TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

December 17, 2015
9:10 a.m.

BOARD MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice-Chair
LESLIE BINGHAM ESCAREÑO, Member
T. TOLBERT CHISUM, Member
TOM H. GANN, Member
J.B. GOODWIN, Member

TIMOTHY K. IRVINE, Executive Director

ON THE RECORD REPORTING
(512) 450-0342
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MR. OXER: Good morning, everyone. I'd like to welcome everyone to the December 17 meeting of the Texas Department of Housing and Community Affairs Governing Board.

We begin with roll call. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum?

MR. CHISUM: Here.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin?

MR. GOODWIN: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Present.

MR. OXER: And I am here. We've got a full house today so we're in business.

Tim, lead us in the pledge.

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

MR. OXER: Okay. Michael, I believe you're going to read the resolution.

MR. LYTTLE: Yes, sir.

This is a Board resolution reading as follows:

"Whereas, December 21, 2015, is National
Homeless Persons' Memorial Day, which annually falls on the longest night of the year;

"Whereas, the purposes of the Texas Department of Housing and Community Affairs include providing safe, decent and affordable housing to individuals and families of low, very low, and extremely low income and families of moderate income; and serving as the lead agency for addressing at the state level the problem of homelessness;

"Whereas, the Department thereby has a goal to improve the living conditions of persons who are at-risk of homelessness and persons experiencing homelessness;

"Whereas, it is the policy of the Department to support equal, accessible housing opportunity through the assistance provided by its poverty-alleviation and homelessness prevention programs and services;

"Whereas, the Department applauds all those who work in partnership with persons in poverty and persons experiencing homelessness to provide housing and move toward self-sufficiency;

"Whereas, the Department encourages Texans and Texas communities to forge local partnerships that can prevent and minimize homelessness and to provide housing that allows persons at risk of homelessness or experiencing homelessness to move towards self-sufficiency; and
"Whereas, the Department encourages Texans during the longest night of the year to honor and remember individuals and families who face hardships, or have lost their lives due to extreme conditions of living in places not meant for human habitation, combined with the various health conditions that may be attributed to loss of housing;

"Now, therefore, it is hereby resolved, that in the pursuit of the goals of providing safe, decent, affordable housing and improving the living conditions of persons who are at risk of homelessness and persons experiencing homelessness, the Governing Board of the Texas Department of Housing and Community Affairs does hereby commemorate and recognize December 21, 2015 as Homeless Persons' Memorial Day in Texas and encourages all Texas individuals and organizations, public and private, to join in this observance of National Homelessness Persons' Memorial Day.

"Signed this Seventeenth Day of December 2015."

MR. OXER: And I should recognize that all members of the Governing Board have signed that committing to the resolution.

Is that sufficient, or do we need to have a formal motion?

MR. IRVINE: It will get signed. We need to
adopt the resolution.

    MR. OXER: All right. With respect to that then, regarding the resolution read into the record just now, are there any questions from the Board?
    
    (No response.)

    MR. OXER: Motion to consider?

    MR. GANN: I so move.

    MR. OXER: Motion by Mr. Gann to approve the resolution read into the record. Those in favor?

    (A chorus of ayes.)

    MR. OXER: Those opposed?

    (No response.)

    MR. OXER: There are, of course, none.

    Thank you, Michael.

    All right. Let's get to work here. I would point out that in the formal agenda that we have, it suggests or shows the resolution recognizing December 15 when it was actually read in as December 21, so the formal resolution will be the official record.

    With respect to the consent agenda, I understand we're going to pull item 1(I) and 1(k). You folks down here want to speak on 1(k). Is that correct? 1(I)? Okay. Just making sure. I believe it's (k). Did we get that right? And the reason I'm asking is we're going to take that up on the formal action agenda, so you
don't have to worry about speaking to it on the consent agenda. Is that clear to everybody?

We're pulling item 1(I) and 1(k) from the consent agenda. Are there any questions from the Board? In that case, we'll have a motion to consider.

MS. BINGHAM ESCAREÑO: Mr. Chair, I move to approve the consent agenda, with the exception of items 1(I) and 1(k).

MR. OXER: Motion by Ms. Bingham to approve the consent agenda as modified.

MR. CHISUM: Second.

MR. OXER: Second by Mr. Chisum. Are there any questions? No public comment. Motion by Ms. Bingham, second by Mr. Chisum to approve the consent agenda as modified, pulling 1(I) and 1(k). Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

Okay. Let's get to work. On item 1(I), Marni, we're going to take that first?

MS. HOLLOWAY: Good morning, Chairman Oxer, members of the Board. We are requesting that 1(I) not be considered at the meeting today. We will be bringing it back to you next month.
MR. OXER: Okay. So this is just for delay of consideration.

MS. HOLLOWAY: Yes.

MR. OXER: Thank you for that.

With respect to 1(k), Jennifer, are we going to do this one next?

MS. MOLINARI: Good morning, Chairman, Board members. My name is Jennifer Molinari, HOME Program director.

Item 1(k) is a staff recommendation related to an amendment request by WREM Literacy Group related to a home that is currently under construction and was not completed by the end date of December 3, 2015. Because the cumulative total of the extension requests related to this household exceeds fifteen months and because of language that was added in the last extension request that also went before the Board for approval, Board authority to grant the extension is necessary.

WREM has notified the Department that continued heavy rains in the area have further delayed the construction completion, and they have provided us photographic evidence to this point. Staff is presenting this request to the Board because we believe it is in the best interest of the household and of the Department to finish the house in compliance with the contract terms,
and additionally, this will ensure that the displaced household will finally be able to return to their home.

If it's approved, staff would recommend that the current contract be extended from December 3, 2015 to March 3, 2016. And we also have public comment, I believe, here with us today. So with that, I would be happy to answer any questions that you have.

MR. OXER: So staff recommendation is to extend this contract which I gather there's going to be some comment to that effect as well.

MS. MOLINARI: Yes, sir.

MR. OXER: Okay. Any questions from the Board?

Dr. Muñoz.

DR. MUÑOZ: March 16 gets it finished?

MS. MOLINARI: Yes, it sure does.

MR. OXER: Walk in, finished, dried in, start moving in, hanging the pictures and set the furniture. Right?

MS. MOLINARI: We believe that it is, and we've also got our administrator here and the construction contractor who could speak to the specifics of that.

DR. MUÑOZ: It's already been extended once?

MS. MOLINARI: Yes, sir. It's actually already been extended twice, once by staff and then once at the September 3 Board meeting.
MR. OXER: And policy allows once to be extended by staff and then it's special consideration by the Board if we extend any more than that. Is that correct?

MS. MOLINARI: Yes, sir.

DR. MUÑOZ: What happens if it's not finished by March?

MS. MOLINARI: The administrator -- and I would let her speak to that a little more -- has committed to getting this house finished, regardless of any circumstances or actions that the Board takes.

MR. OXER: Remind us again the location on this.

MS. MOLINARI: I believe that this household is in Ennis.

MR. OXER: Any other questions from the Board?

(No response.)

MR. OXER: Motion to consider on item 1(k)

DR. MUÑOZ: So moved.

MR. OXER: Motion by Dr. Muñoz to approve staff recommendation on item 1(k). Do I hear a second?

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: Second by Ms. Bingham.

We have a request for public comment. We'll take you from this row, just walk back down the line here,
so anything you'd like to say on this, but I have to suggest that we'll have questions about if you think you can get this completed. The real question is: It looks like you're going to get the extension, is there anything you really want to say? Come up and put that on the record.

(General laughter.)

MR. ALKEBULAN: Good morning. My name is Cranston Alkebulan, and I'm with Avila [PHONETIC] State Construction, we're the builder for the home there. And again, we just want to stay thank you for the extension, and it will be completed.

MR. OXER: Those storms that came through your location, we just got a couple of nights ago, too, in Houston, so there's been plenty of rain around there.

MR. ALKEBULAN: Absolutely. We've been blessed with rain, we needed it.

MR. OXER: The good news is we've got plenty of rain, the bad news is it all came in one spot at one time.

MR. ALKEBULAN: Yes, sir.

MR. OXER: Anything else for Mr. Cranston?

DR. MUÑOZ: What if it's not completed by March?

MR. ALKEBULAN: If every single day we had to take one brick or one piece of sheetrock, which are the
things that are lacking over there, by March, sir, it will be done.

MR. OXER: Because March 16 we're going to have somebody call you and figure out what's going on.

MR. ALKEBULAN: March 3, actually, just for clarity, sir.

MR. OXER: Whatever the date was.

DR. MUÑOZ: That's on the record now.

MR. ALKEBULAN: Absolutely.

MR. CHISUM: I'm sorry. I've got two dates.


MR. OXER: That's why the sixteen got confused.

MR. CHISUM: Thank you.

MR. OXER: Any questions?

(No response.)

MR. OXER: Thank you. Just a quick reminder, housekeeping, just the regulars here, come up to speak, sign in, name and contact, so Nancy can identify you on the record.

We welcome your comments, ladies, if you'd like to make any other contribution, but it looks like this is going in the direction you want it.

SPEAKER FROM AUDIENCE: I really wanted to take a picture, and I was denied my civic right.

MR. OXER: Don't let it be said that you were
denied your civic rights here. We'll go down and make that picture.

(General laughter.)

SPEAKER FROM AUDIENCE: Thank you very much.

MR. OXER: You're welcome.

All right. There's been a motion by Dr. Muñoz with respect to item 1(k) -- formerly on the consent agenda, now on the action agenda -- motion by Dr. Muñoz, second by Ms. Bingham, to approve staff recommendation to extend the contract date to March 3, 2016. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

Merry Christmas, and keep working over the holidays. I'm telling you, you don't want to wait.

MR. CHISUM: Don't miss that date.

MR. OXER: They're generous but demanding up here, Cranston.

(General laughter.)

MR. OXER: Okay. I guess we're ready to go to the action items. Is that correct?

Brooke, you've got some reports for us?

MS. BOSTON: I do.
MR. OXER: Good morning. Merry Christmas.

MS. BOSTON: Good morning. Brooke Boston. I am one of our deputies.

The first item is actually on the Section 811 Program, and our Section 811 Program manager, Spencer Duran, would have been here to present to you, but he had a medical emergency. I'm actually thrilled to say he's fine but still not back. Recently over the last few months you've taken significant actions relating to 811, you put it in the QAP for the 2016 QAP, before that you had put it in the 2015 QAP for the first time.

As you may recall, the 811 Program provides project-based rental assistance to extremely low income persons with disabilities as they receive long-term services, and we put the points into the QAP to incentivize the ability to have properties in Texas who would actually participate and provide those units for us. Without that carrot, we weren't sure that we would get that participation.

So I actually wanted to kind of update you a little bit to see if that had been successful, and it was resoundingly successful, we got exactly what we wanted: it had the desired effect of prompting the participation. We generated an initial pool of eighteen properties which will be 192 units. Every one of the applications that
received a tax credit that was in an eligible MSA did participate in the 811 Program except one, essentially meaning that basically you had to have participated to get your award, so it had the intended effect.

Of the eighteen properties, seven are for existing properties which is what we were kind of hoping for because that means we can actually get a tenant in the units in early 2016 because the properties are already up and built. And then the remaining properties, eleven of those are for new construction and so those units will be brought on, of course, when those properties are done in about two years, and then we'll have those 811 units.

In tandem with that -- which is great, and then you guys kept it in the 2016 QAP and made some adjustments, which is wonderful, so we're excited to see that go into the next year -- we also wanted to try and expand the pool of other properties that are existing properties to see if we could get units participating so we could get people in sooner than that two-year construction build-out period, and so we also just recently released a request for applications, so that's kind of just going to be effectively like an open NOFA or open period, so any property that can come in and meet our qualifications, we can get them set up with tenants quickly.
So there's a lot going on with 811, as you can imagine. Now that the properties are finally coming online, we've got just a lot of contractual stuff going on, but we anticipate having our first tenants in probably in the first couple of months of 2016, so we'll report back on that when we have our first tenants.

MR. OXER: I think things are headed in the right direction at speed.

MS. BOSTON: Yes. The program staff is doing an excellent job.

MR. OXER: Under your direction, I'm confident that that's true.

Any questions from the Board?

(No response.)

MR. OXER: Thanks, Brooke.

MS. BOSTON: Sure. And actually the next item I think is me.

So the next item, as you know, I periodically get up and talk to you guys about some of the excellent things happening in the Department. I didn't want to miss that chance in December. I'm so grateful for everybody at the Department. And I just wanted to remind you, I know you get a ton of exposure to all the great things going on in some of our bigger areas that have ongoing Board agenda items, so I wanted to draw attention a little bit to some
of the things you see less of.

So this time I just kind of wanted to focus a little bit on numbers. You may recall over the last year there have been several organizational changes which included, among other things, that our loan servicing and single family asset management functions moved under Homero Cabello, who had historically only been over our Office of Colonia Initiatives and Trust Fund, so we moved those two activities to him. Also, when Marni abandoned us for multifamily, we moved NSP, Neighborhood Stabilization Program, under Homero as well. So all of those areas combined now under Homero are jointly called the Single Family Operations Division.

And since the creation and merger of that area being able to kind of streamline the staff and kind of play off of their strengths, one of their first initiatives was they took a really big push on delinquent loans, and we're thrilled to report that the single family delinquency loans went from 18 percent to 11 percent in five months, just through pure cold calling, working with every single person. So every single delinquent borrower right now is in some type of repayment plan with us, and the goal that Homero and his team have set for themselves is to reduce delinquencies by 5 percent by the end of next year, which we think is doable. So that's amazing and
exciting.

DR. MUÑOZ: From eighteen to five?

MS. BOSTON: Eighteen down to eleven in the last five months, and then we think by next year.

DR. MUÑOZ: From eighteen to five?

MS. BOSTON: Yes.

MR. OXER: Do we have any comments from our resident real estate and banking division over here on the left?

MR. GOODWIN: Good job.

MS. BOSTON: And I'm sorry that Homero is actually not here today.

MR. OXER: You guys listening at home out there, tell Homero good job. Okay?

MS. BOSTON: And probably the greatest benefit of that is not only bringing those households into compliance, but when all of those delinquencies start coming in, we're now bringing more money back into those two programs which is Trust Fund and HOME.

MR. OXER: To be rolled over and used again.

MS. BOSTON: Right. So we're recycling and getting more program income to spend than we had been able to anticipate, which is awesome.

Similarly, on the NSP front, again, because of just getting the leverage of the staff, we've been able to
close thirty loans since that merger, or thirty loans that will be closed by the end of the year. So I would say all of those are attributed in no small part to kind of leveraging the size of the team and cross-training and the willingness and excitement for the staff. They have all been really enthused about getting to learn each other's stuff, which is what we had kind of hoped.

The other numbers I wanted to brag to you about are our My First Texas Home Program, which is our first time homebuyer program. You hear a lot from Monica on the bond side of kind of getting the money for the program, and I just wanted to share this is like a huge conduit of activity that we share very literally with you in terms of true production of what we do. So in September and October of this year we've seen some unprecedented activity. In September we originated 135 loans totaling $18.7 million, and then followed that in October with 156 loans totaling $21.7 million. Those were the highest numbers we've had for that activity since July of '14.

Separately, for our MCC program, which is our Mortgage Credit Certificate Program, we similarly issued an unprecedented number of certificates in those two months. On September we issued 189 certificates, and this is ones that aren't layered with a loan, totaling $30.7 million, and in October we did 143 at $23.3 million. And
then we also have ones that we call combos which are where
they both get a loan as well as the MCC certificate, and
in those months we also did 62 of those in September for
$8.7 million, and 56 of those in October for $7.2 million.

And all of those are high above what our normal
kind of average rate would be for those months, so amazing
kudos to Cathy Gutierrez and her team, and then, of
course, Monica and her team because it's kind of all in
tandem that they make all that happen.

With all that said, it would be easy for me to
go on and on about all the other great back office stuff
that happens, but I just want to say wonderful kudos to
our staff and all the hard work that they do.

MR. OXER: Sounds like the machine is working
and it's well oiled and it's sort of making progress.

One of the things that everybody will probably
recognize in this, the big programs that are contentious
and turbulent, like the Tax Credit Program, get a lot of
attention because they're in a constant state of flux when
we're evaluating, processing, creating, QAP-ing, all that
type of stuff, quirk killing. But one of the things about
the back office programs, once they get in place and
rolling, then they can accelerate and get well beyond what
we were worried about at the time and we just don't hear
about it.
Do a quick summary here, Brooke. That was for all those things over a fixed period. What was that period and what was the total on it?

MS. BOSTON: It was just over the two months, so for all those loans that I was talking about, it was just over two months. And you know, it's funny, I thought I should add these together, and I didn't. So that's almost $300- in September-October for the loans and then closer to $400- for the MCCs.

MR. OXER: So that's $700- total?

MS. BOSTON: Plus the combos, so another $150-, so $850-. Very bad rounding, probably.

MR. OXER: Bobby Wilkinson, you're out there? There he is. I meant to say hi to you, appreciate you coming by. Pass the word, would you? The gang is working here, doing a great job of it, and we appreciate the effort that they make. So thanks, Brooke, very much, and congrats to the staff.

MR. IRVINE: Can I?

MR. OXER: Tim, please.

MR. IRVINE: I just want to layer on a couple of comments about that. You mentioned turbulence. This is not just a smooth push-it, push-it, push-it product, this is a product that is constantly, intricately refined, and our staff works really hard in connection with our
bond finance folks and our FAs and everybody to put
together the product that day by day is the best product
for Texans.

I also want to say that we are a business
development entity. We're in the economic development
article of the General Appropriations Act for a reason.
We are a big part of the engine for new home construction
in Texas, and that's largely fueled by this program, and
very proud of it.

MR. OXER: When I had the opportunity to
testify before the legislature with respect to the Sunset
provision for TDHCA, one of the ways that I characterized
the agency and its efforts was that TDHCA is a state-owned
workforce, housing development, finance bank with grant
windows for energy assistance, weatherization, and
community development and stabilization. So the very fact
that we seem to be operating as a bank with that much
success is more than a little bit satisfying to me that
we're actually doing what we said we would do and doing it
well.

So I congratulate all of the staff, and I think
on behalf of the rest of the Board I'd say we all up here
appreciate all that you do out there.

Anything else from the Board? Any other
questions?
MR. OXER: Good.

On item 3(c), Elizabeth, did you have some report item?

MS. YEVICH: Good morning, and happy holidays.

And I will go on and on to continue on with Brooke's good news here. I am Elizabeth Yevich, the director of the Housing Resource Center, and I'm here for report item 3(c) which is regarding the progress of the Youth Count Texas!

During the last legislative session, two somewhat similar bills were passed and both directed TDHCA to conduct a study, both involved looking into the homeless population, and both landed in my division, Housing Resource Center, known as HRC, to coordinate. And what I'm here to report on today is House Bill 679, authored by Representative Sylvester Turner, and this bill requires TDHCA, in conjunction with the Texas Interagency Council for the Homeless, known as the TICH, to conduct a study on homeless youth.

A report on the study is due to the Texas Legislature no later than December 1, 2016, and the Housing Resource Center is working with someone most all of you know and are familiar with, Naomi Trejo, with TDHCA, who has moved from the Housing Resource Center to a newly created position called the Coordinator for
Now, this bill requires a physical count of youth experiencing homelessness in Texas. Currently, HUD requires what is known as a point in time, or a PIT count, and that is an annual count of persons experiencing homelessness, and the HUD guidance says these must be conducted within the last ten days of January and that they must be in alignment with what is known as the Continuum of Care, or the COCs, governance charter. So to satisfy the count of youth experiencing homelessness required by this legislation, we have initiated what is called Youth Count Texas!, and that is for a statewide count, so this is a very intensive count and it's a needs assessment of Texas homeless and unstably housed youth. The youth count is anticipated to be held in conjunction with the point in time, or the PIT count.

This extensive study is being conducted in three phases. The first phase was the survey tool development. We completed that last summer, we held it in July and August, and we contracted with the Texas Network of Youth Services -- they are known as TNOYS -- and they gathered input and developed the surveys that are going to be used.

Phase II is what we are currently in and that is caused survey implementer, our implementation phase,
and this phase began several months ago in September and it's scheduled through March 2016, and we have again contracted with TNOYS to create training for the survey implementation, to provide technical assistance for the COCs, and provide data collection methodology in the system and to deliver reports on the implementation.

Now, Phase III will be the final phase, the data analysis. It's expected to start later on this spring and that data from Phase II, along with the data collected from other Texas state agencies, will be analyzed to examine the number and needs of the homeless youth and the degree to which the current programs are meeting these needs, identify sources of funding that might be available to provide services to homeless youth, and to develop a strategic plan establishing steps to be taken and timelines for reducing youth homelessness in the state.

So to further elaborate, with me here this morning is April Ferrino. She's a policy analyst with TNOYS. April.

MS. FERRINO: Good morning. My name is April Ferrino. I am a policy analyst with Texas Network of Youth Services, also known as TNOYS, as you heard.

TNOYS is a nonprofit organization that represents youth service providers, and we provide
training and technical assistance to these providers and
the community at large. We also advocate for young people
to have access to resources and support and opportunities
that they can lead fulfilling and healthy lives.

So as Elizabeth mentioned, we are the
coordinators for youth count activities, and once we were
awarded the contract, we formed collaborations with
several organizations, and these include the Continuum of Care organizations, Texas Homeless Network, the University of Texas, and the Texas Homeless Education Office.

So to conduct the youth count, as Elizabeth
mentioned, one survey was developed, two versions of it.
We just finished in November developing an electronic
toolkit which is accessible via our website to all
potential organizations who would want to participate in
Youth Count Texas! And in that electronic toolkit it
includes count planning, community outreach and
partnership information, how to do the surveys and how to
go about counting youth, as well as how to train
volunteers and to debrief the volunteers after the count
is conducted.

Thus far, we're also liaising with the
Continuum of Care organizations through weekly webinars,
and during these webinars the attendees are learning about
the resources that we provided in the toolkit in a more
in-depth basis.

And lastly, as Elizabeth mentioned, the organization and data collection will be handled by a researcher at the University of Texas, Dr. Cynthia Osborne, and that data collection will begin to occur in February and March, and it will be submitted to TDHCA for the analysis of the data to be conducted in the third phase.

I'll be happy to answer any questions you may have.

MR. OXER: Good. Any questions from the Board? I have a question. And this is an extension of a federal program?

MS. FERRINO: No. Youth Count Texas! was the result of House Bill 679 that was passed in the 84th Session.

MR. OXER: Okay. So it's a Texas program. What I was aiming at was to see how this compares to other states, if you know anything about that, just as a point of curiosity.

MS. FERRINO: I can't say with complete certainty, but I know it is rare that other states have conducted a full count of homeless youth, and I know Texas will be looked at for us undertaking this effort and I think the process evaluation that is part of the
deliverable of this contract will provide a lot of light on how the process went, what lessons were learned, both locally and at the state level, so that if this effort is replicated in future years, it can built upon, as well as other states and other even large counties, such as Cook County/Los Angeles, could learn from these efforts.

MR. GOODWIN: I have a question.

MR. OXER: J.B.

MR. GOODWIN: What type of information other than just a gross count, how are you breaking the categories down? Are you breaking down children between zero and five, children between five and fifteen?

MS. FERRINO: Sure. So on the survey we ask for their age or date of birth, whichever they're able to provide, so as I understand your question, I think that information will be conducted in the analysis part of the project which is the third phase which hasn't actually occurred yet. But just generally speaking, in youth homeless populations, providers generally think of youth 17 and under, and then those 18 to 24 in terms of really two distinct populations in terms of their needs and their homelessness situation.

MR. GOODWIN: Are you also gathering information on cause of homelessness?

MS. FERRINO: Yes. That is listed on the
survey for the youth to indicate why they're homeless.

MR. GOODWIN: And if you don't mind me asking, what's the cost of this program to count?

MS. FERRINO: I'd defer to TDHCA for the exact budget figure.

MR. GOODWIN: I recognize we're doing it under the House bill, but I'd just like to know what is the State of Texas spending.

MS. YEVICH: Elizabeth Yevich, Housing Resource Center.

I believe in the legislation that we had indicated for this study it was $200,000.

MS. BINGHAM ESCAREÑO: I have a question. Is there a definition for unstably housed?

MS. FERRINO: I would say there are several definitions of unstably housed.

MS. BINGHAM ESCAREÑO: Would any of them include migrant families, children of migrant families, any other like regularly transient?

MS. TREJO: Good morning. My name is Naomi Trejo. I'm a coordinator for homelessness programs and policy.

And regarding your question about migrant families, migrant families are included in House Bill 679 if they meet certain criteria also listed in House Bill
679, and we are working with the Texas Education Agency to
determine which ones will be counted in Phase III.

MR. OXER: And while we appreciate that you're
looking at the housing status for the youth that are out
there, which is something principally that we address, how
is this information shared? In addition to the education
aspect of it, how is this information made available and
shared with the other agencies in the state?

MS. TREJO: We're working very closely with the
other agencies and specifically Texas Education Agency,
Texas Homeless Education Office and Department of Family
Protective Services. I'm in communication with them at
least monthly to determine what data they already have
that we can use in Phase III. And then we have also part
of the Texas Interagency Council for the Homeless, many of
those state agencies are also members of that council and
a special work group was created for that council for
youth homelessness. They were involved in Phase I which
was the development of the survey, they're being involved
in Phase II, and they will also be involved in Phase III.

MR. OXER: So we have a survey that TDHCA will
handle, we'll take into account certain data needs that
they will perhaps need and we'll add that to the survey to
benefit them as well. Right?

MS. TREJO: That's correct.
MR. OXER: Good. Thanks, Naomi.

Anything else?

MS. BINGHAM ESCAREÑO: No. Thank you.

MR. OXER: J.B. anything else?

MR. GOODWIN: No.

MR. OXER: Okay. Elizabeth, anything else?

Great job. You know, kids are our future, a stable home, whatever it is, however it's defined as stable, is the foundation for building stability in that community.

MR. LYTTLE: Mr. Chairman, I just want to clarify something, if I may, for Mr. Goodwin.

MR. OXER: Yes.

MR. LYTTLE: The cost of the study is covered by every biennium the legislature appropriates $240,000 to TDHCA for educational research and studies on affordable housing, so the cost of that legislation was encompassed by those funds. That's what we're using to pay for it.

MR. OXER: So we basically get money every legislative session to do some sort of educational or academic investigation.

MR. LYTTLE: That's correct.

MR. OXER: And that's what we used it for this time.

MR. LYTTLE: Yes, sir.

MR. OXER: Is that good, J.B.? Okay.
That seems to complete the report items.

MS. SYLVESTER: Just a quick correction. Megan Sylvester. Clarification. There's a small amount of the money that's being paid for, as reflected in the Board writeup, through the HHSP program.

MR. OXER: Okay. We are sticklers for detail around here. That's okay.

MR. DeYOUNG: If you want detail, Megan is your detail person.

MR. OXER: I got it, I got it.

MR. DeYOUNG: Michael DeYoung, Community Affairs Division director.

Item 4 on your agenda addresses the award of a new area of services for the CSBG and CEAP services for a seven-county area northeast of the Dallas-Fort Worth area.

A while back in the summer, the agency formerly known as NETO, Northeast Texas Opportunities, voluntarily relinquished both programs back to TDHCA. We came to you for authorization to release an RFA to get applicants for the new service provider in the area. We released the RFA and we got four applications back. Those applications were scored. The applicants included two councils of governments and two nonprofits.

The way the CSBG Act is drafted, it is fairly detailed as to how we go about awarding these areas of...
coverage, and the two councils of governments, Texoma Council of Governments and ArkTex Council of Governments, were the two highest scoring respondents to the RFA but they are both political subdivisions of the state, and as such, the CSBG Act requires that we give priority to a private nonprofit if there's one in the area who is already a recipient of the CSBG funds. And we did have one applicant that was adjacent to the area, they serve the Texarkana area and Linden and a couple of other communities, that is Community Services of Northeast Texas, they're a private nonprofit, and they went through all the previous participation review, they got a favorable recommendation out of the EARAC committee, and we are presenting them for a final permanent award of the CEAP and CSBG programs.

CSBG, again, you'll recall, is the case management and kind of an umbrella grant for these organizations, and then the CEAP program is the utility assistance.

Our interest is getting these contracts in place as quickly as possible so that the new provider can reach out, expand his current office to include these new seven counties, which is about doubling of his service area. There will be a lot of work training and bringing his new staff on board and getting them up to speed on all
the rules and regulations, but we hope to be providing services in the area as quickly as possible, looks like probably a February 1 start date for new services, provided all the training works out and he can get all the people in place.

I had a conversation with him today -- or yesterday -- I apologize -- and he's excited about getting started as quickly as possible. So we'll merge the contracts and on January 1, he'll have the funds and his contract ready to go.

MR. OXER: Any questions from the Board? So we're essentially, even though NETO abandoned this -- not abandoned -- relinquished this contract, there's still going to be no gap in services? Or was there a small gap that we're sort of patching over right now?

MR. DeYOUNG: I would say there was a gap in services. We were able to make payments through Texoma Council of Governments, we had a temporary contract with them. Probably there were some individuals who probably struggled to find another provider during that time. They could reach out to Texoma and get services, but if they didn't get the link, there may have been a drop in services for one or two individuals. If anybody was enrolled in the program, we took care of them throughout the end of the year through Texoma Council of Governments.
And we'd like to say on the record that we appreciate Texoma Council of Governments stepping in to fill a void. At the drop of a hat, they were in the area within a matter of days, making the payments and trying to find any clients that needed assistance. There may have been some individuals who didn't get assistance during that time, but if they were already enrolled, they were taken care of well by Texoma Council of Governments

MR. OXER: But we were meticulous in paying attention to the detail of being able to pursue this, perpetuate this program as best as possible transition to a new provider so that we didn't lose anybody in the net.

MR. DeYOUNG: Correct. And then what will be happen is there's a process where we will formally get all the records for anybody who was served either by Northeast Texas Opportunities, NETO, the former provider, Texoma, the temporary provider, and we'll try and get everybody who was enrolled in the program in the past or currently in this year in their records so they can reach out to them and say we are now the new provider in the area, and CSNT will roll forward as the permanent provider.

MR. OXER: And that includes, in addition to all the social networking and digital outreach, active knocking on doors for those people who wouldn't necessarily have that.
MR. DeYOUNG: Yes. In fact, we'll coordinate with Michael's staff to put out some public notices to let the public know throughout the papers that there is a new provider and what contact numbers they should be calling, get the website out there for them. Our records will all reflect this on January 1. And one of the things that goes on in our office, we receive a lot of calls just on our 1-800 line, we'll be referring them over to CSNT. They'll also have another array of services that CSNT provide, they do meals, elderly meals, rural meals. So this is a good solution for the population of these seven counties. They'll get all the services they were getting from NETO, and quite possibly some more.

MR. OXER: Good. Any questions?

MR. GOODWIN: Move approval.

MR. OXER: Okay. Motion by Mr. Goodwin to approve staff recommendation on item 4. Is there a second?

MR. CHISUM: Second.

MR. OXER: And a second by Mr. Chisum. No request for public comment. Motion by Mr. Goodwin to approve staff recommendation on item 4, second by Mr. Chisum. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?
(No response.)

MR. OXER: There are none. Thanks, Michael.

MR. DeYOUNG: Thank you.

MR. OXER: Raquel. Raquel, you've changed. I like your tie.

(General laughter.)

MR. GOURIS: Thank you. Tom Gouris, deputy executive director.

Unfortunately, Raquel had a flood in her house and she's dealing with that, so she hopefully will be with us later in the day or later in the week for sure. But I'm here to speak to the next couple of items.

The first one is 5(a) and it's a LURA amendment, it's essentially a cleanup amendment for a twenty-year-old tax credit development known as Willow Pond Apartments. It received a tax credit allocation in 1994 for 394 units in 41 buildings. A couple of things have happened. They had given us notice shortly after that that they didn't have that many units anymore because one of the buildings, I think it was Building 26, was not repairable and it was demolished and they'd been operating under that presumption that we were okay with that because back in 1995 we're not sure how that transpired, but we never corrected the LURA, at any rate. So now they have 386 units in 40 buildings. The original LURA actually was
for a couple of extra buildings -- well, actually a couple fewer buildings because they were combined is what happened, and so we're separating them showing the number of buildings that they actually have. So right now they have 40 buildings and 386 units, so that's the cleanup piece.

But another portion of that was one of the units they were using, actually a couple of units they were using for community service sort of activities. One was a kids club and the ownership transferred a couple of years back to the current group, WPA Investments, and the property had been operating with this kids club or with some community space in some of these units and they continued to do that. When we went out and talked to them about it with the new ownership, they said, Well, it's always been like that. And it turns out that as far as we can tell that they had been using the unit for a kids club, so that kids club is being operated by nonprofit and it provides after-school care and a place for the kids to be after school.

They also asked at this time for four units to be converted to serve households at an upper income, at up to 80 percent area median income. They said that this just something so that folks who were now over income or who were just slightly over could still stay at their
property or live at their property. We didn't find on that point that there was any evidence that they're having difficulty leasing units or that they needed those four extra units to be financially viable. So that piece of the request we're not making a recommendation to move forward with.

They had a public hearing on October 6 that was well attended and folks seemed to be wanting to see the kids club, in particular, unit be used for that purpose. So we're recommending that the cleanup to this LURA be to approve that one of the units be allowed to be used for that community room or kids club room, but that we deny the request to convert four of the units to market rate. And I believe the owner is here to speak to that issue.

Any questions?

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: So we're essentially correcting or making legal something that's been going on for a long time with respect to the kids club area.

MR. GOURIS: That's correct.

MR. OXER: So it's been like that so this is just putting it down and documenting the fact that it's okay like it is.

MR. GOURIS: It's not a requirement, it wasn't
a requirement of the LURA to use it that way, it wasn't something they requested or had as an amenity back in 1994, but it was something that's been used for a long time.

MR. OXER: Essentially grandfathered in.

MR. GOURIS: And it does appear to provide a benefit for the community.

MR. OXER: And with respect to the market units, or elevated rent on the four units, it was just something they requested to satisfy. What happens to the folks that are there that have graduated out of the income status?

MR. GOURIS: Well, typically there is a provision that you can graduate out of the status and continue to live there until you get to a status that's significantly higher.

What they're asking for is not to increase the rents for these four units but only to increase the level of affordability being targeted there, in essence, allow folks who wouldn't otherwise qualify initially to live in the property to live in the property but still at the rents that everybody else is receiving. So it's not an economic need to do it and it would reduce the number of units that are affordable at the 60 percent level. So we don't really have a provision for saying you can have tax
credit units that are above that level if you ask, and so
we're not recommending that change.

    MR. OXER: So staff recommendation is to
approve the community use room and disapprove the
escalation of the four units that they requested.

    MR. GOURIS: Correct.

    MR. OXER: And those are combined in the
resolution?

    MR. GOURIS: That's correct.

    MR. OXER: Question, Dr. Muñoz?

    DR. MUÑOZ: The kids club, that wasn't
authorized, that just sort of evolved?

    MR. GOURIS: That's correct.

    MR. OXER: We're essentially back authorizing
it for twenty years?

    MR. GOURIS: After some period of time. Over
the years they've had this compliance issue come up. It's
allowable under the Code to use a unit for a common area
but it wasn't authorized, and this is making it
authorized.

    MR. OXER: We're formalizing what's been the
actual de facto case for some time.

    MR. GOURIS: Correct.

    MR. GANN: I would point out that that is loss
of income to the owner because that's free to the young
people in that area. So a good plus.

MR. CHISUM: Question, Mr. Chairman. Is there any liability associated with grandfathering the kids club back to this organization?

MR. GOURIS: Well, I think that we're cleaning up going forward, I don't know that we're suggesting any grandfathering.

MR. IRVINE: Wouldn't really refer to it as grandfathering, it's simply approving a material amendment so that going forward the LURA will reflect that that is a permissible use and not taking any action with respect to the prior misuse.

MR. GOURIS: That's correct.

MR. CHISUM: Thank you for the clarification.

MR. OXER: Any other questions?

(No response.)

MR. OXER: Hang on. You can't leave yet.

MR. GOURIS: Okay.

MR. OXER: So this is to approve the community use and not approve the escalation in rents. That's what the resolution is for.

MR. GOURIS: Not to approve the change in the income level for four units.

MR. OXER: Okay. Just making sure we're clear on that. We'll have to have a motion to consider before
we'll take public comment.

MR. GANN: I make a motion to consider as presented.

DR. MUÑOZ: Second.

MR. OXER: Okay. We'll take Mr. Gann's motion to approve staff recommendation as presented, and Dr. Munoz as a second. We have public comment.

MR. MABUS: Good morning, Chairman and members of the Board. Thank you for the opportunity to come speak, and thank you for the presentation of what we're attempting to do at Willow Pond.

MR. OXER: The first thing I have to ask you to do is identify yourself.

MR. MABUS: Yes. Sorry. My name is William Richard Mabus, I go by Rick, and I am a part of the ownership interest at Willow Pond and part of the general partnership interest, and office there every day and office directly below the apartment that we're referring to as the kids club, so I can vouch for the fact that they're there.

MR. OXER: You know it has been used.

(General laughter.)

MR. MABUS: It has been used. It sounds like a troop of elephants slamming around on my rooftop, so I have to get all my important phone calls done by three in
I wanted to clarify a couple of things on that, and I appreciate the explanation. It's actually not just a kids club but that's where we found our most important need is. The intent is to eventually be able to provide job training assistance for the adult residents that are there and those type of services. Behind Every Door, that is running this program, they have actually partnered with the local elementary schools and it's not intended to be after-school daycare, it's intended to be after-school tutoring programs.

They have direct relationships with the teachers at Hodgkiss Elementary School. The kids will walk in the door in the afternoon and say, I'm ready to do my stuff, I'm ready to have some fun. And they say, Well, you need to get your homework out first. Well, I don't have any homework. Well, no, I know you have homework, your teacher emailed me your homework assignments; get your math book out, open it to page whatever, and let's get this math done. And they've also partnered with Hodgkiss to send representatives within the Dallas business community there in our immediate area into the elementary school during the business days to read for thirty minutes at a time with different students, preferably students that first came from our apartment.
complex, but then students within the elementary school. So it's a really neat, really important service that they're providing.

One last thing I'll mention, too, that they've done is they've partnered with Paul Quinn College, they have a Lexia Reading program. Paul Quinn College is a very unique university in Dallas that's done some really fantastic things, and education majors come up from Paul Quinn, which is in south Dallas. They come to our apartment complex and they have a huge bank of iPads that they pull out with the kids and they're also providing reading assistance with these kids. So it's a really neat partnership that they've been able to forge that's kind of drawing a bridge between north and south Dallas and our low income residents.

That's a really wonderful thing and we appreciate the recommendation to moved forward with that because it's really critical to what we're trying to do there. And it is worth noting that we are offering to give away income. When we assumed the responsibilities of this property about six years ago this spring -- maybe seven years ago now -- we knew it was a low income property but we absolutely refused to be slum lords and we knew we had an opportunity to serve our tenant base there. We can do better but that's what we are intent on doing,
and we are convinced that at some point maybe we'll make a living doing that, but in the meantime we can serve these residents, so that's what we intend to do and we appreciate the consideration for this.

The reference to the 60 percent -- the reference to that third item which was the request to remove the income restriction from those units, the reasoning for that and the reason behind that is that a starting schoolteacher in DISD now makes $50,000, if we had a single schoolteacher applying to live at our apartment complex and wants to live in north Dallas, they are now over qualified to be able to live there. And I hope my research is correct, that was off the DISD's website. A starting police officer makes above our minimum threshold, and I believe it was $42,000 -- I'll have to double check that, but I know they make above what our 60 percent limit is.

So what we've requested is for that limit to be moved to at least 80 percent so that maybe we can get our community civil servants living in the north Dallas area in our low income neighborhood so that they can be representatives to our youth of our apartment complex that you can be a police officer in Dallas, you can be a schoolteacher, you can be these things. And so that's the intent of that request. It had nothing to do with trying
to move in the next oil baron -- not to be insulting to oil barons.

MR. OXER: There are fewer of them now than there used to be, by the way.

MR. MABUS: Maybe so.

MR. OXER: With oil at $34 a barrel, there's not that many left.

MR. MABUS: So that was the intent of that request, and I just wanted to have the opportunity to be able to speak to that and explain further why we would ask for that.

MR. OXER: Thanks, Rick. Any questions?

MR. GOODWIN: I have a question. So if we moved it to 80 percent, would the schoolteacher and the policeman be qualified?

MR. MABUS: With some of the brand new requirements, I'm not sure that they would. It would hopefully give us an opportunity to catch some of the -- because they just had pay raises for DISD, I believe, but I do think we could possibly get a teacher that's been with the district five or six years that would be willing to consider moving there. With the Dallas Police Department, I do not know that answer, I would have to research that. And I apologize for not having that information for you.
MR. OXER: And that's for four units out of 386, basically 1 percent of the population to be a resident and exemplar of civil service, perhaps.

MR. MABUS: Yes.

MR. GANN: I've got a question.

MR. OXER: Mr. Gann.

MR. GANN: The way I see this, though, this is no more income for you, this is just letting you have an opportunity to put some people in there that could actually help protect this whole program you're starting and doing, which I admire you for.

MR. MABUS: Yes, sir, that's exactly right.

MR. GANN: So there's no income to them, no more increased income. They're just trying to get a couple of people in there that might could really help this. There's nothing better than having a policeman come by his house in his car every once in a while and just check on his family, it helps a whole lot in a lot of different things. And I hope that works.

I want to check on that and make sure. Is there anything that we have to do, Tim? I mean, I know we've got to vote on it to change it, but where is the negative?

MR. IRVINE: Well, I think that the negative is that the program is federally statutorily designed to
serve 60 percent and under area median income households, and we at the staff level have had some initial discussions about the need to serve 80 percent households, but frankly, I would like to go through that on a more public discourse basis and look at what's the optimal way to address 80 percent households, if that's an appropriate thing for this Department to be doing with its resources and to develop a policy decision that applies uniformly. I'm always nervous when you start to do one-off exceptions to a program that's already structured a specific way.

MR. OXER: Any other comments?

(No response.)

MR. OXER: And just for the record, Rick, it's laudable that you're trying to do that to attract some of these folks in there, and I think everybody in here recognizes the benefit of trying to create an atmosphere and environment where kids grow up recognizing civil responsibility, for example. You're doing the right thing but we don't have a mechanism to do it right now and do it the right way. What I'd like to really do is see if we could engage this in a conversation to figure out something, like Tim said, to figure out a mechanism within the tools that we have to build that environment that you're talking about that doesn't look like we're preempting something just exercising discretion. But this
is something that I think we all agree, certainly
everybody up here agrees, it's something we ought to be
looking at.

MR. MABUS: Well, and I'd like to offer our
input or our feedback or our involvement if there is an
opportunity for that discussion. It's been amazing to
see. We didn't necessarily buy Willow Pond as a community
outreach effort, we bought it as an investment when the
economy was falling apart, and rather quickly we realized
that all of a sudden we didn't know we maybe had a calling
in front of us to do the right thing within Dallas. And
so it's been a really unique experience. We all office
there every day. The first three years we were there, I
had a hit put out on me by a drug dealer because I was
running him off our property. I didn't get into real
estate to get dead either.

So this has become a really unique opportunity
for us to really see this at the ground level, and it's
been really eye-opening for us, and if we can share any of
our experience and wisdom that we've gained through this
with the members of the Board, we'd be happy to, or with
TDHCA.

MR. OXER: It's probably evident the direction
that this vote is going to be just because of the
mechanism and mechanics that we've got to deal with, but I
would very much like to hear, even if it's an invited report to you to tell us what you've found where we can figure this out because that's exactly the direction that I think everybody has indicated they would like to see this go but we've got to figure out how to do that within the constraint of the rules that we use to constrain ourselves, as well as the community that we're working within.

MR. GOODWIN: I didn't hear Tim say we have rules that prevent us from doing this.

MR. OXER: Well, we don't.

MR. GOODWIN: I heard Tim say we have rules that I would prefer not to do this, and that's maybe Tim's preference. My preference is to do this. Other members of the Board may disagree with me, but I applaud the actions that you've taken and four units is peanuts. And maybe we can do this and look up a year from now and say did we accomplish this, or six months from now, use this as a test case or a test study.

MR. OXER: And maybe that's the right thing. You know, we spend a lot of time, particularly on like the QAP and other things, exercising discretion, as we've noted, rarely and lightly, but in one of those more important moments when we have opportunity, it may be that we want to use this as the tip of the compass and not a
map so we can figure out which direction we want to go.

Dr. Muñoz.

DR. MUÑOZ: J.B., well, I thought I did hear
the E-D say that there are rules, statutes, federal and
state, that may prevent us from. Otherwise, I might be
inclined to endorse the position of my esteemed colleague.

So Tim, maybe you just restate that.

MR. IRVINE: Well, perhaps this is an
appropriate subject for discussion with counsel in
executive session. I mean, the federal statutes that
create the Tax Credit Program target 60 percent and under,
and that goes into issues into what constitutes eligible
basis and so forth. This is a property that's outside of
its tax credit period, so the taxes are not an actual
issue in that regard.

MR. OXER: Let's make this easy on both of us
right now. We're going to table this until we come back
from exec session and then we'll decide.

MR. MABUS: Are we okay to keep running our
kids club?

MR. OXER: We're going to have an answer for
you today, but I'm just saying this is something that
we'll need to have some advice with counsel, which we do
in exec session. So if the Board is satisfied with that.

MR. GOODWIN: Is there a reason we can't vote
on the kids club and table the second part?

    MR. OXER: Well, right now the resolution is combined components, and actually we vote on the resolution, not the components of it.

    MR. GOODWIN: Okay.

    MR. OXER: Thanks, Rick.

    MR. MABUS: Thank you very much. Appreciate the opportunity.

    MR. GOURIS: Any other questions on that?

    MR. OXER: Any other questions on that? Is there an echo in here? We'll hold that one off until later. I assume, Mr. Gann and Dr. Muñoz, you'd be willing to table the motion until we return from exec session?

    MR. GANN: Yes.

    DR. MUÑOZ: Yes.

    MR. OXER: Okay. Next.

    MR. GOURIS: The next item then is 5(b), and it is the consideration of a return of credit and reallocation under the force majeure provisions 11.6 in the QAP.

This project, Emma Finke Villas, was allocated $391,709 in credit in 2013 for rehabilitation of 76 units in Bellville, Texas. We've had a significant number of transactions this cycle because of all the weather issues and other issues come up and get very close to that placed
in service deadline which is December, the end of this
month, and suggest to us that they've had weather delays
and indicated weather delays, and we've actually approved
a number of disaster-related delays due to weather, in
combination with other events.

MR. OXER: We seem to have a lot of weather
problems in Texas, huh?

MR. GOURIS: We do, yes.

Unfortunately, this property had some
additional problems and had some weather problems.
Unfortunately, it wasn't in a declared disaster area, and
therefore, couldn't take advantage of the disaster
declaration extension. What's happened instead is -- in
addition, I mean, is that they had delays in getting their
loan structure approved with USDA and getting all that
transaction done, it was a rehabilitation, so they had to
get all that worked out before they could start moving
tenants. They had time issues to have to move the
tenants, and then one of the buildings that they were
going to rehab in the first group of buildings -- because
they were doing this sort of in phases -- burned down, and
so that caused some further delays.

They've been working dutifully to try to get
everything accomplished still with the deadline that they
had. They expect to done as early as the end of January
now with that last phase and have placed in service by then. They've asked for the force majeure treatment where they've returned the credits now and those credits are set aside and will be reallocated, upon your approval, through a carryover out of the 2015 allocation and so they will be able to place some units in service this year and the rest of them early next year.

MR. OXER: Is it all the credits or a percentage of the credits?

MR. GOURIS: All of the credits would be returned.

MR. OXER: All of them returned, they're back in the pool and they're reallocated.

MR. GOURIS: And it's set aside and reallocated under force majeure through a carryover this year so they'd have 2015 credits. They could place some of the buildings in service.

MR. OXER: So we're doing a swap on the credits.

MR. GOURIS: That's correct.

So this is kind of a last resort way to help solve a development that's had some trouble getting accomplished, give us this tool that hopefully very seldom happened to be used, but in this case it merits use.

MR. OXER: And you're feeling confident that
the application is warranted?

    MR. GOURIS: Yes, sir.

    MR. GOODWIN: Move approval.

    MR. OXER: Okay. Motion by Mr. Goodwin to approve staff recommendation on item 5(b).

    MS. BINGHAM ESCAREÑO: Second.

    MR. OXER: Second by Ms. Bingham. There's no request for public comment. Motion by Mr. Goodwin to approve staff recommendation on 5(b), second by Ms. Bingham. Those in favor?

    (A chorus of ayes.)

    MR. OXER: And opposed?

    (No response.)

    MR. OXER: There are none.

    MR. GOURIS: Thank you.


    MS. HOLLOWAY: Yes, I am. Good morning, Chairman Oxer, members of the Board, Mr. Irvine, Mr. Eccles.

    Item 6 is presentation, discussion and possible action on an appeal filed for application 15093, Stonebridge at Childress in Childress Texas. This applicant received an award of housing tax credits at the July Board meeting which was conditioned, through their underwriting report, on the receipt of certain
documentation on or before the carryover documentation delivery date which was November 2. The applicant failed to provide the required documentation at that date, and as a result, the application was terminated on November 24, 2015.

On November 25, the applicant requested an extension of the carryover documentation delivery date to December 17 of 2015 -- which, of course, is today -- and implicit, of course, in this request was a waiver of the rule regarding the carryover documentation delivery date and an appeal of the termination is implicit in appealing the denial of their extension in their letter. So the request for extension was denied by the executive director on November 30, and the applicant filed an appeal to the Governing Board, which is what we're considering today, on December 1 of 2015.

The underwriting report, the condition that we are discussing included this condition: Statements from the lender and equity provider that they have performed a market study, including a statement of the level of review and based on that study they intend to move forward with processing their applications. That's the underwriting condition that we're discussing.

This condition was based on concerns that the capture rates for certain unit types were reported to be
as high as 333 percent in the original market study provided. When our underwriting staff went back to double check those calculations, they came up with 614 percent on some of these individual unit types. The underwriting report further recommended that the HOME funds that had been requested in the original application be denied on the basis of this very high risk because of these capture rates.

The recommendation for the housing tax credits was conditioned on that market study, and was, in part, based on communications with the original equity provider that they would engage their own study using a different methodology than the market study that was provided with the application. The statement did not represent a review of the existing market study, and therefore, the condition in the underwriting report was specifically phrased "Performed a market study," because that's what we were told was going to happen.

The underwriting staff was seeking confirmation from the lender and the investor that they had independently considered these capture rates and that they would not raise these as concerns as we were moving forward to closing the transaction. The underwriting report was published on July 15, the applicant did not appeal the condition at that time.
The commitment notice included a restatement of that condition, was timely returned by the applicant on September 17, without appeal of that condition from the underwriting report. The carryover agreement was returned on October 30 of 2015 without any of the carryover supporting documentation or a request for extension. So we got the agreement back before the due date, we didn't get the stuff that comes with it and we didn't get a request for extension.

TDHCA staff contacted the applicant on November 2, which was the due date, just as a courtesy to remind them --

DR. MUÑOZ: Can I ask a question?

MS. HOLLOWAY: Yes.

DR. MUÑOZ: Could you just go back. What did we get and not the stuff that goes with it? Like how do we get something but not the things that are required of it?

MS. HOLLOWAY: So the carryover agreements are issued by our staff and are specific to each transaction.

DR. MUÑOZ: And I'm asking this because you said that we did receive that in time.

MS. HOLLOWAY: We received part of it, we received the agreement back. There's a set of documentation that needs to come back with that agreement
and that's what we didn't receive.

MR. OXER: It's like having an incomplete application.

MS. HOLLOWAY: Right. So our staff contacted the applicant and said: Hey, I've got your agreement, I don't have this other information. The applicant provided documentation before the end of the day on November 2, so they were able to gather some documents together. They claim that that package meets all of those conditions; we disagree.

Part of the carryover package documentation that was required is resolution of conditions of the commitment notice that instructs the applicant to state each condition in the commitment that's due at the time of carryover. The applicant listed another underwriting condition on that form and provided information responsive to it, and we were fine. They did not include the market study condition on their package when it came back, they just left it out completely.

Real estate analysis staff contacted the applicant on November 6, so we're now four days past the deadline regarding the omission of the market study regarding those conditions. On that day the applicant provided a letter from the lender that had substantially the same language the lender had previously provided that
was not responsive to the condition.

On November 9, the applicant provided another letter from the equity provider -- but this is a different equity provider, this isn't the one we started with -- which stated they would not be conducting their own market study and that they found the original market study acceptable.

On November 24, the application was terminated under Section 10.402(f)(1) due to the applicant's failure to provide the carryover documentation related to the underwriting condition or request an extension prior to the deadline.

On November 25, the applicant requested an extension of the carryover deadline to December 17, as I mentioned earlier, so that would be to today. The basis and justification for the extension was related to some very unfortunate events that occurred for the applicant shortly before the commitment was due, and we are very sympathetic to this chain of events. They occurred two and a half months after publication of the underwriting report, so the applicant knew back in July that this was going to be a condition.

The request for extension was denied on November 30 because part of rule clearly states that carryover extensions will not be granted past December 1,
so the rule will not allow us to extend to December 17.

   The appeal letter includes statements that the applicant believes they met the underwriting requirement with the letters provided on November 6 and 9, despite neither the lender nor the equity provider providing a market study.

   MR. OXER: An independent market study.

   MS. HOLLOWAY: An independent market study.

Additionally, more detailed letters were provided from the lender and from the equity provider with the appeal that describe their reviews and their processes, and it also included a statement from the lender that they would be engaging a new market study that they planned to present at this meeting.

   I will tell you that we did receive this market study via email yesterday. Staff has not had an opportunity to review it at all.

   So the applicant has not timely met the conditions of the underwriting report that they knew about back in July. They did not timely request an extension of the carryover deadline. When they were, in fact, allowed additional time, they still failed to meet those requirements, therefore the application was terminated. The extension request was not timely provided, we got it almost three weeks after the deadline, and did not
establish adequate basis. These most recent letters and the market study that they're presenting today would be, in fact, six weeks later for that carryover deadline.

Therefore, staff is recommending denial of the appeal of both the termination and the request for extension.

MR. OXER: Thanks, Marni.

Any questions from the Board? Clear? Okay.

MS. HOLLOWAY: I think there's some folks here to talk.

MR. OXER: I'm confident that we do.

Before we'll take public comment, we'll have a motion to consider with respect to item 6.

MR. GANN: I so move staff as presented.

MR. OXER: Motion by Mr. Gann to approve staff recommendation on item 6 as presented. Is there a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin.

We have request for public comment. We'll start here.

MR. SPICER: Good morning, Chairman, members of the Board. I'm Jeff Spicer with State Street Housing, and as Marni had mentioned, an unfortunate confluence of events that have led us to this point that we want to discuss, and we won't go into those events, those are
detailed in your board book.

We did submit the carryover package in a timely manner. The package, we acknowledge, was unintentionally deficient. We had submitted right prior to the deadline on November 2, and as we were trying to pull that together quickly, due to the unforeseen events, we had unintentionally missed one item, and unfortunately, it was the item that staff found most important in the book.

While we acknowledge it was unintentionally deficient, we also understand that staff failed to appropriately give us notice to satisfy this deficiency. According to Multifamily Rules, Subchapter E, the post-award and asset management requirements, Section 10.401(d), the Department may cancel a commitment, a determination notice or carryover allocation prior to the issuance of IRS Forms 8609 with respect to a development and/or apply administrative penalties if the application or development owner or the development, as applicable, fails, after written notice and a reasonable opportunity to cure, to meet any condition of such commitment or determination notice.

Staff provided us neither a written notice nor a reasonable opportunity to cure. Had we been provided such an opportunity, we would not be here today.

The requirement, and as in the board book what
staff was looking for, the underwriting staff was seeking express confirmation from the lender and investor that they have independently determined that based on their understanding of the market, they would not raise capture rate or rent/market rent issues as a basis or concern for not closing. Both our lender and our equity provider at that date had done their full market due diligence, and as stated in their letters, were going to proceed to close this development. They had done full market due diligence. We have our equity provider here today to state that.

We did change equity providers along the way. We found, as often happens, a better deal. Someone gave us additional money, they were putting in 80 percent of their funds during construction. They believe in this deal.

So as I will summarize real quickly for you, staff failed to provide written notice, as required by the rules; staff failed to provide sufficient opportunity to cure. We have thoroughly addressed the market conditions, and had done so well prior to this date. We had started engaging the equity provider back on August 19, asked them specifically to look at the market and make sure that was not going to be a concern before moving forward. We have already started our closing calls, and prior to receiving
the termination in October, we had already started towards closing this development. Both our lender and equity provider are willing and able to state that there is no market concern of theirs and we are willing to close this transaction.

Thank you.

MR. OXER: Okay. Any questions from the Board?

(No response.)

MR. OXER: Mr. Spicer, would you like some assistance in getting signed in up there? Peggy, help him out.

MR. BOTTS: Good morning, Mr. Chairman, members of the Board. My name is Hunter Botts. I'm with Affordable Housing Partners, a Berkshire Hathaway company. We're a direct equity provider buying credits directly for our own use for Berkshire Hathaway. As such, we do not order independent market studies, we rely on our asset management group to do its own internal market study.

To give you a little timeline on this, myself and members of our organization have known this developer for some time, and when we saw that they received the award on this development, we sought them out and said, Hey, we would like to competitively make a proposal to you. So on August 6, we received the RFP package from the developer. On August 12, we sent our proposal,
knowing this was going to be a competitive bid situation.

On August 19, the developer asked us to review the market study to see if we were going to be able to be comfortable with the market. I did inform them that we don't routinely commission a new market study. We've closed quite a few transactions here in the State of Texas, both 4 percent and 9 percent, and we've never ordered an outside market study, we rely on our own internal asset management group to go do that.

So subsequently, what we did was we contacted all of the managers of the comps that were listed in the market, we identified some additional properties that we felt should have been identified as comps, we spoke with the executive director of the local housing authority, we visited the site, we visited all the comps. And so we got back with them and said yes, we've satisfied ourselves to the market, acknowledging that there does seem to be some softness in the 60 percent AMI units at max rents, but we got through normal stressing procedures within our analysis anyway, and so we had done that and everything proved up fine.

So basically, we sent a revised -- there were some still ongoing negotiations relative to price and pay-in schedule, as Jeff mentioned -- we sent a revised proposal on October 15, received the signed proposal on
October 21, and had our first closing call with our legal
counsel and their whole team on October 28. So we
satisfied ourselves to the market, the way we always do,
we don't rely on third party market studies, and we were
in the process of moving forward to close this transaction
and had several scheduled closing calls until this
particular issue has come up.

We're still doing our due diligence, obviously.

We don't have all of the construction and permits and
those kinds of things, but as it relates to the market
itself, which seems to be the concern of staff, we have
satisfied ourselves as the equity provider that we're
comfortable with those market conditions. And as Jeff has
stated, we're contributing 80 percent of our total equity
in during the construction, so that essentially, the
construction loan is no greater than what the permanent
loan is sized to be, so there's no construction loan
overhang for the developer to have to be concerned about.

And we stand here today to tell you that we're satisfied
with those market conditions.

MR. OXER: Okay. Any questions from the Board?

(No response.)

MR. OXER: And I would point out that
independent doesn't necessarily mean third party.

Independent can be within your own staff.
And I want to get a clarification of this, Marni and Tom, independent means it's not simply accepting the report that was done by the applicant. Is that correct?

MR. GOURIS: Yes.

MR. OXER: Okay. So potentially -- and I don't want to get shocked over here with a cattle prod from our general counsel, but an independent review of the market study that was done by the applicant, it doesn't have to be third party to constitute independent. Is that correct?

MR. ECCLES: Yes, sir.

MR. IRVINE: I would actually offer a slight spin on it. I want to make sure that the equity provider and the lender have done whatever they believe is appropriate to make themselves comfortable with the market and that they would not raise capture rate or market scope concerns as an impediment to moving forward.

MR. BOTTS: Yes, sir.

MR. OXER: And you're willing to state that for the record?

MR. BOTTS: Yes, sir. As I stated, we had started our closing call process with the developer back in October. We were moving towards closing, understanding that closing at that time was projected to be sometime end
of January, early February, and we had had several
scheduled calls subsequent to the initial call, so we were
moving forward with that.

MR. OXER: Any questions?

(No response.)

MR. OXER: Thank you.

John, good morning.

MR. SHACKELFORD: Good morning.

MR. OXER: So far.

MR. SHACKELFORD: Yes. Chairman Oxer, members
of the Board, Mr. Irvine, Mr. Eccles, thank you for
allowing us to come before you today.

In addition to what Mr. Spicer mentioned about
the notice requirement that we feel like TDHCA in this
instance overlooked complying with their own rules in that
regard, also in the carryover manual it states on page 4
that if deficiencies are found in a carryover submission,
the Department will notify the development owner who will
be given a specified length of time to correct the
deficiencies. So I submit to you that in this particular
instance TDHCA looked past their own rule that Mr. Spicer
cited to you as far as giving notice in a reasonable
length of time. Also, in the carryover manual the
Department failed to give notice as required of the
deficiency and allow them to have a specified length of
time to provide what was necessary.

You heard Mr. Botts mention about where they are with the equity, and I apologize for the delay, but a new capture rate analysis was done and provided to the Department yesterday. Lisa Vecchietti could not be here, she's with Lancaster Pollard, but she sent an email and has sent it to Tom, Marni and Brent Stewart, and if I may quote a little bit from it, she says: I apologize for the delay and the last-minute input. We're in the midst of year-end closings. Bob Coe -- who was the market analyst that was engaged -- and I had a call with my underwriter this morning after scheduling issues. Based on the information provided by the engaged market analyst's preliminary capture rate analysis, there is a market for the proposed units, and Lancaster Pollard intends to continue with processing and submittal of application to USDA for a permanent loan through the 538 guaranteed loan program.

And then it goes on, I can read the rest of it if you like, but essentially, I think that was the gist of what we were trying to communicate to you, what Mr. Botts communicated is in this particular development both the lender and the equity provider are fully engaged and they're absolutely moving forward on this particular transaction, despite a market study being done and
provided on a timely basis.

And I don't know if you had an opportunity to review my letter that's in your board packet or not, the reason why I asked for a waiver request was because of the rule that by December 1 all these had to be finalized on carryovers, and so I'm in the unfortunate position of bringing up that dirty word I know that we have at the Board and the Department of asking for a waiver in this instance to go beyond the December 1 date to today's date.

MR. OXER: But only to today's date?

Essentially what you're saying is you got it in, plus if the equity provider and the lender are satisfied and there's no overhang on the construction loan. I think, tell me if we're wrong, Tim, this whole thing was put in place so that we didn't get tax credits in there until the end of the season, sign this thing, and somebody says we don't want that because you didn't do this. If the lender and the equity provider are confident --

MR. SHACKELFORD: In closing the deal.

MR. OXER: -- in closing the deal, if they're headed down the track to close this thing.

MR. SHACKELFORD: Correct, that we won't be in a situation where we're giving back credits and creating an issue for you all.

MR. IRVINE: And I did not hear the unequivocal
clarity on the lender's side that I heard on the investor's side. I heard the word "preliminary" and moving forward with processing this. Could you speak to that? Do we have this kind of certainty from the lender as well?

MR. SHACKELFORD: Could you tell us what Hunter did?

MR. SHACKELFORD: Well, Lisa would have to be the one, Ms. Vecchietti, with Lancaster Pollard, to do that. I know in the email she's confident. I can represent to the Board she's confident the deal is going to close. So I can represent to the Board that is the case. Lancaster Pollard has engaged this Bob Coe to do a full market study analysis, but there wasn't enough time to get it done from when this issue reared its head to such an extent that they sought to engage it. Jeff Spicer then, knowing that we had the Board meeting today, asked the guy that Lisa Vecchietti engaged if he could do something short of that that we could present to the Board by today.

DR. MUÑOZ: I have a question. Your characterization of this point rearing its head, and then I understood earlier that there was ample time and notification, beyond that there was additional communications that afforded you the opportunity to
provide it, to provide it, but I've heard at least three
times the intimation that staff went outside of its rules.
That's the part that's giving me some pause. You
obviously feel that way, I'm not sure that they feel that
way.

MR. OXER: And it seems to be hanging, John, on
the written notification of the insufficiency or
deficiency. Is that correct?

MR. SHACKELFORD: Right, that's correct, that's
correct. And I don't deny that Mr. Spicer was aware on
July 15 that there was going to be a condition that was
required, that's a given. But like most developers, they
usually don't wait until they get the commitment in August
before you start moving towards satisfying carryover.

If you read the Board book and the letter that
I provided, you'll see what we claim were the extenuating
circumstances that the very next day after the commitment
came out by TDHCA what their family was dealing with. And
there was another incident that was occurring right before
the November 2 deadline that, if you would just take my
word, there was another significant family issue going on
with them that created even more turmoil and stress in the
household that they had to get past right on that same
day.

And then we did not get written notice. Mr.
Stewart was kind enough to call Jeff Spicer and say: Hey, where are these things; we haven't got it. Not denying that staff was helpful. Ben Sheppard called on the 2nd saying you didn't get everything in.

MR. OXER: There was a lot of things going, they've got turbulence, staff was helping, so we nicked a piece off the rule and we didn't get the letter or something like that.

MR. SHACKELFORD: Right. And the thought, from conversations with Mr. Stewart was: Look, the bottom line is real estate analysis was looking for some independent verification from the lender and the equity provider that they're going to be good to go. And so Mr. Spicer thought he was satisfying what Brent was looking for with these letters, saying they've looked at it, they've done their own analysis, they're good to go. We tried to beef up those letters after we got Ms. Holloway's termination letter, beef up those letters as soon as possible.

The termination notice came out on November 24, two days later was Thanksgiving, so trying to get anybody engaged in going from that point afterwards until you get back to Monday, November 30, you're running out of days until now it's December 17. So we've tried the best we could with what we had to work with and the calendar and that kind of thing.
MR. OXER: Okay. Stay where you are.

Hunter, come back up, if you would. And the reason I ask you to do that is so we can get you on the record so Nancy can spot you.

You're the equity provider in this?

MR. BOTTS: Yes, sir.

MR. OXER: Okay. Even if it's a lender who's going to take this out, ultimately you carry this on the back-end. You have the equity in this.

MR. BOTTS: Yes, sir.

MR. OXER: And you're willing to state unequivocally you're in the deal?

MR. BOTTS: Yes, sir. We've satisfied ourselves, our due diligence.

MR. OXER: And I would remind Nancy and the record, Hunter Botts. You have to identify yourself every time you come up to speak.

MR. BOTTS: Hunter Botts with Affordable Housing Partners, a Brookshire Hathaway company.

We have satisfied ourselves to the market due diligence. I can't state here today that all of the due diligence has been complete because we've been going through that process when we started the closing calls. We still have plans and specs, we still have building permits, there are still other things that are ongoing as
part of the natural due diligence process, but as far as
addressing staff's concern that we as the equity investor
have satisfied ourselves and have done our due diligence
relative to the market conditions, yes, sir, that is
correct.

MR. OXER: Any other questions?

MR. CHISUM: Yes. Did you give the developer
anything in writing confirming that?

MR. OXER: Tolbert, turn your mic on.

MR. BOTTS: Yes, sir. We provided two letters,
actually, that were forwarded to staff indicating that we
were comfortable with the market and that that was not
going to prevent us from proceeding with our closing
process, in addition to any number of conversations that
we may have had, but there are two letters that had been
provided to that effect.

MR. OXER: And the second one was that beefed
up that John was referring to. Is that right?

MR. BOTTS: Yes, sir. It just gave a little
more detail. The first letter stated that we were okay
with the market and we had done our due diligence, but
staff came back and wanted a little more detail, so we
provided more detail in the second letter.

MR. SHACKELFORD: Excuse me. Mr. Chisum, both
those letters are in your board packet.
MR. CHISUM: Thank you.

MR. OXER: That's the discussion on the record so we can keep it out.

Tim, did you have a comment?

MR. IRVINE: Yes. I just wondered if staff had any further comments that they wanted to make in this regard.

MR. OXER: Marni, do you want to address this?

MR. IRVINE: And as Marni comes up, we've all talked about the market and comfort with the market. I think it might be useful if we at least described what the market is.

MS. HOLLOWAY: Describe what the market is?

MR. IRVINE: Yes. What's the market for this development?

MR. GOURIS: If it's okay, she might have some items to correct on the record, and then maybe I'll address the market issue.

MR. SHACKELFORD: Recognizing that I am not part of the REA staff, I'm not going to comment on that part.

So a couple of things. Mr. Shackelford mentioned the deficiency process that's described in the carryover manual. Yes, in fact, deficiencies are mentioned as a possibility. Let me read to you what's on
the first page of the carryover manual, which is included in your board book. It says: Please note that the development owner is responsible for the timely delivery of complete carryover documentation. Late deliveries will be accepted only if an extension has been approved pursuant to 10.402(f) of the Uniform Multifamily Rules. Commitments for credits will be terminated if the carryover documentation or an approved extension is not received by the November 2 deadline.

That statement echoes what is in 10.402(f)(1) that says: Commitments will be terminated if the carryover documentation has not been received by this deadline unless an extension has been approved. This termination is final and not appealable, and immediately upon issuance of the notice of termination, staff is directed to award the credits to other qualified applicants based on the approved waiting list. So we were following that section of the rule. When we did not receive the full documentation, we terminated the application.

MR. OXER: I'm sorry. Go ahead.

MS. HOLLOWAY: Regarding Mr. Hunter's comments on the process that they were going through, we were not apprised of that information. We were not told, we were not consulted while they were doing all of their work
that's been described to us, so our real estate analysis staff has not had an opportunity to evaluate that information, consider it in light of their condition.

And yes, there are more complete letters provided in the appeal, but again, here we are on December 17, the due date was November 2.

MR. IRVINE: And the submittal we just received was received too late to make into the board materials.

MS. HOLLOWAY: Yes.

MR. IRVINE: A 71-page appraisal.

MS. HOLLOWAY: And there are emails at ten o'clock this morning. I can't do anything with those right now.

MR. OXER: You're good but you're not that fast. Right?

MS. HOLLOWAY: Right, absolutely.

MR. GOURIS: Tom Gouris, deputy executive director.

So the market for this property, originally a market study suggested that the market for this property was the entire county of Childress. When we went through underwriting, the application was to also include HOME funds with this transaction, and because those are direct award, that's direct funding from us and a liability to the state, our underwriting division, when they looked at
the market area, said this isn't going to work, this is not viable, we don't recommend the HOME award. They were, in essence, I think, convinced to move forward and recommend the possibility of a tax credit award subject to confirmation that the lender and equity provider had that confidence and that we could understand how they got there. And that's why we took the extra step in saying: Share with us how you got there, get an independent market analysis to help us with that.

That's the information that was available back in July. That's the conversations that were had between our underwriter and the then equity provider and lender back in July -- at least the then equity provider. And so there was an understanding that that equity provider was going to do their own independent underwriting market study, and our condition was sort of built off of that representation from that equity provider. That equity provider is no longer in the transaction, we have a different one who is comfortable with it based on their own analysis.

Back to the market now with this new market study, again, we haven't had time to really thoroughly evaluate it. A couple of things we have noted: it was commissioned by Mr. Spicer, initially there was no reference to it being used by anyone other than us and Mr.
Spicer, so the lender and the syndicator weren't included in the mix. The email that we just received from Ms. Vecchietti indicated that she's comfortable with that situation, that in order to avoid delays from their accounting and ordering their own market study, she was okay with Jeff hiring this market study.

As far as the scope of this new market study, the market area that is defined by this market analyst is extremely problematic. In order to get to sort of an acceptable conclusion from the study, they used eleven counties in the Panhandle area, which is over 7,000 square miles, roughly equivalent to the size of the State of New Jersey. It is an extraordinarily large market area.

The reason that's a problem is because someone living in that market who would potentially be --

MR. OXER: They're not going to live in Garden City and move down to Newark.

MR. GOURIS: For example, if they lived in Pampa which is not even at the full extreme of this market area -- I'm sorry -- if they worked in Pampa and they wanted to move to Childress from Pampa and had to commute that distance, it's 103 miles. If they had to do that five times a week there and back, at 57 cents a mile, that cost to them would be $29,000 a year. That's not an affordable situation; it's a market area that just doesn't
make sense.

In Ms. Vecchietti's letter this morning, she indicated that they did a quick review of it and she got comfortable with a five-county area. I don't know which five counties those are, but even that would be a significant area to establish the viability of a transaction.

So the request from underwriting wasn't just that we wanted to make sure that the lender and the syndicator were comfortable with this, but we wanted to understand the how they got comfortable with it because we weren't comfortable with it and we wanted to make sure that they wouldn't later on not be comfortable with it for some other reason, recognizing that this is a very difficult market area to get comfortable with.

MR. OXER: Thanks, Tom.

John. Make it quick, one minute, please.

MR. SHACKELFORD: I'll be very quick. The five counties that Ms. Vecchietti asked about was Childress, Collingsworth, Hall, Cottle and Hardeman. Those are the five counties, Mr. Gouris, that you didn't have that information available.

And the other thing, with all due respect to Mr. Gouris, I take issue with him saying what now staff was looking for in connection with these market studies.
because he's now questioning the market studies or the analysis that the lender in this instance is relying on.

Again, I go back to what Ms. Holloway said was the condition that we're talking about. Statements from the lender and equity provider indicating they have performed a market study, including statement of level of review and based on that study they intend to move forward with processing their application. Nowhere in that condition does it say that the independent study or market study that had to be obtained by lender equity provider had to satisfy real estate analysis, it just said you go do something you've got to do to make sure, in effect, we're not going to have an issue with getting credits back because you guys decide not to close.

So I would say that what Mr. Botts has already testified to, they're good to go, and what the lender is advising in an email to staff and what Ms. Vecchietti said -- she's available to talk to staff today, she couldn't be here this morning but she's available to talk to staff today -- that the lender is good to go.

MR. OXER: So in summary, the condition on this is essentially that the lender, the equity holder, the developer are all saying this is a good deal, they're ready to go, the law firm is into it, and they're looking for a way around some of the timely availability of some
of the data to support their position, but they're willing
to say they're in the deal.

MR. SHACKELFORD: Right.

MR. OXER: All right. Is that clear?

MR. CHISUM: Mr. Chairman.

MR. OXER: Mr. Chisum.

MR. CHISUM: If we do not approve this, does
the deal collapse?

MR. OXER: As the resolution is written,
approval of the staff recommendation terminates the deal.
So to answer your question, if we approve the resolution,
the deal collapses.

MS. HOLLOWAY: Marni Holloway, director of
Multifamily Finance.

As directed by our rule, if this appeal is
denied, we will move immediately to award the credits to
the next application in line on the waiting list.

MR. OXER: So the credits are not lost, that's
not the question on this. We've always got more projects
than we have money.

MR. CHISUM: Right. I understand.

MR. OXER: The question is does this deal
warrant the provision of a waiver and an extension in this
case to support their request with the lender and the
equity holder.
MS. HOLLOWAY: As I stated earlier, it's staff's position that this applicant has not timely met these requirements. We have not had an opportunity to evaluate statements, and while I understand that there are these emails going back and forth right now as we speak --

MR. OXER: The documentation that you have available to make a decision on doesn't support what the request is based on the documentation you had up through yesterday.

DR. MUÑOZ: Tom, and for the executive director, is the issue of the incompleteness of the documentation in dispute at all in terms of what was required by rule was not provided in a timely way? Is that in dispute at all from your position, or the ED?

I mean, I understand, I appreciate the likely viability of the deal, but how many times have we denied applicants because of a deadline?

MR. OXER: They were late for four hours on a deadline.

DR. MUÑOZ: And so I mean, it is going to make it very difficult to sit up here and say to someone: Well, we said five o'clock, and yeah, sure, it was 5:03. I mean, we've been in this position before and I think that the Board, at least most recently has erred on the side of the rule and what we are required to do regardless
of circumstance, unforeseen or otherwise. I mean, this is the basis for likely what will be my position.

MR. OXER: A very informed and sophisticated gentleman told me one time that every rule without a hard edge and a penalty is just a guideline.

MS. HOLLOWAY: This is true.

MR. GOURIS: That's exactly right. And the rule is structured in a way so that the actions that have been taken, the termination and all the things that have taken place, gets to a point where your role isn't to terminate the transaction, the transaction has been terminated, your role is to reinstate, if that's what you choose to do, and grant a waiver to extend these deadlines and extend the provisions.

Because, in fact, they are claiming, if you all find it acceptable, that they've provided now the information we requested months and months ago and was required to be provided in the carryover document, they're claiming that they provided that today or yesterday with that independent evaluation, which we haven't had time to evaluate, which has all these concerns. And so they would contend that they provided it, they would contend, possibly, that they provided it originally with the original commitment letters because the original commitment letters said roughly the same thing: We're
willing to move forward with this transaction. We needed
something more than that and we asked them specifically
for that.

I think the fault here, if there is one, on our
end, aside from whatever written notice issues really has
to do with at application when we underwrote this deal, we
probably needed to be more firm and say: Hey, we don't
recommend this deal at this point. But we had
communications with their equity provider and their lender
who had indicated to us that they were going to be moving
forward with more information and that that information
could easily be obtained by carryover. For whatever
reason, nothing happened, nothing happened, and they got a
different equity provider who has a different way of doing
it, who didn't apparently read or didn't take issue with
the comments that were in the underwriting report that
were published on the web, that were available to them to
do their due diligence.

MR. OXER: Okay. Anybody who has been at more
than of these meetings over this period of time will
recognize that we spend a lot of time trying to maintain
the integrity of our rule.

You have a comment, sir?

MR. JOHNSON: Yes, Mr. Chairman, members of the
Board. My name is Brett Johnson with Overland Property
Group out of Kansas City. I'm here representing second place, The Reserves at Perryton which, incidentally, is in that eleven-county area.

I don't like being up in this position against a competitor I respect. Jeff and I go head to head all over Region 1 and 2. If the roles were reversed, he would be here saying the same thing I am. In fact, he has been because I lost a deal to him a few years ago because I didn't meet the deadline and follow a rule. It's not fun, it's not some way that I want to get a deal, but unfortunately, those are the rules that we use. There is market in Perryton that will take these credits and use them.

I want it to be clear that if we allow this to happen, a lot of rules will have to be waived, and those would be precedent-setting waivers which would make this much more unfair to the rest of us that apply every year.

MR. OXER: Make it a bunch of guidelines instead of rules.

MR. JOHNSON: Exactly, and that was very well stated, and Dr. Muñoz, you said it very eloquently, they're there for a reason. I'm sorry it happened, Jeff. This team, I know them. Hunter. It's not a good way for me to get a deal. I don't like having to do that this way but it's a rule, and I had to follow them, all of our
documents are in place, and we ask that you consider what
staff is recommending.

MR. OXER: Good. Thanks, Brett.

MR. JACK: Good morning.

MR. OXER: So far.

MR. JACK: My name is Darrel Jack and my
company is Apartment Market Data. We performed the
original market study, and going to what Mr. Irvine asked
earlier about what is the market in Childress. The market
is thin. The QAP drives developers to small rural Texas
based on first and second quartile census tracts and
schools that score. That's the whole reason that Mr.
Spicer ended up in Childress along with two other
developers, and Mr. Spicer won the resolution from the
city.

But the issue really here is today is the
original market study that was delivered to the Department
and used for the original underwriting, it met the
requirements of the QAP. For the 2015 round, there is no
underwriting of the capture rate by unit type, and I think
you need to understand that. The only rule is for the
overall capture rate. The issue, as I understand it from
my discussions with Brent Stewart and with Mr. Spicer, is:
Is a syndicator, an equity provider really going to go to
a small market like this? And that was the concern that
caused the additional letter on making this contingent on the application.

But you have to remember, the original market study and the underwriting of that study met the QAP requirement at the time that the application was submitted. And so this is extra that you're asking the developer to do outside the QAP. And as you make your decision, you're right, rules matter, and I think everybody in the audience these last several years understands that this Board really applies the rules in a very black and white manner. But the black and white manner is that this project met the original requirement for the capture rate and that there's nothing in the QAP for 2015 that requires an underwriting or even gives the Department the authority on the issuance of the tax credits to hold back tax credits based on a high capture rate by unit type. That didn't come about until the 2016 QAP.

So it's not the developer's fault that he's gone out to small rural Texas, it's the way that the rules are. But as rules apply, the capture rate test was met for this project or the award never would have been made. He met threshold.

Thank you.

MR. OXER: Good. Thanks, Darrel.
Are there any other questions from the Board?
Any other public comment on this item?

(No response.)

MR. OXER: Tom, did you have something you want
to say, or Marni, something else? Mr. E-D?

MR. IRVINE: I had a comment. To me it all
really comes down to one pretty simple thing, that between
November 24 when the notice of termination was given and
today has been a lapse of 23 days, and I personally have
not heard an unequivocal statement from the lender that
they have performed whatever analysis they deemed
appropriate, based on a common understanding of the
market, that they're comfortable.

MR. OXER: Thirty seconds, Tom.

MR. GOURIS: I just wanted to clarify a point
that Mr. Jack made. The underwriting rules did not
specifically address, he's correct, they didn't
specifically address individual unit capture rate, but it
didn't prohibit the staff from commenting on that because
if it had, it would say all you have to do is these things
and we don't have to look at it at all. We evaluate the
market study very thoroughly, we need to be able to do
that, and when things come up that are out of the
ordinary, we bring that out in our underwriting or in
questions to the market analyst.
In this particular case, coincidentally, we have included a new rule in the 2016 that specifically addresses this issue in order to make sure that everyone is aware, hey, this is a common sense thing, even if you meet the overall capture rate but you far exceed the individual unit capture rate, your deal is not going to be able to move forward. And that's what Mr. Jack was referring to, that new rule is a new rule for 2016, but it wasn't something that we were going to walk past or walk over, in the past it just wasn't something that we thought we needed to put in a rule, and obviously we did.

MR. OXER: Thanks, Tom.

MR. ECCLES: Tom, I have a couple of questions.

MR. GOURIS: Sure.

MR. ECCLES: First, when was notice given to the developers of the need and condition of a market study?

MR. GOURIS: In July with the original underwriting report.

MR. ECCLES: And that was in writing?

MR. GOURIS: And that was in writing, and there was an opportunity to appeal those conditions at that time and they were not appealed.

MR. ECCLES: Okay. That's it.

MR. OXER: Okay. Is there any other public
comment, request for comment?

(No response.)

MR. OXER: Any other questions? With respect to item 6, there's been a motion by Mr. Gann, second by Mr. Goodwin, if I recall correctly, to approve staff recommendation to deny the appeal for the request for carryover and to terminate the application. There's been public comment. With respect to item 6, those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. The request for carryover is denied and the application is terminated.

All right. We have an executive session to go into. We're going to take a break for about half an hour, but I need everybody to be still and listen. If you're not going to be still, at least be quiet as you move out.

The Governing Board of the Texas Department of Housing and Community Affairs will go into executive session at this time. The board may go into executive session pursuant to Texas Government Code 551.074 for the purposes of discussing personnel matters, pursuant to Texas Government Code 551.071 to seek and receive the legal advice of its attorney, pursuant to Texas Government Code 551.072 to deliberate the possible purchase, sale,
exchange of real estate, and pursuant to Texas Government Code 2306.039(c) to discuss issues related to fraud, waste or abuse with the Department's internal auditor, fraud prevention coordinator or ethics advisor.

The closed session will be held in the anteroom of this room, which is JHR 140, which is right back here.

The date is December 17, 2015 and the time is 11:11. We'll be back at approximately 11:45 for what we expect will be a brief completion on this, and we don't expect to be here through lunch.

With that, we're recessed.

(Whereupon, at 11:11 a.m., the meeting was recessed, to reconvene this same day, Thursday, December 17, 2015, following conclusion of the executive session.)

MR. OXER: The Board is now reconvened in open session at 11:47. We did pretty good on that one. During the executive session, the Board did not adopt any policy, position, resolution, rule, regulation or take any formal action or vote on any item.

We have before us now one last item -- or two items actually, the last action item being item 5(b), as I recall. Is that correct?

MR. IRVINE: We've got to finish up 5(a), if there's any more discussion or questions or comments.

MR. OXER: And on 5(a) there was a motion by
Mr. Gann, second by Dr. Muñoz to approve staff recommendation to approve the use of the community area but deny the escalation of rates to 80 percent AMI on those four units. Is that a correct representation on that?

MR. IRVINE: Basically to adopt staff's recommendation.

MR. OXER: Right. Okay. That said, is there any more comments from the Board? Any more contribution from the staff?

(No response.)

MR. OXER: There appears to be no request for public comment. With respect to item 5(a), motion by Mr. Gann, second by Dr. Muñoz to approve staff recommendation on the item. All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. I think we have one single item left.

MS. BINGHAM ESCAREÑO: Mr. Chair, may we just make a statement to Rick?

MR. OXER: Please.

MS. BINGHAM ESCAREÑO: Rick -- I shouldn't speak on behalf of the Board -- I like what you're trying
to accomplish and I think there was sufficient discussion with legal counsel.

MR. ECCLES: Don't talk about the executive session.

MS. BINGHAM ESCAREÑO: Okay. I like what you're trying to accomplish and we look forward to working with you in the future and other developers that have the same goals to try to find a way to make that happen in the future.

MR. OXER: Thanks for your contribution, Rick. We appreciate the effort.

MR. CHISUM: Thank you.

MR. OXER: We'll get there, we just don't have the tool or the map yet, so we're working on it. Okay?

DR. MUÑOZ: And Rick, my colleague on the dais was certain speaking for me as well.

MR. OXER: Indeed.

Okay. Down to the last item here.

MS. MOLINARI: Good afternoon and hello again.

Jennifer Molinari, HOME Program director.

Item 7 is staff recommendation related to two amendment requests. One is for the City of Paris and the other is from WREM Literacy Group, whom you heard from earlier today. Both of these administrators have requested extensions to household commitment contracts,
representing five households under their two agreements, for an extension request that would exceed twelve months. Staff has requested the first extension request as allowed, however, under our current rules 10 Texas Administrative Code 23.27(f), we cannot approve more than one three-month extension, so we are asking for Board authorization to extend their household commitments for three additional months.

In addition, we are requesting Board authorization that would grant staff the ability to approve household commitment extension requests in instances where staff determines that construction delays are a direct result of the inclement weather and activities are within federal disaster declaration counties as designated in 2015. We are asking for this authorization because we have seen an uptick in the amount of amendment requests that have come through our office from activities that were within the federal disaster declaration counties resulting from the weather events in both May and October of 2015.

If staff is granted this authorization, staff would only approve extension requests for up to an additional three months without requiring further Board approval, provided that the administrator could prove up any weather-related delays and that the activity is in a
disaster county.

And so with that, I will be happy to answer any questions that you might have.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: So what you're really asking for, Jennifer, is just authorization to use what looks like good sense in saying that people run into problems with the weather every once in a while.

MS. MOLINARI: Yes, sir. Specifically since we've had so many requests this year.

MR. CHISUM: so moved, Mr. Chairman.

MR. OXER: All right. There's a motion by Mr. Chisum to approve staff recommendation on item 7. Do I hear a second?

MR. GOODWIN: Second.

MR. OXER: And second by Mr. Goodwin.

Is there any request for public comment? There appears to be none.

Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

Okay. We've reached the point in the formal
agenda where we receive public comment on matters other
than items for which there were posted agenda items. The
purpose of this is to build the agenda for future
meetings. So we'll have comment here if we have one.

REV. ANENE:  Good morning, Board Chair and
Board members. My name is Reverend Ebenezer Anene
[PHONETIC]. I came from Galveston County, and I echo what
the beautiful lady is saying about extension of time due
to weather.

I'm doing my last project with the Texas
Department of Housing and Community Affairs, the last
project we're doing for our previous contract, and due to
the weather, the flooding and also the fact that we had
issues with asbestos that the city required us to go
through several stages to remove this asbestos, we had a
time delay on the last project. Unfortunately, the
homeowner has been displaced. The home to date has been
closed in -- in other words, it's been dried in, but time
ran out for us and that's why I was told to come and ask
for a request to put the issue on the agenda for your next
meeting so that we'll be able to complete the home for the
homeowner. The man has grandkids that are so happy to
move into a home before Christmas, and I told them I wish
I was Ebenezer Scrooge, I would have helped them more, but
unfortunately that didn't happen.
But we pray and ask that you guys will please include that in the agenda so we'll be able to complete this home for them.

MR. OXER: Thanks for your comments, Reverend.

Any other questions from the Board?

(No response.)

MR. OXER: Okay. There's no other request for public comment. Does any of the staff or those left in the audience have anything to say or would like to make a comment?

MS. BINGHAM ESCAREÑO: Mr. Chair. I apologize, I'd like to go back. So based on the motion and the vote we just took, in the future if there are developments out there that are possibly needing extensions due to weather, did we just authorize staff to possibly make those decisions?

MR. IRVINE: In those narrow situations where they're federally disaster declared counties.

MS. BINGHAM ESCAREÑO: Understood. Thank you for the clarification.

MR. OXER: And I believe this is correct -- but tell me, Beau and Tim -- even if they have that and they deny that request, the applicant still has the option to come in and make the appeal for a waiver. Is that correct?
MS. BOSTON: Just to clarify --

MR. OXER: And you are?

MS. BOSTON: Brooke Boston. They would still need to be timely filed requests, and so in this case, the reason this situation would not fall under the authority you had just granted us because a timely filed request was not made.

MS. BINGHAM ESCAREÑO: Understood. Thank you.

MR. OXER: Anything else? Any other questions from the Board? Any questions from members of the Board on the dais? Mr. E-D?

(No response.)

MR. OXER: Okay. As the chairman, I get the last word. Last meeting of the year. I hope everybody has a happy holiday. It's a good thing that we do to make a hard effort to make sure that we do this the best it can be done. There's a reason that Texas leads the country in the way we do this, so thank you to everybody out there. It's a pleasure to be a part of this Board and I look forward to being here for all fourteen meetings we have scheduled for next year.

With that, we'll accept a motion to adjourn.

MR. CHISUM: So moved, and Merry Christmas.

MR. OXER: Motion by Mr. Chisum and holiday greetings to adjourn. Do I hear a second? I'll second
that. No public comment required. Those in favor?

   (A chorus of ayes.)

MR. OXER: And opposed?

   (No response.)

MR. OXER: There are none. Merry Christmas, everybody. See you in January. Be safe and come back; we need all of you back.

   (Whereupon, at 11:55 a.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF:        TDHCA Board
LOCATION:          Austin, Texas
DATE:              December 17, 2015

I do hereby certify that the foregoing pages, numbers 1 through 109, 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.

12/24/2015
(Transcriber)             (Date)

On the Record Reporting
3636 Executive Cntr Dr., G22
Austin, Texas 78731
December 17, 2015 TDHCA Board of Directors Meeting

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