TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA TELEPHONE AND WEB LINK

May 21, 2020
9:10 a.m.

MEMBERS:

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

BOBBY WILKINSON, Executive Director
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### EXECUTIVE

a) Presentation, discussion, and possible action on Board meeting minutes summary for February 27, 2020, and March 26, 2020

### ASSET MANAGEMENT

b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application

- 16170 Whitehouse Senior Village Whitehouse
- 17004 Old Dowlen Cottages Beaumont
- 19235 The Reserves at Saddleback Ranch Wolfforth

c) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement

- 99011 Plum Creek Townhomes Houston
- 02151 Windsor Gardens Apartments Houston
- 04420 Tranquility Bay Apartments Pearland
- 060035 Quail Ridge Apartments Hempstead

d) Presentation, discussion, and possible action regarding an increase to the Housing Tax Credit amount

- 17449 Quail Chase Apartments Houston

### LEGAL

e) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Coppertree Village (HTC 70131/CMTS 931)

### MULTIFAMILY FINANCE
f) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications

20410 Trader Flats San Antonio
20412 1604 Lofts San Antonio
20405 Gala at Fate
20413 Residences at Merritt Hill Rowlett
20447 Franklin Park Austin
20450 Mira Vista San Antonio

g) Presentation, discussion and possible action on a waiver related to §11.101(a)(1) regarding Site Requirements and Restrictions for Palladium Port Aransas (#20401) in Port Arkansas

h) Presentation, discussion, and possible action on a waiver of certain amenity requirements in 10 TAC §11.101(b)(4) (NSP1 PI Contract #77090000603 Grim Hotel, Texarkana)

i) Presentation, discussion, and possible action on a waiver of certain reserve requirements in 10 TAC §10.404(a)(3)(B)

j) Presentation, discussion, and possible action on the Third Amendment to the 2020-1 Multifamily Direct Loan Notice of Funding Availability

BOND FINANCE

k) Presentation, discussion, and possible action on Inducement Resolution No. 20-018 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

20610 Terrace at Southern Oaks Dallas
20613 Riverside Senior Living Fort Worth

HOUSING RESOURCE CENTER

l) Presentation, discussion, and possible action on the draft 2021 Regional Allocation Formula Methodology

m) Presentation, discussion, and possible action on the ratification of a substantial amendment of the 2019 State of Texas Consolidated Plan: One-Year Action Plan

SINGLE FAMILY AND HOMELESS PROGRAMS

n) Presentation, discussion, and possible action on an order adopting the repeal and new 10 TAC
Chapter 7, Subchapter A, General Policies and Procedures, and Subchapter B, Homeless Housing and Services Program; 10 TAC §7.31, §7.34, §7.36, §§7.41-44, Emergency Solutions Grants; and 10 TAC §7.62 and §7.65, Ending Homelessness Fund, and directing their submission to the Texas Register for adoption

o) Presentation, discussion, and possible action to authorize the issuance of the 2020 Emergency Solutions Grants Program Notice of Funding Availability and publication in the Texas Register

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) Outreach and Activities Report (April-May)
b) Report on Extension Authority Granted by the Board to the Executive Director in Response to COVID-19
c) Housing Finance Activity Report
d) Report on Activities Related to the Department’s Response to COVID-19 Pandemic
e) Report on the 2021 and 2022 QAP Planning Process

ACTION ITEMS

ITEM 3: DEPARTMENT OF POLICY & PUBLIC AFFAIRS

a) Presentation, discussion, and possible action on the agency strategic plan for fiscal years 2021-2025

ITEM 4: COMPLIANCE

a) Presentation, discussion, and possible action on a Dispute of the Compliance Division’s assessment of the Applicant’s compliance history to be reported to the Executive Award Review Advisory Committee regarding

20604 The Walzem San Antonio
20611 333 Holly The Woodlands
20612 The Pines The Woodlands

ITEM 5: BOND FINANCE

a) Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Notes (Scott Street Lofts Apartments)
Resolution No. 20-019 and a Determination Notice of Housing Tax Credits

b) Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS B 333 Holly) Resolution No. 20-020 and a Determination Notice of Housing Tax Credits

c) Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS B The Pines) Resolution No. 20-021 and a Determination Notice of Housing Tax Credits

d) Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (The Walzem) Resolution No. 20-022 and a Determination Notice of Housing Tax Credits

ITEM 6: 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 waivers to certain provisions of Texas Administrative Code for Emergency Solutions Grants Program funds allocated to the State of Texas through the Coronavirus Aid, Relief, and Economic Security Act

b) Presentation, discussion and possible action authorizing the Executive Director to waive or extend certain construction inspection requirements under 10 TAC Chapter 10, the Uniform Multifamily Rules, 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), 10 TAC Chapter 13, and the Multifamily Direct Loan (MFDL) Rule

c) Presentation, discussion and possible action on the programming of Housing Choice Voucher Program Administrative funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and authorization to proceed with said programmed activities

ITEM 7: MULTIFAMILY FINANCE

a) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20416, Heritage Estates at Owen Tech, Austin

ON THE RECORD REPORTING
(512) 450-0342
extraterritorial jurisdiction)

b) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20400, Palladium at West Francis, Midland)

c) Presentation, discussion and possible action regarding eligibility under 10 TAC §11.101(b)(1)(C) related to Ineligibility of Developments within Certain School Attendance Zones and 10 TAC §11.101(a)(3)(B)(iv) related to Neighborhood Risk Factors for Preserve at the Port (#20468) in San Antonio

d) Presentation, discussion, and possible action regarding requests for waiver of the Department’s Multifamily Program Rules for 20128 OST Lofts

e) Presentation, discussion, and possible action on timely filed appeals under the Department’s Multifamily Program Rules

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PROCEEDINGS

MS. BINGHAM: Good morning. Welcome to the May 21st meeting of the Governing Board of the Texas Department of Housing and Community Affairs. We'll call this meeting to order, and I see our Board members, but let me do a roll call just for everybody else that's on the phone.

Mr. Braden?

MR. BRADEN: Here.

MS. BINGHAM: Hello. Good morning.

Ms. Thomason?

MS. THOMASON: Here.

MS. BINGHAM: And Mr. Vasquez.

MR. VASQUEZ: Present.

MS. BINGHAM: Good morning. We have quorum to do business today.

Bobby, would you lead us in the pledge?

MR. WILKINSON: Yes, ma'am. Members, please remain seated.

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

MS. BINGHAM: Thank you.

So June is Homeownership Month, and I think we have a resolution to read.

MS. CANTU: Yes. We're finding Michael Lyttle. He will be reading that.
MR. LYTTLE: Can you hear me now?

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

MR. LYTTLE: Okay. Awesome.

Well, good morning, everyone. Good morning, Madam Chair, Mr. Wilkinson, Board members. Michael Lyttle, TDHCA staff, reading a resolution.

"Whereas, June 2020 is Homeownership Month in Texas;

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

"Whereas, it is the policy of the Department to support equal housing opportunities in the administration of its homebuyer and homeownership programs and services;

"Whereas, since 1981, the Department has served as the State’s housing finance agency, providing a choice of mortgage products and services to meet the needs of low, very low, and moderate-income homebuyers throughout the State;

"Whereas, the Department offers a free online homebuyer education tool, Texas Homebuyer U, and administers funds to support the Texas Statewide Homebuyer Education program to inform and prepare buyers for successful homeownership;

"Whereas, the Department applauds all those who
work to achieve and maintain affordable, responsible
homeownership and recognizes those who provide services and
resources to all homebuyers regardless of race, color,
national origin, religion, sex, disability, or familial
status; and

"Whereas, the Department encourages Texans to
explore the numerous affordable home buyer resources
available during Homeownership Month and throughout the
year;

"Now, therefore, it is hereby resolved, that in
the pursuit of the goal of affordable homeownership
opportunities for all, the Governing Board of the Texas
Department of Housing and Community Affairs, does hereby
celebrate June 2020 as Homeownership Month in Texas and
encourages all Texas individuals and organizations, public
and private, to join and work together in this observance
of Homeownership Month.

"Signed this Twenty-First Day of May 2020."

MS. BINGHAM: Thank you, Michael.

Do we need to take action to recognize the
resolution?

MR. ECCLES: Generally that is what's done.

MS. BINGHAM: Okay. We'll entertain a motion to
so resolve.

MR. BRADEN: So moved.
MS. BINGHAM: Mr. Braden moves. Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds. If there's no further discussion, all those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Motion carries.

Thank you, Michael.

So we'll move on to the consent agenda. So if there are any items that anyone on the Board or anyone wishes to move, table or move to an action item, that would include any items for which there are public comments, let us know. Otherwise, we will entertain a motion for the consent agenda.

Are there any items that anyone wishes to have moved to the action section of the agenda?

MS. CANTU: Vice Chairwoman Bingham. This is Naomi Cantu. I do show that people would like to comment on agenda item 1(e), 1(f), as in Frank, 1(g), as in go, and 1(k), as in Kelly.

MS. BINGHAM: Okay. So it sounds like we have public comment then on item 1(e), 1(f), 1(g) and 1(k).
MS. CANTU: Yes, that is people who registered and that is also what we're getting in the questions box.

MS. BINGHAM: Great. Okay. Then we'll entertain a motion to approve the consent agenda with the exception of items (e), (f), (g) and (k) that we'll move to the action agenda items.

Is there a motion to approve the consent agenda?

MS. THOMASON: Motion to approve.

MS. BINGHAM: Ms. Thomason makes a motion to approve the consent agenda, removing those four items to the action agenda. Is there a second?

MR. VASQUEZ: Second.

MS. BINGHAM: Mr. Vasquez seconds.

Any further discussion?

(No response.)

MS. BINGHAM: All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed same sign.

(No response.)

MS. BINGHAM: Great. Motion carries on those. Let's go ahead and take those items in order. We would first be ready for item 1(e). That's presentation, discussion and possible action regarding the adoption of an agreed final order concerning Coppertree Village, Housing Tax Credit 70131.

ON THE RECORD REPORTING
(512) 450-0342
MS. CANTU: Yes. We are looking for Mr. Pender who I believe is doing a presentation on that. We will go ahead to look for him to unmute him.

And Jeff, you are unmuted.

MR. PENDER: Yes, right. Do you want the presentation now or when?

MS. BINGHAM: So Jeff. I think yes, the presentation would be great, Jeff.

MR. PENDER: Okay. This is item 1(e), it's presentation, discussion and possible action regarding the adoption of an agreed final order concerning Coppertree Village. It's an agreed final order between the Department and the owners of Coppertree Village.

The property is managed by Preservation Management, Inc. It's a 322-unit development in Harris County. An informal conference with the Enforcement Committee was held on April 28, 2020.

The history of noncompliance of this property is fairly simple. There's two inspections that are discussed in the text of the agreed final order. The first one was in 2017, it was a UPCS inspection. All the violations have been resolved after an informal conference notice was sent, except for one that was described as extreme deterioration of the exterior of the community center.

At the conference the owner produced a contract
for the repairs to the Enforcement Committee. The committee wanted to make sure that this didn't fall off the radar, but they tabled the item with the idea give them an opportunity to get some of this work done and we'll see in the near future how far they're getting along. However, in subsequent talks with the owners, they indicated that they were running into serious delays, they had gas and plumbing leaks, there was a partial roof collapse and other items to delay the progress. So the committee just set an informal conference for December 18.

In the meantime, another UPCS inspection had been done on August 16, so that was included int eh call of this December 18 meeting. At the conference the owner's representatives had brought out the fact that despite these problems the owner had been able to put on new roofs, do exterior painting, they put in new flooring and repairs to water and fire damaged units, they made corrections that were necessary to pass a HUD REAC inspection, and the property had faulty electrical transformers which they managed to get fixed. And these transformers, by the way, were a real source of complaints, obviously. I'm sure the tenants were not happy that they were having problems with their electricity. And finally, they were able to make some security improvements to the property.

As a result of that informal conference, an
agreed final order in the amount of $10,000 was recommended, $5,000 payable upon signing of the agreed final order and another $5,000 was deferred if the corrections were received by April 17, 2019. The owner paid the initial $5,000 and at that time the former management company was replaced with the one currently on the property, Preservation Management, Inc. This happened just before the corrective action due date. Consequently, Preservation was not able to timely complete the corrective action until October 4, 2019. As a consequence, the owner paid the remaining $5,000. It was also represented to the committee that Preservation's regional operations are now headquartered out of this property.

Then June 20, 2019 is the second inspection that I'll discuss and it's the inspection that resulted in this agreed final order. Real quickly, all the violations have been resolved, and again, not timely. The committee did find that Preservation was much more responsive to compliance and to the committee than the prior management company. Accordingly, this committee is recommending a $7,000 penalty.

MS. BINGHAM: Great. Thank you, Jeff.

MR. PENDER: Sure.

MS. BINGHAM: Do the Board members have any questions of Jeff?
MR. VASQUEZ: I have a question. So the current status is that they're compliant -- they've cured all violations?

MR. PENDER: That's correct.

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

(No response.)

MS. BINGHAM: Before we hear comment, we'll entertain a motion on item 1(e)

MS. CANTU: We do have comments on item 1(e).

MS. BINGHAM: Naomi, we're going to call for a motion first and then we'll hear public comment prior to taking action.

MS. CANTU: Thank you. We will wait.

MR. BRADEN: I'll move to approve staff's recommendation.

MS. BINGHAM: I have a motion from Mr. Braden to approve staff recommendation. Is there a second?

MR. VASQUEZ: I'll second, and look forward to public comment.

MS. BINGHAM: Very good. I have a second from Mr. Vasquez.

We're ready for comment on item 1(e), Naomi.

MS. CANTU: Thank you. We have Elizabeth Roehm and she would like to speak.
Elizabeth, we're going to unmute you.

MS. ROEHM: Hi there. Thank you for the opportunity to speak today. My name is Elizabeth Roehm. I'm a staff attorney at Texas Housers, speaking on agenda item 1(e). While I'm for the item, I do want to talk about what is going on at the property because I think there's a lot outside of this that needs to be addressed in some way.

The Board today is likely to approve a $7,000 fine for these past violations, as staff described, so I won't go into that. I do want to bring up that the purpose of the LIHTC program is to create high quality affordable housing and the current state of disrepair at this property, which was not addressed, should be an embarrassment to the whole affordable housing community.

The tenants are currently experiencing severe mold, walls wet with condensation, some water leaks, ceiling bulges, dishwashers infested with bugs. You'll be hearing from some tenants themselves in a moment. I know that staff mentioned that the property did pass a REAC score recently, but even HUD has recognized that those scores do not really indicate the safety and habitability of a building, so these conditions are really untenable for people.

TDHCA is, of course, not responsible for the conditions at Coppertree Village but TDHCA does have the
power to influence these LIHTC property owners through various enforcement measures. And the tenants who are actually living through these conditions day in and day out, who personally experience the harm when the owner delays beyond TDHCA's own deadlines to remedy these violations, they want to experience relief and to experience their homes as healthy and safe places to be.

The owner of Coppertree Village should not be given the benefit of the doubt as the order today will be fining them only $7,000 of the possible $11,000 fine. I don't think that that would make a meaningful difference, but I do want to note that they aren't even being held to account to that small sum that they could. For example, in the Board materials today, even after TDHCA's June 2019 inspection found extensive violations and gave the owner three months to resolve them, the following are some examples of things still not fixed after TDHCA's deadline: ceilings bulging, stoves with three or four burners not work, non-functioning dishwashers, damaged walls, corroded faucets, et cetera.

So imagine all these violations in uninspected apartments or that have arisen in the meantime that are not being resolved. We're sort of through this process trusting an owner to resolve just these things that were found in the inspected apartments and knowing that that
person is not even -- or that owner as an entity is not even resolving all those noted violations, imagine all the things that were popping up in the meantime or the things that were not noted and whether that owner could be trusted to address those as well.

So beyond today's agreed final order issuing a small fine, I really hope to see TDHCA Board and staff bring concerted discussion and effort to use whatever authority it has to hold owners property managers accountable for ongoing poor conditions, so meaningful enforcement could look like strengthening debarment rules for habitability issues, or finding ways to force rapid amelioration of tenants' complaints who don't have another remedy.

So just to close, people are suffering in these poor conditions. A small fine to the owner does not come close to remedying what these people experiencing, and a more robust system would be in place to ensure that all the tenants in LIHTC properties have safe and healthy living conditions.

Thank you so much.

MS. BINGHAM: Thank you, Elizabeth.

Do any of the Board members have any questions for Elizabeth?

(No response.)
MS. BINGHAM: Naomi, are there additional public comments on item 1(e)?

MS. CANTU: 1(e), I don't see anything in the questions box, so if you would like to talk about 1(e), please indicate if you will. We do have people pre-registered. Jamie Wazaki, we're looking for this person. We do not see that person has logged in. And we also have Mary McDonald, she registered to speak and we're seeing if they are there. Otherwise, please indicate that you would like to speak. So Elizabeth Roehm is letting us know who would like to speak. If you could actually let us know yourself if you would like to speak in the questions box, that will help us call on people who are aware that they're going to be called on. We have Gabrielle Bradford. We do not see Gabrielle Bradford logged in. Ericka Bowman.

So, Elizabeth, if they only called in, we are not going to be able to unmute them. They need to have had registered for the Board meeting online. We also have Ericka Bowman, Terry Nintu, Brittany Houston, and Laurissa Palmer. Ericka Bowman is available?

Okay. Ms. Bowman, we're going to go ahead and unmute you and you can speak on this topic.

MS. BOWMAN: Are you able to hear me?

MS. CANTU: We can hear you.

MS. BOWMAN: Okay. Thank you so much. I was
going back and forth with some of the tenants who are
saying they're trying to get on because they're on but
they're not showing for some reason.

Thank you. My name is Ericka Bowman. I am a
community organizer for Texas Housers. I have been working
with the tenants over at Coppertree apartment complex over
a year and a half now.

I wanted to speak on the conditions that they're
facing at this moment and have been facing for a while now.
It baffles me to hear that it's being told that these
conditions have been fixed and repaired when I have seen
firsthand and have video and pictures of the conditions
that a lot of these families are living in at the current
moment. It's really hard to even express. You actually
would have to be able to see some of the conditions.

Some of these families with children at home are
living with molded walls. A lot of them, most of them are
on some type of air respirators helping them to breathe,
most of them are affected in some kind of way, and they
have asthma. The water conditions there are completely
horrible. Tenants have to boil their water in order to
even use it to cook there. There is a constant sewage
spill that happens often. It's been reported to
management. The city has also been notified multiple
times. So I'm unaware of how they're able to wiggle
themselves out of so many situations that have been called 
to the attention of people in positions of power to be able 
to do something about it. It's really frustrating for me, 
but you can only imagine the frustration for these families 
that face these conditions.

On top of the mold and the infestation, the 
sewage buildup, the ceiling actually coming in in a lot of 
these apartment complexes, you see a lot of band-aiding 
that happens. A lot of tenants have called Southwest 
Housing. Southwest Housing immediately gets on the 
management to come in and do something about it. They come 
and they end up putting cardboard in some instances -- 
which we have videos and pictures -- and tape over it and 
then paint over it and consider that to be remedied. They 
come into properties and when mold is present and has come 
through paint multiple times after it has been painted over 
so many times, they come and they just paint over it again.

I'm here today -- I don't have enough time to 
really go into complete detail, but I'm asking the Board to 
please take into consideration these voices that are 
speaking to you today and asking you for help. And me 
being there firsthand and seeing what management is not 
doing and is constantly saying that they're doing. Through 
multiple inspections through Southwest Housing, also 
through HUD, the conditions remain to be the same and
nothing is being done to remedy it and put these families in safe livable conditions.

Thank you.

MS. BINGHAM: Thank you, Ericka. Thank you for sharing that information with us.

Do any of the Board members have any questions for Ericka?

(No response.)

MS. BINGHAM: Naomi, is anybody else on the line or teed up to comment on this item?

MS. CANTU: I do not see anyone else who wishes to speak on this item in the questions box.

As a reminder, if you wish to speak on the item, please indicate so in the questions box so that we can make sure you are there. And please, also, do not volunteer other people to speak. We need to make sure that the people that wish to speak indicate so themselves.

MS. BINGHAM: Great. In the meantime, can Jeff Pender get back on the line?

MR. PENDER: Yes, I'm here.

MS. BINGHAM: Hey, Jeff, so just a question. So Elizabeth and Ericka did a great job speaking on behalf of it sounds like some other folks that want to speak on this item that may actually be residents. What would our options be in terms of -- I know we have a very active
monitoring department, and I'm assuming that since this is the second final agreed order that this development stays on our radar. Are there any other options that we have? I'm assuming that one option would be to recommend a higher amount in the agreed final order, all the way up to the $11,000. Anything else that the Board could instruct the Department to do to continue to watch this development closely?

MR. PENDER: Well, yeah, actually there is, and I believe staff is already implementing this. It's unusual for Compliance to do this but they have now upped the UPCS inspection schedule from, I believe it's once every three years -- I'm not really certain about that -- but now I know they're doing them twice a year for this particular property.

And I just want to mention I assure you that staff shares the same frustration that was expressed by Elizabeth and Ericka. It's difficult to go out to these properties and realizing that all they can do is inspect a small sample of the problems out there and that's all we can do with this. The UPCS inspection standards are set at a certain level to detect certain problems, and unfortunately, that's all we can do. Everybody needs to understand that inspecting these isn't going to guarantee a perfect physical condition out there. It more or less
tracks the physical condition of the sample and hopefully, you know, that the property will continue to make repairs necessary to pass UPCS inspections, but again, it's just a sampling. I didn't want it to get lost there.

MS. BINGHAM: Does anybody have any questions for Jeff?

MR. VASQUEZ: I have a question. So what kind of coordination is going on with city inspectors and just other groups, the fire marshal, and what-have-you? We're not the only one that carries a stick in the enforcement here. Has staff reached out to some of these other organizations to make sure they are staying on top of this?

MR. PENDER: I don't have an answer to that question. I don't know if Compliance has. I know the Enforcement Committee has not done that. I don't know if the two speakers, previous speakers, their organizations have reached out. Apparently they have and not gotten much of a response from them. But I do know that the Enforcement Committee, it's not part of their charge; they're pretty much not permitted to do that. So the answer to your question is no, not to my knowledge.

MR. VASQUEZ: Well, it seems like something should be done about that, and it sounds like they did make some progress, but it also sounds like they have a long way to go.
MR. PENDER: Yeah, and what the commenters said is true, but you have to keep in mind, like I said earlier, we do a sample of these properties when we go out there and there may be other units on the property that have much worse conditions that we're identifying, there may be units out there that are perfectly fine. Again, we're just looking at a sample.

MR. WILKINSON: Patricia, can you get on and speak about the compliance issues? Patricia Murphy?

MS. BINGHAM: Sorry, Bobby, what did you say?

MR. WILKINSON: I'm asking for Patricia Murphy to speak to compliance.

MS. CANTU: So Patricia is online. Let me see if we can make sure. There she is.

MS. MURPHY: Good morning. Can you hear me okay?

MR. WILKINSON: Yes.

MS. MURPHY: Hi. Good morning. Yes, I'm happy to discuss this property and that this is a very, very difficult property in our portfolio. As Jeff mentioned, we have accelerated the inspection schedule from once every three years to once every six months.

I have spoken with the Texas Housers about this property and the Board did grant us a healthy contract for outsourced inspections so we have the ability to either do
100 percent of these units or if there are particular items to be inspected in every unit -- like for example, if we should look at the air conditioning in every unit, we could do that. Also this is a problem right now because of the Corona virus and we have halted inspections at this time because of safety concerns for both the staff and the residents.

While this particular property is certainly a successful one for the Housing Tax Credit program, I would like to note that this was funded in 1990 and at this time the Department should be proud of the work that we've done to make sure that there is an adequate rehab being done on the property. We didn't used to have minimum thresholds for the dollar per unit that was being done and so while we all agree this is not a great situation, it is extremely unlikely that anything that we are funding now will be in this condition in year 28 of its compliance period because we have more thorough rehab that's being done, because we have construction inspections and we have much better oversight than we did at the beginning of this program.

In response to Mr. Vasquez's question about local inspection agencies, the reality is that many cities do not inspect TDHCA-monitored properties because they also have limited resources and they know that we go out and
inspect. So that's been my experience with a lot of local agencies that they actually defer inspection of that to us. There is another player in this property and that is the U.S. Department of Housing and Urban Development. There is a Section 8 contract on this property which is why it is being inspected again in a REAC inspection as well, and HUD does have a much bigger hammer than we do for this particular development. This development's affordability period ends December 31, 2022, and we will continue to monitor it as closely as we can until that time.

Any other questions for me?

MR. VASQUEZ: Patricia, I understand that smaller jurisdictions don't necessarily have the resources to go inspect properties, so they rely on us, but this is City of Houston we're talking about. Right?

MS. MURPHY: Correct.

MR. VASQUEZ: They have departments, they have the resources. Have we contacted the city council member in charge of this area? I'm sure that person would help bring resources to bear on getting this straightened out.

MS. MURPHY: We have not.

MR. VASQUEZ: This thing needs more than just our inspection once every six months and a little slap on the hand here with a fine.
MS. MURPHY: We kind of stay in our arena and do our thing, and if you would like for us to reach out to the City of Houston, we're happy to do so, Mr. Vasquez.

MR. VASQUEZ: Please do.

And then to Bobby and just the team, you all should feel comfortable that you don't have to wait for the Board to give you directives to go a little bit above and beyond in pulling in other agencies around the state and local. It shouldn't have gotten to the Board before we start hearing all this and have to really give you a little urge to move forward.

MS. BINGHAM: Patricia, did I hear you say that the Department has been -- I know you didn't say generous, but that the Department basically gave you a budget that allows you to step up monitoring on this development?

MS. MURPHY: Yes. We have an outsourced contract to perform UPCS inspections so at this time we are able to form accelerated inspections. You might recall that the IRS and Treasury Department are planning on expanding the number of units and files that must be inspected and monitored. A lot of state agencies have kind of pushed back on that and we’re hoping that they will rethink the implementation of those monitoring requirements. But at this time we do have available resources to do this type of monitoring, to go every six
months instead of every three years. If the IRS and the Treasury Department implement these broader monitoring requirements, obviously we'll have to meet all of our federal requirements before we will be able to go above and beyond and do these type of inspections at Coppertree Village. At this point we have plenty of resources to do that kind of work which is why we are.

MS. BINGHAM: Great. I guess my thought was, wow, so as an agency that has to be stewards of our resources, now we're having to devote additional resources to a property that's not -- at least by the comments that we've heard today, it isn't really maintaining its commitment to its residents in terms of living conditions. So that's making me wonder a little bit about why we haven't gone ahead and gone the full deal on the final agreed order, the $11,000, or whatever the max was. Not that it needs to be a tit for tat, but my guess is we're expending considerable resources having to bird dog this property, so just a thought there.

So what I heard was that Mr. Vasquez is strongly encouraging the staff to take an active approach and maybe in collaboration or in support of Texas Housers, or whoever is advocating for the residents in addition to us, to make sure that the City of Houston is aware also that there are compliance issues.
Are there any other suggestions from the board members? We have a motion and a second on the table to approve staff's recommendation for the final agreed order.

(No response.)

MS. BINGHAM: Hearing none, so, Paul, we'll just tack on Leo's recommendation to your motion. Is that acceptable to you?

MR. BRADEN: Yes, but I don't really want it to be part of -- I don't know if we need it for the motion. Right? I think it's sort of a beneficial kind of cooperation and I would think that Texas Housers is already probably doing that or would be the easiest entity to do that, to reach out, as opposed to us doing it. I don't mind us coordinating with them or talking to them as well, but I'm not sure I wouldn't even really make it part of my motion.


Any further discussion?

(No response.)

MS. CANTU: Madam Chairwoman?

MS. BINGHAM: Yes, Naomi.

MS. CANTU: We do have people wanting to speak on this and I am seeing chatter in the questions box on another agenda item because we have the city council members and mayor who want to speak on another agenda item.
I believe Beau has a suggestion about this.

Beau, do you want to step in here?

MR. ECCLES: Absolutely. We have three elected officials who would like to speak, or at least two, on a 7(e) item. They were told that they could make their presentation. They have a city council meeting that actually starts in about ten minutes, so if we could suspend this item and maybe allow for the hearing of that testimony on the appeal of 20040 and 20041, Espero Austin, I think that would at least allow the elected officials to meet their next meeting, and then perhaps we could come back to 1(e) with that motion pending.

MS. BINGHAM: Thank you, Beau.

So we will suspend final vote on item 1(e), and are honored to have the mayor and the council members on the call and we'll hear public comment from them as elected officials. We'll just take the public comment now for item 7(e), the mayor and the city council members that are in the queue to speak.

MS. CANTU: Thank you Vice Chairwoman.

This is Naomi Cantu, moderator. We're going to go to Mayor Adler first, and Mayor Adler, if you could, please let us know, of course, what city and what item on 7(e) you're speaking about. You are unmuted.

MAYOR ADLER: Okay. Great. Thank you.
Madam Chair and the Board, thank you so much for the consideration to be called up before we join our other colleagues on the dais here in the City of Austin. I am here to speak today to try to convey strong support of the appeal of Espero Austin at Rutland and Espero Austin at W. 24th Street. They're in item number 5. These are being proposed by Caritas of Austin.

Homelessness is the highest priority, before we entered into a virus world, in the City of Austin, and addressing it is our top priority. The most effective way, as you know, to address it is permanent supportive housing. The data proves this in our city. Our point in time count that just came back showed an 11 percent increase in our raw numbers year to year, in part, I think, because we increased by 50 percent the number of volunteers that were participating in the point in time count. But importantly, as a percentage of our population the number remained constant which means that we are needing now to provide actual housing to help people move off the streets.

Between 2017 and 2019, 2,171 people were connected to housing in our city through partners like Caritas. During that period of time, more people experiencing homelessness were moved into housing than in all previous years, reflecting the priority we've given it in the city, but we need more capacity. Austin needs more
organizations that are developing supportive housing, so I really want to appreciate the work that this commission has done to reflect that priority in how you do your scoring processing and selection.

These two properties are a strategic and intentional moment to increase our supportive housing capacity in our city. We're stalled as a community until we can begin to develop high quality permanent supportive housing for people that are facing long-term homelessness. These two projects represent the way forward for us.

I want you to know that Caritas has a really, really strong reputation in our community. It was constantly building well-being by providing layers of support to allow people experiencing homelessness to reach their full potential to achieve full integration into our community. I would let you know that they have a 98 percent success rate with the people that they've been able to take off the street and put into housing with the services that they provide.

Their appeal is based on an interpretation of language regarding the commitment for an operating subsidy, and I know that you changed the language in order to better enable supportive housing to take place. Caritas is a leading nonprofit homeless housing and service provider, it's a recipient of multiple city and federally funded
contracts providing subsidies now to over 500 units of supportive housing annually in our city. I assure you that Caritas is well supported by both the government and philanthropic sources that provide necessary subsidies for both of these developments.

I understand that you've changed the rules to better provide for supportive housing, but in doing so you wanted to make sure that there would be certain controls to ensure and to guarantee that approved supportive housing would be, in fact, operating and sustainable over a long period of time without financial issues or concerns. There is no better guarantor in our state of that sustainability than Caritas's board, widespread respect and support that this organization has throughout our city. They've entered into, Caritas, a legally binding contract to provide the ongoing operating subsidy. Please know Caritas is a solid organization with longstanding funding from multiple sources, including significant from the City of Austin.

I ask you to please enable our city to further this evidence-based solution. We're proud to support this strong and experienced nonprofit. Please help us seek to end homelessness in our city. Please reinstate these two projects and help them deliver what our city needs most right now: homes for people that have none.

And again, thank you for calling us up out of
order, greatly appreciate it. Thank you for the work that you do in this state, it is invaluable.

MS. BINGHAM: Thanks, Mayor Adler. Thank you.

Does the Board have any questions for Mr. Mayor?

(No response.)

MS. BINGHAM: Thank you, Mayor Adler.

MAYOR ADLER: Thank you.

MS. CANTU: Great. Next we have up Council Member Casar. We're going to go ahead and unmute.

MR. CASAR: Hi, Board members, Chair. Thank you so much for having me and my colleagues, and thanks so much for continuing this work in this really hard environment, but it's really important, and you know especially that folks living on the streets right now are at really, really high risk, and that's why we're moving really fast to try to house as many people experiencing homelessness as we can.

The Espero on Rutland project is in my district. Rutland is really near a lot of our most frequent transit access. We actually are near places where there's recreation and a major grocery store, and so it is an important place for us to be able to house folks, and there, frankly, are people experiencing homelessness that live on the streets nearby already and it would be so much better to bring them into safe housing. And so I really
echo the mayor's comments about doing whatever it is you can to reinstate these projects. These projects scored very high, and I'm also really supportive of that project on W. 24th as well.

I also support, frankly, the language that has been put in to make sure that permanent supportive housing is actually really supportive, it does have the dollar behind it so that we invest in capital that we know that there is actually the social services there, and so I think that that language is important. But I think in this case it has sort of unintentionally resulted in one of the most solid nonprofits, who I'm least worried about continuing their operations at scale, potentially getting cut out. Because Caritas is, frankly, one of the biggest institutional and most supported from both the government side and the philanthropic side nonprofits, so I really have no concern about them in this process.

So I just wanted to raise that because I think part of the point of these hearings is on a case-by-case basis for y'all to look at cases where the rules need to have good structure but where potentially the scoring systems and process don't exactly result in the outcomes that we envision.

So thank y'all for your service and for hearing this appeal. I hope that you're able to reinstate these
two really important projects which will help hundreds, between the two projects, families come off the street in our city.

Thank you. Thank you, Councilman.

Any questions for the Councilman?

(No response.)

MS. BINGHAM: Thank you very much.

MR. CASAR: Thank you.

MS. CANTU: Thank you. This is Naomi Cantu, moderator. Next we have Councilwoman Tovo, and that is the last one on this agenda item for now.

Councilwoman Tovo, you are unmuted.

MS. TOVO: Thank you very much. Thank you, Chair. Thank you, members of the Board, really, first of all, for your service to the people of Texas. The work that you do is so critical and it's never been more critical than right now, so thank you so very much for your ongoing commitment to providing safe and stable housing for Texans no matter where they live throughout the state. And again, I echo my colleagues' thanks for the courtesy of allowing us to speak.

I represent City Council District 9. Again, my name is Kathie Tovo. That is the central Austin, downtown, and the areas north and south of the river, but primarily central, and as the District 9 representative on the city
council, I have the honor of being, hopefully, the future home of Espero Austin at W. 24th Street development. And I wanted to express my strong support both for that development, as well as for the development at Rutland, and I request, along with my colleagues, that you please consider -- respectfully request that you consider reinstating Caritas of Austin's application for both of these projects.

The portion of my district where Espero Austin at W. 24th is sited is very dense, it is transit rich, it is amenity rich, it is a high opportunity neighborhood, and I strongly believe that it would support the residents of this housing property well. And of course, while it's my responsibility to speak to the needs of my district, again, I also want to express my support for Espero Austin at Rutland.

Supportive housing, as you've heard from the mayor and my colleague, is desperately needed in Austin to address homelessness, it's a top city priority. We are, along with our partner organizations, such as Caritas, fiercely committed to ending homelessness in the City of Austin, and we really need both of these developments to help us advance along those goals. Austin needs more organizational capacity for developing supportive housing in particular, to providing those not just safe and stable
places for people to stay but also the support that enables them to be successful in that housing and to thrive. These projects both represent a significant leap forward to increase our capacity to do that in Austin.

Ninety-eight percent of Caritas's residents are able to remain stable in their housing in part because of the wonderful care that they do provide to their residents. Caritas is a trusted partner in the City of Austin and it's been really my honor over the last years of my service on council to work with them and to get to know better the really stable resources they provide to so many of my neighbors. Caritas of Austin is well equipped to deliver the proposed 222 units to Austin neighborhoods who desperately need this critical and supportive housing.

And then really lastly, I just want to emphasize that Caritas, as you've heard, has not just the support of the elected leaders who have testified before you here but it enjoys significant and strong and deep philanthropic support from many in our community and will have support as it moves forward with these two projects.

I respectfully ask for your reinstatement of these applicants, thank you in advance for your consideration, and if I can be of any assistance or provide any additional information or answer any questions, I am pleased to do so either today or in the future. Thank you
very much, again, for your work and for your time this morning.

MS. BINGHAM: Thank you, Council Member Tovo. Do the Board members have any questions for Council Member Tovo?

(No response.)

MS. BINGHAM: Thank you very much.

MS. TOVO: Thank you all.

MS. BINGHAM: Naomi, we're going to return to item 1(e). We were just in the process of taking action on a motion and a second. I understand now that there are some folks in the queue that want to speak to item 1(e).

MS. CANTU: Yes. Elizabeth Roehm would like to speak again. She apparently has people who would like to speak and they're having some trouble connecting and she would like to speak again regarding that issue.

MS. BINGHAM: Okay.

MS. CANTU: So we're going to go ahead and find Elizabeth. And we did unmute you. You can go ahead and unmute yourself and speak.

And anyone else wanting to speak on 1(e) please let us know in the questions box.

MS. ROEHM: Thank you so much, Naomi, and I won't take much additional time, but I just wanted to state that I do believe, hopefully, that some of these tenants --
we have three tenants that were trying to get on the line to speak today -- hopefully that they are able to get through at this point. And I just wanted to point out, too, that they are stepping out of work, sitting in their cars trying to get through, so if it doesn't work, I apologize but I just want you to know that people are really trying to do that.

I just want to address a couple of things that have come up. One was the idea that Housers could communicate with City of Houston. I think that's a wonderful idea. I also want to point out with Housers communicating with City of Houston is completely different from TDHCA staff reaching out to City of Houston, or any kind of action coming from TDHCA, I believe, potentially could be taken a lot more seriously. So I just want to point that out.

Really appreciate y'all taking us very seriously. I want to point out, too, that the last couple of years of the LURA are still in the affordability period, are still essential. Imagine living in these conditions for two years with your children. I don't think the fact that it's towards the end of the LURA is any reason to let any of this slide or take it less seriously.

And I think considering the UPCS of all units if there's something for that, even up to charging the
property owner for that is reasonable. I also believe that Texas Housers would be happy to work with tenants to come up with a list of any particular items that they think should, you know, one or two things that should be checked in every unit that are really essential for health. We'd be willing to assist on that.

So again, thank you so much.

MS. BINGHAM: Thank you, Elizabeth.

Any questions for Elizabeth?

(No response.)

MS. BINGHAM: Naomi?

MS. CANTU: I'm not seeing any other new comments in the questions box saying that they would like to speak. We had a few people saying that they had wanted to speak earlier but they are not on. I do not see who keeps getting volunteered. As a reminder, if you would like to speak, you need to indicate yourself. Please do not volunteer other people as they may not wish to speak.

Ericka Bowman has asked to speak again as well. Would you like Ericka Bowman again?

MS. BINGHAM: Yes.

MS. CANTU: We'll go ahead and unmuter Ericka. And Ericka, you had indicated that Gabrielle is on and we do not see her on our side, but Ericka, you're unmuted.

MS. BOWMAN: Okay. Thank you for allowing me to
speak again. I just wanted to speak on behalf of some of the tenants who weren't able to get on today.

Gabrielle, who is a mother of one and now a second one on the way, wanted to express and talk about her story as far as her health goes. I worked with her in the very beginning, and she was keeping her child away from home as much as possible because every time he came home, his asthma would flare up.

But in regards to recently, she lost her baby and she said in the beginnings of the pregnancy she was three months along, but every time she came home, because of the conditions of the home and the mold and the air quality that she would constantly get sick and end up having to leave.

So she found herself going to sleep on friends' couches multiple times, which her health began to get better whenever she would leave the property. She said that by doing this so many times she understands and she knows without -- you know, without a doubt that the conditions is the reason that she was sick and she really believes that was the reason that she lost her last child.

This last pregnancy that she's on now, she's on her eighth month, she has been staying away from home, unfortunately, having to sleep on floors and on couches of friends' households because she cannot stay in her own
apartment because of the conditions of her home.

Another tenant that was on the line has said multiple times that she has asked management to come in and fix her dishwasher -- which that has been one of the main problems too, there's something going on with the plumbing over at Coppertree. Residents are seeing maggots constantly in their dishwashers and a foul smell that's constantly coming up their sinks. She wanted to point that out as well.

I just wanted to just kind of -- I know during this time we're all going through some very hard times. You can only imagine during COVID being stuck in your home. Some of these families have lost their jobs and now they're stuck in these homes more time than usual with their children and are forced to breathe this air and live in these conditions on a daily basis and their health is deteriorating.

And it's bad, guys. I mean, I wish I could share the videos, the pictures, the images. It's unbelievable how this inspection process is not working for these tenants. There's been too many opportunities for management to be able to explain and wiggle their way out of being held responsible for providing a safe environment for these families, and we need and they depend on people in positions such as TDHCA and other positions to be able
to say, okay, enough is enough.

How many times is this landlord going to say we fixed the issue, and how many times are we going to allow this landlord to continue to say they're fixing it, and the proof is in the pudding, the proof is there, the proof is in the videos, the proof is in the audio, the proof is in the stories of the tenants.

And I know I'm over my time but I'm just asking that please do whatever you possibly can to get the true stories of what's happening behind these walls at Coppertree apartment complex.

MS. BINGHAM: Thank you. Thank you, Ericka.

Any questions from the Board members?

(No response.)

MS. BINGHAM: Thank you.

Naomi, anybody else?

MS. CANTU: We are looking to see if anyone else is. Please give us one minute. We have Gabrielle Bradford trying to log on. It looks like she's having connectivity issues.

We will try to unmute you, Gabrielle. Is she unmuted? Okay, Gabrielle, let's see if we can get you on. Ericka says she's muted, yes, because we're working on Gabrielle Bradford. On our end you are unmuted and we don't see any chatter from you in the questions box.
Please let us know if you would still like to speak via the questions box and we will work with you on that item. I do not see anyone else signed up to speak on this agenda item currently online.

I do see Gabrielle is saying that she would like to speak. Gabrielle, you are unmuted. If you would like to type a comment in the questions box.

Vice Chairwoman Bingham, please give us one minute here.

(Pause.)

MS. CANTU: Vice Chairwoman Bingham,

unfortunately we are not able to get Gabrielle on the line, and she is not typing anything other than technical support questions into the questions box.

MS. BINGHAM: Okay. Naomi, thank you so much, and I feel bad that Gabrielle and the others have tried so hard to get on and haven't been able to connect with us, but the Board does very much appreciate the comments that Elizabeth and Ericka shared on their behalf.

Board members, we have a motion and a second to accept staff's recommendation regarding the agreed final order for Coppertree Village. If there's no further discussion, I'll call for a vote.

MS. CANTU: I do want to say, Madam Vice Chair, I do apologize -- this is Naomi Cantu, moderator -- I did
get a very long text from Gabrielle Bradford to let us know what to do with it. So I do apologize for the delay; we're having some technical issues on our end. So I believe Beau is reviewing it to see what we should do with this comment, and we are doing some reading on our end, so we apologize for the delay.

MS. BINGHAM: No worries. We can wait.

MS. CANTU: Beau, you are unmuted if you want to let us know if you are looking at this. Beau.

MR. ECCLES: Yes, I'm here. It is a long-written piece of testimony which is just -- it's not part of our public comment regimen to just send up a set of testimony or to type something in. You're either going to speak or you register for or against in writing.

I will say that the substance of it is virtually what Ericka just testified essentially on her behalf, so the facts are essentially before the Board.

MS. BINGHAM: Great. Thank you, Beau.

And thank you, Gabrielle, if you're on the line. We're so sorry that we cannot connect with you. And Ericka, I think, sounds like did a great job representing your primary concerns and testimony.

So motion by Mr. Braden, second by Mr. Vasquez to approve staff's recommendation on the agreed final order regarding Coppertree Village. All those in favor aye.
(A chorus of ayes.)

MS. BINGHAM: Opposed same sign.

(No response.)

MS. BINGHAM: Motion carries on item 1(e).

Thank you all for your patience.

So I have item 1(f) also has some folks, I think, registered for comments. This is presentation, discussion and possible action regarding issues of issuance of determination notices for some 4 percent housing tax credit applications. So Teresa would be the one that would present this item. Is Teresa Morales available?

MS. MORALES: Teresa is here. Can you hear me okay?

MS. BINGHAM: Hey, Teresa. Do we know which applications we have public comment, or is there some way for us to find that out from Naomi?

MS. MORALES: I believe Naomi may know the answer to that.

MS. CANTU: Yes, I do. We're on 1(f) and we do have comment on 20413, Residences at Merritt Hill.

MS. BINGHAM: Excellent. Thank you very much. Teresa, do you want to present that one?

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

Item 1(f) involves the issuance of 4 percent
housing tax credits for six different applications that have bonds issued by a local issuer. In general, all of these properties are located across the state and the 4 percent credit amount that's being recommended is listed in your materials for each of those items.

As it relates to 20413, Residences at Merritt Hill, this is a new construction development proposed in Rowlett, and all of the 260 units in the development will be rent and income restricted at 60 percent of the area median income. The development will serve the general population and the Rowlett Housing Finance Corporation is serving as the bond issuer. TDHCA is recommending that a determination notice in the amount of $1,888,671 be approved.

MS. BINGHAM: Okay. Naomi, before you tee anybody up, let me think this through. So you don't have comments on any of the others?

MS. CANTU: Is anyone commenting on any of the others? No. I only see 1(f) so far on Residences at Merritt Hill.

Remember, if you do have comments please enter that in the questions box and we will put you in the queue.

MS. BINGHAM: Great. I have a question for Beau.

MR. ECCLES: Yes, ma'am.
MS. BINGHAM: Beau, so there are six properties under this agenda item. Would you recommend we entertain a motion on the remaining five and then go back to Residences, or should we hear comments and then try to take care of all of them in one action.

MR. ECCLES: I think probably since it's under one item, I think probably trying to separate the item would make the record a little bit more unclear.

MS. BINGHAM: Okay, very good. Then we'll hear comment on the application 20413, Residences at Merritt Hill. Naomi.

MS. CANTU: I'm sorry. That was Gary Lacey is trying to speak on 1(f). Do we have him queued up? We're looking for him. He says, No comment needed.

MS. BINGHAM: Oh, awesome. Okay. Great. Thank you very much. He might have just made himself available just in case we had questions.

So we'll entertain a motion on item 1(f), presentation, discussion and possible action on determination notices for the 4 percent Housing Tax Credit applications, as presented in the agenda. We'll entertain a motion.

MR. BRADEN: Move to approve.

MS. BINGHAM: Mr. Braden moves to approve.

MS. THOMASON: Second.
MS. BINGHAM: Ms. Thomason seconds.

If there's no further discussion, all those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed same sign?

(No response.)

MS. BINGHAM: And the motion carries.

Thank you, Teresa. Teresa, are you on item 1(g) also?

MS. MORALES: Yes, ma'am.

MS. BINGHAM: Great. Okay. So, Naomi, do we have comment on item 1(g)?

MS. CANTU: We do. We have two commenters, but they are only there if there are questions from the Board or staff that.

MS. BINGHAM: Great.

MS. CANTU: Those that are pre-registered. Anyone who wants to speak otherwise, please indicate so in the questions box.

MS. BINGHAM: So Board members, this is the item on discussion and possible action on the waiver related to site requirements and restrictions for Palladium Port Arkansas. Do Board members have any questions or need Teresa to present the item?

(No response.)
MS. BINGHAM: We'll entertain a motion.

MR. BRADEN: Move to approve.

MS. BINGHAM: Mr. Braden moves.

MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds.

If there is no discussion, all those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed same sign.

(No response.)

MS. BINGHAM: Motion carries on item 1(g).

Then the only other consent agenda item that has been pulled off of consent was item (k) which is the inducement resolution on housing revenue bonds regarding Terrace at Southern Oaks, application 201610, and Riverside Senior Living, 20613.

Naomi, do you have comments, or are those commenters just available if needed?

MS. CANTU: They are available if needed.

MS. BINGHAM: Excellent.

We'll entertain a motion.

MR. BRADEN: I make a motion to approve.

MS. BINGHAM: Mr. Braden moves. Is there a second?

MR. VASQUEZ: Second.
MS. BINGHAM:  Mr. Vasquez seconds.

Any other discussion?

(No response.)

MS. BINGHAM:  All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM:  Opposed?

(No response.)

MS. BINGHAM:  Motion carries.

Okay. Thank you, Teresa.

MS. MORALES:  You're welcome.

MS. BINGHAM:  So that takes us to action items.

We're under item 3, presentation, discussion, possible action on the agency's strategic plan for fiscal years 2021 through 2025, and this is Michael Lyttle's item.

MR. LYTTLE:  Thank you, Madam Chair. Can y'all hear me all right?

MS. BINGHAM:  Yes.

MR. VASQUEZ:  Yes.

MR. LYTTLE:  Captain Tweety was just finishing typing a tweet on the last item here, so I'm ready now.

Again good morning. On item 3(a) TDHCA staff is seeking your approval for the Department's strategic plan for fiscal years 2021 through '25.

The strategic plan is a statutorily required document and it's due to the Office of the Governor and the
Legislative Budget Board no later than June 1, 2020. We submit our strategic plan biennially and roughly it's usually about six months prior to the start of the next regular session of the legislature. Through this document we communicate our goals, our direction, and projected outcomes for the governor and the legislature, constituency groups and the general public. It's sort of been our standard operating procedure for many years now.

What is a little unusual, though, that I want to point out in this document this time around is that there is a brief discussion of the impact of COVID-19 on our program, as well as the populations served by these programs.

Our submitted plan also includes a required identified list of state laws and regulations which we believe are redundant or maybe serve as an impediment to our ability to carry out our responsibilities. Additionally, the plan includes most of the redundancies and impediments that were listed in the previous session's strategic plan that we submitted in 2018, along with, again, additional ones that we have identified in the last year or two.

Also included in the plan we have various supplemental schedules. These include the agency's budget structure and performance measure definitions for the 2022-
23 biennium, as well as historically underutilized business plan, our workforce plan, and report on customer service. One thing to highlight deals with our performance measures. TDHCA requested changes to the performance measure definitions for the coming biennium from the Governor's Office and the LBB, the Legislative Budget Board. We're still waiting for approval from these offices so that item is pending, so the schedules that I provided in this Board item that are related to the budget structure and performance measures reflect those that are already in place for the current fiscal years that we're in.

Last but not least, the last supplemental schedule included in the plan is the agency's customer service plan. This report, which is based on a survey that ended on May 1st -- we had not finalized that at the time of the Board posting -- and in addition, that will be included along with a supplemental schedule in the strategic plan that we get here in the next month.

So I think that covers it and I'm happy to try and answer any questions you might have.

MS. BINGHAM: Thanks, Michael.

Do the Board members have any questions for Michael about the strategic plan?

(No response.)
MS. BINGHAM: Naomi, we're going to call for a motion while you're looking just to see if there's any teed up to comment.

We'll entertain a motion to approve the agency's strategic plan.

MS. THOMASON: Move to approve.

MS. BINGHAM: Ms. Thomason moves. Is there a second?

MR. VASQUEZ: Second.

MS. BINGHAM: Mr. Vasquez seconds.

Naomi, is there anybody in the queue for commenting on item 3(a)?

MS. CANTU: There is no one in the queue for commenting on 3(a) and we have no one pre-registered.

As a reminder, please indicate in the questions box if you would like to speak on an item.

MS. BINGHAM: Great. Thank you.

Any further discussion from the Board?

(No response.)

MS. BINGHAM: All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Great.

MR. LYTTLE: Thank you.
MS. BINGHAM: Thank you, Michael.

We're moving now to Patricia Murphy, item 4(a) under Compliance, presentation, discussion and action on dispute of the Compliance Division's assessment of the applicant's compliance history to be reported to the EARAC, and we have applications 20604, The Walzem, 20611, 333 Holly, and 201612, The Pines in the Woodlands.

Good morning. Hi again.

MS. MURPHY: Good morning again. Patricia Murphy, director of Compliance. You just stated what this agenda item is.

There are three applications in this agenda item from two different applicant groups. Staff is recommending that the Board approve the applicant dispute for The Walzem, application 20604. Although this application is a Category 3, if they applied again today and were evaluated under the new rule that the Board adopted last month, they would be considered a Category 2. So for The Walzem, staff is recommending that you go ahead and approve that applicant dispute and find that their compliance history should not preclude a positive recommendation from EARAC. And I can answer any questions you might have about the details, but we recommend you go ahead and approve that one.

MS. BINGHAM: Thank you.
Do the Board members have any questions on the Walzem, San Antonio, 20604? Staff is recommending approval.

(No response.)

MS. BINGHAM: Naomi, before you tell us if they're any commenters for The Walzem, we'll entertain a motion from the Board.

MR. BRADEN: I'll make a motion to accept staff's recommendation.

MS. BINGHAM: Okay. Mr. Braden moves to accept staff's recommendation. Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Okay. Ms. Thomason seconds.

Naomi, are there any public comments on item 4(a) for The Walzem?

MS. CANTU: We do, we have a number of commenters. The first is Cynthia Bast and she would like to use her camera. And then we have next Flynann Janisse is next.

MS. BINGHAM: Great. Thank you.

MS. MURPHY: They might want to comment on the next application.

MS. CANTU: Oh, on the next application?

MS. MURPHY: I'm guessing, the other two, The Pines and the Holly.
MS. CANTU: We do have Pines and Holly. Hold on. The Pines and Holly, that's Justin Walker. Cynthia Bast did not indicate if it was Pines and Holly or not. Cynthia, if you could let us know.

I'm sorry, did you say something?

MS. BINGHAM: No. I think it looks like Cynthia probably wants to speak on Holly and The Pines also.

MS. CANTU: Okay. All right. We will wait until Pines and Holly. Let us know via the questions box, but we will wait.

MS. BINGHAM: Good.

Is there any further discussion from the Board on The Walzem?

(No response.)

MS. BINGHAM: So we have a motion from Mr. Braden and a second from Ms. Thomason. All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: So staff's recommendation on The Walzem is approved. That motion carries.

So now we have, Patricia, the Holly and The Pines.

MS. MURPHY: Yes. So the other two
applications are the 333 Holly, application number 20611, and The Pines, number 20612.

Staff is not recommending approval of this applicant's compliance history, however, should the Board find that this applicant's compliance history is acceptable, these applications are a later agenda item for you today.

Both of these applications are sponsored by Rainbow Housing Texas, and unlike The Walzem, under both the old rule and the new rule these applications are a Category 3, and there's a number of different events of noncompliance and issues here, but the big issue is a foreclosure.

So there was a foreclosure that took place in 2016 on a TDHCA issued bond property, and foreclosure is pretty much the most egregious event of noncompliance as a foreclosure wipes out the regulatory agreement on the property and it results in a total loss of affordability on the property.

So as you know, the Board has the discretion to approve these applications despite this noncompliance and staff and the applicant representatives looked at a number of different angles to find a basis for the Board to use discretion, and although the applicant finds there is justification, staff does not agree that there is basis for
the Board to use discretion in this circumstance.

And as we know, Cynthia Bast and another representative from Rainbow Housing Texas are available to speak and perhaps the Board will be swayed by their remarks, but based on the dispute that was submitted and is in your Board materials, staff recommends denial of this appeal.

If you have any questions about the angles we looked at or any of the issues, I'll be happy to answer any questions you have.

MS. BINGHAM: Okay. Thank you.

What questions do the Board members have of Patricia?

(No response.)

MS. BINGHAM: So, Patricia, it was the 2016 foreclosure on the property. So is that generally nonnegotiable. I understand what you're saying, it is probably the most serious of all findings, but is that in and of itself make the position?

MS. MURPHY: So a foreclosure results in a Category 3 designation under both the old rule and the new rule. One of the things that you may hear from Cynthia is this is a deed in lieu of foreclosure, which the applicant has represented that there is some meaningful distinction, but from staff's perspective, the result is the same.
Whether it's a foreclosure or deed in lieu of foreclosure, we lose the affordability on the property. So I wasn't able to say, oh, this one was a deed in lieu of foreclosure so, you know, let's recommend approval, but you may be swayed by that.

MS. BINGHAM: Okay. So we definitely have public comment in the queue. Is there a motion from the Board? And I'm assuming we would take -- since it's the same, we would take 333 Holly and The Pines together as an action item. Is there a motion from the Board on 333 Holly and The Pines, staff's recommendation?

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

MS. BINGHAM: All right. I have a motion from Mr. Braden to approve staff's recommendation. Is there a second?

MR. VASQUEZ: Second.

MS. BINGHAM: Mr. Vasquez seconds that.

Naomi, we have public comment?

MS. CANTU: We do. We're going to start with Cynthia Bast.

Cynthia, you should be able to share your video. There we see you.

MS. BAST: Thank you. Good morning. Cynthia Bast of Locke Lord. I am representing Rainbow Housing
Texas for this request.

My client is working with Related Affordable to acquire 484 units in 333 Holly and The Pines. This is what we called a combined portfolio under the previous participation rules. That means that we're looking at the records of both Rainbow and Related collectively.

For your information, there are 30 total properties on the report; only three of those properties are affiliated with Rainbow. Two were owned by Rainbow Housing Texas and are not owned by them anymore. One is owned by Rainbow Housing Assistance Corporation, which is an affiliate, with ongoing ownership and no compliance issues.

Of the three Rainbow affiliated properties, only one is causing a problem really for this transaction to move forward, as you heard from Patricia, so that's one out of 30 if you look at the combined portfolio, and it's important to address scope when we're talking about these things.

This one property had a deed in lieu of foreclosure, and it's called Bristol at Buckingham, and I'd like to tell you a little bit about the background because I think it does provide mitigation in this instance. Bristol was not a tax credit deal; it was a 501(c)(3) bond deal where TDHCA was the issuer and a completely
unaffiliated nonprofit was the developer. The bonds were issued in 2000. At the time the borrower was a nonprofit called Placet.

Now, the thing about a 501(c)(3) bond deal is that it doesn't have equity like a housing tax credit deal, so as a result, most 501(c)(3) bond deals are mixed income properties, relying upon market rate units to generate sufficient revenues to pay the debt, and that didn't happen in this case when Placet developed this deal. First, it was widely reported in the newspapers that there was concern about the principals of Placet and their dealings with the nonprofit. Secondly, because of the mixed income nature of this property, the owner was never able to achieve the full market rents of comparable properties nearby that didn't have an affordable component, so Bristol struggled and it couldn't pay its debt service.

The lender, Centerline, had serious concerns about the nonprofit, so in 2008, when the bonds were already in default, Centerline asked principals of Rainbow to take over the Placet nonprofit, and they did. Soon after, Centerline could no longer hold those defaulted bonds and they sold them to a third party. That bond purchaser worked with Rainbow for eight years to try to enhance services and implement improvements that would allow them to gain traction on those market rate rents, but
the accrual of debt that had occurred was just too much to overcome. So ultimately, the bondholders could no longer hold the defaulted bonds and requested a deed in lieu of foreclosure.

I think that's a compelling story that Rainbow came in and tried to help preserve this housing that was already in default when the Rainbow principals came in, and upon hearing all the speakers, I believe you will hear that this one circumstance is not reflective of Rainbow's competence or capacity and it should not impede its ability to go forward with these two transactions.

If possible, I would like our next speaker to please be Flynann Janisse from Rainbow Housing. Thank you.

MS. BINGHAM: Thank you, Cynthia.

Naomi is going to get Flynann. Do the Board members have any questions of Cynthia before we have the next public comment?

(No response.)

MS. BINGHAM: Okay. Thank you, Cynthia.

MS. BAST: Thank you.

MS. BINGHAM: Naomi.

MS. CANTU: Yes. We have Flynann Janisse available, and then after Flynann we have Wes Larmore.

MS. BINGHAM: Great.

MS. JANISSE: Thank you, Madam Chair,
distinguished Board of Directors, and Ms. Murphy. We value your consideration of our testimony.

I am Flynann Janisse, the president of Rainbow Housing Texas and executive director for Rainbow Housing Assistance Corporation, personally serving the affordable housing industry for over 34 years.

Rainbow Housing is a nationally recognized not-for-profit committed to the preservation of affordable housing. Our mission is to serve low income tenants across the country with our most significant footprint in Texas. We are recognized for robust programs and services, such as education, financial literacy, scholarship programs and workforce development, stabilizing the tenant base and financial performance of an asset. We operate as a general partner and resident service provider across the country in 12 states, serving 111 communities and over 16,000 units. Rainbow operates other affiliated entities, one of which is Rainbow Housing Texas.

As an affiliate, the integrity of our work is evident in the stabilization of tenant populations and asset performance. As a general partner, our assets perform well with industry low turnover percentages and above satisfactory ratings for compliance audits, reviews and physical inspections. Material participation is evident in our organizational structure, qualified staffing
and advanced compliance monitoring.

Rainbow Housing Texas, formerly Placet Development Corporation, was acquired in 2008 as a failing not for profit under the direction of the nonperforming executive director. Under our ownership the asset benefitted from necessary capital improvements, tenant-based services and professional onsite management, with owner-directed inspections, reporting and asset oversight to include monthly financial reviews, market studies and strategic marketing efforts to increase the operating cash flow. As shared in 2016, it was determined the property was unable to service the debt and cure the existing default under the loan documents. At that time the deed was accepted by the lender and subsequently the bonds were paid off and retired in good standing.

Rainbow has advanced our compliance monitoring with tracking systems and additional staffing to provide oversight of general partnership interests. Our staffing tenure averages 23 years in the industry. And asset managers strengthen our capacity to acquire, develop, own and operate affordable housing as a qualified not for profit and certified community housing development organization. We retain a compliance and training director, as well as an executive systems and relations director who manages general partnership reporting.
TDHCA noted areas of concern: foreclosure. The foreclosure did not occur. A deed in place of foreclosure resulted in the bonds being paid off, and again, retired in good standing.

Our compliance history. Under our ownership term, all administrative findings have been cured. Improved reporting and new board of directors was not sufficient to avoid the deed in lieu of foreclosure. We reiterate the following: the acquisition allowed us to preserve affordable housing without foreclosure by Centerline in 2008, thus formally retaining the compliance period for eight more years. Through strategic efforts, Rainbow Housing Texas acquired and preserved housing of an over-leveraged asset and the affordable period for an additional eight years beyond the likely foreclosure by Centerline in 2008.

We are confident that we have the capacity to take on these two projects and to keep them in compliance. We hope that you will agree. If necessary, we are willing to accept conditions to our participation imposed by the Board.

Thank you.

MS. BINGHAM: Does the Board have any questions for the commenter?

(No response.)
MS. BINGHAM: Thank you very much.

Naomi, is there another comment?

MS. CANTU: We're going to try with Wes Larmore, who indicated before, so we're going to give it a shot to see if he is still on and wants to speak. Les, you are unmuted. And I don't believe he's available at the time. Let's go ahead and go to Justin Walker, while we see if Wes wants to get back on. Justin Walker.

Les, if you would like to still speak, please let us know in the questions box.

Justin, you are unmuted.

MR. WALKER: Good morning. Thank you, Madam Chair, members of the Board. As mentioned, my name is Justin Walker and I am the national director of business development and media for Rainbow Housing Assistance Corporation. I've asked today to speak to a certification that just last year the agency bestowed upon Rainbow Housing Texas.

Consistent with our mission to create and preserve quality affordable housing, in 2018 several of our Texas-based board members recommended seeking CHDO certification for the repurposed organization to aid in community preservation, particularly as it relates to the agency's efforts around those assets with right of first refusal language included in their regulatory agreement.
The process was a lengthy one as Rainbow thoughtfully worked through the application with guidance from our legal counsel. Initial approval was granted by TDHCA just over a year ago on April 16th of 2019. This was the culmination of a six-month review by the agency and as many months of internal preparation prior to submission. Careful consideration was given to each step of the process, including selecting a service area that was consistent with TDHCA norms as well as structuring a staffing solution that allows the organization to bring to bear expertise to development areas. Overall, the purpose of submitting the certification packet was to have TDHCA recognize the organization, qualifying it to acquire tax credit properties with a right of first refusal prioritized sale to a CHDO.

The letter from TDHCA closes with this request, "Please include this letter with any future ownership transfer requests where Rainbow Housing Texas, Inc. is seeking approval to acquire tax credit properties that include a CHDO ROFR requirement."

Rainbow understands this previous participation, due to is evolving nature, has no direct bearing on CHDO status, however, through this certification the use case of purchasing assets by Rainbow Housing Texas was clear to all parties involved. Having achieved CHDO status with TDHCA
within the last year, we are struggling to understand now how we could be deemed unfit as an owner, this especially in the context of Rainbow carefully selecting a preservation opportunity with a well-respected developer. Rainbow does not expect this certification to serve as a blanket approval, just as conversely, a rule-bound automatic recommendation for denial is untenable.

In closing, I ask the Board to consider Rainbow Housing Texas’s current status in the context of these deals. Let me be clear that the motivation behind partnering with Related is to preserve quality, affordable housing for the 930 Texans that call these communities home. We look forward to having them join nearly 40,000 residents across the nation that Rainbow serves on a daily basis.

Thank you.

MS. BINGHAM: Thank you, Justin.

Do the Board members have any questions for Mr. Walker?

(No response.)

MS. BINGHAM: Naomi, is there anyone else in the queue for comments?

MS. CANTU: Last one, Wes Larmore. Wes.

MR. LARMORE: Hopefully you can hear me now.

MS. BINGHAM: Yes.
MR. LARMORE: I think my five-year-old did something to my microphone.

My name is Wes Larmore with Related Affordable, developer of these properties. Related, we focus solely on improving and preserving existing affordable housing around the country. We have about 300 properties nationwide, including 27 in Texas, total about 2,700 units. We are long-term owners/managers and pretty much everything we do we've done with that in mind. From how we underwrite the deals to the amount of renovation we do, it's all focused on preservation of the property, and of course, the affordability as well, which in this case is particularly important considering that both of these are at risk of losing their affordability within the next six to nine months, and we are working to ensure that does not happen.

Part of that effort includes working with Rainbow. Related initially engaged with Rainbow to perform social services at one of our recent acquisitions where they have placed a social service coordinator, and along with everything else they bring to the table on the services side, they've done a great job and so we've been looking to get them more involved in our portfolio, and we're very excited about the possibility of having these two family sites, which as Justin said, there's a thousand people there and they could really benefit from combined
Rainbow and Related's ownership and supportive services.

In terms of previous participation, as Cynthia mentioned, there are 30 properties under review and 27 of those are ours. Among those properties, Related only had two events, both of which were corrected and both submitted documentation during the corrective action period. That record is primarily due to our management company which does a tremendous amount of compliance training with the community managers, and we have a compliance management division that oversees everything.

Grew really quickly here in Texas, and most of those 2,700 units were purchased in the last three years or so and most were, honestly, in quite tough shape when we bought them, and our management company, along with our asset management group on the ownership side, have done a great job at keeping all of our properties in compliance and in good financial health for the long term. And we want to do more here in Texas so we better keep our record clean.

So thank you, and happy to answer any questions that you may have.

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

(No response.)

MS. BINGHAM: Okay. Thank you, Mr. Larmore
Can we have Patricia back?

MS. CANTU: We're working on getting her up.

Patricia.

MS. MURPHY: Yes.

MS. BINGHAM: Hey, Patricia, so we have a motion and a second to approve the staff's recommendation where basically it looks like the way it was worded was the staff just could not find where there was rationale for the Board's discretion to not have this as a compliance finding. So the outcome of this would be that neither of these applications would move forward. Correct?

MS. MURPHY: That is correct.

MS. BINGHAM: And they're rehabs? Are they both rehabs?

MS. MURPHY: Yes.

MS. BINGHAM: And Mr. Larmore said that both are at risk to lose affordability. Is that like a subjective or an objective position?

MS. MURPHY: I don't have the answer to that question. You'd have to ask Mr. Larmore. We're not currently monitoring those properties.

MS. BINGHAM: Understood. And so Ms. Bast reported that 30 in the portfolio that were reviewed, three of those are Rainbow properties, two of them -- okay, and the third is Buckingham.
MS. MURPHY: Correct.

MR. BRADEN: Leslie.

MS. BINGHAM: Yes.

MR. BRADEN: It's Paul. I have a question of Patricia.

MS. MURPHY: Yes.

MR. BRADEN: Patricia, were you aware of the factual background the testimony that we just received with respect to the ownership of the property when you made your recommendation?

MS. MURPHY: Yes. The only new argument that I heard that I had not -- that wasn't in the printed material was the concept that Rainbow stepped in and provided another eight years of affordability on a property that would have foreclosed. That's probably true and that's an interesting perspective. The speaker who talked about their CHDO certification, they certainly went through the process and they understood it's not a blanket approval, but it is some sort of an indication from the Department that they are an acceptable participant. So those were two kind of -- the number of foreclosures in our portfolio is extremely small so as far as talking about scope, I mean, it is -- so anyway, those are the only two different perspectives or something that I heard.

MR. BRADEN: And in light of that additional
information, would you have changed your recommendation?

    MS. MURPHY: I -- no. But you have the
discretion to do that if you choose to do so.

    MR. BRADEN: I'm sorry. My computer glitched a
little. Did you say you would not have or you would have?

    MS. MURPHY: I'm sorry, Mr. Braden. No, I would
not. You have the discretion to do that. I mean, the
point of these previous participation reviews is to avoid a
thing like a Coppertree Village, and I'm not saying that
they could be a Coppertree Village, it's just from the
director of Compliance standpoint, I could not find a basis
for recommending that we move forward.

    Rainbow Housing Texas is a well-known nonprofit,
they're a social service provider, and they do wonderful
social services. And if the Board is able to find a basis
for moving forward, I wish them the best, and the
Compliance staff is available to help them succeed. But as
far as a documented reason like saying, well, in this case
based on this we recommend you move forward, I'm not able
to do that, so you're going to have to find justification.

    You don't have to agree with me, for that matter, too.
Right? You could say I think it's good enough and move
forward that way.

    But if you're asking for staff to provide you
with a justification, I'm sorry, I'm not able to do that.
MR. BRADEN: You answered my question. Thank you.

MR. VASQUEZ: I have several questions. When they executed the deed in lieu of foreclosure -- which one of our major problems is that terminated the affordability period -- did they then go and raise all the rents and kick out all the affordable tenants, or did they basically maintain affordability, substantially maintain affordability on the property, or not?

MS. MURPHY: I don't have that information. If the foreclosure had been through the Housing Tax Credit program, there is a three-year period where we continue to monitor it and provide protection for low income tenants that were living on the property the day of the foreclosure, but as Cynthia mentioned, this did not have an allocation of housing tax credits, it was just a bond regulatory agreement, and so our authority to monitor the property for that kind of activity is foregone, we don't have any rights to ask for their rent records or anything else.

MR. VASQUEZ: Okay. I mean, again, just part of that is important for me in the thought on whether they -- just because officially there was no more affordability period, if they essentially kept it affordable to the extent that they could --
MS. MURPHY: I don't have that information nor access to it.

MR. VASQUEZ: Another thing, do we know -- again, when they executed the deed in lieu of foreclosure, did they just refinance the note on the property?

MS. MURPHY: Again, I have no information. Once it goes through a foreclosure, we don't have access to that.

MR. VASQUEZ: The property is still operating. Correct?

MS. MURPHY: I believe so. And I think that Cynthia might have some information. I know she mentioned that she looked at the property online and that it looks good, and I don't know if she has any other information about the property today.

MS. THOMASON: Patricia, this is Naomi Cantu. We do have Cynthia and also Flynann Janisse wanting to speak on these issues. Would Vice Chairwoman Bingham entertain that?

MS. BINGHAM: Yes. Can we have Cynthia?

MS. CANTU: All right. Cynthia, go ahead.

MS. BAST: Yes. Thank you.

I can confirm from looking at the regulatory agreement that the affordability would have ended in 2018, the deed in lieu of foreclosure occurred in 2016. We also
checked with the current owner that did refinance the debt and my understanding is that there is affordability remaining on this property.

    Flyn, I'm going to rely on you because I think you have those exact numbers, but I believe that the property originally required 20 percent at 50 percent AMI, and I believe that more than 20 percent of the residents today are low income, so it remains a mixed income property, as I understand it. I did look at it online. Of course, you know, you've got a limited amount of pictures but it appears that the property is well maintained and continuing to serve, and then I'll let Flyn provide what she knows.

    Thank you.

    MS. BINGHAM: Thanks, Cynthia.

    MS. CANTU: We also have Ms. Flynann wanting to speak and we can go ahead and unmute her.

    MS. JANISSE: Thank you, members of the Board.

    To answer your question, Mr. Vasquez, in part of our participation in Texas many times we will refer residents from one community to another. Bristol remains a community that's focused on senior population, it's a quality asset, it's well maintained, so we do offer reference to that for residents who need to be relocated. In that, I am familiar that low income qualified tenants do
still reside in the community. This is four years post the 2016 transition of the site, and they now maintain about 40 percent of the tenant population qualified as low income. That is in excess of the 20 percent based on the LURA regulatory agreement at the time that we owned and operated the asset.

MR. VASQUEZ: Okay, great. Well, that's, I think, an important factor to understand. It does not sound like the deed in lieu of foreclosure was simply to avoid affordability, it was more of a finance issue.

MS. BINGHAM: Great. So Patricia is still available if anybody has any questions. Board members, do you have any other questions of Patricia?

MR. VASQUEZ: Patricia, I guess my last question is the characterization that eight years that they were in control before the deed in lieu of foreclosure, and I've heard two things. One is that they had eight years to get their act together and still couldn't do it, and then I also heard someone mention they were able to extend the life for eight years despite the previous mismanagement so they were able to keep it up.

Patricia, I don't know what your characterization or feeling is on did they make a go of it for another eight years or did they waste their eight years and ended up having to fall out.
MS. MURPHY: There were -- it's not like things were going swimmingly and then one day there was a foreclosure. This was a fairly noncompliant property for those eight years and then there was a foreclosure.

MR. VASQUEZ: And I guess maybe so if we do not find them compliant -- I guess staff is recommending that we deny the applicant's appeal -- if we deny it as you recommend, what's the outcome, then they lose their ability to compete in this round?

MS. MURPHY: This is a 4 percent application so if you deny that their compliance history is acceptable, then the next agenda item would not move forward and I'm not sure if -- I really don't know if the deal could be restructured with a different nonprofit, I really don't know. But if you -- I'm sorry, my landscapers have arrived -- if you find there is justification for approving their compliance history, then the next agenda item you would also be looking at approving their award. If you are not able to find justification that this applicant's compliance history is acceptable, then the next agenda item you would not be able to approve the awards, I believe. Does that answer your question?

And as far as what would happen, you know, if it would go to some new deals or something, I don't know.

MR. VASQUEZ: Okay. That does answer my
question.

Then I guess a general question, are these awards that they are applying for, are they over-subscribed or is there a limit on this type of 4 percent application.  

MS. MURPHY: This is a 4 percent application but not the competitive kind.

MR. VASQUEZ: Okay. So approving them does not push out somebody else.

MS. MURPHY: I believe that is correct.

Bobby, I think that's right.

MR. WILKINSON: It's possible that someone next in line could use their bond cap and the bond cap is limited, right, 4 percent tax credits are not. I don't know who would benefit, but possibly if they lost, the bond cap could go to someone else. I don't believe we know the issuer on this. So yeah, Teresa could probably answer what we would do if that bond cap if we kill these deals.

But yeah, if you voted to approve staff's recommendation you would be killing these deals as currently structured for the time-being. So I have this on here twice so that you can say no, kill them, or approve and it goes forward on the same agenda, because there's a timing issue if we would have waited for these awards next month with the bond cap participation.

And I'd say Compliance and other staff often
bring recommendations and there's a strong fidelity to the rules and wanting to hold the line, and discretion is most probably in the province of the Board.

MR. BRADEN: I have another question. How long does this foreclosure stay on their record? I mean, do they have a black mark on their record forever, or is there some window?

MS. MURPHY: That's a great question. So the compliance rules state that a Category 3 -- a foreclosure will create a Category 3 designation, however, if you approve this and they don't have any new events of noncompliance, then they're deemed approved. So if you guys -- if the Board decides we're going to move forward with this, then it's off their record. So it stays on their record, in other words, for as long as the Board finds that it should be on their record. Does that make sense?

(Mr. Braden and Mr. Vasquez spoke at the same time and unable to understand either one.)

MR. VASQUEZ: Madam Chair, so is there a motion?

MS. BINGHAM: Yes. Sorry about that. So let me just remind everybody where we are. So we actually have a motion from Mr. Braden, a second from Mr. Vasquez to approve staff's recommendation to deny the dispute.

MR. VASQUEZ: I'd like to withdraw my second.
MR. BRADEN: And I'll withdraw my motion.

MS. BINGHAM: Okay. He beat you.

(General laughter.)

MS. BINGHAM: Okay. So we have a withdrawal of the motion and second. We'll entertain a motion on the Holly and The Pines.

MR. VASQUEZ: I guess Mr. Braden is thinking the same thing. I'd like to make a motion --

MR. BRADEN: I was going to make a motion, but go ahead, Leo.

MR. VASQUEZ: No, no, go ahead. I'll second you.

MR. BRADEN: Go ahead.

MS. BINGHAM: Okay, Mr. Vasquez.

MR. VASQUEZ: Okay. Then in that case I would move to -- make sure I'm wording this right -- to approve applicant's compliance history finding it satisfactory.

MS. BINGHAM: Okay. All right. So the motion is to approve the applicant's compliance history, or could we say to approve the applicant's dispute of the compliance assessment? Are you comfortable with that motion?

MR. VASQUEZ: I motion the opposite of what was resolved in the Board packet.

MS. BINGHAM: Very good. Mr. Vasquez moves to approve the applicant's dispute of the Compliance
Division's assessment of the applicant's compliance history. Is there a second?

MR. BRADEN: I'll second.

MS. BINGHAM: Thank you. Mr. Braden seconds.

Is there 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 very much, Patricia.

MR. VASQUEZ: Thanks, Patricia.

MS. MURPHY: We'll do anything we can to help them succeed.

MS. BINGHAM: Thank you very much. Great. So let's move forward then with -- that takes care of item 4(a), we'll move to item 5, Bond Finance, with Teresa Morales, starting with item 5(a).

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

Item 5(a) involves the issuance of multifamily housing revenue notes by the Department for the new construction of 123 units in Houston, serving an elderly population. The applicant intends to implement income
averaging and proposes units that will serve 30 percent, 50 percent, 60 percent and 80 percent of the area median income. There will also be units at market rate with no rent or income restrictions.

This transaction involves the issuance of tax-exempt fixed rate multifamily notes in an amount not to exceed $18 million that will be initially publicly offered. Amegy Bank will provide a taxable loan to fund the construction phase of the project. As bond proceeds are drawn and spent on project costs, equal deposits from the construction loan will be made to the collateral fund to keep the account balance such that the notes are cash collateralized during construction.

Freddie Mac, through JLL Capital Markets, will purchase the notes upon conversion to the permanent phase. The proceeds from this purchase will be used to pay the purchase price of the notes tendered on the conversion date. JLL will continue to act as servicer of the loan for Freddie Mac, who will serve as the permanent lender and bondholder. The purchase of the notes by Freddie Mac will be exercised during a mandatory tender provision contemplated in the bond documents and will effectively convert to a tax-exempt loan under the Freddie Mac platform. This will most likely result in a re-issuance under state law. As such, the substantially final
documents being approved today include the form of documents required at the time of conversion and those associated with a re-issuance, which if it occurs will require Board consideration.

This application also includes an award from the City of Houston of CDBG disaster recovery funds of approximately $15 million. These funds are expected to be in place at closing which is currently scheduled for June 17th.

Staff recommends approval of Bond Resolution No. 20-019 in an amount not to exceed $18 million and a determination notice of 4 percent housing tax credits in the amount of $711,964.

MS. BINGHAM: Thank you, Teresa.

Do the Board members have any questions for Teresa?

(No response.)

MS. BINGHAM: Naomi, if you'll look to see if anybody is in the queue, I'm going to entertain a motion and then we'll come back if there's any comments.

Entertain a motion.

MR. VASQUEZ: Madam Chair, I'd like to move to approve staff's recommendation.

MS. BINGHAM: Mr. Vasquez moves to approve staff's recommendation. Is there a second?
MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds.

Naomi, are there any comments in the queue for item 5(a)?

MS. CANTU: There are no comments in the queue but we do have some people pre-registered but only if there's questions.

MS. BINGHAM: Great. Very good.

Any further discussion?

(No response.)

MS. BINGHAM: We have a motion and a second to approve staff's recommendation. All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

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

5(b).

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

Having just approved the compliance history for this development under item 4, item 5(b) proposes action relating to the issuance of tax-exempt bonds by the Department for the acquisition and rehabilitation of 332 units in The Woodlands serving the general population, with
units restricted at 30 percent, 50 percent and 60 percent of the area median income.

Something to keep in mind during this presentation is whether the Board would like to impose any conditions as it relates to the proposed general partner given the compliance history that was discussed under item 4. Those conditions could be part of the Board's motion with respect to this award.

This transaction utilizes a financing structure that is similar to Oaks on Clark, which the Board approved last month, and coincidentally is closing today. It involves a Fannie Mae multifamily pass-through mortgage-backed security. Wells Fargo Multifamily Capital, who is the Fannie Mae lender, will deposit the loan proceeds into a collateral account with a trustee to secure the bonds with cash until the loan is acquired and assigned to Fannie Mae and the MBS delivered to the trustee. The trustee will use the loan proceeds from Wells Fargo in the collateral account to purchase the MBS which will be used to secure the bonds from that point forward. Payments on the bonds will be guaranteed by Fannie Mae.

In addition to the $36.8 in tax-exempt proceeds, the transaction also involves an $8.2 million taxable conventional debt. Although the transaction was originally contemplated to have all project costs funded with tax-
exempt bonds, limitations on available volume cap required
the use of taxable debt. It's important to note that that
taxable debt is not being issued by TDHCA.

In light of COVID-19 and the inability for an
in-person TEFRA hearing to be held, staff proceeded to
conduct a telephonic public hearing which was held on April
30th. Given that it was via telephone and would ordinarily
be difficult to discern how many individuals participated
in that hearing, there is an option on the call line to
obtain a participant count. For this hearing there were
only two attendees which represented staff conducting the
hearing. A copy of that hearing transcript is included in
your package.

The Department has received no letters of
support or opposition for this particular property, and
worth noting is that, thankfully, the IRS subsequently
published guidance that conducting a TEFRA hearing via
telephone is acceptable in light of COVID-19.

A clarification does need to be made on the
first page of the Board write-up. The first resolved
clause incorrectly states approval of $38.6 million. That
amount should actually be an amount not to exceed $36.8
million, of which staff recommends approval, as further
confirmed in Bond Resolution No. 20-020. Staff also
recommends issuance of a determination notice of 4 percent
housing tax credits in the amount of $2,484,301.

Last, should there be any conditions that the Board would like to impose as it relates to the compliance history of the proposed general partner in this transaction, this would be the place to do so and it would need to be factored into any motion that you would make.

MS. BINGHAM: Thank you, Teresa.

Do Board members have any questions of Teresa?

(No response.)

MS. BINGHAM: Naomi, if you'll look and see if there's anybody for item 5(b) in the queue, and we'll entertain a motion from the Board regarding staff's recommendation with that one change on the first resolved that instead of it being $38.6 million, it's $36.8 million.

We'll entertain a motion.

MR. BRADEN: I'll move to approve staff's recommendation, and I didn't have any additional conditions that I wanted to impose.

MS. BINGHAM: Okay. Thank you. I have a motion to approve staff's recommendation without additional conditions.

MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds Mr. Braden's motion to approve staff's recommendation.
Naomi, is there anyone that wants to speak on the agenda item?

MS. CANTU: There's no one in the queue wishing to speak. We do have one person pre-registered but only if there's questions from the Board.

MS. BINGHAM: Thank you.

Any other discussion?

(No response.)

MS. BINGHAM: All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries.

Item 5(c), Teresa.

MS. MORALES: Having just approved, again, the compliance history for this development under item 4, item 5(c) proposes action relating to the issuance of multifamily tax-exempt bonds by the Department for the acquisition and rehabilitation of 152 units in The Woodlands serving the general population with all units restricted at 60 percent of the area median income. This transaction is considered a sister property to 333 Holly and utilizes the same financing structure.

In addition to the $22 million in tax-exempt bond proceeds, this transaction also includes $4.5 million
in taxable conventional debt, and as was the case with the prior transaction, it was originally contemplated to have all project costs funded with tax-exempt bonds. There were limitations on volume cap that required the use of this taxable debt, however, that taxable debt is not being issued by TDHCA.

The TEFRA hearing for The Pines was held on the same day and in the same format as 333 Holly. For this particular deal there were only two attendees which, again, represents staff conducting the hearing, and that hearing transcript is included in your package. The Department has received no letters of support or opposition for this particular property.

Staff recommends approval of Bond Resolution No. 20-021 in an amount not to exceed $22 million, along with the issuance of a determination notice of 4 percent housing tax credits in the amount of $1,469,273.

And again, as was the case on the prior transaction, if you do wish to make conditions related to the compliance history related to this property, you may do so as part of your motion.

MS. BINGHAM: Thank you, Teresa.

Any questions for Teresa?

(No response.)

MS. BINGHAM: We'll entertain a motion from the
Board regarding staff's recommendation.

MR. VASQUEZ: I'll move to approve staff's recommendation with no further restrictions.

MS. BINGHAM: Mr. Vasquez moves to approve staff's recommendation with not further conditions. Is there a second?

MR. BRADEN: Second.

MS. BINGHAM: Mr. Braden seconds.

Naomi, is there anyone in the queue for 5(c)?

MS. CANTU: We do not have anyone in the queue and only one person pre-registered if there are any questions from the Board.

MS. BINGHAM: Great. Then we'll take a vote on the motion and the second to approve staff's recommendation on item 5(c). All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Great. Motion carries.

And 5(d).

MS. MORALES: Having, again, approved the compliance history for this development under item 4, item 5(d) proposes action relating to the issuance of unrated multifamily tax-exempt bonds by the Department for the new construction of 200 units in San Antonio serving the
general population, with all units restricted at 60 percent of the area median income.

This application may sound familiar because it was previously before you in December of 2019 for an award of 4 percent housing tax credits and direct loan funds which was approved. Subsequent to that Board meeting, the applicant switched issuers from Bexar County Housing Finance Corporation to TDHCA and you approved the inducement resolution in February of this year.

Under the proposed structure, the Department will issue unrated tax-exempt multifamily bonds in the amount of $20 million that will be initially purchased by JPMorgan Chase. Bank of America will provide a taxable construction loan that will be used the cash collateralize the bonds purchased by JPMorgan. Bank of America will also provide approximately $7.4 million as an equity bridge loan. At conversion Cedar Rapids Bank & Trust will purchase the bonds from JPMorgan and will serve as the permanent lender for the remainder of the term. The cash collateral will be released to repay the Bank of America taxable construction loan. There will be a forward starting swap in place at closing of the bonds that will commence at conversion and will terminate 16 years later in July of 2039.

While the Department, like multifamily
transactions, is not a party to the swap agreement, the swap payments will flow through the indenture to the trustee. The bonds will have a variable interest rate equal to 79 percent of one month LIBOR plus 2 percent, which will match the amount paid by Cedar Rapids Bank & Trust to the swap counterparty.

As previously noted, the award of TCAP direct loan funds that the Board approved in December of $4 million remains in place, so that is not part of your action today, but that loan has been reevaluated as part of the proposal for the bonds and the new determination of 4 percent credits. The current underwriting report reflects a slightly reduced amount of $3,875,000, however, because the NOFA in which these bonds were awarded is closed and there are no commitment or expenditure deadlines associated with these bonds, staff is not recommending that this loan be reduced by today's Board action. This leaves an opportunity for that amount to increase back to the $4 million should the 2020 HOME rents be published and/or there be a decrease in the first lien loan interest rate prior to closing.

As with Pines and Holly, staff held a telephonic public hearing on April 28th and based on the participant count feature, there were eight attendees on the call which included staff and members of the development team.
Because the callers did not identify themselves, it was hard to know if members of the public did call in. A copy of the hearing transcript is included in the package.

When the application was before you in December there was local opposition that staff had received and included in the Board materials at that time. When the inducement resolution was adopted in February, that same opposition was presented to the Board, however, no new opposition was received. For the application subsequently submitted and under review by staff, there has been no new public comment submitted.

To refresh your memory, that prior opposition included 22 letters from individuals and a petition signed by 27 individuals expressing opposition. There was also a letter from Bexar County Commissioner Tommy Calvert that also expressed opposition.

Staff recommends approval of Bond Resolution No. 20-022 in the amount of $20 million and the issuance of a determination notice of 4 percent housing tax credits in the amount of $1,280,892.

MS. BINGHAM: Wow. I'm dizzy. Is it me? That took a village. Both were pretty complicated financing. Any questions for Teresa? (No response.)

MS. BINGHAM: So staff is recommending the
resolution stated in the Board book for the issuance of the multifamily housing revenue bonds for the $20 million and a determination notice of the $1.28-. Any questions for Teresa?

(No response.)

MS. BINGHAM: And, Naomi, would you let us know if there's anybody in the queue for item 5(d).

MS. CANTU: We don't have anyone in the queue and we only have one person pre-registered to speak if there's questions.

MS. BINGHAM: Great. We'll entertain a motion.

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

MS. BINGHAM: All right. I have a motion from Mr. Braden. Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds.

Any further discussion?

(No response.)

MS. BINGHAM: All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: That motion carries.

Thank you, Teresa.
MS. MORALES: Could I say one last thing, if I may?

MS. BINGHAM: Absolutely.

MS. MORALES: With the Board action under item 5, this represents four transactions that I think is the most that we've had on the agenda for quite some time. Obviously it speaks to how busy the private activity bond program has been, and part of what I wanted to do is just give a shout-out to Bracewell as the Department's bond counsel. They, particularly with the Holly and Pines transactions, got those substantially final bond documents before you in less than two weeks' time, which just shows how determined we are to keep these deals moving. So a huge shout-out to Elizabeth Bowes, Andy Prihoda, Victoria Ozimek and Sherry Anderson. And obviously with no disrespect to Norton Rose, I think Bracewell is pretty awesome. So thank you.

MS. BINGHAM: Thank you.

Bobby, Ms. Bast is stating that there's somebody from the Houston Housing Authority, the executive director, that has a hard stop and would like to see if we would be interested in taking his comment on item 7(e), application 20114, 3300 Caroline.

MR. WILKINSON: At your discretion, Vice Chair.

If you want to move forward with that, I'd recommend we
take that testimony and then go back to the regular order. /.

MS. BINGHAM: Thank you, Bobby.

Naomi, can you see if you can find -- well, let's see, Ms. Bast first just because I don't think I have the name in the entry. Can you see if you can find Ms. Bast?

MS. CANTU: I'm sorry. We're talking about the Houston Housing Authority that Ms. Bast is volunteering. Is that the case?

MS. BINGHAM: Correct. I think she has a speaker with the Houston Housing Authority that would like to speak on item 7(e).

MS. CANTU: I don't see anyone with the Houston Housing Authority registered. Again, if they don't let me know directly, I cannot see them that they would like to speak, so we do request that people would not volunteer other people to speak.

MR. WILKINSON: Mr. Mark Thiele. Mr. Thiele, please type into the questions box if you'd like to testify.

MS. CANTU: Okay. We do see him. Okay. We can go ahead and unmute him.

MS. BINGHAM: Great. So while we're unmuting Mark, we're moving just for a quick comment from Mr. Thiele on item 7(3) application 20114, 3300 Caroline Street. Mr.
MR. THIELE: Madam Chair and Board of Directors, I appreciate your consideration, and I'm fine if you'd like to use the camera, I wore my favorite tie for you.

My name is Mark Thiele. I've been the interim president and CEO of the Houston Housing Authority since January, and it's a pleasure to make your acquaintance. My comments are regarding 3300 Caroline, item 7(e), 20114, and I am requesting that you grant the appeal.

Madam Chair, the Houston Housing Authority is one of the largest housing authorities on the country. We have over 23,000 units and serve over 58,000 individuals, some 47 percent of whom are children, and we are particularly known and recognized nationally for our commitment to ending homelessness. I have the privilege of chairing the Housing Houston Heroes initiative which was acknowledged in 2015 at a presentation by three cabinet level secretaries here for effectively ending veteran homelessness in Houston. In close collaboration with a broad array of partners, including the City of Houston and the Coalition for the Homeless, we have continued our efforts through Harvey and now through the pandemic. Homelessness in Houston has decreased by 54 percent since 2011, bucking the national trend.

As regards 3300 Caroline, I submit for your
consideration HHA strives to coordinate with TDHCA so that our programs work in a complementary fashion to create as much well needed affordable housing as possible. We met with the applicant to discuss this application in August of 2019 before the QAP was even finalized. We understood what the applicant was proposing and were very supportive. We were pleased to see the change in the definition of supportive housing that would allow us to partner with you by providing the project-based vouchers needed for supportive housing development such as this utilizing tax credits.

As you are aware via my correspondence to you dated February 26th and March 24th of this year, I and we have been strong supporters of this applicant. On March 4, 2020, HHA published an RFP for PBVs. On April 21st our board of commissioners voted unanimously to award 149 permanent supportive housing project-based vouchers to this applicant. We believe that we have done what needed to be done, even in the face of great challenge.

As a housing operator, I understand staff's inclination to be conservative, I really do. As a houser, however, Board members, this is not the time to be conservative, this is a time to be bold. Allow us to take this important step together, folks are counting on us. I respectfully request that you grant this appeal.
Thank you again for your consideration.

MS. BINGHAM: Thank you, Mr. Thiele.

Any questions from the Board for Mr. Thiele?

(No response.)

MS. BINGHAM: Great. Thank you very much.

MR. THIELE: Thank you, Madam Chair.

MS. BINGHAM: Thank you.

We'll now go back to the agenda in order. We're at item 6. These are our COVID-related CARES Act. Action item 6(a) would be Abigail Versyp.

MS. VERSYP: Good morning. I'm Abigail Versyp. I'm the director of Single Family and Homeless programs, and I'm presenting item 6(a), requesting a waiver of certain provisions of the Texas Administrative Code for the Emergency Solutions Grant program, or ESG.

As previously discussed at a prior Board meeting, TDHCA was allocated about $33 million in ESG funds under the CARES Act. The ESG funds allocated under the Act have some special provisions, including additional eligible use of the funds and waivers of some requirements that apply to the regular allocation of ESG. Staff requests waivers of certain provisions of the Texas Administrative Code to align with those flexibilities that are offered to us under the Act.

The waivers requested to 10 TAC 7.3 would allow
ESG CARES grantees to utilize funds to provide temporary emergency shelter, including construction and building of temporary shelters without entering into a land use restriction agreement. Construction of temporary shelter is a special activity under CARES and it's not allowed with our regular ESG funds, so the 10 TAC as it is written doesn't contemplate construction that's temporary in nature.

Additionally, 7.3(f) sets forth construction standards and inspection requirements. The CARES Act exempted temporary shelters from the habitability standards and environmental regulations that apply to permanent shelters, and the waivers of 7.3(f) would allow us to apply only the limited requirements under the CARES Act for this purpose.

The second waiver requested is a waiver to 7.32(c). This provision of 10 TAC prohibits our ESG grantees from sub-granting their award to another entity to administer on their behalf. Staff recommends that this waiver is applied in a very limited manner to allow our grantees to have ESG CARES funds to sub-grant only for limited purposes outlined in the ESG CARES funding plan that was approved in April. The plan allows for ESG CARES grantees to sub-grant funds to legal service providers, food service providers, and the lead agency that manages
HMIS which is the data collection system used by providers of ESG.

The third and final waiver requested is a waiver of 7.32(i) which outlines the allowable costs for HMIS. Those are limited because TDHCA isn't the HMIS lead agency. We've requested a waiver from HUD that would allow us to grant funds for certain HMIS costs that are usually ineligible for us to pay but will be eligible if the waiver is granted. This waiver to 10 TAC would be applied upon approval of the waiver from HUD.

Staff requests that the waivers remain available until expiration of the CARES Act which is currently September 30, 2022, but of course could be potentially amended, so we would just have the flexibility to extend beyond that date.

I'm here for any questions you have.

MS. BINGHAM: Thank you, Abigail. Does the Board have any questions for Abigail? (No response.)

MS. BINGHAM: So staff is requesting waivers for three different 10 TACs.

MS. VERSYP: Three different provisions.

MS. BINGHAM: Great. Thank you very much. We'll entertain a motion

MS. THOMASON: I make a motion to approve
staff's recommendation.

MS. BINGHAM: All right. Ms. Thomason moves staff's recommendation. Is there a second?

MR. BRADEN: Second.

MS. BINGHAM: Mr. Braden seconds.

So I have a motion and a second to approve staff's recommendation on item 6(a).

Naomi, is there any public comment on item 6(a)?

MS. CANTU: We do not have anyone pre-registered and there is no one in the queue.

MS. BINGHAM: Thank you.

If there's no further discussion, all in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed same sign.

(No response.)

MS. BINGHAM: Motion carries on item 6(a).

Thank you, Abigail.

Moving on to item 6(b), Marni.

MS. HOLLOWAY: Good morning. This is Marni Holloway. I'm the director of the Multifamily Finance Division.

Item 6(b) is presentation, discussion and possible action authorizing the executive director to waive or extend certain construction inspection requirements
under our multifamily rules, the QAP, the Multifamily Housing Revenue Bond rules, and the Multifamily Direct Loan rule.

As you are well aware, on March 13th Governor Abbott issued a statewide disaster declaration due to COVID-19 authorizing the use of all available resources to cope with the spread of the virus. The nature of the disaster is such that many persons will be impacted, including both those served by Department programs as well as those who apply for funds from the Department. Our rules include certain construction inspection requirements, either directly or because the rules are all interrelated. Some of these inspections or the manner in which they are conducted are not required by state statute or federal law or regulation.

Typically these are the types of requirements that we would ask the Board to make a decision on individually regarding waiver or extension. Staff foresees maybe circumstances during the current disaster where waiver or extension of construction inspection requirements is appropriate but there's not sufficient time to present the decision to the Board. In these cases we are requesting the executive director be granted authority to waive or extend these construction inspection requirements without prior Board approval.
Any action taken under this authority will be applied equitably to all applicants unless the circumstances are unique to a single development. All actions will be supported by evidence of the impact of the disaster on the specific requirement. Statutory requirements that are also reflected in the rules will only be modified by the executive director to the extent they have been waived by the governor. Similarly, modifications for federal requirements will only be made to the extent that they have been modified or waived by the applicable federal agency.

All actions taken under this authority will be reported to the Board at the next available meeting and none will be considered an amendment to the rule or as establishing precedent.

Staff recommends that the executive director be granted authority to waive or extend the construction requirements that are not required by state statute or federal law or regulation unless also waived by the governor of the State of Texas or the applicable federal authority.

I'd be happy to take any questions.

MS. BINGHAM: Thanks.

Any questions from the Board for Marni?

(No response.)
MS. BINGHAM: Great. We'll entertain a motion.

MR. BRADEN: Move to approve.

MS. BINGHAM: Mr. Braden moves for staff's recommendation on item 6(b). Is there a second?

MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds.

Naomi, are there any comments for item 6(b)?

MS. CANTU: I do not see anyone queued up and there's no one pre-registered.

MS. BINGHAM: Great.

We'll call for a vote. We have a motion and a second for staff's recommendation on item 6(b). All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries.

MS. HOLLOWAY: Thank you.

MS. BINGHAM: Thanks, Marni.

Item 6(c), Michael De Young. Good morning. I think you're muted.

MS. CANTU: Michael, I believe you're self-muted.

MR. WILKINSON: We cannot hear you, Michael.

MS. CANTU: At this point, Michael, we cannot
see you. Okay, we see you now, Michael but we cannot hear you.

We're going to go ahead and provide some technical support to Michael. Hold on one second. Michael is actually in the office; there's a few of us here.

MR. DE YOUNG: Can you hear me now? Sorry about that.

Good morning, Madam Chair, members of the Board.

The next item, item 6(c), pertains to some supplemental funding that is available to the Section 8 program through the CARES Act.

On May 8th, HUD released some guidance and the first portion of funding for the supplemental administrative money, and the Department received about $117,000 in administrative fee funding. Staff is requesting to use these funds for upgrading our Housing Choice Voucher program software and to create a landlord incentive payment to retain or increase our owners' participation in the Housing Choice Voucher program.

If you recall, we are the acting public housing authority for about 37 counties throughout the State of Texas and in many of those areas housing supply for Section 8 is not always available and what we would like to do with one portion of the funds use it as an incentive payment to incentivize the homeowners or the landlords to make their
homes available to Section 8 voucher holders.

And then the second part of this equation is the streamlining of our processes and our software so that as we work remotely in the COVID environment that our clients are able to give us the documentation we need, we're able to save it electronically and simplify the process for them. And then also, another aspect is we're going to ask for the ability to do online wait lists which in the future we should be opening up our wait lists for additional clients in the Section 8 Voucher program, so we want to be able to do that online. It helps to simplify and create an electronic record so we don't do it the old-fashioned way.

Staff is recommending your approval.

MS. BINGHAM: Thank you, Michael.

Do the Board members have any questions for Michael?

(No response.)

MS. BINGHAM: If not, I'll entertain a motion.

MS. THOMASON: Move to approve staff's recommendation.

MR. BRADEN: Move to approve.

MS. BINGHAM: Let's see, I heard a motion from Mr. Thomason and I'll take Mr. Braden's as a second.

MR. BRADEN: Second.

MS. BINGHAM: So Naomi, I did have a note that
there might be public comment or material on this item.

MS. CANTU: On item 6(c) I don't have anyone
pre-registered. We are looking in the panel, the questions
box, and I don't see anyone letting me know that they want
to speak.

So again, if you do want to speak on these
items, please indicate so in the questions panel when the
agenda item is called.

MS. BINGHAM: Thank you.

So I have a motion and a second to approve
staff's recommendation on item 6(c). We'll take a vote.

All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Thank you.

MR. DE YOUNG: Thank y'all.

MS. BINGHAM: Thank you, Michael.

Bobby, would now be a good time to take a brief
break before we go into the items under item 7?

MR. WILKINSON: Seems to be a logical part of
the agenda to take a break.

MS. BINGHAM: Very good.

Naomi, we'd like to take a ten-minute quick
break.
MS. CANTU: Yes. We will put up the break slide and set the timer for ten minutes, and we will reconvene in ten minutes.

MS. BINGHAM: Great. Thank you.

MS. CANTU: Thank you, everyone. We're going to turn off the web cam for now.

(Whereupon, at 11:49, a brief recess was taken.)

MS. BINGHAM: Very good. So we're reconvening the May meeting of the Texas Department of Housing and Community Affairs Governing Board, and we are starting item 7, the Multifamily Finance items.

Teresa Morales.

MS. CANTU: Teresa, you are self-muted.

MS. MORALES: Sorry. Is that better?

MS. CANTU: Yes.

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

Item 7(a) involves the issuance of a determination notice for 4 percent housing tax credits and an award of direct loan funds in the form of National Housing Trust Fund.

Heritages Estates at Owen Estates is a new construction development in the ETJ of Austin and will include 174 units to serve the elderly population. Because of the NHTF component, there will be units for households
at 30 percent of AMI in addition to serving households at
40 percent, 60 percent and 70 percent. The NHTF award is
anticipated to help the Department meet its federal
commitment deadline of October 2 of 2020 for program year
2018 NHTF. If the applicant and the Department have not
executed a contract for the NHTF funds, the Department may
reduce those funds in whole or in part, notwithstanding any
other deadline in the Texas Administrative Code.

The NHTF loan will be structured as a zero
percent surplus cash flow loan in accordance with 10 TAC
13.2, number 14, amortized over a 30-year period with a 60-
year term.

Staff recommends approval of a determination
notice in the amount of $1,213,610 and $3 million in
National Housing Trust Fund, along with any conditions that
are noted in your Board write-up.

MS. BINGHAM: Thank you.

Do the Board members have any questions for
Teresa?

(No response.)

MS. BINGHAM: If not, I'll entertain a motion.

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

MS. BINGHAM: Okay. Mr. Vasquez moves to
approve staff's recommendation. Is there a second?
MS. THOMASON: Second.

MS. BINGHAM: Ms. Thomason seconds.

Naomi, is there anybody in the queue for item 7(a)?

MS. CANTU: We only one person in the queue and it's only if the Board has any questions.

MS. BINGHAM: Very good.

Any further discussion from the Board?

(No response.)

MS. BINGHAM: All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries approving staff's recommendation on item 7(a).

7(b).

MS. MORALES: Item 7(b) similarly involves the issuance of a determination notice for 4 percent credits and an award of direct loan funds in the form of National Housing Trust Fund.

Palladium at West Francis proposes the new construction of 240 units for the general population in Midland. Because of the NHTF component, there will be units for households at 30 percent of AMI, in addition to serving households at 40, 50, 60, 70 and 80 percent of area
median income. The development also proposes 23 units at market rate.

The NHTF award is anticipated to help the Department meet its federal commitment deadline in October of this year for program year 2018 NHTF. Similarly with the Heritage at Owen Estates, if the Department and the applicant have not executed a contract for these funds then we may reduce those funds in whole or in part.

The NHTF loan will be structured as a zero percent surplus cash flow loan amortized over a 30-year period with a 40-year term.

Staff recommends approval of a determination notice in the amount of $1,596,885 and $1,259,975 in National Housing Trust Fund.

MS. BINGHAM: We'll entertain a motion.

MS. THOMASON: Move to approve staff's recommendation.

MS. BINGHAM: Okay. Motion by Ms. Thomason.

MR. BRADEN: Second.

MS. BINGHAM: Mr. Braden seconds.

Any further discussion?

(No response.)

MS. BINGHAM: Naomi, anybody in the queue for 7(b)?

MS. THOMASON: We have two people in the queue
but only for questions from staff or Board.

    MS. BINGHAM:  Great. Thank you.

    I have a motion and a second to approve staff's
    recommendation on Palladium at West Francis in Midland.

    All those in favor aye.

    (A chorus of ayes.)

    MS. BINGHAM:  Opposed?

    (No response.)

    MS. BINGHAM:  That motion carries.

    Item 7(c).

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

    Item 7(c) involves a determination of
    eligibility relating to developments within in certain
    school attendance zones, and also a determination with
    respect to neighborhood risk factors relating to a middle
    school within the developments attendance zone.

    Despite being an ineligible development, a full
tax credit application was submitted for Preserve at the
Port which is an existing general population development
located on the southwest side of San Antonio near Lackland
Air Force Base.

    The development proposes the rehabilitation of
384 units, all of which will be rent and income restricted
for households ranging between 30 percent and 70 percent of
the area median income. The development was built in 1945 which makes it 75 years old, and the application reflects that all 384 units are currently market rate with no restrictions. Moreover, the application indicated that as of January 6th of this year the property was only 38 percent occupied which means there are 234 vacant units.

At the time the 2020 QAP was approved, this Board established that developments in areas where a school in the attendance zone was rated F by TEA in 2019 and was rated Improvement Required in 2018 would be considered ineligible with no opportunity for mitigation. There was lot of discussion during both the Rules Committee meeting and the Board meeting about what to do with schools that failed multiple years in a row. In response to public comment, a provision was added to the QAP that allowed certain types of properties to be exempt from this ineligibility item. These include properties currently encumbered with a TDHCA LURA, elderly developments, supportive housing SRO developments, or supportive housing developments with all efficiency units. Preserve at the Port does not meet any of these criteria.

The property is located within the Edgewood Independent School District, a district with an overall rating of C, according to the 2019 TEA rating. The development is in the attendance zone of Winston Elementary
School which received a 2019 rating of F and a 2018 rating of Improvement Required. There is a lot of information in your materials that was provided by the applicant concerning this issue, however, because the rule specifically states that such developments are ineligible, there is no framework by which staff could review the information submitted and arrive at a recommendation other than that of ineligibility.

In addition to the elementary school performance, there is a neighborhood risk factor relating to the middle school. Brentwood Middle School received a 2019 TEA rating of F and a 2018 Met Standard rating. While mitigation was submitted for Brentwood that could be evaluated under the rule, staff believes that because the bigger issue relates to ineligibility of the elementary school, the decision to find the site eligible under the neighborhood risk factors as it relates to that middle school should also be a Board decision.

In applying the waiver standards under 11.207 of the QAP, staff does not believe that those factors are met such that a waiver may be granted. Specifically, how the issue is beyond the control of the applicant which in this instance would be how selection of this particular property is beyond the control of the applicant, and how by granting the waiver that better serves the policies and purposes as
articulated in Texas Government Code than by not granting the waiver.

As previously noted, the full tax credit application was submitted, despite the fact that under the rule it is ineligible. As a result, staff has not performed an in-depth review of the application pending a decision with respect to ineligibility. However, upon a cursory review of the application in order to present this agenda item, staff noted several items of concern, some of which could cause ineligibility under different sections of the Department's rules or governing statutes.

While these eligibility determinations are not before the Board today, staff believes that it is important for the Board to be aware of these concerns when determining whether granting the waiver would better serve the purposes and policies articulated in the waiver rules and in statute.

First, the application indicated that the Department's accessibility requirements do not apply to the development, however, pursuant to the QAP, all developments must comply with the Department's accessibility requirements. This requires that all developments will be treated as substantial alterations for purposes of Section 504. The application did not include any accessible units that would meet the requirements that 5 percent of the
units be accessible to those individuals with physical impairments, and another 2 percent be made accessible to those individuals with hearing and visual impairments. Moreover, an accessible path was not identified that would link the accessible units to the common amenities across the property. Given that the Department's accessibility requirements do not seem to have been factored into the application, staff questions the extent to which the costs reflected therein are accurate or if they are grossly understated.

Moreover, the rules require a scope and cost review, or an SCR report, be submitted which is completed by an independent third party to verify that costs identified by the applicant for the rehab are accurate. Upon a preliminary review of this report, staff believes it to be materially deficient as the exhibits referenced therein are not included in the report including an opinion of costs. The SCR also noted that with respect to accessibility, "no measurements of any type were taken" and "a comprehensive ADA survey was not performed."

In addition, a preliminary review of the environmental site assessment noted that the site is a moderate environmental risk and it's unclear whether the additional testing that was recommended was performed and the costs associated with that remediation has been
factored into the proposed development.

The issue before you is one of eligibility as it relates to the elementary school and a determination on whether the information provided in their materials is sufficient mitigation as it relates to the middle school. However, concerns on the part of staff extend beyond the school district and to the site itself that staff believes it is important enough to bring to your attention as well.

That concludes my presentation.

MS. BINGHAM: Thank you, Teresa.

Do the Board members have any initial questions of Teresa? I'm going to imagine we have public comment on this item.

(No response.)

MS. BINGHAM: So Teresa, so there's a request for waiver and the elementary school is, by staff's best estimate, an ineligibility that can't be mitigated, the elementary school. The middle school possibly has mitigation but the staff's position is that it would be difficult to move to trying to evaluate the mitigation on the middle school if the elementary school ineligibility issue appears to be pretty black and white.

MS. MORALES: That's correct.

MS. BINGHAM: Okay. Would a Board member care to make a motion on this item?
MS. THOMASON: I'll make a motion to approve staff's recommendation.

MS. BINGHAM: All right. We have a motion by Ms. Thomason to approve staff's recommendation on item 7(c) related to Preserve at the Port. Is there a second?

MR. BRADEN: Second.

MS. BINGHAM: Mr. Braden seconds.

Naomi, do we have comment?

MS. CANTU: We do. We have quite a few comments on here and you are in queue. We're going to start with Joey Guerra and then go on to Elizabeth Rohm. Joey, you are unmuted.

MR. GUERRA: Madam Chairman, members of the Board, can you hear me?

MS. BINGHAM: Yes.

MR. GUERRA: Okay. I think we've got a pretty compelling argument here and we've got some people who are members of the school district, myself, members of the Housing Trust, but first of all I want to just give you a little history of this area, what's going on, but first I want to thank y'all for your willingness to hear our petition and the facts surrounding this historic redevelopment and why we need the Board's waiver of Rule 10 for the Preserve at the Port.

As a developer partnering with the San Antonio
Housing Trust, it's critical for the Board to know the area and the transformation that has occurred here in the last 25 years. Now, everyone knows that Kelly and Lackland Air Force bases were San Antonio's economic mainstay for 45 years and that 25 years ago Congress enacted the BRAC realignment of our armed forces which was pretty devastating to the San Antonio economy. But one vital portion of San Antonio's economy closed and a rebirth came forth basically through the hard work and vision of our city, county and state officials to what is now commonly known as Port San Antonio.

The Port's assets to the community are as follows: an industrial complex, complete rail facility with international access, companies like Lockheed Martin, General Dynamics, Standard Air, Union Pacific, our nation's national headquarters for Air Force support, the Department of Defense's Southern Command, and nation's top cybersecurity center with logistics support, to name a few companies. Since the inception of the Port, the employment there has grown to now 14,000 employees.

Now here today, May 21st, at this Board meeting, we have the opportunity to approve a new rebirth at this Preserve at the Port. This new development is adjacent to the Port and within walking distance to all these major employers at Port SA.
To give the Board members an idea of the redevelopment plan for this property, it was developed by the federal government as an officer's village over 70 years ago. Currently the property is occupied at only 38 percent with a majority of the buildings in a degraded and uninhabitable condition. This development that the members will be voting on today will enable us to create a safe, stable and a newly constructed Class A living environment that will provide individuals and families an affordable rental platform compared to the market rate options available at the Port.

The following options are some of the things that consist in these 384 units that we're looking to redevelop: new roofs; bio foamed attics; 40-year shingles; energy efficient appliances, including washers and dryers; high seer multi AC and heating units; newly constructed six-foot sidewalks ADA compliant and six-foot sidewalks connecting all existing buildings for ADA compliance and ADA ramps at street corners; one central core amenity area including playground, barbecue area, covered seating, pool and basketball; a new learning center that we will be building for early childhood education and life skills that we're collaborating with the Edgewood Independent School District; WIFI hot spots around the complex with tablets available in the clubhouse lounge for residents; new
exterior lighting for safety throughout the complex with
detection cameras on light poles.

Now, you've just heard kind of a brief narrative
of the Port of San Antonio and the present condition of the
Preserve at the Port and the future basic plans outlined
for this development. For these reasons I have detailed to
the Board surrounding this vital redevelopment of the Port,
we hope and pray for the Board's approval of this waiver.

Now, following me will be presentations by Pete
Alanis, executive director of the San Antonio Housing
Trust, to be followed by Phil Chavez, deputy superintendent
who will speak of the rebirth EISD initiated two years ago,
and to close our presentation for this waiver will be our
highly esteemed public servant for District 25, Senator
Jose Menendez.

MS. BINGHAM: Thank you, Joey.

Does anybody have any questions?

(No response.)

MS. BINGHAM: Naomi, thank you.

MS. CANTU: Yes. Next is Elizabeth Roehm.

Elizabeth, and then after you is Pedro Alanis.

Elizabeth, you should be unmuted. Elizabeth,
we'll give you just a few more seconds. Otherwise, then
we'll go on to Pedro. She said she is trying. You might
be self-muted. If you called in, you might be muted on
your cell phone. We're going to skip over you for now and then go to Pedro

So Pedro, we're going to you and we will work with Elizabeth to get her back on.

MR. ALANIS: Can y'all hear me okay or see me?

MS. CANTU: We can hear you.

MR. ALANIS: Great. Good morning, Board members. For the record, my name is Pete Alanis. I'm the executive director for the San Antonio Housing Trust, and its public facility corporation.

Like TDHCA's Housing Trust Fund and the Texas State Affordable Housing Corporation, TSAHC, our mission at the City of San Antonio's created Housing Trust is to produce and preserve affordable housing for our most vulnerable populations. We achieve this by partnering with high quality affordable housing providers to ensure successful developments and to maximize a community return on our public investment. By the end of June we will have successfully on 26 affordable housing projects, representing $1 billion total investment, and most importantly, creating 6,800 housing units, 4,000 of which are under the 60 percent AMI level.

It's safe to say without our partnership none of the 26 affordable housing projects would have been developed. While as impressive as that may sound, this is
tiny in comparison to the success of the state's 4 percent Low Income Housing Tax Credit program which is a testament to staff, Board leadership, community support, development partners, but more especially, in good policy making.

Regarding Preserve at the Port, I'd like to focus on why this project makes sense from a policy standpoint. As a member of our local housing commission, I can tell you that our city is navigating through a harsh reality that there's not enough high quality, low cost housing to keep up with our affordable housing demands, and the projected population growth that San Antonio anticipates. We estimate to catch up to this demand we would need to create or preserve close to 96,000 units over the next 10 to 15 year period. As overwhelming as this may seem, this is not an unachievably goal. How do you eat an elephant? One bite at a time.

So in this context our City of San Antonio established housing production and preservation goals within the SA Tomorrow Comprehensive Plan which is the official long range planning document that provides policy guidance for future growth, development, land use, infrastructure and services. SA Tomorrow identified 13 regional centers across the city to specifically develop as vibrant mixed use places. The intent is to offer a variety of housing options that will benefit both residents and
employers in each center.

Preserve at the Port is located directly in the center of the joint base San Antonio Lackland and Port San Antonio regional center. The specific task of this employment based regional center is to provide housing for veterans and low cost housing options to support the joint base San Antonio area and the Port, because we recognize that in order to spur economic development and affordable workforce housing infrastructure is necessary as any other infrastructure needs.

Our goal in this regional center is to create or preserve 3,400 housing units over 1,800 being rental units. This is why my five city council member board, including the councilwoman for this district, unanimously voted to partner on this project.

And if you look at the project today, you'll see an aging apartment complex with severe disrepair and more than half of those units sitting vacant. This is not the type of housing that gives a family an overwhelming sense of dignity and worth.

MS. BINGHAM: Mr. Alanis?

MR. ALANIS: Yes?

MS. BINGHAM: Let's wrap it up if we can.

MR. ALANIS: thank you. So wrapping up my comments, I would ask the Board to consider this policy,
consider the context, consider the goal and let us utilize this all important tax credit tool to make a real catalytic difference.

With that, I'll defer the rest of my time.

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

And just a friendly reminder to those that have comments for the remainder of the meeting, we have a timer that we provide each speaker with two minutes. If there are multiple speakers, if each speaker can focus their comments on attributes of their position that haven't been addressed in previous public comment, which would help the Board a great deal. Thank you.

Naomi, did we find Elizabeth.

MS. CANTU: Yes. We're going to try Elizabeth again, and then after Elizabeth, Philip Chavez.

So Elizabeth, we're going to go ahead and unmute you.

MS. ROEHM: Hi. This is Elizabeth Roehm again, staff attorney at Texas Housers, speaking in favor of the staff recommendation on item 7(c).

This is a past submitted application for public subsidy for this housing. As you all know, this may be a great project but these regulations exist for the use of this public funding for a reason and TDHCA has recognized through the regulations the need to build in high
opportunity areas with high quality schools.

We just heard about transformation of this area. There could be changes happening but the matter at hand is schools and those are trending worse. As we can all see in these materials, it looks like in 2018 both the elementary and middle school did meet standard but had bad reports prior and in 2019 both of those received a rating of F, so that doesn't look like trending upward to me, and this is exactly what these regulations are built for.

For both the 4 percent and 9 percent LIHTC, it's so essential for families to live near high performing schools. I won't go into the reasons but we all know about reasons that TDHCA has put these rules in place and then the need for students to be in high performing schools for their short term academic success as well as long term success in terms of college attendance and all of those other measures that we're looking at. So attendance at high performing schools is so critical.

I really appreciate your attention to this important issue and Texas Housers fully supports the staff recommendation not to grant a waiver for building in these areas. Thank you.

MS. BINGHAM: Thank you, Elizabeth.

Do the Board members have any questions for Elizabeth?
Naomi, Mr. Chavez?

MS. CANTU: Yes. We're going to go to Philip Chavez, and after that Senator Jose Menendez.

So Philip, you are unmuted.

MR. CHAVEZ: Madam Chair and Board members, my name is Phil Chavez, the deputy superintendent for Edgewood.

In 2018-19 we developed a five-year innovation plan along with the advent of our new superintendent, Dr. Eduardo Hernandez. That development plan was based on five innovation zones: early childhood, performing arts, public service, leadership zone, and esteem zone. The elementary, Winston, sits within the esteem zone.

In 2019-20, this year, we opened up Gardendale Elementary as an operating partner with Pre-K for SA, a City of San Antonio early childhood center. We've launched that with great success, providing different types of instruction for our pre-K second school at Gardendale.

Brentwood opened up this year as Brentwood Esteem School of Innovation, and we have implemented various types of informational technology and computer security courses for Brentwood. We started off with 6th grade this year, next year we're matriculating up to 7th and the third year we'll fill out that 8th grade in the third year.
Perales Elementary is also a pre-K-5th that sits within that zone. Our goal is to have a partnership with Texas A&M with Perales and also with Winston Elementary. Winston is slated to be a 3 through 5th grade intermediate, if you will, that would lead into Brentwood.

Within that particular group is also Kennedy High School. We are in conversations with Port SA -- we have, rather, memorandums of understanding with Port SA, the Dee Howard Foundation, we're in talks with Boeing, we have partnerships with Dell, National Security Agency, UPS and also Apple. We are looking to make that particular piece a pathway to technology early college high school.

So I want to let you know that with the advent of the innovation at Winston, our partnership with Texas A&M University, which we currently will launch a first partnership at Gus Garcia Middle School in 2021, at Winston our goal is to develop our relationship with Dee Howard Foundation where we have a 5th grade aerospace and STEM program that we're going to be matriculating down to grades 4 and 3, and we'll also be implementing a project-based learning model titled New Tech Network.

As a part of this past year, the situation with COVID, we have been able to go with a one-to-one implementation, device implementation with iPads for grades pre-K through 5 and PCs for grades 6 through 12. We've
supplied an outstanding curriculum to graduate all
students, college, career and military ready.

Thank you.

MS. BINGHAM: Thank you, Mr. Chavez.

Naomi, I heard Mr. Chavez or Mr. Alanis say that
Senator Menendez is possibly available also.

MS. CANTU: We do have him in queue, yes. We
are working to get him up.

SENATOR MENENDEZ: I don't know if you can hear
me, Madam Chair and members of the Board.

MS. BINGHAM: We can hear you, Senator.

SENATOR MENENDEZ: Wonderful. Thank you,
everyone. Once again, let me thank you all for your
commitment and your service to the State of Texas. And
Bobby, to you and your staff, I'm very proud of where the
agency is and having been following it since 2001 quite
closely.

For the members of the Board who may not be
familiar or I may not be familiar with, I have represented
this particular area since my days on city council in 1997,
and then 15 years in the Texas House and then the last five
in the Senate. What I have seen is since 1995 when the
federal government left, we had an immediate degradation of
the housing stock and the quality and the families, the
number of families. Therefore, if you were to approve and
grant the waiver and consider this project, which I support, it would have an immediate benefit on the surrounding community that is in desperate need of quality, affordable housing.

I also believe that because we do have a new superintendent who is a hands-on superintendent, is in the community, is meeting with people, and who has a school district that has been losing children in part because there is not a quality, affordable housing stock, I think you would help the school district. And as you heard, if you could visualize this area, you have the former base with this which was officer housing and you have a school, an elementary within walking distance, a middle school within walking distance, and a high school, you would have the capacity. And my understanding, too, is that Port San Antonio has also started one of these -- what do they call them -- video game academies onsite which these schools would be able to access.

I believe that we have not had a high level of investment in the community, in the neighborhood financially because we haven't had any new rooftops, we've had a loss, so with this you would help the investment on behalf of the school, on behalf of the city, on behalf of the Port to continue to really have a reinvigoration of this community, of this plan. And what I love about it is
it would be 100 percent affordable with deep targets.

I understand the young lady, the attorney from Texas Housers, and I appreciate the need to help people have access to quality schools. My understanding, my thought is that with this new superintendent -- because I'm familiar with his work and the work that he's done in the schools -- that you have schools that are actually turning around and that would continue to turn around, especially when you think about the fact that Mr. Guerra said at the beginning, they were going to work hand-in-hand with offering WIFI, free WIFI and iPads and so you could help close the gap that we've seen in the digital divide in an area that is financially hurting.

So I think, like every major city in the State of Texas, San Antonio has over a 100,000 unit affordable housing gap that we need to close. I think if you were to do this you could help rehabilitate an old property in an area where the schools are improving and you would go on further to improve schools by providing them families that would see a quality, affordable place to live with WIFI, with iPads, and the ability to have the tax credit -- possibly because it's a market rate and there are no guidelines as to who can rent there, the state coming in with a tax credit program would improve the quality of the tenants, and therefore, improve the quality of the whole
ecosystem there in that area.

And that's the only reason that I've agreed to come on today because everyone that's a partner in this is on board, and it's not always that you have the school district making a case, you have the city, the housing authority making the case, or the housing finance corporation, and everyone hand-in-hand trying to ask for the state's financial support.

This is a very old property and no one is going to invest in this property and make the rehab if they can't get some help subsidizing these doors. That's the only way we're going to. And I think it's unfair to families that already don't have quality, affordable places to live in that neighborhood to say no to them just because the schools have not had the best leadership.

And let me tell you, prior to the superintendent being there, the one that just got hired, the school district had been taken over by the state because they'd had a fight at the board, they had lost their superintendent, so they had been a rudderless district for some time. They have great leadership now, so much so that the State of Texas has pulled out, TEA has pulled out and allowed the elected board members to start working on their own with their superintendent. I do believe that this is a school on the change and that by doing this waiver you'd be
making an investment on the state tax rolls that would help an area that desperately needs it.

This is why you're not having anybody arguing against this, other than I understand the reason why the lady from Texas Housers and I share her concern, but I really think that we need to help kids who are in that area and we need to help close the digital divide and this is a win-win in every respect.

And so I want to thank you for allowing me and indulging me to go over two minutes but I really feel strongly that this is a positive, very positive development.

MS. BINGHAM: Thank you so much, Senator. Thank you for your time and your comments.

Does the Board have any questions for the Senator?

(No response.)

MS. BINGHAM: Thank you again, Senator.

SENATOR MENENDEZ: Thank you, Leslie. Thank you, Madam Chair.

MS. BINGHAM: Naomi, is there anyone else in the queue for comments?

MS. CANTU: We don't have anyone in the queue but we do have one person if you have questions.

MS. BINGHAM: Okay. Does the Board have any
questions for Teresa? We have a motion and a second to approve staff's recommendation regarding ineligibility for Preserve at the Port.

(No response.)

MS. BINGHAM: Hearing no further questions, we'll call for a vote. All those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Leo, I just want to make sure. I missed your aye.


MS. BINGHAM: Thank you.

Motion carries in favor of staff's recommendation regarding ineligibility for Preserve at the Port.

Item 7(d), this is Marni, I think.

Thank you, Teresa.

MS. MORALES: Thank you.

MS. HOLLOWAY: Hello again. Item 7(d) is presentation, discussion and possible action regarding a waiver of 10 TAC 11.101(b)(1) regarding ineligible development of application 20128, OST Lofts. This is a 9 percent application.

The QAP approved site requirements and
restrictions for sites within a flood plain. Specifically, the site must be developed so that all finished ground floor elevations are at least one foot above the flood plain and parking and driveway areas are no lower than six inches below the flood plain. The waiver request says that there is a potential that the driveway from Old Spanish Trail to the apartment buildings' parking area will be lower than six inches below the flood plain. Both the architect and engineer confirm this is the case. Building a driveway in this location could encourage residents to drive through flooding on Old Spanish Trail to access the development.

Included in your Board materials is an excerpt of information submitted by the applicant before the book was published, including a support letter from the city council member. This is an excerpt because the applicant included a revised site plan with all driveways exiting above the flood plain, inferring that the Board could approve this alternative.

Staff has not reviewed this submission for the 18 different items we look for during review of a site plan. Further, we have not requested this revision. Our rules regarding the deficiency process is clear that an applicant may not change or supplement any part of an application in any manner after the filing deadline or
while the application is under consideration, so a new site plan at this stage would be prohibited.

Our rule regarding waivers requires that the request must establish that the need for the waiver is not within the control of the applicant and how by granting the waiver it better serves the policies and purposes articulated in statute than not granting the waiver. The waiver request does not meet these requirements because the issues described in the request are directly related to the applicant's selection of the development site, and considering the revised site plan, their choice of placement of the driveways, both of which were in their control. The request simply says this waiver is not preventable by the applicant.

Staff is not able to make an affirmative recommendation regarding this request because it lacks the basis that we would build that recommendation on, therefore, we request that the Board determine whether waiver of the rule regarding flood plains should be granted for 20128, OST Lofts.

I'll be happy to take any questions.

MS. BINGHAM: What questions does the Board have of Marni?

MR. VASQUEZ: I guess I have a question, and I don't know if this is Marni or Beau, but from what Marni is
saying, our hands are tied as far as the secondary
submission of information. I mean, we cannot consider that
at this point?

MS. HOLLOWAY: I told you that it exists and I
would bet that the applicant is available to answer any
questions about it, but showing it to you and asking you to
approve that site plan is something that we can't do.

MR. BRADEN: But could we grant a waiver with a
condition that no driveway is under six inches?

MS. HOLLOWAY: I believe so.

Beau, do you want to weigh in on that?

MR. WILKINSON: While we're waiting on Beau, I
have a couple of points. I think applicant is going to
suggest that, you know, we didn't accept the site plan but
they can just tell you we'll put both entrances and exits
on the street that's above flood plain. But the way the
applicant originally put the waiver request, a waiver might
be needed and so the building itself is above flood plain,
the whole parking lot is higher than six inches above flood
plain, so it all meets.

The one drive that is not Old Spanish Trail is
fine. It's just the drive off Old Spanish Trail
eventually, as it hits Old Spanish Trail, is several feet
below flood plain because Old Spanish Trail itself is below
the flood plain.
Staff was really freaked out about it. I was a Houstonian so I played in the flood waters. Right?

MS. HOLLOWAY: We were freaked out?

(General laughter.)

MR. WILKINSON: You can either waive and allow the two entrances. It's a long skinny stretch, Old Spanish Trail on one side, above the flood plain on the other, or they'll say if you don't waive it can we put both entrances, you know, on the above flood plain side. I think you discretion to do either.

Beau, do you have any comments on the legality of a conditional waiver or anything?

MS. BINGHAM: Naomi, can you find Beau?

MS. CANTU: We do see that Beau is on.

MR. ECCLES: There you go. You unmuted me. Thank you.

MS. CANTU: Okay.

MR. ECCLES: You have no idea how much people would pay to mute their lawyer with a push of a button.

(General laughter.)

MR. ECCLES: That said, a conditional waiver, I think, is absolutely within your authority. What Marni was talking about about hands being tied was exactly what Bobby was mentioning, and that is Texas Government Code 2306.6708 states pretty clearly that an applicant may not change or
supplement their application in any manner after the filing deadline, so submitting a new site plan that had a different location for a driveway, that's just something beyond what we could accept or score, so that's why they submitted the waiver. So you can grant the waiver and you can always put conditions on it.

MS. BINGHAM: Anybody have any other questions or prepared to make a motion?

MR. VASQUEZ: Also, just to understand, this is allowing them to continue in the application process. Correct?

MS. HOLLOWAY: Yes. This isn't a decision regarding an award, nothing like that.

MS. BINGHAM: Are we prepared to make a motion on the item, or would you prefer to hear comment?

MR. VASQUEZ: Let me go ahead and make a motion so we can open it up for comment. I'd move that we provide a waiver or approve the waiver for this applicant to accept the revised flood layout -- or driveway layout addressing the flood issues.

MR. BRADEN: Grant the waiver with conditions?

MR. VASQUEZ: I'm sorry. I'm happy to amend it.

MR. BRADEN: No. I'll second that motion. My understanding from what Leo says is that the motion is to grant the waiver with the condition that driveways be
changed in compliance with our requirements.

MR. VASQUEZ: Yes.

MS. BINGHAM: Leo good? Okay. So a motion by Mr. Vasquez to grant the waiver with the condition that the driveways comply with our requirements to stay within -- is it within six inches below the flood plain?

MR. BRADEN: Correct.

MS. BINGHAM: And I have a second from Mr. Braden. Great.

Naomi, we will hear public comment.

MS. CANTU: We have a few people signed up. We'll start with Mark -- and I do apologize on your last name, Mucasey. We're then going to move to Adriana Tamez, and then end with Barry Palmer. We do have Donna Rickenbacker signed up, but we have not heard from her recently if she is wanting to speak. So again, we're going to start with Mark, and then Adriana and then Barry. And Donna, please get in touch if you would still like to speak.

So let's start with Mark.

MR. MUCASEY: Can everybody hear me?

MS. BINGHAM: Yes.

MR. MUCASEY: Awesome. Okay. Firstly, I'd like to thank the Department for supporting our projects for the past 24 years, and after reading two dozen QAPs, I feel I
almost know you all personally at this point.

Each year January and February are very exciting times for our staff as our clients allow us to use our design creativity on unique and special projects. When Donna sent me the OST tract, I called her back to express my excitement about her site selection, one that fronts multiple streets, is along one of Houston's most up and coming hike and bike bayou green belts, and that is across the street from the University of Houston's brand new medical school campus.

When I was told you were questioning the site selection due to the flood hazard issue and compliance with flood plain elevations, I was a bit surprised. However, when I saw the FEMA flood plain map as part of your response, I understood your concern.

Unfortunately, the blue area shown as flood hazard that encompasses part of our site gives a completely wrong impression of what this site really is, and in fact, this map has not been updated to reflect all of the improvements that Harris County has done since this was implemented. In actual fact, our site is a level and flat tabletop ready for development whose entire area is available for units, amenities and parking with the exception of the north 2 percent that slopes steeply down just to meet the third street OST.
You took issue with that short driveway connection being below the flood plain. In fact, during Hurricane Harvey two years ago, OST may have been flooded but the other two streets around us were not blocked and we don't expect OST to be flooded for another 498 years, especially in light of Harris County's massive flood control improvements that, in fact, have been going on all along Brays Bayou, up and down. If this were such a flood hazard, why would the state-supported U of H chose its new medical school campus literally two blocks away, actually bordering the bayou on their side that is half covered by that scary blue flood hazard zone of the old FEMA map?

But given your reluctance, we were easily revising our layout to simply abandon the drive out to OST and use the third street, Delafield, as our front entrance. The back entrance from Produce Row remains a great project connection of our pre-K school to the neighborhood, well above the flood plain. These revisions simply trade places between our storm water detention that was off of Delafield and one of our two driveways that was off of OST.

Now our storm water detention pond will be placed where it will function the best, at the lowest spot of our site along OST, and our main entry drive shifts to Delafield such that all parking, drives, buildings and
amenities will be out of the flood plain. Only our storm water detention pond will be below it which is where you want all of our water to flow anyway as it goes down to the bayou. No units, amenities or parking are at all affected by this alternate layout, and in fact, our pool courtyard actually grows, and our entry drive becomes even more inviting from the neighborhood.

So if you will allow a waiver to maintain the OST drive or allow us this condition to do the revised -- very simple revision to this plan, the multifamily development and exciting pre-K school is really something that our city and this neighborhood really want and they really deserve. So I'm hoping that you will allow us to build it and certainly with an alternate plan.

Thank you very much for your time.

MS. BINGHAM: Thank you, Mark.

Any questions for Mark?

(No response.)

MS. BINGHAM: Great. Naomi?

MS. CANTU: Yes. Next actually we have Donna Rickenbacker. We have her up and we are going to unmute her.

MS. RICKENBACKER: Good afternoon, Board members. This is Donna Rickenbacker. I hope you can hear me. I'm one of the parties on the OST Lofts application.
I'm going to keep this very short and sweet, based on y'all's recommendation and following up Mark Mucasey. He's such a fabulous architect and we've been working with Mark for years.

I certainly fully know this area of the City of Houston and know all of the tremendous amount of work that the City of Houston and Harris County have done in the way of flood mitigation. I do want to point out that this site is immediately west of the University of Houston's central campus and where the school is locating their medical school, and so we're really excited about this location. There was deliberateness in selecting this site and the City of Houston was very much supportive of what we were doing over here and this site in particular.

So I very much appreciate y'all taking the time to hear us out and giving us an opportunity to advance this development forward. Thank you very much.

MS. BINGHAM: Thank you. Donna, this is Leslie. So you are comfortable with the motion as it's been presented?

MS. RICKENBACKER: Can y'all hear me?

MS. BINGHAM: Yes, we can now.

MS. RICKENBACKER: Yes, I am if that's the direction the Board wishes to go. OST is just one point of access. I hate to lose it because it's a great area for
visibility and presence to the site, but you know, again, Mark Mucasey has and will continue to work his magic so that we still have that wonderful presence off OST but our access points will be from other arteries.

MS. BINGHAM: Okay. Thank you.

Any questions for Donna?

(No response.)

MS. BINGHAM: Naomi, any other speakers?

MS. CANTU: We do have two more, Adriana Tamez, we're going to go to her, and then Barry Palmer is going to be next.

Adriana.

DR. TAMEZ: Yes. Good morning, Madam Chair, members of the Board.

First of all, I want to apologize to you. My network connection is too slow to support webcam, so I know it's always best to see who's talking to you, who's speaking to you, so I apologize.

My name is Adriana Tamez. I am the CEO of the Tamez Center for Community Concerns and superintendent of schools of the Raul Yzaguirre School for Success which are public schools in Houston and in Brownsville.

We are a partner in this development. We're sponsors at this development, item 7(b), at the proposed site at 5520 Old Spanish Trail. The Tejano Center is a
nonprofit community-based organization providing services that support and empower our community since 1992 in the areas of affordable housing, tackling homelessness, and making sure that we are able to provide housing for them, child foster home certification program, and child placement agency, adult education.

In the areas of health we work with adjudicated youth. We work with victims of violence through a program funded by the Governor's Office. We also work with senior citizens.

We have an apartment complex and our senior citizens also play a role in our other programs, such as our largest program which is our school system. We work with zero to two at a daycare, we work with pregnant mothers and mothers and their babies or fathers and their babies for pre-literacy skills. We have a three- and four-year-old program and a K-12. And our senior citizens also are part of that curriculum. So we're very excited about the possibilities.

Council Member Gallegos sent a letter -- I believe it's included in your packet -- as did Senator Carol Alvarado and State Representative Christina Morales, and so many others that support this development. But as far as our city council member and our city council, they passed an ordinance in December of '19 expanding the
boundaries of the TRZ No. 7 to include in part our site
with the intentions of continuing the revitalization
efforts that are taking place in TRZ No. 7, especially
along, as you heard, Brays Bayou and the road systems along
Brays Bayou that include Old Spanish Trail.

It was always envisioned, like Donna said, that
our planned development would be constructed on the Old
Spanish Trail site given its proximity, which is exciting,
to the University of Houston's central campus. The
University of Houston is constructing, as they mentioned
earlier, the medical school off of Old Spanish Trail which
would be an incredible partner int his endeavor. The City
of Houston fully supports our plans. In addition to
expanding the TRZ No. 7, Houston City Council also granted
a resolution supporting the location of the OST Lofts on
our site.

The Tejano Center will be the educational
provider of the pre-K school. We have, as I mentioned
earlier, the Raul Yzaguirre School for Success. I think as
an educator my background, my undergrad is education, my
masters is education, and my doctorate is education. It's
my life, nonprofit and education.

And you can put up a pre-K school but it's got
to be high quality, and so the schools that I manage, we
are an A district, we have a TEA early college designation,
we have a TEA T-STEM designation. We plan to use those blueprints, like we're doing now, in our pre-K center at this development to make it a high-quality educational experience.

As all of you know, providing that strong foundation is crucial and research tells us over and over again who come from low income households often enter kinder substantially below level, and so these opportunities are crucial for our students as long as they are high quality pre-K centers, and ours will be that I can assure you.

So I ask you to please, please, I pray that you will grant our waiver request and allow us to move this important project forward. Thank you so very much.

MS. BINGHAM: Thank you, Ms. Tamez.

Any questions for Ms. Tamez?

(No response.)

MS. BINGHAM: Thank you very much.

And Naomi, is there anybody else?

MS. CANTU: Yes. So Barry Palmer has removed his request to speak so there are no other comments.

MS. BINGHAM: Great. So if there's no further discussion, we have a motion by Mr. Vasquez with a second from Mr. Braden to grant a waiver with the condition that the driveways to the property meet the minimum requirement
of six inches above the 100-year flood plain, and this is for OST Lofts, application number 20128.

Is there any further discussion?

MR. WILKINSON: Actually if I could make a clarification. It's no lower than six inches below the flood plain.

MS. BINGHAM: What did I say, did I say above?

MR. WILKINSON: Above.

MS. BINGHAM: Sorry. Yes, very good. So the TDHCA requirement that it can no more than six inches below the 100-year flood plain. Thank you for the correction.

With that, all those in favor aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)

MS. BINGHAM: Motion carries. Thank you.

MS. HOLLOWAY: Thank you.

MS. BINGHAM: Thanks, Marni.

So we move on to 7(e)?

MS. HOLLOWAY: Yes. 7(e) is presentation, discussion and possible action on timely filed appeals under the Department's multifamily program rules.

The first two applications we're going to discuss together because they're the same applicant with the same issue. This appeal is material deficiencies in
the applications 20040 which is Espero Austin at Rutland, and 20041, Espero Austin at W. 24th.

As you'll recall, we changed the definition of supportive housing for the 2020 QAP and part of that change allows the developments to carry foreclosable debt if they meet certain criteria. As originally presented in the QAP, part of that criteria was that applications would have to include evidence of project-based vouchers or operating subsidy for 100 percent of the units. After comment at the November meeting, the Board elected to reduce the number of units required to have that support to 25 percent.

The two applications we're discussing today have made use of that change in the definition. They are both supportive housing developments with foreclosable debt. They included a document in their application titled Operating Subsidy Agreement in which the applicant made an agreement with itself to provide operating subsidies for a minimum of 25 percent of all units. They are appealing staff's interpretation that applications using this definition must demonstrate a commitment of project-based assistance from an external entity that is capable of making that commitment. To be fair, the term "external entity" is not in the rule, however, the agreement they provided does not commit project-based rental assistance or project-based operating subsidies as these terms are
commonly used in the affordable housing industry. The appeal questions staff's interpretation of the definition in the past that has allowed supportive housing developments without hard debt financing to include sponsor loans and that in contrast we not approve this operation subsidy agreement which they state is in very near the same form. So the change to the definition this year was very intentional in having different requirements for supportive housing as it relates to developments that carry hard debt and those that don't. An operating subsidy agreement is not the same thing as a sponsor loan.

As I mentioned earlier, the comments at the November meeting that led to the change to 25 percent was focused on the difficulty of obtaining a finite resource like vouchers for 100 percent of the units by the time of application. Relatedly, the applicant's response to the initial deficiency requested an explanation as to how application met that definition said in part, "We would have liked to provide a federal voucher and/or subsidy commitment for each project to meet the 25 percent requirement.

"That reality simply does not exist in our community. Our local housing authorities do not have an open voucher commitment dedicated to persons experiencing homelessness, like other Texas communities, and have many
less vouchers in total. Every voucher or operational subsidy available in our community is already being used."

As the applicant interprets the phrase "project-based rental or operating subsidy" it appears that it means project-based rental subsidy or any other form of operating subsidy. Accordingly, they interpret the phrase to allow an affiliate of the applicant to enter into a contract to provide a benefit that would be agreed on at a later date.

The relevant portion of the agreement states, "2.1 operating subsidy. The purpose of the subsidy is to provide rental assistance to prospective affordable housing tenants." Further along it says, "From time to time the partnership -- so that would be the partnership owner of the development -- and Caritas will agree upon a base amount of monthly operation subsidy necessary for the subsidy eligible units of the project as budgeted by the partnership." The agreement between Caritas and the partnership doesn't specify an amount to be paid but rather they will agree on a base amount of monthly operation subsidy as necessary.

The lack of an annual amount violates the statutory requirement that the source and annual amount of funds be provided if rental assistance or an operating subsidy are part of an application. Considering these requirements, it is unclear whether this agreement to agree
is actually the subsidy contemplated by our statute and rule.

This point is further demonstrated by section 1.3 of the agreement which includes the definition of operating subsidy as "Any prospective project-based or tenant-based vouchers that may be made available to the development or its tenants." Following that definition, as the development or its tenants obtain vouchers, there may come a point where the amount of funds to be agreed upon by Caritas and the partnership will decrease or even entirely disappear. This supports the determination that the agreement does not meet the common concept of a project-based operating subsidy and does not meet the statutory requirements for an application.

To summarize, staff does not interpret the rule to allow an applicant to propose a development be considered supportive housing with hard debt while also pledging itself to provide the operating subsidy required by the definition. Therefore, a determination was made that the applications do not meet the definition of supportive housing. Because they don't meet this definition, in order to continue as eligible applications, the target population would have to be changed to either elderly or general, however, the developments do not meet threshold requirements for serving either of those groups.
In responding to the appeal, the executive director noted the numerous letters of support for these applications from state and local officials and expressed an important point: TDHCA staff does not dispute that the City of Austin is in need of more supportive housing, nor does TDHCA question the noble mission or work of Caritas.

The executive director's decision to deny this appeal was administrative and based on what he saw as staff's reasonable interpretation of this new rule. Accordingly, staff recommends that the Board deny the appeal.

I'll be happy to take any questions.

MS. BINGHAM: Thank you, Marni.

What questions does the Board have of Marni?

(No response.)

MS. BINGHAM: So this is regarding appeals timely filed. We're looking right now at applications 20040, Espero Austin at Rutland, 20041, Espero Austin at W. 24th. Staff's recommendation is to deny the appeal for these two applications. Is there a motion?

MR. BRADEN: I'll make a motion to approve staff's recommendation.

MS. BINGHAM: Okay. I have a motion by Mr. Braden to approve staff's recommendation to deny the appeal. Is there a second?
MR. VASQUEZ: Second.

MS. BINGHAM: Mr. Vasquez seconds.

Naomi, do you have comment on applications 20040 and 20041, the Espero Austin applications?

MS. CANTU: Yes, we do. We have three people queued up. Marni, we're actually doing to take your video down so that we can pull up our speakers, and I also wanted to remind everyone in attendance that Mayor Adler and Council Persons Casar and Tovo also commented on this earlier in this meeting.

We're going to get started with Jo Kathryn Quinn, then on to John Shackelford, and finally Jennifer Hicks. So Jo Kathryn.

MS. QUINN: Can you hear me?

MS. CANTU: We can hear you, but we cannot see you.

MS. QUINN: Okay. Can you see me now?

MS. BINGHAM: Yes.

MS. QUINN: Madam Vice Chair Bingham and Board, I'm Jo Kathryn Quinn, the CEO of Caritas of Austin. Thank you for letting me speak in support of both Espero Austin projects today.

Over 40 years ago I saw for the first time a man experiencing homelessness. My reflex of compassion for this man grew into a burning passion to end homelessness
once and for all. This has been my life work. For 14 years Caritas has used the transformative power of supportive housing to permanently end people's homelessness. Our data reveal 98 percent of our residents do not re-experience homelessness. We have a solution.

Caritas has been serving Austin for over 55 years and as Austin's leading nonprofit in homeless housing and with broad community support, we are beyond qualified to own and operate the projects before you. Moreover, our service has not skipped a beat during this pandemic. We have ended homelessness in supportive housing for 398 people and raised just under $2 million in 66 days.

Last October Governor Abbott made it clear that we, Austin, need to do something about homelessness. Before you is Austin's direct response to that request, two developments that rank at the very top statewide. It is a travesty that these first-rate projects ranked one and three in our region have been terminated due to an ambiguous rule. Surely you see the wisdom of letting our applications move through the process toward a state-led homelessness solution for Austin, as the governor advocated.

Here are the simple facts. An ambiguous new rule which seeks to define supportive housing is the context of these terminations. That staff interpretation
of the operating subsidy is not stated in the rule. In Austin, as referenced in letters from both Austin and Travis County Housing Authority, we cannot obtain a voucher commitment prior to a project's development, leaving us in a position of impossibility of performance with regard to vouchers for a third-party subsidy. We followed the rule to its exact wording, with documentation which meets every aspect of the statute.

I favor a rule which provides clarity since an applicant could try to claim these extra points without the experience or expertise to actually deliver the units. Caritas is not that applicant. Our singular focus is supportive housing in the mode defined by the QAP. Annually we raise over $12 million which supports over 500 units in Austin. I assure you we have the capacity to support these projects.

I fervently request you reinstate both of our supportive housing applications. Thank you.

MS. BINGHAM: Thank you, Ms. Quinn.

Do the Board members have any questions for Ms. Quinn?

(No response.)

MS. BINGHAM: Thank you very much.

Naomi?

MS. CANTU: Yes. Next is John Shackelford.
We're going to go ahead and move him over so he can mute his video. You are now a panelist and can use your video. You are self-muted.

MR. SHACKELFORD: Can you hear me now?

MS. CANTU: We can hear you, and you can enable your video.

MR. SHACKELFORD: Thank you, Madam Chair, members of the Board, Mr. Wilkinson and Mr. Eccles. Good afternoon. My name is John Shackelford. I represent the two applicants on these applications that have been terminated.

First, I'd like to thank you for taking out of order earlier today the mayor and city council members, letting them go ahead so they could attend their city council meeting scheduled at ten o'clock this morning.

I'd like to emphasize some of the things that Ms. Quinn just referenced and sort of get into some of the legal arguments from my perspective on this matter.

First, both these applications were number one and number three in the region and scored amongst the highest in the state, and I would ask that in connection with reviewing this rule that you all take a more flexible approach to what staff interpreted the rule under. And so this is a case of first impression. As Ms. Holloway pointed out in her letter that she sent to my clients when
the applications were terminated, she said, "As this with
debt option for defining supportive housing is a new rule
and this is the first opportunity for the Board to
interpret its rule, it is per the course for staff to more
strictly apply the definition and allow the executive
director and Board to provide its input should you choose
to appeal."

Well, here we are, we have appealed, and Mr. Wilkinson affirmed the decision of staff, and what I'd like
to point to is the language that's actually in the rule and
it states that -- what's really at work here is, it says,
"Financed with debt that meets feasibility requirements
under Subchapter (d) of this chapter without exception and
must also be supported by project-based rental or operating
subsidies for a minimum of 25 percent of the units."

Well, as Ms. Holloway said, nowhere in that rule
does it say from an external entity, although in the Board
action item that she wrote up and as she just said and in
letters from the staff, they point that it has to be an
external entity. That's not in the rule and so to me
that's ambiguous and it's omission by staff that it is
ambiguous, it's open to a different interpretation.

In addition to that, Mr. Wilkinson in his
response letter affirming the decision said that the rule
was reasonably interpreted by staff to mean project-based
rental subsidy or project-based operating subsidies. Well, again, in order for Mr. Wilkinson to reach his conclusion that it was a reasonable interpretation by staff, he inserted the word "project-based" after the word "or" and prior to operating subsidies.

So to me the issues, as I frame it, is when an applicant interprets the rule based upon the language of the rule as written before the applicant determines whether it's going to comply with the rule or not or must it infer staff's intent and the intent of additional language into the rule before it makes a decision whether it complies with the rule or not.

And so my arguments were twofold. One is the ambiguity of this rule. When I read it at face value what the language says, it does not require that this operating subsidy come from an external entity, and it does not require that it be a project-based subsidy.

In the context -- again, I know there's differences between a supportive housing project with debt and without debt, but the Department has accepted for years and allocations have been made to tax credit properties for years on the basis of without debt that the operating subsidy comes from a nonprofit sponsor.

And here to credit Ms. Holloway, she said that essentially we entered into an agreement with ourselves.
We believe that's not correct. The applicants are limited partnerships that will do these deals. Caritas of Austin is an affiliate but it's now with itself. By definition, it is an external entity to the applicants.

So to me, I'd ask that you find the language to be ambiguous and with this being a new rule and staff looking for guidance here for interpretation by the Board, that you all determine for two projects that scored one and three in this particular region to help our homelessness issue, as acute as it is in the City of Austin, that there be a little bit more flexibility of interpreting the rule in its first year.

And I think there would also be a suggestion to staff that, hey, before we go into the 2021 QAP you've got to sharpen your pencil and try to make this language a little bit more clear on what it the intent was of staff when it wrote this rule in the first place.

Also, in the contract interpretation, if there's a contract that's written and there's a provision that's ambiguous, it's interpreted against the drafter. In this case, staff is the drafter of this rule and I would suggest that in a legal context it should be interpreted against the drafter.

The other aspect of it is the possibility of performance, let's get down into this a little bit. The
rule provides for two alternatives to meet the requirement: either vouchers or project-based rental, meaning vouchers, which are not available. In your Board packet there's three letters that you received from the Housing authority of the City of Austin, the housing authority of Travis County and one from the city of Austin. They don't do vouchers.

Okay. That means there's an alternative provided in the rule, doing operating subsidies. As Mr. Wilkinson pointed out in his letter to us, what that typically means is either something from HUD or USDA. Well, USDA doesn't apply because we're in the City of Austin, it's not a rural project, so you're left with HUD.

HUD will not allow an applicant and they will not give a commitment for an operating subsidy when at this point in time it's only in the abstract, it hasn't been awarded credits and the project hasn't been built. Operating subsidies come from HUD under the continuum of care subsidy when the project is built and a sponsor goes and applies to HUD for that operating subsidy, then they get the money and then they can put the money into the project.

So it doesn't make sense for a rule to be written that makes it impossible to perform that which it's trying to accommodate. So gain, under contract
interpretation, you would look at it as, okay, what did the drafter intend. Well, the drafter intended for it to be possible to use an operating subsidy to meet the requirement.

Well, if you can't do that through HUD or USDA in this instance, then it seems like to me where it says just operating subsidies, my reading of it means, okay, then -- and you allow nonprofit to work without debt, that it applies in this instance too. And I think the legal interpretation from our clients have come to the conclusion that we satisfy all the requirements.

MS. BINGHAM: John, do you have any other final comments?

MR. SHACKELFORD: Just one other thing. The last thing is -- and thank you, Madam Vice Chair -- we think the agreement submitted does comply. Mr. Wilkinson points out there's no specific amount listed. Exhibit A of both of these operating subsidy agreements provide the annual amount that's going to be paid per unit and it gives the number of units.

What they didn't do is they didn't make the calculation for the Department and multiply the two numbers together to give an aggregate total for each project. But in the agreement itself, Exhibit A, it does specifically state the amount per unit of the subsidy and the number of
units. And so to me, if that was all the issue that we have, then that would be addressed by an administrative deficiency.

And that's all I have for you. Thank you.

MS. BINGHAM: Thank you, John.

Any questions from the Board members for Mr. Shackelford?

(No response.)

MS. BINGHAM: Naomi?

MS. CANTU: Yes. So we have two other speakers. We're actually going to go to Zachary Krochtengel first and then Jennifer Hicks.

As a reminder, please limit your testimony to three minutes.

So we have Zachary Krochtengel unmuted. I think you have a little bit of feedback.

MR. KROCHTENGEL: I'm not hearing anything over here.

MS. CANTU: Okay. You are unmuted.

MR. KROCHTENGEL: Good afternoon, members of the Board. I am very much in support of supportive housing and I do see how important it is to Texas and Austin as well, and that's why they're granted three extra points in their applications scoring is to prioritize that affordable housing. But I think that when you grant three extra
points it becomes very important that these projects comply with what is actually supportive housing, and the applicant tried to satisfy the rules that they required to proving up a rental assistance subsidy, however, they attached an operating subsidy agreement that I don't believe really meets those requirements.

None of the sources of funding that were recommended in that subsidy agreement, including project-based vouchers, tenant-based vouchers, or Caritas itself were proven up significant and sufficiently at the time of application. If you look at the resolution they attached from their board, it did not give them the authority to enter into an operating subsidy agreement, it didn't give them authority to enter into agreements to develop the project.

Also, if you are looking at how it's really defined for supportive housing, it requires the owner of a supportive housing development -- this is directly from the QAP -- to secure sufficient funds to maintain the supportive housing development's operations throughout the entire affordability period. Well, in this instance on tab 19, development activities, of the application, the applicant has selected a 45-year affordability period, however, the operating subsidy agreement is only for 15 years, as signed by Caritas itself. So that leaves a great
deal of time in their affordability period where they're not covered by that operating subsidy agreement.

Also, I'd like to point out that I don't believe that at this time this is truly an enforceable agreement that can be relied upon to prove up funding. There's no consideration being given from the LLC to Caritas itself.

Finally, if we're talking about definitions, not every word of the QAP is going to be defined in the defined terms of the QAP, so when you look at a term like "subsidy", I looked to Black's Law Dictionary to see that it's a grant of money made by a government in aid of the promoters of any enterprise, work, or improvement in which the government desires to participate.

So I think the word "subsidy" itself shows that it's close to impossible to subsidize yourself. You can't subsidize your own project because that subsidy is implied that it's coming from a third party.

And finally, while it was said by Mr. Shackelford that you can't prove up a contract in the threshold requirements for rental assistance and subsidy it does allow you to show that you proved that you entered into an application for those funds. So if they had proved that that application was filed before the March 1st deadline, they would have satisfied this threshold requirement, however, they were unable to do so and I
believe that that agreement that they filed with their application does not meet these threshold requirements which leads to a material deficiency in their application which should lead to termination of that as recommended.

Thank you.

MS. BINGHAM: Thank you, Zachary.

Naomi?

MS. CANTU: Yes. We have Jennifer Hicks. We're moving her over to be a panelist so she can share her video, and there she is.

MS. HICKS: Thank you.

Madam Vice Chair Bingham and Board members. My name is Jennifer Hicks, consultant to the applicant.

To begin, I want the Board to know that I have dedicated my entire career to supportive housing. I have overseen the financing of nine TDHCA awarded supportive housing projects. I understand this model, including the subsidies. I state with conviction that the Espero Austin projects meet the supportive housing definition and underwriting rules and are a familiar model of a strong nonprofit with control of the project with a solid fund-raising background and substantial experience.

A story. Three years ago I was in the car with my kids. We approached a man who appeared to be experiencing homelessness. I saw my son's furrowed brow
and I got ready for a talk. As we pulled away, I heard him turn to his baby sister and say, “Don't worry, Mommy is going to build him a home.” That simple statement is why I am here. Its simplicity carries through in today's decision.

First, the projects submitted met the rules as written, period. Second, there was no roundtable discussion or manual where details were missed. The first time hearing staff's interpretation of an operating subsidy was in our termination letter. Third, there is no risk in reinstating these applications.

They meet the intent of the subsidy requirements to ensure that only true and supportive housing is awarded three points. You have over 20 letters of support, including the senator and two state reps, city council members, city department heads, advocates and nonprofit partners showing Caritas's dedication to ending homelessness. There is simply no question.

To clarify, we did pursue vouchers and both housing authorities said that vouchers aren't available until the project is farther along. We instead provided a 15-year operational subsidy sourced out of ample funding awarded to Caritas. These local, state, federal and philanthropic subsidies are not awarded to an applicant or a project, they are awarded to Caritas.
Final note on precedent. Our operating subsidy agreements are in the exact same form as past operating subsidy agreements accepted by TDHCA on past supportive housing deals. This is not a sponsor loan; these are operating subsidy agreements. We use them as a template. Debt or no debt, an operating subsidy performs the same way to ensure the feasibility and confirm targeting.

In closing, we can look to next year's QAP to clarify language, but be assured that these projects are exactly what you intend.

I am grateful for your consideration. Please reinstate these applications that allow us to be saved.

I also want to point out that the gentleman, Zachary -- I didn't get his name -- is with the application in Region 6 that would benefit if our application -- the Houston application 3300 Caroline, their application with benefit if that application is also -- the termination is upheld. So I just want to point that out that he is not an applicant in Region 7 where our application is.

Thank you so much.

MS. BINGHAM: Thank you very much, Jennifer.

Any questions for Jennifer?

(No response.)

MS. BINGHAM: Thank you.

Naomi, are there any other comments?
MS. CANTU: I don't see any other comments in the questions box and we have covered everyone who had pre-registered to speak.

MS. BINGHAM: Great.
Can we have Marni back?
MS. HOLLOWAY: Here I am.
MS. BINGHAM: There you are.
So we have a motion and a second to deny the appeals timely filed by the two Espero projects in alignment with staff's recommendation. Do the Board members have any other questions of Marni?
(No response.)
MS. BINGHAM: I guess we'll call for the vote. Let's call for the vote. So we have a motion and a second to deny the appeal timely filed by Espero Austin Rutland and Espero Austin W. 24th. All those in favor the motion aye.
(A chorus of ayes.)
MS. BINGHAM: Opposed?
(No response.)
MS. BINGHAM: The motion carries to deny the appeals. And really, we were able to review all of the documentation that was provided, and Bobby, I really appreciate the work of you and your staff. I know there were a lot of hearts involved in this and that these
projects are very special, and I would speak for the Board in that, you know, we are extremely advocates for supportive housing. I think this was an obstacle that we felt like was clear as evidenced by the motions and the unanimous vote, but we really continue to encourage the community to seek viable solutions for more supportive housing, clearly it's needed.

So thank you all for your work on that. I know that was very difficult.

So Marni, shall we move on to application 20114, 3300 Caroline?

MS. HOLLOWAY: Certainly. This application is another proposed supportive housing development that's taken advantage of the changed definition to submit an application. The application included a narrative describing the applicant's intention to have a long-term Section 8 project-based housing assistance payment contract through the Houston Housing Authority but didn't include evidence of an agreement with the authority.

Staff determined that the application should be terminated because it did not provide sufficient evidence that it met the requirements of the supportive housing definition. In response to a deficiency notice, the applicant informed staff they had submitted a proposal in response to the Houston Housing Authority's request for
proposals to distribute 1,000 project-based vouchers, however, the RFP was issued after the application acceptance period had ended.

The appeal focuses on the prospective nature of the wording of some criteria in the definition and notes that the application included a letter from the Houston Housing Authority supporting the idea that a proposed development submit a proposal for project-based vouchers. For the appeal, the housing authority provided a letter explaining the RFP process and materials indicating that the applicant has now submitted an application seeking project-based vouchers for all 149 units.

Finally, the applicant claims to have satisfied the threshold requirements for project-based vouchers by including with the application documentation that identifies the source and annual match of the funds, the number of units receiving the funds, and the term or expiration date of the contract or other agreement. Our rules state that if rental assistance is proposed to exist for a development any related contract or other agreement securing those funds or proof of application for such funds must be provided.

It may be true that the applicant submitted everything it could with the application to indicate that project-based vouchers were expected for this development
as they stated in their appeal. The timing of their request for proposals did not allow submission of a contract or application for the rental assistance. In addition, the supportive housing definition requires that the proposed development must also be supported by these vouchers which can't be shown without a contract or application.

Our statute imposes certain requirements that if an application includes rental assistance, without publication of the RFP prior to the application's delivery date, there's no way to determine if the proposed assistance meets those requirements. Our underwriting rules are also clear that this information is necessary for REA to prepare its report.

Because the applicant did not provide evidence of project-based vouchers or operating subsidy for a minimum of 25 percent of all units, staff determined that the application does not meet the definition of supportive housing and the target population must be changed to either elderly or general. The development does not meet threshold requirements to serve either of these populations. Staff recommends that the Board deny the appeal.

I'd be happy to take any questions.

MS. BINGHAM: So Marni, are you saying that they
have secured it since then?

MS. HOLLOWAY: They have applied for it and I believe the gentleman that spoke earlier from the housing authority said that --

MS. BINGHAM: Mr. Thiele?

MS. HOLLOWAY: -- Mr. Thiele said that they have been awarded those vouchers. Yes.

MS. BINGHAM: Okay. Any other questions for Marni?

MR. BRADEN: And just for clarity and to emphasize a possibly distinguishing factor, first of all, these are vouchers, and second of all, they're coming from a third party, a third-party government entity. Correct?

MS. HOLLOWAY: Right. They're coming from the Houston Housing Authority.

MR. BRADEN: Right.

MR. WILKINSON: This was a much closer call. It's closer to the definition and the rule. It's just a matter of timing.

MR. BRADEN: Right. It seems like they comply now but they couldn't comply when they submitted the application because the Houston Housing Authority hadn't finished its process.

MS. HOLLOWAY: That's correct.

MR. VASQUEZ: And isn't that process dependent
on federal approvals and timing delays are built into that?

MS. HOLLOWAY: I don't know. Perhaps there is someone who is prepared to speak on that question. It could very well be. You know, most federal funds are provided as an annual allocation, so you're not able to start the review process or start the application process until you know that you have those funds coming.

MR. WILKINSON: I think it would be safe to assume they had federal hurdles.

MR. ECCLES: This is Beau, I'm on the line. It's just not an inquiry we made because they did not satisfy the definition of being able to provide proof of application for these vouchers.

MS. BINGHAM: Is there a Board member interested in making a motion on this appeal timely filed for 3300 Caroline Street?

MR. VASQUEZ: Before that, I'm sorry, can I just -- I guess it's a question for Beau again. Is this just a Board discretion decision as to whether we can accept the information that they now do have the vouchers that wasn't submitted with the original application?

MR. ECCLES: Well, it's a little bit more convoluted than that and it winds up being a bit of a rule interpretation. The statute requires that an application contain detailed information in a form prescribed by the
Board and for rental assistance or operating subsidies it needs to identify the source and annual amount of the funds, the number of units receiving the funds, the term and expiration date of a contract or other agreement. Now, our rule takes off of that in a form prescribed by the Board and it expands it to include a related -- you can provide at application a contract or other agreement securing those funds or proof of application for such funds.

So the rule sort of interpretation that may be to the Board is what we have and was submitted with the application for 3300 Caroline was a letter dated February 26, 2020 from the Houston Housing Authority that lays out all of the elements of the source and annual amount of the funds, the number of units receiving, the term and expiration date, but the problem is they were also saying we don't have an application yet. So is pre-application proof from the Houston Housing Authority, is that an application.

MR. VASQUEZ: And in this case after the fact they did provide proof.

MR. ECCLES: Yes, but that's not part of their application.

MR. VASQUEZ: So it's our discretion as a Board to accept it or not?
MR. ECCLES: I would say it's an interpretive matter for the Board to say whether the language in 11.204, I think it's (8)(F) regarding rental assistance and subsidies that if rental assistance, an operating subsidy, an annuity or an interest rate reduction payment is proposed to exist or continue for the development, any related contract or other agreement securing those funds or proof of application for such funds must be provided. The proof of application for such funds would include essentially a discussion of the application process and satisfaction of all of the elements required by statute with the entity that would award them but they haven't put the application up yet.

MS. THOMASON: Marni, are there applications that did meet these requirements?

MS. HOLLOWAY: The two Espero applications and this one are the only supportive housing -- I believe -- I believe they're the only ones that came in under this particular part of the supportive housing definition, but let me double check that.

MR. BRADEN: I mean, I guess I find it a little hard to say that we're going to make a determination that they did not provide proof of application when, in fact, they did apply and they were awarded these vouchers.

MS. THOMASON: But they didn't include proof of
application in the application.

MR. BRADEN: They included a letter that said they're applying, and this is all the stuff we need and it's what we're going to ask for. It's up to us to interpret whether we think that is satisfactory proof of application in light of the fact that they got the vouchers.

MR. VASQUEZ: I was going to say if they didn't get the vouchers, that letter would not have been sufficient, but since they did and on a timely basis, I tend to lean towards approving.

MR. BRADEN: And that their timing is fortunate. Right? I understand why staff denied the application because they didn't notify and proof wasn't sufficient, and by the time they got to the appeal, well, here's proof, we have them. I mean, it sort of substantiates the fact that what we filed with our application in fact was proof because now we have the vouchers.

MR. VASQUEZ: Hearing Paul's comment, I could make a motion, Madam Chair.

MS. BINGHAM: Mr. Vasquez.

MR. VASQUEZ: Okay. I would move that the Board approve the appeal of the applicant at 3300 Caroline and allows the application to continue forward.

MS. BINGHAM: Okay. I have a motion to approve
the applicant's appeal for application 20144, 3300 Caroline Street. Is there a second?

MR. BRADEN: I'll second.

MS. BINGHAM: We have a motion from Mr. Vasquez, a second from Mr. Braden.

We will check with Naomi to see if there's comment.

MS. CANTU: We do have comments on this. Are you ready to hear public comment?

MS. BINGHAM: Yes.

MS. CANTU: We have several people signed up. We're going to start with Cynthia Bast, she's going to use her camera. And then we are going to move on to Lance Gilliam.

So Cynthia, we see you.

MS. BAST: Good afternoon. Thank you very much. Thank you for the thoughtful discussion. It's clear that you understand where we are with this application, and I just want to give you some assurances that I do believe that this application meets both the statute and the rule.

The statute gives us our threshold requirements in the rule about identifying the source, the annual amount of the funds, the number of units receiving the funds, the term, the expiration date, all of the things. We did have the letter from the Houston Housing Authority that
describes those things. And then our client used that information throughout his operating pro forma to show its intent, so I believe we meet that.

That gets us to the second element which is any related contract or other agreement securing those funds or proof of application for such funds may be provided. Obviously, any applies to the extent available. There is not a contract available at this time. As I believe you heard from Mr. Thiele this morning -- it's been a long time since his testimony -- the Houston Housing Authority does have procedures that it has to go through to be able to award these vouchers, and the timing for that just did not match up with TDHCA requiring a commitment at the time of application.

They had to go through their annual option plan and then putting out an RFP and a variety of things, but at the time they met in August of 2019, as Mr. Thiele testified, they knew this RFP was coming, they knew this development was planned. They knew the RFP was going to be for a thousand units and there was only 150 being requested here. They knew that this application would score well because of all of the attributes of being in a good opportunity area and all of those kinds of things.

So we presented in the application everything that could be presented which is evidence that the process
had been started with the Houston Housing Authority, and therefore, we appreciate your interpretation that that is sufficient to meet the threshold rule and that we can say that this development is supported by project-based rental vouchers.

So I will give the rest of my time now to -- since Mr. Thiele had to leave, I think Kevin Campbell wanted to speak next, if possible. And I'm happy to answer any questions. Thank you.

MS. BINGHAM: Naomi?

MS. CANTU: Yes. We actually have Lance next, Lance Gilliam. And as a reminder, please limit your time to three minutes and we are not donating time during this meeting, you cannot donate to another person.

So Lance, you are next.

I will also want to say after Lance we have Neal Drobenare -- I do apologize about the pronunciation -- and after Drobenare we have Zachary Krochtengel again. We do have three people signed up that have not indicated they want to speak recently, so three people pre-registered. That's Mark Eichenbaum, Mark Thiele, and Kevin Campbell. They pre-registered but they have not indicated to us that they would like to speak. So if you would like to speak now, please go ahead and let us know in the questions panel so we can find you and make sure you're in the queue.
So again, we're going to Lance, and Lance, you are unmuted.

MR. GILLIAM: Yes, ma'am. My name is Lance Gilliam. I was formerly the chairman of the Houston Housing Authority's Board of Commissioners and now the incoming chairman of the Coalition for the Homeless, Houston/Harris County. I'm also an advisor to the applicant, two highly respected nonprofit organizations, Magnificat Houses and the NHP Foundation.

As my friend, Mr. Thiele, noted earlier, HHA's Board of Commissioners unanimously approved a resolution to contribute project-based vouchers to support the applicant's proposed development. That approval was granted at the first possible board meeting after HHA's process to approve vouchers allowed.

I know HHA endeavored to coordinate their resources with TDHCA's guidance as provided in the 2020 QAP, and notwithstanding best efforts by HHA, I'm now recognizing the timing wasn't perfect but they truly have a collaborative commitment to work with you and your team.

As a former public official, I have tremendous respect for the responsibility that each of you bear and trust that you place in your staff. Notwithstanding, I do hope that you will grant the requested variance because I believe it not only respects your intentions when you
approved the QAP, but also most importantly, honors the importance of critical collaboration between TDHCA, local housing authorities and valued nonprofit.

Thank you for your thoughtful consideration.

MS. BINGHAM: Thank you, Mr. Gilliam.

Any questions for Mr. Gilliam?

(No response.)

MS. BINGHAM: Naomi?

MS. CANTU: Yes. Next is Neal Drobenare. We're going to go ahead and unmute you.

MR. DROBENARE: Can you hear me?

MS. CANTU: Yes.

MR. DROBENARE: Great. Thank you very much for this opportunity to talk to you. My name is Neal Drobenare. I'm senior vice president of the NHP Foundation, which is a national affordable housing developer that works with smaller local nonprofits, such as Magnificat, to build affordable housing here in Texas and around the United States. We have a thousand units in Houston.

I'd also like to take this opportunity to thank both the Board and the staff for running a very inclusive process on changing the rule that we're talking about right now and we think it's a great additional step.

One of the things that this rule does is it
changes the QAP definition from one based on how the
project is financed to who the project is serving and what
they're doing to serve them, and we think that's a great
step forward, and allowed us for the first time to have
hard debt. Now, we think that it's in the definition
mostly because originally the prohibition was in this
definition. Now that it's changed, we think that the
Section 8 operating subsidy should be treated just like
every other piece of the finance and that it needs to be
proven out in underwriting and ultimately as a condition of
building it.

I think we clearly meet that. I think we met
the application back in August when the housing authority
thought it could do vouchers without a competitive process.
We met with them, and that started the process where they
realized they couldn't and they put out the RFP once they
were able to see what you were doing on the QAP.

We think that it's reasonable that y'all find
that we moved forward at the appropriate time and that I
think as a matter of course that these issues be dealt with
in underwriting and feasibility and are not really a
threshold item. You've gone in the direction of making
supportive housing that is for particular populations that
get particular services.

How they're financed is really an issue in
feasibility not in the definition, because you can't have projects that are supportive housing with debt and supportive housing without debt as part of your definition. I hope that you use your discretion to clarify this rule which, quite frankly, was a great step forward and we appreciate the fact that you and your staff took the time to come out with a rule that we think is comprehensive and one of the best in the nation. Thank you very much.

MS. BINGHAM: Thank you, Neal.

Naomi?

MS. CANTU: Yes. Up next we have Zachary Krochtengel. We're going to go ahead and put him in queue. After Zachary we have Mark Eichenbaum. We are still waiting to hear from Mark Thiele and Kevin Campbell. If you are on and would like to speak to this item, please let us know in the questions box.

MR. KROCHTENGEL: Good afternoon, Board members. Once again, Zachary Krochtengel.

You know, in hearing all these arguments, it really comes down to timing and deadlines and we all deal with these timing and deadlines. I've had city councils that were unable to pass a resolution and their next meeting was not until March so I couldn't get a resolution done.

HHA could have issued an RFP on February 28th.
but they couldn't get that RFP issued and the timeline didn't match up. They had a letter saying they intended to apply for that RFP, but that RFP was not applied for before that application deadline. And I apologize but I'm going to go through a bit of QAP language to show why this application is, unfortunately, ineligible and I don't think that this is an interpretation issue in any way.

The application is proposing a long-term Section 8 project-based contract with the Houston Housing Authority. Now, when we are talking about 11.204, the title of those rules under which the evidence is required is "Required Documentation for Application Submission."

It goes on to say, "The purpose of this section is to identify the threshold documentation that is required at the time of application submission or as specifically indicated or otherwise required by Department rule."

That's black and white, these are threshold requirements.

And then there's a section specifically for rental assistance or operating subsidy which gives you either a contract or proof of an application for such funds. I do not believe that the letter stating that they were going to submit a contract after the application deadline fits either of those two parameters.

Finally, when you really look at this, this goes to whether this is an administrative deficiency or a
material deficiency, and I want to remind the Department of what the definition of a material deficiency is. A material deficiency specifically states: "The inability to provide documentation that existed prior to submission of an application to substantiate claimed points or meet threshold requirements is a material deficiency." So that fits perfectly with this definition.

It did not exist prior to the submission of the application. Their application to the RFP was on March 4th, not prior to the application deadline, and that would have substantiated the requirement of a threshold item under 11.204.

The presence of a material deficiency under 11.202(2)(B) dealing with ineligible applications and applications state: "An application shall be ineligible if any criteria in subparagraph (A) through (C) of this paragraph apply to the application." And subparagraph (B) specifically includes if the application has a material deficiency, they are considered ineligible. That is why when we go through the QAP rules, there really is no leeway on this because they did not have a threshold requirement under 11.204 and that’s a material deficiency by definition because it did not exist prior to the application.

There are many supportive housing applications that meet certain requirements and were able to move
forward. We were working on an application in Region 6 for supportive housing that we did not believe met these threshold requirements, did not put that application in specifically for those reasons, and to see threshold requirements waived after the fact for actions taken after the February 28th deadline flies in the face of what other people may not have submitted because of these specific stringent deadlines and threshold requirements that are defined in the QAP.

Thank you.

MS. BINGHAM: Thank you, Zachary.

Naomi?

MS. CANTU: Yes. We have Mark Eichenbaum next. Let's go to Mark. You are self-muted.

MR. EICHENBAUM: Can you hear me?

MS. CANTU: We can.

MR. EICHENBAUM: Great. Good afternoon, Madam Chair and honorable members of the Board. My name is Mark Eichenbaum, and I'm a special assistant to the mayor of Houston for its homeless initiatives, and on behalf of the City of Houston I'm here to express our support of this project.

This project is a vital component of our larger initiative to substantially reduce homelessness in the region. We are grateful for the continuing partnership
with TDHCA.

That partnership is best exemplified in our defined efforts to not just respond to homelessness but permanently reduce and end it, and TDHCA's support is instrumental in helping the Houston area house 18,000 homeless individuals, reducing homelessness in the region by 55 percent in 2011. However, Hurricane Harvey has caused an increase that we have still not recovered from, and in light of Harvey and COVID and our efforts to house people off the streets have been shelters, we have devised a large scale comprehensive public-private initiative to move the needle.

The stars are aligning. The city, the county and others are prepared to make substantial investments in supportive services, housing navigation, rent/income management, but one thing is missing, and that invaluable missing piece is tax credits for projects like 3300 Caroline. All the stars are aligning.

It doesn't happen very often. This is a fleeting opportunity to exponentially leverage TDHCA's award to maximize the cap. Because of TDHCA's support, Texas is on the cusp of becoming the first state in the country with a major city to achieve an end to chronic homelessness. This project will help Houston and the state achieve this groundbreaking milestone.
The city is not asking for special treatment for this project, rather we're asking for fair and equitable treatment. The current staff's position requiring a hard commitment of vouchers at the time of application means that it was virtually impossible for a Houston project depending on project-based vouchers to meet this threshold requirement for supportive housing.

It is not that the applicant failed to provide a hard commitment for project-based vouchers, rather, it was impossible for the applicant or any applicant in Houston depending on the vouchers from the Houston Housing Authority to provide it. No fault of their own. Their hands were tied.

The city supported and is grateful for the Board's approval of the rule change and broadening the definition and the intent of this change was to expand supportive housing applicants and the current interpretation of the new rule is exactly the opposite by restricting it. Affordable housing developers and projects is one thing, but it is exponentially harder to come across projects willing to provide essential supportive housing.

This project now has the hard commitment, it has the hard commitment for the vouchers from the Houston Housing Authority. It was impossible for them to provide that hard commitment by the application deadline, no fault
of their own.

For all these reasons, the City of Houston asks the Board to approve the applicant's deal.

Thank you for your time and your service.

MS. BINGHAM: Thank you very much, Mark.

Naomi, I think Mark Thiele had already spoken earlier. Do you still have Kevin Campbell?

MS. CANTU: Kevin has not responded to us that he would like to speak. We do have him? All right. Then we do have Kevin, so we can go to Kevin. We also have Mike Nichols queued up and Jason Minter queued up as well. So we'll go to Kevin Campbell.

MR. CAMPBELL: I'd like to thank the Board for hearing us and considering approving our appeal. My name is Kevin Campbell. I am here speaking for Magnificat Houses, Inc., who is the owner of the land in question at 3300 Caroline and is the social services provider for this proposed project. I'm going to talk to you a little bit about who Magnificat is and also what's unique about this high opportunity location for this project.

For 51 years, Magnificat Houses has proved to be an alternative for people living on the streets by sheltering, clothing, feeding and providing mental health support, employment training, and spiritual guidance to these men and women at the very bottom of Houston's
economic ladder.

In 1968, as a faith-based nonprofit, we opened our first home staffed by volunteers to house and support women being released to the street from a state mental hospital. From that humble beginning we have steadily grown to 16 residential homes housing up to 170 people at a time. Subsequently, over the last 51 years we have housed and supported over 20,000 of Houston's most impoverished, forgotten and forlorn.

Additionally, in the last 48 years we have provided over 10 million meals from our Loaves and Fishes soup kitchen downtown. But we don't just provide a bed and a meal. For five decades we have wrapped social services, guidance and rehabilitation supports around all of our guests.

In our midtown campus, which surrounds 3300 Caroline, and which is located halfway between downtown Houston and its services and the Texas Medical Center and its services. In this location we have eight residential properties, a consecrated chapel, a mental health rehabilitation facility, a thrift store, an art studio, a commercial wood shop and a two-acre park with fruit trees and a vegetable garden.

We are next door to the Houston Community College main campus, one block from HCC train station which
is two stops from the Wheeler transit center and two stops from the Downtown transit center. And we have two major bus stops at the end of our streets. Magnificat is well established and well received in the neighborhood and well recognized as being part of the solution helping Houston's homeless where they live and providing support services exactly where they're needed.

The rising land value in midtown has caused the cost of development to skyrocket in this high opportunity area. Having bought our properties 30, 40 and 50 years ago and being a nonprofit, we are in a unique position to redevelop our property for desperately needed public services, services that no one else would or could economically do. So we sought out a development partner whose nonprofit public service mission and values matched our own, and that is our experienced development partner, NHP Foundation.

We were constantly being approached with high dollar cash offers by for-profit developers to buy our property to build million-dollar condos and high end office and retail. The money is very attractive but what would happen to the people we serve? There is no place that we could move to that comes even remotely close to being able to provide the employment, transportation and access to medical and social services to the people we serve as this
location at 3300 Caroline.

So again, we thank you and ask you to help us help our people where they need it most, at this unique high opportunity location in midtown.

MS. BINGHAM: Thank you, Mr. Campbell.

Naomi?

MS. CANTU: Yes. We next have Mike Nichols and Jason Minter. So Mike, you're up next.

MR. NICHOLS: Am I unmuted? This is Mike Nichols.

MS. CANTU: We can hear you.

MR. NICHOLS: Thank you, thank you. I am the president and CEO of the Coalition of the Homeless of Houston, Montgomery County, Harris County and Fort Bend County, and we are the group that tries to align the resources that help homeless people.

It was spoken earlier, since 2011 more than 18,000 people have been housed. Currently there are 5,000 former homeless people who are housed with supportive services. The major thing is when you have a system like that there is an 85 percent success rate. These programs work, supportive housing works.

One of the issues we have is we need more units and we need people like Magnificat and NHP to join in the process of gaining more units. It is a complex process, as
you can see, and we really appreciate the Board looking at the complexity of trying to align these resources.

Mark Eichenbaum spoke about a new plan that would end chronic homelessness in Houston because of the new COVID dollars. The issue continues to be enough housing. So this project is very important, it's in the right place with the right partners, and we need the additional partners in our system.

We want TDHCA to help us garner more people and more partners interested in building supportive housing, so yes, we need you to support this effort. The tax credits are essential in building this supportive housing, especially in a city like Houston with all the other demands that we have.

Again, we've had meetings on this program recently to end chronic homelessness, and the one thing we have, the one problem we have to overcome is the need for more units. This is a real opportunity for us and I urge, urge the TDHCA to join with the mayor and the city council and the county judge and the Houston Housing Authority and the Coalition for the Homeless in aligning resources.

That's what our job is to do to make government work, to make it where it's not just barrier after barrier.

This is a chance to show that government works.

Thanks so much.
MS. BINGHAM: Thank you very much, Mr. Nichols. Naomi?

MS. CANTU: Yes. We have Jason Minter and then next up Casey Bump, so Jason Minter is next.

MS. BINGHAM: Great. Can we just remind, we've heard a lot of comment on this application and would just encourage the remainder of the speakers to speak to only aspects that have not been addressed to this point and to please stick to the three minutes. Thank you.

MS. CANTU: Thank you, Ms. Bingham.

Yes, please make sure to stick to three minutes and only on items that have not already been addressed.

With that, we will go to Jason Minter and then Casey Bump.

MR. MINTER: Thank you. I'll be quick. First I just want to thank you guys for your time and consideration. I'm Jason Minter and I'm an assistant of Neal's at the NHP Foundation.

I just wanted to make one quick comment on the intent of the rule, and one thing I learned today in Marni's overview was that the original intent was to secure or to require 100 percent of TBVs and that was reduced through dialogue with the development community last year. I just wanted to point out that today we do have that commitment from the Houston Housing Authority for all 149
units that will ultimately be at 3300 Caroline. So I just wanted to add that other point that today we do meet that original intent of the rule.

And just thanks for your time.

MS. BINGHAM: Thank you very much, Jason.

Naomi, Casey?

MS. CANTU: Yes. Now on to Casey, we're going to move on. As a reminder, please stick to three minutes, and we will unmute you.

MR. BUMP: Good afternoon, Madam Chair and Board members. Can you hear me?

Great. I will be very quick. Casey Bump, president of Bonner Carrington and we do have an application that is in the region that's below these, and at the end of the day, a number of the speakers who have indicated that the applicant was not able to make the threshold because the RFP did not exist, and so at the end of the day you can't apply for something that's not there. And as an applicant down the line, I would just respectfully request that you apply the threshold requirements evenly.

Thank you, and I appreciate your time.

MS. BINGHAM: Thank you very much, Casey.

So Naomi, there are no more comments in the queue for 3300 Caroline?
MS. CANTU: I do not see any other comments for this application. We do have Mark Thiele available for questions if needed.

MS. BINGHAM: Thank you very much.

So we heard staff's presentation and we've heard comments on application 20114 for 3300 Caroline Street. We have a motion and a second to approve the appeal timely filed. Is there any further discussion?

(No response.)

MS. BINGHAM: We'll call for a vote. All those in favor of the motion to approve the appeal, aye.

(Ayes: Bingham, Braden, Vasquez.)

MS. BINGHAM: Any opposed?

MS. THOMASON: I'm opposed.

MS. BINGHAM: Thank you very much. Pardon me?

MS. THOMASON: Yes, I am opposed.

MS. BINGHAM: Okay. Thank you very much.

Majority rules on 3300 Caroline Street approving the appeal.

All right. Application 20148, High View Place. Is Marni still with us?

MS. HOLLOWAY: I'm here.

So for application 20148, High View Place, staff determined that the application does not qualify for points under the concerted revitalization plan scoring item...
because the application only included a HUD consolidated plan and CAFR. Staff issued a scoring notice alerting the applicant of the loss of seven points subject to applicant's ability to appeal.

The QAP clearly states that a consolidated plan, one-year action plan or any other plan prepared to meet HUD requirements will not meet the requirements under this clause unless evidence is presented that additional efforts have been undertaken. The appeal describes the steps that were taken by the City of Killeen to develop its HUD consolidated plan for the 2015-2019 period -- it's a five-year plan -- stating the degree of detail, which is unusual in a consolidated plan, was clearly intended to implement the revitalization initiatives within the North Killeen local target area without the necessity of a subsequent implementing plan as is sometimes used by cities.

After review of the plan, staff did not find that additional efforts beyond anything already prepared to meet HUD requirements were undertaken to meet the rule requirements for scoring. While it is clear that a consolidated plan could be used as a basis to meet the requirement of the rule, the rule requirement to present evidence of additional efforts requires the presentation of additional evidence outside of the con plan showing that those efforts are more than what is set out for HUD.
The appeal seems to take the opposite view that all of that evidence can be found within the con plan itself describing efforts made by the city to identify areas of need and consider public comment. The HUD exchange website included this description: "The consolidated plan is designed to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions and to make data-driven place-based investment decisions. The consolidated planning process serves as a framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from the CCD formula block grant programs."

The efforts described in the appeal are the same efforts that every participating jurisdiction, even the State of Texas, undertakes every five years. Without clear evidence that the additional efforts clause of the rule has been met, staff found that the application did not qualify for seven points for a concerted revitalization plan and will recommend that the Board deny the appeal.

MS. BINGHAM: Thank you, Marni.

Any questions from the Board members of Marni?

(No response.)

MS. BINGHAM: If not, we'll entertain a motion.

MR. BRADEN: I'll move to approve staff's

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recommendation.

MS. BINGHAM: Okay. We have a motion from Mr. Braden to approve staff's recommendation. Is there a second?

MS. THOMASON: Second.

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

Naomi, will you let us know if there is public comment on High View Place?

MS. CANTU: We do have comment. I believe we have a letter to be read into the record by Michael Lyttle first, and then after Michael will be Tamea Dula.

We are looking for Michael Lyttle, and you are self-muted.

MR. ECCLES: Actually, this is Beau. This is a letter that was sent in from a city administrator from City of Killeen, and I have questions as to whether it contains new evidence not included in the application. It is in the chair's discretion whether this is allowed to be read into the record, so before it's read into the record, the chair needs to actually make that determination.

MS. BINGHAM: Beau, do I have access to the letter, or can I use your counsel?

MR. ECCLES: I'm sure that we could provide you the letter.
MS. BINGHAM: Actually, Beau, so I would prefer not to read it into the record if it includes information that hasn't already been -- if it's new information.

MR. ECCLES: And perhaps the applicant could shed some light on that, whether this is all contained within the application or if this is new information.

MS. BINGHAM: Very good.

So Naomi, we will not read the letter into the record at this point in time and move to comments.

MS. CANTU: Yes, of course. So we have Tamea Dula. We're going to go to Tamea first and then next is Tim Smith.

MS. DULA: Can you hear me?

MS. CANTU: Yes, we can hear you.

MS. DULA: Thank you. This is Tamea Dula with Coats Rose. Good afternoon. I'm here to speak in connection with number 20148, High View Place in Killeen, Texas, in opposition to that application's termination. I think we need to consider why the QAP indicates that a consolidated plan with evidence of additional efforts can qualify for the CRP points.

From 2015 to 2018, the QAP did not refer to consolidated plans in the concerted revitalization plan requirements. The status was, however, the consolidated plans were generally not regarded as being able to qualify
for the points because they were too vague. Why is that? Well, a consolidated plan is prepared for HUD to plan the use of community block grant funds such as HOME and CDBG funds.

Consolidated plans are general in nature, they cover the entire jurisdiction such as an entire city, and they are focused on population categories such as low income, elderly, disabled, homeless and special needs persons, and they're also focused on the allocation of the HUD funds within the jurisdiction in order to assist these populations.

In 2019 the QAP was changed to permit one or two plans to be utilized in meeting the concerted revitalization plan points, and the language concerning the consolidated plan requesting evidence of additional efforts in order to quality was first inserted there. The same language is in the 2020 QAP. So since 2019, the tendency has been to have one plan showing the initial identification of a revitalization area and a subsequent plan implementing a revitalization project.

The City of Killeen, however, provided both identification of a local revitalization target area and an implementation plan in the same document, the consolidated plan that they submitted to HUD. The QAP language can be interpreted as either showing evidence of additional
efforts within the consolidated plan itself or through extra materials provided in the application.

This applicant did both. The consolidated plan is substantially in excess of the minimum consolidated plan requirements set out in HUD's guidelines for preparing consolidated plans for local jurisdictions.

The applicant additionally provided annual audits for 2015 to 2018 synopsizing subsequent financial support for the North Killeen target area that was provided by the city. Also included was the city's resolution of financial support for this project in the North Killeen target area, and their resolution establishing this project as being the most important one for their revitalization efforts.

Staff has never suggested in our correspondence concerning the termination and appeal that the applicant failed to meet all of the requirements for the CRP points absent the issue of whether the consolidated plan had to be in concert with other additional evidence.

We submit that most consolidated plans would not meet these requirements but this one does, demonstrating the additional effort of one, responding to public input by including the implementation of a revitalization target area, and two, providing evidence of the city's continuing efforts to fulfill the implementing requirements by
subsequently funding the infrastructure projects within the
North Killeen targeted area that were established in the
2015 consolidated plan.

Now Tim Smith is going to disclose and discuss
how this application meets all requirements of the QAP,
unless you have questions for me.

MS. BINGHAM: Does anybody have any questions
for Tamea?

(No response.)

MS. BINGHAM: Okay.

MS. DULA: Thank you.

MS. BINGHAM: Thank you very much.

MS. CANTU: All right. Next up we do have Tim
Smith, and as a reminder, please limit your testimony to
three minutes. There is a timer on the screen if you need
a visual reminder as well.

Tim, you are ready.

MR. SMITH: Okay. Can you hear me?

MS. CANTU: Yes.

MR. SMITH: Okay. Very good.

Good afternoon, members of the Board. My name
is Tim Smith of Hope Development Services, and I'm a
consultant for the applicant.

The issue here is whether the CRP plan submitted
in the application meets the requirements of 11.9(d)(7)(A)
of the QAP and particular part 3 of the subsection. The applicant has thoroughly documented in the application that the submitted CRP plan meets all the requirements of section 3. This was done in the initial application and then reiterated in the appeal to the scoring notice.

Through this entire process, correspondence and communication from TDHCA staff has never stated that there were problems or deficiencies in meeting the threshold for concerted revitalization plan as outlined in section 3 of the QAP. Staff has consistently responded that the issue is not that the CRP plan did not meet the requirements of section 3, but they're looking for additional effort in meeting the requirement.

The purpose of additional effort is to ensure that you meet the requirements of this section. It is the means, not the goal. What are the requirements? Number one, the target area cannot be citywide but a smaller local area. The plan thoroughly documents how this small local target area within in the city, designated as the North Killeen local target area, was identified and created. The development site for this application is located in this area.

Second, the plan was adopted by the local municipality. This was evidenced in the application.

Next, the revitalization area must be identified through a
process involving public input. The CRP plan documented the extensive community survey conducted by the City of Killeen and how the public input shaped the formation of the plan.

The plan must also identify eligible problems such as infrastructure in disrepair including streets and sidewalks. These exact specific problems cited in this section of the QAP were identified in the CRP plan within the North Killeen local target area.

Section 3 also requires that the goals adopted in the plan have funding and established timelines for addressing identified problems. The applicant went to the additional effort to submit audits in the form of CAFR reports published by the City of Killeen and their accounting of the money spent by the city to address and mitigate the very problems identified in the North Killeen local target area.

Finally, the applicant documents the CRP plan is current and that works to address identified problems has begun and there are not obstacles for funding and accomplishment of these goals. This requirement was verified in the letter from the City of Killeen as required by the QAP.

TDHCA is not saying the application did not comply with the requirements of part 3 of 11.9(d)(7)(A) but
that they can't find additional effort in meeting the plans requirements. One could ask the question: How do I know if I've met the intent?

And I quote the QAP: "Additional efforts have been undertaken to meet the requirements of clause 3 of this subparagraph." And I know if I have engaged in sufficient additional efforts to meet the requirements of clause 3. One would think if you meet the requirements of clause 3, additional efforts have been satisfied. That is the point of additional effort, to meet the requirements.

This is a form over substance issue. We cannot think that TDHCA would intentionally adopt a policy that creates an argument that can never be satisfied. That cannot be the purpose, intent, nor interpretation of further additional effort. A TRZ comprehensive plan or any other plan does not require meeting the concept of additional efforts.

Why is this language linked to a consolidated plan? Its purpose is to ensure that applicants do not submit a consolidated plan or one-year action plan that meets HUD's minimum standards but then fails to meet the requirements of the QAP.

There are new ways that additional efforts can be undertaken to ensure a consolidated plan meets the requirements of section 3. A city can adopt a secondary
implementation plan --

MS. BINGHAM: Mr. Smith. Do you have a final point? We're past three minutes.

MR. SMITH: Okay. Another way a city can go to additional efforts in meeting the requirements of the QAP is to go above and beyond the minimum requirements of a standard consolidated plan and incorporate the requirements of 11.9(d)(7)(A). This is what the City of Killeen did. This is really a form over substance case, and we ask the Board to remove the stumbling blocks to the substance to the goal. We ask the Board recognize that the application complies with 11.9(d)(7)(A) and grant the applicant's appeal to reinstate the seven points for concerted revitalization.

Thanks for your time. I'm here to answer questions.

I would say the purpose of the letter from the city is to talk about how they went above and beyond the minimum requirements.

MS. BINGHAM: Understood. Thank you very much, Mr. Smith.

Does anybody have any questions for Mr. Smith or Ms. Dula?

(No response.)

MS. BINGHAM: Very good.
Naomi, are there any other comments in the queue?

MS. CANTU: We do have two people pre-registered. Art Schultz is actually up next and he's let us know. We also have Barry Palmer who has indicated he would like to speak but not recently, so if Barry Palmer would like to speak, please go ahead and enter that in the questions box and we'll put you in the queue.

The next is Art Schultz.

MS. BINGHAM: If we could just remind the rest of the speakers, we are running close to losing quorum, and we'd like to be able to give a little bit of time to the remaining appeals, so if we could wrap this up and anybody else that's remaining to speak could be please be respectful of the group's time. Thank you.

MR. SCHULTZ: Madam Chairperson and members of the Board, I wish to thank you for this opportunity. My name is Art Schultz, president of Housing Solutions Alliance. We are the development partner to the Killeen Housing Authority.

Our firm was engaged by the housing authority several years ago to assist in the redevelopment of both of their public housing properties, along with a conversion to the RAD program. We have completed the first of those two projects, and High View, this application is the remaining
development, and I want to emphasize it's located in the heart of the North Killeen local target area. The city in several meetings that we've had with them discussing this application and our efforts have clearly stated to us that their consolidated plan goes above and beyond the minimum requirements of a consolidated plan that they would normally submit just to HUD. In fact, they said that they developed this specific North Killeen local target area with extensive input from its citizens as well as a separate resolution from the Killeen City Council implementing this targeted revitalization area. The city has spent considerable amount of funds and has incentivized private investment in the amount of over $2.1 million for redevelopment in this area.

We presented our proposed application to the city council in January and we received unanimous support, and again, the overriding comment from the council members was that they see our rehabilitation and preservation of High View as one that would complement their other revitalization efforts in the North Killeen local target area.

And just to follow up with what Tim and Tamea have stated, we really believe we have complied with the QAP for the criteria under the CRP and we respectfully ask for your concurrence. Thank you.
MS. BINGHAM: Thank you very much, Mr. Schultz. Naomi, is there anyone else?

MS. CANTU: Last one is Barry Palmer. We're going to go ahead and unmute him and we set the timer.

Barry, you have three minutes.

MR. PALMER: This is Barry Palmer with Coats Rose. We represent the applicant.

And as was stated by staff and other speakers, the provision of the QAP provides that you can get the points for community revitalization with your consolidated plan but if it's just the consolidated plan, you have to provide some evidence that additional efforts have been undertaken. That's a little vague, it doesn't say who the efforts have to be undertaken by but presumably it's the city. And we did, in fact, provide evidence of additional efforts being undertaken in the application.

There's a letter in the application and in your materials that the city sent on February 25th where they detailed again the problems in the North Killeen target area. They went through in some detail about the steps that they had taken to address those problems, and they set out, recited some of the progress that had been made in the target area.

And then they also noted that the City of Killeen had passed a resolution on February 11th
identifying High View as the development contributing more than any other to the city's revitalization efforts. So all of those were done in the letter by the city that was submitted in the application that we believe constitutes their additional efforts to meet the requirements of a concerted revitalization plan.

And another thing that the city has done which constitutes additional efforts as they have invested over the last four years $1.6 million of their CDBG and HOME funds which in effect constitutes 54 percent of all CDBG and HOME funds that the City of Killeen has put into this targeted area. So that to me provides quite a bit of proof of the additional efforts that the city has gone to assert that this is a community revitalization plan.

And as Tim Smith had said, there's no question if you took the city's revitalization plan and broke it in half and just had the one portion of the plan that satisfies HUD that talks about the entire city and then you take the half of it that talks about the North Killeen targeted area and breaks that into a separate plan, that would clearly satisfy the requirements.

So it's a little bit of form over substance in that regard, but again, this additional efforts is somewhat vague but we think that we have satisfied it in two ways: by the letter from the city from February 25th, and by the
investment by the city of 54 percent of their HUD funds into this neighborhood.

Thank you.

MS. BINGHAM: Thank you, Barry.

Marni, so staff's review of the February 25th letter, he said from the city, I have a February 25th letter from Killeen Community Development Department. I guess that's the one.

MS. HOLLOWAY: Yes, I believe that's the one he's talking about.

MS. BINGHAM: So the staff reviewed that and did not find evidence of additional action?

MS. HOLLOWAY: No, we did not find anything that describes activities beyond what was laid out in the con plan.

MS. BINGHAM: Okay. Thank you.

Do the Board members have any other questions for Marni?

(No response.)

MS. BINGHAM: We have a motion to approve staff's recommendation to deny the appeal and a second.

All those in favor aye.

(Ayes: Bingham, Braden and Thomas.)

MS. BINGHAM: Opposed?

MR. VASQUEZ: No.
MS. BINGHAM: I voted aye. So we have three ayes, one opposed, motion carries to approve staff's recommendation to deny the appeal.

Marni, 20318, Cypress Creek at Spencer Landing.

MS. HOLLOWAY: Yes. This is proposed new construction development located in La Porte, and as you know, our rules identify specific requirements and restrictions related to a development seeking multifamily financing. Our undesirable site rule identifies those features that must be disclosed by applicants at the time of application.

A few of those undesirable features are development sites located within 500 feet of heavy industry, which includes maintenance of fuel storage facilities and excludes gas stations, development sites in which the buildings are located in the accident-potential zones for the runway clear zones of any airport, and development sites that contain one or more pipelines situation underground or above ground which carry highly volatile liquid or development sites located adjacent to a pipeline easement.

The application disclosed that the development site is located approximately 430 feet from a 5,000 gallon aviation gasoline above-ground storage tank, it is directly adjacent to an easement that contains pipelines that carry
highly volatile liquids, and it is within approximately 650 feet of a runway that is part of the La Porte Municipal Airport and it's within the existing and ultimate runway protection zone.

The disclosure includes pages from the environmental site assessment to address proximity to heavy industry which the report identifies as a fueling station. The applicant has suggested it's a gas station and therefore exempt. Staff does not agree.

There is also a PIPA report to address the pipeline. Regarding proximity to the airport and fueling station, the airplane fueling station is clearly not a gas station in the rule and does not qualify for the exception indicated.

Per the application, none of the buildings will be located within the accident potential zone or the runway clear zones of the airport. The feasibility report describes conversations with the City of La Porte public works director so that there is now an easement imposed on the site. The runway that is closest to the development site is used for landing planes that would approach the site from the southeast.

The entire western boundary of the development site borders the pipeline corridor. Per the site plan, this side of the site will consist of parking and a
detention area.

Regarding the nearest hazardous liquids pipeline, the report indicates a potential impact radius of 312 feet and states, "Because flame-resistant materials will be used for the construction of the buildings and structures and egress will be provided on the sides of the structures opposite the pipeline corridor, a 50-foot setback should be adequate."

Regarding the nearing crude oil pipeline, the report indicates the concept of an impact radius does not apply and that any harm would be environmental in nature. Regarding the highly volatile liquids pipeline, the report states that since HVLs are heavier than the air, they will tend to be collected in low-lying areas displacing the oxygen.

Because of the flat terrain in the vicinity of the pipeline corridor, a small perimeter on the western edge of the site should be sufficient to prevent the migration of heavier-than-air vapors to the proposed apartment. Absent adverse wind conditions, the vapors would migrate to the airport across the highway or along pipeline corridors.

Individually, each of these as a mitigation offered might be acceptable to allow staff to determine that the issue does not trigger ineligibility on the basis
as a whole. However, the development site's proximity to the runway, coupled with proximity to the fueling station is of great concern. A landing plane could very well introduce the adverse wind conditions the PIPA report suggests would cause HVL vapors to migrate to the apartments.

Based on the information provided, staff determined that the development is ineligible under the rule. The appeal restates much of the information already reviewed by staff and offers as new information an aeronautical from the Federal Aviation Administration Southwest Regional Office, which found that the development will not be a hazard to air navigation expressly conditioned on the installation of special rooftop markings and lighting on the building nearest to the runway.

None of the information provided in the appeal led to a different conclusion. The development site's proximity to the runway, fuel storage facility, and the pipeline corridor makes this site an unnecessarily hazardous one to locate a multifamily development. Staff recommends that the Board deny the appeal.

MS. BINGHAM: Staff's recommendation is to deny the appeal. Do we have any questions of Marni, members?

(No response.)

MS. BINGHAM: We'll entertain a motion.
MR. BRADEN: Yes. Move to approve staff's recommendation.

MR. VASQUEZ: Second.

MS. BINGHAM: I have a motion from Mr. Braden and a second from Mr. Vasquez to approve staff's recommendation.

Naomi, can you let us know how many people you have in the queue to speak for 20318, Cypress Creek at Spencer Landing?

MS. CANTU: We have seven people pre-registered. Only one person has indicated they would like to speak now that the agenda item has been called. If anyone else would like to speak, you need to let us know in the questions box, but so far only one person has let us know, and that's Tamea Dula in the questions box.

MS. BINGHAM: Great. We're ready for Tamea.

MS. CANTU: Ms. Dula.

MS. DULA: Thank you. Can you hear me?

MS. CANTU: Yes.

MS. DULA: this is Tamea Dula with Coats Rose. I'm speaking in opposition to the termination of number 21318, Cypress Creek Apartments at Spencer Landing in La Porte.

It is true that this project is located near the La Porte Municipal Airport and it has a 5,000-gallon
aviation fuel tank within 500 feet of it, and it is also
next to a 200-foot wide pipeline corridor. These check off
several different site feature issues.

The 500-foot -- the fuel tank was cited as being
a heavy industry indicator, and you cannot have a site
within 500 feet of heavy industry on the basis that the
facility maintains the fuel storage facility and it
excludes a gas station. I'd like you to turn to page 966
of the supplemental board book and take a look at this fuel
storage tank but it's not an extremely difficult thing to
see that it would not create a huge problem. See the
photograph on page 966.

This phase 1 report that was provided with the
application, Terracon stated that this storage tank does
not qualify as heavy industry because there is an absence
of any kind of apparent manufacturing or machinery. The
storage tank is associated to an aviation school that's
located on the airport grounds.

The runway clear zone of any airport is an issue
with regard to site features and must be either mitigated
or waived. Here the runway clearance zone clips the site
on one of its corners.

That clipped-off area will be involved even if
it's the ultimate runway clearance zone which will be
smaller in scope than the current existing clearance zone.
It is clear that the project has been designed in accordance with FAA requirements. No buildings will be in the area and the necessary lights are planned to be used.

The development site is also adjacent to a pipeline easement, and we have provided a PIPA report and engaged a PIPA consultant to provide a mitigation plan based upon the PIPA best practices, and that was contained in the application.

So each of these site features is mitigatable and waivable by the Board, and staff has raised the specter of the confluence of these features creating a catastrophic situation, but this is highly unlikely, as the subsequent speakers will tell you.

So we're asking that this project not be made ineligible because of these three site features, any one of which could be waived and all of which can be waived by the Board.

MS. BINGHAM: Thank you.

Are there any questions for Ms. Dula?

(No response.)

MS. BINGHAM: Naomi?

MS. CANTU: Yes. So I believe we do have Corby Alexander on the line signed in as another name. We're going to go ahead and unmute Roy Ortiz, which we believe is Corby Alexander, and then after Corby is John Jacobi.
MS. BINGHAM: So Naomi, how many more speakers do we have?

MS. CANTU: We have six -- no -- we have five more.

MS. BINGHAM: We won't have time to hear that comment. I would ask the Board if they want to hear abbreviated comment from all of them as in 30 seconds to 45 seconds, or if there's another recommendation? We

MR. VASQUEZ: Let's just give shorter time frames, because I need to go also.

MS. BINGHAM: Yep. Clock is ticking.

Okay. So we'll ask the remaining speakers to hit their key points in 30 seconds.

MS. CANTU: Mr. Alexander, you are unmuted. Mr. Alexander?

(No response.)

MS. CANTU: Okay. We're going to move on to the next person, John Jacobi.

Mr. Jacobi, you are unmuted and you have 30 seconds.

MR. JACOBI: Okay. Can you hear me?

MS. CANTU: Yes.

MR. JACOBI: Thirty seconds, I planned on three minutes.

24 CFR Part 51 does not consider buried
pipelines and pipelines in compliance with federal safety standards as hazards. There are no applicable federal or local standards or regulations regarding setbacks from pipelines.

In the past TDHCA has approved proposals with minimum requirements that all structures being ten feet from a pipeline right of way or corridor or 50 feet from the nearest pipeline, whichever is greater, if a proposed development meets all those criteria. The pipelines in the corridor are essentially patrolled continuously.

I've talked to the La Porte LEPC. They're well aware of the situation. They've voiced no concern whatsoever with respect to dealing with potential interactive threats associated with the airport, with the pipeline corridor and the location of the proposed development.

And in my opinion, the likelihood of an interactive threat exacerbating the situation is extremely remote. I looked at NTSB reports. There's no reports suggesting an airplane had ever damaged a buried pipeline, much less any airplane that can take off and land in less than 12,200 feet.

Given the terrain and the porous nature of the soil in the vicinity, the likelihood of an incident associated with the 5,000-gallon aviation fuel tank
affecting the pipeline corridor or the proposed development seems extremely small, and it's just not going to happen. The NTSB has very few reports relating to department standards relating to rupture or emission of nearby gas pipelines, maybe three. There's no such reports involving any hazardous liquid transmission lines, HVL or other hazardous liquid pipeline involving apartments. There's numerous reports involving service lines to apartments and leaks associated with natural gas piping. These will be developed greatly.

And I apologize for taking more than 30 seconds.

Thank you very much.

MS. BINGHAM: Thank you very much, Mr. Jacobi. I think we've run out of time. Do the Board members have any questions of Marni or any of the prior speakers?

(No response.)

MS. BINGHAM: Are you comfortable with us calling for a vote? So we have a motion for staff's recommendation to deny the appeal on application 20318, Cypress Creek at Spencer Landing, and we have a second. All those in favor of staff's recommendation aye.

(A chorus of ayes.)

MS. BINGHAM: Opposed?

(No response.)
MS. BINGHAM: Motion carries to approve staff's recommendation to deny the appeal.

We have one more application, Marni, application 20342, The Cottages at Cedar Ridge. We will need to table that for the June meeting.

MS. HOLLOWAY: Certainly.

MS. BINGHAM: Okay. We are at the end of the action part of the agenda.

Thank you, Board members, for anybody that has to leave. We can hear public comment on matters other than items that were posted on the agenda, so we are ready for Naomi to see if there are any comments in the queue for items that weren't on the posted agenda.

MS. CANTU: Yes. We did have a few comments not on the agenda. We're going to check to see if they are still with us. One is Stella, let me find her.

MR. VASQUEZ: Are we required to maintain a quorum?

MR. WILKINSON: No.

MR. VASQUEZ: Okay. I'm sorry. I needed to go an hour ago.

MS. BINGHAM: Thank you, Leo.

MR. VASQUEZ: Thank you.

MS. CANTU: Stella, we're going to go ahead and unmute you.
MS. RODRIGUEZ: Okay, perfect. I'll be very quick. Hello. My name is Stella Rodriguez, executive director of the Texas Association of Community Action Agencies.

On behalf of the community action agencies in Texas, we thank your staff, Mr. Wilkinson, Brooke Boston, Michael De Young, and all staff of the Community Affairs Division. The network has been working closely with your staff to prepare for the administration of the soon to arrive funding for the Community Services Block Grant and the Low Income Home Energy Assistance Program under the CARES Act.

Staff has been very supportive and responsive to inquiries from our agencies already. We wanted to take a minute to acknowledge the assistance of your staff, and we look forward to showcasing outcomes and success stories.

Thank you.

MS. BINGHAM: Thank you very much, Stella.

Naomi?

MS. CANTU: Yes. We have one more, Jason Shaughnessy.

MR. SHAUGHNESSY: Thank y'all very much, Board.

I know you don't have to stick around, and I do appreciate and well respect your time.

I am a private citizen speaking on behalf of
application 20116, The Diane Street Villas here in Houston, Texas, within the Shady Acres, Clark Pines and Timbergrove association neighborhoods. I am opposed to this development primarily on the basis for traffic and safety concerns.

Mr. Wilkinson, as you said, you are from the Houston area so you can appreciate the fact that the Heights is a very condensed area as it is already with very limited roadways.

MR. WILKINSON: I lived there, yes.

MR. SHAUGHNESSY: So we already have an issue with the lack of sidewalks and the lack of available green spaces for our residents who are very active and a part of our community to be able to walk safely, jog safely, work out safely, whatever it may be. And this also could have potential impact with the lack of infrastructure and the increased number of residents in the area for them to be able to walk safely to public transportation lines.

Those are just some of the examples, there's a whole list, but for the sake of time, I'm going to start closing it up.

We do have other high-density developments already being put on Shepherd and on Durham, so we will feel the impact of continued high-density development where the initial grid for the Heights was not built for that. I
understand development is needed but we just would like to make sure that we are taking the correct approach and looking at all avenues of what the appropriate development -- whether it's affordable housing or market value housing, what the appropriate development needs to be and where it needs to be.

Because there are other locations within the area on 18th where there's a development going on right now, and another one in this proposal at 26th and Ella, which is closer to -- not only is it more units, it's got better access to the freeways and is off of four-lane roads.

With that, I do thank you for your time very much. Thank you very much for hanging on.

MS. BINGHAM: Thank you. Thank you very much, Jason.

So Naomi, is there anyone else in the queue?

MS. CANTU: I don't see anyone else in the queue. Again, if you did have a comment for anything not on the agenda, now is your time. And I do not see anyone else in the queue in the questions box. Thank you very much.

MS. BINGHAM: Great. Well, we'll at this time just thank everyone. I see there's about a hundred people maybe left in the call. Thank you all so much for your
patience. We tried to do our best to hear all of the
concerns and we appreciate everybody's understanding.

And I always thank staff for all of the work,
the hours and hours of work that go behind every single one
of these meetings. We really appreciate all of the effort
that you make.

And thanks very much to Sharon. Girl power.
The girls held out past the boys today. Thank you for
hanging on. And we'll thank the other Board members too.

And I always miss thanking Naomi. I bet she
finishes these video conferences and hopes to never hear my
voice say her name. But Naomi, thank you so much for your
patience and being willing to be under the gun for a very
long meeting day.

And we will look forward to seeing everybody
back here for the June meeting. Thank you all.

(Whereupon, at 3:04 p.m., the meeting was
adjourned.)
CERTIFICATE

MEETING OF:      TDHCA Board
LOCATION:      via telephone and web link
DATE:      May 21, 2020

I do hereby certify that the foregoing pages, numbers 1 through 234235, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

DATE:  May 27, 2020

(Transcriber)

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