GOODWIN:  All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN:  Opposed?

(No response.)

MR. GOODWIN:  Moving on to item 9(d).

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

Item 9(d) is presentation, discussion and possible action regarding a request for waiver of rules for 19126, this is 3104 Divisions Lofts, 19244 Mariposa at...
Harris Road, and 19319 Bardin Apartments. All three developments are in Arlington.

These applications received 9 percent tax credit awards at the late July meeting and each development owner was issued a commitment notice with an expiration date of September 16, 2019. One of the conditions of the commitment notices is that development owners provide evidence of appropriate zoning prior to expiration of the commitment, so when they send their commitment back in, they have to have proof of zoning.

We've been informed by the City of Arlington that they may not be able to provide evidence of appropriate zoning for the developments prior to the expiration of the commitment notice, and the applicants have requested waiver of the requirement in rule. Staff believes the waiver request satisfies the requirements of the rule in that the need for the waiver was neither foreseeable or preventable and that the waiver would serve the policies and purposes set forth in statute, particularly the commitment to assisting local government in providing essential public services and providing for the housing needs of low income individuals and families which would be significantly hindered in Arlington if all Arlington awards in the 2019 round were summarily precluded from proceeding.
Staff recommends that the requirement that evidence of appropriate zoning for the developments named be provided prior to the expiration of the commitment notice be waived and that evidence of appropriate zoning be required to be provided to the Department on or before September 25. So this is a nine-day extension, effectively, of the commitment.

I'd be happy to take any questions. I believe there are some folks here to speak and we have some correspondence also.

MR. GOODWIN: And staff's recommendation is to give this nine-day extension?

MS. HOLLOWAY: Yes.

MR. GOODWIN: Questions?

MR. VASQUEZ: Marni, so the City of Arlington, their staff has indicated that the zoning will be approved on the 24th?

MS. HOLLOWAY: We don't know for sure, so what will happen -- and let me go back to the city's letter which I believe is in your book -- if zoning is approved at the first reading unanimously, that would be on September 10 and so it would be well within deadline. If there's at least one dissenting vote, then they would have to go to a second reading and that would be at a council meeting on September 24. We don't at this point have
assurance. I mean, there's no way to say yes, the city
council will or will not approve at this point.

MR. WILKINSON: Marni, didn't they already vote
against one?

MS. HOLLOWAY: They did. The have voted
against one.

MR. VASQUEZ: That's the New York?

MS. HOLLOWAY: Yes.

MR. VASQUEZ: Other than the one that they
explicitly voted against, we haven't received any
indication that Arlington or members of their approval
process are leaning against this?

MS. HOLLOWAY: We have a carefully worded
letter from the city. I don't see any support from city
council members or anything like that attached to the
waiver request. The letter from the city, of course, is
not going to say council is going to vote to approve these
things. That would seem to be a dangerous position.

MR. GOODWIN: We have a couple of letters that
Michael has from cities that he's going to read before we
have discussion.

Michael, do you want to read those at this
time?

MR. LYTTLE: Yes, sir. The first letter that I
have is to the Board from the City of Keene, Texas. It
"Dear Chair Goodwin,

As the mayor of Keene, Texas, I respectfully request the Board to deny the waiver of the rules for these applications.

"The City of Keene has an opportunity to be awarded a competitive tax credit application 19020 Riva Keene that will provide much needed affordable housing in our community. Keene, located just 30 minutes south of Fort Worth is a small but growing Texas suburb in the Dallas-Fort Worth area for working families. We followed the rules and did everything we could to demonstrate how much we need and want this development in our city.

"We need the affordable housing. If you approve this request to waive the rules, we will not have an opportunity to receive a high quality, affordable project to serve the citizens of Keene. The last tax credit awarded application in Keene was in 1996. In addition, we have a growing tax base attracting companies that want the benefits of being in the Metroplex and the smaller town quality of life.

"In 2018, Keene was selected by a world renowned leather manufacturer to build a 100,000 square foot manufacturing facility and employ up to 500 new jobs at wage levels that are within the qualified income levels
of Riva Keene, increasing our community's need for affordable housing. A decision to grant the waiver of rules will significantly hinder the City of Keene to provide essential homes to a significant portion of our citizens and families. The Keene City Council worked with the developer to provide all the necessary local governmental approvals for Riva Keene's application. We approved the re-zoning for the property on April 25, 2019.

"Please don't penalize us for following the rules by approving this request for a waiver of the rules. The same rules apply to each applicant as they work on preparing and submitting their applications to the state. These developers had as much opportunity to meet the deadlines for re-zoning as Riva Keene entering the competition. Riva Keene is in line to be awarded should the Arlington City Council not timely pass the applicant's re-zoning request. Keene is just as deserving as Arlington in being awarded affordable housing.

"Thank you for your consideration in this important decision.

"Gary Heinrich, Mayor, City of Keene, Texas."

The second letter is from Mayor James Burgess from the City of Venus, Texas. The letter reads:

"Dear Chairman Goodwin,

"I am writing to respectfully request the Board
to deny the waiver of the rules for the applications listed above. The request would allow the applicants more time to possibly receive their zoning approval from the city.

"The City of Venus has worked with the developer for application 19011 Palladium Venus for over a year to support their project application to the TDHCA. The Venus City Council authorized the annexation of the site and approved the re-zoning of the property prior to March 1, 2019, the deadline for the submission of full application to the state. We followed the rules and did everything we could to demonstrate how much we need and want this development in our city.

"Palladium Venus is critically important to our community. Our growing city has a population that reflects the needs of low income families and would be significantly hindered if this waiver of the rules was approved by the Board. Our last awarded tax credit community was in 1997. We understand the award for the tax credits is competitive. Palladium Venus is a competitive application and is in line to be awarded should Arlington not timely pass the respective applicants' re-zoning request. We cannot wait another 22 years for an opportunity to be awarded an affordable housing development in our city."
"Venus is a growing Dallas-Fort Worth suburb centrally located just a 35-minute drive south of downtown Fort Worth and downtown Dallas. Our close proximity to the third largest city in Texas with a small town quality of life makes Venus an attractive location for the growing Metroplex workforce.

"Please do not approve the request for a waiver of the rules to extend their zoning process. The same rules apply to each applicant as they work on preparing and submitting their applications to the state. We respected the rules and considered the necessary governmental approvals to support Palladium Venus and provided the necessary approvals in a timely manner. Venus is just as deserving as Arlington in being awarded affordable housing.

"Thank you for your consideration in this important request."

MR. GOODWIN: Thank you, Michael.

Obviously we have some people here that want to speak. We've had two letters -- and by the way, before those were read I didn't know whether those letters were going to be in favor of staff's recommendation or opposed.

Is everybody that wants to speak already seated up here? Is there anybody behind that wants to speak on this item that has not moved up yet? Is there anybody in
here in this group that's in favor of staff's 
recommendation? Since we've heard two that are opposed,
I'd like to hear somebody that's in favor of staff's 
recommendation speak first and then we'll go in favor and
then opposed. You'll be held to three minutes.

MS. ANDRÉ: Well, I was going to say I could
argue either side, so if you tell me which way you're
leaning, I'll push you over the edge and, you know, claim 
victory.

(General laughter.)

MS. ANDRÉ: My name is Sarah André. I am here
representing Division Lofts. I am one of the applicants
in Arlington, and I did not prepare any formal remarks
today primarily because this situation is very odd.

You know, I'll speak on behalf of my
application but I believe the other applications did the
exact same thing, we all put in our zoning request well
within the time frame specified by the City of Arlington
to have it out way before even award, potentially. They
say on their website, I think, that it takes 12 weeks and
these went in in February so we should have been out
March, April, May, you know, June at the latest, maybe
July even if there was some problem. And that has not
been what happened.

When we began to see that this could be a
potential problem, which was actually before the awards, I combed the rules, I talked to our counsel, and I reached out to TDHCA staff: Hey, is there any possibility for a waiver on this? Everybody said, No, no, no, no. Which is the way the rules are currently written, you know. I guess there is a possibility for a waiver since staff found the technical way for that, but the general consensus is no, you have to have your zoning by commitment, we all know that. So we told the City of Arlington: Hey, you've got to speed it up, you're going to lose all these deals. And they simply have not been able to make things go any faster.

Since resolutions for support of all these deals were approved back in December, they have had a turnover on their city council, they have had a turnover on their zoning commission, and frankly, the planning and zoning commission hearing, they were non-functional. Primarily they had members that did not even know how to use their voting tool, so we received motions to approve with no second, then we received another motion to approve with no second, then we received a motion to disapprove. I mean, they were just in chaos. And it was a number of people's very first meeting and a lot of issues have gone on. So they have not been able to provide this. They did reach out asking for your consideration. This is
definitely not anything the developers have been able to control and it's been beyond our wildest efforts to make it go any faster.

I can say, Mr. Vasquez, that what the city council will do is that by the 24th we will all have an up or down, yay or nay vote regardless. And given their current level of lack of cohesion on those boards and at the council level, I don't see a unanimous vote coming for anything. They're just all over the map.

Thank you.

MR. GOODWIN: Thank you.

Any questions for Sarah?

(No response.)

MR. GOODWIN: Is there anybody else in the group that's in favor of staff's recommendation?

Everybody else that's going to speak is going to speak opposed to staff's recommendation? Okay.

I would ask you to come on up, and I would just caution everybody that if this comes down to a question about do we bend the rules or don't we bend the rules, we don't have to hear it from seven different people, you know. The Board is capable of understanding what the issue is in front of us, so I would ask that you not repeat the same thing that each speaker before you has brought. If you bring something new, great.
MS. BROWN: Thank you.

Chairman Goodwin and members of the TDHCA Board, my name is Linda Brown with Casa Linda Development Corporation. Casa Linda is the development consultant to Palladium U.S.A. for the Palladium Waxahachie and Palladium Venus applications and the co-developer, co-owner with Riva Switzerland for the Riva Keene application. Three competitive applications on the waiting list in Region 3 with many years of experience developing multifamily properties in the North Texas region, we know the risk of selecting a development site that is not appropriately zoned and the requirements of getting it re-zoned.

In the Board action request and supporting documentation, it is never made clear nor mentioned by the applicants for Mariposa at Harris Road and Division Lofts that the Arlington Planning and Zoning Commission denied their re-zoning by a vote of six and one on August 7, and because Bardin Apartments had development plan issues, he was given a choice to either have the vote taken which would have likely resulted in a denial or to continue the case to the next P&Z meeting. The developer chose to continue the case.

If P&Z had approved Mariposa, Division Lofts and Bardin's applications for re-zoning on August 7, they
would have followed the typical council approval timeline: public hearing and first reading for zoning approval on August 20, and second reading and final zoning approval on September 10, giving them plenty of time to submit for commitment. Before award of credits, developers know if their application is prioritized and in an award position. Because of the P&Z denial, Mariposa and Division Lofts' next step required them to request the city council for a call for a public hearing at the August 20 meeting and Bardin Apartments had to come back to P&Z on August 21.

As unfortunate as the delay of their zoning cases may be, these are experienced developers and they know appropriate zoning is required by commitment. The risk of being denied is always a reasonable outcome of any vote and could have easily been avoided by beginning the approval earlier. The re-zoning process begins before March 1. If your site is not appropriately zoned, you must provide a letter from the city confirming that a formal zoning change application was submitted to the city in your TDHCA application due on March 1.

Palladium Venus and Riva Keene also had sites that required re-zoning and both sites received unanimous city council approval for the re-zoning. To say that re-zoning is not in the developer's control is lowering the standard by which we all operate when there are just
as deserving applications who worked with the city and the community and got their approvals and are ready to proceed.

If this request is approved by the Board today, this will set a terrible precedent for future requests by developers for extensions to deadlines, including required material for commitment, documentation due on March, like getting city approvals for resolutions of support. We just want to be treated fairly with a set of rules that we can rely on as the rules.

I respectfully request the Board to deny granting these applicants an extension of time to meet their zoning commitment required documentation.

Thank you.

MR. GOODWIN: Any questions?

MR. VASQUEZ: Mr. Chairman, I have actually questions for staff. And again, I appreciate there's more speakers but I think we get the gist of the dilemma here. Let me ask a couple of questions. With the Reserve at New York 19143 dropping out, does that open up funding for either the Keene or Venus already? I mean, is one of these a moot point?

MS. HOLLOWAY: I'm going to ask Shay to address that for you.

MS. GAMBLE: Hi. Sharon Gamble, administrator
for the Tax Credit Program.

So back on July 31 we talked about things that happen after award, so this is one of those things. Yes, the Reserve at New York, the applicant contacted us and told us that they did not get their zoning and they would not be moving forward. So when that application dropped out, we then went back to the waiting list and we are now preparing documents to award the next application that was in line which is application 19250 Cypress Creek at Waxahachie. And that's how it goes, as applications above drop out, then we go down the list, so we did that when the Reserve at New York application dropped out.

MR. VASQUEZ: Okay. Are the next projects in line Keene and Venus?

MS. GAMBLE: Yes. There are two in Venus -- sorry, I take it back -- there is one in Waxahachie and two in Venus and then the Keene application is after that.

MR. VASQUEZ: So they're third in line.

MS. GAMBLE: They are fourth in line, the Keene application.

MR. VASQUEZ: Fourth in line.

MS. GAMBLE: The Keene application is.

MR. VASQUEZ: The Keene is fourth in line so this is a moot point for the Keene project anyhow.

MS. GAMBLE: Depending on what happens with the
applications in Arlington.

MR. VASQUEZ: If all three of these, Diversion Lofts, Bardin and Mariposa.

MS. GAMBLE: If all three of them go away, then the next three to be awarded would come from Waxahachie, Venus and Venus, as far as the list goes. Of course, that depends on staff review and all that stuff.

MR. VASQUEZ: Okay. But at this point, Keene doesn't even have -- they're too far down the list.

MS. GAMBLE: Correct.

MR. SHACKELFORD: (Speaking from audience.) There's only one Venus project.

MS. GAMBLE: I'm not sure what he's talking about.

MR. GOODWIN: I'm sorry, John. What are you trying to clarify?

MR. SHACKELFORD: (Speaking from audience.) Well, there's two on the list for Venus.

MS. GAMBLE: Come on up here.

MR. SHACKELFORD: I don't want to take up my time but I just want to make a clarification.

MR. VASQUEZ: It's my question.

MR. SHACKELFORD: Mr. Vasquez, there's two on the list but for the developer there's just one. The other Venus project did not get its zoning so it would
drop out.

MR. GOODWIN: But Sharon doesn't know that at this stage of the game.

MR. SHACKELFORD: Ms. Gamble was unaware of that.

MS. HOLLOWAY: We have not been informed of that other Venus application dropping out.

MR. VASQUEZ: Okay. My next question -- assuming the Board would want to know this -- so if on the 24th of September these projects do not get their zoning from Arlington, then do we go to the next groups on the list, the next three on the list anyhow?

MS. HOLLOWAY: Yes. We go to the next applications in line on the waiting list within that subregion.

MR. VASQUEZ: So if we grant this waiver until the 24th for that vote to take place and that vote in Arlington goes against these three remaining projects, then we go look at the next -- it automatically goes to those next groups.

MS. HOLLOWAY: Yes. If these developments do not get their zoning at that second meeting would be sort of the drop dead date for those three apps.

MR. VASQUEZ: Okay. So by granting the appeal we're just allowing for a couple of extra days because of
an inefficient Arlington city.

MS. HOLLOWAY: It's a waiver.

MR. VASQUEZ: So if Arlington votes for it, then the regular scoring system that we did the whole process just keeps moving like everything was fine. If they vote against granting the zoning, then these groups that are appealing, they're next in line and they're back on track.

MS. HOLLOWAY: Right, so one or more. That is, in fact, what is going on here.

MR. VASQUEZ: Okay.

MR. BRADEN: Mr. Chair, I have a couple of questions too.

I guess what I'm struggling a little bit with is what are the grounds for waiving this. Is it just because Arlington will lose out on these projects? And Arlington, too, could lose out on these projects because of the inefficiency that it's running.

MS. HOLLOWAY: In this instance because it impacts all of the applications in that city and it's the city -- I understand Linda's position about getting started early and that kind of thing, but as I understand it from the letter from Arlington that all of these projects were heard first by the planning and zoning commission on August 7. I don't know exactly when the
initial application for the zoning change was submitted to the City of Arlington, but there would have been in the application a letter from Arlington stating: Yes, we've received this application.

MR. BRADEN: And I understand that and I'm really not criticizing the developers, it sounds like they made filings in a timely manner, but if this hearing took place on August 7, I think Linda or somebody made a comment that it was voted down at that point, six to one, so preliminarily they've already said, Well, we don't really want to move this forward.

MS. HOLLOWAY: I don't know exactly what the vote was at that meeting, but I would imagine at that meeting is when the Reserve at New York application was denied.

MR. BRADEN: So the local zoning board said no, and then your next appeal process is the city council? I assume that's the way it works.

MS. HOLLOWAY: In general, planning and zoning commissions make recommendations to city council for approval. I'm sure there's some kind of appeals process, or I would imagine there is, but it's very similar to our Rules Committee meeting.

MR. BRADEN: And that initial recommendation was not positive?
MS. ANDRÉ: I would provide clarification to that. Once again, it's Sarah André.

There were four applicants in Arlington this year. All four were present at that initial hearing of P&Z Committee, and you know, Marni is correct, it is a recommendation. What they did is they continued one of the applicants, midstream they said, we're going to continue on to the next meeting. That applicant -- I believe that was Bardin -- said, we'd love a vote tonight -- you know, trying to get through. And they said, No, we're going to continue it. And the other three they denied.

That did not kill your deal. You had to then go to a hearing of the city council and request a vote for another public hearing on the zoning. That's just their formal process: P&Z, if P&Z denies it then you ask city council to hear it.

MR. BRADEN: Did they state why they denied it?

MS. ANDRÉ: Oh, I believe I mentioned to you how dysfunctional it was.

MR. BRADEN: I get that.

MS. ANDRÉ: It was everything from we don't like apartments, we have enough apartments, to that road is not a major collector, it's a feeder road, to you know, we don't think a pool is a good amenity. I mean, it was
all over the map.

MR. BRADEN: I understand that they're in a hard spot. It just seems like Arlington is -- I guess I'm struggling, I know it's only eight days but there are other people on this list who are waiting and we've set up the system where things drop off and people move up, and it's beyond our control and it's somewhat beyond their control, but I'm not sure that merits a waiver if the city itself -- it's not like even they sent a letter and said, We're having internal problems but we really want these projects to go forward, please give us the consideration. It sounds like that letter doesn't really say that either. So I guess I'm struggling with this waiver.

MS. THOMASON: I, unfortunately, as a developer have been in very similar situations where planning and zoning board or city council or staff of the city has been in flux. The fact that there are three from the same city makes me question. I think the applicants may have done what they needed to do. Is the city really struggling in the commission and in city council? Unfortunately, I've been in that same position and there's not much you can do other than go through the process.

MS. BINGHAM ESCAREÑO: I'll just add too just my initial thoughts. There's a reason that we have regions and as much as we, you know, want affordable
housing in Arlington, we also want it in Waxahachie and we
also want it in Venus and we also want it in Keene.
That's the way the funds are pooled.

I guess I would be interested in -- without
using the "P" word, precedent -- can you think of any time
that we as a Board have done something like this where
we've granted a waiver in deference to a situation like
this?

MS. HOLLOWAY: Not as a matter of Board action.
The closest thing I can come up with is the City of Fort
Worth put some requirements on applicants that they were
not able to fulfill on their end so we allowed those
applicants to rework the parts of their application that
included that Fort Worth financing, but that was not a
Board action item, that was something we could handle
administratively.

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

MR. GOODWIN: I see somebody over here that's
anxiously wanting to come to the podium.

MR. BUMP: Good morning, Chairman, Board
members. Casey Bump, and I represent Mariposa Apartment
Homes at Harris Road. I won't go through the details of
what Sarah had said, but really on September -- this is
just a functional thing to allow a second reading, so on
September 10 the city council is going to go in and vote and they're going to vote up or down. If it's a unanimous vote, they can have the same hearing that night. And the city council had a zoning board that did not go with their wishes and the city council is doing everything they can to recover from the situation.

If you have a unanimous vote, they can do it again on the night of the 10th. If it's just a majority, one dissenting vote, they can't do the reading that night which is why they're asking for the 24th. So a possible modification would be if you're not given approval or the majority vote on the 10th, then you're dead and you move on. The second hearing is really just kind of an administrative thing and I wanted to just give you that piece of information because that might be something that's not coming out in the letter that the city provided.

MR. GOODWIN: Thank you.

Any questions?

MS. HOLLOWAY: If I may make a correction to my earlier statement. My staff, with their big brains, recalled that last year -- year before there was another applicant who had a very similar situation with their zoning, it was a single applicant in Rowlett, they weren't able to get their zoning on time. The Board actually
denied that request and that application was resubmitted in the next round.

MR. GOODWIN: Okay. Thank you.

MS. BINGHAM ESCAREÑO: Hey, Marni, while you're up there. So Casey just mentioned -- I think what Casey mentioned was that the city council is on board and what I heard a minute ago was -- or what you said typically the way this works is planning and zoning makes a recommendation to city council and then city council makes the final decision, and what I thought I heard Casey say is that city council is on board. Do we have anything in writing or anything that shows that city council is on board? We have that super nebulous letter.

MS. HOLLOWAY: A very carefully worded letter about their process.

I have not received any indication from any council members that they are in support or opposed to the developments.

MS. BINGHAM ESCAREÑO: Gotcha.

MR. BRADEN: To the Chair.

So if we don't extend to the 24th, what's the regular deadline?

MS. HOLLOWAY: The 16th.

MR. BRADEN: So your point about September 10, I mean, if city council is really on board and they do it...
unanimous, they can go up to September 10 and nothing changes.

MS. HOLLOWAY: Correct.

MR. BRADEN: So there is no harm. You know, if you leave it alone and you don't do anything, they've got one more bite at the apple. If we're wrong and they're really on board and they want these projects, they can do a unanimous vote at that time and they still get their projects.

MS. HOLLOWAY: From the letter that we have from the city, that is, in fact, the case.

MR. GOODWIN: Anybody have anything new they want to add that has not been spoken? Ms. Bast, we'll hear from you first.

MS. BAST: Seriously. Cynthia Bast of Locke Lord. I'm here for the Bardin applicant. And I apologize, I was holding back because my client is actually on his way -- I've been texting -- and he is thwarted by Austin traffic.

MR. VASQUEZ: So you're saying that he's late again. That's a pattern.

MS. BAST: And, Mr. Vasquez, that's exactly what I wanted to point out here is what's in my letter that's in the Board book. I've not been intimately involved in this but I can give you these facts with
regard to Bardin, which I think is a little bit different than some of the others.

They did submit their zoning application, they started the process January 4, 2019 with a meeting with the city. On March 13 they received city comments. There were no material issues. Those were all things that they could address. In June, when it was evident that they could be in the money, they provided the city with responsive plans to address the city's comments. The city sat on the developer's response until August 2. Three days before the planning and zoning meeting the city said, Oh, we want you to do some things, we want you to move some buildings and do some other things here.

So on August 7, which is when they continued Bardin and did not hear Bardin, they said we want you to meet with a church, we want you to address some issues. And the developer kicked in and did all those things, and came to agreement with the neighboring parties. And on August 21, the revised plan was submitted to P&Z and got a positive vote of seven to one. So this is not one that was turned down by P&Z. They have done everything that the city asked them to do.

And so now, as some of the other speakers have indicated, the first available city council meeting since the August 21 meeting is on September 10, and if they get
a unanimous first reading, they can go to a second reading and they can be approved on the 10th, but if they don't get that unanimous first reading on the 10th, then they would have to get their second reading on the 24th. That doesn't mean that they would be turned down on the 10th, it means they could get a positive vote, it's just not unanimous, and then they could be heard on the 24th.

So I wanted to give you those facts about Bardin so you could have a little bit more color about where that one stands with regard to what it has done to try to satisfy the City of Arlington on its zoning request, and perhaps the developer will be behind me shortly.

MR. VASQUEZ: Cynthia, just one more clarification. So on the 10th if it's not unanimous, it can go to the 24th for a second reading.

MS. BAST: Correct.

MR. VASQUEZ: At that second reading does it have to be unanimous or just a majority vote?

MS. BAST: I believe it's a majority. Is there someone here who -- yes, I believe it's a majority.

MR. VASQUEZ: Okay. So I assume, and picking up on Mr. Braden's comment, I assume that the applicants and their representatives could make it very clear to the City of Arlington the meeting on the 10th that if they do
not approve it today unanimously on the 10th that the City
of Arlington would lose these three projects, assuming we
don't make any extension here.

MS. BAST: I think that is a valid assumption.
MR. VASQUEZ: So they will be well aware if
they didn't approve it unanimously then, then the projects
would miss the deadline of the 16th.

MS. BAST: Correct.
MR. VASQUEZ: Okay. Just understanding.
MR. GOODWIN: We're not approving the projects,
we're being asked to approve a waiver. If we don't
approve the waiver, then that would be the impact.

MR. VASQUEZ: Exactly. But Arlington would
know that at that meeting on the 10th.

MS. BAST: Thank you for allowing me to give
some more information.

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

MR. GOODWIN: Anybody have something they want
to add that's new?

MR. HUTH: Good morning. Tom Huth, president
and CEO of Palladium U.S.A. I am the developer for
Palladium Waxahachie and Palladium Venus and the
development consultant for Riva Keene. These three deals
are in direct line to be awarded should these three
Arlington deals not get their zoning in time.

We've got be a little careful, we've got to be a little careful for a couple of reasons. One is it may sound like a few days, giving the eight-day extension doesn't seem like a lot. Right? Well, all of us are held by the same rules as everyone else. You have to have your zoning in place by the time of your commitment deadline, you have to.

Two years ago -- we talked about this case -- two years ago this very Board disapproved an exact case as this. The commitment deadline date cannot be extended. If you allow this to be extended, what happens to the application delivery date? I didn't get my council resolution of support until March 4, so then do I come before the Board and say because it's a dysfunctional city I didn't get my resolution of support until four days after the application delivery deadline? No. We've got to hold these dates.

These are experienced developers. These three developers are very experienced in what they do. They know if you put a site under contract that is not zoned for its intended use as multifamily, there is a huge risk you may not get your re-zoning and you may not get your re-zoning in time. We as developers understand that and know that. These are experienced developers, they took on
that risk. Why they should be given an advantage that no
one else in the program has received, and out of the ten,
eleven deals that have been awarded, there were probably
six needed re-zoning which got their re-zoning done in
time. Why would we give an opportunity for these extra
days for these applications just because they're in
Arlington.

We've got representatives sitting behind me
from the City of Venus; council lady, economic development
director, City of Keene right. I ask where is Arlington,
where is the representative from Arlington. If this was
so important to the City of Arlington, where are they?
Are they stuck in traffic? They're not here. They are
not here. Why? Maybe they're not that supportive.

These three deals have the opportunity for this
whole issue to go away on the 10th. If they vote
unanimously on the 10th, it's a moot point, they get
awarded, we go away.

Thank you.

MR. GOODWIN: Thank you.

Any questions? Anybody have any questions? We
have one more speaker.

Beau, you have something you want to say?

MR. ECCLES: Just response to the legal concept
that are they going to have folks asking for a waiver of
the application delivery deadline.

MR. GOODWIN: We get into this. At every meeting we get into this that if we do this then this is going to blow the whole system in the future.

MR. ECCLES: Well, just from a rule standpoint, we're talking about 10 TAC Section 11.207, Waiver of Rules. Waiver requests on competitive housing tax credit applications will not be accepted between submission of the application and any award of the application. So if you wanted a waiver of the application submission deadline or anything that was required in the application, you'd actually have to submit that waiver request at or before the application, or as we have here, this is post-award that is a time when you can submit under this rule a request for waiver of the rules which requires that the applicant show that the waiver was both not reasonably foreseeable and was not preventable by the applicant.

MR. GOODWIN: So there's a rationale for this waiver to be in front of us today.

MR. ECCLES: Right. And just from an open meetings standpoint, if there is a matter on the City of Arlington's agenda to have a council member from the City of Arlington here talking about it would be -- I can't imagine that the city attorney would recommend that.

MR. HUTH: it could be a representative,
though.

MR. ECCLES: I understand, but you asked where are members of council, and I just wanted to make clear.

MR. GOODWIN: We're not here to have a debate, so thank you for your comments.

Yes, ma'am.

MS. BURCHETT: Hi. My name is Sallie Burchett and I'm with Structure Development, the applicant. The primary reason I'm up here is I don't want the City of Arlington to think that we think they're dysfunctional

I'm a member of the American Institute of Certified Planners, my background is in planning, and staff has been, while slow, very helpful, and we will go in March and then April and then May and June and they will feed us information that they know their elected officials want to hear. For example, we would really like a butterfly garden, or we would really like a package locker system so our residents can have a place to store things. And we would respond and they have a system, it's very regimented but it's transparent, and they tell us what they want and we submit it and they review everybody at the same time.

Arlington is a home rule city, it's a city that can set their own rules and they have their processes and their deadlines, and you can submit on one day and you get
pushed back to the next month, and in this situation June had only one meeting and so that just kind of pushed it along a little bit farther than maybe we would want it. So they have followed their rules, they've been very helpful in guiding us into a planned development district that they think will get the majority of support of their leadership, and we're just asking for the ability to make it to that final hearing if we need it.

Thank you.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: John, something new, I assume.

MR. SHACKELFORD: Of course. It deals with the rules.

My name is John Shackelford. I represent the Palladium organization.

A couple of things. One is you asked earlier, or somebody made the comment about had there ever been a grant of an expiration date on a commitment notice. You actually asked that two years ago when the Pedcor Palladium issue came up before this Board, you asked that question, you said, Beau, Tim, has it ever come up. Mr. Irvine looked at you and said, to the best of my knowledge, we've never granted an extension of an expiration date in a commitment notice. And I think
there's good reason.

And I want to also go back to this was not put in staff's write-up but two years ago what was at issue was 10.402 where the language specifically states on the expiration date of a commitment notice, the last sentence says, "The commitment expiration date may not be extended." That's what these applicants are asking for, an extension of their expiration date to the 24th. And what I would say is I do think you're setting a dangerous precedent. You're opening the flood gates to all these items that are due by the developers for their commitment notice and it may seem like, well, it's not a big deal, we just extend from the 16th to the 24th, but where do you start drawing a line each time when a developer comes up and says, well, I couldn't provide this for this reason. I think you're opening up the door, and the rule says the commitment expiration date may not be extended.

Mr. Palmer represented Palladium in that matter two years ago because I had a conflict with representing both clients. Mr. Braden, at the end of the discussion you ended up saying, I found Mr. Palmer's argument to be persuasive, and you made the motion to deny. Mr. Vasquez, you seconded. It was approved unanimously by this Board. It's the same situation. It's just unfortunate we had three applications out of the City of Arlington for
whatever reason.

I also want to make the observation that, based upon what I'm hearing from those that are speaking in favor of the waiver request, I don't think they need it. I mean, I think they sort of made the argument. If they get what they need on the 10th, this is a moot issue, so I don't think this is one where the Board should be, in my opinion, granting a waiver on extending an expiration date for a commitment notice when the rule specifically says it's not to be extended over something that may never even arise because the developers, if things go their way, they get the breaks they need, they've gotten their awards, they're golden on the 10th, and as Mr. Huth said, we go away.

And on the waiver what I would point out is Marni said that this furthers the policies. The rule actually says that in granting a waiver it's a two-part test, and the second part of the test is that the waiver request must establish by granting the waiver it better serves the policies and purposes of the program than not granting the waiver. I haven't heard any evidence so far presented to the Board that says by granting this waiver it's better than if it does not grant the waiver.

Everybody is deserving, everybody is on the wait list, people just move up.
Thank you.

MR. GOODWIN: Any questions for John?

(No response.)

MR. GOODWIN: It seems that we're hearing the same thing over and over again -- wait just a second, Barry -- and we've been hearing this discussion and so I think it's probably appropriate -- I'm not cutting off discussion -- to see if we have a motion that a Board member would like to make as to whether it's for staff's recommendation or to deny staff's recommendation.

Mr. Braden, you look like you were going to make a motion to me.

MR. BRADEN: As Mr. Shackelford pointed out, there is precedent.

Mr. Chair, I'd like to make a motion that the waiver request in application 19126, 19244 and 19319 be denied.

MR. GOODWIN: Do I have a second for that motion?

MS. RESÉNDIZ: Second.

MR. GOODWIN: So we have a motion and a second. Now we'll take discussion on that motion.

MR. VASQUEZ: I'd just like to comment that I think this has been actually a very good discussion. My pendulum has swung back and forth on this, and the reason
I'm going to support Mr. Braden's motion to not grant the extension to the 24th and not give waivers and start setting precedents, if there was not a September 10 opportunity for Arlington to vote it up if they want to and we just simply had to wait because the next scheduled meeting was the 24th, I'd be inclined the grant the waiver, but since Arlington does have an opportunity on the 10th, within our guidelines which is before September 16, I agree with some of the speakers, there's no reason to give the waiver and let's just let the process go. So I'm going to vote for the motion.

MR. GOODWIN: Is there any other Board member that wants to comment?

(No response.)

MR. GOODWIN: Anybody else want to speak to this before we take a vote?

MR. PALMER: Barry Palmer of Coats Rose.

I just wanted to point out that they're not asking for an extension of the commitment notice here, they are all going to make the date of the commitment notice, there's just one requirement in the commitment notice, the zoning that there is the ask for the extension of eight days.

But what I would suggest as a possible compromise is that you require that they provide proof by
the September 16 date that they got approval of the zoning change at the first meeting on September 10, and as Casey Bump said, if that happens, the second reading is just administrative required by their rules. But if anybody gets approval on September 10 of the zoning and can provide that and then just have the follow-up second reading on the 24th, whereas, if anybody doesn't get approval of their zoning on September 10, then they would be out.

MS. THOMASON: That would require the unanimous, or are you saying a majority vote?

MR. PALMER: Well, so if you get a unanimous vote on September 10, you're in anyway, but if one person votes against you on September 10, you would still have gotten approval of your zoning, you just have to come back for the second reading on the 24th.

MR. GOODWIN: And that's presuming that everybody votes the same way on the second reading.

MR. PALMER: Right.

MR. GOODWIN: It's not approval, it's just a step in the approval process. Right.

Any other questions? Anybody else want to speak?

(No response.)

MR. GOODWIN: If not, I'll call for the vote on
the motion.

Oh, we have another speaker. Okay.

MS. SCHWIMMER: Chairman Goodwin, members of the Board, I'm Kim Schwimmer, and I'm a HUB in several of the competing applications.

One point that hasn't been brought up is that other developers are holding onto their contracts waiting for these deadlines to come and it costs time and money to do that. Eight days means a lot to other developers, it means they're releasing earnest money to enable them to continue on or else they have to back out, so this eight days is very material to the other competing applications.

And that's all I want to say.

MR. GOODWIN: Thank you.

Any other comments?

(No response.)

MR. GOODWIN: We have a motion to deny the waiver and a second. All those in favor say aye.

(A chorus of ayes: Chairman Goodwin, Vice Chair Bingham, Members Braden, Reséndiz and Vasquez.)

MR. GOODWIN: Opposed?

MS. THOMASON: Opposed.

MR. GOODWIN: One opposed.

Okay. So we'll move on to item number 10.

Mr. Vasquez, it kind of seems like we've
already been through most of these rules.

MR. VASQUEZ: Mr. Chairman, the Rules Committee met last night to go over the final proposed draft of the QAP, and I just want to start off by saying thank you to so many of you here in the room from the development community for your input and working with staff over time. I actually think that because of your working together and letting us know your concerns ahead of time, it made last night's meeting go half the time that I had mentally prepared myself for.

And again, I think the staff did a very good job, with very insightful perspectives sometimes on both sides of issues where both sides had some very valid points about concerns, but I believe we've come to an excellent draft for a repeal and replace of these rules. And I'd like to ask Marni to come up and give a couple of the summaries of what came out of the meeting.

MS. HOLLOWAY: So there was a handout that we created last night which is this potential modifications to the 2020 QAP. You'll note that there were a couple of things that we discussed that aren't in here.

One of them is purely oversight by me on the mandatory amenities for historic deals. We're going to change that requirement that the request be submitted with the application to it must be submitted as a request for
amendment post-award once they have that information.

The other part that isn't in the handout is the discussion of what happens on QCP on neighborhood organization points if opposition is not found to be -- so if there is opposition as challenged and the challenged winds up denying the opposition, at the end of that paragraph there is language that says, "Should the neighborhood organization's statements be found to be contrary to findings or determination of a local government entity, or should the neighborhood organization not respond in the seven calendar days, then the application shall be eligible for four points under Subparagraph (c)." So the language that was requested is already in the rule, so that's not in the handout.

MR. ECCLES: Do Board members have this handout?

MR. BRADEN: We do not.

MR. ECCLES: Was this available at the desk back there with copies for everyone?

MS. HOLLOWAY: I'm sorry, I didn't realize you didn't have it.

MR. VASQUEZ: I was at the meeting last night.

(General talking and laughter.)

MS. HOLLOWAY: So the document that we created, the potential modifications to the proposed 2020 QAP,
incorporates the changes that the committee discussed to move forward to this meeting after the meeting last night, with the exception of the two items that I just mentioned, the one that I missed getting into the handout, and then the other that's already in the rule in another place so we don't need to add it.

So what you have in front of you is what the changes would look like if, in fact, they are approved by the Board, the first one being the change that allows mitigation for a school that is rated F, that has a 2019 F but has a 2018 Met Standard rating. And what I've done is put that in the same section that describes mitigation for a D with an Improvement Required in the previous year, which is what we discussed in the meeting. There are continuing changes throughout for that requirement.

The other thing that I've done is made sure that everywhere it needed to be, it's very clear that elderly developments or a supportive housing SRO development are exempted from the prohibition if the school is an F.

MR. VASQUEZ: Marni, did we say elderly, SRO or efficiency?

MS. HOLLOWAY: At that point in the evening I had five people talking to me, so I'm not really clear on what the final decision was of the group. We can make it
SRO or efficiency, if you would like, or we can leave it at SRO.

MR. VASQUEZ: Well, I thought last night someone was bringing it up saying we should include.

MS. BINGHAM ESCAREÑO: Someone mentioned a definition and needing to be careful. My notes said and, SRO and efficiency supportive housing.

MS. BOSTON: And actually that was a clarification from counsel, and she was just whispering that to me again, that she was suggesting that we do include SRO or transitional. Is that right?

MS. SYLVESTER: No.

MS. BOSTON: An SRO or efficiency.

MS. SYLVESTER: An SRO or efficiency. SRO is a very specific and has like kitchen and bathroom facilities.

MS. BINGHAM ESCAREÑO: We're going to have to get each of you to come up here.

MS. SYLVESTER: Megan Sylvester.

Efficiencies under our rule are no bedrooms, an SRO has no bedrooms but it also has other specific types of characteristics, and so my question last night wasn't saying you should do one or the other, I was just saying that if you say SROs, it's not necessarily going to cover anything that only has no bedrooms.
MS. BINGHAM ESCAREÑO: Mr. Vasquez, do you recall what the intent of the committee was last night around this? Did it have to do with high unlikelihood that children would be in these type structures?

MR. VASQUEZ: Exactly. I think the intent of the committee was --

MS. HOLLOWAY: SRO or efficiency?

MR. VASQUEZ: The highest unlikelihood of having children, which would be elderly, SRO, and efficiencies, would all be waived from the schools.

MS. HOLLOWAY: From the prohibition with a grade F?

MR. VASQUEZ: Yes.

MS. HOLLOWAY: I'm going to suggest that we further tighten that up a little bit and say 100 percent efficiencies in the development.

MR. VASQUEZ: Sure.

MS. HOLLOWAY: So I made those changes in the neighborhood risk section. I also made a corresponding change in the ineligible development section.

Moving on to unit and development construction features, what I've done is taken everything that I could find that was in the larger list, the old rule, and moved it to energy efficiency features all the way at the end of that rule item. So Energy Start or equivalent ceiling
fans, WaterSense showerheads, 15 or 16 SEER HVAC, all of those are in one section. And we have added a requirement that at least two points out of the points that a development has to meet must come from the energy efficiency features.

There was some question after the meeting last night about items versus points that we didn't clarify in that meeting. This is all point-driven. Some things are worth more than others. You know, a faucet isn't worth as much as a 16-SEER HVAC system. So as I drafted the change, it relies on points, but I want to make sure that that was the intent.

MR. VASQUEZ: I believe it was two items from the energy efficiency features were what we wanted to include.

MS. BINGHAM ESCAREÑO: That was my understanding, although I do hear the argument for the relevance of points but it would just depend on are we okay if somebody picks two half-point things or do we prefer that they come up with the equivalent of two points worth of efficiency items in order to meet that standard?

MS. HOLLOWAY: So the two items could be a WaterSense or equivalent qualified toilet and a WaterSense or equivalent qualified showerhead. That's your two items.
MR. VASQUEZ: Which would only be one point worth.

MS. HOLLOWAY: Which are half a point each, so it would only count for one if we went with points.

MR. BRADEN: I mean, I'm okay with what the staff is suggesting. I think it makes sense.

MR. VASQUEZ: That makes two points value.

MR. BRADEN: Two points. I don't think we were clear last night.

MR. VASQUEZ: I agree with that, I think that makes sense.

So the way you have it written here -- and just for the rest of the Board, the discussion and it was brought up by the different speakers last night that in the past, I think two years ago --

MS. HOLLOWAY: Some number of years ago.

MR. VASQUEZ: -- some number of years ago in a previous QAP, you had specifically had to choose at least two items from energy efficient characteristics. It somehow dropped out of the process. It was mentioned as an encouragement by not a requirement. We're trying to encourage the utilization of energy efficient items rather than just items like a walk-in closet and a kitchen island, nice to have but those aren't adding to the efficiency, the green items. So this way we're putting
back in a more explicit requirement for including energy efficient items along with when you're doing all the other non energy efficient items.

MS. HOLLOWAY: So another devil in the details that came up as we were looking at these changes, 95 percent and 4 percent applications are required to collect nine points from this menu of items, so if we're saying two of those must be out of the energy efficiency list, the other seven can come from anywhere, even additional energy efficiency features. If a direct loan only or a rehabilitation project, they're required to collect four points, so saying that they have to have two of them be energy efficiency, I don't know that it's burdensome but it's different from how we're treating new construction.

MR. VASQUEZ: Well, this is a good burden, if you call it a burden.

MS. HOLLOWAY: Well, it's for rehab deals that may be very difficult to get to two points on the energy efficiency.

MR. BRADEN: You're right, on a rehab deal we're making 50 percent of the required points now be --

MR. VASQUEZ: LED lights, fans and WaterSense get you there to the two points. Those are easy options to put in, and even on a rehab.

MS. HOLLOWAY: I just wanted to point that out
and make sure that you are aware that that's what would be happening with those points. And you're right, we could leave it exactly as it is or we could make some modifications. There may be someone who'd like to speak to that once we get to the Board motion.

MR. GOODWIN: Is that the end of your presentation, Marni?

MS. HOLLOWAY: That's the end, yes, for that report item, yes.

MR. GOODWIN: Leo, do you have a recommendation to the Board that you would like to make a motion?

MR. VASQUEZ: I would move to accept the draft QAP, repeal and replace of the appropriate chapters, as amended, for publication in the Texas Register.

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

MS. THOMASON: Second.

MR. GOODWIN: Now we have discussion. Any Board members? Michael, do you have something?

MR. ECCLES: This is essentially just the report from the Rules Committee.

MS. HOLLOWAY: This is a report item.

MR. ECCLES: There's still the presentation on the QAP itself that's the next one.

MR. GOODWIN: I thought that's what we were
doing.

    MS. HOLLOWAY: I was discussing what we had created from the changes last night.

    MR. GOODWIN: So we won't take your motion, if you don't mind.

    MR. VASQUEZ: Okay. Let's hold that to the next one.

    MR. GOODWIN: We move to item 11.

    MS. RESÉNDIZ: Do we need to accept the report?

    MR. WILKINSON: You need a motion to accept the changes, and then you vote on the --

    MR. GOODWIN: So this will be a motion of the Rules Committee to accept the changes, and then we'll take the comment in the Register.

    MR. ECCLES: I believe that what you were trying to say is that the Rules Committee recommends the QAP that's been proposed, including the changes that we just went through, so it's recommending that the Board then consider that QAP with those changes from last night.

    MR. VASQUEZ: This is bureaucracy in government at its best. This is the problem with America (General laughter.)

    MR. VASQUEZ: As our counsel said, I make that motion to approve the draft QAP for presentation under item 11.
MR. ECCLES: I am now the face of bureaucracy.

Last meeting I was his wife.

MR. GOODWIN: I'd say you're moving down.

MR. ECCLES: Can't wait for next month.

(General laughter.)

MR. GOODWIN: So we're perfectly clear what we're making a motion on before we hear discussion is the amended changes to the QAP as presented by Marni.

MR. BRADEN: Didn't he just make a motion to accept that?

MR. VASQUEZ: I'm pulling back the first motion.

MR. GOODWIN: You're withdrawing the first motion. So whoever seconded it has to withdraw their second. It's been withdrawn. So now the floor is open for a new motion.

MR. BRADEN: So we're still on item 10?

MR. GOODWIN: We're still on item 10.

MR. BRADEN: I'll make a motion that the report of the Rules Committee be accepted by the Board with the modifications that Marni just went over.

MR. GOODWIN: Do we have a second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: All in favor say aye.

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

(No response.)

MR. GOODWIN: Did you have something you wanted to say before?

MS. BINGHAM ESCAREÑO: I just have a couple of things left on my housekeeping list from last night.

MR. GOODWIN: Let's move the vote back.

MS. BINGHAM ESCAREÑO: Sorry. Marni probably already has these embedded.

So there was something about appeals earlier of when the log is posted or.

MS. HOLLOWAY: Right. So in discussion after the committee meeting, our appeals language in statute is really very clear and really pretty prescriptive, so moving to an earlier of is really an administrative process.

MS. BINGHAM ESCAREÑO: Okay. Very good.

And then the other was the little housekeeping thing of if a list is posted after business hours on something that the clock starts the next business day --

MS. HOLLOWAY: The following business day.

MS. BINGHAM ESCAREÑO: Is that in there?

MS. HOLLOWAY: I haven't put it in there, but we absolutely can.

Or Beau, do you have --
MR. ECCLES: That sort of thing is straying away from the statutory language. I think that that's something that could be put out for public comment the way it is and if that's something that needs to be cleaned up, then we can determine that on the basis of public comment.

MS. BINGHAM ESCAREÑO: Okay. And then one of the first summary points that we had last night was something and the caveat was that MFDL doesn't do a 10 percent test. There was some recommendation.

MS. HOLLOWAY: The recommendation initially about the historic preservation requiring that that come in with a 10 percent test, direct loan doesn't use a 10 percent test. So what we've changed it to is request for amendment. That's not driven by another schedule, it's driven by when they find out what they need.

MS. BINGHAM ESCAREÑO: I don't have any other questions.

MR. GOODWIN: Okay. Now we can vote. All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Now we move to item number 11.

MS. HOLLOWAY: Item 11 is presentation, discussion and possible action on the proposed repeal of
10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and a proposed New 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and directing its publication for public comment in the Register.

The Department is required by Internal Revenue Code and Texas statute to develop this proposed QAP which establishes the procedures and requirements relating to an allocation of housing tax credits along with threshold measures for other fund sources. The QAP published in your book identifies the differences between the 2019 and 2020 QAPs in a black line format. The QAP submitted to the Register will be a proposed new version of the 2020 without the black lines, just so you're aware that it's not going to look like that in the Register. The Department's public comment page and the Multifamily Rules and NOFAs page will include a black line version of the proposed QAP to facilitate stakeholder engagement with the changes.

In December of 2018, staff began meeting with stakeholders to discuss the 2020 QAP. Over four meetings we discussed urban core, proximity to jobs, preservation strategies, green building standards, development costs, direct loan funding and policies, tax exempt bond policies, supportive housing, and the statutory changes to

ON THE RECORD REPORTING
(512) 450-0342
the QAP from the legislature. We posted several topics to
the Department's online forum where stakeholders were
invited to comment on aspects of the QAP and new proposals
from staff.

A staff draft of the QAP was published on
August 5, and stakeholders were invited to submit their
informal input. Some input spoke to general policy goals
of certain scoring items or threshold criteria, while
other feedback was more targeted, focusing on the
mechanics of the rules, along with technical errors and
inconsistencies. The proposed 2020 QAP we are discussing
today reflects Department consideration of the stakeholder
input on the staff draft.

So for the rulemaking timeline, on your
approval the proposed 2020 QAP will be posted to the
Department's website and published in the Texas Register.
Public comment will be accepted between September 20 and
October 11. Staff will then consider and prepare reasoned
responses to all public comment as part of the final
action on the QAP at your November 7 meeting. The
proposed final QAP will be submitted to the Office of the
Governor not later than November 15, and the Governor is
required to approve, approve with changes, or reject on or
before December 1. After that, the adopted QAP will be
published in the Register and posted on the Department's
website.

So running through the changes. There were two statutorily mandated changes and a change created by the expiration of a statute originally passed in the 85th Legislature.

Regarding 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 these requirements.

Community support from state representatives.

House Bill 1973 allows a state representative's eight points to be transferred to the applicable local government 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. If the state rep points are transferred, the local government points will not exceed feasibility.

Regarding opportunity index, the part of our statute that had limited consideration of educational quality to only threshold requirements expired on September 1. Educational quality can now be incentivized
in scoring so we have added that item to our menu under opportunity index.

So moving on to some proposed changes. In previous years, some eligibility items like neighborhood risk factors and undesirable site features have come directly to you, the Board, for a determination. We've made some changes in those sections so that now they will go through the staff review, ED review and appeal process before they get to you. So we're not bringing it to you with you making the only decision, it will have gone through all of the steps that everything else goes through.

Moving on, 10 TAC Chapter 11, Subchapter A in definitions, we've made substantial revisions to the definitions 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 it meets certain conditions.

On the program calendar we've modified it for the 2020 round.

Proximity of development sites. This rule prohibits two or more competitive 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. The rule will only apply in a county with a population that is less than one million. That's so that we're not conflicting with the two-mile rule.

Another new one is one award per census tract limitation. In the staff draft we have proposed limiting points under the underserved area to the highest scoring application in a given census tract. As a result of stakeholder input, we've moved that limitation to de-concentration factors so that it becomes Department policy statewide, but only one award will be made within any given census tract. We have limited the applicability of the policy to urban subregions and exempted applications in the at-risk set-aside.

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. This earlier deadline will ensure that we have enough time to review all applications that are being presented to the Board at the late July meeting.

On force majeure, we have strengthened the requirements to prove up that a development has been impacted by rainfall or material or labor shortages.
Moving along, pre-application. In the pre-application notifications, applicants will be required to provide information on how and when an interested party or neighborhood organization can provide input to the Department on any application. We will modify our templates for the notifications to include this language.

Moving on to scoring, income levels of residents. In the past the QAP has had provisions to potentially award three more points to supportive housing developments as compared to non supportive housing developments. We have moved one of these additional points from resident services to income levels of tenants. This 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. While most developments will commit to devoting 40 percent or 20 percent of their units to households at 50 percent of AMI, supportive housing developments will be incentivized to devote 60 percent of their units to households at 50 percent or less.

There is 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 this type of scoring item was only available for the past 15 or 30 years, so we hope that with the 20 years we're opening up some more census tracts.

In this same category we've changed the methodology for the gentrification scoring item. The primary reason for this change was because as written for 2019 we were conflicting with tiebreakers, so we've changed and removed that conflict.

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

Proximity to jobs is new this year. This item will use a sliding scale for points and the 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 applications. In smaller cities and towns where they're on the periphery of larger metros or in more sparsely populated subregions, the proximity to jobs scoring item may help to locate affordable housing in desirable locations where people would like to live and work.

Readiness to proceed. The period of
eligibility was extended from two years to three years prior to application.

We have added two additional options under extended affordability, one going to a 40-year affordability period and another year going to a 45-year affordability period.

Historic preservation. Working in conjunction with the Texas Historical Commission, an issue has been identified that some 9 percent applicants are requesting preliminary eligibility determinations with less than a month to the application deadline. THC's deadline to turn around that determination is 30 days, so we have some applicants that are going to them, you have to submit an application to us by March 1 and not giving THC a full 30 days prior. In order to ease the burden on THC in receiving multiple requests without sufficient time to process, we are requiring that the application include evidence that THC received the request 30 days or more before the application delivery date in order to receive the historic preservation points.

Moving on to Subchapter B, Site and development requirements and restrictions. We've made several changes here. Flood plain, we've added a requirement that rehab deals in the 100-year flood plain, the owner must state in its tenant's rights and resources guide that part or all
of the development site is located in a flood plain and encourage residents to get appropriate insurance or take necessary precautions.

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 was rated D in 2019 and Improvement Required in 2018, or as modified last night, F in 2019 and Met Standard in 2018, they'll be required to disclose and provide mitigation. Previously disclosure was required if a school was rated Improvement Required for one year, so we're actually expanding that a little bit.

We've added a limitation that developments that fall within the attendance zone of a school that is rated F will be considered ineligible with no opportunity for mitigation. This will not apply to properties that are currently in the TDHCA portfolio, so they're preservation deals coming back with a TDHCA LURA. It will not apply to elderly developments and it will not apply to SRO and efficiency only developments, as per the changes last night.

Regarding mitigation for schools, the number of
options has been reduced from four to three. There's a concern that the fourth option, busing children to a school that has met TEA standards, may not be realistic. On poverty rate, this is census tracts where the poverty rate is above 40 percent, may be mitigated with a resolution from local government acknowledging the high poverty rate and authorizing the development to move forward. This is another item that we would be adding language to our templates in order to assist those local governments in coming to those resolutions.

Ineligible developments reiterates the ineligibility of sites within the attendance zone of a school with an F rating from TEA. Of course, with the same modifications from the committee last night regarding elderly and TDHCA preservation deals coming back, and SRO and 100 percent efficiency deals.

MR. ECCLES: Just a quick clarification, Marni, because you've mentioned it a couple of times. The 2019 rating of F cannot be mitigated if they also had an Improvement Required in 2018. That was a committee thing from last night and it's in the handout.

MS. HOLLOWAY: Okay. As long as I've got it in the handout.

MR. ECCLES: Just making sure.

MS. HOLLOWAY: Yes. I recall that now, the
distinction between the 2018 and 2019.

Moving on to Subchapter C, Filing of applications for tax exempt bond developments. We have made some changes here to hopefully create a more efficient review process and to align with changes at the Texas Bond Review Board due to their recent legislation.

Regarding deficiency process, the causes for termination of a 4 percent or direct loan application have been clarified. In addition, we've gathered rules about the deficiency process from all over the QAP into one section so everything is right there in one place now.

Regarding the feasibility report, the requirements have been modified to assist applicants in performing due diligence given development site constraints and local jurisdictional requirements.

For appraisals, the Department will require appraisals for adaptive reuse developments.

Moving to Subchapter D, Acquisition costs. Staff has clarified how the acquisition costs will be determined for USDA developments and identity of interest transactions.

Regarding developer fee, the provision that allowed a 20 percent developer fee on RAD deals with 4 percent credits has been removed. The developer fee on acquisition costs has been limited to 5 percent in
identity of interest sales. And for multifamily direct
loan only applications, the developer fee will be limited
to 7.5 percent.

Scope and cost review guidelines. The name of
the property condition assessment has been changed to
scope and cost review to better reflect a number of
changes in this section. The requirements have been
expanded with the goal of clear articulation of the
capital improvement requirements of the development
undergoing rehabilitation or an adaptive reuse project.

This is the last one. Fee schedule. The
commitment and determination fees have been reduced to 2
percent, as opposed to 4 percent, for the year 2020 only.

In the compliance section, properties with both direct
loan and tax credits will only pay the tax credit
compliance fee.

Staff recommends that the Board accept the
proposed repeal of 10 TAC Chapter 11 and the proposed New
10 TAC Chapter 11, thereby approving it for publication in
the Texas Register for public comment.

MR. GOODWIN: Any questions for Marni?

MR. VASQUEZ: Marni, just to clarify, we
determined last night that the scope and cost review, or
SCR, should not be referred to as sucker.

MS. HOLLOWAY: I don't think we decided that;
we discussed it.

MR. VASQUEZ: Just clarifying.

(General laughter.)

MR. GOODWIN: Do I hear a motion to accept staff's recommendation?

MS. RESÉNDIZ: Motion to accept staff's recommendation.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Okay. Discussion.

MS. MARTIN: Hello. Audrey Martin with Purple Martin Real Estate. I'm here speaking on behalf of TAAHP as the co-chair of TAAHP's QAP Committee.

So first I just wanted to thank staff for all their work getting to this point with the proposed official draft. TAAHP has already submitted two rounds of written comment to staff, one in advance of release of the staff draft and then one in response to the staff draft, and a number of our comments have been incorporated and we really appreciate that.

Additionally, I wanted to state support for the change in the handout related to neighborhood risk factors. I think it's a really good clarification to add that language about F rated schools will be treated and then the carve-out for elderly and SRO. So thank you for
that as well.

There were just a couple of comments that I wanted to make again on TAAHP's behalf. I'm a little bit of a broken record here but can't help it. There are two items.

So first I wanted to talk just about the readiness scoring item. This is something that TAAHP has talked about over the last couple of years since that scoring item was put into the QAP by the Governor. That was a way to address Hurricane Harvey impacted areas of the state and we kind of feel like we've had a good test run on that scoring item. I think that it has resulted in some housing coming online earlier, but I think the net benefit of that scoring item is probably pretty limited simply because there's a lot of pre-development cost that's incurred without certainty of award for those developments that are trying to pursue those points.

And additionally, because there's such a rush in the development community to close those readiness deals, the other transactions that are not readiness deals might actually experience closing delays. So I think overall the effectiveness might not quite be there, so we would like to just put on record again that we would love to see this scoring item be eliminated.

And I might have forgotten to say this piece
last night, but at the very least we feel like it should not be applicable to the at-risk set-aside. What we are seeing is that the at-risk set-aside has been under-subscribed and I think a big reason for that is that owners of existing developments that are not in the disaster impacted counties are not applying because they are at that immediate point disadvantage. And that's a statewide competition so we sort of feel like to have that be a more even playing field, maybe that should not apply to at-risk.

And then the only other thing I wanted to mention is the cost per foot scoring item. This year staff put together a lot of really great information on the actual costs of existing developments in TDHCA's portfolio, and that has been extremely helpful information to have, and I know that TAAHP really appreciates the compilation of that information. What we've noticed is that the scoring item cost levels are at a really severe discount to what the actual costs are, so TAAHP's recommendation was that we should kind of pin the scoring item to the actual cost data that TDHCA staff has compiled, and we suggested that a 20 percent discount from actual costs to the costs incentivized in the scoring item would be a reasonable place to start. That actually would be an increase from the cost levels that are in the QAP
right now.

Thanks.

MR. GOODWIN: Any questions for Audrey?

(No response.)

MR. GOODWIN: Next? Jean, are you going to speak?


First, thank you so much for the memory of Rowlett. I didn't know that was going to happen today. That is under construction and they're super happy with this, so I'm happy to report that. So yeah.

But I'll go on to the QAP. Part of this, as a representative of TAAHP, along with Audrey, just to say I'm a co-chair with her on that QAP committee, and so just kind of reiterating that.

One other comment that we did make too was about the timing of the priority 3 tax exempt bond applications. We would like to see that go back to where you can submit that application 30 days before your reservation. Part of what happened there, too, was that staff expanded their time period for review, which I think is very fair, but right now we're looking at if we get a certificate of reservation it might be 30 days before we are allowed to put our tax credit application in because
it's the 5th of the month now -- which I think is a great idea too -- but then you're another 90 to let's say 120 days before you get to a Board meeting so you're already at 150 which is really tight still with the 180 days from a certificate of reservation.

I do want to say this, though, the timing of these closings, especially when you tack on things like HUD financing, is really, really complicated. You've got Bond Review Board deadlines, and tax credit deadlines, and HUD deadlines, and staff has been amazing working with us through those, and so we will continue to try to manage all of that.

But one other thing too with this $50 million cap is that you're going to see applications coming in throughout the spring, and I know that that's a problem too with the 9 percent round and that's even part of the rule with not prioritizing those applications when they're kind of competing with the 9 percent reviews, and so one more reason to not limit when we can put those applications in. We'd like to be able to put those in as early as possible. You know, we're going to continue to work with staff and all of those funding agencies to time these things the right way, but we'd like to see that go back, and that was part of a TAAHP comment.

And this was not a TAAHP comment but more
something that came up in one of our recent developments. We're looking at a site that has 20 percent housing tax credit units per total households, and that is something that you can get a resolution from the governing body to kind of mitigate that to make that an eligible development. But the language in the rule is really interesting and some city attorneys are kind of objecting to putting it in their resolutions, and it's not statutory language either so I think it's a pretty easy fix.

But it says, "ineligible unless the governing body of the appropriate municipality or county containing the development has by vote specifically allowed the construction of the specific development." And they don't want to say that in their resolutions because it feels like they're issuing building permits, and so we'd like that language to more mirror like the resolution of no objection and have it say something like they have determined by vote that they do not object to the specific development, something like that. So it's still they're acknowledging the fact that they're in that kind of census tract but they're not saying you have building permits by issuing a resolution, and we've come across a couple of city attorneys that have some heartache with that.

MR. GOODWIN: Thank you.

MS. LATSHA: Thank you. I'll leave it at that.

I just wanted to repeat myself from last night where the affordability has been increased to 40 years or 45 years. Previously TDHCA lowered that affordability term down. Comments that had last night during the committee -- thank you, sir, for that -- were related to the useful life of an asset, and kind of piggybacking on what Audrey was saying on behalf of TAAHP related to the costs where TDHCA is lowering the costs of the developments, if we're expected to provide affordability for 45 years without re-capitalization or some sort of rehabilitation, then I would think the costs associated with the developments should take into account the quality of housing that we're developing.

Thank you.

MR. GOODWIN: Thank you.

MS. FINE: Good morning. Tracey Fine with National Church Residences.

This is more of a request that TDHCA staff also release a site demographic report when it goes to the Register's office. These are data plains and poverty rates, what income census tract quartile your project is in, updated inventory lists, updated concentration census tracts. It makes analyzing sites and analyzing the rules
imperative to be able to review an updated site characteristic report. So I think it would be a best practice and a request that as it goes to the Register that that report is also released so we can review the rules with updated data.

Thank you.

MR. GOODWIN: Thank you.

MR. MOREAU: Walter Moreau, the director of Foundation Communities.

I just wanted to respond to Terri's comment. I think it's great that the staff have put the option of a point for 40 years and two points for 45 years. Most states do 45 years or more. You're investing $700 million or more to build about 80 projects next year and you should get the most affordability you can. I don't think there's a developer in this program that's going to walk away from this investment opportunity and the equity you provide just because there's extended affordability.

The argument that, well, these buildings may be rundown in 35 years. If you've got a 45-year LURA and compliance, then for the families living there in 35 years, you still have a stake in what happens to that development. Some of these are going to be in high opportunity areas and really wonderful places to live, you just ten more additional years. In some cases they may be
rundown and they need a workout. If it's a 45-year LURA, 
that developer still has the opportunity to come in and 
re-syndicate and get re-investment and continue the 
program.

At a minimum I hope you'll keep this in the 
draft as the staff have recommended and then you'll get 
public comment on it and can go from there.

Thanks.

MR. GOODWIN: Thank you.

MR. HENNEBERGER: Good morning. I'm John 
Henneberger with Texas Housers. I'd like to offer three 
perspectives from a tenant point of view with regards to 
the proposed QAP.

First of all, with regard to the affordability 
period, why wouldn't you get more for the citizens of the 
State of Texas by increasing the affordability period? I 
would suggest to you that standard industry practice 
across the United States is a 45-year affordability period 
which ought to be a baseline with an incentive point to 
provide a 50-year affordability period.

The second thing has to do with school quality. 
I think the proposed QAP is headed in the wrong direction 
because I believe that the most important consideration 
for anybody with children is the quality of the schools in 
making a home selection, and you are, in essence,
exercising the judgment of people with low incomes about where their options are for them to live. They're constrained by their economics and so they must seek out the affordable housing that this agency provides.

I would suggest to you that the creation of any new constructed affordable housing development in an area served by a D rated school is unacceptable and that the QAP ought to be modified to prohibit such. An F school is a complete failure. That is an indication that a child not move forward in that type of school. You are entrusted with exercising the judgment that parents with limited incomes can't exercise, and their number one priority would be the school quality consideration.

I would also suggest to you that with regard to rehab projects and preservation deals that there be a negative point incentive for rehabilitating developments within a school that is failing. It is simply perpetuating the cycle of poverty and the cycle of segregation.

And then finally, I would suggest that the option to provide local governments with an ability to provide a waiver for a 40 percent poverty district is inappropriate. Forty percent poverty in a neighborhood? That is a neighborhood which is dysfunctional to the extreme. You do not lead rehabilitation of a neighborhood
with additional government subsidized housing. Government subsidized housing should follow the revitalization of a neighborhood, and where you have a neighborhood that is in that deep cycle of failure, 40 percent poverty is beyond HUD's definition of racially and economically segregated areas.

That is not an area where simply the investment of an additional subsidized housing unit will turn it around. It will only consign the children and the families who live in those neighborhoods to cope with problems which they should not be saddled with. This is a highly competitive process, the Low Income Housing Tax Credit Program, and we should use that competition to get better results for families and to act on the basis of what are in the interests of their children.

Thank you very much.

MR. GOODWIN: Thank you.

MS. ANDRÉ: Good morning. Sarah André.

I just want to comment on the 45-year additional affordability. I would encourage you to study that a little further. We have two very knowledgeable people who said that that was industry standard. I have not heard that and I would like to look into it further before we go forward with that.

I think the assertion that you're getting more
bang for your buck on that is incorrect. As a policy, it may be wonderful. I have no problems with that element of it. But any deal that is in there for more than 40 years, they are going to have to get re-syndicated so they're coming back for more money from you. And you can't get a mortgage that's more than 40 years, or I can't, maybe somebody out there that can. It's the useful life of the real estate, all the depreciation is gone at that point. Like I said, it may be a good policy but I would like to see some more facts and figures on that before we move forward with it.

MR. GOODWIN: Okay. Any questions from any Board members?

(No response.)

MR. GOODWIN: I'm not seeing any other comments.

MR. VASQUEZ: The last item that Jean put forth about the letters from the city and the way that they're worded, I don't recall us talking about that last night.

MS. HOLLOWAY: No, we did not discuss it last night, because it's not part of the changes to the QAP so we didn't discuss it.

There is a part of statute that's authorizing the construction of or something, and I think that we may have gotten our wires crossed on exactly where that
applies. When Jean raised the question, I went looking through statute and actually found that language but before we reissue our templates for 2020, we need to go back and examine statute and make sure that we are using that appropriate language.

MR. ECCLES: I think the simple solution to make sure, Jean, that that comment is submitted in the public comment time period, and then we can address it accordingly.

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

(No response.)

MR. GOODWIN: Seeing no other speakers, we'll call for a vote on the motion. All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you very much, Marni, and thank you to your staff for holding all the meetings and putting this wonderful new document together.

And thanks to all of you that participated in that process as well.

We've hit a point in the agenda where we take comments for items that were not listed for setting the
agenda for future Board meetings. Do we have any public
comments?

(No response.)

MR. GOODWIN: Hearing none, I'll entertain a
motion to adjourn.

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: All in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Thank you. See you in a month.

(Whereupon, at 10:47 a.m., the meeting was
adjourned.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: September 5, 2019

I do hereby certify that the foregoing pages, numbers 1 through 135, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

DATE: September 11, 2019

(Transcriber)

On the Record Reporting & Transcription, Inc.
7703 N. Lamar Blvd., Ste 515
Austin, Texas 78752

ON THE RECORD REPORTING
(512) 450-0342