TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

Texas Capitol Extension
E2.026
1100 Congress Avenue
Austin, Texas

December 12, 2019
9:30 a.m.

MEMBERS:

J.B. GOODWIN, Chair
LESLEE BINGHAM ESCAREÑO, Vice Chair (absent)
PAUL A. BRADEN, Member
ASUSENA RESÉDIZ, Member (absent)
SHARON THOMASON, Member
LEO VASQUEZ, Member

BOBBY WILKINSON, Executive Director
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## CONSENT AGENDA

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

#### EXECUTIVE

a) Presentation, discussion, and possible action on Board meeting minutes summary for September 5, 2019

#### ASSET MANAGEMENT

b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application
   95093 Paseo Plaza Apartments Brownsville
   17390 Las Palomas McAllen
   17445 Nightingale at Goodnight Ranch Austin

c) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement
   00078 Cypress Ridge Nacogdoches
   01166 Churchill Place La Porte
   02020 Kings Row Apartments Houston

d) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Multifamily Direct Loan Application
   12269/1001750 Stonebridge of Kelsey Park Lubbock

e) Presentation, discussion, and possible action regarding approval of a Multifamily Direct Loan subordination
   1002050 Emma Finke Villas Beeville

#### COMPLIANCE

f) Presentation, discussion, and possible action on a Dispute of the Compliance Division’s assessment of the Applicant’s compliance history to be reported to the Executive Award Review Advisory Committee regarding Fish Pond at Corpus Christi (19610)
COMMUNITY AFFAIRS

g) Presentation, discussion, and possible action on an increase in the annual expenditures for the use of the U.S. Citizenship and Immigration Services’ Systematic Alien Verification for Entitlements program from $8,000 to $15,000 pursuant to Tex. Gov’t Code §2155.088(b)(2)

HOME AND HOMELESSNESS PROGRAMS

h) Presentation, discussion, and possible action on an amendment to the 2018 Emergency Solutions Grants Program Contract for Randy Sams’ Outreach Shelter, Inc. and approval of a Contract Term for the City of Texarkana’s Ending Homelessness Fund Contract

LEGAL

i) Presentation, discussion, and possible action regarding the adoption of four Agreed Final Orders concerning properties owned by Center for Housing and Economic Opportunities Corporation, including Milam Creek Senior Village (HOME 1000555 / CMTS 4313), Milam Creek Senior Village II (HOME 1001214 / CMTS 4722), Alta Vista Village Retirement Community (HOME 531300 / CMTS 4006), and Floresville Senior Housing (HOME 1000969 / CMTS 4515)

j) Presentation and Discussion on Report to Board regarding administrative penalties and initiation of a contested case hearing, and the adoption of an Agreed Final Order as a final settlement offer for Cottonwood and Westway Apartments (HTC70111 / CMTS 2298)

BOND FINANCE

k) Presentation, discussion, and possible action on Resolution No. 20-008 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds and containing other provisions relating to the subject

MULTIFAMILY FINANCE

l) Presentation, discussion, and possible action regarding a waiver of certain requirements in 10 TAC §13.11 for Sierra Royale Apartments (TCAP RF Contract #13150019503)

m) Presentation, discussion, and possible action regarding the approval for publication in the
Texas Register of the 2020-3 Multifamily Direct Loan Special Purpose Notice of Funding Availability

SECTION 811
n) Presentation, discussion, and possible action authorizing the Department to submit an application for FY 2019 Project Rental Assistance of Section 811 Supportive Housing for Persons with Disabilities Notice of Funding Availability released by the U.S. Department of Housing and Urban Development, and if successfully awarded to operate such program

RULES
o) Presentation, discussion, and possible action on the draft 2020 State of Texas Low Income Housing Plan and Annual Report; proposed repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 concerning State of Texas Low Income Housing Plan and Annual Report; proposed new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 concerning State of Texas Low Income Housing Plan and Annual Report; and directing their publication for public comment in the Texas Register

p) Presentation, discussion, and possible action on an order proposing amendments to 10 TAC §8.7, Tenant Selection and Screening; an order proposing amendments to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements; and directing their publication in the Texas Register

CONSENT AGENDA REPORT ITEMS
ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) Outreach and Activities Report (Nov-Dec)
b) Quarterly Report on Texas Homeownership Division Activity
c) Report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the Housing Trust Fund
d) Report of the 2021 and 2022 QAP Planning Process

ACTION ITEMS
ITEM 3: INTERNAL AUDIT

a) Report on the meeting of the Internal Audit
ITEM 4: OCI, HTF, AND NSP
a) Presentation, discussion, and possible action on a proposed amendment to the 2020-2021 State Housing Trust Fund Biennial Plan and authorization for staff to submit the amended plan to all appropriate offices.

ITEM 5: COMMUNITY AFFAIRS
a) Presentation, discussion, and possible action on the Federal Fiscal Year 2020 Low Income Home Energy Assistance Program Community Energy Assistance Program award for Galveston County Community Action Council, Inc.

b) Presentation, discussion, and possible action authorizing the Department to submit an application for Community Services Block Grant disaster supplemental funding in response to an action transmittal released by the U.S. Department of Health and Human Services, and if successfully awarded to administer such funds.

ITEM 6: BOND FINANCE
a) Presentation, discussion, and possible action regarding Resolution No. 20-009 authorizing the implementation of Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program 94, approving the form and substance of the program manual and the program summary, authorizing the execution of documents and instruments necessary or convenient to carry out Mortgage Credit Certificate Program 94, and containing other provisions relating to the subject.

ITEM 7: MULTIFAMILY FINANCE
a) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications 19443 Spanish Park Arlington 19473 Flora Lofts Dallas 19470 Jackie Robinson El Paso 19400 Villas del San Xavier San Marcos 19467 Auro Crossing Austin ETJ
b) Presentation, discussion, and possible action PULLED on a waiver of 10 TAC §11.3 of the Qualified Allocation Plan related to Housing De-Concentration Factors for Austin Manor Apartment Homes (#19471) in the extraterritorial jurisdiction of Austin

c) Presentation, discussion, and possible action 34 on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds for The Walzem (#19468) in San Antonio ETJ

d) Presentation, discussion and possible action 36 on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events

17239 Abbington Ranch Boerne
17736 Providence at Ted Trout Drive Hudson
18376 Lakeview Point Apartments Garland
17700 The Terraces at Arboretum Houston

e) Presentation, discussion, and possible action 61 to adopt the 2020 Multifamily Programs Application Procedures Manual

f) Presentation, discussion, and possible action 62 regarding the approval for publication in the Texas Register of the 2020-1 Multifamily Direct Loan Annual Notice of Funding Availability

g) Presentation, discussion, and possible action 65 regarding awards of Direct Loan funds from the 2019-1 Multifamily Direct Loan Notice of Funding Availability

19053 Laurel Creek Apartments Austin
19508 Roosevelt Gardens Austin

ITEM 8: RULES

a) Presentation, discussion, and possible action 74 on an order adopting the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, and an order adopting the new 10 TAC Chapter 13, Multifamily Direct Loan Rule, and directing both its publication in the Texas Register and adoption of its Substantial Amendment to the One Year Action Plan (OYAP)

b) Presentation, discussion, and possible action 77 on an order adopting the repeal of 10 TAC,
Subchapter A, Administration, §1.7, Appeals Process; an order adopting new 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; and directing that they be published in the Texas Register

c) Presentation, discussion, and possible action on an order proposing new 10 TAC, Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures, and directing its publication for public comment in the Texas Register

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

e) Presentation, discussion, and possible action on amendments to Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code, in particular 10 TAC §10.602 Notice to Owners and Corrective Action Periods; §10.605 Elections under IRC §42(g); §10.607 Reporting Requirements; §10.609 Notices to the Department; §10.610 Written Policies and Procedures, §10.611 Determination, Documentation and Certification of Annual Income; §10.612 Tenant File Requirements; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.615 Elections under IRC §42(g); Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments; §10.616 Household Unit Transfer Requirements for All Programs; §10.617 Affirmative Marketing Requirements, §10.618 Onsite Monitoring; §10.622 Special Rules Regarding Rents and Rent Limit Violations; §10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period; §10.624 Compliance Requirements for Developments with 811 PRA Units; and Figure §10.625; and directing that they be published for public comment in the Texas Register

f) Presentation, discussion, and possible action PULLED on an order approving the repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and an order adopting new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and directing
their publication 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  92
MR. GOODWIN: Good morning and welcome to the
December 12 Board meeting for the Texas Department of
Housing and Community Affairs. We will begin by taking
roll.

Mr. Vasquez?

MR. VASQUEZ: Here.

MR. GOODWIN: Ms. Thomason?

MS. THOMASON: Here.

MR. GOODWIN: Mr. Braden?

MR. BRADEN: Here.

MR. GOODWIN: Mr. Goodwin here.

We do have a quorum. So if you don’t mind,
please stand and follow along as Bobby leads us in the
Pledge of Alliance to the American and Texas flag.

(The Pledge of Allegiance and Pledge of
Allegiance to Texas Flag were recited.)

MR. GOODWIN: So I will share with you what I
told the other Board members today, that the shame of me
resigning is that it took me five years to get to where I
now know the Pledge to the Texas Flag.

(General laughter.)

MR. GOODWIN: Beau has suggested I get up every
morning and recite it in memory of the service to the
Board, which I will gladly do, Beau.
Michael, we have a resolution.

MR. LYTTLE: Yes. Mr. Chairman and Board, the resolution reads as follows:

"Whereas, more than 25,000 persons experiencing homelessness were counted in Texas on one day during the last two weeks of January 2018, including more than 1,300 unaccompanied homeless youth, as measured by the 2018 annual homeless assessment report,

"Whereas, the Texas Department of Housing and Community Affairs awards state and federal funds to assist nonprofits and local governments aid persons affected by homelessness,

"Whereas, the Department’s homeless programs provided more than 38,000 services in state fiscal year 2019,

"Whereas, the Department awarded homeless housing and services program general set-aside of approximately $4.9 million and the federally funded Emergency Solutions Grants Program of approximately $8.8 million in state fiscal year 2020,

"Whereas, the Department awarded funds for the new state-funded homeless housing and services program youth set-aside in the amount of $1.5 million, and the new donation-based Ending Homelessness Fund program of approximately $210,000 in state fiscal year 2020,
illustrating the ongoing commitment of Texas to alleviate homelessness,

"Whereas, the Department recognizes the perseverance of persons volunteering and working to alleviate homelessness,

"Whereas, the Department recognizes the struggle of persons striving to end their homelessness and those who have lost their lives while experiencing homelessness,

"Whereas, December 21, 2019, is the National Homeless Persons Memorial Day, which annually falls on the longest night of the year,

"Now, therefore, it is hereby resolved that the governing Board of the Texas Department of Housing and Community Affairs does hereby commemorate December 21, 2019, as Homeless Persons Memorial Day in Texas,

"Signed this 12 day of December, 2019."

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

MR. BRADEN: So moved.

MR. GOODWIN: A second?

MS. THOMASON: Second.

MR. GOODWIN: Any discussion? All those in favor, say aye.

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

(No response.)

MR. GOODWIN: Okay. We’re going to do a little modification to the agenda, and before we do the consent items, we will be pulling the following items: We’ll be pulling Item 7(b), and we’ll be pulling Item 8(f).

Before I take a motion to approve the consent agenda, are there any items on the consent agenda that any member or person in the audience would like to see pulled and discussed?

(No response.)

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

MS. THOMASON: So moved.

MR. GOODWIN: It’s been moved. Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Moved and seconded. Any discussion?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

Okay. Moving on to the action items. Action Item number 3, or Item number 3 on the action list, Report

ON THE RECORD REPORTING
(512) 450-0342
on the Meeting of the Internal Audit and Finance Committee. Ms. Thomason?

MS. THOMASON: Yes. We did – Audit and Finance Committee, we did meet at eight o’clock this morning. We did not have a quorum, so we did not take action on any items.

The director of internal audit, Mr. Mark Scott, discussed with us the 2020 Annual Internal Audit Plan. He will be presenting that to us in a moment for approval.

The Director of Financial Administration, Ernie Palacios, presented the Draft Computation of Unencumbered Fund Balances, which was Item C on the Consent Agenda and was just approved. So Mr. Scott will now present that item to us.

We also had four report items in our meeting, including the audit of performance measures, the audit of the enforcement committee, the internal audit annual report and then a report on recent external audit activities.

Mr. Scott will be here to answer any questions, and he will present the internal audit plan for the full Board.

MR. GOODWIN: Thank you.

MS. THOMASON: Thank you.

MR. GOODWIN: Mr. Scott?
MR. SCOTT: Good morning, Chairman Goodwin, Board Members. As Ms. Thomason noted, this item is the 2020 Internal Audit Plan. The Internal Auditing Act requires that the plan be approved by the Agency’s governing board.

The Internal Audit Plan for 2020 was prepared by utilizing a standard risk assessment matrix. We also gathered input from management, the State Auditor’s office, and others.

We also -- as Ms. Thomason mentioned, we discussed it at length in the Committee this morning. The audit plan was in both books, the Audit Committee book and the Full Board book.

So are there any questions on the audit plan?

MR. GOODWIN: Anybody have any questions? Do I hear a motion to approve Mark’s presentation? Are you finished?

MR. SCOTT: Yes. So to comply with the statute, I’m requesting approval by the full Board of the 2020 Internal Audit Plan.

MR. GOODWIN: Do I hear a motion for approval?

MR. THOMASON: A motion for approval.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Any discussion?
MR. GOODWIN: All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you, Mark.

MR. SCOTT: Thank you very much.

MR. GOODWIN: Great job. Next we have Item 4.

Raul?

MR. GONZALES: Good morning, Board members. My name is Raul Gonzales, Director of Housing Trust Fund Division. Today we’re presenting Item 4(a), which is to amend the 2020-2021 Texas Housing Trust Fund Plan. Back in the June Board meeting, the Board approved the housing trust fund plan outlining its use of general revenue.

The housing trust fund plan focuses on two programs, the Texas Bootstrap Loan Program and the Amy Young Barrier Removal Program.

At the October Board meeting, the Board adopted the new 10 TAC chapter 26, which is the Housing Trust Fund Program, and the rules for the Amy Young Program.

The adopted rule changes included removing the $20,000 Amy Young funding cap per household so that the Department could keep pace with rising construction costs.

So for 2020-2021 the Department will be raising
the maximum Amy Young assistance amount per household from $20,000 to $22,500, and we wish to publish this new higher amount in our next notice of funding in January, which is for $1.54 million.

Since the program’s inception in 2010, the maximum amount of the Amy Young assistance has never exceeded $20,000. The Department has assisted nearly 1,100 households through the Amy Young program to date. About 75 percent of those beneficiaries earn less than 50 percent of the area median income, and we’re excited to be able to provide more assistance per household.

The current 2020-2021 biennium plan contains the description of the Amy Young program with the outdated $20,000 assistance amount. Our proposed amendment to the plan today is to reflect the new higher assistance amount of $22,500.

With that, I’m happy to answer any questions.

MR. GOODWIN: Any questions? If not, I entertain a motion to accept staff’s recommendation?

MR. BRADEN: Move to approve.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Any other questions?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you, sir.


MR. REID: Good morning, Mr. Chairman, Board Members. I’m Gavin Reid, Manager of Planning and Training in the Community Affairs Division.

Item 5(a) requests approval to award Galveston County Community Action Council -- and I’ll refer to them here on out as Galveston -- a 2020 Community Energy Assistance Program Award, or CEAP Award.

In July, the Board approved the 2020 Low Income Home Energy Assistance Program state plan that contained within it a list of the entities to be awarded funds and the proposed award amounts.

Due to unresolved and recurring monitoring findings, the Department did not include a 2020 CEAP Award for Galveston within that plan and deferred the decision to award to a subsequent Board meeting. Since that Board meeting, the Department worked with Galveston to satisfactorily resolve the findings.

After a review of Galveston’s previous monitoring findings, the Executive Award Review and
Advisory Committee recommended to award Galveston its 2020 CEAP funding in the amount of approximately $3.3 million. If approved by the Board, the Department will issue a 2020 CEAP contract to Galveston to continue utility assistance services beginning January 1, 2020.

Thank you. I’m available for any questions you might have.

MR. GOODWIN: Gavin, if I remember correctly, wasn’t there a county – one of these four counties that wanted part of that to administer this program?

MR. REID: Yes. There was --

MR. GOODWIN: Which county was it?

MR. REID: It was Fort Bend County.

MR. GOODWIN: Fort Bend County?

MR. REID: Yes. They wanted to provide services for Fort Bend County. Yes.

MR. GOODWIN: Okay. But that is a part of this Galveston --

MR. REID: Service area. Yes.

MR. GOODWIN: -- service area. And we have a contract with Galveston, and they have complied now with all of the issues --

MR. REID: Right.

MR. GOODWIN: -- that made us delay the last time?
MR. REID: They satisfied the condition and so that, yes, we’re awarding without condition. However, staff does realize they still need our assistance to succeed. So we’ll be training staff, we’ll be continuing to provide training as we have been, training and technical assistance upon request and any on-the-spot trainings that we feel that are necessary.

MR. GOODWIN: So what would the procedure be if Fort Bend County and Galveston County got together and Fort Bend said, we’re closer to our residents and we would like to administer just the Fort Bend County part of this. Would they have then reapply? And would Galveston have to willingly give up Fort Bend County?

MR. REID: There’s actually probably two methods on the top of my mind right now that come to mind. Galveston would have to voluntarily relinquish the funds, and then the Department would have to go through a process to determine if Fort Bend County is qualified or has the capacity to provide utility assistance services for Fort Bend -- for that population in Fort Bend.

That’s one way, so voluntary relinquishment. The other way would be kind of to continue down the road which we have gone down the past year, where monitoring continues to come up with findings and then we go through a quality improvement plan process and then to see if, you
know, they can resolve that, get through that quality improvement plan process.

So those are two methods that I guess -- and then we’d have to go out with a request for applications. Again, you know, if Galveston did not succeed and then we determine -- then, you know, if Fort Bend scored well enough to earn that award.

MR. GOODWIN: Might be just as easy as segregating that one county out and --

MR. REID: Right.

MR. GOODWIN: -- and getting Fort Bend to then administer the funds for their area.

MR. REID: Right. There would be an application process and a scoring process, and we’d have to open it up.

MR. GOODWIN: And then Fort Bend County might have some other applicants who wanted to administer

MR. REID: That’s true.

MR. GOODWIN: -- that program.

MR. REID: Yes. That’s correct.

MR. GOODWIN: Okay. Any other questions for Gavin?

MR. VASQUEZ: Some questions. First, following up on Chairman Goodwin, is there a way that Fort Bend could sign an MOU with the Galveston organization to sort
of subcontract out that section? It’s still under the
auspices of the Galveston awardee group, but --

MR. REID: To my mind, I’m not coming up with
anything, but I can refer to Brooke maybe.

MS. BOSTON: Thank you. Brooke Boston. I
think that they could. We need to talk that through with
counsel to make sure that was doable. But, yeah, I
don’t -- I know we have other subrecipients in the agency
who do outsource and subcontract portions of their work to
other entities, so I would just need to check and make
sure that’s okay first, specifically.

MR. VASQUEZ: Okay. And I guess back to
Gavin -- given that we’ve had so much history of problems
with this Galveston organization --

MR. REID: Right.

MR. VASQUEZ: -- you specified there’s no
conditions on this award. However, what kind of
reassurances does the Department have that they do have
their act together now? And rather than waiting for them
to ask for assistance, do they understand they’re on a
short leash and we expect much more real-time reporting?

MR. REID: Yes. So I talked about the training
side of the Department. I will continue to offer training
and technical assistance upon request and whenever needed
as concerns come up. But additionally, the monitoring
side is aware of this, of course, because they were heavily involved in it the last year.

But they will more heavily or more frequently monitor expenditures and performance of Galveston in the near term, you know, such as requesting client files to check for all the issues maybe they’ve had in the past and financial records, support documentations, such things as that.

Also, the Department monitoring division will also conduct a review in the first quarter of this contract. So we will be monitoring them more frequently, in addition to the training assistance. We realize that they are on a short leash and we need to continue to monitor them.

MR. VASQUEZ: And remind me. Do we send them a $3,368,000 check and say, go with it? Or do we only release funds as they apply for it as we go?

MR. REID: We issue the contract on January 1 for $3.1 million or $3.3 million, and then they do go as they go, but -- or spend it as they go. But, you know, again, if we --

MR. VASQUEZ: If at the end of February we see that they haven’t done any reports and they have distributed the money --

MR. REID: Right.
MR. VASQUEZ: -- other than $100,000 --

MR. REID: Right.

MR. VASQUEZ: -- we still have control --

MR. REID: Yes.

MR. VASQUEZ: -- of the balance of the 3.3 million?

MR. REID: Yes. You’d probably see one of us coming back to the Board for some sort of action on that.

Yes.

MR. VASQUEZ: Are you confident that we made it perfectly clear to the Galveston organization that they have to ensure that funds are distributed amongst the whole four-county region?

MR. REID: Yes. They know that. But with you asking the question, we will ensure that -- or make sure of that.

MR. WILKINSON: This is extra clarity right now we’re going to communicate that.

MR. VASQUEZ: I just want to make sure that, again, it is clear that they are on a very short leash and that --

MR. REID: Okay.

MR. VASQUEZ: -- staff is proactively monitoring them and Galveston’s proactively sending --

MR. REID: Right.
MR. VASQUEZ: -- you the information.

MR. REID: We’ll get together, and we’ll make
that abundantly clear.

MR. VASQUEZ: Great. Thank you.

MR. REID: Thank you.

MR. GOODWIN: Any other questions? If not, do
I hear a motion to accept staff’s recommendation?

MR. VASQUEZ: I move to accept staff’s
recommendation.

MR. GOODWIN: Second?

MR. BRADEN: Second.

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

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

MR. GOODWIN: Opposed?
(No response.)

MR. GOODWIN: Okay. 4(b) -- I mean 5(b).

Sorry.

MR. REID: Item 5(b), request authority from
the Board to apply for community services block grant CSBG
disaster relief supplemental funds.

In late November, just in the last month, the
Department of U.S. Health and Human Services announced the
availability of CSBG disaster relief supplemental funds
for two specific disasters in 2019.

The Department is eligible to apply for up to
$1.9 million in these funds. The funding is scheduled to
be released by United States Department of Health and
Human Services in three stages.

Stage 1 is the initial planning and needs
assessment stage for up to $100,000, which is what we’re
applying for now. Stage 2 is the interim recovery stage
for up to approximately $1 million. Stage 3 is the longer
term recovery stage for up to $774,000. These amounts are
only preliminary and could change.

The three-stage process allows for funds to be
expended by only qualified eligible entities on low-income
households at 125 percent or below of the federal poverty
income guidelines who have disaster-related needs.

So only these disaster funds aren’t being just
released to the population at large, just a small segment
of the population that have disaster-related needs and are
low-income.

If approved by the Board to apply for the
disaster funds and successful in its application, the
Department will distribute funds to only qualified
eligible entities based on need, interest, and capacity.

If need, interest, and capacity is demonstrated
by any of the qualifying entities, the funding will be
pursued. However, if not, the Department may choose to
not pursue the funds. Either way, an application must be
submitted by the Department. Staff requests Board
approval to do so.

Thank you. And I’m available for any questions
you might have.

MR. GOODWIN: Any questions?

MR. BRADEN: I’ve got a couple.

MR. GOODWIN: Okay.

MR. BRADEN: So we make this application for
this amount, which is a good thing, obviously, and then we
wait for other agencies or people to come and make
application to us before we determine that we’re going to
take additional amounts?

MR. REID: They’re working in conjunction as we
speak. Because it’s on such a short time frame, we’re
seeking approval to apply for it, but we’re also talking
with the eligible entities -- the qualified ones, of which
there’s only six of them -- to talk with them and say,
Hey, these -- because they weren’t aware of it, either,
until just recently -- Hey, we’ve got some funds
available. Do you have a need? Do you have interest in
these funds? So we’re talking with them.

And the Department of Health and Human
Services, they don’t expect all the answers right now, as
we’ve already been talking to them. But this first stage is just to kind of get awareness of what’s out there and start coming up with a plan to get the larger amounts of money later. So it’s all in the planning phases right now and what are the needs out there, and that’s kind of where we’re at now.

MR. BRADEN: Okay. That’s all I have.

MR. VASQUEZ: I have a more sort of general question, probably for our counsel. Are we able to just set an authorization from the Board for the executive director to, of course, apply for funds that are out there that fall under our umbrella, rather than waiting for the next Board meeting get some sort of approval?

I mean, this, again, sounds like it’s bureaucratic ridiculousness asking us, gee, do we want Texas to have a $1.9 million grant?

MR. ECCLES: It’s actually more of a policy question than a legal one. Yes, you could give the authority to just apply for things. However --

MR. VASQUEZ: That fall under our jurisdiction and make sense.

MR. ECCLES: Right. I don’t believe -- and, Gavin, you can clarify -- that any delay has occurred as a result of bringing this to the Board. It’s more of a giving the Board the opportunity to understand programs
that staff is applying for so that these questions can be asked.

And perhaps it’s a direction -- you say of course we would want to apply for, but maybe the Board wouldn’t want to apply for certain grants that staff might go out and get otherwise.

The answer to your question is, yes, you could give that authority. I would suggest that be at a different Board meeting that it be considered, that it have some guide ropes around it. But that’s the reason it’s being brought forward this way.

MR. WILKINSON: We discussed this exact issue, and I guess the deal was we wouldn’t want to just hang a bunch of new regs around your neck without your permission, was the thought.

But if we have a discussion about it at more general authority to go for funds, I admit that’s a better direction.

MR. VASQUEZ: Or maybe you all can think about how to structure that when given certain parameters that delegate authority for you.

MR. BRADEN: And obviously some federal money comes with strings, so I’m not sure. It’s something we can discuss.

MR. VASQUEZ: It doesn’t take matching funds
from us that we have to come up with.

    MR. BRADEN: Right.

    MR. WILKINSON: Maybe an up-to amount, or we can figure something out.

    MR. REID: I’ll add -- just going back to your question, Mr. Vasquez, is that, yeah, there is no delay by us coming to the Board for that. We’re actually kind of working it all at the same time. So by coming to the Board we didn’t -- this particular item had no delay.

    MR. VASQUEZ: Okay.

    MR. GOODWIN: Any other questions? If not, do I hear a motion to approve staff’s recommendation for Item 4(b) --

    MS. THOMASON: So moved.

    MR. GOODWIN: -- 5(b). Sorry.

    MS. THOMASON: So moved.

    MR. GOODWIN: Moved. Second?

    MR. VASQUEZ: Second.

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

        (No response.)

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

        (A chorus of ayes.)

    MR. GOODWIN: Opposed?

        (No response.)
MR. GOODWIN: Okay. Moving on to Bond Finance, Item 6(a).

MR. TOMME: Good morning, Board. My name is John Tomme, and I’m here representing the Bond Finance Division. This item is requesting approval for MCC Program 94.

MCC Program 94 will make 400 million in volume cap available for MCC issuances by the Department across the state. Program 94 MCCs can be issued through December 31, 2022, but staff expects this program to be fully committed by the end of 2020 except for 80 million of set-aside for targeted areas.

This set-aside is expected to be fully committed by mid 2021. The Department offers two MCC options: stand-alone MCCs and combo loans that provide borrowers with an MCC and a loan made through our taxable mortgage program.

Staff actively manages private activity volume cap to maximize its effectiveness, balancing the allocation between single-family mortgage revenue bonds and MCCs depending on market conditions and other factors.

As of February 1, 2019, staff made the decision to suspend the stand-alone MCC option. Fortunately, at the August 2019 volume collapse, the Department received enough volume cap for staff to believe it was appropriate
to reopen reservations for stand-alone option in mid-September.

Staff expects that Program 94 will begin issuing MCCs in late January 2020. At this time, I’d be happy to answer any of your questions.

MR. BRADEN: I think you answered my one question. So we already have volume cap for this MCC program?

MR. TOMME: Yes, sir.

MR. BRADEN: Okay.

MR. GOODWIN: Any other questions? If not, do I hear a motion to accept staff’s recommendation?

MR. BRADEN: Move to accept staff recommendation and approve.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any other questions?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Thank you. Item 7, Multifamily Finance. Tell me there’s going to be some fireworks, man. It’s been too easy.
MS. MORALES: Teresa Morales, Director of Multifamily Bonds. Chairman Goodwin and Members of the Board, Item 7(a) involves the award of approximately $7.4 million in 4 percent housing tax credits associated with five multifamily developments totaling 1,000 units.

Specific information relating to each of these developments is included in your Board package. With this agenda item, I wanted to give a shameless plug on what the 4 percent program has accomplished this past year.

As 2019 is coming to an end, we are working our way through the rest of the 4 percent applications that have been submitted that have 2019 bond reservations. The application log included with the item in your package reflects 8,600 affordable units that have been approved to date and many that have closed.

There will be another batch of applications that will be brought before you in January that will hopefully close out the 2019 activity with another 2,500 affordable units.

The bottom line is that in 2019 staff has processed, reviewed, underwrote, and performed previous participation reviews on over 80 applications that has yielded approximately 11,100 affordable units.

Staff recommends approval for this item that would allow determination notices associated with these
five applications to be issued in the respective amounts as noted in your package.

MR. GOODWIN: Any questions?

MR. VASQUEZ: Has the Department taken any steps to publicize these great results and figures?

MS. MORALES: I’m doing it now. I’ve done it every month.

MR. VASQUEZ: If only we had someone in charge of communications that could do that.

(General laughter.)

MS. MORALES: What’s a girl got to do to get help around here?

MR. GOODWIN: Any other questions? If not, do I hear a motion to approve staff’s recommendation?

MR. VASQUEZ: Move to approve staff’s recommendations.

MR. GOODWIN: Second?

MR. BRADEN: Second.

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. I think -- Thank you, Teresa. Are you doing 7(c)?

MS. MORALES: Yes.
MR. GOODWIN: Okay.

MS. MORALLES: Item 7(c) involves the award of approximately $1.3 million in 4 percent housing tax credits and $4 million in TCAP repayment funds.

The Walzem proposes the new construction of 200 units in the San Antonio ETJ that will serve the general population. The board write-up reflects that 18 opposition letters from individuals were received. Some of the reasons for the opposition include a decrease in property values, increase in crime and traffic congestion.

A number of individuals from the Woodlake Estate subdivision signed a letter that expressed opposition, citing all of the aforementioned factors, but added that retail merchants, including movie theaters and larger food stores would be in a better interest of the area and a better use of the specific land.

After Board posting, there were an additional five letters of opposition that were received. One of which was from Bexar county commissioner Tommy Calvert, which I believe the Board Chair is allowing to be read into the record.

MR. GOODWIN: Yes, ma’am.

Mike, will you read it into the record for us, please.

MR. LYTTLE: I asked the Communications
Director to read it, but he’s not here. So I will read the letter as follows. It is addressed to the Board.

"Dear Ms. Cline" -- well, it’s addressed to TDHCA staff.

"I’m writing today to express my opposition to TDHCA application 1946A, a development by Cohen-Esrey in spite of the previous resolution of no objection passed by the Bexar County Commissioner’s Court on May 21, 2019.

"There are some recent facts that we learned after the passage of the resolution that I need to bring to TDHCA’s attention.

"Specifically, I provide representatives of Cohen-Esrey with 11 neighborhood associations near the Walzem development, and express that if those organizations gave their support, then I would provide the resolution.

"Unfortunately, Cohen-Esrey representatives chose to meet with only two of the 11 and then told my office that they had met with the associations. However, this was not true. I relied on their correspondence that they had met with the 11 organizations and passed the resolution on May 21, 2019.

"When I found out in October that this had not happened, I had to change my protocols within my office to verify that developers were accurate in their
correspondence with my constituents.

"Although Cohen-Esrey representatives have recently began engaging with the organizations they were originally supposed to contact and things were going well in comparison to others, there are growing concerns from the residents regarding fire safety, traffic, density, management, economic development, and more issues that are unsatisfactorily legging the project.

"Hence, I can no longer support this project moving forward until issues with the residents are addressed. I am a supporter of affordable housing, but I respect even more the right of communities to shape their future and be governed in partnership with state leadership while not in conflict with their local government.

"If you have any questions or would like to discuss this further, please call my office. Always your voice, Tommy Calvert, Bexar County Commissioner, Precinct 4."

MR. GOODWIN: And we received that letter when? Recently?

MS. MORALES: Earlier this week.

MR. GOODWIN: Earlier this week.

MS. MORALES: After the Board posted this week.

MR. GOODWIN: After the Board posted. Okay.
MR. MORALES: Staff recommends approval of a
determination notice of $1,326,147 in 4 percent housing
tax credits and an award of direct loan funds in the
amount of $4 million.

MR. GOODWIN: Okay. Any questions for Teresa?

MR. BRADEN: Yes. So we haven’t received
anything officially from Bexar County Commissioner’s Court
retracting its prior action or anything like that?

MS. MORALES: No.

MR. BRADEN: And I know just from that letter,
that apparently the original resolution was passed in May
of 2019. The Commissioner indicated he came noticed that
whatever he told him, it wasn’t adhered to in October
2019. Obviously there were many meetings of the
Commissioner’s Court between October and now where
presumably Commissioner’s Court could have taken action to
retract that. So I have no objections.

MR. GOODWIN: Okay. Any other questions? If
not, do I hear a motion to accept staff recommendation?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any other questions?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN:  Opposed?

(No response.)

MR. GOODWIN:  Okay.  Thank you, Teresa.

Item 7(d).  Marni?

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

Item 7(d) is Presentation, Discussion, and Possible Action on a Request for Return and Reallocation of Tax Credits under 10 TAC 11.65 Related to Credit Returns Resulting from Force Majeure Events.

There are actually four separate developments that we’re going to be discussing this morning.  The first one, Abbington Ranch, received an award of $500,000 and 91 percent credits in 2017.  The carryover allocation agreement requires that the development be placed in service by December 31 of 2019.

On October 31 of this year we received a request to extend the placed-in service deadline due to force majeure events.  The applicant’s request described significant and unusual rainfall, including 75 days of rain delays, 60 of which were during the initial site work phases.  The contractor’s log and construction status
reports support this claim.

The request also describes changes in laws, rules, or regulations in that the City of Boerne approvals process required completion of off-site work prior to beginning construction, and required changes to approved plans before beginning their off-site work. So they were really backed up in their process. This added approximately 120 days to the schedule.

In addition, the new sanitary lines installed by the city public works were shallower than designed, causing additional conflicts with the connection in delays in installation of the project’s on-site service.

The request claims that these actions by the city effectively resulted in changes to the rules and regulations for which the project was originally designed.

Because the events described in the request meet the requirements for force majeure treatment under the rule, staff recommends that the request for treatment of Abbington Ranch under an application of the force majeure rule be approved so that the 2017 QAP and uniform rules and the 2019 program calendar will be applicable to the development, and that the new placed-in service deadline will be March 2, 2020.

MR. GOODWIN: Okay. Any questions? Do I hear a motion to accept staff’s recommendation?
MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any other questions?

(No response.)

MR. GOODWIN: All in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay.

MS. HOLLOWAY: The next application we’re taking up under this Item is number 17736. This is Providence at Ted Trout Drive. This development received an award of 9 percent credits in the amount of $897,357 in 2017. The placed-in-service deadline is December 31 of 2019.

On September 5, we received a request to extend the placed-in-service deadline under the force majeure rule. The request named an extended deadline of December 31, 2022, which would not be available. The latest possible extension would be to December 31, 2020.

In the request, the development owner states that sudden and unforeseen circumstances due to the aftermath of presidentially-declared disaster Hurricane Harvey resulted in significant cost increase of materials,
labor and the decreased availability of contractors, which have significantly affected the feasibility of the development, necessitating changes to the financing structure and requiring them to pursue measures to further reduce the gap in financing, including architectural changes.

Per the request, the development was feasible at the time of award. However, the availability and cost of both materials and labor were directly impacted by the immense scope of devastation in the aftermath of the storm, resulting in construction cost increases of approximately 15 to 20 percent.

The request indicates that the development owner considered or took a number of actions to reduce construction costs and describes an attempt to secure 221(d)(4) financing in order to close the gap, saying they were not able to secure it due to the time frame.

It is important to note that the application, as originally presented, included (d)(4) financing, so that this was not a new effort in response to the storm.

The first construction status report was due on October 10 of 2018. Each quarter until April of 2019, the development owner informed staff that the loan had not closed and nothing could be submitted.

The loan was closed on April 15 of 2019, almost
21 months after the award. The submitted construction and bridge loan agreement indicates a completion date of December 15, 2019. The development owner provided evidence that the lender has agreed to an extended completion date as part of the force majeure request.

Staff has determined that the development owner has not provided sufficient evidence that the development has been affected by sudden and unforeseen circumstances outside the control of the development owner as described in the rule, particularly material and labor shortages caused by Hurricane Harvey that did not cause similar delays for other developments. Providence at Ted Trout is in Angelina County, which did not receive a federal disaster declaration for Hurricane Harvey.

The request includes statements from several articles written in the immediate aftermath of the hurricane describing how the labor shortages and the material costs were exacerbated after the storm.

However, the request did not explain how the development owner’s failure to close financing until nearly two years after the credits were awarded was a direct result of materials and labor shortages caused by Hurricane Harvey.

If the Board denies the request, the owner will have an opportunity the place the development in service
for which just a temporary CO qualifies before December 31. If the development owner returns the credits, they would be applied to our next 2020 9 percent round. Due to the late date, we don’t have time to get them out to another application for this year.

If the Board grants the request, the development owner would return their $897,357 in credits and would be reissued a new carryover allocation agreement for 2019, and the date for the development to be placed in service will be as determined by the Board, because the date that was requested is not -- we can’t do with the 2017 qualified allocation plan and uniform multifamily rules applicable to the development.

The events described in the request do not meet the requirements for force majeure under the rule. Therefore, staff recommends that the request for treatment of Providence at Ted Trout Drive under an application of the force majeure rule be denied.

I’d be happy to answer any questions.

MR. GOODWIN: Questions?

MR. VASQUEZ: I’m sorry, Marni. Could you repeat what happens if we deny it?

MS. HOLLOWAY: If you deny the request, the owner still has an opportunity to get to placed-in-service by December 31 if they are able to gain temporary CO --
either complete COs or temporary COs on their buildings by December 31 of 2019.

MR. VASQUEZ: How close are they to making that happen?

MS. HOLLOWAY: I would suggest that they -- I’m sure there are a bunch of people back here who can answer that.

MR. VASQUEZ: Then in the next step you said something about turning back in the credits and then getting reissued?

MS. HOLLOWAY: If the Board determines that the applicant has met the requirements under the force majeure rule and decides to provide that relief, what we would do -- they would effectively return the credits to us. We would reissue a 2019 carryover allocation agreement, which would actually have a December 31, 2021, placed-in-service deadline.

The Board has the option to set a shorter deadline, if you feel that’s appropriate.

MR. GOODWIN: Other questions? No other questions? Do I hear a motion to hear comments? Do we have people who want to speak?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.
MR. GOODWIN: All those in favor, say aye.

(A chorus of ayes.)

MR. AKBARI: I’m Chris Akbari. I’m the president and CEO of ITEX. We’re the developer for this project. We did get a late start on this project. Without a doubt we did, but we went through several difficulties that got us there.

Number one, Hurricane Harvey sent the construction costs up substantially. Over 25 percent they were increased. In addition to that, we also had an equity partner signed out. We had Hudson Housing that was signed up with us, and when they saw the significant cost increases, they said, Go out and try to find a solution.

We worked for several months, and yes, it did take 21 months for us to figure it out. But that included replacing the equity partner, getting a new lender, starting construction before we actually closed on a new equity partner, our company bridging the gap by putting in an additional $300,000 cash. I

And it really was a very difficult project for us to get started, but that’s just one thing. What has happened since we closed is even more disastrous. We’ve had significant rain delays through the construction project.

In fact, our contractor, who’s here today,
he’ll explain to you that we had a schedule that had us to
deliver the buildings on time, and we never intended to
make a request to you guys.

What happened is that we had 90 inches of rain
since construction started. We had Tropical Storm Imelda
affect this county. We also have had 65 rain days that
have affected this project. So what we did, we went and
met with the contractor and we said, we have to get this
done. We’ll commit another $300,000 for you to go out and
get more workforce and push this with 24/7 work. And
actually since October 1, they have continued the
progress.

Now, what we’re asking for is to allow for
these units that are almost done -- only 15 percent left
to be completed. There’s 76 of them. 100 percent of them
are for the benefit of seniors in Angelina County that are
low-income and they need better housing.

We’re asking for the Board to approve our
request and help the seniors and help this project get
across the finish line. Thank you.

MR. GOODWIN: Any questions?

MR. VASQUEZ: So if we approve this, when is
the project going to be complete and put in service?

MR. AKBARI: Our contractor says that he can
finish by the second week of February. I think it would
be reasonable to give us until March 31, and we should be able to get it done by then.

As I said, we’re 85 percent complete today.

That would give us a buffer for any additional rain days.

MR. VASQUEZ: So by end of Q1 2020?

MR. AKBARI: Yes, sir.

MR. GOODWIN: Marni, I have a question. Does the application quote the rain days that this gentleman just referred to.

MS. HOLLOWAY: So the original request that was received by us back in September 5 did not discuss rain delays, but a number of those delays may have happened after that request was received.

MR. GOODWIN: It’s doubtful that 90 inches happened between that date and today --

MS. HOLLOWAY: I don’t know.

MR. GOODWIN: Maybe a good portion of it did.

MS. HOLLOWAY: I can’t speak to that.

MR. GOODWIN: Okay. We had a number of other projects that were approved at the same time. Has anyone stated that they’ve had a 25 percent cost increase for materials? That seems -- at least, my experience -- we expected that when Harvey hit, but quite frankly, I didn’t see it happen.

MS. HOLLOWAY: There have been a small handful
that we know of who have experienced cost increases through applications that have come in for additional direct loan funds. Twenty-five percent sounds like more than what we’ve seen from these other applications. There have been some, but we haven’t heard from every application in the region that they had these issues.

MR. GOODWIN: When somebody comes in with that request, do you send it back to real estate analysis to verify their cost increases?

MS. HOLLOWAY: Yes.

MR. GOODWIN: Brent, could you address that question?

MR. STEWART: Yes. Hi. Brent Stewart, Real Estate Analysis.

We’ve seen costs all over the map in Houston. And some of them, the cost increases that we’ve underwritten have related to actual changes to the development because of cost increases where they’ve had to go in and kind of reshape their development plan to reduce costs.

We hear information on projects that costs have gone up; we hear others that haven’t. They’re generally the same type of projects, so you would expect those to both be moving in the same direction. We try to underwrite those transactions with signed-up construction
contracts, you know, firm-dead deals. It’s hard to argue those.

We know there’s some developments in Austin that are causing kind of a vacuum of stuff in Houston in addition to the hurricane stuff. We have a developer who did a transaction in Bastrop that found it was cheaper to pull people out of Houston than it was Austin, so there’s a sucking sound of subcontractors kind of in Houston.

Our research on commodities don’t show there’s been a huge increase in Houston with commodities.

MR. GOODWIN: And has your department reviewed this project and --

MR. STEWART: No, sir, it has not. I understand there’s an amendment request in at the same time, and we are underwriting that, but we’re not complete with that.

MR. GOODWIN: Okay. Any other questions?

(No response.)

MR. GOODWIN: Thank you, Brent. Next speaker?

MR. EWING: Good morning, Chairman Goodwin, Board. My name is Bill Ewing, Jr. I’m with the general contractor on this project. Our scheduled start date on this project was April 9, 2019, and our scheduled completion was November 30. We had a total of 236 days.
Our planned work schedule and staffing plan as we started this project was an accelerated schedule. We planned to have an on-site staff of five dedicated team members on site working six days a week and 10 hours a day, and we did have that.

To overcome these delays we have adjusted that schedule three times to finally include we have an onsite staff of nine; we’ve been working seven days a week, 12 hours a day, and a night shift as well.

There were a significant amount of delays on this project, and we have those in three categories: Weather, existing utility relocation, and building inspections.

First, for the weather delays, NOAA, the National Oceanic and Atmospheric Administration, allows for normal rain and weather delays in Hudson, Texas, Angelina County, and during the time of this project, during our time period, we totaled 68 weather delays associated with the 90-plus inches of rain above what was normal is 34 days, and those 34 days are days we could not have anticipated. That’s over a month out of our almost eight-month construction schedule.

Also, there was existing utilities that had to be relocated on this project. There was a city water main that went through two of our buildings that was not
located properly by the city engineer or the city as-build drawings. That water line had to be relocated back into the city easement, and that was a delay of 65 days before we could start two buildings on the project.

Second, there was a bank of utilities that serviced the neighboring properties. There was an existing transformer that had power service. There was a power pole that had internet and cable TV service, and there was a gas meter.

Those had to be rerouted by three separate utility providers and an easement to the neighbors to keep the utilities in service before we could remove those, and that took 111 days to get the outside utility providers to remove those. Those affected five building pads on the project before we could start five pads.

The last was city inspection services, and that’s somewhat due to the weather in one aspect. Our building inspector that was assigned to this project by the city is Mr. Curtis Dunne. He’s a very diligent and competent inspector; however, he requires the use of a walker to access the site to do his inspections.

He inspects the electrical, the plumbing and the structural, and after --

(Buzzer sounds.)

MR. GOODWIN: Three minutes. That just tells
you your time’s up. But go ahead and wrap up, if you
would.

MR. EWING: Yes, sir. He’s very diligent. But
six different times he had to wait sometimes two, three,
four, and six days to make inspections just because of the
muddy conditions on site. He could not get on site. That
was a total of 15 days.

The fire marshal -- there’s only one licensed
inspector for fire marshal in the city of Hudson. He’s
also the police chief. His mother passed away, and he was
off site and would not answer phone calls for 30 days. He
has to approve the fire sprinkler system before we can
install sheetrock and cover up the ceilings, and he was
gone for 30 days. That affected 14 buildings and that was
a total of 30 days.

But just in summary, we’re 86 percent complete
as of yesterday. And I’ve been doing this 35 years.
Without these delays, I know we could have finished this
project on time.

MR. GOODWIN: Any questions? Paul?

MR. BRADEN: So when you talk about the weather
delays, did you say there were 34 days above what is
considered normal, according to NOAA?

MR. EWING: Yes, sir. That’s all we were
claiming in our delays with the owner. There were 66
total days that we were affected by either rain or wet conditions where we could not work on the project.

MR. BRADEN: And when did Tropical Storm Imelda hit? I mean, is that because of that?

MR. EWING: No, sir. We had rain from the very beginning of the project. When we mobilized, we had two weeks of rain. Imelda was September, I believe, early September. So these are rain days going back to when we mobilized on the project, not just at the end.

MR. BRADEN: Okay.

MR. GOODWIN: Any other questions?

(No response.)

MR. GOODWIN: Next speaker?

MR. VASQUEZ: Mr. Chairman, could I ask a question? Are there going to be any speakers who are going to be against us -- would be against us approving this? Is everyone going to say the same thing? Please let us extend. I assume that’s --

MR. GOODWIN: Is there anybody that favors staff recommendation to deny?

(No response.)

MR. GOODWIN: Nobody? Okay.

MR. VASQUEZ: Then I guess I have a question that I don’t know who -- I don’t know if it’s Marni or Beau. So if we allow the extension -- and correct my
words if I’m -- you were saying it we have to -- then it becomes a 2019 allocation that allows them to go to end of 2021 for in service?

MS. HOLLOWAY: Correct.

MR. VASQUEZ: But we can get a shorter date?

MS. HOLLOWAY: Yes. You may.

MR. VASQUEZ: So we could say whatever they said, by --

MS. HOLLOWAY: Mr. Akbari mentioned the end of March.

MS. VASQUEZ: So we could say by end of second quarter, by June. We could reallocate?

MS. HOLLOWAY: Yes. With a shorter deadline.

MR. VASQUEZ: And with a June 30 or something, in case of -- and they’re 85 percent complete. They are targeting mid-February to go in service. I mean, just my perspective, if they weren’t as far along in the project, I’d be more hesitant to allow the reallocation.

MR. GOODWIN: It sounds like I’m going to make a motion to stop all the other speakers from coming up and saying the same thing. If you would, you’re free to make such a motion.

MR. VASQUEZ: Mr. Chairman, if I could be recognized to make a motion.

MR. GOODWIN: You are so recognized.
MR. VASQUEZ: I would like to make a motion that we approve the reissuance of the allocation for 2019, however put an in-service due-by date of June 30, 2020.

MR. GOODWIN: Do I hear a second?

MS. THOMASON: June?

MR. VASQUEZ: Well, they asked for March, I mean. I was --

MR. GOODWIN: Do I hear a second?

MR. BRADEN: I guess this is a point of clarification. I want to understand, so are we granting the force majeure?

MS. HOLLOWAY: Yes.

MR. BRADEN: And then extending the existing credits?

MS. HOLLOWAY: Yeah, they would technically be returning the credits and getting a new carryover agreement with a new deadline on it.

MR. BRADEN: Did we specify that the limitation of the carryover agreement is --

MS. HOLLOWAY: To June 30. Yes.

MR. GOODWIN: Okay. We have a motion. We don’t have a second.

MS. THOMASON: I’ll be a reluctant second.

MR. GOODWIN: A reluctant second. I think that’s a first for you. I will enthusiastically accept
your reluctant second.

Okay. Does anybody else want to speak? Any other questions?

You want to speak, Tamea?

MS. DULA: A legal question for Beau on this.

We have -- thank you very much -- a motion to approve the force majeure reissuance of credits. But if the vote says no, the rest of us -- if the vote taken is a negative vote, would the others have the opportunity to speak?

MR. GOODWIN: Absolutely.

MS. DULA: Thank you. That’s all I wanted to know.

MR. GOODWIN: Okay. A point-of-clarification question, very acceptable and very diplomatic.

Okay. We have a motion. No one else wants to speak to that motion?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed.

(No response.)

MR. GOODWIN: Okay. The motion passes.

Moving on to 18376 and 17700. Again, if anyone wants to speak to these next two, we would encourage you to come to the front.
MS. HOLLOWAY: I think these are going to be okay. The next application we’re discussing is number 18376. This is Lakeview Point Apartments. The development received an award of $1,500,000 of 9 percent credits in 2018 with a placed-in-service deadline of December 31, 2020.

On October 7 of 2019, we received a request for extension of the 10 percent test to December 10, 2019, which is one day prior to the last possible day allowed by Internal Revenue Code.

We received a request to extend the placed-in-service deadline under the force majeure rule on October 25, with a request that it appear on the November Board agenda. The request did not appear on the November agenda, and the meeting today is after the December 11 federal deadline.

The request indicates that force majeures triggered by changes in law, rules, or regulations -- particularly the City of Garland has requested a change to the access for the development and adopted a new transportation plan to mandate the extension of Zion Road.

The applicant has documented their work with the City of Garland over the past 22 months to negotiate and move this matter to resolution, and that whole timeline is in your Board materials.
The request includes letters from the lender and investor expressing support for this request, and in their letters both indicate that unless the deadline to place the development in service is extended, they will be unable to move forward with the project.

Staff believes that these events described meet the requirements of the force majeure rule. In order that the development owner not lose the award of 9 percent credits due to failure to meet the extended 10 percent test deadline, staff has executed a 2019 carryover allocation agreement prior to this meeting and now requests Board ratification of that agreement.

We recommend ratification of the action related to treatment of Lakeview Point Apartments under the application of force majeure rule be approved, along with the 2019 carryover allocation agreement with the 2018 QAP uniform multifamily rules and the 2019 program calendar applicable to the development. The new placed-in-service deadline will be December 31, 2021.

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

MR. BRADEN: I’ll make a motion to approve staff’s recommendation and approve ratification of their prior action.

MR. GOODWIN: Second?
MS. THOMASON: Second.

MR. GOODWIN: Okay. It’s been moved and seconded. Anyone want to speak to this?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay.

MS. HOLLOWAY: Okay. Next one, application 17700. This is the Terraces at Arboretum. This development received an award of $1,500,000 of 9 percent credits in 2017 with a placed-in-service deadline of December 31, 2019.

On November 21, we received a request to extend the placed-in-service deadline under the force majeure rule. In the request the development owner states that periods of severe weather have led to wet and flooded conditions at the site of the development.

The continuously wet conditions caused by the severe weather have delayed critical-path construction activities, including site work, site grading and excavation, underground utility installation, concrete slab and paving placement, wood framing and drying.
activities.

Per the request, there have been 93 days of work delays caused by the severe weather. In addition, the severe weather delayed installation of the dry utilities and therefore the discovery of the design coordination issue regarding dedicated three-phase service until late in the construction process.

Unit interiors were essentially complete and ready for turnover when this was discovered, and further delays have been caused by utility company schedules.

Staff believes that the events described in the request meet the requirements for force majeure and recommend that the request for treatment of Terraces at Arboretum under the application of the rule be approved with the 2017 QAP and uniform rules and the 2019 program calendar be applicable to the development, extending the placed-in-service deadline to March 6 of 2020.

MR. GOODWIN: Any questions? Do I hear a motion to approve staff’s recommendation?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any other discussion?

(No response.)

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

(No response.)

MR. GOODWIN: Okay.

MS. HOLLOWAY: Okay. Next one. Our next item is 7(e). This is Presentation, Discussion and Possible Action to adopt the 2019 Multifamily Program’s Application Procedures Manual.

Our statute requires that the Board adopt a manual to provide information regarding the administration of and eligibility for participation in the housing tax credit program.

The Department has created the multifamily program’s application procedures manual as a resource guide for applicants really under all of our fund sources, and the manual and its contents are not rules.

Staff has updated the manual to include the 2019 rule changes, including the addition of a new 1.4 item for reserving 2 percent of units for homeless populations added by the Governor.

Staff recommends that the 2019 multifamily program’s application procedures manual be approved.

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

MR. VASQUEZ: Move to approve.
MR. GOODWIN: Second?
MR. BRADEN: Second.
MR. GOODWIN: No further discussion?
(No response.)
MR. GOODWIN: All those in favor, say aye.
(A chorus of ayes.)
MR. GOODWIN: Opposed?
(No response.)
MR. GOODWIN: All right. Moving on to Item 7(f). Andrew is going to take that. Thank you, Marni.

MR. SINNOTT: Good morning, Chairman Goodwin, Members of the Board. My name’s Andrew Sinnott, Multifamily Loan Program Administrator.

Item 7(f) relates to possible action regarding approval of 2020-1 multifamily direct loan notice of funding availability for publication in the Texas Register.

So this is our annual NOFA in which we have typically been utilizing several fund sources, including HOME, TCAP repayment funds, National Housing Trust Fund and NSP Program income.

In terms of HOME, the Department has approximately $13,872,985 in program year 2018 and 2019 HOME funds available for multifamily activities, of which $4,733,439 will be available in the Community Housing
Development Organization set-aside for nonprofits that meet the CHDO requirements.

In terms of NHTF, should any funds remain from the 2020-2 multifamily direct loan NOFA which was approved by the Board last month and is currently open through January 6, 2020, should we have any funds from that NOFA, those funds will be made available in this 2020-1 NOFAS as well.

In terms of NSP 1 program income and TCAP repayment funds, we do not currently have any funds available for use under the 2020-1 NOFA. So as a result, the 2020-1 annual NOFA will begin with just the $13.8 million in HOME as the sole source of funds available.

In the past few years, we’ve started the annual NOFA with approximately 20- to $30 million, but because of such high demand in 2019, we’re beginning with a relatively small amount.

Just to give you all more background, in the past few years, we’ve typically awarded 10 to 15 deals under the annual NOFA with the total award amount ranging from 10- to $25 million annually.

Under the 2019-1 annual NOFA, we’ve awarded 23 deals, approximately $50.6 million, with the potential for two more deals being awarded at future Board meetings, which could bring the total dollar amount up to
56 million.

So you can see we’re taking a big leap -- we took a big leap with the 2019-1 NOFA compared to the previous NOFA.

MR. VASQUEZ: Will those other two deals go against this 13 million?

MR. SINNOTT: No. No.

MR. VASQUEZ: Okay.

MR. SINNOTT: The $13 million will continue outside of the funds that we have available into 2019-1 NOFA. So staff will continue to monitor demand moving forward and may make amendments to this NOFA at future Board meetings to allow for additional funds to be made available.

With that, staff recommends approval of the 2020-1 NOFA as presented today. Any questions?

MR. GOODWIN: Any questions? If not, do I hear a motion to approve staff recommendation?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: No further discussion?

(No response.)

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

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

(No response.)

MR. GOODWIN: Item (g).

MR. SINNOTT: Okay. So we’ve got two awards under Item 7(g). The first is for Laurel Creek Apartments, number 19053. So this application received an allocation of 9 percent housing tax credits and an award of $2 million in National Housing Trust Fund under the 2019-1 NOFA on July 25, 2019.

Subsequent to that July Board meeting, the 2019-1 NOFA was amended, which increased the maximum request under the supportive housing soft repayment set-aside to $3 million, which led to the applicant submitting an application requesting an additional 1 million to get up to that max $3 million amount.

The multifamily direct loan rules requires applications for developments previously awarded Department funds under any program to be found eligible by the Board.

And this application has indicated that additional NHTF will provide a hedge against factors such as rising construction labor cost beyond their control and unanticipated costs required by the City of Austin as they go through the permitting process as the criteria for the Board to consider in affirming their eligibility.
The applicant anticipates having substantially final construction costs within the next 30 days, which will prove up the need for these additional funds and allow for the Department to complete its re-evaluation of the transaction, so that the applicant and the Department can execute a contract and the Department can commit its 2017 NHTF funds by February 5, 2020.

So this potential additional $1 million award would utilize the 2017 program year funds for which we have to commit by February 5, 2020.

As a result of needing this additional time, extension of the contract execution deadline in the multifamily direct loan is necessary to allow for the Department to complete its re-evaluation of the transaction before executing the contract.

So staff recommends two things, with the understanding that if the applicant does not fulfill all conditions to enter into a contract with the Department on or before February 5, 2020, the applicant may lose access to the NHTF funding in whole or in part, because HUD requires that the Department commit its 2017 NHTF by that date.

So the two things that we’re recommending is approval of additional award of $1 million in NHTF for the 2019-1 NOFA and that an extension of the original contract
execution deadline, in accordance with the direct-loan rule, February 5, 2020.

So those are the two things we’re recommending, conditioned also on the applicant getting us the cost documentation that we need to re-evaluate the transaction by January 8, 2020.

MR. GOODWIN: And this is on Laurel Creek?

MR. SINNOTT: Correct.

MR. GOODWIN: Not on Roosevelt?

MR. SINNOTT: Correct.

MR. GOODWIN: Okay. Any other questions?

MR. VASQUEZ: I have several.

MR. SINNOTT: Sure.

MR. VASQUEZ: Okay. So this additional million dollars, we’re saying it’s to cover increased costs?

MR. SINNOTT: Correct. And those increased costs are kind of prospective at the moment, and we’re giving the applicant until January 8 to give us firm construction costs that prove up the need for this additional $1 million.

We can look back through this applicant’s other deals in Austin, and it’s really not unusual to see increases of 1- to $3 million to construction contract from the time they get the original 9 percent allocation.

MR. VASQUEZ: Is there any requirement for them
to put in more equity in the project? For us to give more money, they come up with more money?

MR. SINNOTT: Not under this Board action and not under the rule, but it’s not outside your ability to do that.

MR. VASQUEZ: And we’re calling this a direct loan, but in reality this is another one of these free money deals with 0 percent interest for 35 years, as I read this?

MR. SINNOTT: I believe that’s the case. Yes. Deferred payable is the loan structure on this one. So no payment would be due for the 35-year term as long as they continue to maintain the property and it’s in good standing with the requirements of the land use restriction agreement.

Then at the end of 35 years, assuming they’re still the owner -- if they transfer ownership, it comes due immediately. But assuming they’re still the owner in 35 years, it becomes due. That $3 million becomes due and payable.

And again, this is serving a supportive housing population. This is kind of how we structured this set-aside and how we’ve both in the NOFA and the rule.

So it’s to provide -- basically because these units can’t support any debt service. That’s why we’re
kind of giving them these loan structures -- make these
loan structures available to these types of applications.

MR. VASQUEZ: If the cost only increased
$200,000, then we only give 200-?

MR. SINNOTT: Exactly. Yeah.

MR. VASQUEZ: Okay. So it’s going to be we
give a million and then they keep $800,000 of money to use
someplace else.

MR. SINNOTT: And since speaking with the
applicant, it sounds like they’re pretty close to getting
firm construction costs and they’re already -- from
they’ve seen so far -- what the contractor’s shown so far,
they already have a million dollars in increased costs.

MR. GOODWIN: All good questions.

MR. BRADEN: And the source of this funding is
federal money from 2017 program?

MR. SINNOTT: Right. So it’s National Housing
Trust Fund, the block grant that we get from HUD, the
annual block grant. And this 2017 funding has a February
5, 2020, committed deadline.

MR. BRADEN: So if we don’t make this loan, are
there other people lined up to get this, or is pretty much
we’re going to lose that money?

MR. SINNOTT: There’s -- the award after this
could potentially help in meeting that 2017 commitment
deadline. There’s another award that could potentially
come to the Board next month that could help with meeting
that commitment deadline.

MR. BRADEN: But there’s still funds available
for those additional awards?

MR. SINNOTT: Yes.

MR. BRADEN: So if we don’t make it, we might
end up very well losing -- the State of Texas losing this
federal money.

MR. SINNOTT: Potentially. Yeah.

MR. GOODWIN: Any other questions? If not, do
I hear a motion to accept staff’s recommendation on 19053?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Did you want to speak?

MS. THOMASON: Sorry. I just --

MR. GOODWIN: Motion’s been made and seconded.

Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)
MR. GOODWIN: Okay. 19508.

MR. SINNOTT: So this is the second award under 7(g) for Roosevelt Gardens, 19508. This application requested $2 million in direct loan funds under the 2019-1 NOFA for Roosevelt Gardens, an existing multifamily property here in Austin.

It is proposing to demolish 22 units and construct 40 units on the same footprint; also, again supportive housing population.

The property is and will continue to be subject to a federally funded Housing Opportunities for People With AIDS, HOPWA, contract with the City of Austin, that requires the property to have preference for people living with HIV and AIDS, and NHTF and HOME match units will also have this preference.

This application requires the Board to do two things in order for it to receive an award. First relates to owner equity. As a result of the direct loan being the only source of Department funding for this application, the applicant was required to provide equity in an amount not less than 20 percent of total housing development cost, with the Board having the ability to approve less than 20 percent on equity if the reduced level of equity is considered sufficient to provide reasonable assurance of the owner’s ability to complete construction and...
To that end, the applicant has provided evidence of $5 million, which is approximately 63 percent of total housing development cost, and sought financing primarily from the City of Austin at $218,770, which is approximately 2.8 percent of total housing development cost in owner equity as a way to provide reasonable assurance of the owner’s ability to complete construction and stabilization timely.

They’ve also provided documentation confirming liquid assets of approximately 10 percent of total housing development costs that can be made available, if necessary.

Second thing that requires Board approval in order to move forward with the award relates to the appraisal requirements. The direct loan rule requires an as-completed appraisal for applications proposing new construction that results in total repayable loan to value of not more than 80 percent.

The applicant provided an as-is appraisal that estimates the market value of the current 50-year-old 22-unit property at $2.25 million.

As a result, the applicant has provided a waiver request of the direct loan rule -- that part of the direct loan rule in accordance with 10 TAC 10.207, stating that total repayable loan to value is at 78 percent based
on the as-is appraisal and that the total repayable loan
to value for the Department’s loan will only decrease once
the property is demolished and 40 new units are
constructed.

      Staff believes that the risk that is intended
to be mitigated by the direct loan rule with respect to
the appraisal requirement is being mitigated by the
reasonable expectation that the post-demolition and new
construction value of the property will significantly
exceed the current as-is value that shows the Department’s
loan at 78 percent loan to value currently.

      Additionally, staff believes that moving
forward with this award will allow the Department to
fulfill its obligations under Texas Government Code with
respect to addressing homelessness through interagency
efforts.

      Should this application be recommended for
award, 14 of the 40 units will be restricted with National
Housing Trust Fund income and rent restrictions.

      With that, staff recommends the Board approve
the lower amount of owner equity being provided and the
waiver requested on the appraisal requirements and award
this application $2 million in NHTF.

      Then similar to the previous award
recommendation, if the applicant does not fulfill all
conditions to enter into a contract with the Department on or before February 5, 2020, as 2017 NHTF could potentially be a funding source for this application, the applicant may lose access the NHTF funding in whole or in part, because HUD requires the Department commit its 2017 NHTF grant by that date.

MR. GOODWIN: Any questions?

(No response.)

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

MR. BRADEN: Move to approve.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Okay. Anyone want to speak to this?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you, Andrew.

MR. SINNOTT: Thank you. Then it looks like last thing here is Item 8(a). That’s next.

So Item 8(a) relates to the possible action on an order adopting a repeal of 10 TAC Chapter 13, the
Multifamily Direct Loan Rule, and an order adopting the new 10 TAC Chapter 13 for its publication in the Texas Register and a substantial amendment to the one-year action plan.

So this rule was previously presented to the Board’s Rules Committee and the full Board as a draft rule back in October. Public comment was accepted between October 14 and November 14, with the Department receiving several comments from two commenters.

The comments primarily related to three aspects of the proposed rule: owner equity requirements, revised waiver limitations and loan structure. With regard to the owner equity requirements and waiver limitations, staff believes the rules already addressed the commenters’ concerns.

And then with regard to the loan structure comments, staff does not believe the Department has any flexibility to accommodate the pass-through loan structure that the commenter requested that be available under the multifamily direct loan rule, for a few reasons.

One, federal rules require a written lease between the tenant and the owner of the rental housing assisted with HOME and NHTF, which prohibits the Department from making direct-loan awards to any entity other than the development owner.
Additionally, the written agreement requirements for HOME and NHTF further discuss the Department’s ability as the grantee or participating jurisdiction to directly ensure and monitor the performance of owners of rental housing.

And then beyond the federal prohibitions on using pass-through financing structure, Texas Government Code requires income and rent restrictions to be enforceable by the Department.

So in order to ensure any restrictions under a contract or land use restriction agreement are enforceable, it’s our opinion that these agreements must be with the development owner.

Beyond that, there were some nonsubstantive corrections and clarifying changes made to the rule since the Board last reviewed this document last October.

Should the rule be adopted today, it will go into the Texas Register and the Department will submit a substantial amendment to the 2019 one-year action plan previously submitted to HUD as a result of a change to the method of distribution for NHTF. Those are changes in 13.4 and 13.5.

MR. GOODWIN: Any questions for Andrew? If not, do I hear a motion to accept staff’s recommendation for Item 8(a)?
MS. THOMASON: So moved.

MR. GOODWIN: It’s been moved. Do I have a second?

MR. VASQUEZ: Second.

MR. GOODWIN: Okay. Moved and double-seconded.

So now any other discussions?

(No response.)

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

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Moving on to 8(b). Good morning.

MS. BOSTON: Hi. Good morning. Board Members, I’m Brooke Boston, Director of Programs. I’m presenting to you on Item 8(b) relating to the Department’s rule for our appeals process.

I would note for you in advance that this is the appeals process for everything except competitive tax credits and things that are layered with competitive credits; those are under the QAP. So this is for everything else.

In the fall we brought this rule to you as a draft to be released for public comment. The primary changes being proposed included a citation that needed to
be updated to align with changes in the QAP and multifamily rules, a revision to clarify the admissibility of documentation that was not originally part of an application, and removal of language relating to the ability of the Board to "overturn" a previous Board decision.

The public comment we received on this focused on two areas. The first was that the commenter requested that the seven-day time period in which an appeal must be filed by an appellant be extended to 14 days.

However, the deadline for appeal in this rule is patterned after the appeal rule in the QAP for the tax credit program, which takes its seven-day requirement from statute.

Having the same timing and deadline in both rules is intended to decrease potential confusion about appeal timing, so we did not recommend changing that.

The other comment was in opposition to the deletion of a clause that had provided the Board ability to revisit a final decision of the Board for good cause within 45 days of the Board decision.

The commenter believed that there may be times when the Board makes a decision that will subsequently discover was incorrectly rendered due to error in fact or law.
However, the concern with the language at TDHCA and the reason for its deletion is that it creates the appearance of another level of appeal and would create a potential that people would feel like they needed to wait 45 days after a Board action to make sure they could really count on that Board’s action.

So we felt like it was being eliminated in the interest of balancing the appropriate process with the accurate and final decision making. So ultimately no changes were made in that request as well.

The rule is made available for public comment through the 21st. We recommend approval of the rule as presented in your Board materials.

MR. GOODWIN: Any questions? Do I hear a motion to approve staff’s recommendation for Item 8(b)?

MR. VASQUEZ: Move to approve staff’s recommendation.

MR. GOODWIN: Second?

MS. THOMASON: Second.

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

Any further discussion?

(No response.)

MR. GOODWIN: If not, all those say -- signify your approval by saying aye.

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

(No response.)

MR. GOODWIN: Okay. 8(c).

MS. BOSTON: Item 8(c) relates to our rules that address the Department’s affirmative marketing requirements and written policy and procedures.

While historically part of the compliance rules, the affirmative marketing requirements and written policy and procedures are now being handled separately.

This is because oversight of those two activities and their associated review process have been moved organizationally within the Department from the compliance division to the fair housing data management and reporting unit.

As a result, we wanted to separate those two sections out as part of the compliance rule since they’re not directly under compliance anymore.

With the change in the rule location, minimal edits were also proposed. In particular, the Department modified the occupancy standard in response to concerns we’d had from development owners and potential tenant complaints.

In addition, you may remember at our meeting last month there were comments made about this rule, and it was pulled. We have addressed those concerns and
believe the draft presented today is now ready to go out for comment and that the people who made the comments last meeting are satisfied with the version of the rule.

Once approved, it will still go out for public comment from December 27 to January 27 and will return to the Board for final adoption. I’m happy to answer any questions.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: If not, do I hear a motion to accept staff’s recommendation for Item 8(c)?

MR. BRADEN: So moved.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Okay. Any further discussion?

(No response.)

MR. GOODWIN: If not, signify by saying aye if you approve.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Moving on to Item 8(d). Thank you, Brooke. A return performance.

MR. REID: Yes. 8(d), Gavin Reid, Community Affairs again. Item 8(d) describes the adoption of
revisions to Chapter 6 of the Texas Administrative Code.

Chapter 6 comprises the rules governing the Community Affairs programs, which include the community services block grant, community energy assistance program and the weatherization assistance program.

Staff recognized the need for revisions to this chapter to improve clarity, remedy discrepancies, reorganize subdivisions, and streamline the crisis assistance activity and correct other identified areas of concern.

In September, the Board approved the proposed rules for public comment, and comment was accepted for 32 days. Staff reviewed all comments received and provided a reasoned response to each.

As a result of comments received, changes to the rules were made and are reflected in the adopted rules in your Board materials before you today. If authorized by the Board, we will proceed to publish the adopted rules in the Texas Register with an effective date of January 1, 2020.

Thank you, and I’m available for any questions you might have.

MR. GOODWIN: Any questions?

(No response.)

MR. GOODWIN: Do I hear a motion to approve
staff’s recommendation for Item 8(d)?

MR. VASQUEZ: So moved.

MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: All in favor, signify by saying

aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you, Gavin.

MR. REID: Thank you.

MR. GOODWIN: Patricia. Item 8(e).

MS. MURPHY: Good morning. Patricia Murphy, Director of Compliance. Item 8(e) on your agenda is proposed amendments to sections of the compliance rule, which is found in Subchapter F of the Department’s multifamily rules.

These rules were on the October 10 Board meeting agenda and tabled to allow staff to meet with stakeholders and explain the proposed changes.

A roundtable was held on October 21, 2019. The rules were also on the November 7 Board meeting agenda, but they were tabled at that time to address the fair housing stuff.

In January of 2019, the current compliance
monitoring rule was adopted by the Board after a comprehensive rulemaking process where the entire rule was repealed and replaced.

Once we started monitoring under the current rules, we recognized the need to change some things, and most of the proposed changes today are just kind of clean-up items.

However, there are two proposed changes before you that could generate some comment, so I’d like to take a minute to give you some detail about those items.

One of the proposed changes is in the section of the rule regarding utility allowances. All of the multifamily programs require an estimation of how much a tenant pays for utilities, which is referred to as a utility allowance.

The utility allowance is deducted from the rent limit to determine the maximum amount of rent an owner can charge the household. So if the rent limit’s 900 and the utility allowance is 75, the owner can charge the tenant no more than 825.

The higher the utility allowance is, the less rent the owner can collect from the household, and the lower the utility allowance is, the more rent the owner can collect from the household.

Staff doesn’t want the utility allowance to be
high or low, but we want it to be correct or as close to correct as possible. All the methods are an estimate and none of them are perfect.

We believe the change we’re proposing today will help get the estimate closer to correct. The change will impact methods where an owner picks a rate plan used to calculate the allowance.

Areas with deregulated utilities use the Power to Choose website to determine available plans. The current rule allows an owner to use any rate plan available that provides services to the building.

Some of the available plans provide a promotional rate, and so it’s that’s like a term of three to six months, and after that term, the rate increases.

Since the utility allowance only needs to be updated once a year, the proposed change requires the use of a rate plan that has a term of 12 months. This may generate a slightly higher utility allowance, and staff’s proposing this change because we believe it’s closer to correct.

The other significant proposed amendment is in the section regarding special rules about rent. The proposed change would prohibit owners from increasing rent during a lease term.

Some owners enter into leases with residents
for said amount of rent, and then they have the households sign an addendum that allows the rent to be increased during the lease term if the utility allowance goes down or if the rent limits go up.

So suppose you entered into a lease for 12 months beginning in January for $800. This year, the new income and rent limits came out April 24 and most areas of the state saw an increase. So if you signed one of these addendums, probably around June, the owner would contact you and would increase your rent.

When owners do this, it causes lots and lots of resident complaints, and a lot of those complaints come from people on a fixed income, seniors with social security and have a very tight budget. And we’re proposing that this be disallowed and that owners would be allowed to increase rents, but only at lease renewal.

There are other sections that are proposed for amendment that I’m happy to tell you about, but those are the two big changes that I think might generate some comment. Any questions?

MR. GOODWIN: Any questions?

(No response.)

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

MR. BRADEN: So moved.
MR. GOODWIN: Second?

MS. THOMASON: Second.

MR. GOODWIN: Any further discussion?

(No response.)

MR. GOODWIN: Hearing none, all those approved, so aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Hearing none.

We pulled Item 8(f), so we have reached a point in the agenda where it is appropriate to bestow great praise on the outgoing chairman, and lavish gifts. The more expensive, the more appreciated.

MR. WILKINSON: I think we might have a public comment about another issue besides the awesome chairman that we’re losing today.

I’m going to start. Chairman Goodwin, thank you so much for serving, for leading this Board. I appreciate it. Thank you for hiring me.

MR. GOODWIN: Well, you’re quite welcome. Some lapses in judgment occur over time.

MR. WILKINSON: Best of luck to you. I know you’re not retiring, but you’re reducing your responsibilities so you have more time for your
grandchildren and all that.

    MR. GOODWIN:  Exactly.

    MR. WILKINSON:  So now you all have to watch me dig out presents and then hand them to him.

    MR. GOODWIN:  Oh, boy.  The more the merrier.

    MR. WILKINSON:  Flag flown above our state’s capitol.

    MR. GOODWIN:  Wonderful.  Thank you.

    MR. WILKINSON:  Proclamation from the Governor.

    MR. GOODWIN:  Well, thank you, sir.  The expensive ones coming now?

        (General laughter.)

    MR. WILKINSON:  The big gavel.

    MR. GOODWIN:  Oh, boy.  I’ve got a couple of granddaughters that I could use this on.

    MR. WILKINSON:  You can hang it on the wall.

    MR. GOODWIN:  Oh, how nice.  Thank you.  Thank you.

    MR. WILKINSON:  Flag certificate.  The card after the present.  Right?

    MR. GOODWIN:  If there are no items anybody wants to bring up for the agenda, I’ve got a few comments I’d like to make.

    It was five years ago this very month that I stepped into this Board with my first meeting with the
commitment to Governor Perry that I would serve for three months. In some ways it seems like just yesterday, and in others, it seems like a thousand years.

But seasons come and go, and the time is to end this one with me and TDHCA. I’ve been privileged to serve alongside a number of dedicated Board members previous to this Board, like Chairman J. Paul Oxer, Dr. Juan Muñoz, Tolbert Chisum and Tom Gann, all of whom I miss.

And I’m indebted to this current Board, an amazing group of men and women: Leslie and Asusena, who couldn’t be here today; Sharon, Paul, Leo, thank you very much for your support and everything that you’ve done.

All of you are stars, and I could not have done this job without you. You’re greatly appreciated, and it’s going to be the one aspect of this service that I’m going to miss the most.

Also, I’d be remiss if I didn’t acknowledge and thank Tim Irvine, our previous executive director, Mr. David Cervantes -- I haven’t seen David here this morning -- our temporary executive -- where’s David? Is David here? He was here. You know, lunch calls, so he did have a reason.

And as chair in this organization you have reason to interact with a great number of the staff members, and I have sung the praise of our staff out loud
and far and wide, but I want to give a special shout-out to Beau Eccles. Thank you for all your guidance, your counsel. It has been invaluable.

Marni Holloway, this tax credit thing is one of the most complicated. There’s a reason, I realize after serving this Board, why I’ve been in real estate for 47 years and never messed with affordable housing, because I’m not smart enough to figure out all these rules.

Homero, thank you for all your guidance and the way you’ve handled everything. Monica and Brooke, just absolutely terrific. This state is blessed to have you guys as the staff.

I’m sure there are a lot of other staff members that are deserving of that same praise that I just haven’t had the opportunity to interact with.

Bobby, I’m confident that the agency is in great hands with you. I remember the first time I met you and we walked out of your office and Tim Irvine looked at and said, They’re not many people in the Governor’s office that understand this agency the way that Bobby does.

And it’s been a privilege to work with all of you, alongside of you, and I know they will all feel the same way about working with you in the future.

You know, I look back over these last five years, and I’m amazed at what we’ve done, besides speeding
up the Board meetings.

(General laughter.)

MR. GOODWIN: Listen to some of these achievements. Obviously they’re not mine but ours as a group together. Almost 33,000 households have become homebuyers through our down-payment assistance program. Homebuyer mortgage products, that’s just something that’s very near and dear to my heart.

We financed new construction and rehabilitation of more than 57,000 affordable housing units. We provided critically needed community services to almost 683,000 homeless persons. Low-income households were helped with paying their utility bills or weatherizing their homes to the tune of not population, but 1.8 million households.

And this is just part of what we’ve accomplished together. In summation, we’ve committed around 7 billion in state and federal funds throughout this five-year period. That is really something that I’m very proud of and I know my fellow Board members are very proud of.

We’ve done good work together here, and I’m confident it will continue after I’m gone. I want to thank you and make my last act to get one of my most enjoyed acts out: entertain a motion to adjourn.

MS. THOMASON: So moved.
MR. GOODWIN: So moved. And seconded?

MR. BRADEN: Second.

MR. GOODWIN: We are adjourned. Thank you very much.

(Whereupon, at 11:10 a.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF: TDHCA Board meeting
LOCATION: Austin, Texas
DATE: December 12, 2019

I do hereby certify that the foregoing pages, numbers 1 through 93, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Elizabeth Stoddard before the Texas Department of Housing and Community Affairs.

DATE: December 18, 2019

(Transcriber)

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