TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA WEBCONFERENCE

Thursday,
April 23, 2020
9:00 a.m.

MEMBERS:

LESLIE BINGHAM, Vice Chair
PAUL A. BRADEN, Member
SHARON THOMASON, Member
LEO VASQUEZ, Member

BOBBY WILKINSON, Executive Director
INDEX

AGENDA ITEM                                   PAGE
CALL TO ORDER                                  9
ROLL CALL                                     9
CERTIFICATION OF QUORUM                      9
Pledges of Allegiance                        9
Resolution recognizing May as Community Action 10
    Month                                    
Resolution recognizing May as National Mobility 12
    Awareness Month                         
CONSENT AGENDA                                16

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
      January 16, 2020                         

ASSET MANAGEMENT
b)    Presentation, discussion, and possible action
      regarding a Material Amendment to the Housing
      Tax Credit Application
      17081 Palladium Denton Denton
      19234 The Residences at Alsbury Burleson  

c)    Presentation, discussion, and possible action
      regarding a Material Amendment to the Housing
      Tax Credit Land Use Restriction Agreement
      96182 Crestview Apartments Longview
      00179 Highland Oaks Apartments Floresville 

d)    Presentation, discussion, and possible action
      regarding a Material Amendment to the Housing
      Tax Credit Application and Land Use Restriction
      Agreement
      97167 Columbia Luxar Townhomes Dallas      

e)    Presentation, discussion, and possible action
      regarding an increase to the Housing Tax
      Credit amount
      16409 Sansom Ridge Sansom Park
      17410 Lakecrest Village Apartments Houston
COMMUNITY AFFAIRS
f) Presentation, discussion, and possible action on the 2020 Department of Energy Weatherization Assistance Program State Plan and Awards

 g) Presentation, discussion, and possible action on release of the draft 2021 Low Income Home Energy Assistance Program State Plan for public comment

RULES
h) Presentation, discussion, and possible action on an order adopting amendments to 10 TAC §8.7, Tenant Selection and Screening; an order adopting amendments to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements; and directing their submission to the Texas Register for adoption

MULTIFAMILY FINANCE
i) Presentation, discussion, and possible action on the Second Amendment to the 2020-1 Multifamily Direct Loan Notice of Funding Availability

 j) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications
   20420 Pan American San Antonio
   20408 Vi Collina Austin
   20449 Emli at Pecan Creek Aubrey ETJ

BOND FINANCE
k) Presentation, discussion, and possible action on Resolution No. 20-013 regarding the annual approval of the Department’s Interest Rate Swap Policy

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

a) Outreach and Activities Report (March-April)

b) Report on the Department’s 2nd Quarter Investment Report in accordance with the Public Funds Investment Act

c) Report on the Department’s 2nd Quarter Investment Report relating to funds held under Bond Trust Indentures

ON THE RECORD REPORTING
(512) 450-0342
ACTION ITEMS

ITEM 3: SINGLE-FAMILY AND HOMELESS PROGRAMS

a) Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code to allow for payment of mortgages as a homelessness prevention activity under the Homeless Housing and Services Program

ITEM 4: BOND FINANCE

a) Report regarding the impact of the coronavirus on the municipal market and on the Department’s mortgage revenue bond programs

b) Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS - Oaks on Clark Apartments) Resolution No. 20-015 and a Determination Notice of Housing Tax Credits

c) Presentation, discussion, and possible action regarding the Issuance of Governmental Notes (Granada Terrace Apartments) Resolution No. 20-016 and a Determination Notice of Housing Tax Credits

d) Presentation, discussion, and possible action on Resolution No. 20-017 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single-family Mortgage Revenue Bonds, 2020 Series A and Single-family Mortgage Revenue Refunding Bonds, 2020 Series B (Taxable); approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject

ITEM 5: MULTIFAMILY FINANCE

a) Presentation, discussion, and possible action on the draft 2020 Multifamily National Housing Trust Fund Minimum Rehabilitation Standards for the 2020-2024 State of Texas Consolidated Plan and Opportunity for a Public Hearing

b) Presentation, discussion, and possible action on a Determination Notice for Housing Tax...
Credits and an Award of Direct Loan Funds
(#20401, Palladium Port Aransas, Port Aransas)

c) Presentation, discussion, and possible action on the process of staff determinations regarding points awarded under 10 TAC §11.9(d)(4) related to Quantifiable Community Participation

20004 Bamboo Estates Apartments Progreso
20012 Merritt Gardens Midland
20034 Ranch Court Apartments Andrews
20063 Azalea West Fort Worth
20066 Vista at Everest San Antonio
20069 Vista at Interpark San Antonio
20079 Fairview Terrace Brenham
20115 Avenue at Sycamore Park Fort Worth
20116 Dian Street Villas Houston
20120 Lennox House Grand Prairie
20123 Meander Park Granbury
20145 Gala at Ridgmar Fort Worth
20148 High View Place Killeen
20149 Provision at Fort Worth Fort Worth
20153 Provision at Bomber Road White Settlement
20155 Gala at Premier Plano
20158 Redwood Apartments Dumas
20167 Laurel Flats Tyler
20184 The Heritage at Abilene Abilene
20186 The Residences at Ridgehill Kerrville
20187 Cortez Plaza El Paso
20190 Nuestra Senora El Paso
20204 Heritage Senior Residences Houston
20210 Amber Ridge Apartments Angleton
20211 Ennis Trails Ennis
20216 Henderson Trails Henderson
20220 Trinity Estates Trinity
20222 Brenham Trails Brenham
20231 Walnut Trails San Angelo
20233 Quinlan Estates Quinlan
20267 Valley View Estates Fabens
20294 Sagebrush Apartments Brady
20295 Hwy 79 Senior Living Henderson
20317 Merritt Edge Midland
20344 Merritt Sunset Midland

d) Presentation, discussion, and possible action regarding requests for waiver of the Department’s Multifamily Program Rules

20001 Farm Street Village Bastrop
20128 OST Lofts Houston
20147 Kestrel on Cooper Arlington
ITEM 6: RULES

a) Presentation, discussion, and possible action on adoption of amendments to 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; §10.614 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 adoption in the Texas Register

b) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Subchapter C, Previous Participation and Executive Award Review Advisory Committee; and an order adopting new 10 TAC Chapter 1, Subchapter C, Previous Participation and Executive Award Review Advisory Committee and directing that they be published for adoption in the Texas Register

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

ITEM 7: AGENCY RESPONSE TO COVID-19 PANDEMIC AND ACTIVITY UNDER HR 748, CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT)

a) Presentation, discussion and possible action on the Programming of Community Services Block Grant funds available to Texas through the Coronavirus Aid, Relief, and Economic
b) Presentation, discussion and possible action on the Programming of Low Income Home Energy Assistance Program funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and Authorization to Award Such Funds and Update on Administrative Flexibilities

c) Presentation, discussion and possible action on the programming of Community Development Block Grant funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and authorization to award such funds and opportunity for Public Hearing on a Material Amendment to the 2019 One-Year Action Plan, and 2015-2019 Consolidated Plan

d) Presentation, discussion and possible action on the Programming of Emergency Solutions Grant (ESG) Program funds in the first allocation available to Texas through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and Authorization to Award Such Funds, and, if needed, an emergency rulemaking to accomplish this action

e) Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code for HOME Tenant-Based Rental Assistance for disaster response for qualified persons and households most impacted by COVID-19

f) Presentation, discussion, and possible action relating to the use of Reserve for Replacement Account funds as provided for in 10 TAC §10.404(a)(7)(C)(i) to address responsiveness for households impacted by the COVID-19 pandemic, and, if needed, an emergency rulemaking to accomplish this action

g) Presentation, discussion and possible action on waivers relating to certain requirements under 10 TAC Chapter 11, the Qualified Allocation Plan (QAP) and 10 TAC Chapter 13, the Multifamily Direct Loan (MFDL) Rule in relation to the Department’s response to the COVID-19 pandemic

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

EXECUTIVE SESSION none
OPEN SESSION --
ADJOURN 244
PROCEEDINGS

MS. BINGHAM: Welcome to the April meeting of the Texas Department of Housing and Community Affairs. We'll start by calling the meeting to order. I have the benefit of seeing all the Board members present, but we'll call names.

Sharon Thomason?

MS. THOMASON: Here.

MS. BINGHAM: Good morning. Paul Braden?

MR. BRADEN: Here.

MS. BINGHAM: And Leo Vasquez?

MR. VASQUEZ: Here.

MS. BINGHAM: Very good. We have 100 percent present today. That certifies quorum. Bobby, would you like to lead us in the pledges?

MR. WILKINSON: Yes, I shall. Board members, please remain seated.

(Pledges were recited.)

MS. BINGHAM: Thank you. So we have a couple of resolutions to read this morning, I think. Michael? Resolution recognizing May as Community Action Month.

MS. CANTU: Michael, we're working on unmuting you. This is Naomi Cantu, the moderator. Michael Lyttle, hold on one second.

MR. LYTTLE: Good.
MS. CANTU: All right, Michael. Go ahead.

Michael, we cannot hear you.

MR. LYTTLE: Can you hear me?

MS. CANTU: Yes, we can hear you now.

MR. LYTTLE: Hello?

MS. CANTU: Go ahead.

MR. LYTTLE: Okay. Thank you. The first resolution reads as follows:

"Whereas, Community Action Agencies are nonprofit and unit of local government organizations designated under the Economic Opportunity Act of 1964 to serve to ameliorate the effects of poverty and help persons experiencing poverty to transition to self-sufficiency;

"Whereas, Community Action builds and promotes economic stability and enhances stronger communities and the opportunity to live in dignity;

"Whereas, nationally Community Action has enhanced the lives of millions by providing essential, life-changing services and opportunities;

"Whereas, Community Action serves 99% of America’s counties in rural, suburban, and urban communities, and works toward the goal of ending poverty in our lifetime;

"Whereas, Texas has a strong vibrant network of Community Action Agencies to deliver Community Action to
Texans in need;

"Whereas, Community Action will continue to implement innovative and cost-effective programs to improve the lives and living conditions of the impoverished, continue to provide support and opportunities for all eligible households in need of assistance, and continue to develop and carry out effective welfare system reforms; and

"Whereas, the Texas Department of Housing and Community Affairs and the State of Texas support the Community Action network in Texas in working to improve communities and make Texas a better place to live not only during Community Action Month in May, but throughout the entire year;

"Now, therefore, it is hereby resolved, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate May 2020, as Community Action Month in Texas, and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of the hard work and dedication of Texas Community Action agencies.

"Signed this twenty-third day of April 2020."

MS. BINGHAM: Is there a motion, just so resolved?

MR. BRADEN: So moved.

MR. VASQUEZ: Second.
MS. BINGHAM: Second. Mr. Braden moved. Mr. Vasquez seconded. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Motion carries. Michael?

MR. LYTTLE: Okay. Madame Chair, yes. We have one more resolution, and this one reads as follows:

"Whereas, May 2020 is National Mobility Awareness Month, which is dedicated to showing the community at large how Persons with Disabilities can live active, mobile lifestyles, and raise awareness of the mobility solutions available in the local community;

"Whereas, a goal of the Texas Department of Housing and Community Affairs is to ensure that all Texans have access to safe and decent affordable housing;

"Whereas, it is the policy of the Department to support fair housing opportunities in the administration of its Single-family and Multifamily Programs, especially in regards to Persons with Disabilities accessing new home construction, home rehabilitation, housing vouchers, and rental assistance programs and services;

"Whereas, this year, the Department is celebrating 10 years of offering the Amy Young Barrier Removal Program, named in honor of the late advocate for Texans with Disabilities who helped shape the state-funded program to improve the quality of life for Persons with
Disabilities throughout the State of Texas;

"Whereas, the Amy Young Barrier Removal Program provides one-time grants of up to $22,500 for Persons with Disabilities, both renters and homeowners earning up to 80 percent of the Area Median Family Income, who need home modifications to increase accessibility and eliminate hazardous conditions in their homes;

"Whereas, since 2010, the Department through the Amy Young Barrier Removal Program has completed approximately $22.8 million worth of accessibility modifications on approximately 1,167 homes of Texans with Disabilities, such as constructing roll-in showers, installing shower wands and lever faucets, widening doorways, modifying kitchens and laundry rooms with accessible cabinetry and appliances, building ramps, and improving walkways with handrails, paving, and lighting to accommodate program participants' specific needs;

"Whereas, the Department applauds the nonprofit organizations and local governments around the state who have become Amy Young Barrier Removal Program Administrators and who advocate for their clients through quality construction, pragmatic solutions, and respectful service; and

"Whereas, the Department encourages Texans to explore the numerous TDHCA programs and resources related
to increasing and maintaining mobility during National Mobility Awareness Month and throughout the year;

"Now, therefore, it is hereby resolved, that in the pursuit of the goal and responsibility of increasing mobility opportunities of Texans with Disabilities, the Governing Board of the Texas Department of Housing and Community Affairs, does hereby celebrate May 2020 as National Mobility Awareness Month and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of National Mobility Awareness Month.

"Signed this 23rd Day of April, 2020."

MS. BINGHAM: Thanks, Michael. Do I hear a motion to so resolve?

MS. THOMASON: So moved.

MR. BRADEN: So moved.

MS. BINGHAM: I hear a motion from Ms. Thomason, and was that a second from Mr. Braden?

MR. BRADEN: Second.

MS. BINGHAM: Thank you very much, Mr. Braden.

All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Motion carries.

MS. CANTU: I want to --

MS. BINGHAM: Thank you, Michael.
Ms. Cantu: Naomi Cantu. I'm going to go over some housekeeping one more time. We do have a lot of questions in the question box, and I want to address them in a way that -- this is a comment here. So first, be advised that discussion today regarding Item 5(c) is solely about whether staff acted appropriately when awarding specific points for the applications.

This is not a public hearing, where the Department will take public comments from persons reporting or approving the construction of a development. Those hearings will be announced soon. You can, if you wish, wait until the very end of -- after Item 7(f), and give your comments of opposition.

As a reminder, this is how we are doing public comments today with today's virtual meeting. If you're submitting a comment in the question box, include the agenda item, your name, any organization you are representing, and your position which is either for or against the item.

Written statements other than your position of for or against will not be read or considered public comments.

Mr. Gagne: And in order to speak, wait until your agenda item is being discussed, and indicate that you would like to speak in the question box, and it goes
through our dashboard, as well as indicating you would like to share your comment. And a moderator will call on you and coordinate that, and once speaking, if you will state your name and state your organization, and speaking time is limited to three minutes or per the discretion of the Board Chair.

MS. CANTU: And we'll go ahead and go back. So as a reminder, this is not a public hearing regarding Item 5(c). This is -- those hearings will be announced at a later date. And with that, we're going to hand it back over to Vice Chairwoman Bingham.

Go ahead, please.

MS. BINGHAM: Thank you, Naomi. So we'll move on to the consent agenda. As the Board members have had an opportunity to review the consent agenda, would entertain any motion to move any of the items off of the consent agenda from Board members or staff.

(No response.)

MS. BINGHAM: And hearing none, we'll entertain a motion for approval of the consent agenda.

MR. BRADEN: Move to approve consent agenda.

MS. BINGHAM: Okay. Motion by Mr. Braden.

MS. THOMASON: Second.

MR. VASQUEZ: Second.

MS. BINGHAM: Second by Ms. Thomason. No
further discussion?

(No response.)

MS. BINGHAM: All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Okay. Motion to approve the consent agenda carries. We'll now move on to the action items. So Item 3(a), this "Presentation, discussion, and" -- I'm sorry. And I misread the -- great, great. Thank you very much.

Item 3(a) is "Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code to allow for payment of mortgages as a homelessness prevention activity under the Homeless Housing and Services Program."

Abby?

MS. VERSYP: Good morning, Board members. I'm Abigail Versyp, director of Single-family and Homeless Program, and I'm presenting the first of many action items today, Item 3(a), requesting a waiver of provisions of the Texas Administrative Code to allow for payment of mortgages -- sorry -- just one moment -- as a homelessness prevention activity under the Homeless Housing and Services Program, which is HHSP in our government acronym-speak.
Typically, the payment of mortgages is not eligible as a homeless prevention activity. For HHSP, we usually try, at the greatest extent feasible, to align the program requirements with the federal requirements for homelessness programs to ensure that funds are expended effectively and efficiently.

Often, HHSP funds awarded to the largest cities in Texas are utilized to offset their federal match requirement and to sustain existing programs with the work, if they need to. I think that we can all agree that we're in extraordinary times, and that the Department, in conjunction with our federal and local partners, are taking extraordinary measures to provide extraordinary relief to our citizenry that have been greatly impacted by COVID-19.

One extraordinary measure that's being proposed today is to allow for the payment of past-due mortgage loans, whether HHSP funds or under the homeless prevention activity. And really, it's excluded as an eligible cost for myriad reasons, but the economic impact of COVID-19 is far-reaching, and staff believes that the requested waiver applies to those mortgages not subject to the relief offered to mortgage holders in the CARES Act for those federally-backed mortgage would provide a concrete benefit to low- and moderate-income Texans to prevent potential loss of their place of residence.
The HHSP subrecipients located in the nine most populous cities in Texas could request, if the waivers were granted, to amend their existing HHSP contract to provide this relief under homelessness prevention if the waiver is granted.

I'm happy to answer any questions that you might have.

MR. VASQUEZ: I have a question. Just to clarify, when we state that they are -- these types of payments are generally excluded, those are our rules, or are those federal rules?

MS. VERSYP: Those are our rules. So this is State general revenue.

MR. VASQUEZ: Okay. All right. Great. So --

MS. VERSYP: So generally, this is a rental assistance program.

MR. VASQUEZ: Okay. All right. Thank you.

MS. BINGHAM: Any other questions from the Board members?

(No response.)

MS. BINGHAM: All right. Well, we may have comments. But we'll entertain a motion first on the Item 3(a). Is there a motion?

MR. VASQUEZ: I move to approve the staff's recommended funds on 3(a).
MS. BINGHAM: Mr. Vasquez moves. Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Thomason seconds. Are there -- Naomi, is there anybody teed up to comment?

MS. CANTU: There is no one who has submitted something in the question box regarding this item. We can go ahead and wait just one -- a few seconds, if anyone has any comments. I do remind you, to not raise your hand during this Board meeting.

You can only enter information into the question box, and we'll unmute if you would like to comment, or you can state whether you are for or against this item, and we will read that into the record. And does no one --

(No response.)

MS. CANTU: All right.

MS. BINGHAM: All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Item 4(a), bond finance. This is a "report regarding the impacts of the coronavirus on the municipal market and the Department’s mortgage revenue bond programs." And Monica, are you available?
MS. CANTU: Yeah. Unmuting Monica.

MS. GALUSKI: Good morning, Madame Vice Chair, members of the Board, staff. This is Monica Galuski, the director of Bond Finance. On the line with us and prepared to add to specificity and/or color to this discussion are several representatives from Stifel, the Department's municipal adviser.

I'll do a quick summary specific to the Department's single-family indenture, after which, I'll hand off to Gary Machak of Stifel. This is an action report item. So at its conclusion, staff recommends acceptance of this report.

In your Board items, page 1 of those items contains a snapshot of the assets and liabilities within the Department's two single-family indentures. As you can see, both indentures are financially sound, and both have mortgage-backed securities guaranteed by Ginnie, Fannie, and Freddie as the primary collateral for the Department's debt.

Irrespective of forbearance for other payment disruptions, those securities will continue to pass through scheduled principal and interest on the underlying mortgage loan, which means that that service on TDHCA bonds will continue uninterrupted. Please note on that schedule the second-lien mortgages are 30-year, non-amortizing, zero-
percent interest loans that are due on sale of the property or refinance of the first mortgage. They're not included in rating agency cash flows.

Repayments on the second loans are recognized as revenue when received by the related indenture. With respect to variable rate bonds, which is obviously one of the exposures with respect to the disruption of the municipal markets following the -- I guess, the initiation of the COVID-19 pandemic, the variable rate bonds currently represent only 11 percent of the bonds in the single-family mortgage revenue bonds indenture, and the Comptroller is the liquidity provider for those bonds.

Those are re-marketed weekly, and we've had no issue. All of those bonds have been successfully re-marketed since the initial market destruction. The rating agencies' stress tests related to variable rate debt are quite stringent and have recently been updated.

In fact, in connection with the planned issuance of single-family mortgage revenue bonds, which is Item 4(d) on today's agenda, both Moody's and Standard & Poor's have, this week, reconfirmed the raising on the single-family mortgage revenue bonds indentures. In summary, the Department's Home Ownership Program has seen no interruption, which is not to say that there won't be some negative impact to the indentures as a result of COVID-19.
We do expect a, you know, higher-than-usual foreclosure rate, which will reduce revenues within all the departments on mortgage loans. We expect a higher-than-normal loan cancellation or fall-out rate. But the overall impact is manageable, and staff continues to work close with the Department's municipal advisor, bond counsel, master servicer, underwriters, and other partners to ensure that the indentures remain financially sound and can be leveraged to lower- and moderate-income homebuyers, today, tomorrow and long into the future.

I'd be happy to answer any questions that you may have now, or I can go ahead and turn this over to Gary Machak at Stifel, and we could take all questions at the end, whatever the Board prefers. All right. I'm going to go and ahead and hand off to Gary --

MS. BINGHAM: Board, do you have any questions?

MR. VASQUEZ: Monica --

MS. BINGHAM: Thanks, Monica.

MS. GALUSKI: Oh, wait. I think Paul might have a question.

MR. BRADEN: Leo, you want to --

MR. VASQUEZ: I do. Yes. Monica, a quick question. You said, we expect higher-than-normal foreclosure rates. Did you also -- does that also imply we expect higher-than-normal forbearance situations before we
ultimately get to a foreclosure situation?

MS. GALUSKI: Yes, but as I stated earlier, yeah, we do expect -- we saw back with Hurricane Harvey, we had a fair amount of forbearances in the Houston area. So we are experienced working through that, and there were forbearances.

There were loans that obviously came out of forbearance relatively quickly, others that did payment plans. We had some loan modifications. That whole process is managed by our master servicer, Idaho Housing. But we participate, because we need to, you know, support these second loans and coordinate all of the, you know, activities related to the mortgage-backed securities and the second mortgages.

So based on what we saw with Hurricane Harvey and given the magnitude of COVID-19 and the employment destruction, yeah, I would say that we will see a higher-than- -- higher forbearances than we've ever seen. And we do expect some of those will become foreclosures.

So again, fortunately, we have mortgage-backed securities. So from an economic standpoint and the safety of the indentures, we're good, you know. Unfortunately, there's not much we can do on the other side of this.

MR. VASQUEZ: Right.

MR. BRADEN: I have one question as well -- a
couple questions. First of all, thank you for the back-up material and presentation. I thought it was very helpful and very insightful. In the materials, you indicate that our exposure associated with the mortgage-backed securities, the MBS, is limited to $750,000 escrow accounts.

Is that -- I assume that's an escrow account in the indenture?

MS. GALUSKI: No, it's -- that's not a limitation related to mortgage-backed securities specifically. That is a contractual -- so the requirement for us to potentially step in under certain conditions and advance payments with the -- under the forbearance situation is a contractual agreement with our master servicer.

So that's part of our contract with Idaho HSA, and it's within that contract that we capture closure at 750,000.

MR. BRADEN: So that's a contractual limitation, $750,000. Is that money or do you fund in a separate account, an escrow account?

MS. GALUSKI: Yes, it's funded in an escrow account, but it's held outside the indenture.

MR. BRADEN: And you indicated that any amounts advanced under that would be refunded to the Department?
So that must -- is that also a contractual requirement with the servicer that they'll pay us back if we have to advance that?

MS. GALUSKI: Yes, it is.

MR. BRADEN: Okay.

MS. GALUSKI: It is in our contract with Idaho.

MR. BRADEN: Okay. That's all I have.

MS. GALUSKI: Okay.

MS. BINGHAM: Monica, you said Gary Machak's available too?

MS. GALUSKI: Yes, please. Thank you. Naomi, can you pass off to Gary?

MS. CANTU: Yes, we can. We're looking for Gary.

MS. GALUSKI: Oh, he would be Barton Withrow's line.

MS. CANTU: Okay. Let's go ahead and unmute Barton Withrow. All right. You are unmuted.

MR. MACHAK: Thank you, Naomi --

MS. CANTU: Good morning, Gary.

MR. MACHAK: -- this -- good morning, and thank you, Board members, and Executive Director and staff and others listening. Gary Machak with Stifel, financial advisor to the Department. With me on the line are other members, TDHCA's financial advisory team: Liz Barber, who
specializes in financial products, and Lisa May, our housing underwriter. And then with me are Barton Withrow and Kathy Lee, who work with me on the day-to-day work for TDHCA.

Let me just give you a general -- really, an indication of what we have seen in the market, and the way of illustrating this is with the most liquid piece of paper in the market, and that's Texas -- the Texas Taxing Revenue Anticipation Note.

So a one-year instrument will mature in August of this year. Back in March 24, it was yielding at a high and trading at a high of 3.20 percent. Today, that yield is back down to much more normal, in line with that piece of paper, of 0.65 percent.

So as you can see, the destruction in the middle of March but the quick recovery to a more normalized market. You can see in the book, on page 3, also what happened to the Texas Department of Housing's variable rate debt.

The same phenomenon occurred. Yields went as high as up to 5 percent for that seven-day paper, but now, they're much more to a more normalized yield of 0.24 percent. Other items, just to bring your attention -- the rating agencies have recently reaffirmed the high ratings on your single-family indenture and they have also
reaffirmed the high ratings for other State agencies that
are looking to issue debt in the market here soon.

So your ratings of triple-A and double-A-plus
were reaffirmed. TxDOT's rating of triple-A were just
recently reaffirmed, and the Texas Higher Ed Coordinating
Board's ratings were just recently reaffirmed. So that
concludes my comments.

I appreciate the time to speak, and would be
happy to take any questions or to hand off a question to
one of my team members.

MS. BINGHAM: Thank you, Gary. Do the Board
members have any questions for Gary or the rest of the
team?

MR. VASQUEZ: Just sort of a general question,
and maybe you can answer this. But -- so how do -- how
does -- or do our Texas bonds stand relative to other
similar bonds issued from around the country? Are we still
head and shoulders above everyone else?

MR. MACHAK: We are. The -- as I said, the
Texas TRAN is the most liquid paper out there. It still
is. It is in high demand. All of our Texas bonds carry
high ratings. School districts, for instance, get the PSF
guarantee and get a Permanent School Fund guarantee, get a
triple-A.

So the high end of the yield curve has shown
greater demand. So we're -- we are -- our issues are selling well, compared to others that may be at an A rating or lower. There's still a bit of flight quality on the -- in the market, and so our -- we are outperforming.

MR. VASQUEZ: Okay. And just kind of a follow-up to that. If some of the lower-rated, similar types of bonds from around the country start having problems, do you think there would be a negative contagion effect adversely hitting our bonds, or is it -- you will just -- be applied to quality, like you say?

MR. MACHAK: No. We -- a lot depends -- and our market depends on supply and demand. We saw a lot of outflow from the market during that month of March. Since then, it has returned. The -- and so there's -- there have now been inflow of funds back into the market, and those have been at the A-rated or above.

So I would say that, you know, just depending on cash flow into the market, out of the market, we're going to be in a great position. Just as an example, as of yesterday, the -- our indicator -- the spread between a long term, triple-A general obligation bond -- that yield was at a 2.03.

A B-double-A was at a 3.33. So that's the amount of credit spread between those types of credits.

MR. VASQUEZ: Okay. Great. I guess I was just
concerned if there was factors out of our hands that -- as well as our reserves, and keeping up with everything, and it's something -- you know, what's the biggest concern we should have, due to external factors outside of Texas?

MR. MACHAK: Yeah. I think we're -- again, with our ratings, the strength of the indentures, the strength of the State, the Rainy Day Fund that the State has built up, the management of the State's finances, I think, all lend to -- if disruption, we will be viewed as a -- still be viewed as a worthy credit and very much attractive investment.


MS. BINGHAM: Do any of the other Board members have any questions for Gary or the team?

(No response.)

MS. BINGHAM: Okay. And Naomi, there's nobody teed up for any other comment on this item?

MS. CANTU: I don't see any other comment for this item. We'll give it just one minute in order for people to respond. And again, if you want to comment on an item, please put that in the question box when the agenda item has finished discussion, and include the agenda item, your name, your organization and your position for or against, or if you would like to speak, or use your camera.

And I'm not seeing anything for this agenda.
item, so I will mute it now.

MS. BINGHAM: Great. Thank you, Naomi. So we're just accepting the report. We'll entertain a motion to accept the report.

MR. BRADEN: Move to accept the report as presented.

MS. BINGHAM: Okay. Mr. Braden makes the motion.

MR. VASQUEZ: Second.

MS. BINGHAM: Is there a second? Mr. Vasquez seconds. No further discussion?

(No response.)

MS. BINGHAM: All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Thank you. Thanks, Monica, and thank you to Gary and Barton and the rest of the team for being available to report.

We'll move on to Item 4(b), "Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds for Oaks on Clark Apartments, Resolution No. 20-015 and the Determination Notice.

Teresa?
MS. CANTU: Okay. I'm working to get her up.
And --
MR. WILKINSON: Her audio is on.
MS. CANTU: Teresa, your audio is on. If you want to go ahead and --
MS. MORALES: Okay. Can you guys hear me?
MS. CANTU: Thank you.
MS. BINGHAM: We can hear you now. Go ahead.
MS. MORALES: Teresa Morales, director of Multifamily Bonds. Item 4(b) involves the issuance of multifamily revenue bonds by the Department for the acquisition and rehabilitation of 80 units in San Antonio, serving the general population with all units restricted at 60 percent of the area median income.
This transaction involves the issuance of tax-exempt bonds in an amount not to exceed $10 million and utilizes Fannie Mae's MTEB platform, where the bonds will ultimately be secured with an MBS. Until the loan is acquired by Fannie Mae, the bonds will be cash collateralized with proceeds from Wells Fargo, as the Fannie Mae lender.
The bonds are expected to have an interest rate of 2.15 percent, and after including servicing and guarantee fees, will have an all-in rate of approximately 3.35 percent, with a 16-year term and a 35-year
amortization.

There is a waiver request associated with this application that affects two provisions in the real estate analysis rule, and are more fully described in the underwriting report included in your materials for this agenda item.

Staff believes that the circumstances and set of facts with Oaks on Clark are unique and could not have been contemplated in the rule. This, combined with staff's assessment that the waiver meets the waiver provision under 10 TAC 11.207 of the QAP, forms the basis of staff's recommendation that the waivers be granted.

There is a modification to the conditions listed in the underwriting report that staff needs to make with this application, involving a rehab, a scope and cost review, or an SCR, report is required to be submitted with the application.

This application did include that report. However, it was determined by staff to be insufficient in certain respects and does not fully comply with the rule. Staff recommends that, as part of your motion today, that there be a change to the underwriting conditions to include this submission of a revised SCR report that is compliant with 10 TAC 11.306 of the QAP, including a revised SCR supplement.
Staff recommends approval of Bond Resolution No. 20-015 in an amount not to exceed $10 million and a determination notice of 4 percent housing tax credits in the amount of $597,284 and a condition to be included in an addendum to the underwriting report that reads as follows: "Revised program cost review that is fully compliant with Section 11.306 of the QAP, including a revised SCR supplement schedule."

MS. BINGHAM: Do Board members have any questions of Teresa?

(No response.)

MS. BINGHAM: We'll entertain a motion for staff's recommendation.

MR. BRADEN: Move to approve staff's recommendation.

MS. BINGHAM: Mr. Braden makes the motion.

MR. VASQUEZ: Second.

MS. BINGHAM: Mr. Vasquez seconds. So any questions, Board members?

(No response.)

MS. BINGHAM: Just wanted to make sure. Okay. And Naomi, any comment teed up?

MS. CANTU: I do not have any comment from this agenda item. Again, we are accepting comments in the question box, and we are on Item 4(b). If you have a
comment on 4(b), and you have -- would like to speak, please indicate in the question box, and if you have a written comment, and would like to see that in the record for or against, then we can read that as well.

But I do not have any comments in the time I was speaking, so I'm going to mute it.

MS. BINGHAM: Thank you. So staff's recommendation included those -- the unique circumstances for the two waivers, and also, the provision for requesting that a workout be included in that. There are no further questions?

(No response.)

MS. BINGHAM: All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Motion carries. Thanks, Teresa.

MS. MORALES: Uh-huh.

MS. BINGHAM: Do you -- Teresa, do you also have Item 4(c)?

MS. MORALES: I do.

MS. BINGHAM: Great. We're ready. 4(c).

MS. MORALES: All right. Item 4(c) involves the issuance of multifamily notes by the Department for the
acquisition and rehabilitation of 156 units in south Houston, serving the general population, with units restricted at 30 percent, 50 percent, and 60 percent of area median income.

This transaction involves the issuance of unrated, tax-exempt multifamily notes in the amount of $16 million that will be initially purchased by the Citibank Community Capital, who will be serving as construction and permanent lender.

The tax-exempt note will have two tranches. Tranche A, which will be used for construction and permanent financing, will be in the amount of 12.1 million, and Tranche B, used only for construction financing, in the amount of 3.9 million.

This transaction also includes 7.2 million in CDBGDR funds through Harris County. We've reflected the formula with this being a private placement for how the interest rate will be derived for both tranches, and the bond documents that are being approved today.

For purposes of our underwriting, we've used 3.67 percent. The bonds will have a 30-year term and a 35-year amortization. Staff recommends approval of Bond Resolution No. 20-016, in the amount of $16 million and a determination notice of 4 percent housing tax credits in the amount of $882,061.
MS. BINGHAM: Okay. Thank you, Teresa. Board members don't have any questions of Teresa. We'll entertain a recommendation to approve staff's recommendation.

MR. BRADEN: Move to approve.

MS. BINGHAM: Mr. Braden makes the motion.

MR. VASQUEZ: And I'll second that, and I have one question.

MS. BINGHAM: Excellent. Mr. Vasquez seconds. And discussion, questions? Mr. Vasquez?

MR. VASQUEZ: Okay. Just -- you mentioned the funding. Is that -- to release funds from Harris County, is that already committed, I mean, locked in? Or were they applying for it? Or how is that working?

MS. MORALES: They have already applied for those funds and we do have a commitment from Harris County reflecting that. They are still in the process of drafting all of those loan documents, and then they'll ultimately go back to Harris County for final approval of those loan documents.

But those funds have been committed to this transaction.

MR. VASQUEZ: Okay. So all of ours -- what we're voting on now is still contingent upon finalizing, locking up the Harris County funds. Correct?
MS. MORALES: That -- correct. At the time that we close on the bond issuance, we will have approval -- or we'll be closing simultaneously with the CDBG funds. So all funding sources will close simultaneously.

MR. VASQUEZ: Okay. Great. Thanks.

MS. BINGHAM: And no other questions? Naomi, nobody's in line for comment on Item 5(c) -- I mean, 4(c)?

MS. CANTU: Yeah. I do have some comments from this, and we are working to identify the people who would like to comment. So we have a list of people. I'm going to read their names now, and hopefully, they can hear their names, and then let me know when they are ready in the question box.

So we have Vicky Wright, Victoria Collier, Anita Branch, Deborah Hunt, and Jesse Grimmer, and Linda Allen, and Derek Carter. No. Derek Carter is on 4(d), sorry. So again, Vicky Wright, Victoria Collier, Anita Branch, Deborah Hunt, Jesse Grimmer, and Linda Allen.

They all signed up to say that they wished to speak on this agenda item. We are looking. I do see Derek Carter. Again, we're not taking written public comments other than for or against. Derek, if you would like to speak?

Victoria Collier is also on line. First, we're going to go to Derek. Derek, let us know if you would like
to speak?

(No response.)

MS. CANTU: It looks he might be commenting on a different item. Victoria Collier is next. Victoria, just let us know -- it's on, if you would like to speak. We're going to go ahead and unmute her. You are unmuted.

MS. COLLIER: Yeah. I would like to --

MS. CANTU: Unmuted.

MS. COLLIER: Yes. I would like to speak.

Thank you so much. I simply want to note that I am against the proposed project, 20123, for Meander Park project. Board Chair, may I mention our petition at this point, or is that only at the end?

MS. CANTU: Victoria Collier, this is not the item under discussion right now.

MS. COLLIER: Okay.

MS. CANTU: You're speaking on a different item.

Yeah.

MS. COLLIER: All right. I'll wait till the end. Thank you.

MS. CANTU: Thank you. Okay. I do have Sarah Andre, who said she is with Structure Development. She is the consultant for the development, and she's in favor of Item 4(c). So again, Sarah Andre. She's with Structure Development. She is the consultant for the development,
and she's in favor of Item 4(c).

So we still have Vicky Wright, Victoria Collier, who would like to speak on a different item, it looks like, Anita Branch, Deborah Hunt, Jesse Grimmer, and Lisa Allen -- all signed for 4(c). I don't see any of them saying that they want to speak on this item.

So we're going to go ahead and move on in the Board meeting. Oh, and Vice Chairwoman Bingham, we do have Representative Tinderholt on the other line, so after this agenda item, we can pass it on to him.

MS. BINGHAM: Awesome. Fantastic. Let's just then -- so we have a motion and a second on Item 4(c). We'll take a vote now. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Thank you very much, Teresa.

MS. MORALES: Thank you.

MS. BINGHAM: Bobby, will you remind which agenda item the state representative would like to speak on?

MR. WILKINSON: Yes. It's 5(c). And then Application 20147, Kestrel on Cooper Arlington.

MS. BINGHAM: Great, great. Awesome. So we're
going to move to Item 5(c)?

MR. WILKINSON: Yes.

MS. BINGHAM: Presentation, discussion and possible action regarding request for a waiver of the Department's Multifamily Program rules. And we're going to hear comments on Application 20147, Kestrel on Cooper. Naomi, you said the Representative is available?

MS. CANTU: Yes.

REP. TINDERHOLT: I am here. Can you hear me okay?

MS. BINGHAM: We can hear you.

REP. TINDERHOLT: Okay. Good.

MS. BINGHAM: Good morning. Yes.

REP. TINDERHOLT: Good morning. And we're sorry about the problem getting online. I know you're busy, and we appreciate you taking the time to listen to us. So Kestrel on Cooper, total error on my behalf. I didn't communicate properly with my staff, and would like you to seriously reconsider their application.

The mayor, the city council, really want that project. I communicated to my staff that I wasn't supporting these, but Kestrel on Cooper is the only group out of all of them that called and met with me. They came to my office.

We went through their entire project. The city
and that community wants that project there, and so that
was an error on our part, and I would really seriously like
you to please reconsider the waiver that we sent in,
because our staff had written all of the letters as no, and
that was my miscommunication.

So please take that into consideration. I
wanted you to see my face, hear from me, that indeed I
would like you to consider that one, please.

MS. BINGHAM: All right. Thank you very much,
Representative Tinderholt. It's good to see you this
morning, and thank you for taking the time to visit with
us. Do any of the Board members have any questions for the
Representative?

(No response.)

MS. BINGHAM: Great. Thank you very much,
Representative. Hey, Bobby -- so would you like for us to
return to the agenda in order, and then just take the
Representative's comments in, because the duration -- when
the agenda item comes up, or would you like us to take care
of this item now?

MR. WILKINSON: I think we could go ahead and
move on this item, if you wanted to lay it out, and then we
could --

MS. BINGHAM: All right. Naomi, can you find
Marni for us?
MS. CANTU: We -- yes. She is on. Marni?

MS. BINGHAM: Good morning, Marni.

MS. HOLLOWAY: Good morning. This is Marni Holloway. I'm the director of the Multifamily Finance Division. Under Item 5(d), for Application 20147, Kestrel on Cooper, the item -- it's requesting a waiver of 10 TAC 11.9(b)(5), which is related to scoring under community support from State Representative.

So the QAP related to scoring under community support identifies the requirement for scoring and states, "Once a letter is submitted to the Department, it may not be changed or withdrawn." We received a letter from Representative Tinderholt regarding this application on February 27 which opposed the development, and then we received a revised letter stating that no written statement of support, neutrality or opposition prior -- for the development from Representative Tinderholt on February 28.

So that was prior to the end of the -- from elected officials' delivery date, so it was before the application deadline. The applicant has submitted the request that the Board waive the prohibition of changing or withdrawing the letter and allow us to consider the letter received on February 28 for scoring purposes.

So the waiver rule identifies requirements, and -- for the waiver, and then staff presents to the Board
for its determination, whether under these particular circumstances presented by the applicant the non-statutory prohibition of changing or withdrawing of the letter of support should be waived under 10 TAC 11.9(d)(5) related to community support from the State Representative.

I'd be happy to answer any questions.

MR. VASQUEZ: Again, Marni, so just clarifying -- the revised letter from Representative Tinderholt came before the deadline for submitting the applicant's applications?

MS. HOLLOWAY: Correct. Yes. The letter was timely received. On -- where we get -- except in this provision in our rule that once a letter is received, it can't be withdrawn or changed, which going to the later letter would effectively withdraw the February 27 letter that was received earlier.

MR. VASQUEZ: Right. Okay.

MS. BINGHAM: And Marni, that's not statutory. Correct?

MS. HOLLOWAY: Correct. This is not a statutory requirement.

MR. BRADEN: And this is Paul. Marni, has this occurred in the past?

MS. HOLLOWAY: Not to my recollection.

MR. BRADEN: Okay.
MR. WILKINSON: I'd like to add that -- I mean, the rule is somewhat to process and protect representatives from -- maybe being outed for reverse letters multiple times during a cycle. What we had here was -- I mean, two letters within 24 hours of each other.

It was a mistake. The office immediately reached out to us, got us on the phone. We told them we'd get the agenda item on here. I think that Representative Tinderholt's position is pretty reasonable, and that's my opinion.

So I would think the second letter -- honoring the second letter makes sense in this instance.

MR. BRADEN: I'll make a motion.

MS. BINGHAM: Mr. Braden?

MR. BRADEN: I'll make a motion to waive the rule and accept the second letter from Representative Tinderholt.

MS. BINGHAM: Okay. We have a motion from Mr. Braden. Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Thank you. Ms. Thomason seconds.

Let me just check really quickly to see, Naomi, if there's anybody else teed up for comment on this item?

MS. CANTU: Yes. Thank you. We do have quite a few comments from this item. I'm going to read the list,
and please bear with me, if -- and I want to make sure I get everyone. So we have people who have signed up preregistration on the Board -- during the registration process of the Board meeting.

We have Jason Haskins, Sallie Burchett, Jose Gonzales II, Isabel Atkinson -- sorry -- Atkinson, Kim Trimmer, Debbie Bresette, Brian Grace, Sandy Watson, and Alicia Gray. We also have quite a few people on the chat box who would like to comment on this item, and we're going to go down the list.

Hold on one second, so I get through the first one. All right. We have Linda Brown. We're going to go ahead and unmute Ms. Brown so that she can comment. And again, three minutes, and we do have a timer for this.

MS. BROWN: Can everybody hear me? Okay.

MR. VASQUEZ: Yes.

MS. CANTU: We can hear you.

MS. BROWN: Thank you. Honorable Vice Chair Bingham and members of the TDHCA Board, I am Linda Brown, president of Casa Linda Development Corporation. I'm speaking to you today as the consultant to Application No. 20024, Dallas Stemmons, which will no longer be in a competitive position if the Board votes in favor of this waiver.

We are requesting the Board deny the Kestrel on
Cooper waiver request. First, the State Representative knew in early January Kestrel on Cooper intended to submit a 9 percent housing tax credit application, because he was notified as required in the pre-application process.

Secondly, 10 TAC 11.9(d)(5) states that once a state representative letter is submitted to the Department, either directly or as part of the application submission, it may not be changed or withdrawn. The rule is very clear.

Once received, it may not be changed or withdrawn. In the 86th Legislative Session, House Bill 1973 was passed so that state representatives did not have to submit a letter at all, and the eight points would be awarded under the local government support.

This State Representative: one, wrote a letter; two, wrote a letter in opposition; and three, knew the rules well enough to instruct staff to deduct eight points from their submission. Whatever happened between the first letter and his second letter is irrelevant.

Changing the position is not the same thing as clarifying a position. Kestrel on Cooper says they qualified to request a waiver because the first letter submitted to TDHCA was out of their control. This rule applies to building codes or other such limitations, not a state representative letter that, by rule, can be sent
directly to the Department.

Secondly, a waiver request must establish how, by granting the waiver, it better serves the policies and purposes articulated in the Texas Government Code in not granting the waiver. Kestrel on Cooper does not meet this criteria either.

Kestrel on Cooper is located in the census tract with more than 20 percent housing tax credit units per household, and would have been considered ineligible unless the applicant received a resolution from the city council confirming no objection to the development.

Kestrel is also located within one mile of the 2019 HTC award and would have also been considered ineligible unless the applicant received a resolution from the city council specifically allowing the development. Not only did Kestrel on Cooper need one resolution, they needed two city resolutions related to concentration of tax credit units to even be considered eligible to file an application.

As noted in their waiver request, Kestrel is within the boundaries of the Heart of Arlington Neighborhood Action Plan. This neighborhood is adequately served by affordable housing options with 506 existing housing tax credit units within the neighborhood boundary.

Dallas Stemmons did receive a letter of support.
from our state representative, and we will be harmed if the
Board does not deny the Kestrel waiver request. We
respectfully request you deny this waiver. Thank you for
your kind consideration.

MS. BINGHAM: Thank you, Ms. Brown. Are there
any questions for Ms. Brown from the Board?

(No response.)

MS. BINGHAM: Thank you.

MS. CANTU: All right. Vice Chairwoman Bingham,
we have Megan Lasch who would like to speak as well.
Megan, we're looking for you to unmute you. And after
Megan, we have Anita Branch. Meagan --

MS. LASCH: Yes.

MS. CANTU: Yes, you can. You've got three
minutes.

MS. LASCH: Good morning, Board. My name is
Megan Lasch with O-SDA Industries. I'm an applicant for
Kestrel on Cooper. To follow on what the Representative
said, we did actually meet with him in February, and there
was no indication of any issues pending city support and
the neighborhood actually had already indicated support.

I believe there are a couple of individuals from
the neighborhood group on support today that have been
incredibly supportive throughout the entire process. As
many of you know, the history of this rule was created to
prevent reps changing their minds as a result of NIMBYism. This, in fact, is not the case. After realizing what happened the very next morning, the Representative's staff was on the phone with TDHCA indicating the letter was not intended to be sent for our development.

There is no lengthy time for him to change his mind. This all happened within a matter of hours and was addressed the very next day. The waiver request was submitted before the application deadline in very short order after the whole ordeal began.

I'd also like to point out that back in 2013 this similar situation did occur. It was back when Cameron and June were at the Department many years ago, and this rule was in place, but an application in Pampa, Texas, received a letter of support from Representative Ken King.

The Representative later rescinded because he stated that the letter was sent without his approval. The Department allowed this letter to be rescinded, much like the Representative asking in this case, because it was sent in error.

I'd like to thank you for your consideration and your current mission on the floor and hope that you'll allow this good project to move forward.

MS. BINGHAM: Okay. Do any of the Board members have any questions?
(No response.)

MS. BINGHAM: Thank you. Naomi?

MS. CANTU: Yes. That was Megan Lasch. We do have Anita Branch. Anita, we believe that you're going to want to talk on 5(c), and we are on 5(d). But the item that you're trying to attest is 20123 Meander Park is on Item 5(c).

So please let us know if this is incorrect in the question box, but otherwise, we're going to move on to Ryan Combs, who would like to speak as opposed. Ryan Combs, we're looking for you. And you are unmuted. You have three minutes.

Mr. Combs? Mr. Combs, you are unmuted. We're going to give you just a few more seconds to respond.

(No response.)

MS. CANTU: If not, you can go back in queue, and we can move on to Sandy Watson. Sandy Watkins -- Watson -- sorry -- we see that you are looking at 20001 Farm Street Village Bastrop. That is not the item under discussion right now.

That is Item 5(b). This is still 5(d). Okay, we're talking about Kestrel on Cooper. I'm sorry, Sandy. We're trying to get everyone in the right queue. So anyone else on Kestrel on Cooper?

I'm looking through the comments. I see Alicia
Gray. Alicia Gray? And we can go ahead and unmute you.

There you go.

MS. GRAY: Great. Thank you so much. My name is Alicia Gray. I'm the president of the Heart of Arlington Neighborhood Association. The Kestrel on Cooper would be located within the boundaries of our neighborhood association.

As Linda Brown noted, there are other low income housing tax credit properties that are within our neighborhood boundaries. One was done within the last year. But there is a significant need for low income housing within our neighborhood because of our proximity to the University of Texas at Arlington for people that work there, as well as the downtown Arlington -- as well as in downtown Arlington, which has been undergoing a lot of revitalization over the last few years.

What the project brings to our neighborhood is revitalization of an old 1960s commercial development that has long been neglected and has basically outlived most of its usefulness. You know, it would be a strong benefit to our community, as well as this space is a crucial transportation corridor in Arlington, which is Cooper Street, also known as State Highway 157.

And so we look forward to having this waiver approved and this project proceeding, so that -- in the
hopes that it will spur additional revitalization in this area, which is long needed. Thank you for the opportunity to speak.

MS. BINGHAM: Thank you. Any questions from the Board members?

(No response.)

MS. BINGHAM: Naomi?

MS. CANTU: We do have one more, and that is -- Mr. Cooper is back online. We're going to go to Mr. Cooper. All right. Sorry. Mr. Combs. I do apologize. Ryan Combs. And we're going to go ahead and unmute you now, and you have three minutes. We hear some static. We do not hear you speaking, Mr. Combs.

(No response.)

MS. CANTU: I do apologize. We are not able to hear you. You might want to try to call in. I'm going to go ahead and mute you now. Anyone else on this -- on Kestrel? And let me check. Hold on. Is Kim Schwimmer on? She -- when she registered -- yes. Okay. Great.

Kim Schwimmer? We're going to go ahead and move on to Kim Schwimmer, and we will try Ryan Combs in one minute. Kim, go ahead. It looks like Ms. Schwimmer -- okay. Yeah. Try it again.

MS. SCHWIMMER: Good morning.

MS. CANTU: We can hear you.
MS. SCHWIMMER: Can you hear me?

MS. CANTU: Yes. Good morning.

MS. SCHWIMMER: Am I on now?

MS. CANTU: Yes, you're on. You're on.

MS. SCHWIMMER: Good morning. This is Kim Schwimmer. I'm representing the Land Experts, which is a Texas third-class housing consultant. I'm speaking against the waiver for Application No. 20147, which is Kestrel on Cooper.

First of all, the applicant claims that this matter was out of their control. However, seeing as they were notified by the TDHCA that this letter came in, letter of opposition, on the 27th, they reached out to the Heart of Arlington Neighborhood Association, or HANA.

The next day, on Friday the 28th, there's an email from a representative from HANA at 1:24, reaching out directly to the State Rep's office asking him to reconsider his opposition. At 3:09 the same day, the State Rep responded that the letter of opposition had been withdrawn.

Then Derek Carter from HANA forwarded the email to the applicant with the note, "see below." So the chain of emails clearly shows that the applicant did control the outcome. So for them to say that it was out of their control is not entirely true.

Yes. Don't lose sight of the big picture here,
Board members. This sets a terrible precedent for applicants. This tells me as an applicant that no doesn't mean no, and yes doesn't mean yes. I can still apply whatever pressure I can up until the application date to change the direction of things.

How many times can a state rep or a city council, for that matter, change their position. As developers, we’re watching our competitors at council meetings very closely to see how things are shaking out throughout the process.

We're doing that because we're spending money at every turn. Please don't make this process more competitive and unfair by granting this waiver. One last point I want to make is that there were four applications in this State Representative's district.

The State Representative had ample time to review the development and visit with constituents. On February 27, one day before the applications were due, TDHCA received four letters of opposition that were written in the exact same language for four different applications: 20017 Blue Danube Apartments, 20021 Westhaven Senior Living; 20165 Sphinx at Gray Park Villas; and then 20147 Kestrel on Cooper.

While it's unfortunate this situation happened, it's the playbook that we all operate under. And so I'm
against the waiver. Thank you.

MS. BINGHAM: Thank you, Ms. Schwimmer. Do any of the Board members have any questions for Ms. Schwimmer?

(No response.)

MS. BINGHAM: Naomi?

MS. CANTU: Yes. We still have Ryan Combs. We're going to try again. And I do see Derek Carter on deck next. So Ryan Combs, we're going to try you again. We're looking for you now.

MR. GAGNE: We're going to move to the next --

MS. CANTU: Okay. It says -- no. Let's try him again. Mr. Combs? No?

MR. GAGNE: -- is not in there.

MS. CANTU: Okay. Mr. Combs, you'll need to enter your pin, or re-call in. And we're going to move on to Derek Carter. Mr. Carter? Okay.

MR. CARTER: Good morning.

MS. CANTU: Yes.

MR. CARTER: Good morning.

MS. CANTU: You have three minutes.

MR. CARTER: Okay. Good morning. I'm Derek Carter. I am in favor of Application 20147. I am the Heart of Arlington Neighborhood Association vice-president. I live and work in my district, and I fully support the Kestrel on Cooper development because we feel this will
enhance our neighborhood.

   It will have a positive effect on residential
and commercial business in the area. What sets us apart
from the other parts of Arlington is our aging housing
structures in the district, and we truly, truly feel new
construction will help the area.

   Thank you.

MS. BINGHAM: Thank you, Mr. Carter. Any
questions for Mr. Carter?

   (No response.)

MS. BINGHAM: So Naomi, let's see if we can get
Ryan, and then if not, I think, unless anybody has any
public comments that's different than prior public
comments, it's probably time to move on. Do you have Ryan
or --

   MS. CANTU: We're going to try.

MR. COMBS: I --

   MS. CANTU: Yes. Sorry.

MR. COMBS: -- I am here. Can you hear me at
all?

   MS. CANTU: We can hear you. Go ahead.

MR. COMBS: I am so sorry. My computer audio
seems to be working, but for some reason, I can't get
through, and it was not taking my audio pin on the phone,
and so I sincerely apologize, but these are the challenges
I think we have in this season that we're in.

So thank you for being patient with me. Ryan Combs, and I represent another application that would be harmed if this waiver is approved. And really, what I want to talk about is that 10 TAC 11.9 is clear. I mean, it doesn't provide for another alternate reading.

It says, once the letter is submitted to the Department, it may not be changed or withdrawn. And precedent matters. I realize this happened a couple of years ago. When we talk about deadlines and letters and submittals, we all want our deals to get done.

And I'm sure that this application has some great attributes and would provide needed affordable housing in an area of Arlington that probably could use it. And every other application in our region is doing the same.

My application is a revitalization area in another city, and it will provide needed housing in an area and a city that has -- that got unanimous support and needs it as well. All of our applications do that. The waiver does not -- the waiver request doesn't necessarily change that for anybody.

That's everybody. But what I want to ask is, you know -- that the rule is clear, and our deadlines and our letters and our submittals are unchangeable for a
reason. You know, what if an application included a PDF in its application submittal, but forgot to include the Excel, and then tried to include it?

Would that be accepted? You know, it was just a simple mistake. You know, what if an application misses a commitment notice deadline by a day? And this happened. And then tried to use the same waiver request, saying that, you know, their application is in a revitalization area and not granting the waiver would put housing in this revitalization area to a disadvantage?

Well, my application is in a revitalization area. There's other applications that are all very deserving and providing needed affordable housing. And then, you know, the reason that this rule was written was -- well, what if it was the other way around?

What if a representative did write a letter of support and then changed their mind, and tried to write a letter of opposition? You know, this letter that came in from the State Representative -- I heard the applicant say they met with the Representative early on in the process.

But the letter of opposition came in the day before the deadline. That was not a slip. That was not an accident. That came in at the last moment, and then they tried to submit a new letter right after that. But the reason this rule exists is for this thing, to keep
inconsistencies from happening.

We all need consistency. And the QAP outline deadline -- when it uses language that says, once a letter is submitted, it may not be changed or withdrawn, that's there on purpose for a reason, so that we can count on it. And so I ask that you deny this waiver, so -- to be consistent with the rules and consistent with the QAP and where we've been so far.

Thank you for your consideration.

MS. BINGHAM: Thank you, Ryan. Any questions for Ryan?

(No response.)

MS. BINGHAM: Any additional public comments on positions not already stated?

MS. CANTU: So I don't see anyone queued up on this. I do have two positions that we were going to state. Let me go ahead and find them. That is Sandy Watson with Zimmerman Development. She is against. I believe that is for the item, since it was sent during the item's discussion.

And Avis Chaisson, director of real estate development with Palladium USA International. She's against the waiver. She does not need to speak. I don't see anyone else signed up for this particular item on 5(d).
Yes. 5(d), Kestrel.

MS. BINGHAM: Very good. Thank you, Naomi. So we have right now a motion and a second to approve the request for waiver of the Department's Multifamily Program rules. Are there any other questions from the Board members for Marni?

MR. BRADEN: Not a question. This is Paul. And just to make a comment. My thought process with respect to this waiver question -- when I made the motion -- was clearly, it was a mistake of fact. I mean, the Representative came online and told us that they had just made a mistake, and almost immediately, you know, they went back to correct the mistake, and then that correction was made prior to the deadline.

So I think under those circumstances it's sort of good policy to -- I mean, if somebody just makes a mistake, we ought to allow the correction, as sort of a third-party type of submission, as long as those things come in before the deadline.

So that was why I made the motion for the waiver and why I still support it.

MS. CANTU: Vice Chairwoman Bingham, just for clarification, Sandy Watson says she's against the waiver for 20001 Farm Street, which we have -- are not discussing now. She is not --
MS. BINGHAM: Okay, okay.

MS. CANTU: And it is your -- it is also your discretion -- Ms. Brown, Ms. Linda Brown is asking if she could make a final comment? She has already talked about this. Would you like to let her --

MS. BINGHAM: No. That's fine. Yes.

MS. CANTU: Yes? Okay. We will go ahead and go to that.

MS. BROWN: Linda Brown, with Casa Linda Development. I just wanted to make one final comment related to what Ryan had said. Dallas Stemmons, our application that will be harmed if you vote in favor of this waiver, also happens to be located in an area of revitalization that's greatly needed in Dallas because of the tornado that went through and tore a whole corridor of the city up.

And so our neighborhood association and the business association of the northwest quadrant of the city is very much in favor of our development and what it can do to change things in a very destructive area of the city at this time.

And so I just wanted to also make the comment that two of the applications in Arlington that Kim Schwimmer discussed earlier were also in State Representative Tinderholt's district, and we tried -- and I
can tell you personally, since November, October, November, to reach out to the State Representative and try to meet with him, and were not able to get a meeting with him.

He just wouldn't meet with us. So what the State Representative said in that the applicants on Kestrel was the only applicant that reached out to his office was incorrect. Thank you very much for this opportunity to add some comments.

MS. BINGHAM: Thank you, Ms. Brown. So we have a motion and a second. We'll take a vote now. All those in favor --

MR. VASQUEZ: So listen, listen --

MS. BINGHAM: Yes?

MR. VASQUEZ: One more question of staff. One of these speakers mentioned a similar waiver in the past. I think they said, 2013. Can staff confirm that this has been done before?

MS. HOLLOWAY: I cannot at this point. I -- that far back, we would have to go back to Board records to see if we could find the item.

MR. VASQUEZ: Okay. I was just curious whether this is precedent-setting or not.

MS. HOLLOWAY: Yeah. No. That was before my tenure, so I don't remember it off the top of my head, and we would have to go back through and find that particular
item in our Board records.

MS. BINGHAM: Take a vote on the item. Item 5(d), Kestrel on Cooper Arlington. We have a motion and a second to approve a waiver of the Department's Multifamily Program rule. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Thank you very much. Marni, do you want to go ahead and do the other two while we're here, or would you prefer we go back to the original order?

MS. HOLLOWAY: That is entirely up to you. I can keep talking, if you like.

MR. WILKINSON: Vice Chair, since we already have her on camera, maybe if we could continue with 5(d)? And as a reminder, 20128 OST Lofts Houston has asked for that to be moved to the May agenda, at your discretion.

MS. BINGHAM: Great. Very good. So then we have -- in Item 5(d), we have one other, Farm Street Village -- 20001 -- Bastrop. Correct?

MS. HOLLOWAY: Bastrop. Correct.

MS. BINGHAM: Great. Okay, Marni. Let's do that.

MS. HOLLOWAY: This is a request for waiver of
10 TAC 11.101(b)(1) regarding ineligible development. So
the QAP includes development requirements and restrictions,
one of which is that elderly developments with two stories
must have -- two stories or more must have an elevator.

Failure to provide an elevator makes the
proposed development ineligible by function of the rule.
This applicant for 20001 Farm Street Village has submitted
a request that the Board waive this requirement and allow
the applicant to move forward --

(Pause for technical difficulty.)

MS. HOLLOWAY: Okay. Can we continue now?

MS. CANTU: Yes. You can continue. We hear you.

MS. HOLLOWAY: Okay. Let me catch my thoughts here. Okay. So the applicant has requested a waiver of this requirement that would allow them to move forward with an elderly development with two stories that does not include elevator service.

They are proposing new construction of 72 units for an elderly population in Bastrop. The development is designed -- is composed of nine residential buildings with eight units per building. The proposal is in an historic district and adjacent to a creek. Per their request, the city, which would be Bastrop, expressed a preference for the current site due to its proximity to downtown and the
ability for residents to engage in a pedestrian-oriented lifestyle.

They further state that local code constrained the development design due to the site's location, specifically requiring adherence to Bastrop's existing street grid and pedestrian shed or walkable area and avoidance of the creek, which limits the developable area of the site.

In order to meet local code requirements, the buildings are designed to look like four distinct houses connected to each other to preserve the neighborhood character. Our rules allow waivers in cases of limitations of local government zoning codes that are not within the control of the applicant, but that is only for adaptive reuse or rehabilitation development.

Our rule does not allow that waiver specifically for new construction. We don't believe that the request meets the requirements of the rule, because the issues described appear to be entirely related to the applicant's selection of a development site that is within this zoned area.

Although the city of Bastrop might prefer this site, it is completely within the control of the applicant to move forward with this application. The site measures five acres, and per the applicant, the city's requirements
regarding development near the creek led to the substantial on-site detention, which limits the site's developable land.

The feasibility report states that the proposed site will have -- feature several community parks and open spaces. The design of the development is within control of the applicant. The applicant states that the buildings were designed to look like four distinct houses connected to each other to preserve the neighborhood character, yet they were not designed to meet QAP eligibility requirements.

In the end, the applicant states that it was determined that adding elevators in each of the development's nine buildings would be financially infeasible. In their request, the applicant offers a mitigation that all of the ground floor units will have been designed with principles of universal design and will be fully visitable by a person who uses a wheelchair, as well as any adaptable, but no -- but visitability is actually a requirement under the TDHCA rules.

The request goes on to state that to further help mitigate for the lack of the elevator, the applicant is willing to commit to an on-demand concierge service which would assist residents in getting groceries to and from a unit or taking garbage to the dumpster, regardless
of whether they live on the ground or second floor.

Staff does not believe that the request meets the requirements of the rule because the request does not establish how, by granting a waiver, it serves the policies and purposes articulated in statute. The request simply states that by allowing a development in Bastrop, the TDHCA Board of Directors would assist the local government in overcoming financial, social and environment problems, as well as to contribute to the preservation, development and redevelopment of neighborhoods and communities.

Our rule regarding waivers identifies the requirements that a request must meet. The staff does not believe that the waiver meets those requirements. Because the development, as designed, would not equally serve all residents by limiting certain residents to the first floor, and because the lack of an elevator would be a hardship for elderly residents living on the second floor without an elevator, staff is recommending that the Board deny the waiver.

I'd be happy to answer any questions.

MS. BINGHAM: Thanks, Marni. Does the Board have any questions for Marni?

(No response.)

MS. BINGHAM: Great. If not, I'll entertain a motion.
MS. THOMASON: I'll move to approve staff's recommendation of denying the waiver.

MS. BINGHAM: Okay.

MR. BRADEN: Second.

MS. BINGHAM: Ms. Thomason makes a motion. Mr. Braden seconds. Naomi, are there any comments?

MS. CANTU: Yes, we have quite a few comments on this item, but we also have been informed that Michael Lyttle has some letters to read into the record, so we're going to go to Michael Lyttle.

MS. BINGHAM: Okay. Thank you.

MR. LYTTLE: Madame Chair and Board members, Michael Lyttle, TDHCA staff. I have two letters on this issue. One is from State Rep. John Cyrier, and the second is from the mayor of Bastrop. The first letter from Rep. Cyrier reads:

"Please accept this letter reiterating my support for Farm Street Village, the proposed low income housing application in my district. I understand that the developer is applying for a waiver relating to their application.

"Farm Street Village will be a much-needed infusion of senior housing in Bastrop and would be very good for the economic well-being of my district. Bastrop is still recovering from the most destructive wildfire in
Texas history that destroyed 1,660 homes.

"It is also a community that is being hit hard with the economic losses associated with the current shelter-in-place requirements. As we continue our efforts to overcome these obstacles in my district, high-quality, affordable homes like Farm Street Village are a critical piece of the puzzle.

"I expect that you will find the request reasonable and that its merit enable you to give it their -- give it your approval. Sincerely, John P. Cyrier, State Representative, House District 17."

The second letter is from Mayor Connie Schroeder, and it reads as follows: "I regret that I can't offer this testimony directly to you during the Board meeting. As emergency management director, my mornings are consumed with daily meetings respective to minimizing the effects of COVID-19 in my community.

"The economic consequences of the virus are having serious and dire impacts on the city of Bastrop. One casualty of this situation is that our vulnerable, low income residents are at highest risk of economic consequences.

"I want to stress how much we need more affordable housing and that we need it as soon as possible. My staff and I have personally met with Farm Street
Village developers on multiple occasions to delve into the intricacies of what our seniors need and what Bastrop needs as a community.

"The proposed two-story, farmhouse-style development is a perfect fit for our downtown, historic district. It is an ideal location for our seniors with great walkability to all the cultural resources that downtown Bastrop has to offer.

"The development has enthusiastic support of the entire city council. The city of Bastrop is still recovering from the 2011 fires when 1,660 homes were destroyed. As stated above, the current effects of COVID-19 are further hindering our community's well-being.

"I want you to know, the proposed two-story development meets all of our local requirements as designed. I also understand that it meets all applicable federal and state requirements. I respectfully ask the TDHCA Board to find the development's many positive attributes nullify the Housing Tax Credit Program's elevator requirement and permit Farm Street Village, as designed, to move forward so that it can be a great place for seniors to call home.

"We are in urgent need of more affordable housing. Farm Street Village is a vital step on our journey to economic recovery. Sincerely, Mayor Connie
Schroeder."

MS. BINGHAM: Thank you, Michael. Naomi?

MS. CANTU: Yes. We do have several people registered to -- or have indicated that they want to speak on this. Sandy Watson, this is what she has said she is against, and that's Zimmerman Development. We also have Sarah Andre here, and they are for Farm Street Village.

Sarah, let us know if you would like to speak.

Sallie Burchett would like to speak on this. Sallie? And you should be unmuted.

MS. BURCHETT: Thank you. This is Sallie. Sarah should go before me, please.

MS. CANTU: Sarah Andre? Okay. We're going to go ahead to go to Sarah. And she is unmuted. Sarah, go ahead.

MS. ANDRE: Hi. Good morning. Sarah Andre. I'm the applicant for Farm Street Village. The train of thought presented by staff is that site selection is under the control of the developer. Therefore, we should have just chosen a different site.

For me, this begs the question, why do we have a waiver process? Every single site feature an applicant seeks a waiver for, whether its railroads or poorly-performing schools, is theoretically within the developers' control.
They don't have to choose that site and they don't have to submit an application. We have a waiver process so that the Board can make a determination about a site that may have other merits that go beyond compliance with baseline rules.

Farm Street Village has those merits. The development is simply in an amazing location. It's in the heart of historic, downtown Bastrop, right next to a creek. It's within easy walking distance, and I am talking one to three blocks to a movie theatre, restaurants, shops and a farmers market.

It's simply a better place to live than a parking lot next to a hotel or big box store, which is what the other sites in Bastrop offer. Who would not rather live in a neighborhood than a parking lot? Because of the location, however, the land does come with a number of restrictions related to runoff and neighborhood compatibility that constrains development.

Those are the unique local features that we are responding to with our request. In lieu of elevators, we have provided an abundance of mitigating features. The site is 100 percent accessible. There's not a single path or walkway that's not accessible.

Most developments have one designated route. The parking is right next to each building. There are no
long stretches from a car to a unit. Fifty percent of the units and all unit types are on the ground floor. All of these units are fully adaptable.

This means there can be 36 acceptable units instead of four, which is the requirement. One hundred percent of the units contain universal design features, and we've agreed to provide concierge services and added the cost of a stairlift to our reserves in the event that's needed.

Finally, to address security, there are no additional amenities or unit features on the upper floor that anyone would be missing out on if they lived on the ground floor. Our design meets HUD requirements. HUD does not require an elevator for residential units in two-story buildings for seniors.

By the time this is placed in service, I will qualify to live there. Like HUD, I simply don't believe that everyone who is 55 and up needs or wants an elevator. Our goal is to provide as many units as possible in the best location possible at a reasonable price.

We feel that the merits of the site and the extent of mitigation outweigh any perceived hardships.

Thank you.

MS. BINGHAM: Thank you, Sarah. Naomi, did they say, Sallie next?
MS. CANTU: We actually have Jason Haskins next, and then Debbie Bresette, in that order.

MS. BINGHAM: Okay.

MS. CANTU: So Jason Haskins, we're going to go ahead.

MR. HASKINS: Hello. Thank you for the opportunity to speak on this project. My name is Jason Haskins, AIA. I am the architect for this project with Hatch and Ulland Owen Architects. Our firm has extensive experience in a wide range of variety of affordable housing solutions and building types as well as historic preservation.

Norwich [phonetic] provides senior housing that is part of the vibrant downtown community in Bastrop and that maximizes accessibility options for the residents. We have designed a project that consciously limits the building to two stories and to the smaller separate eight-unit homes that fit into the existing fabric of the Iredell historic district.

So from our perspective, this is not a case of taking a standard elevator-based apartment building and removing the elevators or building a typical walk-up, garden-style apartment. We instead started with the premise that all ground-floor units would be designed to the clearances and configurations of fully accessible units
so that many of those units or any of those units could be converted to fully accessible with minimal costs and inconvenience.

Adaptation and accommodation can be made without removing dry wall or modifying electrical, plumbing or framing, and even without modifications, the additional maneuvering space in the retrained provisions provide benefits to all residents.

All units, whether upstairs or down, incorporate universal design practices and features that go beyond TDHCA's accessibility requirements to provide safer, easier and healthier home environment, and we sought to address not only the mobility changes -- challenges that require the fully accessible ground-floor units, but also other forms of limited ability that come with aging in place gracefully.

Within the units, we are not using the absence of an elevator to avoid requirements, and our aesthetics seating will be normally required within FHA-covered units, and also exceeding the visibility requirements, which are of course standard with TDHCA units, but we're exceeding the -- far exceeding the clearances and maneuvering spaces, even within the visitable units.

I'm happy to answer any questions you might have about the technical aspects of this. Thank you.
MS. BINGHAM: Thank you, Jason. Does anybody have any questions for Jason?

(No response.)

MS. BINGHAM: Naomi?

MS. CANTU: We do have Debbie Bresette. She would like to use her webcam. So we're going to go ahead and taking Marni down. Marni, we'll put you back up after, and then we're going to put Debbie up. While we're getting that ready, I do want to read a statement for -- yes -- for the approval of Farm Street Village from Isabel Atkinson.

So that's for the approval of Farm Street Village's waiver by Isabel Atkinson, and we have read that into the record. Debbie, you're ready?

MS. BRESSETTE: Good morning, everybody. My name is Debbie Bresette. I'm from Bastrop County. I run a nonprofit that provides community members the ability to collaborate together around large issues that not one single organization can solve in itself.

One of them is for us an affordable housing. And the other -- another collaborative we run is for what we call our OWLs, our older, wise leaders, and they are people who come from all across the community to really look at services for seniors and how to improve people living in -- living.

We are people all over this county. Our county
is almost 1,000 square miles long. We've got older adults, or OWLs, in places you could not imagine around this county. Having 72 units that is respectful and beautiful and affordable is such a boon to our community, and it would be a guiding light for years to come.

I came before you all in the '90s, and you all voted to invest in transitional housing for a family violence shelter, and I was the director at the time, and I can tell you, that shelter doesn't have elevator, and it's just -- and it's two stories, and it's handicapped accessible, and it has been just a golden light for our community, well-respected and well-loved and cherished.

We have the ability now to let 17 units -- to bring in people that are living in sheds, to help bring them into our community where they can get food and they can get health care and they can have access to services that, right now, we can't even find many of our seniors.

We have at least 10,000 seniors in our community, and they are scattered everywhere. It's difficult for them to get Meals on Wheels. It's difficult for them to access health care. We don't have broadband in our community very good, so telehealth is even a challenge.

And for the 72 seniors and OWLs that you could bring into the city of Bastrop, where they can use their talents again. They could mentor at the elementary school,
which is right down the street. They could work with the high school students.

We could do intergenerational things there, you know, and help the high school students. Teach them to use their computers to be able to communicate with their family. I don't know if you would all realize how important this is.

We don't have CARTS transportation going out to the rural community at all. There is nothing for folks. They can't drive in. If we had some place where people could walk and handicapped people, disabled, that live on bottom, and we have people who can walk up those stairs -- I could walk up those stairs.

It would be wonderful, and we really, really need it. Thank you.

MS. BINGHAM: Thank you, Ms. Bresette. Any questions for this speaker?

(No response.)

MS. BINGHAM: Thank you. Naomi?

MS. CANTU: Sure. We have Rebecca Broadman. She wants to state that she is for Farm Street Village waiver request. Rebecca Broadman for the request. She does not say who she is with. So if you could type that in, we could read that for the record as well.

Sandy Watson. Sandy Watson would like to speak
on the current item. Sandy, we'll go ahead and find you.

MS. WATSON: Can you hear me?

MS. CANTU: Sandy, it sounds like you have your computer on inner audio. It sounds like that might have been resolved. Sandy, we can hear you. Go ahead. You have three minutes.

MS. WATSON: Did you say, you can hear me?

MS. CANTU: Yes, we can. Go ahead.

MS. WATSON: Okay. Thank you. My name is Sandy Watson. Thank you, Madame Chair and council members. Just to mention that, you know, this developer -- we all have many choices when we're selecting properties, and we unfortunately have to bypass beautiful properties in communities and all of the elements that were just mentioned, it sounds great for Bastrop, and I want that for them as well.

The developer should have designed her properties differently or been aware of that at the onset, but she needed to follow the QAP and follow the rules and requirements, and it's unfortunate that, you know, she decided to just go with it, and then face a waiver wager.

I'm asking and we're asking that you uphold the rules of the QAP and that you uphold the staff's recommendation on this. Again, not against the city of Bastrop at all. Sounds like an amazing place, but if she
could redesign it and submit it for next year.

But we're asking that you uphold staff's recommendation. Thank you very much.

MS. BINGHAM: Thank you, Sandy.

MS. CANTU: Thank you.

MS. BINGHAM: Anybody else?

MS. CANTU: Yes. Sallie Burchett, did you want to speak? She indicated that she will speak if there's any unanswered questions. So I wanted to follow up with her. And I do also have, when he registered, Brian Grace said he would like to speak on this item as well.

And Sallie Burchett asked to speak, and she would like to use the webcam. And Cynthia Bast would also like to speak. So we'll go for Sallie, and then Cynthia, and if Brian Grace is out there, you can be on queue. Just let us know that you're there in the question box.

Thanks. So Sallie Burchett, you are -- we can see you.

MS. BURCHETT: Hi. Good morning. My name is Sallie Burchett. I'm with Structure Development. And Sarah and I worked on this project together during site selection. And yes, there are and were other options. My background is in planning, as y'all know, and particularly, I like downtown and all of what they do for the city and what -- how they benefit the people that live there.
And this site is such a great one. Sarah and I are both -- it would be a place we'd want to live, and the design that fits squarely into the -- the peg that fits into the hole. It's right for downtown Bastrop. And so it was a conscious decision that -- to ask for the waiver.

This is the best design for this site. And we looked at other standards, and HUD doesn't require an elevator for the second floor. And we have all these other modifications to make it a great place for those 55 and up, and where you can age in place gracefully.

The fact that HUD doesn't require it -- it's a modest one-story. Not everyone over 55 is in a wheelchair. We'll make accommodations if someone needs -- has limited mobility, limited -- to move him to the bottom floor.

I think it's a reasonable request within your purview, should you agree with us and the mayor and the State Rep. Thank you very much for your time.

MS. BINGHAM: Thanks, Sallie.

MS. CANTU: Okay. We'll go ahead and lower the Board members.

(No response.)

MS. BINGHAM: Thank you. Yes. Naomi?

MS. CANTU: Yes. We'll go ahead and lower Sallie's webcam, and put Marni's back up, and we will find Cynthia Bast. Cynthia Bast? And she would like to speak.
And we're looking for you. Hold on one second. All right.

You are unmuted.

MS. BAST: Good morning. Thank you. First, thank you to the Board and the staff for all the extraordinary measures that you all are taking in the last several months. By just being able to see you all on the screen is actually comforting because it sort of feels like things are normal.

We are -- I'm Cynthia Bast, Locke Lord. We are counsel noted in this application. And I just wanted to add one thing to the -- something that I was reminded of when I started looking at this.

With regard to the waiver and the question of site selection being beyond the control of the applicant, I'm reminded of the El Paso property called Blue Flame of three years ago, where, like in this situation, there was tremendous community support for the Housing Authority to relocate units into a historical building downtown, and the Housing Authority could have chosen another.

But everyone agreed that this really was the best spot for this particular development, and so in thinking about that, I just wanted to add that I know some of you were on the Board in 2017 when that was considered, and make that part of your thought process, and that's all
from me.

Thank you very much.

MS. BINGHAM: Thank you, Cynthia. Any questions from the Board members for Cynthia?

(No response.)

MS. BINGHAM: Naomi, if there's anybody left, we would have to say, respectfully, if anybody has anything new to add, otherwise we probably are ready to wrap this up.

MS. CANTU: Okay. I don't see anyone who registered in favor or against that is new, and I don't see anyone new queued up again. If you have something new to say, please enter your wish to speak in the question box, and we can unmute you, and you can use your webcam, if you have one available.

So again, please enter that in the question box.

MS. BINGHAM: While you are waiting, let me just ask really quickly. So we have a motion and a second on the floor to approve staff's recommendation to deny the request for waiver. Does anybody have any questions for Marni after comment? Are we --

MR. VASQUEZ: I have two questions. One, Marni, are we [inaudible] should require installation of a stair chair lift on demand? I mean, is that a -- if a resident -- second-floor resident needs stair chair lifts,
is that a requirement?

    MS. HOLLOWAY: Potentially, and I believe that they are mentioned, the inclusion of a chair lift, but I don't know if that's for every building or one building. You know, there's a big difference between a chair lift and an elevator, but I think that it's within the Board's ability to -- it can make a decision that, should this application be -- receive an award in July, that that requirement be added as a condition of the award.

    MR. VASQUEZ: Okay. All right. And then a second question. Now, this is a senior -- dedicated senior facility, so --

    MS. HOLLOWAY: Yes.

    MR. VASQUEZ: -- that falls in a different bucket for us. Correct?

    MS. HOLLOWAY: Correct.

    MR. VASQUEZ: Okay. If this waiver was approved --

    MS. HOLLOWAY: Uh-huh?

    MR. VASQUEZ: -- would that bounce another application for senior -- could it potentially put them at points ahead and thus not allow a separate application that met criteria without waivers -- would it bounce somebody else?

    MS. HOLLOWAY: Hold on just a moment, and we'll
find out.

MR. VASQUEZ: And what I'm getting at is, if approving the waiver doesn't adversely impact anyone else, that could influence my decision.

MS. HOLLOWAY: At this very moment, it does not appear that it would. The next application in line is a general application, keeping in mind that the collapse later on -- do you know what -- it could potentially be impacted.

And so as we, you know, get through the region, it may or may not have an impact later on, but I can't --

MR. VASQUEZ: Sure.

MS. HOLLOWAY: -- at this point, I -- but yes, there is another application in line after this one in that subregion.

MR. VASQUEZ: But not necessarily a senior facility?

MS. HOLLOWAY: Correct.

MS. BINGHAM: Naomi, was there anybody else that had something to add?

MS. CANTU: No one else has put a question in the question box. We did call Brian Grace, but have not seen him or heard from him. So we believe we do not have any --

MS. BINGHAM: Great.
MS. CANTU: -- more public comments at this time.

MR. BRADEN: I have a question for Marni.

MS. BINGHAM: Yes.

MR. BRADEN: So have we always done it -- if it's two-story, we require an elevator for senior or --

MS. HOLLOWAY: Yes, yes. That is a threshold requirement within our rules that all elderly developments that are more than one story must have an elevator.

MR. BRADEN: And do we often get a request for a waiver of the elevator requirement?

MS. HOLLOWAY: This is the first time I've seen one.

MR. BRADEN: So everybody else is building -- every development just realizes they need to put an elevator in it, and they plan accordingly?

MS. HOLLOWAY: Correct. They design accordingly. Uh-huh.

MR. BRADEN: And I acknowledge and I appreciate -- this sounds like a great site, and it sounds like the city is behind it, and you know, I'd love to support it. I just don't understand why they didn't build it with -- or design it with an elevator in it.

It seems like they could have done that, and so that's what I'm really struggling with.
MS. HOLLOWAY: Uh-huh.

MS. BINGHAM: Any other questions?

MS. CANTU: Madame Vice Chair, I do have -- Sarah Andre says she would like to speak again, if that's your expression.

MS. BINGHAM: Okay.

MS. CANTU: All right. We're going to go ahead and go to Sarah. And you are unmuted.

MS. ANDRE: Thank you. Board member Braden and others, I just wanted to address that issue. The site is not conducive to taller buildings than two stories. It's not conducive to a large facility-type building, even if it were just two-story, like a big wrap product might be, or just a larger building.

It's right next to single-family housing, and those types of buildings -- it's much more efficient to put in one or two elevators than it is to put in nine. So we did talk about elevators many, many times. The other issue with this site is that it cannot drain -- after development, it has to drain at a rate of 25 percent of what it currently drains to undeveloped.

It is right next to a creek. The city is incredibly concerned about flooding downstream. So you need to do a very low-density development. We could have done, you know, one-story buildings, but we would have only
been able to get 36 on the site.

So all of these constraints just created a perfect storm. I did talk about putting an elevator in one or two buildings, and I just didn't feel like there was a mechanism for asking for sort of a partial waiver. I guess I could have done that, in retrospect.

And the cost of putting in an elevator in every single building was going to amount to 15 percent of the total -- our costs, just for elevator access. We thought that providing more units on the ground was just a better solution and a better use of taxpayer dollars.

MS. BINGHAM: I think you're on mute, Mr. Braden.

MR. BRADEN: I understand what you're saying about being cost-prohibitive, and I'm not second-guessing your business decisions. It's your industry.

I personally -- if you had put one or two elevators into the project, at least I would have thought that would be some further mitigation of the issue, and that would have been a little more persuasive to me, in terms of the waiver, because then the argument would be for those seniors who need -- you know, need elevator access and you could try to -- you could target them to move into those buildings.

But I understand that it's hurting the designs.
MS. CANTU: Madame Vice Chair, we've viewed the --

MS. BINGHAM: Yes, Naomi?

MS. CANTU: -- we do see James McDonald and was Sarah Andre muted when members were speaking? Because a comment. Yes. This is going to be a -- it looks like there's some back-and-forth going on online.

MS. BINGHAM: No. This will be the last one.

MS. CANTU: Right. Let's go to James McDonald. I'm looking for him. Okay. And go ahead.

MR. MCDONALD: Thank you, Madame Vice Chair and Board members and Executive Director Wilkinson. James McDonald with Zimmerman Properties. You know, we are a multi-state developer. We develop all different styles of communities.

We developed 37 within the state of Texas in the last 20 years, and part of the reason that we look at Texas, is because you put your rules out there for us to abide by, for us to develop by, and that is what we do. That -- we do that to the best of our abilities.

I completely understand the need. I completely understand the location of the site. But when you're developing for seniors, yes, they are active, but no one's mentioned the -- if there's an emergency situation, no one's mentioned anything like that.
And granted, elevators shut down in an emergency situation, but you know, that needs to be taken into consideration also. You know, we do and have developed, I believe, out of our 37, 10 developments that are senior developments, and those that are two stories and above all have an elevator, one.

Those that we have done as a single-story or four-plex design or six-plex design is how you handle those situations. So again, I humbly respect that -- and ask that you adhere by the rules of the QAP and thank you for your time.

MS. CANTU: Thank you. And --

MS. BINGHAM: Thank you, James.

MS. CANTU: -- we do have Sarah Andre -- is typing in. It is up to your discretion whether we let her speak again.

MS. BINGHAM: Yes. Just real quick.

MS. CANTU: All right. We're looking for her to unmute her, and she is unmuted.

MS. ANDRE: Hi. I was just saying that we would gladly add elevators in some buildings as a condition, if the Board so moves.

MS. BINGHAM: Okay. Thank you, Sarah.

MS. CANTU: All right. I do not have any --

MS. BINGHAM: Beg your pardon, Naomi?
MS. CANTU:  I apologize.  I don't see any other public comments on this in the question box.

MS. BINGHAM:  Great. Thank you. No problem. All right. So we have a motion on the floor and a second. Motion by Ms. Thomason, second by Ms. Braden, to support staff's recommendation to deny the waiver for 20001 Farm Street Village Bastrop.

I'll call for a vote. All those in favor of staff's recommendation do deny the waiver, aye?

(A chorus of ayes.)

MS. BINGHAM:  Any opposed?

(No response.)

MS. BINGHAM:  Great. Motion carries then to approve staff's recommendation to deny the waiver for Farm Street Village Bastrop.

MS. HOLLOWAY:  Thank you.

MS. BINGHAM:  All right. Marni, does that take care of 5(d)?

MS. HOLLOWAY:  Yes, it does.

MS. BINGHAM:  Thank you very much. We will see you again in a minute. Mr. Executive Director, are we okay going back to Item 4(d)?

MR. WILKINSON:  Yes, ma'am. Bond finance.

MS. BINGHAM:  Great. Thank you very much.

MS. CANTU:  Item 4(d), "Presentation,
discussion, and possible action on Resolution No. 20-017."

Monica?

MS. GALUSKI: Can you hear me?

MS. CANTU: Yes.

MS. GALUSKI: Okay. This is Monica Galuski, director of Bond Finance. This item relates to Resolution 20-017, authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single-family Mortgage Revenue Bonds, 2020 Series A and 2020 Series B, which are taxable.

Approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution. Before I begin, I need to make a correction. In your packet there's a resolution, Resolution 20-017 for this item.

On page 4 of that resolution, under Article 1, Section 1.2(c), which is located right about in the middle of the page, that states that the maximum principal amount of Series 2020 B bonds, which are the taxable refunding bonds, that they would not exceed 13,300,000.

That number should have been 13,330,000. If the Board approves this resolution, I request that it be as amended with this correction. So having made that correction, I will proceed.
Since the disruption of the markets due to the COVID-19 pandemic, staff and the financing team have continued to monitor the feasibility of single-family mortgage revenue bonds. The municipal bond market continues to stabilize and improve, at least for now. Last week, state FHAs priced approximately 300 million in single-family loans. Several issues have priced this week, and many are preparing to enter over the next couple of weeks.

In fact, this morning, Georgia HSA put out a preliminary official statement for $140 million upcoming single-family issuance. With this item, staff is requesting final Board approval to issue the 2020 A bonds in a prior amount not to exceed 175 million for new single-family loan origination.

Bonds will be tax exempt and fixed rate, and the structure is expected to be substantially similar to the Department's most recent issue, 2019 A, and issued in August 2019. Staff also requests any approval to issue the 2020 B bonds in the prior amount not to exceed 13,330,000 of taxable fixed-rate bonds to refund the Department's outstanding 2013 A bonds.

The savings threshold for issuing the 2020 B bonds is an NMB savings of at least 2 percent of the prior amount of bonds being refunded. The bonds are scheduled to
price mid-May but may be delayed if, as we approach the
scheduled pricing, the anticipated results are not
compelling.

   It's possible that the amount of bonds may be
reduced again, depending on market conditions and the
overall economics of the transaction. The goal is to be
ready to price when market conditions are conducive to
successful results.

   The overriding consideration is an economically-
sound transaction, and we won't price until they can
achieve that. Approval is requested for up to 12 million
issuer contribution. As with previous transactions, we
expect to receive significant premiums on the 2020 A bonds.

   So we anticipate that the issuer contribution
will be significantly lower, more in the range of 4 to
4-1/2 million. Approval is also requested for the use of
up to 4 million in indenture bonds for capitalized interest
to be drawn down as needed.

   Again, the actual amount is expected to be
significantly lower. Staff recommends approval of
Resolution 20-017 as amended. And I would be happy to
answer any questions at this time.

   MS. BINGHAM: Board members, do you have
questions for Monica?

   (No response.)
MS. BINGHAM: Okay. Monica, the only correction was just that one, that 13,330,000?

MS. GALUSKI: Correct.

MS. BINGHAM: Okay. I'll entertain a motion.

MR. BRADEN: Move to approve, with the correction.

MS. BINGHAM: All right. Mr. Braden moves.

MR. VASQUEZ: Second.

MS. BINGHAM: Mr. Vasquez seconds. Any other questions or discussion?

MS. CANTU: Did you not see any --

MS. BINGHAM: All those in favor -- sorry about that. Yes. Comments?

MS. CANTU: We don't see any questions in the question box. This is Naomi Cantu, moderator. We don't see any questions in the question box.

MS. BINGHAM: Okay. Sorry about that.


MS. BINGHAM: Very good. Thank you very much. So I have a motion from Mr. Braden, second, Mr. Vasquez. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Okay. Motion on 4(d) carries.
have a note that we may not -- I may have missed calling
the vote on 4(c). If you guys wouldn't mind just looking
back up? This was on the issuance of the government notes
for Grenada Terrace Apartments. And we had a motion from
Mr. Braden and a second from Mr. Vasquez.

Does that look familiar? Are you guys
comfortable with this? It looks like it was approval of
staff's recommendation. Okay. So on Item 4(c), we have a
motion from Mr. Braden, a second from Mr. Vasquez. If
there's no further discussion, all those in favor, aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Okay. Motion carries for staff's
recommendation on 4(c). Sorry about that. All right. Do
you guys want to take a break before we move on? Maybe 15-
minute break? Is that okay? Okay. All right. Naomi, do
we need to have anything read into the record, or Bobby or
Beau, to take a quick, 15-minute break?

MS. CANTU: We definitely have a slide for that
available, so we can take a 15-minute break. But I don't
know. Beau, do we need to read something into the record
for that?

MR. ECCLES: No. Just that we're adjourned for
a quick break. Since we're not going into executive
session, there's no like special preamble.

MS. CANTU: Okay. So we'll return at 11 --

MS. BINGHAM: Great. Thanks, guys. Great.

Yes. Let's take a quick, 15-minute break, and we'll return at 11:30.

MS. CANTU: Thank you. We'll put it up.

(Whereupon, a brief recess was taken.)

MS. CANTU: Hello. This is Naomi Cantu, moderator before this Board meeting. We are going to go ahead and work on getting back started. We have with us three Board members. We're waiting on one more, and we're going to go through -- hello, Mr. Vasquez.

We see you. And we're going to go ahead and go through housekeeping first. I also have with me here Jason Gagne, who is working the controls, and also will be chiming in occasionally. There's some housekeeping for written comments.

Jason, if you could start?

MR. GAGNE: Sure. So if you're going to submit a comment in the question box, please have -- and this is for written comments -- that you include the agenda item, your name, any organization you are representing and your position for or against the item.

Written statements other than a position of for or against will not be read or considered public comment.
when it comes to creating comments.

MS. CANTU: All right. And the next one. For spoken comments, please wait until your agenda item is being discussed. We have a long list of questions in the question box, and we want to make sure we get everyone when your question is being discussed -- or when your item is being discussed.

Please indicate that you would like to speak in the question box in the GoToWebinar dashboard. Indicate if you would like to share your camera. We do have that capability. A moderator -- I will call on you.

And when speaking, state your name and state your organization. We do have a timer that shows. You get a limit of three minutes per the discretion of the Board. And we do also have a backup plan that we're going to go over.

MR. GAGNE: Sure. So if the webinar ends for a technical reason before the meeting is complete, TDHCA will communicate whether and when the meeting will be restarted. We have a few different ways we'll communicate, just depending on the nature of the interruption.

So please either check your email for a link to your webinar or check the TDHCA website or one of our social media platforms, such as Facebook and Twitter. So it really just depends, again, on the nature of the
interruption that we hope does not happen.

MS. CANTU: Great. And with that, we will turn this over to Madame Chairwoman Bingham.

MS. BINGHAM: Thank you, Naomi. On our agenda, I think we're ready to do two items under Item 5. 5(a) is Andrew Sinnott.

MS. CANTU: And we're bringing him up.

MS. BINGHAM: Great. Thank you.

MS. CANTU: We're looking for him. You got him?

All right. And Andrew, you should be able to speak.

MR. SINNOTT: Can everybody hear me?

MS. CANTU: Yes.

MR. SINNOTT: All right. Thank you. Good morning. My name's Andrew Sinnott, Multifamily Loan Program administration. So I've got Item 5(a). This item concerns draft rehabilitation standards for rehabilitation projects utilizing National Housing Trust Fund, which was referenced in the Board item from last month's Board meeting regarding the 2020 to 2024 Consolidated Plan.

So I want to start with a little context and history, because it's taken us a while to get to this point. So the State began receiving their first NHTF allocations in 2016. Because this was a new federal block grant and because there are rehab standards required by the NHTF allocation plan that are not required for other
federal sources used for development activities, HUD
reviewed the State's allocation plans with a very high
level of attention to detail.

TDHCA submitted its first NHTF allocation plan
to HUD in September 2016, indicating that we plan to use
NHTF for rehab and new construction activities and attached
our rehab standard, which were limited to what was already
required for rehabs in the uniform multifamily rules at
that time.

After several attempts at getting our rehab
standards approved, we decided not to use NHTF for rehab,
since we did not have the time or the staff to dedicate to
draft such a thorough, detailed rehab standard. So this
has resulted in our 2016, 2017, 2018 and 2019 NHTF
allocations being limited to financing developments
proposing new construction.

Last year, however, in anticipation of our 2020
allocation, and with our recently hired direct loan policy
research specialist Alena Morgan, we decided to begin
drafting a rehab standard. So it was Alena who led this
effort, spending many hours researching other states'
approved rehab standards and synthesizing those documents
with our existing rules, while also getting feedback from
our inspection staff who are the real subject matter
experts on this -- these rehab standards.
And it was Alena who ultimately distilled all this information into the proposed rehab standards before you today. I also need to acknowledge the significant contributions of Michael Podoloff and recently retired Skip Beaird in Compliance, as well as Marni Holloway and Megan Sylvester, federal compliance counsel, in drafting these rehab standards.

So these are proposed rehab standards for NHTF-funded projects that address health and safety, major systems, lead-based paint, accessibility, disaster mitigation, state and local code requirements, uniform physical condition standards, capital needs assessments, and broadband infrastructure in accordance with the federal rehab standards requirement.

It's also worth noting that potentially having these rehab standards approved has come at an opportune time, as Texas is set to receive about $16 million, our largest ever NHTF allocation in the 2020 allocation.

So if approved, we will accept public comment through May 26 and ultimately include the NHTF rehab standards in the final version of the 2020 to 2025 consolidated plan that is scheduled to be considered at the June 26 Board meeting.

And that concludes my remarks. If y'all have any questions?
MS. BINGHAM: Thank you, Andrew. Any questions from the Board?

(No response.)

MS. BINGHAM: Well, great job, Alena and all of the rest of the staff that have worked on it. It sounds like it was a long time coming. It took a lot of work to get here, and it does sound timely, and especially if the allocation from the government is going to be that large in 2020.

Let's see. So Naomi, anybody for comment on this item?

MS. CANTU: I don't have anybody signed up to comment on this item who registered through the registration, and I don't think anybody in the question box -- as a reminder, if you want to comment, please put that comment -- put your request to comment in the question box and we will unmute you for your comments.

MS. BINGHAM: We'll entertain a motion for action on these standards for the State Consolidated Plan -- entertain a motion.

MR. VASQUEZ: Move to --

MR. BRADEN: Move to --

MR. VASQUEZ: Second.

MS. BINGHAM: I have a motion from Mr. Braden and a second from Mr. Vasquez. Any other questions about
the action item? Oh, sorry. Sharon, did you --

MS. THOMASON: No, no.

MS. BINGHAM: Sometimes the guys make a motion.

MS. THOMASON: I did make the motion.

MS. BINGHAM: Got it. Okay. And Mr. Vasquez seconded?

MR. VASQUEZ: Yes, I did.

MS. BINGHAM: Excellent. Very good. So I have a motion for approval from Ms. Thomason. A second from Mr. Vasquez. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Motion carries. Thank you, Andrew.

MR. SINNOTT: Thank you.

MS. BINGHAM: Let's do Item 5(b). Marni?

MS. HOLLOWAY: Good morning. Hello again. Item 5(b) is "Presentation, discussion, and possible action on the Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds for Application 20401." This is Palladium Port Aransas, in Port Aransas, of course.

The application requests 4 percent credits, $4 million of TCAP repayment funds from the 2020-3 special purpose NOFA and $4 million appropriated by the 86th
Legislature. They have a bond reservation that will expire on June 30.

This is a new construction development that will have 183 units serving general population. The development will include 18 units that will be leased at market rate, with the remaining 165 rent and income restricted to 60 percent of AMI. Twenty-six TCAP units will be layered among the tax credit units, restricted at 50 percent, and they are subject to a 40-year affordability period.

The loan will be structured as a construction permit loan at [inaudible] percent interest, amortized over 40 years. Payments will start after the deferred developer fee is paid.

Also included as the financing source is $4 million from the State of Texas general revenue that was appropriated during the 86th Legislative Session for the Department to award to developments most impacted by a natural disaster. Hurricane Harvey, which directly hit the Coastal Bend portions of the state, had a direct impact on the city of Port Aransas.

These State funds are structured as a grant with no repayment expectation. In construction -- in conjunction with this grant, our board will require 26 floating low-income units restricted to 80 percent of AMI in addition to the TCAP units, but also for the 40-year
affordability period.

The applicant has requested waivers of provisions of the underwriting rules due to the unique circumstances associated with the proposed development, specifically the impact that Hurricane Harvey had on Port Aransas.

They have requested waivers related to market rent, gross capture rate, and unit capture rate. The waiver of these provisions is necessary in order to achieve financial feasibility. The real estate analysis report which describes these waivers is in your Board Book.

It goes into more detail and it includes the core economic impact on feasibility. Staff believes that preempting the waivers better serves the purposes articulated in statute by contributing to the City of Port Aransas through development efforts after Hurricane Harvey.

As I said, the hurricane hit Port Aransas directly and many of the units that are currently being rebuilt on the island will be short-term rentals, not the workforce housing they were before. The proposed development will provide for the housing needs of low-income families affected by the lack of affordable housing options on the island, particularly for those who work on the island but live on the mainland due to lack of housing.

The applicant's compliance history is designated
a category two and was deemed acceptable by EARAC. Staff
recommends that the issuance of a determination notice in
the amount of $1,155,074 in 4 percent tax credits, 4
million from the State of Texas general revenue fund, and 4
million in TCAP repayment funds to Palladium Port Aransas
be approved.

I'd be happy to take any questions.

MS. BINGHAM: Thank you, Marni. Any questions
for Marni?

(No response.)

MS. BINGHAM: Entertain a motion.

MR. VASQUEZ: Move to approve.

MR. BRADEN: Second.

MS. BINGHAM: Motion from Mr. Vasquez. Second
from Mr. Braden. Okay. Naomi, any comments teed up for
this one?

MS. CANTU: We do have comments. When people
signed up to register for the Board meeting, we have Avis
Chaisson, Thomas Cook and Sara Reddy. Thomas Cook said
he's available if you have any questions. Sara Reddy also
says she's available if you have any questions.

And Avis Chaisson is here to speak only if
there's opposition. So with that, I believe that covers
everyone. If I did not cover you with what I just said,
Avis Chaisson, Thomas Cook or Sara Reddy -- Reddy -- go
ahead and type in the question box, and I can either unmute you, or for or against.

So with that, that's all the public comment I see.

MS. BINGHAM: Awesome. So we have a motion to approve staff's recommendation on Item 5(b). Motion was from Mr. Vasquez with a second from Mr. Braden. We'll call for a vote. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Thank you. We're moving to Item 5(c).

MS. HOLLOWAY: I believe -- yeah -- I believe that Mr. Eccles was going to speak to the -- speak to some of the folks that are signed up to comment.

MR. ECCLES: Good morning, ladies and gentlemen of the Board. Beau Eccles, general counsel. As part of our attempts to adapt to the new normal here, and having a virtual Board meeting, we encountered this month's issue, and that is, when you have over 50 people sign up to do a comment on an item.

Here, we have -- well, in normal times, you would have folks who would congregate inside the meeting room, and then they would shuffle up to the front two rows,
and they would come to a decision as to who would present, how that would work out.

The audience can't really participate. What I did is, I picked two individuals on either side of this issue who had submitted written comments and who have presented their response for the Board, to make them essentially issue leaders, to lead off the comments and to allow the Board to dive into the issue, and then of course, everybody else who has signed up and wants to add a comment, if it's not covered by what these folks go through as the people who they want to present, you can still can of course ask to address the Board.

This is just to kind of get the Board started. So the way that I expect this will work is, the Item 5(c) will be laid out by staff. When it comes time for public comment, the side of Item 5(c) that is supporting how staff created these QCP points will be done by Cynthia Bast, and the side that is opposed to how staff treated these QCP points will be represented by Janine Sisak.

They also have people they would like to present. Cynthia Bast, I believe, has identified three people other than herself who would like to add comment. Ms. Sisak has identified between eight and 11 people besides herself who would like to present.

Some of those would like to donate their time to
other speakers. I would remind folks that our public presentation and public comment rules, 10 TAC 1.10, does not have the ability to donate time to another speaker, but it is in the Board Chair's discretion to say, you can have a little bit longer since -- for the efficiency and effectiveness of the presentation.

That will be in Ms. Bingham's discretion to say if somebody can go on longer than the standard three minutes. For those who are maybe waiting to add comment regarding a particular application and who may never have attended a Board meeting before, I'd like to remind everybody that Item 5(c) is not for the Board to determine whether to grant an award to any of the listed applications. It's only to determine whether the technical process used by staff to award four QCP points was appropriate.

So listen to the comments coming beforehand and see if you have anything to add to that, and act accordingly. Does that kind of make sense, on how this will go?

MS. BINGHAM: Yes, yes. That makes sense to me.

Any other comments from the Board members?

(No response.)

MS. BINGHAM: So you're -- so what I hear you saying is staff will present the items, and then when it
comes to public comment, probably after the Board makes an initial motion, that we'll have some comments relative to support, and then some comments relative to opposition, and then that you're -- you're just reminding folks that, just in case somebody may never have comment -- that the comments won't be on the merits or the pros and cons of the individual application.

MR. ECCLES: That's exactly correct. And it's, of course, also at your discretion whether, you know, who starts, whether is supporting staff's action or is opposed to staff's action, whether you'd like to go back and forth between support and opposition.

That is firmly within your discretion. Really, the issue leader way of doing this was just so that we would have a place to start, rather than just randomly picking people and taking it in order. It probably would make far more sense if there's an organized presentation before the Board.

MS. BINGHAM: Sure. So I think -- I mean, we've been comfortable in the past with kind of alternating, a support and an opposition, and a support and an opposition.

So -- and then -- so Ms. Sisak may want to be thinking through -- I agree, where it makes sense.

We might let a speaker go on a little bit longer. I don't really see the feasibility of having
11 people with -- for the opposition and then donating a bunch of time. But we'll -- you know, what I would just ask, respectfully, as Chair, is that each speaker really try to hold to the three minutes, and if there is a need to go slightly over, then we will try to allow that for -- whenever we can.

Okey-doke. Marni, do you want to give us the overview?

MS. HOLLOWAY: Okay. So Item 5(c) is "Presentation, discussion, and possible action on the process of staff determinations regarding points awarded under 10 TAC '11.9(d)(4) related to Quantifiable Community Participation."

And as Beau mentioned, we are not taking action on any particular item today. We are just discussing staff's process regarding these points. It could be in the future, based on this decision, there will be further appeals of scoring for individual applications, but those will be taken up as an appeal item, rather than something that is discussed today.

So 2020 QAP identified the requirements for scoring under the Quantifiable Community Participation item, or QCP. This is support from neighborhood organizations whose boundaries include the proposed development site.
According to the rule, an application qualifies for four points if the neighborhood association submits a statement of neutrality or provides no statement at all, or if there is no neighborhood organization. QCP is a maximum eight-point item.

These four points are just -- are provided, basically, at the point when there isn't participation from the neighborhood organization, and then applicants are able to gain the other four points through support by a nonprofit organization.

This year, in a change from prior years, our application form included a self-score box for these items, despite the fact that the QCP is not a self-scoring item. We made this change to facilitate data gathering so that we can just pull data out of the applications, rather than having to go through by hand to determine these items.

Because this part of the application was new, it apparently created some uncertainty among applicants on whether or not the box had to be completed. To be clear, there was no change to the QAP, only to the application form.

So consistent with how these points have historically determined -- have historically been determined, staff evaluated this scoring item in the same manner as we have for at least the preceding four years.
We have historically held these four points to be granted by right rather than proven, as most other scoring items are. On March 10, an application log was posted that showed the QCP scores based on the data pulled from the application.

For applicants that had identified a score in the self-score box for this item, their point election was reflected in this log that was just a data dump. On that log, staff had not yet taken the step of indicating all applicant scores for QCP, including those that had not chosen to identify points in the self-score box, but were eligible for these items.

A revised log was tested on March 13 indicating scoring for all applicants' QCP, regardless of whether the self-score box was used. So what happened on the 13th is, a number of applications have four more points than they had on the 10th, and it mixed up the order in some subregions.

The applications listed on the agenda did not select the self-score box claiming four points, although I do need make a correction there. Application 20079, Fairview Terrace, and 20120 did in fact select those four points, and they're included in the list -- in the agenda in error.

All of these applicants that are listed did
provide certification notifications stating that either a neighborhood organization was identified, but did not provide a statement, or that no neighborhood organization was identified.

So they have provided us that information, that certification. Per the rule, the applications were eligible for and therefore assigned the four points by staff using this methodology. Soon after posting, staff received appeals from nine applicants questioning staff's action and we are requesting that the QCP pull list be removed from the effective application scores.

Those folks who sent us those appeals on forms that determinations by the Department are addressed in statute, and which makes clear that an applicant may not appeal a decision made under 2306.6710 regarding an application filed by another applicant.

We also received letters from affected applicants expressing their opinions on the process. All of these letters are included in your book. Recognizing that several parties have questioned the process utilized by staff in their review of the applications and the novel presence of a self-score box on the application form, we're bringing this item to the Board to determine if staff has handled the issue appropriately by treating these points in the same manner that it has historically, in spite of this
check box.

So basically, the question is, does the change to the application form impact the scoring when the rule behind it hasn't changed? So staff is requesting that the Board make a determination regarding these applications, whether the process utilized by staff of awarding the QCP points under the rule was appropriate even if an applicant did not enter a value in the self-score box on the application form, or alternatively, whether staff should be directed to reconsider its process of scoring these QCP points.

I'd be happy to take any questions.

MS. BINGHAM: Okay. Thanks, Marni. Any questions from the Board regarding the item for action, or any questions in general for Marni?

(No response.)

MS. BINGHAM: Okay. So then what -- so Marni, there is no -- right now, there -- we're not hearing appeals? This is -- we're not hearing appeals. You brought some appeal letters, but really, the only thing the Board can do today is hear comments and make a decision on whether or not staff acted appropriately, awarding those points.

And I'm sure that folks are getting ready to introduce to us several factors that should, you know,
drive the decision that we make. But right now --

    MS. HOLLOWAY: Correct.

    MS. BINGHAM: -- all we'll do today is just
decide whether the staff acted appropriately in awarding
those four points?

    MS. HOLLOWAY: That is correct.

    MS. BINGHAM: Okay. All right. I think then --
let's -- would you -- does someone want to make a motion,
or would you prefer to table the motion until after comment
about --

    MR. BRADEN: I'll make a motion to hear
comments.

    MR. VASQUEZ: Second.

    MS. BINGHAM: Great. All right. Perfect. All
right. All right. So we have a motion from Mr. Braden,
second from Mr. Vasquez, to hear comments at this time.

    MS. CANTU: This is Naomi Cantu, moderator, and
we're going to start with Cynthia Bast. Cynthia, we're
going to unmute you.

    MS. BAST: Thank you. Thank you, Ms. Cantu.
Cynthia Bast of Locke Lord, here representing six
applications impacted by this agenda item. We support the
procedure used by staff to address the QCP points. Their
action was consistent with the historical procedure, along
with the statute and rules.
The Texas Government Code charges TDHCA to create a form of application log. The statute requires that the log contain the score of the application in each scoring category adopted by the Department. TDHCA has chosen to establish eight categories of scoring on its log.

Self-scores, one category. QCP is a separate category. Different scoring categories have different characteristics. For instance, the readiness to proceed category only applies in certain jurisdictions. The QCP and state representative letter categories rely upon items being delivered outside the application which are not within the applicant's control.

So each category of scoring must be handled in accordance with its particular circumstances and the rules. The QAP says the Department will, from time to time during the review process, publish an application log which shall include the self-score and any scoring adjustments made by staff.

When staff determined that the March 10 log did not yet identify the QCP points earned by 36 applications, it adjusted the score, as the rule directs it to do. It is important to note, and I believe Ms. Holloway already did, that all these applicants identified in their pre-application that they did not believe there was a qualified neighborhood organization to issue a letter.
So they expected to earn four points. This information carried over to the application, where the applicants again stated their understanding regarding the neighborhood organization. By rule, the pre-application becomes part of the application.

So all of the information is in there in the application, showing that these applicants are entitled to four points. And that is why an administrative deficiency is not necessary for this circumstance.

The QAP says the staff will issue an administrative deficiency when an application does not include [inaudible] support. In this case, staff used all the same information it has traditionally relied upon to determine that these 36 applications earned four points under the rule.

The appeal letters talk quite a bit about administrative deficiencies, and how you cannot increase points by an administrative deficiency, but that is not applicable here. To conclude, the statute and rules require staff to review and verify or assign points in each scoring category.

The applications in question contain the information necessary for staff to establish the score in the QCP category. To remove these points based upon a box that was intended to serve an administrative function would
be a true departure from the agency's historical procedure and policy.

I'm happy to answer any questions you may have.

MS. BINGHAM: Thank you, Cynthia. Any questions from the Board members?

(No response.)

MS. BINGHAM: Hearing none. Thank you.

MS. CANTU: Okay. Ms. -- let me see. Excuse me. Vice Chairwoman Bingham, would you like -- Cynthia Bast was for. Would you like an against now, or should we hear some more for?

MS. BINGHAM: Let's go with an opposition, an against.

MS. CANTU: All right. That would be Janine Sisak. We're looking for Janine.

MS. BINGHAM: Great.

MS. CANTU: And you are unmuted.

MS. SISAK: Can everybody hear me okay?

MS. CANTU: We can hear you.

MS. SISAK: This is Janine Sisak. Good morning, Madame -- okay. Great. Good morning, Madame Vice Chair and Board members. I want to thank the Board and staff for hearing us out today. This seems a big to-do about nothing, but it's really important.

It's important to get this right for the
integrity of the process and to avoid setting a really bad precedent. So we want to talk today about process, about TDHCA's choice to shortcut its own process, as established by rule.

We need to think about the big picture, not about this particular point item, but about how TDHCA has always counted application scores for determining application logs and priority review. The issue is not how this particular point item was handled in the past, or that the form for this scoring item was different this year than last year.

The issue is that TDHCA decided to add four points that were not requested by the applicants on 30 or so applications. Staff should have honored the March 10 log because that log accurately reflected the points requested by the applicants, and staff should have proceeded to review applications in that order.

But not following their typical process, staff violated QAP, Section 11.201(a), limited review, which states, and I quote: "If, after the submission of an Application, an Applicant identifies an error in the Application that could likely be the subject of a Deficiency, the Applicant may request a limited review of specific and limited issues. The issue may not relate to the score of an Application."
Note that this provision states, "score" and not self-score. The affected applicants argue that this item should be treated differently. This is outside the self-score and based on items outside of the applicant's control.

This argument is without merit. First, the plain language of the rule is clear that limited review cannot relate to score, period. There's no carve-out for items outside of the self-score or items outside of the applicant's control.

Second, while this item is indeed outside the self-score, these points needed to be selected this year. Because of this purposeful change from prior years, this point item must be treated like other elective scoring items also outside of the self-score.

Consider readiness or CRP points. Surely, if someone accidentally didn't select CRP points or readiness points, staff wouldn't have added those missing points from the application log upon applicant's request. Staff deducts points all the time, but adds them when they weren't additionally requested?

Never. It's simply not allowed by rule. Here, what happened was very simple. On 30 or so applications, approximately half of which were prepared by the same consulting shop, only a handful of people made a scoring
mistake.

More than 100 people did it correctly. The form was not unclear. It had a drop-down box for picking points. Yes, it was different than last year, but it doesn't matter. The golden rule of the 9 percent program is, if you don't elect the points, you don't get them.

It's a harsh rule. I know. I was on the other side of the same situation in 2015 when my application was never reviewed because I failed to elect points on my March 1 application. Staff referred me to 11.201(a), which is on point then, and it's on point now.

Still, when questioned about this situation after March 13, staff responded with a very carefully drafted response. The points were added not by request, but by rule. This response sidesteps the issue of whether the points were requested by an applicant or an applicant's consultant, attorney or lobbyist.

I do not agree that staff had the ability to split hairs like this. Upon the posting of the March 10 log, my open records request revealed that several people immediately contacted staff about correcting the log to reflect the unselected points.

The staff decision at issue today occurred during a very stressful time we all vividly remember. When the COVID-19 crisis was quickly becoming a reality here, I
remember staring down lockdown orders coming the following week.

And it's my opinion that staff made the wrong call when [indiscernible] post a new log before the end of that hectic week, and in doing so, it violated its own rules. Staff does not have the authority to correct an application mistake regarding score, and reflect it as corrected on the log.

Staff can correct a mistake on a log, but not a mistake on an application. This is a critical distinction. We respectfully ask that TDHCA reverse its position and reflects on a new scoring log only the points requested by these 30 or so applicants.

I thank you for your time and consideration.

I'm sorry for going over.

MS. BINGHAM: Thanks so much, Janine. So any questions from the Board members for Ms. Sisak at this time? Any questions for Marni right now? Okay. Paul, did you have something?

MR. BRADEN: Yes. So either for Marni or the speaker, what other elective points are outside of the self-score? I mean, the big distinction seems to be -- when I read through the material, this seems to be that if it's self-score, you're supposed to be electing points, but if it’s not self-score, the TDHCA staff always provided
those points, but the speaker indicated that there are
certain, you know, other points out of the -- outside the
self-score, that you have to elect to get access to.

MS. HOLLOWAY: Right. Well, and Janine's
correct. CRP is another one that's outside of self-score.
I believe state representative is outside of self-score.
QCP is outside of self-score. And as Janine mentioned,
these are things that require either information to come
from outside of the applications, but for QCPs, we have to
receive the correspondence from the neighborhood
organization directly, or in the instance of state rep
letters, frequently we get them directly from the state
rep, just rather --

(Pause for technical difficulties.)

MS. HOLLOWAY: Okay. So that's basically the
difference. And in the past, we would have looked at the
certification of notifications regarding neighborhood
organizations and seen that there wasn't a neighborhood
organization, and just automatically granted that four
points, before the box was put into the application.

MR. BRADEN: And on state reps, we obviously
wait for the letter to come in from state senators --

MS. HOLLOWAY: Yes.

MR. BRADEN: -- and then we award points on the
basis of that. And what about CRP?
MS. HOLLOWAY: CRP, because — it’s one -- is a package of documents that is much larger and requires quite a bit of evaluation on our part. It's not like -- you know, CRP and opportunity index are sort of coequal. The opportunity index is actually really pretty simple to evaluate.

You look at a map and if that thing within that radius -- and then you get that menu item, whereas CRP requires that we read through the plans and we read through the financing, and evaluate whether or not that CRP meets requirements in the rule.

MR. BRADEN: But do we award those points, or do they choose those points, and we verify it?

MS. HOLLOWAY: We award those points.

MR. BRADEN: Okay.

MS. HOLLOWAY: So for instance, on the application log, there's a column for opportunity index points, and, you know, that’s automatically populated. The CRPs are not.

MS. THOMASON: I have a question, Marni.

MS. HOLLOWAY: Uh-huh?

MS. THOMASON: So how common is it that staff prints a log and then realizes that there are some non-self-scoring items that need to be updated, and update a log?
MS. HOLLOWAY: It happens on a regular basis, as we're moving through cycles. For instance, one of the things that changes as we're working through logs is tiebreakers. So -- or the two-mile rule, or for this year, the same census tract rule.

Those are things that will change as we're working through applications and publishing new logs.

MS. THOMASON: Thank you.

MS. BINGHAM: Hey, Marni, I got a message that maybe Michael has some letters to read into the record. I just wanted to check with him first, but I was wondering --

MS. HOLLOWAY: I believe so, yes.

MS. BINGHAM: -- if so -- hey, Beau, did you see that? Is it -- is now okay for Michael to read those into the record, or do you need to take a look at them?

MR. ECCLES: I believe these are state rep letters. This is Beau Eccles. And those can be read into the record in the midst of your public comment.

MS. BINGHAM: Thanks. Then, let's -- if you guys are okay, Michael, if you can read those letters into the record. And then, Naomi, we would go back now, when we continue public comment, to have -- if there's a comment or the ones to speak in support, from what -- to see if that was organizing.

MS. CANTU: Yes. Next on deck would be Ryan
Combs after the letters.

MS. BINGHAM: Okay. Let's hold just for a minute, and see if Michael can jump on and read the letters.

MR. LYTTLE: Okay. Hi. Michael Lyttle, TDHCA staff. The first letter is from State Senator Carol Alvarado. To the Board, she says: "I am writing to provide comments on an action item being presented to the TDHCA Governing Board on 4/23/20, relating to the process taken by TDHCA staff in determining points awarded under Section 11.9(d)(4) relating to quantifiable [audio interference] --"

MS. BINGHAM: Okay. Michael?

MR. LYTTLE: -- as the state rep -- yes?

MALE VOICE: It was --

MS. BINGHAM: We were having some interference. Maybe we could see that everybody else’s lines are muted, and then you may need to back up, like, a paragraph.

MR. LYTTLE: Okay. Is this somewhat better?

MS. BINGHAM: Yes.

MR. LYTTLE: Okay. Well, I was in the second paragraph, so I should probably start over again. "I am writing to provide comments on an action item being presented to the TDHCA Governing Board on 4/23/20 relating to the process taken by TDHCA staff in determining points
awarded under Section 11.9(d)(4) relating to quantifiable community participation.

"TDHCA staff's" -- I am hearing some very strange noises. Sorry. It's distracting.

MS. CANTU: I think it's -- Monica just accidentally got unmuted, but it looks like she's off now.

MR. LYTTLE: Okay.

MS. CANTU: Sorry.

MR. LYTTLE: "TDHCA staff's actions have harmed the potential of OST Lofts, a proposed affordable housing development that will be located in my district at 5520 Old Spanish Trail in Houston. In my former capacity as chair of the House Urban Affairs Committee, as the State Representative from District 145, and in my current capacity as a member of the Senate Governmental Relations Committee, I fully understand the competitive nature of the 9 percent point-based housing tax credit program administered by TDHCA.

"The program is governed by state statute and rules outlined in the Qualified Allocation Plan, but must be strictly enforced by TDHCA staff and applied equitably to all applicants for the limited HTC resources available for the state of Texas.

"Based on my understanding of the QAP, the applicant must request points for which they believe their
application is eligible in each of the various scoring
categories of the uniform application. These scoring
categories are established by statute and rules, as
outlined in the QAP.

"The applicant is not allowed to make any
adjustments to the scoring of their application once
submitted to TDHCA. It was brought to my attention that
TDHCA staff granted QCP points to certain applicants that
did not request these points in their application and
before conducting any formal review of the applications
through the administrative deficiency process, as outlined
in the QAP.

"Granting the QCP points by TDHCA staff to those
applicants that did not claim these points in their
applications placed the OST Lofts application in a non-
priority position in Region 6, putting at risk the possible
award of HTCs to this project.

"I do not believe that the TDHCA staff is
allowed by the QAP to grant points if such points were not
requested by the applicant in their original application.
I hope that the Governing Board will look very closely at
this issue to ensure that state statute and rules, as they
currently exist in the 2020 QAP, are followed diligently
and applied objectively across all applications.

"We very much appreciate all the hard work that
TDHCA staff and the Governing Board do to ensure that high
quality affordable housing is made available to our most
vulnerable population. Please do not hesitate to contact
my office if we can be of service to you in this matter.

"Sincerely, Carol Alvarado, State Senator,
District 6." The second letter is from State
Representative Christina Morales, and it reads: "My office
was provided a letter of support for the planned community
being proposed in my district at 5520 Old Spanish Trail,
Houston, Texas 77023.

"The proposal is to combine OST Lofts in an
affordable housing community and a quality pre-kindergarten
program that will be available to the residents of OST
Lofts and to those living in the neighborhood.

"I am writing concerning a matter that was
brought to my attention regarding adherence to QAP rules
and the 2020 9 percent competitive housing tax credit
cycle. Specifically, TDHCA staff's election to grant
Quantifiable Community Participation points to applicants
that did not claim these points in their application.

"TDHCA staff's actions and the resulting
re-scoring of the application has placed the OST
application and others in a non-priority position in Region
6, and therefore possibly out of a funding position.

"I hope that you will give this matter your
utmost consideration. Our state and federal governments are served well by boards and commissions like TDHCA that carry out the statutory intent and specific provisions of the enacted laws and rules, including the QAP rules that govern the HTC Program.

"As stewards of our HTC Program, you have the necessary discretion to ensure compliance with the intent and goals of governing statutes. I thank you in advance for working to ensure that the QAP rules are followed with precision and fairness in the awarding of 2020 housing tax credits.

"Sincerely, Representative Christina Morales, Texas State House District 145." And that is it.

MS. BINGHAM: Thank you. Thanks, Michael.

Naomi, are you ready with the next speaker?

MS. CANTU: Yes. That would be Ryan Combs. And we're looking for him, and he's unmuted. Ryan?

MR. COMBS: Yes. Thank you so much. I'm Ryan Combs. And I also want to express my support for the process that staff has used to score QC points this year, consistent with how they've scored it in years past, as Marni has already stated.

Our competitors cannot claim that our applications are not eligible for these four points, because they are. All they can claim is that we did not
check a box that Marni has already said that they're just for data, that read the same as last year, that the item on the application read the same as last year without any change or instructions to tell anyone differently.

As developers, we make our decisions to move forward with final applications based upon our pre-applications. Everybody does. Our pre-application called out that we expected to receive these four points for QCP, so our competitors were not disadvantaged in their decision-making.

They all knew that we were all eligible for these points. In 2019, the scoring item was largely the same as this year, and appeared similarly on the application with the addition of a points box this year. Both years, we did not check the box on this item, as it seems to indicate that it requires a QCP packet to be submitted, and our applications are eligible for four points without submitting a QCP packet.

We were automatically awarded those points in 2019 without checking the box. We filled out the application exactly the same this year as we did last year when we received the points last year, the same. Therefore, we filled out this item in -- consistently with the reading of it last year, and staff had scored it consistently.
Because staff has stated on record that this drop-down point menu is simply to facilitate staff data gathering, changing the meaning of that menu now, after the application submission, would be a significant change to the process, and a limited review, as Janine mentioned, does not even apply, because the error was in the log, not the application, as Marni mentioned.

There is no benefit to punishing 35 applications that followed the rules and filled out applications consistent with the rules and how they filled them out in years past, and when we've earned these QCP points. But the cost is the loss of considering -- consideration of deserving and higher-scoring applications.

I support the process the staff has used this year, and I ask you to do the same. Thank you.

MS. BINGHAM: Thank you, Ryan. Any questions from the Board members?

(No response.)

MS. BINGHAM: Naomi, is there somebody from Janine's group that would like to speak in opposition?

MS. CANTU: There is. Deanna or Diana McIver. She did state that she might be donating time, so we're going to check with her, if she wants to speak. Diana, do you want to go ahead and let us know if you want to speak?

MS. MCIVER: No, I do not.
Ms. Cantu: Okay. And then Joe Broki. He is up next, and I'm looking for him. And go ahead.

Mr. Broki: Joe Broki is prepared to speak at the Board's leisure. What's that?

Ms. Cantu: We can hear you.

Mr. Broki: Okay. I'm sorry. I thought Ms. McGyver was speaking first. First of all, thank you for your time today. Thank you for your consideration. I don't know many of you, but I have met Mr. Wilkinson through Mr. McCall and Mr. Carter before, and it's good to see you again, Mr. Wilkinson.

And Mr. Braden, I met you through your partner, Mr. Incerto, and it's good to see you and Mr. Watson. I represent the Housing Trust Group, and I would say, amen, amen, hallelujah to Mr. Combs' comments earlier today, and which when he spoke to another provision, he spoke in support of the need for consistency and the need to follow all the rules, which apparently he's abandoned when it's come to this application.

The fact is the application's far different. There is a change, and my client has been materially disadvantaged, materially harmed by what the staff has done. In terms of whether you want to look at it in terms of standing or otherwise, we have sustained a direct injury because we fall within that two-mile, same-year rule as
Azalea West.

And let's try to keep this within the three minutes. Azalea West did not claim the four points for quantifiable community participation, nor did they check the box to indicate that they expected to seek the points.

The -- if we had more time, I would show you the page. My fifth-grader could get this right. It's not like we're asking you -- you don't need a J.D. You don't need an undergraduate degree to fill out this application.

This just didn't do it. They made -- let's give them the benefit of the doubt. They made a mistake. But you're not here -- the Department's not here to correct mistakes. They didn't claim their four points. They didn't check the box indicating they expected the four points.

As a result, they received an improper award of four points. And we know that the lower-scoring application will not be reviewed, and that is Azalea West's application. So what they're asking you to do is set a precedent that an applicant may expect the Department to fix their mistake.

If that is in fact the case, why do you even have the box? A box doesn't matter. Going back to contracts 101, due process 101, constitutional law 101, it's fundamental that language matters, and if that box was
on the app, and it was intended to be given effect, it's not something that can be arbitrarily dismissed or changed, which is what the proponents of this staff change are assign you to do.

The point here is, we have rules, and if they're not going to be followed, then the result is anarchy or chaos. That contravenes the small-D democratic and small-R republican principles upon which this state and country were established, and they're asking you to open up a Pandora's Box, and I would suggest to you that we need to keep Pandora's Box shut and follow the rules.

Park Tower followed the rules and should be considered for the 2020 9 percent tax credits. Azalea West did not and therefore should not be considered. The rules are clear. Applicants are required to certify, among other things, that they have familiarized themselves with the rules that govern the program.

In terms of documentation to substantiate items and representations in the application, any application that the staff identified as having insufficient information will be directed to cure the matter via a deficiency process.

So what happens in the deficiency process? The applicants can't use it to increase their score, and they are reminded that this process may not be used to increase
their score, and also significantly they are reminded that it may not be used to change any aspect of their application, including their failure to check the process. While this is technical and stringent, that is the very nature of the program that we all find ourselves in. This is a technical and stringent process. Applying for competitive housing tax credits is a technical process by rule that must be followed completely and correctly.

Applicants must fully understand --

MS. CANTU: Mr. Broki?

MR. BROKI: Yes, ma'am?

MS. CANTU: All right. Mr. Broki, can you start wrapping it up?

MR. BROKI: Yes. I have -- Justin Tommel and Haley Devane have afforded me their time, if I could take advantage of their time. I won't need all of it. That's another six minutes.

MS. BINGHAM: Great. Let's do another two.

MR. BROKI: Yes, ma'am.

MS. CANTU: And this is Naomi Cantu, the moderator. We are not allowing donated time during this Board meeting. We did discuss that. Beau Eccles did discuss that. No donated time but --

MS. BINGHAM: Yeah, yeah. Thank you very much.

Mr. Broki, let's wrap it up in two minutes.
MR. BROKI: I’ll use our management and I will wrap it up. According to the rules, it's the applicant's sole responsibility to perform independently the necessary due diligence to research, confirm and verify any data, opinions, interpretations or other information upon which the applicant bases an application or includes any submittal in connection with the application.

It is not the responsibility, the duty or the job of the Department or its staff to do so. The staff does not have the authority to adjust upward. And I would say, in this situation, it's significant that we had a neighborhood organization here within the boundaries of Azalea West that did not submit a QCP packet because it didn't qualify as a neighborhood organization, but that neighborhood organization -- and I believe Ms. Ava Bonilla is ready to speak today -- has made it very clear that they opposed Azalea West.

So whether you want to look at this from a legal standpoint in a strict construction of rules and law, which I'm happy to argue all day, my client wins, if you want to look at it from an equitable standpoint and you want to listen to the neighborhood organization -- my client wins, because they oppose the Azalea West.

Thank you very much for your time and consideration.
MS. BINGHAM: Thank you, Mr. Broki. Before you leave, any questions from any of the Board members for Mr. Broki?

(No response.)

MS. BINGHAM: Hearing none. Okay. Naomi, let's see if there's --

MS. CANTU: So Alyssa Carpenter is next. She is on the other side. And at this time, we're going to go ahead and unmute you, and --

MS. CARPENTER: Hi. Can you hear me?

MS. CANTU: Yes. After Alyssa, we have Clem Gormley. Go ahead, Alyssa.

MS. CARPENTER: Oops. Okay. Thanks. Good afternoon, everyone. My name is Alyssa Carpenter, and I am the consultant who worked on several of the applications impacted by this issue. I would like to state that I am in support of staff's handling of the application score logs and the assignment of four points for these applications.

I've been working as a consultant and preparing tax credit applications since 2007 and I work with several different developers. When preparing applications, I consider what I did on the prior year's applications, in factoring any changes made for the current year based on the QAP, training materials and guidance from staff.

I also regularly ask staff for clarifications of
any items that are unclear. Last year for 2019, the QCP section in the application had a check box that stated, and I quote, "application expects to receive QCP points," and then it also noted in bold, "the QCP packets may not be submitted by the applicant and must be received by a neighborhood group."

In 2019, I did not check that box if I did not expect QCP points from a QCP packet submitted by a neighborhood group. We did not receive any deficiencies for that item, and all applications that did not receive a QCP packet were assigned those four points by staff for the QAP, including those applications of people in opposition today who also did not check that box in 2019.

Now, for 2020, the QCP check box language is exactly the same, but a drop-down point menu was added that corresponds to the check box. The points in the menu all correspond to values for QCP packets, so there was still no reason to believe that this was for anything other than a QCP packet.

I filled out this box on points when I expected to receive a QCP neighborhood packet and did not check the box if I did not, just I did in 2019, since there was nothing in the 2020 materials to indicate that this was to be filled out any differently from 2019.

I filled it out the same way to be consistent. I
would like to point out that of the approximately 35 applications that have this issue, they were submitted by 16 different developers or 11 different application filers, if you group them by use of the consultant. This is not where one or two people interpreted this differently or “made a mistake.” We filled out the form appropriately. Staff has historically added these points to the application log based on their review of the pre-application, application and QCP packet.

For the past several years, an initial score log has been posted by staff that did not include QCP points and the log was subsequently updated by staff with the points added. Again, this shows that the actions by staff were consistent with previous years and not in any way unusual.

If four points are not applied to applications that did not receive a QCP packet, this would be a significant change from 2019, and inconsistent with how this scoring item has been handled for many years. The applicant does not do anything for these points [audio cuts out].

MS. CANTU: You're unmuted.

MR. GORMLEY: Good afternoon, Vice Chair Bingham, members of the Board. Can you guys hear me?

MS. CANTU: Yes, we can now.
MR. GORMLEY: Can you guys hear me? Okay.

Sorry about that. Good afternoon, Vice Chair Bingham, members of the Board, Executive Director Wilkinson, TDHCA staff. First, let me just say, thank you for what you guys do and your dedication, especially in these trying times.

It's very challenging days. What my previous speaker just said, and I wanted to really kind of emphasize it, a drop-down box corresponding to the election of claim of points now exists in the 2020 uniform application.

As a former administrator directly responsible for several annual rulemaking for LIPAC and administering the annual application processes, I could testify that the rules create consistency -- that's been repeated here several times -- and maintain fairness in this application process.

It's a very competitive process. I intimately understand the nuances staff faces in reviewing applications and the importance of adhering to rules and the processes established for the annual application round.

It's a very technical round. Right? A very technical process. This includes how the QAP incorporates the uniform application into its process, because a lot of times, there's a technical aspect that cannot be clarified in the QAP, but must be maintained with the application itself.
That's why they're incorporated together. In addition to having consulted for other agencies in the past along with their policies and deal analyses, I have never witnessed an instance where previous years' rules and processes overrule current rules and processes purposefully changed and reflected in the 2020 uniform application.

I've heard here a few times -- it was talked a little bit about -- you know, historically, we've done this. Historically, we've done that. And that it was decided that that box was added for the point claiming, to collect data.

That is not proposed or was not ever clarified by the agency in its process. Don't make casual mistakes. Don't assume anything. Ask. Don't expect TDHCA to do your homework. These are not my words. These are TDHCA's words, shared and posted back in November when these changes were made and shown in their TDHCA application webinar.

So this was clearly out there for a period of time for people to understand. We, like 100 or more other applicants, acquainted ourselves with these annually-changing rules. We didn't casually treat any point claiming right, and we expected to claim these and didn't expect TDHCA to just grant us these points, as shown in the form.
The fundamentals of real estate at Park Tower are sound. We were harmed by the two-mile rule when the log changed. It's definitive. I have been in front of this Board several times, and it's interesting that we have a neighborhood organization that adjoins us that supports our project but does not support Azalea West.

We have an additional neighborhood that adjoins us that supports our project as well and also has opposition to the Azalea West project. With that, I respectfully request that TDHCA reverse the four-point granting, and reestablish Park Tower's position on the application log.

Thank you very much.

MS. BINGHAM: Thank you, Mr. Gormley. Any questions from the Board?

(No response.)

MS. BINGHAM: Would like to -- I think the concerns are very well stated and passionate. We are starting to hear kind of the same concerns from the speakers. So let's try to have one more speaker from each, of support and opposition, and try to limit to three minutes, and then we'll -- I'll follow up with the Board on any further questions that the Board members have.

MS. CANTU: This is Naomi Cantu, moderator. We're looking for Matt Higgins, who is next up. His audio
control is not on. Matt, if you are listening, please go ahead and try and call back in. We will go on to Russ Michaels.

Russ Michaels? We're looking for him.

MR. MICHAELS: Yeah, I'm here. Can you guys hear me okay?

MS. CANTU: We can hear you, and after you speak, we have Eva Bonilla. Yes.

MR. MICHAELS: Okay. Perfect.

MS. CANTU: You're on.

MR. MICHAELS: All right. Yeah. Thanks. I've got this right around three minutes or three and a half minutes. I promise not to take too long. My name is Russ Michaels. I'm an attorney and the executive director of Texas Interfaith Housing in Houston, and we're one of the largest local nonprofit developers in Texas.

You know, and I've been with many of you for well over a decade now, and I just absolutely love, really, what we all do. We better people's lives. We improve their living, and it's just an absolute blessing to kind of be part of this industry right now, especially when everybody can really have each other's back during this pandemic.

Now, I'm on this 5(c) action item. I support the development team for Dian Street Village in Houston,
and like over 35 other applicants, we didn't check that box, but I'm 1,000 percent, 1,000 percent unequivocally behind Bobby, Marni, Sharon and staff on this.

I'm in staff's corner. They have been doing an impeccable job of handling this action item, and actually, the entire 9 percent cycle. You know, let's be honest. Like, right now, what we really need are leadership and consistency, and quite frankly, they're showing up in a big way.

And I'm here primarily, really, for this side, to echo what Cynthia Bast said and everybody else has said, that the QCP is really a separate category. It just is. It's not self-score. And staff has the ability to adjust those non-self-score items.

And here's the thing that I think a lot of people are missing right now. 10 TAC 11.884 -- the pre-application becomes part of the application anyways. And so we all selected the points. Everybody did. And we all put in the evidence the full app to actually get the points that we requested, those that we could actually put evidence in.

The evidence we couldn't put in is actually coming from the letters from the neighborhood organizations we don't have any control over. So staff is just flat out getting this right, you know. They've always determined
the scoring item, not by checking a box or not checking a box, but by subjective and consistent review of the evidence in the application.

You know, at Dian Street Village, we were consistent and we accurately should receive the points because we submitted our evidence, and that's what we've been doing for years now. So I just have, like, one or two more points here, and then I'll complete this.

A consistent QAP has been the trademark of TDHCA and the Board for years. Really, we value that. We all have been. You know, and like I said, that's something that we should all be very clear about on this, is that it's been consistent, and we're doing everything that we can.

And lastly, this is worth mentioning. It's probably my own thing, but I'm going to mention it anyways, because the opposition was kind of mentioning stuff too. The handful of developers arguing against staff and us today are almost unanimously outside the winners' circle, and they're just wanting to knock people out so they can win their allocation on their own deal, that scored lower than everybody else.

So the momentum of this agenda item -- it has more to do with a small handful of developers who are not winning their deal right now. That's it. So you know,
imagine if we took that approach all the time during this pandemic, choosing just a handful of people, people who are only thinking about themselves over the consistent and prudent leadership of the collective whole, which is what Bobby, Marni, Sharon and staff is doing.

I mean, we're all just following the rules to the best of our ability, and that's why it's prudent to follow staff right now. Staff's being fair and consistent for everyone in this tax credit cycle, and we should value that right now.

And again, I think it's fair to state that Pandora's Box is already open. We're in a pandemic. Right? And you know, the beauty of that story is that once everything's out of the box, all that's left is hope.

Hope.

And so I really hope that we follow leadership and consistency and staff today, not the whims of a few developers that just want to win. So thank you for your brilliant Board leadership all morning and all afternoon. I really appreciate it, and you also look super terrific on that screen, by the way.

So I'll assume there aren't any questions for me. Thank you so much.

MS. BINGHAM: Thank you very much, Mr. Michaels. And I think, Naomi, you mentioned the next speaker, and it
is the speaker that was for the opposition -- correctly.

Is that correct?

MS. CANTU: That's correct. Uh-huh. And I was just wondering --

MS. BINGHAM: What is the speaker's name again?

MS. CANTU: It is Eva or Eva Bonilla.

MS. BINGHAM: Okay. Great. Because -- I may have misunderstood, but a little while earlier, one of the previous speakers had mentioned what Eva was going to speak on, and it sounded a little like, to me, it was more about the merits of the actual application or the lack of merit of another one.

So I just wanted to make sure that we stay -- that we're clear about what we're here to talk about in this action item.

MS. CANTU: Yes. I do hear you.

MS. BINGHAM: Great.

MS. CANTU: I did want to read into the record, Ryan Wilson with Franklin Development wants to express support for staff's recommendation. He does not want to speak. And so with that, we're going to go ahead and go to Eva Bonilla.

And she is unmuted.

MS. BONILLA: Thank you. Hi. My name is Eva Bonilla, and I'm president of the Linwood Neighborhood
Association, and we are a very active organization on record with the city of Ft. Worth, but not Tarrant County, since they don't maintain a database of neighborhood organizations or with the city or the Secretary of State.

And the Linwood Neighborhood Association sent formal opposition to TDHCA on February 3, and we were told that our letter would be registered as public comment. The developer that presented to us originally was Sagebrook Developer, not the developer who appears to be FTI Development.

And they were aware of our organization prior to December 4, and could have disclosed that if we wanted to participate in the process, we would need to register with the Secretary of State. We believe they purposefully withheld that information from us to prevent us from objecting to their development.

So we believe that inappropriate -- it is inappropriate for this developer to be allowed to move forward with or -- with our support -- with or without support, because even -- most inappropriate that the developer has been awarded points for QCP that they did not request.

While the Linwood Neighborhood Association may not meet the TDHCA definition on neighborhood organization, we are very active in the city of Ft. Worth and the Azalea
West development is within our boundaries, and all our members live within our boundaries.

We would like to affirm that this is not an issue with affordable housing, but with smart planning and development. I understand the need for affordable housing, but you can't force a need into the wrong site. We have fully supported the Park Tower, which is less than a mile from our neighborhood boundaries.

We would welcome residents of Park Tower into our community, and we hope that becomes a reality. We have over 50 neighbors probably waiting online that are willing to voice their concerns with the process, but with respect to this Board's time, they will only speak if necessary.

Many have sent in their comments, and I thank you.

MS. BINGHAM: Thank you very much, Ms. Bonilla. Are there any questions of Ms. Bonilla from the Board?

(No response.)

MS. BINGHAM: Then, Naomi, how about -- do you have anybody else teed up for support or opposition?

MS. CANTU: I do have opposition, at least. I don't believe we have anyone else queued up for support. If you are queued up for support, please enter that into the question box. And I do actually have -- Linda Brown has said that she would like Laura Merrick to go next.
That was the order that it was in, Linda, and then Laura, and Laura has been -- is in opposition, but she is next.

MS. BINGHAM: Okay. Yeah. Let's go ahead and do that one, and then -- so we don't want to limit the ability to speak to this agenda item. We just ask those that are speaking to try to limit, maybe, to items that haven't already been addressed by previous speakers, and to stick to the time allotment of three minutes, and hopefully, we can start hearing the rest and kind of get this wrapped up.

MS. CANTU: Okay. So Lora. We're going to go ahead and start with Lora.

MS. MYRICK: Hello. I hope I can be heard.

MS. CANTU: Yes, we can hear you.

MS. MYRICK: Good morning to you all, Madame Vice Chair, members of the Board, Mr. Wilkinson. Before I begin my comments, there was a question that was asked, I believe, by Mr. Braden, of CRP points and whether those were awarded or whether those points were selected.

And I believe I heard the answer that it was the Department awards those. That is not how we do that in the application. There is a drop-down box for points to be selected, and it goes in order of descending. So you go seven, five, three, two, one, I believe -- four, three,
two, one.

So they're not awarded. We have to select those for the CRP. So I just wanted to make sure that -- I thought I heard something different, but I wanted to make sure that that was clarified. Okay. Thank you very much for allowing me to speak this afternoon. I'm sorry?

MS. HOLLOWAY: She actually corrected me via text. Lora is right. The CRP is one of those other kind of odd things. QCC is an odd thing. It's just by the nature of the item. So -- but Laura is correct. There is a drop-down box in the application for CRP.

MS. MYRICK: Thank you very much. Marni, I appreciate that. Okay. So the problem for everyone is not that some applicants did not request four points that they may have been eligible for, because the eligibility is not what we're talking about.

The problem is that the Department exceeded their authority by awarding points that were not requested, which violates their own rules. We are here because the Department overstepped their authority by awarding points that were not requested, and by doing so, they harmed approximately 74 percent or the majority of the applicants that did complete the application correctly, as well as the overall process, which we are all subject to.

Again, approximately 74 percent versus the
26 percent have been unfairly penalized, because we filled out the application correctly. The QAP identifies three areas that talk specifically about not being able to increase points.

That's 11.1(g), 11.2017 and 11.9(e)(4)(B). The QAP also states, as well as the procedural manual, that Department staff cannot and will not take responsibility for completing the application package or any portion of.

I think what's important is the self-score here, and on page 9 of the Department's procedural manual of 2020, this year, it does say, self-score.

So like, the points for each scoring item from the drop-down boxes, and the subtotal from the total self-score will auto-populate, and that that self-score cannot change by more than four points between pre-app and full app in order to qualify for your pre-app points.

So that's where the self-score comes in. If you cannot deviate more than four points so that you can keep pre-app points. It goes on to say that the readiness to proceed, local government support, quantifiable community participation, QCP, which is what we're talking about, support from state reps and input from community organizations, as well as concerted revitalization plan sections are not available to the self-score.

While these items are not in the self-score or
included in that calculation and in red, their lettering says, you must indicate points you intend to claim for these items. The Department's position is that QCP points are awarded by rule and not by request, the Department has always awarded in the points in the past without being requested, and that the drop-down box caused confusion.

First, the QAP says that QCP may be awarded, and not that points will be awarded, like it says for local government support and for the representative letter. The points were not requested in the past because there was no drop-down box to request the points in the past.

The Department added that this year. And anyone who is a seasoned application-filler-outer person knows that you read each question and you answer every drop-down question and don't leave a point on the table. The drop-down box should not have been confusing at all, because it is the same drop-down box that is utilized throughout the application, including all of those other areas that are not included in self-score.

I believe that the other side is acting as -- and you know, let's be clear about what the Board is being asked to do: to ignore and break away from your own rules and allow an unprecedented increase to the points not requested by an applicant, when there is no mechanism for such action.
To ignore the clear design of the application this year, a drop-down box where an applicant must request these points. To treat this drop-down box differently from all of the other drop-down boxes that we are required to fill out, and you're being asked to correct the unfortunate error of a minority of applicants at the expense of the majority of applicants and the process itself, the majority who did do this right, even though we had an application that looked different last year.

We didn't understand the drop box -- the drop-down box. The application was confusing. We have not done it this way in the past. We want you to go back and do it the way you did it --

MS. BINGHAM: Lora?

MS. MYRICK: I'm almost there, almost there.

MS. BINGHAM: Lora, can we wrap up?

MS. MYRICK: Yes, ma'am. Almost there. These are not compelling reasons to change the rule. The right answer, I think, to do is for the Board to uphold its rule by not granting these points and setting an unfortunate precedent.

I believe that next year these applicants will know you must request these points, and I thank you very much for your time today.

MS. BINGHAM: Thank you, Lora.
MS. MYRICK3: Yes, ma'am.

MS. BINGHAM: Naomi, is there anybody left in the queue?

MS. CANTU: There's many, many people wanting to speak on this item.

MS. BINGHAM: Okay. So just probably need some feedback then from Beau or Board members. We've heard a lot about drop boxes. We've heard a lot about support and intention. They're starting to sound, respectfully, a little redundant, and we do have some more work of the State to get done today.

If we -- Beau, can we get some guidance on how to further proceed?

MR. ECCLES: Absolutely. There's an opportunity for public comment, and if the public wants to comment -- however, you have the discretion to limit it to new material. So I think that the question to the audience that's listening is not whether you want to register for or against staff's action, because you can simply register that by typing it in and saying so, but whether you have new information that bears on this, that has not already been covered by the hour or so of comment that has come before you.

And if there -- and if a speaker gets up and starts saying the same thing, then they can be cut off and
told that that's all the time they're going to get.

    MS. BINGHAM: Understood. Okay. I mean, definitely, the intention is to hear public comments, but would ask at this point, when you're in the queue and you come up, we're going to ask you if you have new material, and if you do, then we'll be happy to hear it, and if you don't, then you can yield your time.

    Okay, Naomi?

    MS. CANTU: Okay. Thank you. So at this time, we're going to move forward to the question box. Please let me know if you have new material. I see that Brad McMurray and James McDonald both say they have new material.

    We're going on to Brad McMurray. Brad, you are unmuted.

    MR. MCMURRAY: Yes. Thank you. Can you hear me?

    MS. CANTU: Yes, we can.

    MR. MCMURRAY: Great. I do have some new information. My name is Brad McMurray and I'm here representing Prospera, and I do oppose staff's action of adding QCP points when they were not requested. It has to do with people saying that this was new and they really didn't know what to do or how to handle it differently, and it actually reminded me of what the former TDHCA Board
Chair, J. Paul Oxer, said to me at a Board meeting in response to my contesting our loss of pre-application points for our site plan attachment not opening. I had pointed out that it never said anywhere that we didn't -- we had to open the document and ensure that it opened. And he replied, so what you are saying is, staff should have done a better job of telling you not to spill hot coffee on yourself.

Well, that's exactly what I think is happening here. The QCP -- the new information that I have, as we keep talking about QCP, that it's one of four items that are on the community input page, Tab 46. There are three other items on that page: the state representative, the community organization letters, and the resolutions of support.

Well, all three of those items had drop-down menus added as well, brand-new. So the whole page looked exactly the same, except drop-down menu items were added on all four of the items. Well, what I'm hearing is, some saying that, well, we've left it blank or we put a zero on the QCP because we didn't know what to do, but that seems a bit disingenuous when you look at the other three items that they all -- every single application that's in question completed correctly.

They requested the right amount of points. Even
though these are all non-self-score items, many of them require a submission of things outside of the application.

So it just doesn't make sense, and I think it brings a little more light to the situation.

The other thing is to clarify something that -- where people put a zero. They said, well, we didn't expect to get a QCP packet. Well, that just doesn't make sense, because if there's no packet and there's no neighborhood organization, then you're supposed to get four points.

And they said in the -- previously, that they requested four points in the pre-app. They certify that there were no neighborhood organizations or associations in Tab 16. But then they said, we chose zero points. Well, that's clearly a mistake.

Zero points only counts or is only appropriate when there's a letter of opposition, and they didn't have that. So while they were eligible for the four points, they actually didn't claim the four points. And now, when you get to the argument that we've always done it this way, and you should do it again this way, the same way this year, we have a change in the application.

By definition, a change requires different performance. And so that's been the information that --

MS. BINGHAM: Okay. Thank you very much, Mr. McMurray. Thank you. I think we did -- I think we have
heard that argument before, but I appreciate your contribution. Thank you.

MS. CANTU: Okay. Next up, we have James McDonald, Zimmerman Properties, and we're looking for him so we can unmute him. After James, we have Donna Rickenbacker and then Zachary -- I do not --

MALE VOICE: Krotchtengel.


All right. I do apologize for that. So James, you are up next.

MR. MCDONALD: Thank you, Vice Chair Bingham, Board members and Executive Director Wilkinson. I find myself in an odd place, because we're one of a few different participants in this year's applications that actually did it right, and we did it wrong. I'm admitting that we made a mistake.

And in the past when dealing with these similar types of mistakes, the Board and the staff has been very adamant that, you know, you made a mistake. I have three applications we did it correctly on. I have four that we did not, and I would like to go on record that I am against the way that staff is looking at this, this year.

Should I make it short? I did. Thank you.

MS. CANTU: Thank you, James. Next up, we do have --
MS. BINGHAM: Thank you very much, Mr. McDonald.

MS. CANTU: -- Donna? I'm working to unmute her, and she is unmuted.

MS. RICKENBACKER: Hi, this is Donna Rickenbacker. Can you hear me? Can you hear me?

MS. CANTU: We can hear you.

MS. RICKENBACKER: Okay. Good. It's Donna Rickenbacker, DWR Development. I'll go quickly, Leslie. Thank you for giving us the opportunity to speak further on this matter. First, you know, I'm been listening to a lot of the speakers so far.

If there's anything to come out of this agenda item, it's to make sure that staff will never again post an application box on Friday the 13th. I only want to speak to one item that I don't think I'm hearing anybody speak to, and it's really the intent of staff by adding this drop-down box.

I've know we've heard a lot about drop-down boxes. But one of staff's most challenging positions is the drop-down box, and if you say the scoring category was added to the application form this year to facilitate data gathering.

Okay. If this is the purpose, then I assume the data staff is trying to gather what QCP points you value,
the applicant believes their application is eligible to receive. This makes sense, since there are six different QCP point values.

I believe that staff made a conscious decision this year to add the drop-down box for consistency with all other scoring categories in the application form, and most importantly, so that staff understands what QCP point value the applicant believes their application is eligible to receive.

Otherwise, by example, how would staff know whether a neutral statement sent directly to the Department from a neighborhood organization relating to a particular application was worth six points? Because it's from a neighborhood organization that, during one of those three prior rounds, opposed a competitive application.

Without this guidance from the applicants, staff was automatically awarding the four points to the application. Therefore, I think staff correctly cleaned up the QCP scoring category by adding the drop-down box in the application form and requiring the applicants to claim the appropriate points.

That's all I have to add to it. Thank you so much.

MS. BINGHAM: Thank you, Donna.

MS. CANTU: Vice Chairwoman Bingham, we have one
other, Zachary Krotchtengel, who is up next with new material. Again, we are doing new material only on Item 5(c) regarding staff actions or staff determinations. So again, new material only, and Zachary, you are unmuted.

MR. KROTCHTENGEL: Hello. I just wanted to quote two points in the QAP, that applying for multifamily funds from the Department is a technical process that must be followed completely. And it also said an application must be complete and submitted by the required deadline.

I've reviewed the application log, and the highest-scoring self-score was 141 points. The score of the other categories outside of self-score that all included drop-down boxes is 45 points. There are no provisions in these rules that say you do not have to fill out the parts of the application that are for data collection purposes.

However, we do not believe that all of the scoring drop-downs are only for data collection, as they link to the scoring log. The scoring log is important. In fact, it's important enough that it triggers appeal rights. So no, it is not just a box for data collection. It memorializes the amount of points an applicant is requesting. This is consistent with the wording of the pre-application which asks the applicants how many points they will request in the application for scoring items.
outside of the self-score.

If this precedent is set, the next scoring log will come out with a blank for all those 45 points, and it will become meaningless, because those drop-down boxes will become optional. I also want to go back to Marni's point that the applicant does not have control of the materials for scoring materials outside of the self-score.

So we have letters of support from 501(c)(3)'s and even in this year, one of our nonprofits sent the letter directly to the Department. I received an email from the Department that said they'd received the letter, but it was not submitted by me, so would not be eligible to be scored.

So this is outside of the self-score, but the materials required are in the control of the applicant to submit. Also, the CRP package is made up entirely of materials in the applicant's control, and the CRP package reminds us -- the CRP packets must be complete.

Both of these items also have drop-down boxes to identify the points that you're requesting. That further makes this point, that in the QCP, it relies on material outside of the applicant's control. However, she then pointed out that in the pre-application, all of the applicants did not have a qualified neighborhood organization, and they went further to claim that they
would request four points on their final application.

Once they filled out this pre-application in this manner, they're showing that the applicant did not expect the third party to contribute any materials to this scoring category. Thus, they knew that they should claim the four points, as the materials were entirely in their control.

Sometimes, you have to weigh what will cause the most harm to the program, and in this instance, the unilateral granting of points not claimed on the application that has occurred would set a precedent that would cause far more harm to the program than standing by the applications as they were filled out and the scores as they were completed.

It would greatly diminish the weight that is placed on accurately and completely filling out the application and allow the scoring process to be far less transparent. Thank you.

MS. BINGHAM: Thank you, Zachary. Naomi, is that it?

MS. CANTU: I don't have anyone else queued up with new information regarding 5(c) that hasn't already been covered.

MS. BINGHAM: Great.

MS. CANTU: We have a lot of --
MS. BINGHAM: Okay.

MS. CANTU: -- comments on individual applications within 5(c), and nothing regarding this specific topic.

MS. BINGHAM: Understand. Okay. Thank you. Thanks very much. Okay. So we've heard extensive public comment supporting staff's position and opposing it. Is there any -- do the Board members have any questions or are we prepared to make a motion?

Or do you have any questions of Marni?

MR. BRADEN: I guess I have a couple questions. I'm still not entirely clear. Does the TDHCA award any points? I mean, at the end of the day, are the people who are saying we maybe take points away if they weren't appropriate or something like that, you know, do -- is every point that's granted part of a drop-down box and people choose the points and then we just verify it?

I think you're on mute, Marni.

MS. HOLLOWAY: Sorry. I didn't want you all listening to my dog. I believe at -- I believe, and I, you know, not -- I don't have the intimate knowledge of the application that probably some of our speakers have, because they're filling it out.

But I believe that, yes, in general, points are requested through the application and then documentation is
provided to back it up. Again, QCP, it's -- you know, points they're expecting to get based on information that they're expecting a third party, a neighborhood organization, will provide.

    The same with state rep letters.

    MR. BRADEN: Okay. So let's talk about state rep letters. When a state rep letter -- if you're expecting to get that from a third party, as part of your application, do you click something that says, I expect to get it, so I'm self -- or I'm not self-scoring, because that's not self-scoring, but I'm getting so many points for that?

    MS. HOLLOWAY: Right. In the application, there is a section right below the QCP item that is input from state representatives that does have a point -- does have points requested boxes.

    MR. BRADEN: So it seems that it's a correct characterization that some of these people have made is -- you know, we're in the business of taking away points if people aren't correctly claiming them. We aren't typically in the business of giving people points.

    MS. HOLLOWAY: I think that that's a fair comment, but I also would refer back to my presentation earlier when I talked about before this box was in the application this year, everyone got these points if there
wasn't something from a neighborhood organization.

So what has changed is the application form, not
how TDHCA handles this item.

MR. BRADEN: I understand what you're saying,
that this box was not intended to be a substantive change.

MS. HOLLOWAY: Correct. Yeah. And I think, you
know, that there are valid arguments on either side, but it
was not staff's intent to change anything other than use of
data gathering -- well, it put that box on there.

MS. THOMASON: I have a question for Marni. So
does that -- in saying that, is there a rule -- if that's
the way it was treated in the past, then there's not a new
rule. The only difference is the drop-down box. So was
staff violating federal rule by adding these points where
they were not requested?

MS. HOLLOWAY: We don't believe so. As I said,
this is something that we've done in the past, and probably
a number of people who are protesting the question this
year received those four points last year, before there was
a box in the application.

I don't believe that we are violating anything
in the past. You know, if there isn't a neighborhood
organization and the rule says, if there isn't a
neighborhood organization you get four points, then we had
just been treating that as an automatic.
MS. BINGHAM: We did, in our Board materials -- we do have kind of a side-by-side comparison of what it was like in 2019 applications and what it looked like in 2020. Having a hard time -- it looks like it was -- I don't know if anybody from staff can point to where it was, but basically, the only -- the difference is that drop-down box.

The language and everything is exactly the same. The footnote is the same. Everything was the same.

MS. HOLLOWAY: Uh-huh.

MS. CANTU: Vice Chairwoman? Vice Chairwoman Bingham, we have several people wanting to speak at this point. Janine Sisak and Cynthia Bast are the first few to respond, and there are several other people after them as well.

But that's your discretion, whether --

MS. BINGHAM: Yeah. I think we're past public comment. You know, if both Ms. Bast and Ms. Sisak want to take a couple of minutes to tie up loose ends, but I think we're finished with public comment.

MS. CANTU: Okay. We'll briefly unmute. We'll start with Janine Sisak, who was the first one. And you are unmuted.

MS. SISAK: I just wanted to mention a couple of things in response to some of the discussion from the
virtual dais. With regard to the rule that's been
violated, you know, to be clear, I don't think staff
violated any rule by changing the form.

The rule that was violated was giving applicants
points that they didn't request. And the reason that rule
was violated is because not just this one point item was
treated differently on the application, but there was a
whole new page.

I think one of the prior speakers said, you take
the whole page, which covered all of the point items
outside of the self-score that relate to kind of community
input, the state rep letter, you know, limited political
subdivision resolution, all of that, have new drop-downs
for points.

There wasn't just this point that changed on the
app. None of the other rules for the other point
categories were changed. No, we're not saying that the
rules changed. We're saying that the application changed
in a material way, in a purposeful, material way.

Why did staff do that? It changed the way these
points needed to be treated, and makes them treated like
all of the other points that you're left. If you have to
go back to them and you did correct them, you do not get
them.

And those are my final comments. Thank you.
MS. CANTU: Thank you. So we're going to move on to Cynthia Bast for a few minutes to wrap up, and as the Board Vice Chair had mentioned, we are concluding our public comment at this point. So Cynthia Bast?

MS. BAST: Thank you. I will start by saying that I agree wholeheartedly with Janine that the integrity of the program is the most important thing for all of us. And in my mind, the integrity is found in the rule. You've heard lots of statements today about what the rules say, and frankly, I think we need to cite-check some of that, because the rules don't explicitly say in one sentence, you don't get points you don't ask for.

It has statements about not increasing points under administrative deficiencies and in certain circumstances, and that's why I started my remarks talking about the different categories and how historically these different categories have been treated differently.

And that they need to be looked at in context. And as we've noted, there are two items where the staff can receive something outside of the application, and even if the applicant says, no, I don't think I'm going to get a state representative letter, and then if one shows up by February 28, then staff is committed to score that.

Same thing with the Qualified Community Participation. The form changed but the rule did not
change. And even though the form changed, that was not
highlighted in the webinars, the workshop, the manual.
There was no place where TDHCA said, we expect something
different this year.

And so that, combined with the actual text for
this particular category that says, expect to receive a
QCP -- expect to receive these points and then delivery of
a packet, makes it perfectly understandable that there was
confusion, perhaps.

We believe that the forms were filled out
appropriately by putting N/A, because there was an
indication that there was not an expectation for a QCP
packet. So in the case of confusion, we go back to
consistency, and consistency being important.

And the staff has always taken this rule that
says you get four points if you don't have a neighborhood
organization. You get zero points if you have a letter of
opposition, and they have applied it as such. So
therefore, I believe that for the integrity of the program,
it is important to be consistent, and that is why we are
asking you to uphold staff's action, and I thank you and
appreciate your patience with all of the testimony today.

MS. BINGHAM: Thank you. Thanks. Thanks,
Cynthia. Thank you to everybody, too. Thank you, Janine
and Cynthia both, and all of the eloquent speakers. So
any -- the Chair will hear a motion.

MR. BRADEN: Yes. I'll make a motion. I think there's something to be said for precedent and for consistency, if there is confusion, and since we have interpreted -- TDHCA staff has interpreted this rule in a certain manner, it seems to me that if it's not clear one way or the other, that we should continue with that.

So I make a motion that the process utilized by staff in awarding QCP points under 10 TAC 11.9(d)(4), (c)(4) and (5) was appropriate.

MS. BINGHAM: A motion on the floor that the staff's determinations under 10 TAC 11.9(d)(4) were appropriate. Is there a consideration for a second?

MR. VASQUEZ: I second that.

MS. BINGHAM: Okay. Mr. Braden makes a motion. Mr. Vasquez seconds. Is there any further discussion?

(No response.)

MS. BINGHAM: Call for a vote. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: The motion carries. And just as a reminder, so there is an appeal process. Correct, Marni? I think you're muted.
MR. ECCLES: This is Beau. I will jump in.

There is no appeal process from this. As a matter of fact, many --

MS. BINGHAM: Okay.

MR. ECCLES: -- of the oppositions were saying that they wanted to appeal. Appeal of somebody else's application score is prohibited by statute.

MS. BINGHAM: Right.

MR. ECCLES: There would have been an appeal process if the Board had said, staff, we want you to reconsider maybe taking away those points that had been awarded. Then all of the applications that lost points would have the ability to appeal that loss of points.

MS. HOLLOWAY: Correct. So then appeals are triggered by scoring notices, or as we've seen in the past, by publication of the laws. This conversation, though you -- this conversation would seem to remove the opportunity for future appeals of the log.

Is that correct? Based on this item?

MR. ECCLES: I'm sorry. I don't quite understand the question.

MS. HOLLOWAY: The publication of the log triggers appeal rights. Correct?

MR. ECCLES: It may trigger appeal rights.

MS. HOLLOWAY: It may trigger appeal rights. So
this item that we have taken up today, and the Board has made their decision, does that mean that there are no further appeal rights of the log based off this particular question?

MR. ECCLES: Yes. This is the Board's final decision on the appropriateness of the award of those four QCP points to the applications in the agenda.

MS. HOLLOWAY: Right. The appeals that I mentioned earlier in the presentation would potentially, maybe have been available when a scoring notice was issued on an individual application if they lost points, and that's a different question. That's a different kind of appeal process, but I think that, with the Board's decision today, nobody is losing points, and still, that they are -- there isn't another appeal right furthered on this particular item.

Beau, do you agree?

MR. ECCLES: The Board -- I agree, and just to bring it full circle, the action on this item would not have triggered appeal rights for anyone. It would have only been the subsequent actions by multifamily staff in issuing any sort of scoring notices that would have triggered appeals.

MS. HOLLOWAY: Right.

MS. BINGHAM: Yeah. I don't think our
assumption was that this whole thing would be appealed again. This was a Board action that we took seriously and we understand that. They'll move forward with the process and have their appeal rights under their specific -- as they start moving through the process.

This didn't eliminate any of their appeal rights moving forward for other issues. In other words, there was a lady that spoke earlier, and it sounded like her speaking was on an issue that was actually internal to the actual application, not the overall decision that the Board made.

MS. HOLLOWAY: Right, right. So it is -- and I believe the question there was about the neighborhood organization itself, and that would be an individually-evaluated question.

MS. BINGHAM: Correct. Okay. All right. Thank you. Thank you all. So that is 5(c). We still do have the items under Item 6. I would imagine that they'll move a little bit more quickly, but is the Board okay just going ahead and moving through, or do we need a break?

(No response.)

MS. BINGHAM: Okay. I don't see anybody getting up and leaving, so we'll keep moving through. So let's move on to Item 6(a). Patricia Murphy?

MS. MURPHY: Thank you, Marni. Good afternoon.

Can you hear me? Naomi, did you unmute me?
Patricia Murphy, director of Compliance. The next item on your agenda is final approval of amendments to the compliance rule. These amendments were out for public comment from December 27 through January 27.

Comment was received from 36 entities, and as expected, the bulk of the comments is related to a proposed change in calculating utility allowances. The proposed amendment would have required use of a rate plan that is available for at least 12 months.

Staff continues to believe a 12-month term is necessary to accurately estimate how to post yearly expected utilities. However, we are not able to identify a clear federal requirement to use a 12-month rate when calculating a utility allowance.

Many commenters noted that there would be a fiscal impact if this rule was adopted. Staff and commenters do not agree on the extent of the potential fiscal impact. However, we acknowledge that there would be an impact on existing [indiscernible], and therefore, the rule cannot be adopted as proposed unless there is a change in federal regulation.

However, staff is proposing to require a utility
allowance with a 12-month term for all properties that applied for funding after January 1, 2021. Any possible fiscal impact of the utility allowance based on a 12-month term can be offset during the application and underwriting process.

Utility allowance regulations are different from housing tax credit and the HOME Program. Under the credit program, TDHCA is required to review and approve the utility allowance proposed by the owner. But under the HOME Program, we are required to actually calculate the allowance and provide it to the owner.

Our rules give owners of home developments an opportunity to propose an allowance which we review and approve, similar to the credit program. If owners of HOME developments do not take that action by October 1, then we calculate an allowance for them.

Staff is proposing to use a 12-month term in that scenario as well. This will herald a significant change to the proposed version of the rule that went out for comment using 10.622, special rules regarding rents and rent limit violation.

The proposed rule would have prohibited increases in rent terms during a lease term. Some housing providers have figured out that they can maximize rent if they increase rent every June. The proposed rule would
have a financial impact on those properties, so as a compromise, the rule is being proposed to be adopted prohibiting increases in rent more than once during a 12-month period, unless the unit or household is governed by a federal housing program that requires such a change.

There are several other comments and changes made, but those were most significant. Staff recommends approval of the rule, as shown in your Board Book, and I'm happy to answer any questions you might have.

MS. BINGHAM: Thanks, Patricia. Any questions from the Board?

MR. WILKINSON: I have a few comments. As Patricia laid out, we compromised on those two areas. The bulk of the problem with the utility allowance, 12-month, was in the planning to existing properties, that it would affect cash flow.

Can everyone hear me?

MR. VASQUEZ: Yes.

MS. THOMASON: Yeah.

MS. BINGHAM: Yes.

MR. WILKINSON: And so we changed it to be, like, only January '22 or on applications, only future properties, and that seemed to eliminate the opposition. However, recently, and as recently as last night, TAAHP requested to kick the can on the utility allowance portion
of the rule and to send out another staff draft and talk
about it more.

I think staff recommendation stays the same. I
just wanted you to know that that was an actual request
from TAAHP as an organization. I think -- yeah -- as even
these future properties that somehow cash flow could be so
tight that they need the ability to use a three-month rate
or a smaller utility allowance.

I think our position would be that, well, if
there really are areas where it's that tight, we'll have to
look at accommodating that in other ways, and that the 12-
month utility rate is fixable for the future, not affecting
the cash flows of any existing properties.

I think there's going to be some testimony on
this one. Some people might think, like, well, you can
change electric providers every two months in Houston, for
instance. You can get on the retail, you know, right to
choose, whatever it's called, site.

That might be theoretically possible. I don't
know how realistic that would be as far as someone actually
doing that and deposits each change, whatnot. So that's my
only comment. I thought we compromised pretty well on
[indiscernible], but we'll hear what the comments say.

Thank you.

MS. BINGHAM: Thank you, Bobby. Just — I would
entertain a motion prior to comment or a motion to hear comment, either way.

MR. BRADEN: I'll move to approve staff's recommendation.

MS. BINGHAM: Okay. We have a motion from Mr. Braden.

MR. VASQUEZ: Second.

MS. BINGHAM: And a second from Mr. Vasquez.

Naomi, do you have anybody teed up for comment on Item 6(a)?

MS. CANTU: I do. I have a few people. The first is Roger Arriaga, and then Jim Beets. So we'll go ahead and do Roger. And go ahead, Roger.

MR. ARRIAGA: Good afternoon. Good afternoon. I'm Roger Arriaga, executive director of the Texas Affiliation of Affordable Housing Providers, or TAAHP. I'll be brief, since there are other TAAHP members who will speak on this item.

Regarding Item 6(a) and utility allowances, I want to thank Mr. Wilkinson and his staff for taking the time to meet and discuss this issue with members of our compliance committee. However, in reviewing the rule and corresponding comments, our members still believe that there are many nuances and questions about implementation as well as financial consequences for property owners that
have not been fully considered.

Further, given that there is no specific federal guidance on the requirements of 12-month rates and it will not be fully implemented until January 2021, and given that the COVID-19 is causing tenants to experience financial hardships and owners to experience revenue shortfall to maintain properties, we simply are respectfully requesting that this rule be deferred for additional discussion.

I'll leave it there and thank you for your time.

MS. BINGHAM: Thank you. Any questions for the speaker?

(No response.)

MS. BINGHAM: We'll move on to the next speaker. Naomi?

MS. CANTU: Okay. Next, is Jim Beets, and then we have Cynthia Bast after Jim. So Jim, we're unmuting you. We're looking for you, and you're unmuted.

MR. BEETS: Thank you very much. Can you hear me?

MS. BINGHAM: Yes.

MR. BEETS: I'd like to thank the Board for the opportunity to speak to this. I want to get into some of the minutiae and the details on this. We're addressing a 12-month term, and it states here that staff believes a 12-month term is necessary to accurately estimate a
household's yearly expected utilities.

We live in a state where the electricity market is deregulated. You go to the Power to Choose. You select what you want to use for electricity. Electricity in this state is traded as a commodity. In the deregulated markets, the rates change constantly.

The rates offered by a provider on one day may not be available the next day. In preparation for this meeting, we downloaded the rates, some rates on 4/17. We went in today and we downloaded a total of 12 different rates. We went in today, downloaded four of the same rates.

Three of them were no longer available today. The rates had changed. So it's a false sense of security to think that, okay, you're selecting the 12-month rate. That rate is going to be available the next 12 months.

It's available to the resident who signs up for it on that day, but the rate could be gone the next day. We also have another component of the electricity market, the TDSP, transmission and distribution service provider charge.

It's a component that has to be included. That changes on a monthly basis, and even if you signed a fixed rate contract, all of the state and the EFLs, the energy facts labels, tell you this -- the rate can change based on
what those state-imposed TDSP charges change on a monthly basis.

There are a lot of other points I'd like to make, but we have this restricted time format. I'm going to kind of summarize real quickly. In the package, it's the quote: "The Department is not able to identify a clear federal requirement to use a 12-month rate term when calculating an allowance."

That statement alone -- I'm not sure why we would even consider going forward with this. Another statement: "In the event the U.S. Treasury Department or the U.S. Department of Housing and Urban Development update their regulations" or in the event they do change the regulations, we can address the actual change at that time.

It's a false sense of security thinking that the 12-month term is going to be available to all the residents for that 12 months. TDHCA regulates housing. The PUC regulates the electric markets. In the case of a written local estimate, we may not be able to -- we don't -- we can't dictate to them what rate they're supposed to use.

They are the ones who provide the information. We're in the middle of a global pandemic. This needs to be addressed further. Also, most importantly, the way that these rules are written right now -- two of the methods actually allow for the implementation on 1/21, January 1,
'21, which is the HUD model and the energy consumption model.

The actual use methodology and the written local estimate do not contain that language if it's still requiring the 12-month period. We can go to page 576, starting on page 576, and see that the language is not included in those two methodologies.

So at a minimum, we need to work with TDHCA to get the language straight, but I really would respectfully ask that you consider that this 12-month term not be available at all times. And I thank you for listening to my comments.

MS. BINGHAM: Thank you, Jim. Patricia, do you want to comment?

MS. MURPHY: Sure. So when the utility allowance regulations were adopted by the IRS and Treasury Department in 2008, their, like, reasoned response to comment addressed this issue, and their regulations were adopted with the assumption that rates do not change more than once every 12 months.

So everything these speakers have been pointing out is that the regs change much more often than every 12 months, if you're adopting an allowance that's using a term that's only good for three months. So as we've already addressed, for our existing properties, there would
be a fiscal impact, and I -- we're not able to adjust the rule.

But this is, like, a little mini, you might call it a loophole that we have the regulatory authority to address with future deals. We surely have the regulatory authority to adopt rules regarding these utility allowances, and so to -- but a utility allowance today, in April, is actually good for 21 months.

It's good all the way until December 31, 2021. You only have to update the allowance once a calendar year. So allowing an owner to get a utility allowance based on the rate that's available for three months is -- just -- I don't understand how we can say that that's an accurate estimation of the household utilities, but there's nothing we can do about it for the existing deal.

So I recommend that you adopt it, moving forward.

MR. VASQUEZ: Can I just ask a question here? So really, what we're trying to do is -- we're not saying what the rate is going to be at any given day that you start a 12-month period, but we're trying to at least give the assurance of saying, here is your rate for the next 12 months.

So that's -- given the best rate today versus tomorrow versus the next day is not the point. The point
is that here, you're locking it in for 12 months, time
certain, and again, given that transmission rates can
change and things like that, but no matter what, that's
going to affect it.

So that's sort of a moot issue on that. Is that
a correct assessment?

MS. MURPHY: Yes. So what the rule, going
forward, would require - an owner to estimate utilities,
based on a rate that is available for 12 months. The lower
rate for, like, a promotional rate is available for only
three months, and at the end of that time, maybe they could
switch plans.

They might have to have a new deposit. They
might have to go through a credit check. There's a number
of things that could happen. The only thing we know is,
that's not going to be the rate that their utilities are
set by.

So what we're saying is, use a rate that's
available for 12 months when you're estimating a resident's
utilities, going forward.

MS. CANTU: Vice Chairwoman Bingham --

MS. BINGHAM: Naomi, did you say have another
person for comment?

MS. CANTU: We do. We're working on Jennifer
Brewerton. Jennifer, you do have -- you have not entered
your pin. If you could enter your pin -- we did re-send it to you. And we also have Stephanie Naquin who said that she would like to speak on it.

And we will start with Jennifer, if you would like to speak on it, you can -- I'm sorry -- Stephanie Naquin? Stephanie Naquin says she does not want to speak on this. I think that's what she's saying. She does not want to speak on this.

And Jennifer? We're working on Jennifer. Just one more second. Bear with us. Jennifer, you are unmuted.

MS. BREWERTON: Is this Jen Brewerton that you're speaking to?

MS. CANTU: Yes. We can hear you.

MS. BREWERTON: Hi. I apologize. I had a meeting that I couldn't avoid that was only at one o'clock. I just got out. I wasn't even able to hear the intro. May I ask if anybody else from TAAHP has already spoken?

Jim spoke, yes?

MS. BINGHAM: Jen, yes.

MS. CANTU: Yes. Jim did speak.

MS. BREWERTON: Okay. Fantastic. Well, then, I'll just go ahead and start. This is Jen Brewerton. I'm vice-president of compliance at Dominium, and also co-chair of the TAAHP compliance committee. Vice Chairman Bingham and Board, thank you very much for having me today.
I know that my clock's already going, so I'll move forward just by saying, I really appreciated, we really appreciated the courtesy calls that we received from staff, from Patricia in particular, as it relates with plans for how she was planning on writing up the rules for this Board meeting, for the compliance items.

She kind of talked through them with us. It was very helpful, and with that, we don't have any other comments, other than thank you very much for considering our comments, and we generally feel really good about where the rules landed.

So the one thing that we weren't contacted on, and I think it's probably because things are moving in the background, up until the rule was approved for draft for the Board Book, we did not get a call about where we were landing with the utility allowances and with the 12-month requirement bills being required for new transactions, moving forward.

I think that we're all in agreement that there was an attempt to make a compromise, and I think that that's fantastic, that there was an attempt there. However, as Jim spoke to, I think that we're not -- we didn't land in a place where if we'd been given the opportunity to help draft the language, we wouldn't -- I think that the language would have been different. And it
should, if anything at this point, potentially go back out for comment as a draft rule, so that we can help craft language if we are truly going to be able to meet a compromise, or just take the new 12-month requirement completely out.

It is pretty substantive to new owners to have to consider that. The other thing that I just was reminded of last night as I was thinking through what, if anything, I was going to say, is that I'm really, really shocked right now that we're considering where new construction or new properties moving forward, whether it be re-syndication for an acquisition rehab or a new construction property -- I'm really shocked that during a COVID crisis that we're talking about lowering NOAI, where new owners that are potentially considering affordable properties that, without this change, would be viable, and would be potentially able to be put on the ground.

Keep in mind, we generally think about the 9 percent program, as it's competitive, so everybody's kind of at the same advantage. We, Dominium, only do 4 percent transactions, so it wouldn't be that we're all kind of treated the same as the 9 percent pot would be.

We, Dominium, and other properties moving forward with 4 percent transactions might not be able to get the field done because of not being able to take
advantage of the federal requirement for alternative utility allowance classes.

I also will note that, you know, these compliance rules, again, while I appreciate the Department's efforts of reaching out and talking with us -- these compliance rules are generally property management items, and right now, property managers are not reading board books.

They're struggling to collect, by some national averages, at lowest, one-third of the rents for each month, and oftentimes, up to two-thirds. They're dealing with residents that are off of their medications. I can tell you story after story after story with tons of problems that are going on. It's not considering this utility allowance rule.

So again, I really wish that property managers could be more engaged on this than really understand, and maybe even give public comment, but I think that we're missing some today, because they're dealing with COVID.

And one last thing, just to reach out again, we are talking about an agreed-upon reduction in net operating income for new properties that, if under this rule as proposed, they will definitely have less NOI, or could have less NOI. And I think there's agreement on that, as opposed to -- if we used the original language, which has
been allowed in perpetuity since the rules were created, then they would have more NOI for new affordable housing that will be put on the ground.

So I just don't think this is a great time to reduce that opportunity. Thank you very much for my comment -- for allowing me to comment.

MS. BINGHAM: Thank you, Jen. Thank you, thank you. Naomi, anybody else?

MS. CANTU: So Stephanie Naquin is available if you have questions, and also, Jim Beets has asked to speak again, briefly. Would you allow it, Madame Vice Chair?

MS. BINGHAM: Yes.

MS. CANTU: Okay. Jim, we're going to go ahead and unmute you briefly. And --

MR. BEETS: Thank you very much.

MS. CANTU: -- there you go.

MR. BEETS: Okay. Thank you very much. Again, back to the 12-month term, that was to be -- a 12-month term may be available today. That does not mean that that 12-month term is going to be available to any particular resident to pick within that 12 months.

We -- I gave an example of rates we pulled down on the 17th, went in to get those rates again and double-check them today. That rate is no longer available. It's been replaced by another approved rate. So we're getting a
false sense of security here, that yes, this is a 12-month rate. It’s a 12-month rate for any resident who signs up on the day that it's posted and available, but it may be taken down at any given time.

My other concern is the way that this is written right now, we've got -- two of the models clearly state that, yes, it's after 1/1/21, which is the HUD model, the energy consumption model. The language is not consistent for the actual use methodology and the written local estimate.

So that -- it's going to apply to the existing deals the way that it's written. So given the fact of how it's written, given the fact of what -- the points that Jen made and the points that Roger made, I would respectfully ask that we have another chance to revisit this with staff.

We'll bring in the different rate sheets to show the fact that they're not available at all times and have a chance to continue this discussion. Thank you for the additional -- excuse me -- thank you for the additional time.

MS. BINGHAM: Thank you very much. Leo?
MR. VASQUEZ: Okay. I'm good right now. I --
MS. BINGHAM: Okay.
MR. VASQUEZ: I'd just reiterate, though, that we recognize that a 12-month rate today may be different
than a 12-month rate tomorrow.

MS. BINGHAM: Right. So -- and Patricia, what are we looking at? Obviously, this is a fairly large section. Most of this stuff needs to move forward. Is it worth looking at that one 10 TAC 614 or 10.614 if the Board members are -- if you needed more comment, is there any way for us to move forward with the rest of it?

MS. MURPHY: If the Board wants, I could continue working with stakeholders on this issue. It is possible to adopt the rest of the rule and kind of table this. I might need help from Beau about how that would go.

So it's possible. And again, I recommend approval, as shown in the Board Book.

MS. BINGHAM: Understood. Only -- so we have a motion on the floor right now -- I'm sorry, Paul. Did you --

MR. BRADEN: Yeah. Can I ask a question? What is the downside for us -- for tabling for a month?

MS. MURPHY: Nothing. I have a feeling it would still be for applications for the future. So I don't think there's a big downside.

MR. WILKINSON: You could argue both ways.

MS. MURPHY: Yes.

MR. WILKINSON: It's not being applied until
January '21. You could adopt it now, change it later, or table it now, change it later.

MR. VASQUEZ: I'll defer to the Chairwoman on her preference on this.

MS. BINGHAM: Okay. Okay. So we do have a motion right now, I think, from Mr. Braden, second Mr. Vasquez, to accept staff's recommendation. So we -- let's -- do either of you want to withdraw or modify your motion?

MR. BRADEN: I'll withdraw my motion, actually.

MS. BINGHAM: Okay. Great. All right. So we're pending a new motion, and we -- from what I understand from staff and public comments, we have the options to not approve staff's recommendation, and submit back for more thought, or approve some and not -- and then hold some out.

There are a lot of provisions that did not seem to have a lot of concern, it sounded like, from the public speakers -- commenters, that the collaboration was really good, and that the heartburn is really over 10.614, which would be that utility allowance.

MR. BRADEN: Uh-huh.

MS. BINGHAM: Would there be consideration to move staff's recommendation with the exception of that one section?
MR. BRADEN: I'd make a motion to approve staff's recommendation with the exception of 10.614, which we would table till next meeting. Maybe we need two meetings. I don't know.

MS. BINGHAM: Okay. Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds. So we have a motion to approve staff's recommendation on the adoption of the amendments listed in Item 6(a), with the exception of 10.614, that we would table for possible follow-up meeting with the provider community to discuss.

Great. Any further discussion?

(No response.)

MS. BINGHAM: All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Thank you, and thanks for the comments, also. Item 6(b), Patricia?

MS. MURPHY: The next item on your agenda is final adoption of the Department's previous participation rule. This rule went out for public comment from January 30 to March 3. Comment was received from four entities and several changes were made, based on comments received.
However, there were some suggested changes that staff did not agree with and is not proposing today. For example, the Texas Affiliation of Affordable Housing Providers suggested that the definition of actively-monitored development should be deleted, in part, because as drafted it would have been possible for an event of noncompliance to be taken into consideration, but the development itself not considered for purposes of determining portfolio size.

Rather than delete the definition, staff clarified in the rule that only events of noncompliance identified on actively-monitored developments are taken into consideration. Three of the four commenters opposed the elimination of the control form.

This is a form that makes it possible for a person who meets the definition of control in the Department's other rules to say that, for compliance purposes, they do not control the property. Staff is recommending elimination of this, so that the definition of control would be the same for all participants.

Ideally, there should just be one definition that would apply for all purposes, but staff understands that for several reasons this won't always work. Rather than completely eliminate the form or continue blanket use of it, staff proposes that the Board be allowed, and
Department staff can request backup, to verify that persons asserting that they cannot control a property truly do not have the authority within their partnership agreement.

In addition, federal programs require slightly different review and the form is not appropriate for use when conducting a previous participation review for federal funds. Staff recommends approval of the rule as shown in your Board Book.

MS. BINGHAM: Any questions for Patricia?

(No response.)

MS. BINGHAM: We'll entertain a motion.

MS. THOMASON: I'll move to approve staff's recommendation.

MR. VASQUEZ: Second.

MS. BINGHAM: I have motion from Ms. Thomason, second from Mr. Vasquez. Do we have comments, Naomi?

MS. CANTU: I see Stephanie Naquin saying that she registered to talk but does not need to. And then we also have Jennifer Brewerton again. Jennifer, let us know if you would like to speak on this item, and you are unmuted.

MS. BREWERTON: No, I thought I -- no. I thought I said earlier in the call chat -- I apologize. No, I did not need to speak on this.

MS. CANTU: Okay. Thank you. And with that, I
do not see any other comments on this.

    MS. BINGHAM:  Great. So all those in favor, 

aye?

    (A chorus of ayes.)

    MS. BINGHAM:  Opposed?

    (No response.)

    MS. BINGHAM:  Great. Motion carries. Thank 
you. Item 6(c), Cate?

    MS. TRACZ:  Hi. This is Cate --

    MS. CANTU:  You're unmuted.

    MS. TRACZ:  -- Tracz. Can you hear me okay?

    MS. CANTU:  Yes.

    MS. TRACZ:  Okay. Great. So good afternoon, 

Board members. I'm Cate Tracz, your housing manager. This 
item is an order adopting a new subchapter in the rules for 
affirmative marketing requirements and written policies and 
procedures.

    Recently, the oversight of the affirmative 
marketing requirements on the Department's multifamily 
portfolio and the written policies and procedures that go 
along with that portfolio have been moved organizationally 
in the Department from the Compliance Division to the Fair 
Housing, Data Management, and Reporting Division.

    As a result of this organizational move, these 
two processes that are captured in the new subchapter are
being proposed -- are being -- seeking adoption in the new subchapter. So in the development, a roundtable was held on October 21, 2019 and explained the proposed amendments in both the compliance rules and this new subchapter for affirmative marketing and tenant selection criteria.

A draft was brought before the Board in November and again in December 2019. Significant items initially proposed in the draft included a modification to the Department's occupancy standards policy and the highlighting of some particular requirement in the multifamily direct loans funded development.

Following approval at the December meeting, the proposed new subchapter was released for comment from December 27, 2019, through January 27, 2020, and during this time, we received comments from four total organizations.

So based on the public comment received, there are three changes that were made to the final rules before you today. The first change reverts back the original language for a six-month affirmative marketing period instead of the proposed 90-day affirmative marketing period, or when an owner must begin affirmative marketing efforts prior to the anticipated date of the first building being available for occupancy.

The next change provides clarification and some
examples of acceptable written forms of written notification when a property is informing tenants about the availability of new or revised written policies and procedures.

And then the final change provides some clarification on some items that are and are not required specifically to be included within the written policies and procedures. Some other comments, some other topics that were commented on that did not result in changes to the rules as proposed were related to the identification of least likely to apply population and use of an affirmative marketing rent tool, limited English proficiency requirements and the continued requirement to provide VAWA or Violence Against Women Act forms to applicants and tenants.

So staff recommends the changes to the adopted rules as described in your Board item to address some of the public comments received. And that concludes my remarks on this item.

MS. BINGHAM: Thank you, Cate. Any questions from the Board?

(No response.)

MS. BINGHAM: I'll entertain a motion.

MR. BRADEN: Move to approve staff recommendation.
MS. BINGHAM: Okay. Motion by Mr. Braden.

MS. THOMASON: Second.

MS. BINGHAM: Second by Ms. Thomason. Naomi, are there any comments for Item 6(c)?

MS. CANTU: I do not see any in the question box, and no one registered to speak on it, as of 7:30 this morning. So if you have a comment, please remember to put it in the question box, and we can then unmute you so you can speak, but I do not see anything at this time.

MS. BINGHAM: Great. We have a motion and a second to approve staff's recommendation for publication in the Texas Register. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Moving right along, Item 7(a). Michael DeYoung, you have the next few.

MR. DeYOUNG: -- and Board members. Item 7(a) is in response to the recent award of Community Services Block Grant, CSBG funds, through the CARES Act to the State of Texas. And under the CARES Act, TDHCA will receive approximately $40 million in additional CSBG funding.

These funds are target to COVID-impacted households, and allow the State to go up to 200 percent of federal poverty, which is a change from the normal
125 percent of federal poverty. Of the $40 million, 90 percent, or 36 million, is statutorily required to be awarded to the 40 CSBG-eligible entities that we have contracts with across the state of Texas, and they serve all 254 counties.

Seven percent will be held back as emergency use or incentive funding. Two percent will support the Texas Homeless Network, and they're responsible for coordinating homeless activities for over 200 counties in the state of Texas, and those are predominantly rural counties, West and South Texas.

The large areas are served by continuum of care. And then one percent will be retained for TDHCA administrative expenses. TDHCA will have until September 30, 2022 to fully expend these funds. The additional funds that flow to the 40 eligible entities are directed to assist households that have been impacted by COVID-19 and are extremely flexible in nature.

Households could be assisted with food assistance, job search services, utilities, rent, and a host of other activities. Staff is requesting your approval to proceed.

MS. BINGHAM: Any questions for Michael?

(No response.)

MS. BINGHAM: If not, we'll entertain a motion.
MR. VASQUEZ: I move that we --

MS. THOMASON: I make a --

MR. VASQUEZ: -- go ahead. Go ahead, Sharon.

MS. THOMASON: -- make a motion to approve staff's recommendation.

MS. BINGHAM: Motion by Ms. Thomason, second by Mr. Vasquez?

MR. VASQUEZ: Yes.

MS. BINGHAM: I'm anticipating no comment, but Naomi, any comment?

MS. CANTU: We do have one person signed up to provide comment. That's Cyrus Reed from the Sierra Club, Lone Star Chapter. Do we see him?

MS. BINGHAM: Okay.

MR. DeYOUNG: I believe Cyrus probably wants to talk on the LIHEAP item, which is the next item.

MS. CANTU: He said, 7(b). You're right. Okay.

MR. DeYOUNG: Yeah.

MS. CANTU: We will wait for it. All right. I don't see any --

MR. DeYOUNG: No problem.

MS. BINGHAM: Thank you. So all those in favor of staff's recommendation under Item 7(a)? All those in favor, aye?
(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Okay. Item 7(b).

MR. DeYOUNG: Okay. Item 7(b) is in response to the recent award of the Low Income Home Energy Assistance Program. We refer to it as LIHEAP, and through the CARES Act, funding to the State of Texas was approximately 90 million additional dollars.

Now, these funds are provided for utility assistance and weatherization activities in most years, and this new tranche of funds is in addition to the 163 million that we've already received for 2020. You've already authorized that for utility assistance and weatherization.

For this tranche of funds, we are targeting utility assistance with no additional funding going to the weatherization activities. Weatherization activities across the state of Texas are pretty much on hold now, as we go into homes with contractors and with assessors.

Because of the COVID, we are unable to have any of our 22 agencies currently active. So we have proposed to put all these funds into the utility assistance activity, and we would consider any agencies across the state that administer the LIHEAP Program, that if they want to move funds over to the weatherization program, we would
consider those on a case-by-case basis.

We have to be careful in that weatherization activities are capped at 15 percent of the allocation. So we would consider each of those requests individually with the goal of keeping weatherization under 15 percent of this new $90 million tranche of funds.

Staff is requesting your approval to proceed, and I believe Cyrus Reed wants to speak on this item, as well.

MS. BINGHAM: Okay. While Naomi is getting him teed up -- so it's capped at 15 percent by what authority? Like, is that --

MR. DeYOUNG: Yeah. That's part of the federal statute. It's been in the LIHEAP statute since 1984. States technically can go above 15 percent, but you have to go through a waiver process, and the waiver process requires us to certify that we won't impact people receiving utility assistance if we take money away from utility assistance.

So it's kind of a difficult premise to prove up. I will tell you, the DOE -- part of the logic of the decision-making at this point was, the Department of Energy award to the State of Texas went up by 2 million, which is about a 22 percent increase this past year, and so we had more funds going in the DOE weatherization program, and
that's one of the reasons we pulled back on the LIHEAP weatherization in this last $90 million of LIHEAP funds.

And I -- when I use the term, 90 million, that is an estimate. We do not have funding letters yet for this tranche of funds.

MS. BINGHAM: Okay. Great. So a couple of comments pending. Is there a motion to approve Item 7(b)?

MR. VASQUEZ: I move to approve Item 7(b), as recommended by staff.

MR. BRADEN: Second.

MS. BINGHAM: Motion by Mr. Vasquez, second by Mr. Braden. Okay. Naomi, is Cyrus there?

MS. CANTU: Yes. We are working to unmute Cyrus, and he is unmuted. Mr. Reed? Mr. Reed, you can speak on this item.

MR. GAGNE: Please check your audio controls, and that your computer microphone is on.

MS. CANTU: We're not able to hear you. And we're trying to talk to Mr. Reed. We're still having difficulty hearing him. We have unmuted him on our --

MS. BINGHAM: Okay. Naomi, if the Board's okay, if you guys are okay, we'll leave that item open. Just -- we'll come back to it, and we'll move on to the next one, and then you tell us when you get Cyrus. Is that okay with the --
MS. CANTU: Thank you.

MS. BINGHAM: -- Board? Great. Okay. Then let's move to Item 7(c). Michael?

MR. DeYOUNG: Sure. Item 7(c) regards the programming of the Community Development Block Grant funds. These are the CDBG funds that were recently awarded through the CARES Act. The Department was designated by the Governor's Office to receive just over $40 million of CDBG funds.

The Department is working closely with the Governor's Office to determine the most effective use of these funds in response to the COVID-19 pandemic. When the activities are determined, the State will need to amend the Consolidated Plan and the one-year action plan.

This item will serve as the authority for the ED to draft amendments reflecting the activities and to host a public comment period and a hearing for those amendments and ultimately the submission of the amendments to HUD. Any action that's generated through this process will be reported back to the Board at next month's Board meeting, and staff is requesting your approval to continue to proceed with this program.

MS. BINGHAM: Great. Do the Board have any questions on that item for Michael? I know things are moving pretty quickly, Michael, so there's a lot of things...
that aren't quite in place, but in order to act quickly, you need us to provide some authority at the agency level to get those things nailed down.

Correct?

MR. DeYOUNG: Correct.

MS. BINGHAM: Okay. Entertain a motion?

MR. BRADEN: Move to approve.

MS. THOMASON: Move --

MS. BINGHAM: Thank you. I heard Mr. Braden, motion. Ms. Thomason, second. Great. Any comments on that one, Naomi?

MS. CANTU: I do not see any comments on this item in the question box, and no one registered to speak on it as of 7:30 this morning.

MS. BINGHAM: Great. Okay. We'll call for a vote. For staff -- I have a motion and a second to recommend staff recommendation on Item 7(e). All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Motion carries. Did we find Cyrus or no?

MS. CANTU: We believe we have him. We're going to go ahead and unmute him on his phone.
MR. GAGNE: Okay. Mr. Reed, it’s showing us you just need to enter your pin.

MS. CANTU: And we -- and did we send that to him by email? Okay. So while we wait for that, if you wanted to -- we can wait for that. It's up to your discretion.

MS. BINGHAM: Yes. Let's wait just a second because this is Michael's last item, and then we have to move on to Abigail. So --

MS. CANTU: All right. We're waiting for him to enter his pin to be able to speak.

(Pause.)

MR. GAGNE: Mr. Reed, this Jason Gagne. You should be able to see your pin in your audio controls, in your control panel.

MS. CANTU: Go ahead and try to unmute him one more time.

MR. GAGNE: And can we try one more time?

MS. CANTU: Mr. Reed? We are showing that he is unmuted. We have been troubleshooting with him, but I have -- not able to resolve that issue at this time.

MR. VASQUEZ: Could Michael convey what he expects him to say?

MR. DeYOUNG: I can try. Cyrus is from the Sierra Club, and he has been a long-time participant in our
public hearing process. He has been a passionate advocate for as much funding going to the weatherization program as possible.

His history with that interest goes back many, many years. I had an email exchange with him this morning explaining the rationale for our recommendation to put the funding into the LIHEAP utility assistance program rather than weatherization at this time.

One of our concerns is that the funds were awarded to go to COVID activities, and we don't know when we can start back up weatherization, actually allowing people to go back into homes and getting contractors who are comfortable going into homes where they don't know the occupants.

We could be stalled for two to three, maybe even four months until things actually get unlocked and we start to spend weatherization funds, and we have a lot of funds out there right now that remain unspent. Mr. Reed has also been passionate about the public hearing process and making sure that there is input from all the agencies, as we make decisions on LIHEAP funds, predominantly, and also the Department of Energy funds.

However, the Board item is not related to the Department of Energy funds. It is only related to the LIHEAP funds that come in this CARES Act.
MS. BINGHAM: Right. And Michael, you said -- so there's the 15 percent cap anyway. Right?
Weatherization can only be 15 percent of the total? And then --

MR. DeYOUNG: Correct.

MS. BINGHAM: -- you did put in a provision where, if there were requests that still met that condition of the under 15 percent, that you would evaluate those on a case-by-case basis?

MR. DeYOUNG: Correct. And what we've done over the last three or four years in our LIHEAP plan is, we have said up to 15 percent. The reason for that is, at the end of the year, many of our LIHEAP agencies don't have the capacity to fully expend their contract in weatherization, so they move it over to utility assistance funds.

We've left that provision still intact, so we could go up to 15 percent if we have agencies that request to move some of their funds into the weatherization activities. I will tell you, from my experience, of the 22 agencies, I would be shocked if five or six of them actually requested additional LIHEAP funds right now.

They are -- they have enough money. They have the increase in the DOE, and we would normally be weatherizing the most homes right now, because it's not cold and it's not overly hot, and my fear as a program
administrator is that when this finally does loosen up and we can start to get into weatherizing homes, it becomes July and August, and that's not a great time to be in the attic insulating and climbing around, trying to figure out why the house is inefficient.

So we certainly have that flexibility. We will use it if we need it, and we feel like the most prudent activity at this time is the utility assistance, which can help the most households. Not every household is a great candidate for weatherization.

That needs to be determined by an assessor, as they go to the house and look at the actual condition of the house prior to making a recommendation.

MS. BINGHAM: Great. Got you. Okay. Well, then, if we haven't been able to get Cyrus, we have a motion from Mr. Vasquez, a second from Mr. Braden, to approve staff's recommendation on Item 7(b). Okay. All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Motion carries. All right. So that took us through (b), (c), and now we'll go to 7(d), Abigail Versyp.

MS. VERSYP: Hello again. I'm Abigail Versyp,
director of Single-family and Homeless Programs. Just one moment. And I'm presenting Agenda Item 7(d), requesting approval of actions for the programming of a special allocation of funding to ESG through the CARES Act.

The CARES Act provided 4 billion nationwide to the ESG Program, and that's being distributed by HUD to ESG grantees, including the State of Texas. The funding that's proposed today includes funding allocated to the state from the first $1 billion round provided for in the CARES Act.

We do anticipate that there's going to be additional CARES Act funding, but that allocation's going to be decided by the HUD Secretary, based on factors enumerated in the Act, and we don't have the specific details of how much we will be receiving later.

I do need to take a moment to acknowledge all the staff who were instrumental in creation of the plan, in particular Naomi Cantu who is our Homelessness Programs administrator, in addition to our moderator today. Thank you, Naomi, for your role in creation of the plan.

From the first billion dollars distributed under CARES, TDHCA has been allocated a little over $33 million in ESG. For some perspective, our annual allocation of ESG hovers right about at the $9 million mark, so this is more than three times as much ESG funding as we receive annually, with more to follow.
This item is the proposed plan to release the first round of funding to eligible entities as quickly as possible to respond to the pandemic. In addition to allocating funds for ESG CARES -- I'm sorry. In addition to allocating funds for ESG, the CARES Act expands the eligible use of the ESG.

First, it increased the income limits for participation in homelessness prevention, so that households up to 50 percent AMI can receive some relief. It also allows for funds to be expended for temporary emergency shelter.

We're waiting on some final guidance about the specific limitations of what temporary means, but it does explicitly allow the leasing of property or temporary structures. In creating a plan, staff consulted with organizations that are currently administering ESG funds, as well as lead continuum of care agencies, and they represent providers of homelessness services in all of the continuum of care regions in Texas.

We've proposed a plan for distribution of the first allocation that we think is going to provide for efficient distribution of the funds and maximize the geographic distribution. Initially, the funds will be made immediately available to 51 existing ESG subrecipients, followed by distribution after an abbreviated selection
process to organizations that are identified by the COC or by TDHCA, if the COC lead doesn't -- elects not to participate.

Additionally, the plan does allow for some funding to be retained by TDHCA for our own administrative costs, as well as separate costs that may be awarded for HMIS, which is the data management system for homelessness providers, as well as legal services, that's going to help people obtain or maintain housing.

The proposed totals in each category are included in page 5 of the write-up. Since this situation is so fluid and the needs are really, really urgent, the item also includes proposed discretion for the Executive Director to authorize changes to the plan, to move funds from one planned activity to another planned activity, with up to a 25 percent swing.

Although the Board item was placed in the agenda to allow some flexibility for emergency rulemaking, since the agenda went up, we did reevaluate and determine that that's not needed at this time. So I'm happy to answer any questions that you might have about the Act or the plan that's proposed.

MS. BINGHAM: Thank you, Abigail. Thanks very much. Does the Board have any questions for Abigail?

(No response.)
MS. BINGHAM: And so we don't need the emergency rulemaking, but we're going to approve staff's recommendation that also includes providing the Executive Director with some authority to move those funds, as the needs dictate.

Abigail?

MS. VERSYP: That is the proposal from staff.

Yes.

MS. BINGHAM: Great. Thank you. We'll entertain a motion.

MR. VASQUEZ: I'll move to approve staff's recommendations.

MS. BINGHAM: Thank you. Mr. Vasquez makes a motion. Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds. And Naomi, any public comment on Item 7(d)?

MS. CANTU: I don't have anything in the question box, but again, if you want to make comments, please type your question in the question box, and we will unmute you, or if you're for or against a particular project or item.

And I do not have anyone registered on this as of 7:30 this morning.

MS. BINGHAM: All right. We have a motion and a
second. All those in favor of staff's recommendation, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Motion carries. Item 7(e). Abigail?

MS. VERSYP: Okay. Still Abigail Versyp. Item 7(e) is a request for some additional waivers to our Texas Administrative Code to facilitate administration of our short term Tenant-Based Rental Assistance Program for households impacted by COVID-19 that we brought to you last month.

So the last time we met, the Department was in the process of requesting waivers from the Office of the Governor and from HUD. The Governor graciously granted the waivers we requested, which are going to allow, among other things, HOME TBRA to be offered in areas that receive their own funding directly from HUD.

In addition, HUD has offered a series of waivers to the HOME Program specific to TBRA that are more expansive than anticipated. So program staff began our outreach efforts, including contacting administrators of the regular TBRA Program, and we've taken into consideration some concerns that they raised during our outreach efforts, which prompted us to seek some additional
waiver authority for TBRA.

The waiver request that is presented in the materials are primarily related to ways to expedite the process or to accommodate for factors outside of the control of the administrators of the households, that could create delays that would normally be cause to disapprove assistance.

First, the waiver related to the limitation of the term of assistance for a household would exclude assistance provided under -- we're creating a special COVID-19 set-aside. So families that have been previously assisted with TBRA up to their lifetime cap of assistance could access the set-aside on a temporary basis, even though they wouldn't typically be eligible.

Also, any assistance that's received during this time under the set-aside wouldn't be counted for households in the future, should the need arise from them to receive TBRA. Second is the waiver related to the issuance of a certificate of eligibility.

Typically, an administrator would be required to reserve funds for a household prior to letting them know that they're eligible, and -- because that's going to trigger the household to begin searching for a unit, with assurance that they may enter into a lease and their rent will be set aside.
It's designed as a protection for a household so they don't rent a unit, sign a lease, and then find out that the funding isn't available. For households assisted under the COVID-19 set-aside that already have a unit, and they just are unable to afford rent during the crisis, we don't even need that form.

So this is a way for us to strike the form from the requirements for the program for this purpose. The final two waivers are related to timelines for administrative processes. One allows additional time for households to select a unit, because that's becoming problematic with stay-at-home orders, and the other allows administrators to submit requests for payment of rental subsidy earlier than is typically allowed.

Both of these are designed to increase flexibility and ease administration of TRBA, especially with the volume that we anticipate, and they were suggested by existing administrators during our outreach efforts.

So I'm open to any questions about these waivers.

MS. BINGHAM: Do Board members have any questions for Abigail?

(No response.)

MS. BINGHAM: Great. Good program. Naomi, is anybody teed up for Item 7(e)?
MS. CANTU: I do not have anyone in the question box as wanting to comment on this or when they registered.

MS. BINGHAM: Great. Very good. So we'll entertain a motion to approve staff's recommendations on Item 7(e).

MS. THOMASON: Move to approve.

MR. BRADEN: Move to approve staff's recommendation.

MS. BINGHAM: I'll say, Ms. Thomason motions and Mr. Braden seconds. If there are no further questions or discussion, all those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Excellent. Thank you very much, Abigail. So Item 7(f) is Tom Gouris.

MS. VERSYP: Thank you.

MS. BINGHAM: Hey, Tom.

MR. GOURIS: Good afternoon, Madame Chair, Board members. My name is Tom Gouris, and I'm the director of Single-Family and Homeless Programs -- Homelessness Programs and Special Initiatives right here at the Department.

I'm presenting the second-to-the-last rule item regarding COVID-19 for your consideration today. This is a
fairly straightforward item which will provide an exception to our regulations regarding required replacement reserves for multifamily developments funded by the Department to allow the conditional use -- additional use -- be used to pay a rent for tenants who have been economically impacted by the pandemic.

You may already know that replacement reserves are funds required to be set aside from operating proceeds of a property for future periodic replacement of building components that wear out faster than the building itself. Contributions to the replacement reserves began at between $200 to $250 per unit per year for each multifamily development funded by the Department.

Then in later years, they are adjusted based on the actual and estimated future replacement needs of the property. Uses of these funds are limited to things like replacing floor coverings, appliances, water heaters, roofing, air conditioning systems and the like.

Replacement reserves belong to the property owner for the ongoing benefit of the property. These types of reserves are generally primarily overseen by the first lien lender, but since 2003, the Department has also had a statutory role in the oversight of replacement reserves of developments that we've funded, including [indiscernible] properties.
The statute provides the Department the ability to create regulation of replacement reserves, and the Department has done so by prohibiting the use for expenses other than necessary repairs. The proposed emergency rule today allows for the conditional use of such funds by properties to provide rent payment assistance to residents who have been economically impacted by the COVID-19 pandemic.

Property owners will get to decide if funds will be best spent in this manner and put together a plan to do so. They will also need to get any necessary approval from their first lien lender or anyone else who has notice of interest.

Just to note, the Department provided guidance two weeks ago on another type of reserve account known as a special reserve. Of the special reserves, a fund less prevalent in the portfolio, they have only been contractually required for a small subset of developments funded by the Department and have not been mandated for a development like the replacement reserve.

Special reserves are set up for some developments to facilitate tenant services and operating stabilization, and though they actually provide much greater flexibility, they still require approval by the Department for their use.
The staff is proposing that the Department provide similar guidance for the acceptable temporary use of replacement reserves. The guidance will allow for the use to be repayable or in the form of a grant to provide their limited use for utilities, to the extent utilities are part of the grant, and to limit any fee or profit from the tenant for the use.

Under -- also, guides will also include a requirement to require minimum balance to remain in the reserve replacement for future repair needs. So this proposed rule, if it's approved today, will go into effect immediately after publication in the Texas Register and will last for 120 days, unless expended or replaced with a formal rule revision.

I'm happy to answer any questions you might have.

MS. BINGHAM: Great. Thanks, Tom. Does anybody have any questions for Tom?

(No response.)

MS. BINGHAM: No? Naomi, is there anybody in the queue for comment on Item 7(f)?

MS. CANTU: Not for Item 7(f). We don't have anyone in the queue, in the question box, and I don't have anyone who preregistered to speak on that item as of 7:30 this morning.
MS. BINGHAM: All right. Thank you. We'll entertain a motion.

MR. VASQUEZ: I'll move to approve staff's recommendation of Item 7(f).

MS. BINGHAM: Okay. Mr. Vasquez moves. Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds. Thank you. No further discussion?

(No response.)

MS. BINGHAM: All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Motion carries. Thank you, Tom.

MR. GOURIS: Thanks.

MS. BINGHAM: And then the last item, 7(g), and that's a Marni item. 7(g).

MS. HOLLOWAY: Yes, it is. Hello again. 7(g).

Hello.

MS. BINGHAM: Hello.

MS. HOLLOWAY: Credit where it's due. This is actually an item that Teresa Morales conceived and put together for us, and I wanted to make sure everyone knew.
that this was her thoughtful work that went into this item.

This is "Presentation, discussion and possible action on waivers relating to certain requirements under 10 TAC Chapter 11, which is the QAP, and 10 TAC Chapter 13, which is the Multifamily Direct Loan (MFDL) Rule in relation to the Department’s response to the COVID-19 pandemic."

There are certain eligibility and professional requirements that applicants for 4 percent housing tax credits or direct loan funds may not be able to meet, due to the effect COVID-19 is having on local governments and other entities, which are required to provide this specific information.

Because of these uncertainties, staff recommends that the requirement in the QAP for mitigation for applications for 4 percent housing tax credits or direct loan funds relating to school performance be waived for the remainder of the 2020 program year.

Due to the unpredictable and fast-moving nature of the COVID-19 pandemic, staff believes there will be applications submitted where obtaining such information from a school official may be difficult and considering action taken by Governor Abbott and the Texas Education Association related to handling of standardized testing and that there will be no 2020 accountability rating, staff
does not believe school officials will be able to provide actual data and progress that has been made under any campus improvement plans currently in effect.

So this would only be in instances where mitigation is allowed. It does not change the eligibility for schools with an F and an improvement required. Further, information required under the QAP relating to nonprofit ownership -- no.

Wait. I'm getting ahead of myself. Okay. A waiver to consider development sites eligible despite the presence of this neighborhood risk factor will be applied to applications submitted under the 2020 QAP which would include 4 percent housing tax credit applications that received a certificate of reservation from the BRB in the 2020 calendar year.

Staff notes that this action does not extend to the portion of our rule regarding ineligibility of developments within certain school attendance zones, which would still be considered ineligible with no opportunity for mitigation.

As it relates to 10 TAC 11.20414 of the QAP regarding nonprofit ownership, the QAP would require a resolution at a regular meeting of the board of directors of a nonprofit indicating their awareness of the organization's participation in a specific application.
Recognizing that such meetings may not be possible during the pandemic, staff recommends that the Board allow, in lieu of the resolution, a certification from an individual who is authorized to act on behalf of the nonprofit that includes the aforementioned information.

This will be applied to applications submitted under the 2020 QAP, which would include 4 percent tax credit applications and any direct-loan-only applications. The resolution will be required for all direct loan transactions prior to contract execution.

As it relates to other requirements identified in the QAP that applicants are unable to meet or information from certain parties that is unobtainable, those applications should include a waiver request that meets the requirements of the QAP and describes specifically how COVID-19 has impacted the ability to submit the required information.

Staff recommends that the Board approve waiver of these sections of the QAP for applications received for 4 percent housing tax credits or direct loan only for the remainder of 2020.

MS. BINGHAM: Great. Thank you. Does the Board have any questions for Marni?

(No response.)

MS. BINGHAM: This is great. Super thoughtful.
I mean, that was a lot of good catches there that are probably going to be some obstacles moving forward. So great. Naomi, anybody in the queue for comment on Item 7(g)?

MS. CANTU: I do not have anyone in the question box indicating they would like to speak on Item 7(g), and I have no one preregistered.

MS. BINGHAM: Okay. Thank you. I would entertain a motion to approve staff's recommendation on Item 7(g).

MR. BRADEN: Move to approve.

MS. BINGHAM: Okay. I have a motion from Mr. Braden.

MS. THOMASON: Second.

MS. BINGHAM: I have a second from Ms. Thomason. No further discussion?

(No response.)

MS. BINGHAM: All those in favor, aye?

(A chorus of ayes.)

MS. BINGHAM: No opposed?

(No response.)

MS. BINGHAM: Motion carries. Whew, this is great. Thank you. Thanks, Teresa, too. Thank you to Teresa on that one. Okay.

So just wrapping up the meeting, it would be
time now for public comment on any matters other than the items that were posted on the agenda. So this would be for future consideration.

And Naomi, will you just let us know if there's anybody in the queue?

MS. CANTU: Yes, Vice Chairwoman Bingham. We do have two in the queue there. Victoria Calder is the first. And then Mark English is the second. So we're going to go to Victoria Calder, and he is unmuted -- or she is unmuted. Sorry, Victoria. Victoria, we don't hear you. Can you unmute?

MS. CALDER: Oh, yes. Now, can you hear me?

Okay. Great.

MS. CANTU: We can hear you.

MS. CALDER: Great. Thank you so much. I'm Victoria Calder. Can you hear me now?

MS. CANTU: Yes. We do have an echo.

(Pause.)

MR. GAGNE: Both of you, for now -- this is Jason Gagne. For some reason, you're showing as logged in twice, and I think -- I don't know if you're logged in on the phone and the computer, but there's a little bit of feedback between the two, so if you can kind of log out of one of them, we can hear you.

MS. CANTU: Okay. And why don't -- while we're
waiting for that, Victoria, we do still have you on deck, but we're going to go to Mark English. Going to go ahead and unmute Mark English.

MR. ENGLISH: Yes.

MS. CANTU: We hear you.

MR. ENGLISH: Okay. Good. My name is Mark English. I am asking you to waive 10 TAC 10.402, requirement for a mechanism to engage attendees and a minimum score requirement on testing. We're an approved TDHCA provider of fair housing and fair housing accessibility training.

Next Thursday, we're doing a live webinar and accessibility summit that is an opportunity not only for the participants to be able to hear the same information that they get right now on prerecorded webinar that y'all already approved as an approved course, but it would give them the opportunity of interaction in between them -- in other words, ask questions to the three panelists which are -- and never before have these three panelists been together.

So it's going to be a wonderful opportunity for people to be able to engage and ask questions that are pertinent to their development on accessibility. And so that's my request.

MS. BINGHAM: Thank you. Thanks, Mark. What
organization are you with?

MR. ENGLISH:  My company is E&A Team, Inc.

We've been a TDHCA-approved provider for probably eight, nine years. In fact, we're the only provider that's been approved not only on the architect, developer, contractor side of the equation, but also we're approved on the property management training on fair housing issues for property management staff.

MS. BINGHAM:  Great. Thank you very much, Mark.

MR. ENGLISH:  Yes, ma'am.

MS. CANTU:  Okay. This is Naomi Cantu, moderator, again, and we're going to try Victoria one more time.

MS. CALDER:  Yes.

MS. CANTU:  Go ahead.

MS. CALDER:  Okay. Can you hear me now?

MS. CANTU:  We can.

MS. CALDER:  You can? Great. Okay. Thank you. I'm Victoria Calder, and my role is the point of contact for a petition against the project for Hood County. It's the proposed low income multifamily housing project called Meander Park, Agenda Item 20123.

And I just wanted to make you aware that we do have a petition against the project signed by over 556 residents of the homeowners associations for the
neighborhoods in close proximity to the intended project location.

That petition with all of the original signatures was sent to the TDHCA by our Congressman for District 60, Representative Mike Lang, and I wanted to make sure that that is considered as you go forward in reviewing the project for Meander Park.

The neighborhoods in the surrounding area are well-established, and they include Bentwater, Meander Estates, Mallard Point, and Hideaway Bay, and our primary -- I won't detail it very much at this point -- but our primary concern is that the existing infrastructure in the area where this project is proposed to be is currently extremely impoverished and inadequate in terms of the roads, the bridges, the flood control, the lighting, the drainage, the schools.

At our city council meeting for the Granbury City Council, February 18 of this year, our city manager noted -- and this is a direct quote -- that he was "throwing the red flag in as a caution regarding additional multifamily development in Hood County."

The number of multifamily units in Granbury involving projects being built, approved or in the planning stage, is significantly higher already than the 59 units per year that our city can handle, as stated in our 2016
comprehensive plan.

He went on to conclude, "I think we’ve reached our capacity." And we agree. Again, I don't want to use too much time. The schools that the families would be attending, the children of the families, and this project is typically proposed as a family development -- the schools are already receiving many concerns from parents about the existing overcrowding that's already far above the ratio for the Texas state levels.

The road that goes into -- it's the only main road that goes to where this project would be -- is also the road for all of our surrounding neighborhoods. Even though we only had 556 signatures, we believe we would have had well over 1,000, had we not collected the signatures during our spring break when many, many residents were on vacation.

So the road in is designated by our city as a transportation thoroughfare, but at best, it was built and is a rural road with no shoulder, extremely treacherous, already over-congested. It's narrow with poor signage, unmarked lanes and no shoulders.

So it's already extremely dangerous in the area, extremely overcrowded, and we just wanted to make you aware that there's a significant opposition, not to a multifamily housing project being built for low income in the
community, but it's absolutely the wrong place and the
wrong time, given the existing impoverished infrastructure.

Thank you so much for your time and for -- I
realize this is not the primary forum for this, and there
are subsequent hearings to come, but we do appreciate your
consideration.

MS. BINGHAM: Thank you. Thank you, Ms. Calder.
Naomi, is any -- are there any other comments?

MS. CANTU: I have one more from Anita Branch.
We will go ahead and unmute you. Anita, you are the last
one I see today. If you would like to make a comment on
anything that was not on the agenda, now is your time.

Please go ahead and type your request to speak
in the question box, and we will get to you. Anita, we're
going ahead and unmuting you.

MS. BRANCH: Okay. Great. Can you hear me?

MS. CANTU: Yes.

MS. BRANCH: Okay. Wonderful. My name is Anita
Branch. I am a registered professional engineer, and I
live in the subdivision of Bentwater Estates. This is the
same subdivision that Victoria just mentioned. And I
wanted to also about the Meander Park -- the proposed
Meander Park multifamily housing project that is currently
zoned as agricultural, and the reason for that is that the
entire area used to be ranch land, and as such, the
infrastructure that supports the area, including the roads and bridges, were designed to accommodate rural traffic.

So because of the design for rural traffic, it has narrow, two-lane roads without shoulders. It has no pavement markings. It has no lighting. It has very few signs. And the drainage is atrocious. It floods very frequently, any time that we have heavy precipitation.

And so that really wasn't a problem until about 20 years ago, because you know, you had very few people actually trafficking the area because it was farmland. But about 20 years ago, when it was repurposed and the land use went from agricultural farmland to subdivision and residential use, that changed everything.

It changed not only the type of property, but it also changed the drainage patterns and everything like that, and so now, we have a situation where we have significant traffic, and the infrastructure has not been modified to keep up with that.

And so when it was just a ranch land, it moved 100 -- a few hundred vehicles a day, and now it moves thousands, and we have a two-lane road, a very narrow, two-lane road, and the increased load from the passenger and heavy commercial traffic that moves through there every single day have failed the inadequate pavement sections, and there's improper surface drainage that has caused
erosion along the sides adjacent to the highway, which is going to further destabilize the pavement.

And so it's made the road more treacherous than it was before. So until recently, the county was responsible for maintaining the road, but the city of Granbury recently came in and annexed Meander Road, and they did that because they wanted to bring Meander Park development in to that.

Well, unfortunately, all the people that live in the subdivisions, like Bentwater and Mallard Point and so many of the other subdivisions, we aren't part of the city, and so we don't have a say in any of this. And we had a public meeting, and at that public meeting, the city officials came in and they basically told us -- we asked them about the infrastructure, and they told us that they intended to proceed without any regard to the impact to the infrastructure and the people and properties that have been here for so many years.

And so as a result of that, I'm pretty much against the project, and so are my neighbors and the people that signed that petition that Victoria mentioned. So until such time as the roads and bridges are updated and brought into compliance with current TxDOT standards for urban roads, and the drainage and floodplains are appropriately dredged, I'm against the Meander Road
project.  

And I thank you for hearing my comment.

MS. BINGHAM: Thank you very much, Ms. Branch.

MS. BRANCH: Thank you.

MS. BINGHAM: Naomi, anything else?

MS. CANTU: I don't see anything else in the question box in GoToWebinar, and we don't have anyone else signed up, preregistered, as of 7:30 this morning, that is logged on. Hold on one second. Do you see a Larry or Vicky Mason or a Neil Sober?

MR. GAGNE: No.

MS. CANTU: Okay. So I believe that we do not have anyone else queued up for public comment at this time.

MS. BINGHAM: Very good. Any other comments from staff? Bobby, anything else? Board members?

MR. WILKINSON: Thank you, Board, for sticking with us today. It's been great work. Appreciate it.

MS. BINGHAM: Thank you all so much for your patience. If there's no further business, thank you all. Thank you, staff, for all the work you've put into this. A lot of good things accomplished today, and thank you all for hanging in there.

If there's no further business, I'll entertain a motion for adjournment.

MR. VASQUEZ: So moved.
MR. BRADEN: Second.

MS. BINGHAM: Vasquez motions. Braden seconded.

Everybody seconded? Motion carries. Thank you guys very much.

(Whereupon, at 2:55 p.m., the meeting of the Governing Board of the Texas Department of Housing and Community Affairs was adjourned.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: April 23, 2020

I do hereby certify that the foregoing pages, numbers 1 through 242, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Latrice Porter before the Texas Department of Housing and Community Affairs.

DATE: April 30, 2020

(Transcriber)

On the Record Reporting
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