

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Thursday,
July 8, 2004

Room 437
Waller Creek Office Building
507 Sabine
Austin, Texas

BOARD MEMBERS:

BETH ANDERSON, Chairman
C. KENT CONINE, Vice Chairman
SHADRICK BOGANY
VIDAL GONZALEZ
PATRICK GORDON
NORBERTO SALINAS

STAFF PRESENT:

EDWINA CARRINGTON, Executive Director

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P R E S E N T A T I O N

MS. ANDERSON: Thank you for coming this morning and thank you all for being seated and coming to order. I don't even need the gavel this morning. I call to order the July 8 board meeting of the Texas Department of Housing and Community Affairs. And the first thing we will do is call the roll. Beth Anderson is present. Kent Conine?

MR. CONINE: Here.

MS. ANDERSON: Shad Bogany?

MR. BOGANY: Here.

MS. ANDERSON: Vidal Gonzalez?

MR. GONZALEZ: Here.

MS. ANDERSON: Pat Gordon?

(No response.)

MS. ANDERSON: I understand that he is on his way. Absent at this point. Mayor Salinas?

MR. SALINAS: Here.

MS. ANDERSON: So we have four present, two absent at this point. We do have a quorum.

The Board will solicit, as is our custom, public comment at the beginning of the meeting and we will also provide for public comment on each agenda item after the presentation is made by the Department staff, and motion is made by the Board. So there are a number of people, quite

a few people, and we expect it and we welcome public comment at the Department.

Quite a few people want to make public comment this morning, and so I am going to ask you to limit your comments to two minutes each and we will still, I think, have a lot of opportunity to hear your viewpoint, but because of the volume of the people that need to make public comment, be mindful of the time and we will have a two-minute limit.

So, there is several people that want to make public comment during the public comment period. We will commence that now, Mr. Eugene Thomas, and then following him, Reverend Johnson.

MR. THOMAS: I'd rather --

MS. ANDERSON: Bob Montgomery?

MR. MONTGOMERY: Come up to the microphone?

MS. ANDERSON: Please, sir.

MR. MONTGOMERY: Bob Montgomery, Denton City Council, Place 5, Councilman-at-Large, I am here to support your project number 04151, located at 308 South Ruddell Street in Denton, under the current name of Renaissance Courts. If we can get this project approved, it will replace the deteriorated public housing project that is in the location now. It is very well located. It is in the heart of where we need the help.

I have looked at the plans for the project. We

believe in it. Our city council has endorsed it. Our legislative representative has endorsed it. Our congressman has endorsed it. We have got long letters of recommendation. We truly feel like it is a good and useful project. We would appreciate your help on this. If you have any questions, I would be glad to try to answer them.

MS. ANDERSON: Any questions?

(No response.)

MS. ANDERSON: Thank you very much.

MR. MONTGOMERY: You are more than welcome. Thank you.

MS. ANDERSON: Robert Greeley? And then the next will be Manuel Garza.

MR. GREELEY: Could we do it before the action item on Project 04213?

MS. ANDERSON: Yes, sir. Thank you. Manuel Garza?

VOICE: Let me say, Manuel Garza will be here in a little bit. I think he's giving some talk.

MS. ANDERSON: Thank you. David Kelly?

MR. KELLY: Thank you for the opportunity to speak today. I am here on behalf of the Denton Housing Authority, and Councilman Montgomery came down from the City of Denton. We are actually on the recommended but not the funded list from the last meeting. And we are hanging on by a thread,

and actually, we've brought down the executive director to speak to the issue.

We have asked for a review of our public support letters, as we had 20 out of the 200, and staff is reviewing that. But actually, I would like to yield the balance of my time to the executive director of the Housing Authority. Shirley?

MS. ANDERSON: And did you complete a form, ma'am?

MS. HENSLEY: No, I haven't. I have just arrived.

MS. ANDERSON: Okay. You may do that just immediately following your remarks.

MR. KELLY: Thank you, Madam Chairman.

MS. ANDERSON: Thank you.

MS. HENSELY: Thank you. I am Shirley Hensley.

I am interim director for the Denton Housing Authority, and I'd like to thank the members of this committee for allowing us the opportunity to speak on behalf of awarding the Denton Housing Authority the tax credits for the Renaissance Courts.

The project to build a replacement for the families that live at the Phoenix Apartments presently in Denton began four years ago, and at that time, the Housing Authority was purchasing property in various neighborhoods.

However that plan that the neighborhood and the city approved was to rebuild on that same site as the Phoenix.

And it is at present a deteriorated apartment building. These apartments have assisted families that are low-income for 30 years. And the new Renaissance Courts will continue to foster these families in a mixed income development. The amenities that will encourage many families to live in this area, and that is seeing a changing neighborhood with new schools, recreation center, a new courthouse, and office building.

The development will add to the revitalization of this neighborhood. Churches, the city officials, the neighborhood associations, service organizations are supporting this development. Denton Housing Authority presently has 1,300 individuals and families on our waiting list for housing, and there is an urgent need to provide the area with affordable and desirable housing. The residents, the neighborhood, the City and our staff support the development and ask for your consideration today.

MR. KELLY: Thank you for your time.

MS. ANDERSON: Thank you. Betty Jean Longoria?
And next, will be William Brown.

MS. LONGORIA: Good morning. Thank you for the opportunity to address you. Good morning, Madam Chairman and board members. First, I personally want to thank each and every one of you for the time and effort that you give

to serve on this board. Very important board. I am Nueces county commissioner of a year and a half. Before that though, I was on the city council for ten years. So I am very familiar with this project that I am here to support.

And first, I want to say this is listed under Region 10, and it is application 04290. And it is the L.U.L.A.C. Village Park Apartments. I want to thank the staff and the board because it is on the recommended list, but like we all know, it doesn't happen until your final meeting, and the final vote and everything is taken.

I grew up in that area, where the L.U.L.A.C. apartments are situated and I am -- very well know the area.

These are about 152 units that are 35 years and a little bit older than that. They have always been very well maintained, but like everything else, they do need some updating. And they serve both family populations, but also, most important, they also serve the senior population. So that is very important.

The other thing, too, one of the services that we provide there is through Community Action. Community Action does have a daycare, and they foresee that in the future, we will be able to provide a larger area for them, so they can serve a larger population of children there. But the other thing too, that was very important is through community

meetings, these were ideas, these were wish lists that the families that live there and the seniors that lived there, this is some of the things that they saw that were needed to update the apartment units.

And so we are talking about adding air conditioning, carpeting, making your appliances in the kitchens energy efficient. And then the kids, of course, are all excited about the swimming pool, and being able to have an outside area where you can have barbecues, you can have fun and everything. And we also have a center there, will have a center with computers for citizens that we can help locate and find jobs.

So it is a very much-needed update for this complex here. Very important and they serve an area of our city and our county that is in very much need of what we offer there, which is apartments, affordable and plus more than anything else, there's a senior population. So I want to thank you again very much and I do hope that we continue to stay on the recommended list, and that we do make the final cut. Thank you so much for your time.

MS. ANDERSON: Thank you. Perla Cavasos?

MS. CAVASOS: Good morning and thank you for your time. I want to just read a few paragraphs from a letter on behalf of Senator Lucio, and I have copies of that letter.

The first letter is regarding file number 04037, Las Canteras in Pharr, Texas. "Dear Ms. Carrington. I would like to commend you, your board members and your staff for the outstanding improvements made within the Texas Department of Housing and Community Affairs in the last few years. Overall, your agency has done an impressive job of implementing the comprehensive legislation passed during the 77th and 78th Legislative Sessions. I trust in the Agency to do its best in upholding these responsibilities and will continue to monitor your progress.

"At this time, I would like to express my full support for Las Canteras Apartments in their appeal to the TDHCA Board of Directors for 2004 tax credits. Las Canteras Apartments was not recommended to the board because its letters of support were considered unqualified under the guidelines set forth by the Agency. The four neighborhood organizations that submitted support letters have been active in affordable housing for an average of 15 years. There is no doubt in my mind that these organizations represent the needs, concerns and housing challenges of Pharr and Hidalgo County families.

"I feel that at least some of the letters of support submitted by these neighborhood organizations and other

community organizations should be considered in the scoring of their tax credit application. The Las Canteras application was also denied points for its public meeting. Although word-for-word transcripts of a public meeting were not submitted, due to an equipment malfunction, the developer went above and beyond the call of duty by submitting several materials that verified the meeting took place, including affidavits signed by all attendees stating the meeting summary was accurate.

"I am concerned by the method used by your staff in processing letters from local communities with regard to applications for financing the tax credits. While I recognize that the enabling legislation was not written as clearly as the agency would have preferred, I am concerned that the spirit and intent of the legislation to encourage local groups to comment on specific applications is being diminished by an overly technical reading of the QAP.

"Additionally, I am concerned that unless the process is improved, community members will feel sidelined and ignored by the process, thereby having the reluctance to write future letters of support. I would believe actions such as this would be detrimental to the intent of the bill, SB 264. I appreciate your efforts to bring more affordable housing to low and moderate-income Texans, but I strongly

urge you and the board of directors to reconsider the award process for the quantifiable community participation.

"I would be more than happy to provide additional feedback on this matter. Thank you for your kind attention to this matter, and for all that you do for Texas families in need." I have a similar letter for file number 04036 the Villa Del Sol Brownsville apartments. I am not going to take up any more of your time, but there is a letter and thank you.

MS. ANDERSON: Robert Garza?

MR. GARZA: Good morning. I saw most of you at the last meeting. I am the legislative director for Senator Gallegos, and he asked me to come read a letter.

It reads, "I am writing today in regard to the board appeal by Creative Choice Texas for the rehabilitation of the Ambassador North Apartments, TDHCA number 04188. This project is located within Senate District 6 and identified by both elected officials and community leaders as a project that is sorely needed. Mayor White has identified that rehabilitation of existing structures as this project sets forth a priority in the City of Houston, and both Representative Bailey and I support Creative Choice's efforts.

"As I am sure that I do not need to tell you,

revitalization of older buildings in our inner cities and the opportunity to restore and renovate this property in particular is greatly needed. I am concerned that the previous appeal was based on ambiguous and inconsistent interpretations of the 2004 QAP, namely Section 50.3(47)(g) relating to new construction and section 50.5(a)(8), relating to distance restrictions for new developments.

"These issues are elaborated more in correspondence with John C. Shackelford, attorney for Creative Choice. I urge the board to revisit his correspondence and give Creative Choice's appeal a favorable vote. Sincerely, Mario Gallegos."

MS. ANDERSON: Thank you. William Brown?

MR. BROWN: Let me ask you. I have two other people that are signed up to speak on behalf of this project.

MS. ANDERSON: I think they are signed up to speak at the agenda item.

MR. BROWN: Pardon me?

MS. ANDERSON: They are signed up to speak at the agenda item.

MR. BROWN: Oh, okay. Right. I have two projects that I am speaking about.

MS. ANDERSON: Right.

MR. BROWN: Do I speak right now?

MS. ANDERSON: Four minutes. Yes.

MR. BROWN: Okay. I'll be quick. San Diego Creek Apartments, 04050. On the 28th, I heard Mayor Salinas say one thing that I thought was important. He talked about fairness and he's got my vote on that. There is two things that I am in here to ask for -- not ask -- or to talk about.

The first is, the community participation letter.

The community participation letter, I have affidavits here signed by Kelly Hunt, who has worked with the Committee for a number of years or several three or four. She is stating that is this affidavit that she sent in this community participation letter at one point. I am going to pass those out to the board. Basically, she is stating that she sent it in; she has the logs. It is conceivable that maybe with thousands of documents sent into the board, that it might have gotten lost. I have been denied that point. I am asking for that point to be delivered back.

Second thing is, that if that point was delivered back under the original rules and the original game that we spent six months, my project would be tied with another project.

All I am saying, is that if it was tied, I would have very much liked to have gotten into a tie-breaker. I always viewed myself as tied and never worried about it, and then it would

have gone on to fair table, fair playing, and whoever won on the tie-breaker would have won.

Second, leveraging. Leveraging is Section 14. There was -- in both categories there was three, six and nine point in leveraging. They gave one point to three, two points to six, and somehow simple mathematics says that you should give three points to the nine, which would make 33 percent increase on an even average. Some way, there was five points given to that category on nine, meaning that there was two extra points. So the whole process, as far as I am concerned, wasn't fair. If you will look at the back of the chart, on leveraging, it shows real clear. It makes sense if you are going to do that, to go all the way through those points and at least make the process fair. If you will look at my chart, you will see.

And the other thing is, is that the lower you kept -- I understand that it had to between 16 or 18 and 12 to make it fair. Fourteen was picked. If the score had been lower, it would have been fair to all of the other projects in the community. All I can say is that if I look at the chart, I felt like if that was applied in a fair manner, that my project would be a winning score. I hope that you all can do the fair thing on that project.

I'll move to the next project. All I can say now.

Hold on here, that is Vista Del Sol, Rudy C. Perez Apartments, 04250. We were selected or recommended on the original rules as they were for six months that the rule stands. We were recommended I guess, is the correct word to say for tax credits.

This project is a nonprofit. It was one of the highest scoring nonprofits in the state. As a matter of fact, it was even higher than some of the non-profits that got selected. If you took it score by score by score, we were in there. The project, the nonprofit is American Opportunity for Housing. Mr. David Starr runs it. I am a co-developer of Brownstone Affordable Housing and American is co-developer.

The only thing that I can say is, the only fair thing in this project -- we were there, we played the game.

We had the opportunity to do -- once the rules change, which I am sure that you all don't cherish having to go through all of this, but they did change. The only fair thing to do, and not only this project but the projects that basically got knocked out because of the rule change -- if you can't find the way to award these projects with tax credits, surely because of the rule change, you ought to be able to look at them in some way and determine that they are worth of a forward commitment. Because they literally -- I mean

we played under the rules, and we got knocked out because of something we had no choice or no way to plan for. Last, if there ever was two neighborhood organizations that were worthy, then this organization -

MS. ANDERSON: Sir, I need to ask you to wind up.

MR. BROWN: Okay. Two neighborhood organizations, Edgewood neighborhood, and Community Workers' Council, they wrote me letters supporting these neighborhoods, they have been active in the community for years. Our think our appeal was clear, crystal clear, about why they should be awarded points as neighborhood organizations. Thank you for your time. I appreciate it.

MS. ANDERSON: Thank you.

MR. BROWN: Please make the process fair.

MS. ANDERSON: Susana Benavidez?

MR. GARZA: Are you still on number 04258?

MS. ANDERSON: We are in the public comment period.

MR. GARZA: Oh.

MS. ANDERSON: And so if you asked to speak at the agenda item, then you are in this group. Okay? You bet.

MS. BENAVIDEZ: Madam Chair, members of the board, Ms. Carrington. My name is Susana Benavidez, and I represent Congressman Charlie Gonzalez, and this is in support of the appeals submitted by Las Palmas Garden Apartment, application

04074. And I am going to read a letter that the Congressman has prepared for Ms. Carrington.

"Dear Ms. Carrington, I would like to reiterate my support for the rehabilitation of the Las Palmas Garden Apartments. These apartments are located in west San Antonio, an area that has experienced very little economic development in the past. While I would like to personally attend the Committee meetings and the Texas Department of Housing and Community Affairs board meetings, my schedule constraints prevent me from doing so. However, my staff has kept me abreast of the progress of this application by attending the meetings and speaking on my behalf to express my unequivocal support of this worthy development.

"The rehabilitation of Las Palmas Garden Apartments can serve as a catalyst for the area. The San Antonio Housing Authority built a 30-unit senior development in this area, but that is not sufficient in meeting the housing needs in this particular area. You have the ability to change the lives of my constituents who are the residents of Las Palmas Garden Apartments. A better apartment with air conditioning and energy efficiencies would make their lives more comfortable and would give them the ability to save more money.

"A building to house services that will improve

their children's education and skills providing them with a more promising future. One of the residents is over 80 years of age, and has been a resident at Las Palmas Garden Apartments for many years. I would like to respectfully request your consideration for awarding housing tax credits in this round, or a forward commitment for the 2005 round, as those would give this area an opportunity for growth.

"If you should need any additional information, please call my office at 210/472-6195. Thank you for the consideration extended to the Las Palmas Garden Apartments appeal.

MS. ANDERSON: Thank you. Jessica James, and then Margarita James?

MS. JAMES: Hi. My name is Jessica James. I am a resident of the Las Palmas Garden Apartments, 04074. I want to let you know that I am looking forward to the rehabilitation of our apartments. I also want to read into the record a second letter of support from our state representative Joaquin Castro.

"Dear Ms. Carrington. I want to take this time to write the Texas Department of Housing and Community Affairs and express my support for the rehabilitation of Las Palmas Garden Apartments. This part of the west side of San Antonio has experienced very little economic development in its past.

"The rehabilitation of Las Palmas Garden Apartments could serve as a catalyst for the area. The San Antonio housing authority built a 30-unit senior development in this area, but it still does not scratch the surface of the needs. You have the ability to change the lives of the residents of Las Palmas Garden Apartments. A better apartment with air-conditioner and energy efficiency would make their lives more comfortable and would give them the ability to save more money.

"These changes will improve their children's education and provide them with more promising future. Your consideration for awarding housing tax credits in this round, or a forward commitment for the 2005 round, would give this area an opportunity for a rebirth.

"Thank you for your time and consideration. If you have any questions, please feel free to contact me or my staff at my district office at 210/684-6896. Sincerely, Joaquin Castro."

MS. ANDERSON: Thank you.

MS. JAMES: Good morning. My name is Margarita James. And I want to thank the board for letting me speak again in support of the application 04074, Las Palmas Garden Apartments in San Antonio, Texas. I am a resident at Las

Palmas. I spoke last week in front of you on how important the rehabilitation of our 39-year-old property and to the families of Las Palmas Garden Apartments.

I want to come back this week and let you know just how important it is to us. Many of our residents wanted to attend, but they had other obligations such as work. More than half of the residents have sent in letters to support this endeavor. Many residents have attended our community meetings as well as staff of elected officials. We also have support from our elected officials.

Aside from needing major repair, rehabilitation, our apartments have no air-condition or central heat. We also could use new appliances, ceiling fans, carpeting, flooring and better security, most of all, a community center.

As this time we do not have a meeting place for the residents, so our community center is something that we really would love to use.

We would like the idea that there will be an educational, social and recreational activities and a computer lab on the property. We would really appreciate the rehabilitation of our property. Thank you so much.

MS. ANDERSON: Manuel Garza?

MR. GARZA: Good morning. My name is Manuel Garza. I am with the Edgewood Neighborhood Association, and I am

here to speak on behalf of the Vista Del Sol, Rudy C. Perez Apartments 04258. You have packets in there that have been presented to you. There is letters from Mayor Garza, State Representative Jose Menendez, State Representative Joaquin Castro, and City Councilwoman Patty Radle. Others will be forwarding letters to you also, from the city council members and State Senator Van de Putte and Congressman Charlie Gonzalez.

Basically, what I would like to say is that one of the things that we know is that both committee workers' council and ourselves, Edgewood Neighborhood Association -- one of the things that we know is that both committee workers' council and ourselves, Edgewood Neighborhood Association are on record with the City and the committee of workers' council for example is on record with the Secretary of State. And they have been around since 1956.

It is a veteran and blacks organization that started in Edgewood, and they had recently made some payments at the Secretary of State office, so they are definitely on record with the Secretary of State's office.

There is also a map of the school district and the red dot indicates the location side of the development.

There is copies from the Texas Department of Community Affairs communication to our neighborhood association, so

definitely you yourselves have recognized us. The county Department of Housing and Human Services has also indicated that through a previous application that we have put in for a HOME project that they recognized us. The City of San Antonio, the planning department, which is the custodian of all the registration of neighborhood association has forwarded to you also, and then of course, a letter from Mr. Rickhoff, our county clerk.

And so basically, we feel that our recognition is in place. The questions that were asked of us have been answered and so they should not be just thrown away. And of course we would like to get funded this year, but if not, please consider a forward commitment for this project.

MS. ANDERSON: Thank you.

MR. GARZA: Thank you very much.

MS. ANDERSON: Representative Flores?

MR. FLORES: Good morning, Madam Chairman, members of the board, Edwina. Good morning. Today I am here as the Representative for District 36, as chairman of the Licensing and Administrative Committee, and as a dad and as a coach of the Little League Baseball program in our area.

And I come here to speak to you on behalf of 04037, Las Canteras Apartments in Pharr. And it's an area that needs a lot of help. I have seen what we can do with the children,

and I know a lot of people have spoken about economic development. But I ask for your consideration, because it goes beyond that. It's about children, and what we have been able to do with children who have never had an opportunity to live in a better home, to travel out of the area, to be part of the community and to give back in the community, and to ask for your consideration on two technicalities.

One, the issue of not being tape-recorded. We have submitted sworn affidavits that has taken place. It is the only nonprofit organization in the area. And the other, the issue of the certification and the papers of the neighborhood association that testified in favor of the project, the sworn affidavits had been submitted.

The paperwork from the county clerk's office had been submitted, and also the newsletters of what these people do in the community, I have witnessed firsthand in the gyms, in the baseball fields, in the neighborhood cleanups, in the scholarship drive funds of what these people do in terms of -- I myself, what they have been able to do to put back and I myself have been involved in some of these organizations and what they do.

And I ask for your consideration because if you would allow us this consideration, it would move us to the number two project for one of them. If we got both, it would

be the highest ranking in the state. And I understand it is a technicality, but I personally ask for your consideration in those two things. In that you allow us to take those into account. And there was nothing more important in District 36 today than it was for the children of District 36 to be here with you today. If you have any questions, I will be glad to answer those.

MS. ANDERSON: Thank you very much for your testimony.

MR. FLORES: Thank you for your time.

MS. ANDERSON: I have several letters that I was asked to read into the record. I will do that at this time.

The first is from State Representative Myra Crownover in District 64. "It is my understanding that the Renaissance Courts development in Denton, Texas, is still under consideration by the board of the Texas Department of Housing and Community Affairs. Therefore, I wanted to take a moment to explain how important this development is to my district.

"Renaissance Court is an essential part of a larger master plan, and is vital to the continued revitalization of the neighborhood that has recently seen the construction of the Denton County Courthouse, Denton Sheriff's office,

Martin Luther King, Jr., Community Center and a new city park as well as other numerous projects. I understand the need for affordable housing is acute in Texas.

"However given the project's broad impact on both continuing redevelopment of Denton's southern gateway, and the provision of much-needed housing in the area, I believe this project should be a priority for funding at the earliest possible date. In addition to being the northwest anchor of the courthouse redevelopment zone, Renaissance will replace 110 units of substandard existing housing with 150 units of quality affordable housing. Sincerely, Myra Crownover."

The next letter is the letter and the staffperson spoke to the letter from Senator Gallegos. "I am writing with regard to the board appeal by Creative Choice Texas for the rehabilitation of the Ambassador North Apartments, TDHCA number 04188.

"This project is located within Senate District 6, and is identified by both elected officials and community leaders as a project that is sorely needed. Mayor White has established, has identified the rehabilitation of existing structures as this project sets forth the priority of the City of Houston. Both Representative Bailey and I support Creative Choice's efforts. I am sure I do not need to tell

you that revitalization of older buildings in our inner cities, and the opportunity to restore and renovate this property in particular is greatly needed.

"I am concerned that the previous appeal is based on ambiguous and inconsistent interpretations to the 2004 QAP, namely Section 50.347 (g) relating to new construction, and 50.588 relating to distance restrictions for new developments. These issues are elaborated more in correspondence from John C. Shackelford, attorney for Creative Choice. I urge the board to revisit his correspondence and give Creative Choice's appeal a favorable vote."

The next letter is from Representative Senfronia Thompson, concerning tax credit application number 04224, The Commons at Grace. "It is my understanding that you will be reviewing the above application tomorrow, therefore, I would like to lend my support for a much-needed housing project within my legislative district.

"There are few housing projects dedicated to senior citizens. I am happy that this organization made an application to build such a worthy project. In Houston alone, there is a great need for housing for all ages of citizens.

I am sure you are aware that many senior citizens are unable to financially maintain themselves in their homes because

the majority of them are on a fixed income.

"That income does not allow them to have the conveniences many of them so desperately -- such as staying warm in the winter months and cool on the hot summer months, making the choice to buy food, medicine or comfort so necessary while living within in the south. So many of them opt to drop the needed comfort.

"The Commons of Grace will allow them to live in a comfortable environment, enable them to afford the purchase of their medications and certainly eat nourishing meals. We all believe they deserve at least these comforts at this stage of their life. Meanwhile, I am again lending my total unconditional support for this worthy and needed project."

And the last letter is from Congressman Sheila Jackson Lee. "I write this letter in support of three proposed projects that are situated in my congressional district that are pending on your agenda for approval. The first two projects are in the Acres Homes Community and the third project is located on Cullen Boulevard.

"These three projects, if approved, will offer affordable housing for people of low median income. These proposed projects would greatly enhance the housing stock not only in my district, but also in the entire City of Houston.

As you know, there is a serious need in Houston for expanded and affordable housing resources, and particularly in the 18th Congressional District because of the increasing population of young families and the elderly. The true tragedy is that many of these people are in fact employed, yet they still cannot afford suitable housing.

"The projects referenced in this letter will be a part of helping to alleviate this problem. In fact, it is my belief that they will keep some families from having to live in less than desirable conditions. These projects are part of an effort to give a helping hand to the thousands of people in Houston who deserve adequate housing, but do not have access to affordable housing options. Thank you for considering my support for the proposed projects referenced in this letter, situated in the 18th Congressional District."

That is the end of the public comment. The affirmation forms I have for public comment at the beginning of the meeting, as I said at the outset, then we will take additional public comment when the agenda items are presented.

The first item on the agenda is presentation, discussion and possible approval of the minutes of the board meeting of June 10, 2004.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Go ahead.

MS. GRONECK: In the minutes, I accidentally typed four years instead of 40 years on the Tranquility Bay. I would like to change that. And we are getting the transcript changed, too. I wanted to let you know, under Tranquility Bay.

MS. ANDERSON: Okay.

MR. BOGANY: I accept that amendment.

MR. CONINE: The seconder will as well.

MS. ANDERSON: Any discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The minutes are approved. Item number two is the presentation, discussion and possible approval of housing tax credit items. 2A is appeals to the board from housing tax credit applicants on application matters. And I am going to ask the board's pleasure on this. We will take these individually, and hear the public comment related to that development at that time, rather than taking

the public comment en bloc?

MR. CONINE: Please.

MS. ANDERSON: Okay. The first one, Ms. Carrington? I am having Ms. Carrington review these with us. The first one is Villa Del Sol Apartments.

MS. CARRINGTON: Thank you, Madam Chair. The first one is Villa Del Sol Apartments, which is project number 04036.

And the way staff has organized these gold pages that basically separate the appeals for your information, the information that you have is the executive director's response to the appeal.

To remind the board, the first appeal process that is available to all developers is to appeal their termination or their loss of points to the agency, to the executive director and then I provide that response. If the applicant is not satisfied with that response, then their next avenue is to appeal to the board, and that is what you have in front of you today.

What you did have in the board book was a total of 19 appeals. However, there were some other appeals that came in, and I believe what we have today is a total of 23 for your consideration. We have grouped for you, behind the action item, the name of the project and the project number, the development number and the nature of the appeal so you

can look at that and determine what portion of the QAP or what portion of the agency's decision they are appealing.

Many of these are related to denial of points and the quantifiable community participation area. And the rest of them are a variety of other issues that they are appealing.

I would suggest -- well, let me recommend that as we do these one by one, if we could have a brief presentation from our general counsel on each one of them, and what our determination was, or obviously, Madam Chair, that is up to you on how you would like to handle this.

MS. ANDERSON: I think that is fine. We would limit him to two minutes also.

MS. CARRINGTON: We absolutely will. Probably less than that.

MR. WITTMAYER: First, some general comments about the scoring for quantifiable community participation that will be applicable to all appeals on this issue. First, we very much appreciate the efforts that developers and applicants made to work with neighborhood organizations to gain their support. And their efforts in that regard were not in vain.

And the program staff developed this year a very good summary sheet that specifically summarized each letter that we received, whether or not it was scored, and provided

the name of the neighborhood organization and the comments that were made by that organization. So all of these letters, whether or not they were scored, received the attention of the board, and were put in the board packets.

When it came to scoring, however, the staff was largely constrained by the language of the statute, which says very clearly that we are to score quantifiable community participation based on written statements from neighborhood organizations, not community organizations, but neighborhood organizations that are on record with the state or county, not with the city, but with the state or county and that have boundaries that include the proposed development site.

So it is necessary that they be on record, that they be a neighborhood organization, and that they be an organization that has boundaries. Not just an organization that is perhaps from a certain city, or has a certain service area, but it would be an organization that has boundaries.

Now specifically concerning project 04036, Villa Del Sol, they submitted several letters, and when the executive award review and advisory committee very carefully reviewed those letters, based on the documentation that we had at that time, because there was an April 30 deadline to provide this documentation, there was insufficient

documentation to show that these organizations were on record with the state or county, and insufficient documentation to establish that they have boundaries which include the proposed development site.

Now, in their appeal, they are providing new documentation, but that is clearly after the deadline, and it would be very unfair to all the other applicants who have not had an opportunity to provide additional documentation.

We felt as staff that we were required to review this based on the documentation that we received by the April 30 deadline, and we evaluated the letters based on the documentation available at that time. Any questions?

MR. CONINE: Not yet.

MR. SALINAS: We'll have some questions.

MS. ANDERSON: Yes. Let's hear the public comment.

Thank you, Chris. Bill Skeen?

MR. SKEEN: Madam Chair, board members?

MS. ANDERSON: Just a question before you start. William Lee, do you want to cede your time to Mr. Skeen?

MR. SKEEN: He did.

MS. ANDERSON: Okay. Thank you.

MR. SKEEN: Okay, thank you. Madam Chair, board members, I will just take a few minutes to make some brief comments and then allow some folks from the Brownsville area

to speak specifically on these items.

Regarding the counsel's comments just a few minutes ago, one of the associations that sent a letter in support for this project is the project, and that was very clear in the letter. It is the Villa Del Sol project, the Vista Del Sol Resident Council.

These resident councils and all of the support letters for Vista Del Sol came from resident councils, three of which represent over 500 families that are in public housing in Brownsville and their children, their parents eventually will wind up in many cases in Vista Del Sol, because it is an elderly property, restricted to elderly citizens. The majority if not all of the residents' incomes are at less than 30 percent of median income.

In the application, the housing authority has agreed to provide an annual subsidy of over \$400,000 to the residents of this project. And again, we believe, and I think you are going to hear from the Brownsville people that the support letters that were received are applicable and we should be allowed some points for quantifiable community participation. Thank you.

MS. ANDERSON: Mary Gutierrez? And next will be Ms. Basavilvazo.

MS. GUTIERREZ: Madam Chair and board members.

Thank you for this opportunity to express support for application number 04036, Vista Del Sol Apartments in Brownsville. My name is Mary Gutierrez, and I am the president of Linda Vista, Las Visas Sunset Terrace, Rose Garden Resident Association.

I was elected by the 193 families living there.

My association was created in 1999. We have regular monthly meetings to discuss the needs of our residents and to assist them with housing issues and life skills. The Mayor of Brownsville appointed me resident commissioner of the Brownsville Housing Authority Board to represent 1,078 families living in public housing. The 200 residents of Vista Del Sol are included in this 1,078 families. I am duly charged by the Mayor to represent their housing needs.

The Department did not award the Vista Del Sol application any points for community support letters, including my letter. I came today to tell you personally how important the renovation of Vista Del Sol is for all residents of public housing in Brownsville. The housing authority does not have enough money to renovate the building.

For instance, there is no sprinkler system, no central air-conditioning, and many of the units, the windows will not open.

Vista Del Sol is a public housing project for

elderly and disabled people who have little money. From it, you can walk to the grocery store, banks and stores. It is a good home. Someday all of us will be old, and unfortunately, many will be disabled. We need to keep Vista Del Sol. The building and community is strong.

With your help we can be sure that everyone has a place to live throughout our lives. We respectfully request that the board accepts the Vista Del Sol appeal and award the appropriate points for neighborhood support letters. I thank you for the opportunity to testify today. Thank you.

MS. ANDERSON: Thank you.

MS. BASAVILVAZO: Buenos dias. (Speaking Spanish)

MR. ARTEAGA: (Translating.) Madam Chair and board members, thank you for this opportunity to express support for application 04036, the Vista Del Sol Apartments in Brownsville.

MS. BASAVILVAZO: Mi nombre es Maria Socorro Basavilvazo. (Speaking Spanish.)

MR. ARTEAGA: My name is Maria Socorro Basavilvazo. I am the president of Vista Del Sol Residents Association. I am the elected representative of the 200 plus families living in this development that is proposed for renovation. This is my home. My association was created in 1999 to

represent the residents of Vista Del Sol and to advocate for their needs. We are a volunteer organization with board members elected annually by the residents.

MS. BASAVILVAZO: (Speaking Spanish.)

MR. ARTEAGA: The Department, however, did not award the Vista Del Sol application any points for my letter of support from the residents. One reason they gave was because I provided insufficient evidence that the organization's boundaries included the proposed development site. The Vista Del Sol Residents' Association represents the residents of the proposed development site.

MS. ANDERSON: I need to ask you to wind up, okay?

MR. ARTEAGA: Pardon?

MS. ANDERSON: I need to ask you to wind up, to complete your testimony.

VOICE: Ma'am, he can have my additional time.

VOICE: And mine as well.

MS. ANDERSON: Thank you. Margaret, and who else?

MS. CARRINGTON: Bill Skeen.

MS. ANDERSON: Oh, okay. Okay.

MS. BASAVILVAZO: (Speaking Spanish.)

MR. ARTEAGA: No one has more at stake in this application than we do as residents of Vista Del Sol. I came today to tell you personally how important the renovation

is of Vista Del Sol is for my neighbors and for me, and for how much we are committed to ensuring that Vista Del Sol is here for many years.

MS. BASAVILVAZO: (Speaking Spanish.)

MR. ARTEAGA: Vista Del Sol was built in 1971 to house elderly and disabled public housing residents. It is in the downtown Brownsville, and near groceries, stores, banks and shops. We can also walk to Matamoros, Mexico, where many of us have family and friends. We have kitchens and a small library on the first floor.

MS. BASAVILVAZO: (Speaking Spanish.)

MR. ARTEAGA: Because this building is very old, the key card system on our front door often malfunctions so that we cannot enter our building without assistance. It has no central air conditioning, and temperatures in Brownsville are often over 95 degrees in the summer. This is very dangerous for elderly people. Accessibility to the building is limited.

MS. BASAVILVAZO: (Speaking Spanish.)

MR. ARTEAGA: My fellow residents strongly support the application for funding from you. My fellow officers voted unanimously to support this application. More than 90 residents voted at the February public meeting to support the application and 139 residents signed petitions that urges

the state and local associations to support this project.

MS. BASAVILVAZO: (Speaking Spanish.)

MR. ARTEAGA: Vista Del Sol is my home, but it needs help. My neighbors and I, many of whom are in our 70s and 80s and some who are disabled are willing to back up our homes and move to a new place temporarily so this housing will be available for those that come after us, but we need your help.

MS. BASAVILVAZO: (Speaking Spanish.)

MR. ARTEAGA: We respectfully request the board of directors to award the appropriate points for our support letters, and from the other neighborhood organizations.

MS. BASAVILVAZO: Muchas gracias. (Speaking Spanish.) Thank you very much.

MR. ARTEAGA: Thank you for allowing me to testify.
(Speaking Spanish.)

MS. BASAVILVAZO: Gracias.

MS. ANDERSON: Remberto Arteaga.

MR. ARTEAGA: Very good. You are doing good.
Let me see, Madam Chair and board members. Thank you for this opportunity to express support for application 04036, the Vista Del Sol Apartments in Brownsville.

My name is Remberto Arteaga, and I am the executive director of the Brownsville Housing Authority and the general

partner of the project owner. I am here today to respectfully ask the board grant our appeal and award points for the letters of support. The staff summary for your board that reviewed the applications received 185 letters of support and no letters of opposition, that is from your summary.

The Department denied points for the four detailed letters sent by the neighborhood organizations that represents the residents of public housing in Brownsville.

These resident councils are an integral part of the housing community and they are mandated by HUD, by the Housing and Urban Development. They are there to advise the housing authority boards on all of the resident issues.

Since the Vista Del Sol is a public housing development designated for elderly and disabled, all public housing residents in Brownsville have a stake in its renovation. The four resident councils sent formal letters of support for this applications, yet the Department denied these four letters, including a letter from the residents as mentioned by the previous presenter.

Because we did not receive the points for the letters of support, we are no longer in competition. Vista Del Sol is a competitive application for the following five reasons. And I would like to outline number one, we have strong support from the City of Brownsville, our State Senator,

our State Representative and our U.S. Congressman.

We have leveraging from other sources. The Brownsville Housing Authority has committed at least 400,000 annually to the project to support the public housing units.

Number three, we have reached the deepest income target. All 200 plus residents of Vista Del Sol earn less than 30 percent of the area's median income. We have what we believe is a valid letter of support from the residents' council association.

We also are requesting the least amount of credits with the exception of the six USDA projects, the Vista Del Sol's application at \$2,566 credit per low income unit has the lowest credit request, not only in Region 11, but the entire state. The three highest-scoring projects in Region 11 are requesting more than \$7,000 per low income unit. Significant different.

MS. ANDERSON: I need to ask you to wind up please.

MR. ARTEAGA: I respectfully request, Madam Chair and board members that Vista Del Sol be awarded points for its letters of support and I thank you for the opportunity to testify before this group.

MS. ANDERSON: Thank you. That is the completion of public comment on this development.

MR. CONINE: Go ahead and get up there, Counsel.

MS. CARRINGTON: I'd like to also ask Jenn Joyce, who is the staffperson in multi-family, these are the two people within our agency who have worked most closely with these letters. So, Jenn is right here.

MS. JOYCE: Great.

MR. CONINE: I heard the three qualifications that were statutory, I believe you said for letters to qualify.

MR. WITTMAYER: Correct.

MR. CONINE: They had to be a neighborhood association or organization.

MR. WITTMAYER: Neighborhood organization.

MR. CONINE: And that's probably nowhere defined anywhere.

MR. WITTMAYER: It is not.

MR. CONINE: It had to be registered with the state or the county.

MR. WITTMAYER: On record with the state or county, correct.

MR. CONINE: And it had have boundaries that included the project.

MR. WITTMAYER: Correct.

MR. CONINE: And we had to have the letter by April 30.

MR. WITTMAYER: Right.

MR. CONINE: Those are kind of the four statutory criteria in the legislation that we had to follow.

MR. WITTMAYER: The April 30 deadline is in the QAP and not the statute.

MR. CONINE: That was us?

MR. WITTMAYER: Yes.

MR. CONINE: Okay. So, understanding that, tell me how this organization of residents that we just heard testimony from, specifically, that's the only one I want to focus on right now.

MR. WITTMAYER: This residents' council?

MR. CONINE: Yes. How that did not meet those qualifications.

MR. WITTMAYER: Actually, as I review our scoring sheet for that development, we lacked documentation that it was on record with the state or county. However, I know in their appellate papers, they include a document which is stamped "received" by the Department prior to the April 30 deadline which could be taken by EARAC to be evidence that they were on record with the county.

What I recommend as to the Vista Del Sol Resident's Council Association that we take that evidence and re-review it and issue an new determination vis-a-vis that association.

As to the other associations, based on the evidence we had

at that time, it was not clear to us that the boundaries of those organizations included this site, and what I take from the testimony, I surmise that they are perhaps nearby public housing developments, but they are not this public housing development.

MR. CONINE: Right. They would be a neighborhood organization because they are public housing projects in Brownsville, and I am assuming they are all wanting to be a team player and support the other project in town, so they wrote letters. But their boundaries don't necessarily include the project, because they are self-contained units within those projects, is that correct?

MR. WITTMAYER: The evidence they provided did not show that their boundaries included this site.

MR. CONINE: Okay.

MR. SALINAS: Well, we have always had these comments in public hearings, and we have always had people opposing some of these projects that we are considering today. For the first time, we have comments in favor of getting some of these things built, especially in the area of South Texas.

As you can see, this building was built in 1971, and some of the things that we need to do is renovate some of these housing authority projects. I think that the crying

of the people of South Texas has been ignored for so many years, not only by this agency, but by so many people, and I think the organization that they have in Brownsville, the community support and not fighting.

I mean, we have had people here opposing these projects that we are about to see, there are 18 of them that are asking for appeals, and I am sure that the whole every one of them had opportunity and no public comments were made against this projects. I would like to ask this board to consider this project. It is a very important project for Brownsville. I hadn't heard from anybody.

I just feel that it's a cry out there that they need the help in building this, in renovating this building that was built back in 1971. I just don't think this is the only one that needs to be renovated. I know there is one in Edinburg called the Helotes [phonetic] Court that needs to be renovated that would have been done back in the 60s and for some reason or another I think they have their papers in place.

I don't know what we can do. And it is my region in South Texas that probably does not have any tax credits available, Ms. Boston. They do not have any more tax credits in that region?

MS. BOSTON: I'm sorry. I'm not quite clear on

exactly what your question is?

MR. SALINAS: On this Vista Del Sol Apartments, they are asking for some tax credits, right?

MS. BOSTON: Right?

MR. SALINAS: We don't have any more, because we approved the ones that we had in that region, right?

MS. BOSTON: Correct.

MR. SALINAS: Correct?

MS. BOSTON: Correct.

MR. SALINAS: My question is not to offend anybody, but would you deny this project simply because you do not have enough credits, or simply because they did not meet the QAP or the letter of the community organization was not in place?

MS. ANDERSON: Mayor Salinas, if I might, I think that's really not going to help us out here.

MR. SALINAS: But it is to help me out here.

MS. ANDERSON: But that is not the issue in front of us now.

MR. SALINAS: Well, the issue is -

MS. ANDERSON: The issue in front of us now is whether to award points, because we either sustain the staff's action on the appeal or we overturn the staff's action on the appeal.

MR. SALINAS: Okay.

MS. ANDERSON: Which may change.

MR. SALINAS: If we give them the points, are you going to have tax credits to give?

MS. BOSTON: At this point, because of the list you all approved on June 28, if any action that you all take today on any appeal affects points, we will go back and reevaluate the list. That may make someone go back and become an award, but someone else will fall off.

MR. SALINAS: Fall off. That is what I am asking.

MS. BOSTON: I mean, we can't just add cumulatively, and then not have other people drop off. So to the extent that all of the action from today is considered as a whole, we'll go back and reevaluate everything.

MS. ANDERSON: And we still have to evaluate everything from an underwriting perspective anyway, so the list is not final.

MS. BOSTON: Correct.

MR. CONINE: Can I ask one question with regard to scoring for a minute? If we were to decide one letter, for instance in this particular project, one letter would qualify -

MR. WITTMAYER: Uh-huh.

MR. CONINE: Give me an idea of the score. Because

my recollection was there was a maximum that they could get.

MR. WITTMAYER: There was a maximum of 12 positive points, down to 12 negative points they could get. And the actual score would be determined by EARAC and applied in a consistent standard with the others.

MR. CONINE: Is that where we did the 1, 6 and 12?

MS. CARRINGTON: Yes.

MR. CONINE: If it was a lukewarm letter you got one, and if it was an okay letter you got 6, and if it was an outstanding letter, it got 12?

MR. WITTMAYER: Very roughly.

MR. CONINE: Okay.

MR. SALINAS: Well, my point here is that --

MR. CONINE: So it is important that we not only determine whether the quantity of letters is important on each of these projects. I'm asking a generic question, now. On each of these projects, the number of letters that have been submitted, the quantity of each of those letters is important in order to get the points?

MR. WITTMAYER: The quantity of the letters, the number of letters received by the department is not important for purposes of scoring the letters. What is important is the content of the letters and the reasons that they express

for support. And when EARAC evaluated the letters based on the reasons we looked at are these good reasons in support to differentiate this development from other developments.

MR. CONINE: So on this project, we are reviewing four letters?

MR. WITTMAYER: Yes.

MR. CONINE: And we heard testimony from one of the four letters, basically, and from the gentleman with the housing authority that represented the other three letters?

MS. ANDERSON: I have asked the staff to pull a copy of the actual letter that the Senora wrote to us, because we -- to make sure the record is clear, the board did not see the letters themselves. The board saw a summary, sort of a count of whether or not there were letters received, who they were from, but we did not see the letters themselves, and I want to make sure that that was clear.

MR. SALINAS: Wouldn't the board want to consider this project, and allow those letters to be in place, and be in competition simply because of the cry and need for this Villa Del Sol Apartments in Brownsville, or we could do a forward commitment on it.

MR. CONINE: It's too early for that, Mayor.

MR. SALINAS: If we don't, we don't. We give them

points, we lose somebody else.

MR. WITTMAYER: If I could make a recommendation, if Ms. Carrington, the executive director concurred with it.

Based on the lack of evidence that the other residents councils do not establish that their boundaries include the proposed development site, I would recommend that the staff recommendation be, that the appeals as to those letters be denied.

As to the Vista Del Sol residents council, in light of my taking notice of a document that was not considered by EARAC, which seems to show that they were in fact on record, which was a dispositive ground for not previously considering them, I would recommend to the board that the board direct that the EARAC reconsider that letter and issue a new determination, which may be favorable or unfavorable. And if adverse to the residents council or the applicant's position, then they could make a new appeal on July 28.

MR. CONINE: Actually, I am going to amend what you just said a little bit, and make a motion. I think the residents council letter should stand, and that EARAC should score it. So my motion would be that we let the residents council of the project stand and qualify and the other three be denied.

MR. SALINAS: Second.

MS. ANDERSON: Discussion? Mr. Vice Chairman I have a question about why we wouldn't just if we have EARAC go back and this is the first of several we are going to consider today where we might end up in the same situation, we are going to have EARAC go back and score these letters, then we invite the possibility of another appeal on the 28th of July because EARAC gave them one point and not six or six and not twelve.

And it would be my preference that this board rise to its responsibility, and just score the letter. And we have the letter in front of us and we can share it with the board.

MR. CONINE: I respectfully decline, Madam Chairman, because that's a micromanagement, and we have got enough micromanagement going on here now. And we depended on staff to score the letters that have been through the system, and to remain consistent with what has happened to this point, rather than the board making those decisions, I would prefer that staff do that.

MS. ANDERSON: Any more discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed? No. Okay, now we are moving to project 04037, Las Canteras. Somebody go. Let's move it.

MS. CARRINGTON: The next appeal for your consideration is 04037, which is the Las Canteras Apartments. This appeal is also related to the scoring of letters for quantifiable community participation. There were four letters that were received on this particular transaction and these letters were not scored for points for quantifiable community participation. And the staff is recommending that these points not be granted.

MR. CONINE: Could you, and or Counselor give us the reason why those four were not, in each of these cases, rather than saying they weren't done?

MS. CARRINGTON: Yes, we can.

MR. CONINE: Which of the four criteria that they didn't meet.

MS. CARRINGTON: Yes, we can do that.

MR. CONINE: Thank you.

MS. CARRINGTON: Mr. Wittmayer and Ms. Joyce, would you all address this please?

MS. JOYCE: Jennifer Joyce, program analyst for the multi-family finance production division. All four of the letters were denied for the same reasons, which are for

items 8 and 9 that EARAC scored under, 8 being: Does the letter provide the total number of members of the organization and a brief description of the process used to determine the members' position, yes or no? That would include the total number of members of the organization as well as the reason and how they came to the conclusion of their either support or opposition.

They were also rejected under item 9: Is this organization a neighborhood organization? Neighborhood organizations are organizations that have a primary purpose of working to effect matters related to the welfare of the neighborhood that contain the proposed development site, not including governmental agencies. Neighborhood is defined as people living near one another. Property or homeowners associations are clear examples of neighborhood organizations.

Is it stated in the letter, yes, no? Is the documentation provided, yes, no? And overall, yes or no. And they were denied because of those reasons for all four.

MR. CONINE: Excuse me, I hate to dominate the thing, but the first reason that you stated, which you said the number of people in the organization and whether or not they had the authority, or whatever, that wasn't one of the four articulated by Mr. Wittmayer.

MR. WITTMAYER: There was one of the criteria that we added in the QAP, that they provide the number of members of the organization and a brief description of the process used by the members to determine whether they were in support or opposition to the position that they were presenting in the letter.

And one appeal, which I understand has been withdrawn, kind of exemplified the reason that we asked for that information. It was a letter which had the title of a neighborhood organization and the documentation that was on record indicated that it was a sole proprietorship. It did not provide any information as to the number of members except perhaps the president who signed the letter and a reference to another person who had the same last name as him, perhaps his spouse.

So we were interested at first to know that this was an organization that had some number of members that was in some way representative of the neighborhood. Also, in terms of the brief description of the process, there we were concerned that perhaps we had situations like this where the president or the head of the organization would write a letter, independent of any discussion or input from other members.

So, we thought it important to be able to judge the representativeness of the letter we were receiving and thus,

when we drafted the QAP, we added these two additional requirements.

MR. CONINE: Okay.

MR. SALINAS: And you say that the letters that you got are not neighborhood organization that they can prove themselves by?

MR. WITTMAYER: I noticed that one of these letters is a Habitat for Humanity organization in that area. And in their letter, they talk about their service area. We did not believe that an organization of this nature really had boundaries and the contemplation of the statute is different than just that they had a service area which has some boundaries.

It is more in the nature, I think a prime example of a neighborhood organization within the meaning of the statute, well, two prime examples would be residents councils which are common in public housing developments, or a homeowners' associations. We did not believe that general community organizations or service organizations such as Habitat that had a rather narrow service orientation as to housing, that these were neighborhood organizations within the contemplation of the statute.

MR. SALINAS: On the appeal, did they tell you that they have a letter from the county clerk, saying that

they had --

MR. WITTMAYER: I believe in their appeal, they have provided additional information that might have caused EARAC to reach a different conclusions, however, this documentation was required to be received by the Department not later than April 30, and it is staff's position that it would be very unfair to all the other applicants to consider new information long after the required deadline.

MR. SALINAS: So what would happen to this project if we just give them the points or the future points on a crying area, where that organization -- what is the name of the organization? Habitat?

MR. WITTMAYER: Habitat for Humanity is one of the organizations.

MR. SALINAS: There are several in the area. Every community has its own. We do have our own in Mission. They have their own in Pharr. And they work very closely with churches and with churches from up north. This is one of the projects that I think that this board should consider in allowing the points.

I don't know when we are going to be able to consider these projects and renovate them or build new ones.

If this is the only area that never has any problems with zoning and we do not have problems with neighborhoods in

opposition to this projects. I don't think there is one person here who was opposed to any of the projects that are being built in this section, and I would ask and beg this board to allow these letters that have been sent and clarified by the county clerk.

And I only ask them to allow these letters to be included in the appeal. This is why we have an appeal process.

If they were not going to be allowed to bring them in, then why have an appeal that might make me come all the way over here to listen?

I ask the board, and I ask them simply because it is a region that I represent. I represent the whole state, but this is the region that gets the least tax credits, has never had any problems with neighborhood opposition to these projects, have never had any problem with zoning.

MR. CONINE: No.

MR. SALINAS: Never any problem with any elected official. You saw one of the elected officials from my area, State Representative Flores, who came here in support. I think Senator Lucio sent a letter also, supporting these projects. They very seldom do that and get involved in the interest of fighting for these projects. They have always been very supportive.

So I would ask that we allow these people to testify

for us, and allow them to. And I think there are some that are going to say a few words on behalf of Las Canteras in Pharr. But I do think that they deserve to have these letters.

This is not a country club. I understand that we have neighborhood associations in our neighborhoods, in our country clubs. But these are people that very seldom have meetings of this sort. So I would ask this board to allow these letters to be counted as neighborhoods, as real neighborhoods, because I think the county clerk has verified that they are part of a neighborhood association.

MR. WITTMAYER: In August, the board will consider forward commitments, and that might be an appropriate time to consider general neighborhood support. The concern of staff is the requirements of the statute for scoring.

MR. SALINAS: And I understand that. And I am not asking that we drop anybody. I know there is very few tax credits. But I also want this board to understand the cry that we have in that area for renovation and new buildings for our people. We have, and this is one of the areas, and I hate to nag on everybody by telling you that the State has been very hard on colonias in South Texas.

I think the State has done a wonderful job as far as controlling the development of colonias in our area and

outside it, and fine, a lot of the developers were building, oh, say, colonias. In some of these areas that we are talking about, it's having our people inside the city.

I know that the rest of the state and the border areas in El Paso, they do not have the control that they have done for us in South Texas, and Webb County has a terrible problem with colonias. And we don't see very much of the projects coming through this agency, but hopefully, they will.

But our area has done exactly that. Follow up and try to do some of these projects that we definitely need and the cry out for the renovation of these buildings. And I don't think that this is going to be the first ones. We have some other ones. I know Edinburg is trying to renovate their tower for the elderly there, and we are going to have to have some support from the rest of the state.

So I beg this board to go ahead and accept these letters and the certification of our county clerk. Maybe forward commitments would be something that we should consider in our next board meeting. We should not completely run them off, because this is something that we need to consider and help.

MR. WITTMAYER: There is a second issue in the appeal also which concerns requirement of the Qualified

Allocation Plan that if they have a public meeting, that they provide a transcript of that meeting. The staff used the language "transcript" because we were concerned about the great variability if we only required minutes.

Minutes can be quite good and detailed, or they can be quite cursory and not provide a lot of information.

What we were requiring here was a verbatim transcript. This organization did not provide it. They provided minutes, and they are appealing for six points for providing minutes rather than a transcript.

MS. ANDERSON: Thank you. At this point, we have Mr. Skeen to make public comment on this development.

MR. SKEEN: Good morning again. Thank you for this opportunity to present this appeal for file number 04037.

We have other presenters here this morning to make specific comments regarding both issues that we have appealed today.

Again, we are here to request points for community participation, and we are here to request that our points be reinstated or instated for our public hearing which was held on February 18, 2004. Las Canteras received no points for quantifiable community participation and zero points for the public meeting. I am certain that this is not the first application, nor will it be the last that you will hear about

community participation.

First thing I would like to address is the public meeting. We strongly believe that Las Canteras should receive all six points for its public meeting. On June 10, we submitted information to Ms. Carrington and her staff in the form of an appeal that was denied.

Las Canteras met the intent of the public meeting by providing ample evidence that the applicant hosted a meeting. I attended that meeting along with many other people.

The meeting was held less than one-half mile from the site at a neighborhood community center to make certain that the location was convenient for neighborhood residents. It is within walking distance from the site.

During the meeting we solicited input from all interested third parties. The requirements of the QAP including evidence of notification, and a list of meeting attendees were provided with the application. However, because my tape recorder broke, we didn't have a transcript word for word of the meeting.

As with our other application in the Rio Grande Valley, Villa Del Sol that you heard before, it was our intent to provide in both English and Spanish a word-for-word transcript of the meeting. What we did provide to the best of our ability were minutes of the meeting, in English and

Spanish, a copy of the PowerPoint presentation, photographs, and more importantly, affidavits from everybody that attended the meeting. All the public, everyone that attended attesting that the minutes were true and correct and summarized what happened at that meeting.

I serve on the board of other nonprofits in the past, and other business. I heard you change your minutes when you were up here a little while ago. These people submitted affidavits. They voted and said that those minutes were a true and correct description of exactly what happened at that meeting, and we believe that should be sufficient to allow the points for the public meeting. Now I can go on to the other part, or do we want to do this now?

MR. BOGANY: I have a question.

MR. SKEEN: Yes, sir.

MR. BOGANY: About the transcripts from staff. Transcripts. Were you looking for tapes or recordings or anything as a transcript?

MR. WITTMAYER: Verbatim transcripts.

MR. BOGANY: Okay. Tapes or writings.

MR. WITTMAYER: No, writings. Written.

MR. BOGANY: Okay, so why do the minutes with the information that they provided, why wasn't that enough?

MR. WITTMAYER: Well, these do not meet the

requirement of being a verbatim transcript.

MR. BOGANY: Okay. So it wasn't word for word. Okay. I don't really -

MS. ANDERSON: Let's not. Do you have another question for him?

MR. BOGANY: Yes. My question is in regard to this. Is the verbatim -- is that part of the legislative?

MR. WITTMAYER: QAP.

MR. BOGANY: QAP that we had to have it verbatim?

MR. WITTMAYER: The QAP requires a transcript. We take that to mean a verbatim transcript. It does not say minutes. It says transcript.

MR. BOGANY: But we are determining -- we are objectively looking at that and saying, just subjectively saying hey, what I want is a verbatim?

MR. WITTMAYER: Yes.

MR. BOGANY: And not minutes? Okay. So in the QAP, it just said a transcript.

MR. WITTMAYER: Correct.

MR. BOGANY: Okay. And then staff is making the decision on what you want to consider as a transcript?

MR. WITTMAYER: We understand the transcript to be distinct from minutes and we require a transcript.

MR. BOGANY: Okay. Thank you.

MS. ANDERSON: Would you proceed to complete your testimony, please?

MR. SKEEN: That concludes my comments on the public meeting, other than one other quick comment. We intended to provide a written word-for-word transcript of the meeting, vis-a-vis the tape recording. The tape recorder broke. We couldn't do that. That is why you didn't get a written word-for-word transcript.

The second thing I wanted to discuss this morning is the quantifiable community participation. I'll keep my comments brief. The other folks here can certainly address this a little closer than I can. However, we have made specific responses in our appeal to each of the items of denial regarding the support letters that were submitted.

I think it is important to note that each of the letters stated what the representative's that was writing the letter, official capacity was and how many families were represented by that resident council. Each one of them stated 34 families, 86 families, whatever. All of them are registered with the county, file-stamped letters.

We also provided in the appeal a follow-up, a letter from the county clerk in Hidalgo County acknowledging that they are registered with Hidalgo County. The Las Milpas resident council and Sunset Terrace both have residents in

them that were displaced from the demolition of another public housing project. This application is for 40 public housing units to replace some of those units that were lost.

The last point here is that these are grassroots organizations. We allowed them to provide their own input.

I guess, in hindsight, maybe we should have written the letters for them. But we didn't. These are again, our grassroots organizations. We believe that they represent the people in the housing authority properties throughout Pharr. As far as boundaries go, the Pharr Housing Authority's boundaries are the City of Pharr, Texas. Each of these resident councils represent public housing residents. Thank you.

MS. ANDERSON: Thank you. Maria Gutierrez, please?

MS. BARBERER: I am going to go ahead and translate for her.

MS. GUTIERREZ: Buenos dias.

MS. ANDERSON: Buenos dias.

MS. GUTIERREZ: Mi nombre Maria Gutierrez.

(Speaking Spanish.)

MS. BARBERER: Good morning. My name is Maria Gutierrez, and I am president of the Sunset Terrace Resident Council.

MS. GUTIERREZ: (Speaking Spanish.)

MS. BARBERER: Madam Chair, and board members, thank you for this opportunity to express support for application 04037, Las Canteras Apartments in Pharr.

MS. GUTIERREZ: (Speaking Spanish.)

MS. BARBERER: My name is Maria Gutierrez and I am the president of Sunset Terrace Resident Council. I am the elected representative of 100 families living in the neighborhood of the proposed development. My organization was created in 1989 to represent public housing residents in Las Milpas. We are a volunteer organization with five board member elected annually.

MS. GUTIERREZ: (Speaking Spanish.)

MS. BARBERER: The Department, however, did not award Las Canteras application any points for community support letters for the application, including my letters.

I came today to tell you personally how important building Las Canteras. It is my neighbors' and others neighbors in Pharr, and how much we are committed to this project. Prior to submitting my letter, I polled the residents of our association and they are in unanimous support of the application.

MS. GUTIERREZ: (Speaking Spanish.)

MS. BARBERER: A location and the site of Las Canteras are very good for our families.

MS. GUTIERREZ: (Speaking Spanish.)

MS. BARBERER: The site is next to an elementary school and less than a ten-minute walk from the Las Milpas recreation center, where there are many activities for children of all ages, after school and in the summer. A big grocery store, Head Start center and a medical clinic are less than ten minutes drive.

MS. ANDERSON: We need to ask you to wind up, unless someone would like to cede time to Ms. Gutierrez.

MS. BARBERER: Okay.

MS. SHAW: Margaret Shaw will yield her time.

MS. ANDERSON: Thank you.

MS. GUTIERREZ: (Speaking Spanish.) Muchas gracias.

MS. BARBERER: We respectfully request the board of directors to support this application and award the points for the support letter for the Sunset Terrace Resident Council. Thank you for your time.

MS. ANDERSON: Now, did she get to say everything she wanted to say, because Ms. Shaw ceded time to her.

MS. GUTIERREZ: (Speaking Spanish.)

MS. BARBERER: Yes, she is finished.

MS. ANDERSON: She finished? Okay.

MS. BARBERER: Thank you.

MS. ANDERSON: Thank you. Hollis Rutledge?

MR. CONINE: Oh, I had one question.

MS. ANDERSON: Oh, okay.

MR. RUTLEDGE: Thank you, Madam Chairman, members of the board. My name is Hollis Rutledge from the great city of Mission, Texas. And I am here to represent the City of Pharr, Texas, the mayor and commission relative to project 04037, Las Canteras Apartments. Just to reiterate what has already been said relative to the project.

This project will address replacement of demolished public housing. The public housing authority will provide rental assistance to the very low income renters. Clearly the six points for the public meeting were earned and should be awarded. The supporting evidence hopefully that you have before you, coupled with common sense supports award of the six points.

As to the 12 points for the neighborhood organizations, we also feel that we have earned those points based on the demonstrated evidence submitted to you. I certainly join Senator Eddie Lucio, State Representative Kino Flores, the Mayor, who will be speaking to you before this board for this appeal, and all of the other that have appeared before you already, that we would certainly appreciate your consideration of this appeal, and these points, and that there

be an award be allocated to the tax credits that we request for Las Canteras Apartments in Pharr, from the 2004 tax credits, and/or a forward commitment to this project.

Again, thank you very much for your time. I appreciate the efforts that you are going through. I know that it is a tedious process, but I wish to hopefully have your serious consideration of this project, and our appeal request. Thank you.

MR. CONINE: Mr. Rutledge? Were you at the public hearing?

MR. RUTLEDGE: No, sir. I was not.

MR. CONINE: Okay, thanks.

MR. RUTLEDGE: I am here as strictly representing the City of Pharr and the Commission. Thank you.

MR. CONINE: Thank you.

MS. ANDERSON: Mayor Palacios?

MR. PALACIOS: Madam Chair, members of the board, thank you for this opportunity to express support for application 04037, the Las Canteras Apartments in Pharr. My name is Leo Palacios, and I am the Mayor of the City of Pharr and I have come another 300 miles back today to formally request your support for the Las Canteras application for Pharr.

First and most importantly, low-income residents

of the neighborhood of Las Milpas project devised a Hispanic advocacy group located less than one mile from the site. The Pharr Housing Authority and its affiliates have committed more than half a million dollars injected funds and almost \$100,000 annually in operating support for this project. They are the oldest and most experienced provider of low-income housing in the City of Pharr.

Lastly, let me say that you heard Representative Hinojosa, State Representative Kino Flores, and State Senator Lucio express their support for this project. It is also true that the applications -- that at this minute, they have no legitimate opposition. However the board has received seven letters opposing this development. None of these writer residents are located in the City of Pharr. I do not understand the process that is allowing for people who do not live in my community to oppose our priorities. Let them fight for their own communities.

I also do not understand why the Las Canteras application, the letters and the points for the public hearing.

The tape recording did not work, and as a result, no word-for-word transcript was available. In my years in public service, this has happened to us on more than one occasion.

We simply direct to reconstruct the minutes for the minutes and enter them into the record.

The applicant did exactly this, and obtained affidavits from the participants regarding the accuracy and truthfulness of the minutes. This should be more than enough to allow the public meeting points. The neighborhood groups are well-established and represent many of Pharr's citizens.

We will use this money wisely and respectfully ask you to support the Las Canteras appeal, and award the points for the public hearing and community participation.

We appreciate your diligence in review of this appeal. Thank you for your time, and I strongly urge you to take all of this into consideration, as we need to replace both demolished units that were condemned by law.

MS. ANDERSON: Questions?

MR. PALACIOS: Thank you. You all have a good day.

MS. ANDERSON: Mr. Mayor, I have a question for you. I hear in some of the conversation, I hear a reference to Las Milpas. What is Las Milpas? Is it a neighborhood, is it a -

MR. PALACIOS: If I may, Las Milpas is part of the City of Pharr which is a community that was built into the city, which used to be a county rural subdivision.

MS. ANDERSON: So it was annexed by the City?

MR. PALACIOS: We annexed Las Milpas and I don't know how many other colonias. I think that our good friend, Mayor Salinas here knows the area well, and we have, I don't know a hundred or more colonias in the area there. But Las Milpas is like a subdivision that was named Las Milpas. My subdivision is named Hop City Acres [phonetic]. So it is just a name of subdivisions and plats that were recorded. But let me say this, Las Milpas is about six miles from the main part of the city.

MS. ANDERSON: How far is it from the proposed development?

MR. PALACIOS: It's right there. This development is right there by one of the elementary schools, one by the [indiscernible] value store. It is there in our boundaries and Las Milpas area, that subdivision alone has three or four other subdivisions, colonias, that have about 15 or 16,000 population and growing.

MS. ANDERSON: And where is Sunset Terrace relative to the proposed development?

MR. PALACIOS: In the City of Pharr.

MS. ANDERSON: In the City of Pharr, but what distance from the proposed development?

MR. PALACIOS: I don't have a -

MS. ANDERSON: A mile? Four miles?

VOICE: About three or four miles.

MR. SALINAS: Las Milpas is a rural area that is one of the colonias that was criticized in the 80s. It had no sewer, no water. The City of Pharr, and I was serving as county commissioner in that area. At that point, the City of Pharr brought them in, provided sewer and water. They have been working with that community for a long time. They even bought a bridge, the Pharr bridge, which is there that crosses into Reynosa.

This community has been a very distressed area for 20 years. The City of Pharr has spent a lot of money and Las Milpas has completely changed in the last ten years, 15 years. The City of Pharr took a big task in bringing them into the city. So I know that this area is very much needy and cries for a lot of housing.

MR. PALACIOS: If I may, what Mayor Salinas just mentioned, the City of Pharr through the efforts and help of Senator Gramm and Hutchison have given us a lot of federal funding, CDBGs since '86 and we were able to spend more than \$60 million in doing drainage, sewer, streets, lighting, whatever, and we have changed the quality of life of a lot of people. And this here will do the same thing. We will continue to grow.

MS. ANDERSON: Thank you Mr. Mayor.

MR. PALACIOS: Thank you so much. You all have a good day.

MS. ANDERSON: Roy Navarro?

MR. NAVARRO: Good morning, Ms. Anderson, board members, Ms. Carrington. We made comments at your June 28 board meeting, and a lot has been said about our Las Canteras application. Specifically, know what we are appealing.

We are appealing the staff's decision not to award points for quantifiable community participation and to deny the six points for a public meeting, as has been mentioned.

In our opinion, Las Canteras is a competitive application and should receive an allocation of low-income housing tax credits. The units that we are replacing are 100 units of low-income public housing that we were forced to demolish back in 2000 because of our U.S. Highway 83 Expressway and the noise factor. We personally have 400 families in our low-income housing waiting list.

And I want to focus on Las Milpas and some of the questions that have been raised. We had four letters of support. One from our Sunset Terrace Residents' Council and Ms. Gutierrez the president is here with us today. The president of Las Milpas Residents' Council, which is another letter that was submitted, Ms. Rosario Perez, due to illness, she wasn't able to be here this morning.

But I must mention that both at the Sunset Terrace development and the Las Milpas development, of which both resident councils submitted letters, when we demolished the 100 units of the Villa Esperanza, we transferred families from there to build Sunset Terrace and to the Las Milpas development. If this application is approved and this development is constructed, these families have been promised that if they are willing and they so desire, they will be relocated back to this development, and that is so important to our residents and to our housing authority and to our nonprofit. So, just to mention that.

You know it is very important for us that these points be awarded to both of these organizations resident councils. Project ARISE also submitted a letter of support, and they are based in Las Milpas and do so much for our residents and for the residents of the City of Pharr. Habitat for Humanity -

MS. ANDERSON: I have to ask you to wind up, sir.

MR. NAVARRO: Okay. Habitat for Humanity is currently helping us with our home ownership program and the Housing Authority of Pharr and the nonprofit Pharr Housing Development Corporation has already graduated 70 families of Section 8 and low-income public housing into home ownership. So what can I tell you? I think we deserve the points for

the letters. So I really appreciate your consideration.
Thank you so much.

MS. ANDERSON: Questions for them? Fred Sandoval?

MR. SANDOVAL: Good morning Madam Chair, board members. Again, thank you for this opportunity to demonstrate support for application 04037, Las Canteras Apartments in Pharr, Texas. My name is Fred Sandoval. I am the assistant city manager in Pharr. Just a quick comment on the Las Milpas issue.

What that was before was a colonia. We have a natural geographic boundary south of town that kind of cuts it off. It's an IBWC floodway. You can't really get around that, other than the high water bridge. But that is kind of where we are at. We still consider it South Pharr now.

I mean, we have had it for over 15 years now, and it's got all the services that the City provide to everybody else.

I have come here this morning to state our commitment to making Las Canteras Apartments in Pharr a reality. This project is important for our community for a number of reasons. We have many families with children who do not have safe and decent and affordable housing. The Las Milpas neighborhood is south of downtown like we described earlier.

It has grown rapidly. There is a bunch of there

is all kinds of retail and commercial development occurring.

It is one of the fastest-growing areas of the city.

Restaurants, grocery stores, convenience stores and whatnot.

There is also a lot of other services that can be provided to the residents in the area. WIC office, medical clinic, Head Start center, Boys and Girls' Club. Of course, fire and police substations.

We could ask for no better partner in housing than Pharr Housing Development Corporation. Under Roy Navarro's leadership, the Housing Authority manages more than 625 Section 8 units throughout our community. He and his team are effective housing managers. That is evident in his success in the 30 years that he has been in the business. He is committed to improving the lives of those less fortunate in Pharr, and he has demonstrated that continuously. The Pharr Housing Authority's commitment to our community and public service has few rivals.

Mr. Navarro has served in various capacities with the Housing Authority over the three decades and he has also served on the school board. Because of the strength of this proposal, the leadership of Pharr is committed to this project in the following. Pleased to announce today that as a sign of the City's committee to this project, we will be waiving all development fees and or permitting fees for this project

as additional assistance.

We cannot however, make this project a reality without your help. Obviously, we hope that you support our application for housing tax credits and approve this appeal as presented today. Thank you so much.

MS. ANDERSON: Excuse me, Mr. Conine has a question.

MR. CONINE: Excuse me. Could you, from the area that the City of Pharr annexed called Las Milpas -

MR. SANDOVAL: Yes, sir?

MR. CONINE: How far is the boundary of that from the actual project?

MR. SANDOVAL: The boundary of?

MR. CONINE: That you annexed?

MR. SANDOVAL: Oh, it is probably smack dab in the middle. You know, the project that is being described today?

MR. CONINE: The project is in the middle of what you annexed?

MR. SANDOVAL: Yes, sir. It is right in the center of it for all intents.

MR. CONINE: Okay.

MR. SANDOVAL: Not in the center of town. But in the center of what we annexed, which would be the southern

portion of the town.

MR. CONINE: Okay. Mr. Skeen, is there someone that was at the public hearing that is here today that is not associated with the development firm?

MR. SKEEN: No. The answer to that is no.

MR. CONINE: Okay. I was just going to ask a question about the public meeting from the public side, but if there was nobody here.

MR. SKEEN: Well, we have got one.

MR. CONINE: Is his name on this list that I am looking at?

MR. SKEEN: It should be, yes.

MR. FLORES: I am Apollonio Flores. I am a consultant to the Housing Authority. I was at the public hearing, and I also submitted an affidavit. I attested to the accuracy of the minutes.

MR. CONINE: What was your name again, sir?

MR. FLORES: Apollonio Flores.

MR. CONINE: I don't see it listed here for some reason, on the sign-in sheet. Did you remember to sign in on the sign-in?

MR. FLORES: I thought I had. But yes, I was present there. In fact, I was part of the presentation.

MR. CONINE: Did you see Mr. Skeen's tape recorder

break?

MR. FLORES: Yes. The tape recorder was there and it malfunctioned.

MR. CONINE: Okay. Thank you very much.

MR. FLORES: Sure.

MS. ANDERSON: Claudia Barberer.

VOICE: She just translated.

MS. ANDERSON: Okay. All right. Thank you. I have a question for Mr. Navarro, if you could please come back to the podium? Thank you, sir. You are with the Pharr Housing Development Corp, is that right?

MR. NAVARRO: That is right.

MS. ANDERSON: And that is a nonprofit.

MR. NAVARRO: Yes, ma'am.

MS. ANDERSON: Okay. Now on the exhibit that we have in our materials, the model bylaws for resident councils and the one that is for the Las Milpas Residents' Council that indicates that it was approved and ratified at the membership meeting of the first day of January, 1991, and there are three signatures on this page. And one of the signatures is actually dated 1-1 of '89. Did you sign this document?

MR. NAVARRO: Yes. I have been there for almost 32 years, so I was a part of that document.

MS. ANDERSON: So you were a part of the resident council?

MR. NAVARRO: Yes, ma'am. As secretary director of the -- because I am director of the housing authority as well.

MS. ANDERSON: Okay.

MR. NAVARRO: Yes. I have been there 32 years almost.

MS. ANDERSON: Okay. And then Ms. Perez who also signed this document on January 1, of '91, she has been the president of the resident council continuously since that time?

MR. NAVARRO: A very active lady, and I wish she would have been here today. But due to illness, as I testified earlier, she was unable to be here. And she was also present at the public hearing, just for the record.

MS. ANDERSON: Okay. Very good. Thank you for answering those questions.

MR. NAVARRO: Yes, ma'am.

MS. ANDERSON: Okay. That concludes public comment. Mr. Bogany?

MR. BOGANY: I would like to make a motion that we approve the appeal except for the letter from Habitat for Humanity of McAllen, but all the other three letters be

approved along with the minutes for the meeting.

MR. CONINE: Could you make those in two separate motions?

MR. BOGANY: And I will make that in two separate motions. I would like to -- first motion I would like for us to accept three of the four letters. The only letter to deny, the letter from the Habitat for Humanity.

MR. SALINAS: Second.

MR. CONINE: I have a question of staff, if I might?

MS. ANDERSON: Sure.

MR. CONINE: We just heard testimony that the project was in the middle of this Las Milpas community that was annexed by the City of Pharr. It would appear to me that if we had a letter from that community, that neighborhood group, that it falls within the boundaries. And so can you enlighten us as to why the two letters from the Las Milpas groups were denied, again?

MR. WITTMAYER: If we had evidence presented prior to April 30 that they had boundaries and those boundaries included the proposed development site, they would have met that requirement. We were lacking that evidence. Based on the testimony here today, they seem to have new evidence that they did not present prior to the deadline that as to that one, Las Milpas, that it is within the boundaries of that

organization.

MR. CONINE: So what I feel myself getting pulled into is a creep on the April 30 date, is what is going on here. And the question is for the board, how tough are we going to be on this April 30 date?

MS. ANDERSON: Well, if we grant one -

MR. CONINE: And if you grant one, do you have to go back and grant them all? And there have been some projects that haven't appealed that are going to be affected by that. And that is a heavy burden for this board member to have to carry.

MS. ANDERSON: And some people made it by the deadlines.

MR. SALINAS: Well, but this is simple cry out for this area of the State of Texas, and I just don't know how, and these people should know better than -- to do the things right. And I can agree with the board that this letter, the tape recorder should have been there, and this is a lesson for a lot of people that do these applications, that they do it right.

And the reason that I cry out for help for these areas is because I know this area well. I was county commissioner and worked with the City of Pharr. I know Las Milpas' situation has been very tough for the last 25 years.

And simply because we cannot accept the affidavits; I think the affidavits are there.

MR. CONINE: Can I get Mr. Skeen to come back up for more questions?

MR. SALINAS: If he had that tape recorder working -

MR. CONINE: No, I'm on board with the tape recorder. That's not an issue.

MR. SALINAS: We need to buy you a tape recorder.

MR. CONINE: What I am trying to figure out is, you obviously have -- this isn't your first tax credit project, and you understand how to read the QAP, and you probably -- did you understand by reading the QAP that we wanted the information in detail about the activities of the neighborhood groups that you asked to supply us letters.

MR. SKEEN: Yes, sir. As it relates to the boundary issue. The letter, like for instance for Las Milpas stated that it is located, that the resident council is within less than a mile from the project. We didn't think that we needed to provide any more documentation.

I mean, the public hearing was held at the Las Milpas Community Center, because of its close proximity to the site. The residents in that area use that community center. The residents of Las Canteras will use that community center. So maybe we didn't draw the lines like maybe we should have,

but it is very apparent in the letter that Las Milpas neighborhood group is within the area.

MS. ANDERSON: Where does it say less than a mile in this letter?

MR. CONINE: Are you looking at the letter?

MS. ANDERSON: I am looking at the letter.

MR. SKEEN: Okay, can I see that?

MS. ANDERSON: You bet. I don't see it in the letter. That's why I'm trying. If you say in the letter that it is less than a mile, that's significant.

MR. SKEEN: Okay. Right here. Roy, can I have your help. Roy? My Spanish is not that good.

(Discussion was held off the record.)

MR. SKEEN: I'm sorry, it doesn't say a mile. I think I was referring to another letter. It says the site is located within Las Milpas, where Las Canteras is. It does say that.

MS. ANDERSON: Show me that sentence you are referring to.

MR. CONINE: It does say that it is located within that area.

MR. BOGANY: You know, I think this is a great project. But I am concerned, and I do agree with Mr. Conine that, you know, to me, that is your end of it, to make sure

those letters hit all those points. And I can understand about the public hearing and I don't have a problem with that one.

But if you don't get your letters, and I see this every month. I come to developers, and if you are hired to do a job, to me that is your end, to make sure that all the I's and t's are dotted. And if you are late doing it, then you know, and it is up to these developers and the people in the community, you pick these people to be on your team, and you have got to get good team players.

And I just find this hard to for me to correct something that you didn't take the time to make sure all the t's and I's. Staff is looking at this and saying okay, this is not meeting all the requirements and it is your end to make sure that it meets the requirement. And then for me to come up here and correct it, and I agree with Mr. Conine, all we are doing is opening Pandora's box for later on coming in and somebody saying you didn't do it this way. Some of it is common sense.

I think the public hearing is common sense to me.

But to have a letter that is not in at the time that it was supposed to be in, and not stating that they had members. Everything that we asked for, look at the checklist on each letter.

And I just think it is hard for me to correct something that the developer inside should have caught. And that is for all of them, because I see it every month. The developers ask us to correct something, the attorney got picked up before we came here to do something. That isn't my deal. And I am just concerned that you are asking us to continue to correct situations where somebody was tardy about doing something. And I really have a serious problem with that.

MR. SKEEN: My only comment again, though, on that letter for instance, it says that there is five member resident council. It says there is how many members. I mean, the letter says that. Now, on the boundary issue, that is a little more, I have to agree, is a little more of a grey area. I can't disagree with you.

MR. SALINAS: Everybody knows that it is in the City of Pharr. It is in the city, the area of Las Milpas. It is very hard -- yesterday we had a meeting with ORCA, a small meeting. ORCA represents the rural areas. They gave us a recommendation that we all should have meetings in their small communities. And I think this board should consider that, so they can know some of these communities like the City of Pharr. I mean, I think ORCA is going to have a meeting in Rio Grande City. And I said, well, good luck. But the

thing is, that we don't even know our community.

MR. CONINE: My understanding -

MR. SALINAS: I know about boundaries, you know. We have had public hearings where 1,600 opposes a project. We have had this room full of people saying we don't want this project. And then we have this meeting today, and everybody wants the project, which is good. But do you know what the difference is? It is in our area of South Texas and we are not going to fight the recommendation of the community, like the cities and the state representatives, and the senators that are all opposing and trying to help our community in South Texas, and this Region 11. And we just don't have enough tax credits there.

But I just cannot understand why we cannot accept those three letters. I can understand, the motion was made to allow three and deny one. The Habitat for McAllen, who does a good job for not only the City of Pharr, it does a good job for the City of McAllen and the City of Mission and the whole Valley. They go out there and help us. We have built homes in colonias.

And for us not to allow that letter is not right, but fine. All I want is for everyone to understand that this is an area that is out there crying for help. And the same way that the City of Brownsville came, and the people from

Brownsville, to replace that old establishment in 1971. And we cried for that help, and that is why I am asking this board to understand that six points is six points for this community.

I will always abide by the majority of this board, but I think that they should consider our area and the public hearings, which people were in favor. Not one person was against any of these public hearings, opposing this area.

MR. BOGANY: I have a quick question for staff. It's not a quick question. Were the three letters from Gutierrez, Perez and Merino, were those turned in on time, or were those after the fact?

MR. WITTMAYER: The three basic letters?

MR. BOGANY: Right. Not the one from Humanity, but the Gutierrez, Sunset Terrace, Ms. Rosera Perez, and -

MR. WITTMAYER: The letters themselves were in by the deadline. Yes.

MR. BOGANY: They were in the deadline?

MR. WITTMAYER: The basic letters, yes.

MR. BOGANY: And staff's problem with it was about?

MR. WITTMAYER: There was insufficient documentation stating that these are our boundaries, and our boundaries include the proposed development site.

MR. BOGANY: Thank you.

MR. CONINE: A couple more questions. I heard that Sunset Terrace was three or four miles away from the project. Is Sunset Terrace in Las Milpas?

MR. NAVARRO: No, it is not. Like I mentioned, some of the residents are displaced.

MR. CONINE: I'm not interested in that. I just want to know geography right now. And in the Las Milpas Residents' Council letter that we were trying to translate over here a minute ago, it states that it is within the boundary of Las Milpas in the body of that letter?

MR. NAVARRO: That the property is within Las Milpas.

MR. CONINE: It's just that we didn't know what the boundary of Las Milpas was. Is that correct?

MS. ANDERSON: Or that we didn't know that Las Canteras was in Las Milpas?

MR. CONINE: Well, it's not, is it?

MR. BOGANY: He said it is in the middle.

MR. CONINE: Oh, it is in the middle. Excuse me, it's in the middle. All right. And on the ARISE letter, did it state that the project was in the boundaries of Las Milpas?

MR. NAVARRO: Not specifically.

MR. CONINE: Not specifically.

MR. NAVARRO: ARISE is a group that is an advocate for Hispanic causes in housing, being one of them in Pharr.

MR. CONINE: Okay.

MS. ANDERSON: Other questions?

MR. GORDON: I have one additional question. I was looking at the grading on the criteria. It looks like all four letters, the Gutierrez, the Perez, McNowland [phonetic] and Moreno are all filed with the county by March 1, but two of them were denied for not -- that was one of the grounds for denying was insufficient evidence that it was on record. Is there a difference between those?

MR. CONINE: Probably wasn't turned in by April 30.

MR. GORDON: No, the April 30 is received by TDHCA. But this is of record in the county. This is for staff, really.

MR. WITTMAYER: If the evidence that is presented to the board was also presented prior to the April 30 deadline, and was reviewed by EARAC, that would have been sufficient documentation that it was on record with the county. I can't confirm just at this moment that all that documentation was available as of April 30.

MS. ANDERSON: Okay.

MR. NAVARRO: I think it was, but it had to be

clarified by the county clerk, and I think he sends in an affidavit that they were. And that is what I see on the big board that I have.

MS. ANDERSON: Do we have a motion?

MR. CONINE: We have a motion.

MS. ANDERSON: Do we have a motion, and what is the single motion?

MR. CONINE: Three of the four, I think.

MR. SALINAS: Three of the four.

MS. ANDERSON: So we are not dealing with the public meeting yet?

MR. CONINE: No, not yet.

MS. ANDERSON: Okay. I can't support the motion as currently stated, with three of the four letters included.

Because it seems to me that only one organization even potentially arises to be a neighborhood organization within the boundaries of Las Milpas, and that is the Las Milpas Residents' Council. Not Sunset Terrace, and not Project ARISE, which is a Hispanic advocacy organization. So, I would offer an amendment that we consider the Las Milpas Residents' Council for scoring only.

MR. BOGANY: I accept that amendment.

MR. SALINAS: What is the amendment?

MS. ANDERSON: My amendment is that instead of

accepting three letters for scoring, that we rather accept the Las Milpas letter, because it is the only one that is a real neighborhood organization. It is right in the middle of the area where the development is going to be built.

And as the general counsel said before, it doesn't matter how many letters you have, that doesn't drive the scoring. It is the quality of whatever letter you have. So it doesn't, in my view, penalize the scoring.

MR. SALINAS: That's fine, and I agree. I am not going to -- I want you to know that Las Milpas is Pharr, Texas.

The whole city of Pharr is supported by this project. And there is no boundaries between the Hispanic and Anglo and African-American. I would think it is about 99 percent Hispanic community in that area.

I don't know what boundaries you are talking about, but this development is in the City of Pharr itself. But if you don't want to put it right in the middle of the Las Milpas Pharr, that's fine with me, and I don't have any problem with the amendment as long as these people have an opportunity to get this thing done, whether it is this year, next year or never.

MS. ANDERSON: I am just trying to be consistent with the QAP, with regard to the language about the boundaries.

MR. SALINAS: Oh, me too.

MS. ANDERSON: Is there more discussion on the motion as amended?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Is there another motion.

MR. BOGANY: My next motion is that we give the points for the public hearing, based on the information that has been given to us, with the affidavits, list of the people that were there, pictures, PowerPoint and all that good stuff.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. At this point, we are going to take a ten-minute, only ten-minute break and

then we will reconvene.

(Whereupon, a short recess was taken.)

MS. ANDERSON: Okay, if we could come back to order, please, I would appreciate it. Thanks. The next appeal we will consider is project number 04041 Mesa Seniors.

MS. CARRINGTON: Thank you, Madam Chair. This in your board book is again, behind another gold page, and this appeal relates to the points that were eligible for receiving a letter on a subsidy. They were actually leveraging points.

And if you look at Mesa Seniors you will not see in there the executive director's response, because we did allow applicants to file up to the last day. Now the executive director has denied this appeal, and there is sample language of this denial in another application. The issue with this and several other letters related to the letters from the City of Houston.

Our Qualified Allocation Plan says to be eligible for these points in leveraging, that the loan must be either a grant or a forgivable loan. When we read the commitment notice from the City of Houston, the City of Houston's language in their commitment notice indicated that if -- to the extent that there was net cash flow, net cash flow would be used to pay the loan back.

If there was not net cash flow, then the payment could be forgiven. Staff did not believe, executive director did not believe that the commitment letter met the requirements of the Qualified Allocation Plan, and so we did deny the points for leveraging on Mesa Seniors.

MR. CONINE: Could you repeat what you just said? I am not real clear on what you just said.

MS. CARRINGTON: Which part would that be, Mr. Conine?

MR. CONINE: Well, okay. For them to get points, it has to be -- what does the QAP say?

MS. CARRINGTON: The Qualified Allocation Plan said it must be either a grant or a forgivable loan.

MR. CONINE: Okay. And then, but you said we got, and we don't have the original letter from Houston, though, do we?

MS. CARRINGTON: You do have in front of you Section Ten from their letter. Payment of principal and interest. And they have bolded it. Third line. All installments due under the loan shall be paid out of net cash flow. If sufficient cash flow is not available to make all or some portion of the required monthly payment under the note, such payment or payments or unpaid portion thereof shall be deemed paid.

MR. CONINE: And that doesn't meet the definition of the word "forgivable" in the Department's mind?

MS. CARRINGTON: It did not meet the definition of forgivable loan or grant. No, sir.

MR. CONINE: Wouldn't the word "forgivable" mean you pay if you have got it, and if you don't, you don't have to pay?

MS. CARRINGTON: Not the way we interpret it, Mr. Conine.

MR. CONINE: Why wouldn't it? Let's have a dialogue about that.

MS. CARRINGTON: Then I may ask Mr. Gouris, who is our director of real estate analysis to respond to your question.

MR. CONINE: This ought to be fun.

MS. CARRINGTON: He is looking forward to it, I am sure.

MR. GOURIS: Tom Gouris, director of real estate analysis. You know, I'm just glad to help.

MR. CONINE: You've just come from Washington, D.C., and you're glad to help.

MR. GOURIS: I think the idea behind grant or forgivable loan was to ensure that the subsidy wasn't something that the project was going to have to depend on

to repay. The language in the loan documents says cash flow if available. All of these transactions, including this one, reflect that they have cash flow available.

MR. CONINE: Right.

MR. GOURIS: So they will be able to, in fact, they implicitly have determined that they will be repaying at least portions of the loan, if not all of the loan.

MR. CONINE: No. Now, wait just a minute. If they all underwrite appropriately, per your excellent staff and your guidance in the underwriting, you are right, they will have some cash flow. But that doesn't mean tough times won't come down the road, okay? And the cash flow might go away.

And if what we're saying here, is that we don't want the structure of that grant/forgivable loan to impact the underlying debt, then we have accomplished that by saying that the net cash flow, anything above after they have serviced the underlying debt we protected the first lienholders' rights, which is where I think your ultimate responsibility is, and if bad times hit five years from now, and you can't pay, you don't have to pay. To me, that is forgivable.

Now I don't know where we have a written definition of the word "forgivable" when it comes to that, but if you don't have the money, you don't have to pay, that is one of

the best -- I would like to borrow from that bank all the time.

MR. GOURIS: Yes. I tell my staff all the time, in fact, one of our interview questions is give me a definition of a deferred forgivable loan. And it is something of an oxymoron, in the nature of itself. Because the loan is an obligation to pay.

MR. CONINE: But I am getting to the purpose of why we are asking for a grant or forgivable. The purpose is to protect the underlying debt? Correct?

MR. GOURIS: That is one purpose.

MR. CONINE: What is the other purpose.

MR. GOURIS: Well, in order to -- you may instead of doing a grant structure, you may do a loan structure in order to preserve some ability to recapture funds if some inappropriate or if the law is violated or some defaults of the loan provisions are in place, and it may give you a stronger position than if you grant the funds directly. So I think the language "grant or forgivable loan" was intended to allow entities that have to do grants in a loan form to do that.

MR. CONINE: Right.

MR. GOURIS: And I think that we took the impression, a real strong impression that these were supposed to be funds that just did not ever have to be repaid. And a cash flow

loan says that they do have to be repaid if cash flow is available.

MR. CONINE: Well, I may have a philosophical disagreement with you on that.

MR. GOURIS: Sure.

MR. CONINE: And that is another day, and another issue. But the question is, does this language meet what we would consider to be a forgivable loan? As you know, I am a big fan of recycling money back to governmental entities that loan it out on housing projects, if you can.

MR. GOURIS: You bet.

MR. CONINE: And only if you can. And this is the City of Houston, loaning this money out. And rather than just giving it away, they are asking for it to be paid, and I would think it meets the technical definition of what we are trying to protect.

MS. ANDERSON: This particular development is appealing on two different grounds, and so my question to the board is, do we want to separate these, and separate the public comment on them, and go ahead and continue the discussion just on the loan commitment issue?

MR. CONINE: I'd like to hear from the sponsor.

MS. ANDERSON: Okay. Ms. Gaskin? On the loan commitment issue, please?

MS. GASKIN: My name is Sally Gaskin, and I am the sponsor of Mesa Seniors, which is number 04041. And the loan commitment issue that you are discussing now is -- I am not really sure what to say about it, other than if it is forgivable on a monthly basis, it appears to me that it is a forgivable loan, even though it is on a month-to-month basis. It depends on whether there is cash flow. If there is cash flow, you pay it, if there is not cash flow, you don't pay it, and you don't ever have to pay it.

I don't -- the QAP was not specific other than it was a grant or a forgivable loan, and technically I agree with Mr. Conine. I think that I never had a doubt that this didn't qualify as a forgivable loan. So any questions that I can answer, I would be happy to do so. I just -- it just seems like it pretty much speaks for itself.

MR. CONINE: What about the -- are you going to comment on the other, is there two issues?

MS. ANDERSON: We haven't had the staff presentation on that yet.

MR. CONINE: Oh, okay.

MS. ANDERSON: So let's just talk about the loan for now, if we can. And this affects this particular development and six others.

MR. CONINE: The same issue?

MS. CARRINGTON: The same issue, yes.

MS. ANDERSON: So we -

MS. GASKIN: And I might also add that, and I am not sure how all of this works in the rationale that the staff had, but the letter to my appeal to the executive director, one of the sentences is, the projections by the applicant include significant cash flow potential, which would include some ability to repay the loan.

And my understanding of the whole intent of this forgivable loan or grant was we were required to have this commitment in order to have any 30 percent units, in order to get the points for leveraging. So, I wouldn't put forth a project that I didn't think would cash flow or depend on this loan to cash flow. You know, I just don't understand.

It seems like we are being penalized here somewhat for having a development that can handle the 30 percent units without outside funding. I am really quite surprised. I didn't see this until this morning.

MR. CONINE: Ms. Gaskin, if you got a deferred developer fee in this, which I assume that you do.

MS. GASKIN: Uh-huh.

MR. CONINE: Does it come behind this loan, as far as sequence?

MS. GASKIN: Yes.

MR. CONINE: Okay.

MS. GASKIN: My understanding of the deferred developer fee is that it comes behind everything.

MR. CONINE: Mine too.

MS. GASKIN: That has been my experience.

MS. ANDERSON: Thank you. That is the only public comment on this portion of this appeal for this development.

MR. CONINE: I move that we grant the appeal for the Mesa Seniors Apartments on the City of Houston letter on the forgivable loan statute, as well as all other projects that are just related to that particular letter from the City of Houston.

MR. SALINAS: Second.

MR. CONINE: Yes, even if they have an appeal. Absolutely. EARAC needs to go back and score them.

MS. ANDERSON: Is there a second.

MR. SALINAS: I second it.

MS. ANDERSON: Any discussion on the motion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no. The motion carries.

The second, now ready for the staff presentation on the second.

MR. CLEMONS: Let this be clear. Does that mean that all the projects that fall under that situation, we get our points back?

MR. CONINE: That is correct.

MR. CLEMONS: Thank you.

MR. CONINE: That was the intent of the motion, anyway.

MR. CLEMONS: Thank you.

MS. ANDERSON: There is a second element, a second appeal area on this development, on the quantifiable community participation. Is there a staff presentation on this aspect?

MS. CARRINGTON: This, and I will ask our general counsel to come up. This does relate to a letter that was received from the East Houston Sedergast [phonetic] Superneighborhood Council, and the applicant is appealing the fact that this letter did not receive points under the scoring for quantifiable community participation.

MR. WITTMAYER: This letter met all the requirements to be scored, and in fact, was considered by EARAC for scoring. And when EARAC considered it for score, it awarded a score of zero points.

The reason it did so is because there were

expressions in the letter, and in the materials, the documentation that was included with the letter which the Department determined would be inconsistent with the Department's obligation to affirmatively further fair housing.

We were concerned that if we awarded positive points for this support letter, we would be acting inconsistently with that obligation because the letter and the documentation that was enclosed expressed first support for a senior development.

We would have had no problem with that by itself, but also opposition to families with children, which is a protected class under the Fair Housing Act. If you would like, I will highlight some of the information in the package which makes those statements.

MS. ANDERSON: I think that maybe we ought to hear the public comment on this item, and then if we have questions, we can ask them. Thank you. Betsy Julian? Or would you prefer to go first?

MS. GASKIN: Do you want me to go? My name is Sally Gaskin. I am the sponsor of this application 04041.

You do have a copy of our appeal before you, which outlines the legal argument for our appeal, as well as some of the circumstances that we feel the Department may not have been aware of as to be the sources of some of the comments that

were included in the letter, and in the supporting document.

The bottom line, and Betsy is here to respond to the legal side of those issues, but the bottom line is, we worked with this community for over six months. We did what we felt was the spirit and the intent of the Department and of the Legislature in coming into a neighborhood and working with them, finding out what they wanted, what worked well in their community, what they needed and not what we thought they needed, which was our mistake for the bond presentation for a bond development that came forth earlier in the year.

We worked with them. They have expressed a need for seniors housing. There is a documented need for seniors housing.

There are some circumstances I think that occurred with the family deal that we did not fully take into consideration. One of those is that Dick Kilday's North Forest Trails, which was a bond deal of just under 200 units less than two miles from this site, 1.4 miles, to be more specific, was approved two weeks before our little public meeting in the community where opposition was expressed and where support was expressed for seniors housing at that particular meeting.

So I think that there are some things that, there were some circumstances that were perhaps alluded to that were not fully explained that put this into the realm. And I thought, and the community thought that the working relationship that we had developed, and basically the trust and the credibility that we had been able to achieve within this community by coming back to them and working on express needs that they had turned out to be just a great situation.

I mean, you know we really feel that there is a community. Tremendous community support for this type of housing and that there is a trust in the development group.

So with that, I am going to turn it over to Betsy. If you have any questions of me, I would be happy to answer those.

MS. JULIAN: Good afternoon, just by a hair. My name is Elizabeth Julian. And Ms. Gaskin has asked me to be available today to address this issue regarding the concern about the fair housing issue that was raised by the Department.

I am not a member of the development team, and I wasn't involved in any of the development of this project.

Sally called me when she got the note from the Department and asked me to look at it, and tell her. Give her my opinion as to whether I thought there was a fair housing problem, and I agreed to do that. I want to commend the

Department for their sensitivity to this issue. I was thrilled to see them be concerned about it for only furthering and being sensitive to their obligation in that regard.

I served on the public input working group with the Department and I was familiar with how hard the Department has struggled with balancing the issues that are mandated by the Legislature, and the concerns, particularly in the context of opposition to family developments, that some of that opposition was perhaps running afoul or coming close to being afoul of the Fair Housing Act, and those issues were discussed.

However, I think it is real important, I am a passionate believer in the purposes and goals of the Fair Housing Act, but I really think it has to be done right. And much as I appreciate the effort of the Department in this regard, I don't think it was in this instance, and I would like to briefly outline why on behalf of Ms. Gaskin, and explain what my opinion was to her.

And in the interest of time, just because I move faster if I am reading, rather than talking, I have asked her permission to read to you the opinion letter that I gave her in this regard, in response to her request, setting out what I thought the situation was.

"Dear Ms. Gaskin. You have asked my opinion on

the issue of whether a letter of support from a qualified neighborhood association for a specific senior housing development under consideration by TDHCA which contains the statement, 'We currently have too many low-income family developments in our community; however, we have no senior developments' runs afoul of the language of the QAP which states that TDHCA will give no points for input which, 'evidences unlawful discrimination under the Fair Housing law.'" And I am quoting from the QAP in that regard.

That is, as I understand it, the basis upon which TDHCA advised developers that input would not be scored related to Fair Housing, was if it evidenced unlawful discrimination under the Fair Housing law. You indicated that the proposed development is located in a predominantly African-American neighborhood in Houston, and that there are, in fact, a substantial number of low-income family developments in the area served by the neighborhood association.

You indicate that the neighborhood organization is specifically in support of your proposed development because it will be a senior development, operated as housing for older persons pursuant to the terms of such housing under the Fair Housing Act, which can lawfully school children under 18 years of age. You indicated that such support is consistent

with the organizations bylaws, which call for the promotion of both affordable housing and senior housing, and you advise me that affordable family development financed with tax-exempt bonds which closed last fall, Mr. Kilday's development to which Ms. Gaskin referred was not opposed by the organization.

MS. ANDERSON: Ms. Julian. I'm sorry, I need to ask you to -

MS. JULIAN: Sure. Okay. Based on the information you provided, I am of the opinion that the statement contained in the letter of support does not evidence unlawful discrimination under the Fair Housing law. At the time the Congress added family status as protected status under the Fair Housing Act, it specifically exempted housing for older persons as defined in the Act from the provisions regarding familial status. The subsequent 1995 amendments made that even more clear.

I was at HUD when those were passed, and I know how strongly Congress felt about this. I am not addressing it, in the interest of time, but I will be happy to answer questions about the further issue which is not the same as reflecting unlawful discrimination and I will be happy to provide you with a copy of my opinion letter if Ms. Gaskin authorizes me to do so. And if you have any questions, I

would be happy to try to answer them.

MS. ANDERSON: Questions?

MR. CONINE: Mr. Wittmayer, would you again state where the Department had a little problem with the letter again? Because maybe I wasn't listening all that good early on. And I love to watch two attorneys go after each other.

MS. JULIAN: We have been doing that a long time.

MR. WITTMAYER: We have indeed. Ms. Julian and I met in about 1992, and we have been discussing these issues. Yes. I think she has an excellent opinion letter, but I believe that it is too narrowly focused. There is additional information in the package which we considered, which if you desire, I will quickly hit those points.

MR. CONINE: Sure.

MR. WITTMAYER: In addition to the information in the letter about we currently have too many low-income families in our community, they provided additional documentation, primarily news articles, which we ordinarily would not have sought out, but since they provided them, we thought that we should consider them. One news article states that the complex Ms. Gaskin initially wanted to develop would have been funded by bonds and tax credits and open to people of all ages.

I had always thought that was a good thing, but

residents of their community for their reasons did not think it was a good idea because it was close to a school. This is in the context of we are talking about senior versus family development.

MS. ANDERSON: Was that comment made with regard to the bond deal?

MR. WITTMAYER: It was in the package of information.

MS. ANDERSON: Just yes or no. Was that comment made in context referring to the bond deal? It was the deal last year.

MR. WITTMAYER: The complex Ms. Gaskin initially wanted to develop, so it was her -

MS. ANDERSON: About the bond deal. Yes.

MR. WITTMAYER: But not the other bond deal that she spoke of.

MS. ANDERSON: I am not talking about Mr. Kilday's bond deal. I am talking about her original bond deal.

MR. WITTMAYER: Generally, it seems to refer to that. Yes.

MS. ANDERSON: Thank you.

MR. CONINE: Okay.

MR. WITTMAYER: There is another news article that said the school districts are especially interested in this

because of the tax issue, and the school children that will affect the district, however, this new senior development, children will not be an issue, since it will only be for seniors.

It also states that other recent projects in the area along Little York have not been popular with the community due to the potential influx of large families. Concerning the senior development, many residents expressed concern that seniors might allow their children and grandchildren to live with them, especially if two-bedroom units allowed a maximum of four people to live there.

Ms. Gaskin referred to her experience with similar developments and she assured the community that children typically do not live in such communities. She said this is not a property designed for children. It is not a property marketed to families.

MS. ANDERSON: Now are you reading from a news article there, or in the letter from the neighborhood organization?

MR. WITTMAYER: All of these are from news articles that were documentation with the letter.

MS. ANDERSON: Thank you.

MR. WITTMAYER: That's all I have.

MR. CONINE: Is it like the Houston Chronicle or is it like a podunk newspaper?

MR. WITTMAYER: The first one is from the Houston Chronicle.

MR. CONINE: I don't believe what I read anyway, but -

MR. WITTMAYER: The second one is from the North Forest paper. The next one is from the Houston Chronicle.

MR. CONINE: Okay.

MS. ANDERSON: Any other questions? Thank you.

MR. BOGANY: I move that we accept staff's recommendation and deny the letter.

MS. ANDERSON: Hearing no second, the motion dies for lack of a second.

MR. CONINE: I move we deny staff recommendation, and grant the appeal for the Mesa Seniors Apartments on the community participation letter.

MR. SALINAS: I'll second it.

MS. ANDERSON: The motion is second made. Is there discussion on the motion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

MS. ANDERSON: Opposed, no.

MR. BOGANY: No.

MS. ANDERSON: The motion carries. The next

development is 04050, San Diego Creek Apartment.

MS. CARRINGTON: Thank you, Madam Chair. This appeal relates to two items. The first, you will remember last month, we talked about if developers were able to certify that they had no knowledge of neighborhood organizations within their area, and we hadn't received any letters from any neighborhood organizations, that they were eligible for the average score, which that average score turned out to be one point.

In the case of the San Diego Creek Apartments, we did not have certification by April 1, I believe was the date. I'm sorry June 4. We did not have certification by June 4 that they knew of no other neighborhood organizations in the area. So that is one part of their appeal, so we did not grant them the one point, because we did not have the certification in house by the 4th. And also, the second part of their appeal is they are appealing the new point structure under the leveraging section of the Qualified Allocation Plan.

MS. ANDERSON: There's an agenda item, later on in our agenda, that deals with the leveraging topic that may or may not cause this development to withdraw that appeal. Maybe, maybe not.

MR. CONINE: Think we'll ever get to it?

MS. ANDERSON: I don't know.

MS. CARRINGTON: Yes, sir. We will.

MS. ANDERSON: Answer: we will. I don't know what options we have if we -- I mean, I guess we can hear both of them and the action we take on the leveraging issue may be moot, based on the rules revision that is on the agenda for later in the day. Is there any other staff presentation before I find my witness affirmation?

MS. CARRINGTON: Only if you have some specific questions.

MS. ANDERSON: Sorry, I don't have these in order.
Mr. Brown.

MR. BROWN: Mr. Brown.

MS. ANDERSON: Mr. Brown. I remembered your name.
Go ahead. I'll find your form.

MR. BROWN: This is the first time that I have been in one of these processes. And you know what, I want to commend the board.

MR. CONINE: Me too.

MR. BROWN: You too?

MR. CONINE: Yes.

MR. BROWN: First rodeo?

MR. CONINE: Yes. Sure is.

MR. BROWN: No, I commend you all. At least, I think the process is working, and I appreciate that. First

of all, the appeal for the one point. The board obviously says that they didn't have it in time. I gave you, a little while ago, an affidavit that states that the appeal was sent in. It is an affidavit.

I don't think that Kelly Hunt would sign an affidavit for me to gain one point and chance, I mean, that is a serious offense, if you are signing a false affidavit, and sending it in, and to help me out for one point. She has got a log record that says that it was sent. She stated with an affidavit.

There happens to be another person in this audience, I hope, they were a little while ago, that was with her when it was sent in. And if you want to ask her, I am sure she will say that she was with them. So I don't know what more to say. I don't know why I am even arguing this particular appeal.

The second appeal, what can I say? I mean, I gave you a chart a little while ago, and I would like it to be part of the record, so that it is crystal clear in leveraging, there were -- by the way that one appeal, I was one point behind with another project in Alice, and we would have been tied. I would have very much liked to have gotten into a tie-breaker.

I felt like I had a winning score there. I was

142 with a one-point appeal. I would have been 143. The other project was 143. We were both on a level playing field at that point. And then it would have gone to a tie breaker, and I was that's fine. Whoever won the tie-breaker would have won.

The rules changed. It is crystal clear with the application. And I know, I can't stay up with this. It is changing so fast. Yesterday at 2:00 I had a call that said, would you believe this? The rules have changed again. And that is what you are going to speak to about a little bit later.

But there was in leveraging, there is two parts. There was in A, there was three points for -- I'll make it real simple. If you put a dollar in, you got three points. If you put \$2 in, you got six points. If you put \$3 in, you got nine points. Then the board, not the board, but basically, they gave one point to the three category, making it four. They gave two points to the eight category, making it eight, and then it just follows by simple math that you should give three points to the nine category, making it twelve.

But somehow, an additional two points were given to the number nine. If you look at the chart, it is crystal clear, that if you break it down, that you have got to award

the same proportionate of points to those categories. If I had known somewhere back six months ago, that I was going to get 14 points if I just add a little more in the leveraging category, I can assure you, I would have done that.

It is not fair the way the application has been applied. As long as it is applied evenly through the process, and it is fair, that is all that we are asking for in this appeal. I am not asking for any favors. I just want a fair application and I want board to break it down on a fair even basis through the process.

Three doesn't deserve to get one point, which is a 33 percent increase, six doesn't, if it gets 2 points, that's a 33. Why take a nine point category and give it five points, or an extra two points and make it a 55 percent increase? I would like to have that explanation, because if I could figure that out, I might go home satisfied.

MS. ANDERSON: Thank you for your testimony, sir.

MR. BROWN: Thank you. Any questions?

MS. ANDERSON: I have a question for the staff about how this math was done.

MR. CONINE: I am confused.

MS. BOSTON: What he is referring to is in preparation for the June 20 board meeting; as you know, we had recommended a few changes that actually are being

recommended later on the agenda to be codified into a QAP revision. One of those revisions was an adjustment to leveraging points. We were required to make sure that it fell within the right range for the nine prioritized items from our legislation.

It had to be above twelve points, and before that, it had been at nine points. Since we had to be above twelve, obviously the next number would have been thirteen. That doesn't break out evenly, and is not easily divisible. And so we picked 14, which was the next number.

When you go and apply, we took, okay, the way it was scored before was 3-6-9. If you figure out the percentages that those are apart from each other, and apply that equivalently to the number fourteen, you get 4-8 and 14. We double-checked it when we did it, because we wanted to be sure that we also felt like it was proportionate.

So it wasn't a question of adding an equal number of points. It was making sure that the spread between the point ranges was proportional to what it had been before.

MR. CONINE: So blame it on the Attorney General?

MS. BOSTON: I didn't say that.

MS. ANDERSON: Well, 3-6 and 9. Between three and six, there's three points. Between six and nine, there is three. And then between 4-8 and 14, between four and eight,

there is four, but between eight and 14 there is six. So I am still missing something.

MS. BOSTON: It is roughly 60. It is not about the point differences. It's that roughly, for instance, the middle item, which was before was six out of nine, and now is eight out of 14, that is roughly 60 percent, and it still is roughly 60 percent. We were trying to make sure that, proportionally, the way we handed the points was similar.

MS. ANDERSON: And then you would round up, not down? Because if they didn't all come out to whole numbers?

MS. BOSTON: Correct.

MR. CONINE: In math, sometimes two sides can be right. She's right on a percentage basis and you are right on an actual basis. I can understand the logic on both sides.

MS. ANDERSON: I don't -- I feel compelled to ask a question. Is anything we are going to discuss this afternoon likely at all to remedy any of this?

MS. BOSTON: Yes.

MS. ANDERSON: Okay.

MS. BOSTON: But, I don't know that every person who is impacted by this will have it resolved by the change that we discuss later.

MR. CONINE: Well, then, we need to decide that before we decide this.

MS. ANDERSON: I think I'm going to table this one. Defer this. Decide the other appeal and defer the other.

MR. CONINE: All right. Let's table the decision on the appeal on the leveraging until after we take up the later agenda item. I move to table until later.

MR. SALINAS: Second.

MS. ANDERSON: All in favor?

(A chorus of ayes.)

MS. ANDERSON: Opposed?

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: Now, on the -- can staff help me answer the question on the faxing in on June 4? Is this an issue of getting the information ultimately, but getting it later? Did we lose a piece of paper? Tell me what happened?

MS. JOYCE: They signed the certification that we needed. There is a signature at the bottom dated June 2. They also, in an appeal to you, we did not have initially with the executive director, gave a fax log as well, indicating that they did send something on June 4.

MR. CONINE: Right.

MS. JOYCE: We did not receive that, and have no record of receiving it.

MR. CONINE: The duel of the fax machines.

MR. BOGANY: Did I just hear you did get something on your fax log saying that you received something?

MS. JOYCE: Actually, the appeal that he has submitted to you does include a fax log from his, I believe, office. We never received it, and have no record of receiving it.

MS. ANDERSON: It's not on your log anywhere? An incoming from a recognizable phone number?

MS. JOYCE: We did not have a log from that day that indicated that. We did not have a log from that day.

MS. ANDERSON: Okay.

MR. CONINE: Did you look at the log that day?

MS. JOYCE: No, we have not looked at the log that day. I don't believe that we have that record. We don't have that record.

MR. CONINE: Is the fax number on this, is this our fax number that is on here?

MS. JOYCE: He did. The fax number is correct on the fax log. Had we received it on that day, he would have been awarded one point.

MR. CONINE: But what you are saying is that you haven't gone back to look at the log to see if you might have received it, but it got lost?

MS. JOYCE: We unfortunately do not have a log.

We don't keep them.

MR. CONINE: At all?

MS. JOYCE: At all.

MS. ANDERSON: Are there other appeals that have been filed on similar grounds about mis-receipt or lack of receipt of documentation? This is a question for staff, thank you.

MS. JOYCE: To the best of my knowledge, the only one that I can think of, speaking for today?

MS. ANDERSON: I am speaking for, well, actually, today. Or things that have been filed that we won't see today.

MS. JOYCE: Brooke might want to add to this. But for instance, today, we do have documentation of what we have faxed to others. And then there is in that same appeal, they have documentation that they did not receive that fax. It is the only thing that is similar.

MS. ANDERSON: That is backwards from this situation.

MS. JOYCE: Correct. In the past, it does happen quite often that applicants do send, do have proof that they have sent something to us on a certain day, but because we are unable to prove up exactly what that was, we have been unable to accept it.

MS. ANDERSON: Well, I mean that is a valid point,

but the log says something was sent.

MS. JOYCE: Yes.

MS. ANDERSON: It doesn't tell us what was sent.

MS. JOYCE: Correct. And historically, we have taken that to mean that we cannot prove that we received that documentation.

MR. CONINE: Who is Kelly Hunt? Do you know?

MS. JOYCE: I believe he said that Kelly Hunt was the person who sent the fax.

MS. CARRINGTON: I believe he is the consultant, or one of the consultants on the transaction. I believe we heard that earlier.

MS. JOYCE: I'm sorry. I don't know that.

MR. CONINE: Okay.

MR. GORDON: Did the developer submit a cover sheet to this fax? I just see a fax here of this affidavit. It is not addressed to anyone or anything.

MS. JOYCE: Correct. And another item that might want to be noted. When the executive director ruled on this, it was in part because we did not have a copy of this particular fax log. But they were claiming that we received it on the 4th. That is their fax date. However, it is signed on the 2nd. So, it could have been anything coming to the Department on the 4th with a different signature date.

MR. CONINE: What is that log that says 6-1-04 at the top, TDHCA - LIHTC?

MS. JOYCE: Yes, sir. Because so many applicants did not include certifications, we went above and beyond and issued by fax this particular form asking that it be faxed back by the 4th to be considered for this point. So that line that you see is our fax to them.

MR. CONINE: I am going to move that we grant the appeal from that.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

MR. GORDON: I would note that the fax log that they are showing has two pages, which would include a cover sheet, and this is not. So it is pretty consistent that this could have been what was sent.

MS. ANDERSON: Well, I think the two pages are the certification and then Exhibit B, this letter.

MR. GORDON: Okay.

MS. ANDERSON: It's still two pages.

MR. GORDON: I think that helps support that this probably was sent.

MS. ANDERSON: Any discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready

to vote. All in favor of the motion please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

MR. BOGANY: No.

MS. ANDERSON: The motion carries. 04052, Chisholm Trail.

MS. CARRINGTON: Chisholm Trail, 04052 has withdrawn their appeal. So the next item to be considered is 04057, which is Stone Hollow Village.

MS. ANDERSON: It's not the next item on the agenda. It is Providence Place.

MR. BOGANY: I have Stone Hollow Village on mine.

MR. CONINE: I do too, I guess.

MS. CARRINGTON: No, you are correct, Ms. Anderson. On the agenda, after Chisholm Trail, it is Providence Place. Correct.

MR. CONINE: Which one are we going to do?

MS. CARRINGTON: Providence Place. This is a situation similar to the one that you have previously heard. We did receive a letter from the May [phonetic] Creek Acting Together Organization. And the EARAC committee did score this letter a zero for the concerns that the Department had on expressing opposition that they had previously defeated an application that was a family application, families with

children.

This is a senior development, and that they were supportive of the senior development. We did score it zero because of the fair housing issues that you have heard addressed previously.

MR. BOGANY: I would think they would have to approve this one, just as we approved the last one.

MR. CONINE: Do we have it?

MS. ANDERSON: I am looking for it. Tess Zimmerman?

MS. ZIMMERMAN: My name is Tess Zimmerman. I am the president of May Creek Community Acting Together. The letter in question was submitted by our organization. We did not intend to, nor do we believe we did violate any fair housing standards or the Fair Housing Act. It was simply our intention to show our community's complete support for Providence Place in the form of quantifiable community participation.

During the last legislative session, our legislators passed Senate Bill 264 mandating that points be awarded for letters of support from neighborhood organizations. I believe it was their intent to give developers an incentive for engaging the community in the process of awarding affordable housing, and this developer did exactly that, and his efforts should be rewarded.

Mr. Richardson of Razor [phonetic] Residential did not just meet with our community one time. He met with representatives from seven area homeowners' associations, representatives from the volunteer fire department that would service the project, the director of the assistant ministries that provides for the needs of low-income individuals in our area, and both PTA president and principal of the elementary school next door to the property.

Relationships were formed, and in the end, our community was excited about the project, a project that meets an unmet need in our community. We as a community support this development, applaud Mr. Richardson's efforts in our community. We all worked very hard to set the standard by which developers should approach communities. Razor Residential went to great expense and spent a great deal of time making sure that all the concerns of our community were addressed.

They deserve credit for their efforts. The relationships that this developer formed with our community should be the standard for all to follow. Please give Providence Place the 12 points for quantifiable neighborhood participation it deserves.

MS. ANDERSON: Thank you. Any questions for Ms. Zimmerman? Mr. Richardson, I have a big stack here. Did

you sign a witness aff?

MR. RICHARDSON: Yes, ma'am.

MS. ANDERSON: Okay. I'll find it. Thank you.

MR. RICHARDSON: Good morning. Chris Richardson.

I think it is well documented that Katy has opposed several tax credit and bond applications. But we have, as described by Ms. Zimmerman, worked closely with the neighborhood and community organizations to gain their support. We appeal to you for the twelve points that are under the quantifiable support.

We were not given those points because of the perceived anti-fair housing statement which was basically that they were concerned about the overcrowding in the school if we put families adjacent to Fondant [phonetic] Elementary School. May Creek Acting Together is in support of this application, as Tess said.

To state their opposition I think is more an item of free speech. We believe in the intent of the legislation is for developers and neighborhood organizations to work closely and find a middle ground and a win-win situation. This we have done. We should be awarded the points. Thank you.

MR. CONINE: Move to grant the appeal.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The next development is Depriest Gardens. And as you have these in your book, the appeal is identical on both projects, so what we have is project 04063, which is Depriest Gardens, and 04064, which is Ramah Village.

MR. SIMS: Ramah Village.

MS. ANDERSON: Ramah Village?

MR. SIMS: Yes.

MS. ANDERSON: And what the applicant is appealing on both of these developments. Sir, if I could ask you to sit down until the staff has finished its presentation? Thank you.

MS. CARRINGTON: On both of these developments what the applicant is appealing is some elements regarding to the Attorney General opinion, and the Department's interpretation of various legislative requirements in the Qualified Allocation Plan.

MS. ANDERSON: Does Chris --

Just a second, we are going to come right to you.

Does Chris have anything to add? We are ready for the public? Do you all have any questions from the staff before we have public comment? Okay, sir. Thank you.

MR. SIMS: Yes, good afternoon. About time we got up here. I have the applicant -

MS. ANDERSON: Your name?

MR. SIMS: My name is Mr. Rick Sims.

MS. ANDERSON: Thank you.

MR. SIMS: And I am representing the church and the community. We have some concerns about the Qualified Allocation Plan. And the concerns of fair housing and civil rights. We believe that the QAP is blatantly discriminating against all this population with disabilities.

And it is ironic if you look at the letter. And we are not disagreeing with the Attorney General's opinion.

As a matter of fact, he supported our position, and it basically certifies what we are saying. If you see the letter, the Attorney General says something like: the Department must include Section 42(m) criteria in the allocation plan.

And then one of the biggest things that throws you off is, on the QAP, page 34, number 11, it says ten characteristics.

And it goes to tell you for the purposes of this exhibit, homeless persons are individuals or families that are lacking fixed regular and adequate nighttime residences as fully defined in 24 Code of Federal Regulations Section 91.5.

And I would like for you to see that, because this is a document. And then you look at the document that this is, and this here is a HUD document for the state and local government to do a consolidated plan, totally outside of what the Internal Revenue says, because when you go to the Internal Revenue, their market segment specialization program, and this is the guide that the auditors use to audit tax credit programs after they leave the department. It says this blatantly.

And this section however, was created under IRC Section 42(i)(3)(B). Now, we understand that 42(m) has to be in there, and we would like to know why the Department did not put in 42(i)(B) whereby certain transitional housing for homeless individuals, homeless as defined within the meaning of Section 103 of the Stewart-McKinney-Vento Homeless Assistance Act, Chapter 42 U.S.C. 11302. And it is very important.

It is very important, because when you go to that Act, that is the protection Act, that is the funding act for homeless assistance. And then, so when you look at it, so

here, the Act tells you all the funding, and we say we want free fair competition, fair housing. And when this application that we put together, and this was put together within the meaning of 42 U.S.C. Section 3602.

This is a dwelling within the meaning of U.S.C. Section 3602, and you cannot, and the United States is blatantly prohibited to discriminate against homeless people with disabilities. It was a case, Johnston, United States versus Johnston, Pennsylvania. Everybody went against them.

The city, the state, everybody. And eventually, the administration referred it to the United States Attorney General's office. And they prosecuted the city, giving the development because there are certain times, I have told Ms. Carrington, sometimes points don't count. Sometimes, you just can't in the interest of public safety say, oh, you have got to have this, you can't have that. No. The public welfare act says we have to. Of the people, we cannot discriminate.

And then that -

MS. ANDERSON: Sir, I need to ask you to wind up.

MR. SIMS: Okay. Well, I have got two developments, ma'am.

MS. ANDERSON: I know. But you have a different forum. We are just talking about Depriest right now.

MR. SIMS: I am talking about both of them are

the same.

MS. ANDERSON: But we have a two limit today, and you have got some other people to testify on this development.

MR. SIMS: No, I -

MR. WINSLOW: I'll give him my time.

MS. ANDERSON: Okay. And your name sir, is?

MR. WINSLOW: Thank you, Mr. Winslow.

MR. FREEMAN: Thomas Freeman.

MS. ANDERSON: And Mr. Freeman.

MS. FREEMAN: Jacqueline Freeman.

MS. ANDERSON: And Ms. Freeman. Thank you.

MR. SIMS: Because it is very important, because if you look at this dissent order from the action and the judge, and then it gives you the definition of discrimination.

And it says the purpose of this order is to discriminate or otherwise make unavailable and deny. Refer to the term "discrimination" includes Section 804 of the Fair Housing Act. And it additionally refers to any refusal to make reasonable accommodations and rules, policies, practices and services which accommodation may be necessary to afford persons with disabilities equal opportunity to use and enjoy --

I have to say now, here you have an application where the funding was after all of these deadlines. Hasn't

the Department made any reasonable accommodations. You have to say why didn't you risk a clue, a federal law, a federal statute in the QAP, and say this is fair housing. This is equal opportunity. No, it is not. That is blatantly discrimination.

And that is for the Department, the police to say, hey, we enforce fair housing opportunities. We enforce this.

That is the job. To say we enforce fair housing. We do not like -- here we are, 2004 and we are discriminating against poor people with disabilities. We went from race to sexist to familial status to the person trying to get their life together. We will not try to prepare safe and decent housing for them.

And this is just the law. It's a federal law that was not included. You said no to the people of the State of Texas. This violates even 3600 -- let me see the Code.

This violates even Section 2306.001, Section six, a, b and c of the Texas Administrative Code, where it says consolidate the homeless plans. And I would like to know why. Black and white.

MS. ANDERSON: Do we have questions?

MR. BOGANY: I have questions of staff.

MS. ANDERSON: May I ask a question of the witness first? Which points that you were not awarded that you felt

that you should have been awarded, are you appealing?

MR. SIMS: I am not even here for points. We can't even talk points until we talk two issues of the law. The QAP is defective and discriminates and the Department has to address the issue. You can't sit around here and say oh, it has been brought to our attention that we have blatantly got a discriminatory element, we have denied it. We have not accommodated, and say we ought to talk about points.

MR. CONINE: Sir, we believe that we have followed the law, and if you don't think we have, you are welcome to sue, and we'll go to court and find out.

MR. SIMS: No. It's not a suing thing.

MR. CONINE: We believe we followed the law. We follow Section 42 rules, we follow the State Legislature rules. If you are quoting all that stuff, fine. Go to a judge and let's go see. We believe we are doing it right. Thank you for your time.

MR. SIMS: No. We are doing it wrong. As the people of the State of Texas, if you think there is a problem, you should really refer this to the United States Attorney's office.

MR. CONINE: You have ways to adjudicate your process. This is not the forum for that.

MR. SIMS: Okay, so the answer of the board is?

MR. CONINE: We believe we are following the law.

MR. SIMS: So you are saying that you know you will continue, as far as the people that are -

MR. CONINE: We believe that we are following the law, sir. Thank you.

MR. SIMS: Okay, so are you saying that the QAP stands as it is, and that section of the law -

MR. CONINE: That is correct. Thank you.

MS. ANDERSON: Mr. Bogany, a question for staff?

MR. BOGANY: I want to request they respond, and did this not get scored, or what was the situation here?

MR. WITTMAYER: We are a little uncertain as to exactly the points that are at issue. Perhaps it is the homeless transitional points which we were required to reduce under the AG's opinion. But I can assure the Board that the QAP is in compliance with all legal requirements and it continues to do so, after the AG's opinion, based on the information that we will bring to the Board later today for your consideration.

MR. CONINE: I move we deny, we back staff recommendation to deny the applicant's appeal.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The next development is 04064, Ramah Village.

MS. CARRINGTON: And that was a part of Depriest, also.

MS. ANDERSON: So we have one appeal letter?

MS. CARRINGTON: They sent two letters that were identical.

MR. CONINE: Move we deny the applicant's appeals on 04064, Ramah Village.

MR. GONZALEZ: Second.

MS. ANDERSON: We do have public comment on this development. Mr. Winslow?

MR. WINSLOW: I ceded.

MS. ANDERSON: I'm sorry? Okay. Mr. Freeman?
Ms. Freeman? Mr. Rick Sims?

(No response.)

MS. ANDERSON: Is there any discussion on the motion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The next development is 04120, Sedona Springs Village.

MS. CARRINGTON: Sedona Springs is pulled for today's action.

MS. ANDERSON: Okay. The next one is 04141, Spring Creek Station.

MS. CARRINGTON: Spring Creek Station Apartments, this appeal relates to a termination of an application due to deficiencies in the Phase One environmental site assessment.

The Phase One was received on time by the Department; however, when the Department reviewed the Phase One environmental site assessment, we determined that there were significant errors in the environmental site assessment.

The sketch that was provided within ESA did identify the wrong site. And also, it was identified that the subject site lays outside the 500-year floodplain, and we did determine that a portion of the site is within the floodplain. There was a discussion about whether the site was or was not located within 15 miles of a major military

airport. It is located within 2.5 miles of Fort Worth Meacham Field, which I understand was not mentioned in the environmental site assessment at all.

Also, there was an operating railroad that was not mentioned in the site assessment. So staff did determine that there were, even though the ESA was on time, with these multiple inaccuracies that were in the ESA, we did terminate this application based on the accuracies.

MR. BOGANY: Move that we accept staff's recommendation.

MR. GONZALEZ: Second.

MS. ANDERSON: I'm just checking here to see if I have any public comment? Okay.

VOICE: [inaudible].

MS. ANDERSON: Go ahead, and I will find you.

MR. PLUMMER: Good afternoon. My name is Jim Plummer, and I am an attorney with Fulbright and Jaworski, representing the applicant here. And this is a question of whether the ESA that was submitted was proper and appropriate and actually reviewed the proper site. The question came up, and there was a denial, a termination of the appeal. As a result of that, the environmental engineer went back and re-reviewed his notes.

And he did send the agency a letter saying, I did

review the right site, and you may rely upon my ESA as submitted.

And that engineer is here today to give you testimony, saying that, in fact, he did look at the right site. There was an attachment to the back of the ESA that did not specifically depict that site. It depicts the larger site.

The site, it is being carved up here. It is about a 13-, 14-acre site. It comes out of 183-acre site. He reviewed the 183-acre site in toto. And so the depiction on the back of the ESA was in fact, wrong. But the rest of the ESA was right. And he will give you the testimony to support that.

One of the questions is whether or not the photographs that are in the ESA are actually of this site.

And he will be able to tell you that the photographs are in fact photographs of this specific site.

One of the questions that comes up is whether or not this site was within the hundred-year floodplain. In the report, he said that the FEMA maps do not reflect that this is in the hundred-year floodplain. And in fact, the FEMA maps do not appear to state that this is in the hundred-year floodplain. But the seller of the property notified us that a small portion of this tract was within the hundred-year floodplain and the seller has contractually committed to raise the level of that land out of the floodplain.

So what you did have is a conflict between the application and the ESA. The ESA said I looked at the maps, and it doesn't appear to be in the floodplain, but you have an applicant who is telling you in a truthful disclosure that my seller has said there is a piece, a small piece of this property that is in fact in the floodplain, and that it will be corrected. And in fact, when the surveys were done, there is a small piece in the floodplain, and it will be raised back up above the floodplain.

There was also a question about whether or not this property is located near a major airport. The word "major airport" is not defined. The property is 2.5 miles from Meacham Field. Our environmental site assessor did not view that as a major airport. It has no commercial activity. It is not a freight airport. It is a general aviation airport. Now, I grant you, it is a large general aviation airport.

MS. ANDERSON: I need to ask you to wind up.

MR. PLUMMER: Okay. The last issue that was addressed was whether or not the site was within 3000 foot of an operating rail spur. The site is actually 2820 foot by measurement from the rail spur. The rail spur is a spur. It is not an operating line. And even if it was within 2000 feet of the rail spur, it wouldn't result in any points

deduction under the QAP.

The issues that are being questioned are not material to whether or not this site had environmental problems. And when I ask the environmental engineer to come up and explain his report to you and why you can rely upon his original report as submitted. James?

MR. DISMUKES: I'm James Dismukes. I'm president of Phase Engineering. We are the company who did the Phase One on the site. A real quick resume on my background, Professional Engineers of the State of Texas, I sat on the ASTM committee who actually writes the Phase One standard for nationwide.

I am one of the twelve national instructors for Phase One environmental site assessment courses that are taught on a nationwide basis. I can testify that when we went out to this site, we were basically given a general area description.

The site inspector basically walked the entire area, of which this site is nothing more than a small subset of. He took in excess of 25 pictures, of which we culled through the pictures and put into the reports the ones that were relevant to the site that is in question. So I can unequivocally state that, yes, this small portion of the entire site was looked at and was represented by the

environmental site assessment that was done.

There has been some questions on the floodplain.

As we were not provided with a survey, because the site had not been surveyed at the time we were out there. And at the time we prepared our report, we were going off of nothing more than address range and basically a dot on the map. And in looking at the floodplain maps, we felt that as described to us, it was not in a floodplain.

And it has been said that this is information that came to light after the submittal of the Phase One. As far as the airport, that is in relationship to a noise study. A noise study is only recommended but not required by your Department. We probably wouldn't have even done a noise study on this thing, but we just find out that it is a lot better to do these things up front and put them in, just in case a question comes up.

When we went back and said okay, let's throw in the airport. Let's throw in a dead-end railroad spur, it makes absolutely no different on the noise study, which is like I say, only recommended, not required by your own documentation. And is there any other questions that I can answer concerning this.

MR. CONINE: Mr. Dismukes, did you ever get a call from anyone of our staff to ask the questions and for you

to answer just like you just answered?

MR. DISMUKES: No.

MR. CONINE: No. Thank you.

MS. ANDERSON: Thank you, sir. Mr. McGill?

MR. MCGILL: I will yield my time to the CDC and their representatives.

MS. ANDERSON: Okay, sir. And you would be?

MR. DILL: I'm Jack Dill. I'm the president of the 1897 Community Development Corporation. Thank you for allowing me to speak this afternoon. This project is very vital to the Saginaw area. Saginaw is a very rapidly growing community within Tarrant County. I think statistically, it ranks number three in the county in terms of growth.

Unfortunately, we do not have sufficient affordable housing or multifamily housing in the community.

The community to date is 96 percent occupied in terms of rental property, forcing a lot of the residents that would normally be residents there, they work in the city, to either live in mobile homes or homes that were constructed 60 to 70 years ago, or outside the community.

This particular project is vital to the fact that there are only three large tracts of land that could be developed into a project of this size. And we are certain that if this appeal is denied, then we will lose the impetus

in our community to develop one of those tracts into an affordable housing project.

The issues with the survey are primarily issues that are typically pre-development issues. Again, this tract was purchased from a developer or a subdeveloper that bought 183 acres, that is made up of four abstracts. The tax rolls are very ambiguous and confusing. I work out there in that area all the time in terms of community development, and sometimes I even get confused, and I have lived in the area for 38 years.

There was not a recorded plat of the property. That is still in process. The survey that I picked up from Corbin Burgess [phonetic] this week was only completed on April 21, and it does not, in terms of metes and bounds, represent what was initially on the plat. And this is just typically a sequence of event that normally goes with pre-development, as they begin to work through the DRC issues with the city in terms of easements and actually putting this on the ground. Then this configuration is going to change.

So I would ask that we not be penalized in terms of not having an exact platted, recorded lot and block with metes, with boundary survey in place and pins [phonetic] in place. Thank you.

MS. ANDERSON: Joyce Erwin.

MS. ERWIN: Thank you for hearing my comments today. Mostly, I am here to speak to the need of this product in our area. I have been in Saginaw since 1987. My children attended schools there.

In particular, our schools are growing at rate of 8 percent a year. Our staff, for those students, at a rate of 5 percent. When we have new students in, I'm sorry, new teachers that come in, there is no place for them to live.

And our district is one of the highest paying in Tarrant County. They start these teachers most of the time at \$32,000.

And there is no place for them to live. They end up living outside the city.

So, the last new construction, this type that we had in our city was 15 years ago. So I would really think that there is an incredible need for this product in our city.

Our business community and manufacturing is growing, not quite as rapidly as the schools, but we are growing quite rapidly.

And again, those new jobs, which we very much welcome, we would like to keep those folks living in our city as well as working in our city. And there just isn't product for them to do that. Thank you.

MS. ANDERSON: Thank you, Ms. Erwin. Brendon Payne.

MR. PAYNE: Good afternoon, Madam Chairman, board members. My name is Brendon Payne. I am president of the Saginaw Area Chamber of Commerce, and I would like to speak to the general support of project 04141, the Spring Creek Station Apartments. As Ms. Erwin mentioned, and I might mention also that Joyce is chairman of our Economic Development Council.

We see this as a workforce issue in our community, as we try to attract jobs and new development in our area.

And as Joyce mentioned, we have a need for affordable housing, as many of these jobs are start-up manufacturing, new teachers, new police officers, retail jobs. We just have a definite need in our community for an affordable housing project of this nature.

I would like to speak to general support of the appeal that is before you today, based on the testimony that you have already heard. Again, as Mr. Dill mentioned, the tract of land that this is going in is a new development, and part of a larger development, and it is understandable how some of the issues that were brought forth have now been addressed. So I would like to thank you for your time today.

Again, I speak to support the Spring Creek Station Apartments.

MR. CONINE: I have a question?

VOICE: I guess I'd like to yield my time --

MR. PLEMMONS: Very briefly, I did want to point out that these issues were not raised until the final rejection of this appeal. The only issue that we had from staff about this particular ESA, there was one question about the floodplain that was raised through the process. The only evidence that you actually have before you is of an environmental engineer who says, who looked at the property. He evaluated the property.

There are not issues with the property. And I hope that we have addressed the questions raised about the ESA. If we have not, I will be happy to answer any specific questions.

MR. CONINE: I have got one.

MR. PAYNE: Yes, sir?

MR. CONINE: Most of these applications require evidence of site control.

MR. PAYNE: Yes, sir.

MR. CONINE: Which would generally involve real estate contract.

MR. PAYNE: Yes, sir.

MR. CONINE: Which would then generally describe the property and generally provide pictures of the property and metes and bounds survey. Why wasn't that handed to the

environmental review engineer in this process? How could we be part of a larger scope, when we're only talking about 13 or 14 acres.

MR. PAYNE: I'll let you address it, if you had anything different, but there was a contract of purchase. Obviously, we had to turn that in with the application and it did have the legal description. But it did not have a survey attached to it. So it was not a perfectly defined area within that larger tract. And you were provided with, I assume, a depiction on a map of approximately where it was.

MR. DISMUKES: That is correct. And the Texas Department of Housing documentation says that a survey is not required. That's your own verbiage there.

MR. CONINE: Well, I know it's not.

MR. DISMUKES: But it's very common that we will be provided with a general area, like this is part of abstract such-and-such, which was the case in this. We were told that this was part of abstract such-and-such which we looked in, looked up on tax rolls and tried to get a feel for exactly the area that we are going out to do the inspection of.

It's very common not to have a survey. It's very common not to have an accurate site sketch. And we hopefully get that before we actually have to publish the report, but in this case, that wasn't the exact case.

MR. CONINE: So you didn't have a site plan to look at?

MR. DISMUKES: We had no site plan of the actual site itself, and no accurate legal description because one does not exist even to this day, I guess.

MR. DILL: If I may speak with that. I worked with the developer on securing the real estate contract. As I said earlier, the developer signed 183 acres of which he is going through a preliminary platting procedure, dividing a portion of it into single-family mixed use, some of it will be multi-family.

He had roughly culled out 13 acres and there is not a metes and bounds in place that describes that 13 acres that a person could walk into the field with, and say, okay, I have these metes and bounds. I have a point of beginning here that leads me, from the 18-acre tract that would lead me to a point of beginning on this 13-acre tract, because it simply did not exist.

In terms of control, you know, when you go through the platting procedure, the final plat is not files of record with the county, with a except a survey of metes and bounds and a lot block description until the final plat is approved and that process is still being worked through.

MR. CONINE: I am familiar with the process and

what you are going through. And I think it kind of proves the point that I was getting at is that we may have the cart before the horse here. We may, if you didn't have a site plan to look at and worry about and you were trying to meet our deadlines -- we have a very complicated QAP. We have a very detailed QAP.

And there's a point to all of that, is that we want the project to be well thought out, well discussed in the community, and ready to go before we grant 9 percent tax credits to anything. And this one sounds like it is a little early. And to grant appeal for something that is a little early in the process, to me, is not in the spirit of what we are trying to do in the QAP.

MR. PLUMMER: May I address that? With all due respect, at the time that the ESA was put in, the legal description was early, but the project was worked out. They knew the area of the project. They just couldn't tell you that it was one foot this way or one foot that way. It was all set out within the boundaries of a larger tract of land.

MR. CONINE: Oh, I understand that. But you can metes and bounds to grab it. You can provide the environmental engineer with a site plan that has been done by an architect that takes all of that 24 to 48 hours to put together, especially an experienced developer that's done a product

before. And I don't understand why we're having the communications problems were having, but I'm just saying it sounds like it is a little early in the process to try to meet deadlines, to me.

MR. DILL: To address the cognitive thinking that went through the process. There is a preliminary plat on file with the City of Saginaw and it has been reviewed by the P and Z board.

MR. CONINE: For the 13 acres?

MR. DILL: For the whole entire development. I have met with what they call a development review committee, the first meeting of many that will occur that we began to talk specifically with the city engineer, with the city staff in terms of building use.

MR. CONINE: How is the property zoned today?

MR. DILL: It is zoned multi-family.

MR. CONINE: It is?

MR. DILL: Yes, sir.

MR. CONINE: Okay.

MR. DILL: There is not a zoning issue. There is adequate utilities there. So we began the process of having design review meetings with the city in terms of what will be the requirements, the technical requirements of the structures? How will we handle storm drainage with respect

to retention? Those types of issues.

So, I don't see that we are premature, because we are tracking this through. The plat will be completed prior to our closing, prior to, we are thinking, any award of funds on this project. So we don't think we have the cart before the horse. We think that we will walk into a normal process of what you would typically associate with pre-development in terms of actually not physically having on the ground 13 acres.

We could give him a metes and bounds, but if there are not pins there to denote where that 13 acres is, or at least a relationship to a point of beginning, if he is not a surveyor, he is not going to be able to walk out there and be able to turn complicated angles and step off so many feet and turn another angle so many feet to find that property line.

MR. CONINE: But then to turn it around on you, if I knew I had to provide the Department with all of that, I would make sure that an engineer went out and surveyed and marked it so that he would know where it goes. And you can do that with the contract of sale. You should be able to.

MR. DILL: The contract of sale did not have the survey, because the survey did not exist.

MR. CONINE: It did not have a metes and bounds

description? In other wise, it's a bogus contract of sales.

MR. DILL: It's a metes and bounds of 183 acres.
It doesn't have that 13 acres metes and bounds.

MR. CONINE: We need to hear staff.

MS. ANDERSON: Who reviewed these documents for
the staff? Mr. Gouris?

MS. ANDERSON: You again.

MS. CARRINGTON: He was ready.

MR. GOURIS: Tom Gouris, director of real estate
analysis. We did review the documents and found that the
vote plan that they had provided appeared to show a different
site than the site drawing that was described in the ESA.
That caused us some significant concerns, especially since
the ESAs showed that there was no floodplain in the area,
and we rely on the ESA as our primary tool to show us that.

While -- the site plan itself showed floodplain
on the site. That was the instigator, if you will, of our
concern, and discussion was had. And a letter was sent to
try to ascertain what the correct floodplain situation was
on the site. We identified that the ESA had it wrong, or
a different answer and tried to get clarification.

MR. CONINE: Is it the Department's policy to pick
up the phone and call the developer or the engineer when there

is a discrepancy like that? Or is it Department's policy not to call anybody?

MR. GOURIS: The developer.

MR. CONINE: And did you do that in this case?

MR. GOURIS: We did. We did go through each and every issue of discrepancy. We asked the question of what is the floodplain? There is a problem there. Of course, I wasn't involved directly in those conversations. I can give you some recollection that the staffperson that talked to them got some acknowledgment that yes, there were some mistakes in the ESA.

MR. CONINE: The QAP is specific as to what we require?

MR. GOURIS: The ESA guidelines or rules require that the survey or --

MR. CONINE: There's not a survey requirement.

MR. GOURIS: -- survey or drawing of the site be provided and be reviewed by the state inspector provided in the ESA. In this case, they had a site plan that they could have provided to the ESA inspector, because in fact, we got one with the application, and it was dated prior to when the ESA inspector did his work, so they could have provided that.

Had they provided that, and an ESA inspector looked

at that site or showed the pictures from that site, this probably wouldn't be an issue. But he took and drew a different site that was down the street. I'm not even sure it is part of the Hundred Acres or not, but it is down the street, and he shows where the pictures were taken from off of that site.

Clearly, not the site that site plan showed to be the site.

MR. CONINE: I hope that answered my questions.

MR. SALINAS: And eventually you have a problem with the flood zone.

MR. GOURIS: We rely on the ESA inspector to provide us with a considerable amount of information, and when we have such discrepancies that we cannot rely on the ESA inspection for its accuracy, we then have a question about the flood zone issues. In this case, we think they are going to be addressed, but the fact is, is that we can't -- we are at this point so uncomfortable with all the documentation in the ESA to rely upon it.

MS. ANDERSON: Do the other board members have questions for staff or the developer?

MR. MAGILL: Can I make a response to staff's comments?

MS. ANDERSON: Certainly.

MR. MAGILL: With regards to the floodplain, staff did contact me regarding the floodplain, and I informed them

that my knowledge came from the seller. And that he had indicated that there was a slight area as the contract called for that was in this floodplain that he was going to be responsible to elevate out of the floodplain. But when I visited with the environmental specialists, he indicated that the FEMA maps did not indicate that the site was at all in the floodplain.

So mine, the application was a disclosure. The FEMA maps do not reflect what the seller's knowledge has in fact relayed to me and ultimately was put into the application, and that was the only communication that I had with staff regarding the application or the ESA. And as such, the environmentalists in the deficiency indicated in a letter to them that he had in fact done the environmental on the site, and that the department could rely on that assessment.

MS. ANDERSON: I guess, Mr. Bert Magill.

MR. CONINE: Move to deny the appeal.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Development 04143, Courtland Square Apartments

MS. CARRINGTON: Courtland Square Apartments. This concerns a late letter that was received by the state senator for this particular development. It was a letter of support. The value of this is three points. The letters were required to be to the Department by May 31 to be eligible for scoring. And as you can see from the fax that you have in your book, the letter was received by the Department on June 10. So the letter does certainly become a part of the record of support for this development, but it was denied the three points for scoring because it was received late.

MR. CONINE: Move to deny the appeal.

MR. SALINAS: Second.

MS. ANDERSON: We have public comment. Mr. Magill?

MR. CONINE: We don't mean to be picking on you.

MR. MAGILL: But you seem to be. No, I appreciate the Board's time, and I will make this very quick. And the only reason that I do recognize that it did come in late, but I just ask that the Board to direct themselves to the senator's letter. I hope that it is in their packet, where he indicates in the last paragraph, "I am aware of the deadline for submitting letters of recommendation has passed, and my

office takes responsibility for the tardiness in this letter.

"I respectfully request your favorable consideration of this project and that the developer not be unduly penalized due to our inaction." And in that the other two applications in District 31 somehow got their letters on time to the Department, then this application is being hindered with the same support, just because my actions to obtain this letter were, I think, timely, but somehow, it didn't get processed and sent to the Department in time.

Likewise, this particular situation has me snake-bit because even I sent back my appeal on June 11. Somehow or another it didn't get logged into the Department until June 14. And so the staff and executive director rejection of my appeal came on the 28, was not within the 14 days, and I don't know exactly how that affects anything.

But I just wish that the Board would consider favorably so that I can compete in the district with the same letters.

MS. ANDERSON: Was the motion seconded?

MR. CONINE: I think it was, down on that end.

MR. SALINAS: Yes.

MS. ANDERSON: Discussion? While I am very sympathetic, we have to consider the whole of the development community and I am going to support the motion that is on

the floor, because to not support it penalizes other developers and their representatives who did adhere to the deadlines. But this is a tough situation. Any further discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. 4211. Arbors at Rose Park.

MS. CARRINGTON: This appeal relates to the Department's denying of scoring of a letter for quantifiable community participation from Abilene Neighborhoods in Progress. The Department felt that the letter did not qualify under the requirements of the statute and the QAP. It did not provide the total number of members to the organization, only a total number of board members.

The documentation that was provided to us indicates that the organization serves an entire city, not the specific neighborhood. We therefore felt it did not meet the definition of neighborhood organization and did not score this particular letter under quantifiable community

participation for the Rose Park apartments.

MS. ANDERSON: We have one person to make public comment? Ms. McIver?

MS. MCIVER: Chair, members of the board. I am Diana McIver, and I am the developer of the proposed development, Arbors at Rose Park. This has been a challenging year. On our side of the table, and I think on your side of the table. And one of the challenges that I think we all faced, and I believe that, Mr. Conine, you mentioned this at the previous board meeting is this whole concept of quantifiable community participation.

And part of it is simply a flaw in the legislation, because the title of the section says: quantifiable community participation, but then right after that, it says, As evidenced by letters from neighborhood organizations. And there, I think we are finding here in a big difference between "community" and the word "neighborhood."

In this particular case, we believe that we followed the Department's requirements that they set out, I believe it was in February. And everything that I am saying to you today was actually presented in the letter that Abilene Neighborhood for Progress actually submitted by the required deadline, the April 30 deadline. So there is no new information.

Specifically, Abilene Neighborhoods in Progress is an inner-city organization that revitalizes homes and provides services, like they do computer training for seniors, that type of thing. Every other part of their letter, the staff agreed was correct.

The two exceptions are that as it was stated by Ms. Carrington, the letter did not state how many members there are in the organization. It is not a membership organization and the QAP does not require that it be a membership organization. It is a nonprofit. It has a 15-member board of directors and in their letter to the agency, they provided the names and the addresses and even the places of employment of all 15 of those board of directors. So, I believe clearly we met that requirement.

The second part of staff's rejection is that the organization serves an entire city, not the specific neighborhood. That is a new definition. Because in the instructions that were given, it was that they have the site within their boundaries, which they clearly did. Their letter says, we serve the City of Abilene, particularly inner-city areas, including the Rose Park area, which is where our site is located.

And then the other part that was actually not challenged by staff as part of this, but part of the original

definition of a neighborhood organization is that it is working to affect matters related to the welfare of the neighborhood. This organization clearly is working to affect matters within the Rose Park neighborhood.

MS. ANDERSON: I need to ask you to wind up, please?

MS. MCIVER: Pardon?

MS. ANDERSON: I need to ask you to wind up please.

MS. MCIVER: Okay. And for those reasons, I ask that this letter be granted consideration for quantifiable community support points. Thank you.

MS. ANDERSON: I want to ask the staff a question, if nobody else has any questions.

MR. CONINE: Go ahead.

MS. ANDERSON: And this in on the point about where Ms. McIver is asking for the one point for the certification thing. Those certification were, and I don't know who wants to, if this is about it.

MS. CARRINGTON: I can begin.

MS. ANDERSON: The certifications were due back to the Department on June 4, right?

MS. CARRINGTON: Right.

MS. ANDERSON: When did we notify Ms. McIver that Abilene Neighborhoods in Progress was not considered a neighborhood organization? When was the first she knew about

that?

MS. CARRINGTON: We would have notified her, and we can give you the specific date. We notified all of the applicants basically over a period of a day or two, whose letters did not qualify. And I have a letter -

MS. ANDERSON: Was that prior to June 4?

MS. CARRINGTON: Jenn, would you?

MS. ANDERSON: Would you please answer?

MS. CARRINGTON: Would you or Brooke address that please?

MS. BOSTON: It was June 7.

MS. ANDERSON: Right so the certifications were due on the 4th, and so this developer could not know that they needed to send in the certification because they didn't know that this organization was not going to be considered a neighborhood organization? Do you see what I am trying to understand?

MS. CARRINGTON: Yes, we do.

MS. BOSTON: I do, and in discussing this, Chris and I talked about this quite a bit before we sent out these.

If someone believed there were no neighborhood organizations, they didn't try and get letters, nothing, then they should have signed that certification. If they thought there was an entity out there that they believed qualified, then they

shouldn't have signed it anyway. So for us, signing that certification or not.

MS. ANDERSON: I missed that last point. Back up for me. If they thought there were no things, no neighborhood organizations, then they should have signed the certification.

MS. BOSTON: Correct.

MS. ANDERSON: And then -

MS. BOSTON: And if they thought there were, regardless of how the Department evaluated that letter, they obviously turned something in believing that it was a neighborhood letter.

MS. ANDERSON: Right.

MS. BOSTON: So they couldn't in good conscience sign a certification saying they knew of none. And so for us, when we sent out that certification, someone signing or not -

MS. ANDERSON: Well, we go back to what the definition of the neighborhood organization is.

MS. BOSTON: But they turned something in believing that it did. So how could they sign something saying that, I know of none, when they think they do know of one.

MS. ANDERSON: But if we advise them before June 7 that in fact it didn't meet our test, then the developer

could say, well, okay. So there are no neighborhood organizations; hence, I am going to sign a certification.

MR. CONINE: The chicken and the egg, which comes first.

MR. WITTMAYER: Two points for clarification. The QAP requires in order to get this average point, which turned out to be one point, at least in this point of the process, there be no letters that were received.

MS. ANDERSON: Okay.

MR. WITTMAYER: The second point is, part of this has to do with timing. This certification was supposed to happen right at the beginning of the time of the application.

But because the staff wanted to make sure that it did not miss any of the certifications that might be buried in the files, we wanted to make sure and give the applicants a last-minute opportunity to submit their certification and make sure we didn't miss any.

One way to look at this is, Ms. McIver is kind of trying to have her cake and eat it too. Because she either wants the points for the letter or if the letter is not good, then I want the average point.

MS. ANDERSON: Well, let me ask you this. Did Ms. McIver get the faxed certification that was sent out to so many people? So you are just telling me that if letters

are received, then we don't send a certification, but we send her a certification and we had a letter on file?

MS. BOSTON: No, we sent the certification to every single eligible applicant regardless of whether we had letters or not.

MS. ANDERSON: But why?

MS. BOSTON: So they had ample opportunity if they wanted to sign it because they believed there were no neighborhood organizations.

MS. ANDERSON: So they are going to sign it, and then we are going to throw it out because they received a letter. So why did we send the certification to all of the applicants?

MS. BOSTON: We were trying to be equitable. We want to treat every single applicant, give him the same opportunity. They all got to know, they got to see what everybody else got. And they can make their own business decision about what they wanted to do with that.

MR. CONINE: Let's get back to the letter.

MS. ANDERSON: I have been on the letter.

MR. CONINE: If we decide the letter, then it will decide the certification, no?

MS. ANDERSON: No.

MR. CONINE: No?

MS. ANDERSON: No.

MS. CARRINGTON: They are two separate issues.
Two separate items.

MR. CONINE: Okay.

MS. ANDERSON: The whole issue is that they sent the letter, and then the other one. Right?

MR. CONINE: Tell me why we are not accepting the letter once again? Give me the statute. Give me the details.

MR. WITTMAYER: The statute requires that the letter be from a neighborhood organization, not from a community organization. The letter that we received is from Abilene Neighborhoods, plural, in Progress. And it states that our service area is the entire City of Abilene. Abilene has a population of over 115,000 people and a square-mile area in excess of 100 square miles.

Understanding the meaning of neighborhood, the EARAC determined that this is not a neighborhood organization.

This is a service organization that serves the entire community of Abilene, not within the meaning of the statute of being a neighborhood organization.

MR. BOGANY: Do we have a motion on the floor?

MS. ANDERSON: No, we don't.

MR. BOGANY: I'd like to make one.

MS. ANDERSON: Go ahead.

MR. BOGANY: I'd like to move that we accept staff's recommendation to deny the appeal.

MR. CONINE: I'll second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: And now we are going to the one point.

MS. ANDERSON: Now we have got the one point.

MR. BOGANY: What is the issue of appeal?

MR. CONINE: It is to certify that there is no neighborhood deals. Yet, she had a letter in, thinking that she did.

MS. ANDERSON: Well, and if I heard staff right, the test was if any letters were received, they weren't eligible to certify. Is that accurate?

MS. BOSTON: It's a two-prong test. One is that they certify that they know of none. And the second prong is that no letters were received for that application. And in this case, she did not turn in a certification.

MS. MCIVER: I actually, for the record, got a copy of that certification faxed to me from the Department and so I went to the Friday meeting, the open forum meeting and asked these questions specifically. And I said I am in a situation where I do not know if you are going to deny my neighborhood letters. What do I do?

And the advice that was given to me is that you know that letters are in here in your file. You know that you have received letters. Therefore, you cannot truthfully certify that there are no letters, because the letters are there. It doesn't matter whether they qualify or they don't qualify for points, you cannot truthfully certify. And so I did not turn back in the certification.

MS. CARRINGTON: And I will verify that that is indeed what was said on Friday at that open forum.

MR. CONINE: So you can't give her the points.

MS. ANDERSON: I need a motion.

MR. CONINE: Move to deny the application on the one point.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. 4213, Village at Morningstar.

MS. CARRINGTON: The circumstances of the Village at Morningstar are similar to the circumstances to the Arbors at Rose Park. In this instance, it is a two-question request to the agency. There were two letters of support that were received that were not scored. One letter was from the Retired American Persons of Texas City, we believe did not meet the requirements to be scored.

And the documentation indicated that the organization serves two cities, not a specific neighborhood.

We did not feel like it met the definition of neighborhood organization. We also had a letter from the Texas Habitat for Humanity, that we believed did not meet the requirements.

It served an entire city.

It did not qualify as a neighborhood organization, so that was the first part of the appeal. And then the second part of the appeal was the request for the one point, if the appeal is denied.

MS. ANDERSON: Ms. McIver?

MS. MCIVER: Okay. On this one, the circumstances

are similar but a little different. The first point was that the denial said that, and I am only appealing the Texas City Habitat for Humanity letter. That is the only that I am appealing. And what the staff said was that it does not provide, the letter from Habitat did not provide the process that was used to determine the members' position of support. Only that a resolution was approved.

The letter specifically stated: "At our April 12 chapter board meeting, we approved a resolution supporting the Morningstar project for the following reasons," on and on. And I would argue that the passing of a resolution is indeed a process, and we met that test. And then the second one goes back to that definition of neighborhood organization.

And I have with me here today, Mr. Robert Greeley, who is president of the Texas City Chapter of Habitat for Humanity, and he is going to tell you about their operations, including the fact that they have two houses that they are building one block, one city block from our site. And I do believe that that means that they have a presence in our neighborhood. But I am going to yield the rest of my time to Mr. Greeley.

MR. GREELEY: Madam Chairman and board members. I am Bob Greeley from Texas City, formerly from Rochester,

New York. I had to get out of the snow. I am president of the local Texas City Habitat for Humanity chapter. We have a d/b/a to do business within Texas City. Texas City, the residential area that we are working is about four miles wide and about eight miles long, so it is not a large area.

We have completed, in about two weeks we will have completed seven homes worth about a half a million dollars in property. We put a lot of homes back on the tax rolls, and a lot of HUD -- several HUD families back into their own homes. So we are doing some good for the community in that area.

As to what -- do you all understand what Habitat is? That was my first question. I didn't know if you understood that there are the affiliates and how they are tagged together. Great. I think in Texas City, we really are a neighborhood organization. We have between 12 and 18 on our board, depending on the time of day or month or year.

They are all active participants and all upstanding citizens of Texas City.

And at the same time, we have volunteers from all over the community, and we raise funds from all over the community. In Texas City, we are limited to raising funds in Texas City. So we are supported by the city membership. We are supported by the plants that are there.

And I would like to think that we are doing exactly what is needed in the community. We know what housing costs. We know the number of people looking for housing. We get calls continually on the need for housing for elderly people, for low-income, low cost. I also understand that tax credits are necessary for a project of this nature to be viable for older people. I would be glad to answer any questions that you might have about me or the organization.

MR. CONINE: How big is Texas City?

MR. GREELEY: Texas City is about 42,000 people, 41,000 people. Predominantly a blue-collar town.

MR. CONINE: Thank you.

MS. ANDERSON: Other questions? Thank you for your testimony, sir.

MR. CONINE: I hate this. Move to deny the applicant's appeal.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: I hate this.

MS. ANDERSON: 4214, Las Villas De Magnolia.

MR. CONINE: I hate myself. We have got to be consistent.

MS. CARRINGTON: The next one for your consideration, Las Villas De Magnolia has two components. Two appeals. The first is the deduction of five points for not clearing up a deficiency by April 30. The Department faxed a deficiency notice to the Applicant.

We also then followed up with a telephone call, and reminded them that curing the deficiency was due to the Department by April 30. We did not receive the necessary information to cure the deficiency by April 30, so the five points did remain deducted, and what they are requesting is the reinstatement of the five points.

The second part of this appeal is they are requesting the one-point average that was received by applicants for the certification that you have previously heard discussed, and staff did not award the one point related to this, because in this particular applicant's case, we did receive ten letters of support to the Department from various entities and so since we did receive letters, they could not certify to us that there were no letters received and so could

not do the certification on the one point. So really, two issues. Deficiency and then the one-point issue again.

MR. BOGANY: I'd like to move that we deny the appeal on both points.

MR. GONZALEZ: Second.

MS. ANDERSON: Okay. We have some public comment. We have a motion on the floor, but we are going to have the public comment.

Mr. Santos, would you like to come up and speak?

MR. SANTOS: Thank you.

MS. ANDERSON: Sure.

MR. SANTOS: There also was a third element in our appeal that I assume has already been addressed by the board's earlier action dealing with the City of Houston's commitment, so that's a non-issue for us now. Thank you for that support. The issue here has to do with the fact that it really has to do with what is called, what you call an untimely response to the deficiency notice of April 30 because neither our CDC nor our housing advisors at Diana McIver and Associates received a deficiency response until May 12, the day our reply was due.

What it had to do with was -- if you want to call it another technology glitch, but it also, we are the ones that one of the staff people referred to earlier about we

had the opposite fax problem in that your records show that you faxed us something. Our records show that we provided you with a copy of our fax log that we never received anything, even though we had received other faxes during the day, that we never received any faxes from TDHCA.

And so, rather than just simply say, hey, we never received it, we felt let's provide them with a copy of the fax log, and in our initial appeal, that is precisely what we did. It became even more important to us to verify with our fax log when the reference is made that a call was made to our agency, did you receive our fax?

Unfortunately, the gentleman that took the call, who appeared before the board a week and a half ago, Mr. Peter Clemente, who is our vice chair. He is not part of the regular staff. He happened to be in the office. He answered the call. Someone asked him, Are you getting a fax from us? And he said yes, because he heard the fax machine.

But it is a moot point as far as we are concerned, because our fax log clearly did not show that we have ever received anything. We became aware of the deficiency notice on the day that our response was due, 15 minutes before 5:00, right around 4:45. It had to do with some technicalities that once we were aware of the deficiency letter -

MS. ANDERSON: I need to ask you to finish up,

sir.

MR. SANTOS: My point being that with that, once we became aware of the deficiency letter, we responded quickly, within 24 hours. And so that was the basis of our appeal.

MS. ANDERSON: Just one moment. Ms. Sisek? Are you yielding your time to him? Okay. Thank you.

MR. SANTOS: And so I wanted to clarify that for the board, that our immediate reaction that if we did get something, where is it? It wasn't anywhere in our office, so we went right away to our fax log. Let's check it out.

The fax log that we have provided to you clearly shows that we never received anything.

MR. CONINE: Are you going to change your motion or stick with it?

MR. BOGANY: I'm going to withdraw my motion.

MS. ANDERSON: Okay.

MR. CONINE: I move we approve the appeal on the issue related to the technical deficiency in the notice and their response.

MR. SALINAS: I second it.

MS. ANDERSON: Is there discussion? You know, I feel differently about this because we have documented and the applicant has acknowledged the three efforts made by staff to try to get this cured. You know, we have the fax transmittal

on April 30, which is documented from at least from our side for a fax log.

So if we accept absence of something, as we did earlier today, absence of something, they had it on their fax log earlier today and we accepted that as evidence, so then in my view, when our log, our outgoing log says that we faxed something, that in fairness to staff we ought to say, okay, that meant that it did go out the door.

Then we have the applicant saying that Peter Clemente answered the phone. And regardless, I mean, if he is the vice-chairman of the CDC, certainly he was involved in this. Not in the details of the application, but aware of it. And I don't think we can -- I am concerned about just saying he can say it was a telemarketer and went out the door and didn't share it with anybody.

And then the third was that those were both happening on April 30. And then the staff made yet another attempt by leaving a voice mail message at the CDC offices at 2:00 on the day. You know the staff went out of its way, in my view, to try to get this deficiency cured. They bent over backwards to try to let the applicant know. And for that reason, I have reservations about the motion that is on the floor.

MR. SANTOS: And Madam Chair, please do not accept

our comments as trying to be adversarial at all.

MS. ANDERSON: No. Thank you, sir. The time for public comment on this is over.

MR. SANTOS: Okay.

MS. ANDERSON: Is there any more discussion on the part of the board?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no. No.

MS. ANDERSON: The motion carries. Oh, certification.

MR. WITTMAYER: She does not appeal on the one point certification issue.

MR. CONINE: Good.

MS. ANDERSON: Thank you. 4218 Converse Village.

MS. CARRINGTON: Converse Village, thank you.

This is an appeal related to minutes. A set of minutes being provided by the City Secretary of Converse for the six points for holding a public meeting rather than receiving a transcript.

MR. CONINE: Do we have public comment?

MS. CARRINGTON: Yes, we do.

MS. ANDERSON: Are we ready for that?

MR. CONINE: Yes.

MS. ANDERSON: Tina Brooks, please.

MS. BROOKS: Thank you, Chair and directors, for the opportunity to address you today. As you mentioned, I am representing the development team for Converse Village Apartments, project number 04218. And I am here just to reiterate what you see already in your package.

We did hold a public meeting for this project. It was planned and advertised as the QAP requires. The QAP also requires a sign-in sheet, and that a transcript is provided. I believe the issue here results from the fact that transcript is not defined in the QAP. If you look it up in the dictionary, it just simply says a copy or recording.

In this case we actually had very good cooperation from the city, and having this public meeting, the mayor and the entire city council was involved in the meeting. It was held in city council chambers, right across the street from the site for the project. The city secretary was there and recorded the entire proceeding. The city secretary was also asked by the mayor to produce the minutes as the public record for the meeting, and she did.

Those minutes were subsequently reviewed and a

council hearing approved as being complete, because all the council people were there, and they actually reviewed them and approved them. There is, I believe, a letter in your package which is signed, co-signed by the mayor and the mayor pro tem that was forwarded to staff to confirm that the meeting actually was conducted as indicated in the minutes, and I think the minutes are pretty thorough. They included a copy of the tape, just a proof, just to support the fact that you know, there is nothing on the tape that is not in the written minutes that are documented here.

Clearly, in this case, if a verbatim transcript was defined in the QAP, we could have taken that tape and written everything out in a different format than what was provided, but the minutes actually do capture the proceeding of the meeting that day.

So, I am respectfully asking that you consider the fact the submission does meet the standard of full disclosure. All speakers are identified. All issues and questions are identified. It is accurate reporting and it is attested to by participants in that meeting.

MS. ANDERSON: Thank you. Your time is up. Thanks.

Other questions? Mr. Bogany?

MR. BOGANY: I'd like to make a motion that we approve the appeal on project 04218 Converse Village.

MR. CONINE: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. 04252, Waxahachie Senior Apartments.

MS. CARRINGTON: Thank you, Madam Chair. This application was terminated because it violates the statute and the QAP provision that says that if a development is located in a community, in a city that has more than two times the state average of tax credits in that area, that there are two things that are required.

One is that the development have prior approval in the form of a resolution from the city council, and the second is that there be a letter of support from the city council. This applicant did not have that prior resolution, nor did they have a letter of support from the city council.

You will note in their appeal to us, that initially when the Department released a list on our website on December

5 of last year, that we listed only ineligible counties and did not list ineligible cities. We did go back and correct that omission and on January 5, we updated our website with a new list, and we sent out a mass electronic mail to the housing tax credits development community and so all were notified. And this is, as I said, a statutory requirement.

MS. ANDERSON: Any questions for staff? Ready for public comment? David Evans?

MR. EVANS: Good afternoon. My name is Dave Evans. This project, first of all, the proposed site was zoned commercial, multi-family-permitted use, market rate apartments contiguous to the proposed site, and a wonderful site within walking distance to doctors and optometrists, physical therapy, residence, department stores, movie theater. Wonderful site.

And a non-for-profit is the owner. The project is viable with the points that we have, even without the points that would come from the letter in question. The requirement to obtain the city council resolution became the NIMBYs' only way to stop a needed viable project, which was not the intent of the legislation. I heard that it is a legislative requirement. It was not the intent of the legislation.

The NIMBYs across the street, even though again, it was zoned commercial, and a permitted use, the public

meeting that we hosted, the city council meeting where the resolution was denied, in both cases, there was 200-plus NIMBYs in combative mode. One correction in the summary that I believe that you have, it says that there were 215 letters in opposition. In fact, it was one petition with 215 signatures on it.

And again, all of those were the same names that were at the public meeting, as well as the city council meeting.

The theme of everything, including the petition was the value of their homes would be hurt. They don't want poor people in their neighborhood, do not want this kind of people in our neighborhood. Crime will increase. I can tell you from our other tax credit properties that the average age is 72. I don't think that's a high crime group.

The owner of the not-for-profit and the developer agreed that we would pay the full property taxes. That we would not ask for any reduction in taxes on the property. We would accept the decision if there had been any discussion from the politicians or the NIMBYs that there was a concern that there were too many tax credit units in Waxahachie.

There was no discussion of that at any time during the three meetings. It was strictly driven by the NIMBYs.

The denial of our appeal will reward those people who hold stereotype beliefs in opposition of the intent and philosophy

of TDHCA and of the legislation. I ask that you vote in favor overturning the termination letter. Any questions?

MS. ANDERSON: Thank you for your testimony? Questions of staff? I have a question. I want to understand the time line here. On or about what date was the list of ineligible cities added to and included -- and at that time it included Waxahachie? And when did we have that list to go up on the website? Talk to me about that.

MS. JOYCE: Jennifer Joyce, program analyst. On December 5, the staff posted the incorrect version in its reference manual. On January 5, after an applicant let us know that the cities are not listed, we fixed the issue.

We sent out a mass email to all of the contacts that we have in our database, and we also posted an announcement on our website, and we called it revision now places are included. We also issued a deficiency for this item, giving him until May 31, 2004, to get the resolution.

MS. ANDERSON: Okay. So it went up on the website and went out in mass e-mail on January 5.

MS. JOYCE: January 5.

MS. ANDERSON: Do we know what date the deficiency notice went to him?

MS. JOYCE: No, I am sorry, we do not. We sent out two, though. One was for the application, requesting

that information, and another was sent to all applicants, letter them know that we have extended the deadline to May 31, 2004, to receive resolutions from the city council, because not all who were aware of this particular ineligibility item.

And so, we were offering it as a deficiency for them to correct and get that resolution in. We extended it to May 31, 2004, rather than requiring it in the application at the time of application submission.

MS. ANDERSON: Okay. And this is a statutory requirement in 264, right?

MS. JOYCE: Correct.

MS. CARRINGTON: Yes, it is.

MS. ANDERSON: Thank you.

MR. CONINE: Move to deny the appeal.

MR. BOGANY: Second.

MS. ANDERSON: Discussion on the motion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Project number

04258, Vista Del Sol.

MS. CARRINGTON: Two items related to this appeal.

The first is the denial of points for two organizations for quantifiable community participation and also the Department's interpretation of the Attorney General opinion; so on the second part of that, I would imagine, as we go this afternoon, looking at our implementation of the AG opinion, that would be the appropriate time to handle that.

On the letters that were received, we received a letter from the Edgewood Neighborhood Association and the Community Workers' Council and in staff's reading of those letters, we didn't feel that they met all of the requirements to be scored. And we didn't address specifically how they had determined the support for the development.

MS. ANDERSON: Margaret Starkey?

MS. STARKEY: Hi. My name is Margaret Starkey and I am the executive director of Seton Home. And I am the applicant for the Seton Home Center for Teen Moms, application 04149. I opposed the granting of -

MS. ANDERSON: Sir, would you please be seated?

Thank you. Please be seated.

MS. STARKEY: I oppose the granting of the appeal with regard to the neighborhood, points. Our project is currently on the recommended list as a high score nonprofit.

We have been the highest-scoring project in our region and we got there by following all the requirements of the QAP.

I am concerned about the treatment of the appeals today, specifically the consideration given to the appeals that did not fully meet the QAP requirements like this one.

The Edgewood Neighborhood letter, as far as I know, was rejected because Edgewood was not of record with the state or county, and that is a requirement of the QAP. We followed the QAP to the letter to qualify for our points. Allowing appeals to correct a failure in meeting QAP requirements as is requested here puts us and other applications like us at risk of moving below the funding threshold, even though we complied with the QAP all along. I would ask that the board consider a forward commitment for Vista Del Sol rather than grant the appeal in neighborhood points. Thank you. Any questions?

MR. SALINAS: So we do not certainly want to damage anybody that probably wouldn't be best for what we want to do. We do not want the projects to be left out of the commitment.

I do agree with the forward commitment would be something that we could take. I think all the projects are very worthy projects, especially of this complicated sort. We shouldn't go and hurt the ones that follow the rules.

And hopefully that staff can understand that and

not make it so hard for us. Because we feel for these neighborhood groups. They are representing the people that are in need of housing. So hopefully we can hear the appeal, possibly grant the appeal and forward commit this for the projects. I surely don't want to punish those people who work hard on this thing. I want to make that here today. We surely don't want to do that.

MS. ANDERSON: We have public testimony. Mr. Bill Brown is going to speak, Tammy Goldston and Leslie Holloman had ceded their time to him. Go ahead, sir.

MR. BROWN: Let me give one of those times to Manuel Garza, because he is one of the community of neighborhood associations that is talking today. I think that it is more important to hear from him than me.

First of all, let me say that this project is a nonprofit. It did score in the highest. In other words, it was if you took the 10 percent, it was the higher. There were lower nonprofits in the state that are still being scored.

This property owns the land. It is ready to start. But we are in -- let me go back and say we were selected under the old rules. I shouldn't say selected. We were recommended. That's a better word.

And these neighborhood organizations, the Community Workers' Council has been around since 1956.

Edgewood Neighborhood has been around since 1855, 1985. Let me get that straight. 1985. I am dyslexic. What can I say?

I think we have clear distinct in our appeal of why they should be accepted. It is obvious to me that with 222 letters, obviously at 14, we were splitting hairs on reasons why they should be.

Obviously the Edgewood was -- they say not recorded with the county. But there is a reason why they weren't there.

They had gone to the county to be recorded. The county doesn't keep records. The county sent them to the city to record.

I mean, what can you say? I don't know.

Obviously, Community Workers' Council is on record with the state. Those were some of the denials. But anyway, I am not going to go into all of that. All I can say is these two neighborhood organizations have been around. They have constantly worked for the betterment of the neighborhood. They are true neighborhood. They are in the boundary. Nobody can look at these two neighborhood organizations and say they are not neighborhood organizations. And last, it is hard for me to understand how these two got denied.

MS. ANDERSON: Mr. Brown, your time is up.

MR. BROWN: My time is up?

MS. ANDERSON: I do have a question for you. I want to make sure. Did I just hear you say that the Community

Workers' Council is on record with the state?

MR. BROWN: Yes.

MS. ANDERSON: And what is the evidence for that?
What documents? I am not seeing that.

Sir, if you would please sit down.

MR. BROWN: I'll let Manuel answer that. I mean, basically, they are along -- when you say did we supply the evidence? I mean, we can supply the evidence.

MS. ANDERSON: No. The statute -

MR. BROWN: I don't specifically, I can't speak to that exactly. Maybe Manuel can. They are on record with the state. That's all I can say. I mean, all I know is, I think Manuel will sit up here and state that there are senators, there are representatives, there are mayors and everybody --

MS. ANDERSON: Sir, I am asking because the statute is very specific that the neighborhood organization has to be on record with the county or the state within the statute, sir.

MR. BROWN: The neighborhood organization is on record with the state. Now I don't have the document to pull up and give you the document, but they are clearly on record with the state.

MS. ANDERSON: Thank you.

MR. BROWN: Thank you, ma'am. Yes. Let me say one last thing. Lucy Hall will be at the next meeting, and she will speak on behalf of her.

MS. ANDERSON: Mr. Wittmayer, in the letter, in the materials that you received from the Community Workers' Council was that material indicating or in the own things that the Department did to determine registration with the state, did you determine they were registered or on record with the state?

MR. WITTMAYER: They provided documentation that they were on record with the city, and that was dated April 9, which was after the required date of March 1, but they did state in their letter that they were chartered with the state, so in light of that, the staff investigated further.

Went to the Secretary of State's website, and it was noted that their status had been, they had been involuntarily dissolved. I don't know if that relates to the earlier comment that they had made payments recently, but given their status as being involuntarily dissolved, we took that as not on record with the state.

MS. ANDERSON: Okay. Thank you.

MR. GORDON: When were they involuntarily dissolved?

MR. WITTMAYER: I'm sorry. I don't have that

information.

MS. ANDERSON: Can we get it?

MR. CONINE: Did you check the website?

MS. BOSTON: I guess that I would just comment that I am the one who did all that staff checking on those, and the -- whatever the week was, I want to say that it was like the middle of May when we sat down and staff did all of this. When I went on and checked the status on that date was still involuntarily dissolved. So at the time that we were reviewing this, which may have even been after the April 30 deadline, but at the time we reviewed, their computer system as of that day was showing that still.

MS. ANDERSON: I think that is all.

MR. CONINE: He ceded?

MS. ANDERSON: He spoke during the comment earlier initially.

MR. BROWN: Are you asking me?

MS. ANDERSON: No, I am saying that Mr. -- I'm sorry, I don't remember his later name, I know his first name is Manuel. He spoke during the initial public comment.

MR. CONINE: Mr. Brown got his time plus two others, and he gave one back.

MS. ANDERSON: No, Mr. Brown got two people's time, because I don't have a witness affirmation form for Mr. Brown

for this development.

MR. BROWN: May I speak?

MS. ANDERSON: If you will fill out a witness affirmation form after you speak. You have to have a witness affirmation form for each.

MR. BROWN: Okay.

MS. ANDERSON: So you didn't complete one, so we gave you four minutes for the two people that ceded time, so now you may have two minutes, and then you can complete a witness affirmation form afterward. Does that make sense?

MR. BROWN: Let me pass those minutes and I will fill out a form to Manuel Garza, please?

MS. ANDERSON: All right.

MR. GARZA: Ms. Anderson, thank you very much. First of all, I would like to also have the letters from the state senator and from the mayor and from Mr. Menendez, Mr. Castro, State Senator Castro and City Councilman Patty Radle read onto the record. It is their recourse, and I will graciously ask that you do that, please.

In regards to Community Workers' Council, they were incorporated with the State, since 1956. We underwent involuntary dissolution of the organization had to do with fees not being paid. That does not mean that the organization is no longer existing. It is registered with the state, it

will remain registered with the state.

Again, it is a black veteran's organization that started that way. But since then of course, it has been reactivated. It has 40 members, as stated in the letter of support. They select their members from within their zone.

And it clearly defines where that is. In our case as Mr. Brown indicated, we were directed to go to the state. I know that the requirements from TDHCA are that we get listings from the city and the county. So there is a bit of a contradiction about new associations.

MS. ANDERSON: Sir, just to clarify. These aren't the Department's requirements. They are in statute, and it is to be on record with the county or the state. It doesn't say anything about being on record with the city. And this is in the statute.

MR. CONINE: State legislature.

MS. ANDERSON: State legislature, not Department rules.

MR. GARZA: Right. Community Workers' Council is -- I would just like to emphasize that again, the county doesn't have any procedures. We did get a letter from the Housing and Human Services Department, saying that they acknowledge us as a neighborhood association since June 24 2003. And again, you know, thank you, Ms. Starkey, for

recommending the forward commitment. The QAP, and I think you know, we tried to follow as best as we could.

And if nothing else, I think as Mr. Brown said, we will ask for recommendation and at the very least a forward commitment. We would ask you for a forward commitment for the next funding cycle. If there are any questions, I would like to be able to answer those questions for you.

MS. ANDERSON: Thank you, sir. And we are just trying to follow. I mean, we all operate as one community here. All dedicated to affordable housing and so we appreciate you being here and we have lots of rules and statutes to follow and that we're all just trying to do the best we can with those.

And your request, I absolutely do have a letter from Senator Leticia Van De Putte that she asked that we read into the record, and I will do so at this time. "Dear Ms. Anderson: I am writing you in regard to the Vista Del Sol, Rudy C. Perez Senior Apartments, 04258, project. I would like to assure your department that I am cognizant of the Edgewood Neighborhood Association and the Community Workers' Council.

"Both organizations have been actively involved in community efforts in San Antonio since 1985. They have worked tirelessly to improve the Edgewood Community and have

a commendable record of accomplishments. I recommend that the Vista Del Sol, Rudy C. Perez Senior Apartment Project be granted the tax credits that it needs to move forward. The project is worthwhile, and is dedicated to improving the lives of those within the Edgewood District."

MR. GARZA: The letters from the mayor and the state reps and the city council -

MS. ANDERSON: They are in the file. They are in the file that all the board received.

MR. GARZA: Okay.

MR. CONINE: Could I ask staff a question, please, on the Edgewood Neighborhood Association letter specifically. The problems with that were? Was the only problem with that was that the neighborhood association was not registered with either the state or the county? Did it meet all of the other statutory requirements for the QAP?

MR. WITTMAYER: It met the statutory requirements. It did not meet the QAP requirement, the additional QAP requirement for them having a brief description of the process that they had in order to arrive at their position of support.

MR. CONINE: But you could determine the boundaries of this Edgewood Neighborhood Association?

MR. WITTMAYER: Yes.

MR. CONINE: And the project falls within this

area?

MR. WITTMAYER: Yes.

MR. CONINE: And so the two problem -- this guys is that they didn't tell us how they vote, and how they come to its decision?

MR. WITTMAYER: Correct.

MR. CONINE: And it is not registered with the state or county?

MR. WITTMAYER: Correct.

MR. SALINAS: Well, we had a big discussion about this earlier today. This was not the part that I took care of neighborhood association.

MR. WITTMAYER: No minutes were required.

MR. SALINAS: Just on the clarification, they were active in the state or the county?

MR. WITTMAYER: It is required by the statute that they be on record with the state or county. They provided no evidence of that.

MR. SALINAS: No evidence at all?

MR. WITTMAYER: No evidence. They provided evidence that they were on record with the city. That evidence is required to show that they are on record as of March 1. Their evidence that they were on record with the city showed that they were on record as of March 4. But being on record

with the city is insufficient. So they were both on record with the wrong entity and the evidence did not show the proper time frame.

MR. CONINE: Did either one of the applicants, does the applicant know just verbally what the process was that this neighborhood association went through in order to type up this letter dated March 31?

MR. GARZA: No, sir. We did get that, the bylaws. We had discussion -

MR. CONINE: All I want to know is if you know how this letter came to be.

MR. GARZA: No, sir.

MR. CONINE: You don't know how the letter came to be?

MR. GARZA: Oh, the letter.

MR. CONINE: From Edgewood.

MR. GARZA: Oh. From one of the directors. We had discussion among ourselves about the project.

MR. CONINE: You are a director?

MR. GARZA: Yes, sir. I am one of the directors.

MR. CONINE: Oh, okay.

MR. GARZA: And so, we had discussion among ourselves, and we had -

MR. CONINE: How many directors are there?

MR. GARZA: There is four of us, because we needed four to do the bylaws. There is 300 members.

MR. CONINE: Is that because there is 300 houses in this particular neighborhood?

MR. GARZA: No, sir. There's quite a bit more. As a matter of fact -

MR. CONINE: So this is a volunteer --

MR. GARZA: It is a volunteer group that we started back in '85, addressing graffiti, streets and drainage.

MR. CONINE: Okay. All right.

MS. ANDERSON: But your board met, not the members. Did I hear that right? When you said. we met among ourselves, do we mean the 300 members met, or that the board met?

MR. GARZA: No. We as board members met and said, look, there is an issue that we need to be on record. And again, you know, I know that is splitting hairs. But I know the county clerk's office says, look, we are not mandated to record neighborhood associations. We defer to the city.

MR. CONINE: No. But we are trying to how the letter was written.

MR. GARZA: Right.

MR. CONINE: The four of you got together and decided the project was okay, and you were going to write the letter.

MR. GARZA: Right.

MR. CONINE: That's all. That is what we are trying to get.

MR. GARZA: Right.

MR. CONINE: Okay. Thank you very much. I am going to move that we approve the appeal for the Edgewood Neighborhood Association, going out on the limb myself. Because it is not registered with the county and/or state, but believing that it falls within the spirit of the intent of the legislation. And I think it definitely does that, and so I am going to move to approve. Just that one letter.

MR. GONZALEZ: Second.

MR. GORDON: I have got some concern that we have got a statute here that is pretty clear. And while I definitely want to approve these projects as much as possible, I feel like we're setting a precedent that we really -- when we have a statute that we really have to follow, the concern I have is, that our hands are tied with that issue. And while I appreciate your point, I could not approve such a motion.

MR. SALINAS: Well, I have been thinking about the facts. I use fax machines also and it copies to somebody else, so should we pass some kind of rules that they also made it at the same moment, or for example, when she got the association neighborhood on the website and said it was not

active, was there any way you could have gotten that printed out. A copy of that?

MS. BOSTON: I did print it off of the Secretary of State's web page.

MR. SALINAS: Do you have that?

MS. BOSTON: I don't have it here, but that is what I brought back to the executive awards committee the day of our discussions and deliberations.

MR. SALINAS: But do you have that, and they were not active?

MS. BOSTON: Correct. I mean, it shows their name. They pull up, but then it says that they were whatever the terminology, involuntarily dissolved.

MR. WITTMAYER: Dissolved.

MR. CONINE: But that is not the same group we are talking about.

MR. WITTMAYER: It is a different group.

MR. CONINE: It is a different group. That's the other group.

MS. ANDERSON: You know, I really concur with what Mr. Gordon said about openly deviating from what the statute said. I mean, I understand that Bexar County said that we don't -- and not alone, I might add. Other counties said we don't register these entities.

But there were two options available in the legislation that a number of organizations that have submitted letters were able to comply with those terms. And for us to grant this appeal moves us away from the statute that -- maybe we'll get some different definitions in the legislative session next year. But the way the statute is written today to me is very clear. And we are bound by that.

MR. SALINAS: On the Las Canteras project, where they had the county clerk and they had the letters that the county clerk affidavit said they were made also under the same name?

MS. ANDERSON: In that case, it was the county clerk and the county clerk acknowledged receipt of the request to be on record as of the deadline. So it is a different situation. It was the county clerk. That county clerk agreed to accept the request.

MR. SALINAS: Okay.

MS. ANDERSON: Especially if I remember it. Correct me if I am wrong. Other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no. No.

(A chorus of noes.)

MS. ANDERSON: The motion fails. Okay, 04268, Lansborough Apartments. Is this a City of Houston only?

MS. CARRINGTON: No. It would have been. That has been resolved. But there is a second portion to this appeal, and it relates to the denial of quantifiable community participation points for the development. And the appeal stated that it should have been handled as an administrative deficiency and they should have been provided an opportunity to provide additional information in order to clarify the issues resolved.

This was a situation where we had a letter from the superneighborhood associations, Sunnyside, South Acres, and Crestmont Park, that included at least eight civic clubs that are registered with the state and staff did wrestle with the concept of superneighborhoods. And because of the size, the geographic size of the areas that superneighborhoods encompass, we had a difficult time making an interpretation that they were indeed a neighborhood organization.

MS. ANDERSON: End of the staff comments. There is public comment. Ms. Bingham?

MS. BINGHAM: Good afternoon. I would like to thank the board for your patience and going through all these appeals. I certainly can appreciate your position, having

served here for six years. Let me, and I do understand the concern about the statute on being registered with the county or the state. Let me just go over a few points.

Based on the requirements of the QAP, I was required to send notices to 42 different civic clubs that were registered with the City of Houston. That is the requirement that you placed in the QAP. That is the requirement that I followed. Forty-two notices to different, what you would have considered affected, civic clubs.

After doing that, I had a meeting with those civic. I hosted a meeting and I received the six points for that, and I am appreciative of that. And I am also appreciative of the staff pointing out to me that since this development was on a major thoroughfare and it affected four different zip codes, that I needed to have sent out additional letters, which I did. So 42 different civic clubs were considered affected by this development based on your definition of where you go to get the registration. And at that time, it was from the city and the county.

However, when it gets to determine who can submit a support letter, you switch from the county and the state.

So what I am offering today is that I followed the guidelines of the QAP. I'm sending out notices to 42 different civic clubs that are registered with the city. Because I sent the

notice, the original notice to the county clerk, who said that she is not responsible for registering civic clubs. The city secretary did send a notice back saying that these civic clubs were registered with the Mayor's Office of Citizens' Assistance.

Those are the 42 that I filed. However, these 18 of these 42 civic clubs have worked with the city to form what is called a superneighborhood. The superneighborhood, I met with the superneighborhood, and most of the members, which would be the presidents of the different civic clubs, were present.

They had a combined meeting that is consistent with the superneighborhood as well as the Southeast Coalition of Civic Clubs. When it comes to apartment developers and other major commercial developments, I can tell you that in Houston, civic clubs don't meet alone. They all have formed superneighborhoods, and they have also have formed what they call coalitions of civic clubs. The letter that was submitted by the superneighborhood had at least eight members who were registered with the state. The membership of the superneighborhood are the presidents and their civic clubs. The civic clubs are listed on the letterhead of the superneighborhood. And the map and the boundaries was also attached.

Their reasons for support were stated in the superneighborhood letter. And the members or the civic clubs are listed on the letterhead. And the process for the decision to support is also stated, and it indicated that I hosted a meeting for them. It also stated that -

MS. ANDERSON: I need you to wrap up, Ms. Bingham.

MS. BINGHAM: I am about to wrap it up, ma'am.

MS. ANDERSON: Thank you.

MS. BINGHAM: They also said that I attended their meeting, where the project was discussed. And at the end, they had an agenda. They went over my development as well as the South Union development. And they indicated to let us know what you need, and this letter was what we needed.

MS. ANDERSON: Thank you. Mr. Bogany?

MR. BOGANY: Yes. I have a couple of questions for staff. Earlier, we accepted a superneighborhood on the other project and the board voted to accept that letter in regards to discrimination of fair housing. And I see no difference between this superneighborhood and the superneighborhood we just voted on a few minutes ago. And I am somewhat familiar with this area. Every civic club on here is almost within walking distance of this apartment complex here.

So, I don't see why that wouldn't be considered

part of this neighborhood. I am familiar with every one of them, and I was in, then, this week, actually. And all of those are very close.

So I don't see how we can deny one superneighborhood letter based on fair housing and if that is the case, and then deny this superneighborhood, then should we be considering the superneighborhood letter that we voted on earlier to agree with. Because it is the same concept throughout, it is just on the other side of town.

MR. WITTMAYER: Good afternoon, I am Chris Wittmayer, the Department's General Counsel. You will forgive me for omitting that earlier. There is a difference between the two superneighborhoods. The other superneighborhood was on record with the state or county. This superneighborhood was not on record, or there was no evidence it was on record with the state or county.

It provided evidence that it was on record with the city, but no evidence that it was on record with the state or county, and also Ms. Boston that checked the Secretary of State website and there was no indication there that they were on record with the Secretary of State. Also, there is no evidence that they provided the process that they used to determine the position of the members.

Now, on their appeal, they provided new evidence

that they did not provide earlier, and it basically goes to the fact that the various civic club members of the superneighborhood may be on record, but it was the superneighborhood that sent the letter. No evidence that it is on record with the state or county as required by the statute. So that is the posture that we have.

MR. BOGANY: Okay. Because I know that the mayor divided the city up into superneighborhoods, and if you go -- I am just shocked that one would be on the state, and the other one would not. But my thoughts are based on this, and I guess I have to defer to the Chair, but all the franchise certificates of accounts, all these are right in the same area, all these are walking distances to this apartment complex.

MS. ANDERSON: Do we have a franchise certificate from the entity that wrote the letter?

MR. WITTMAYER: I do not believe that we do.

MS. ANDERSON: Because we have got them from all these civic clubs, but from the entity that wrote the letter?

MR. WITTMAYER: I do not believe that we do.

MS. BINGHAM: The staff is correct. The superneighborhood itself is registered with the city and it is not registered with the state. But the civic clubs who are members, I pulled the certificates from the state

comptroller's website.

MR. CONINE: That is splitting hairs though, to me. It is a coalition of a bunch of neighborhood and civic groups. That is really splitting hairs.

MR. WITTMAYER: I also know that the additional information, the franchise certificates was not available prior to the April 30 date. It was submitted only on the appeal.

MR. CONINE: Okay.

MR. GORDON: Was any documents provided on the superneighborhood, like organizational documents or what is it?

MR. WITTMAYER: What is the superneighborhood?

MR. GORDON: Yes. Is it a coalition, or is it an entity of itself?

MR. WITTMAYER: It is an amalgam, which is perhaps unique to the City of Houston, and it is made up of representatives of various civic clubs in the superneighborhood area.

MR. GORDON: Well, for example, I am looking at this letter, and it is signed by Ellie Chamberlain, president. So, president of an entity?

MR. WITTMAYER: She would be president, I presume, of the superneighborhood.

MR. GORDON: But what is it?

MR. BOGANY: So what the superneighborhood is just a group of neighborhoods that have all gotten together, the mayor has kind of suggested that we divide up and work as a group. So if you took Ms. Chamberlain, whoever Chamberlain is, may be a member of one of these civic clubs.

She just happens to be president of this organization that the city has created and has created them all over the city. Not just one neighborhood. We had a letter earlier from Citigas [phonetic], which is the northeast side of town, communing with that. When there is a group of neighborhoods, all in that one. It just happens that that one is registered with the state, and this one is not. And I don't know the reasons behind that.

But it is the same group of neighborhoods, just in another part of town, and that is pretty much common throughout Houston. Maybe it is our answer to zoning, to a certain extent, with the mayor. I thought of lumping these groups together and having some say-so about their community and the area that they govern, civic clubs.

MR. CONINE: Once again, it may not meet the letter of the law, so to speak, but to me it is a coalition of groups that do meet the letter of the law, and for that reason, I am going to move to approve the appeal.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Before we go to -- the next one will be Heritage Park, 04028, I want to clarify something at the request of the associate general counsel. The action that we took on Vista Del Sol. I need the board members to listen up and acknowledge that this is what we did, so we are clear for the record. On Vista Del Sol, there was a motion on the floor to grant the appeal, and that motion failed.

Is that what you need?

MR. CONINE: Is that Villa or Vista?

MS. ANDERSON: Vista. The one we just -- it says Vista on the agenda. Sorry.

MR. BOGANY: I don't think that was what I wanted. If I understood it. Let me tell you what I thought it said. I thought we agreed to accept one of them.

MR. CONINE: Are you talking about the one we just

did before, or the very first one we did.

MS. ANDERSON: No, I am talking about Vista Del -- on the agenda, it says Vista Del Sol. 04258. And if I am not mistake, you made a motion and to -- someone, I think Vidal seconded it, to grant the appeal, and then Mr. Gordon spoke against the motion, and I spoke against the motion.

MR. CONINE: Right. And it failed.

MS. ANDERSON: And it failed, I believe on a two-to-four vote.

MR. CONINE: That is correct.

MS. ANDERSON: Okay. That is what we are just clarifying for the records. Thank you.

MR. BROWN: Ms. Anderson, may I say just one word?

MS. ANDERSON: You know it is just -- one.

MR. BROWN: Edgewood Neighborhood Association is on record, and I don't know if this is on record with the State, but they are on record with TDHCA. They are noticed as a neighborhood organization on record.

MS. ANDERSON: Thank you for your comment, sir.

MR. BROWN: Thank you.

MS. ANDERSON: Okay. 04028, Heritage Park.

MS. CARRINGTON: The Heritage Park relates to a portion of the Qualified Allocation Plan that allows points

for low-income targeting. The Department required that the letters, the commitment letters for low-income targeting be to the Department by June 14. That was the deadline for receiving points related to low-income targeting.

On the Heritage Park development, the Department did not confirm the receipt of the commitment letter from Denison Industrial Foundation until we received the appeal on June 18. So, for that reason, the Department is requesting that this appeal be denied.

MR. CONINE: Move to deny.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

MR. CONINE: Is there any public comment here?

MS. ANDERSON: Have you signed a witness affirmation form and filed it here? Okay, just a second. I'm sorry. It is a different stack. I know I had them. Oh, here they are. Sorry. Steve Rumsey.

MR. CONINE: Good job.

MS. ANDERSON: Thank you.

MR. RUMSEY: Hello, my name is Steve Rumsey. I am representing Heritage Park, 04028. I would like to thank you for your time, and for us to make this appeal. As many other projects, we have received overwhelming support from local and state representatives. The packet of information

that you have is documented proof of how we obtained our secondary financing from the Denison Industrial Foundation.

The time line starts with the letter confirming our request from Denison Industrial Foundation with approval dated February 18 for \$50,000 for secondary financing, and was included in our application. And it ends with a confirmed receipt from the TDHCA that they received our package. As for what happened to the letter, once the Department received it, I don't know.

Our letter is dated May 4, and was sent to the Department. I have talked to several staff members who have confirmed the receipt of the package, but that no description was recorded. The letter from the Denison Industrial Foundation was the only paperwork not completed and turned in for our application. It was not due until June 14, and was mailed overnight on May 18, a month before it was due.

And we feel that the reason for the Department's decision is not adequate for the denial of these points. The denial is currently deducting 17 points from our application, and we sent this document UPS, overnight, and have signed confirmation that the Department received it, signed for it, and it is the only piece of paper left. It

is better than a fax.

And in you all's paperwork, you will see the receipt that is printed out where we paid for it. The person from the Department that signed for it, everything. And if you also go back and look at the dates of the letter, it was not something we were doing at the last minute.

We had the letter well on May 4, and it wasn't due until June 4. So we had a letter giving us the forgivable loan for \$75,000 way in advance of needing to turn it in, and we sent it UPS overnight. And on our first page of the appeal, you will see the time line.

There is seven steps that take you from February 15, when we met with the Denison Industrial Foundation, and they gave us the letter, you know, saying that, yes, we have met with them, and, yes, we will give them the loan, all the way down to where we get the commitment from them, on the fourth, and it is mailed to the Department on May 17, but via UPS ground. So we are requesting that you accept our appeal, and approve the points.

MS. ANDERSON: Thank you. Questions? Thank you, you may step down.

MS. JOYCE: Just to make comment. He is correct in that the time line and that we do have, he was able to provide proof that something was sent and received by the

Department, to the Department; however, we cannot confirm ever receiving that letter until the 18th. And that is unfortunate. Until the 18th of June. It was due on June 14th, and because we have no proof of that receipt, we cannot consider it.

MR. BOGANY: But didn't he say somebody in the Department signed for the letter.

MS. JOYCE: He said signed for the letter, but it was signed for the package. I was able to track down and find that yes, we did receive something by UPS, there is no description from the UPS in any of the documentation that he provided that it was that particular letter.

MS. ANDERSON: Do you stamp individual documents inbound when you open those packages? What do you have in his file that is stamped around that date?

MS. JOYCE: Nothing.

MR. BOGANY: But you have a UPS receipt that somebody signed for your letter?

MS. JOYCE: Yes, sir. And it was received in our mailing department, within the Department. Never did we receive it in multi-family, according to any of our document.

MR. RUMSEY: It was signed on May 18 at 11:03 by McRae, M-C-R-A-E. And it is in your packets.

MS. JOYCE: I would also like to add, and I am

certainly not in any way indicating that he is being dishonest, but we have no way of knowing that anything was directed to multi-family. We only know that it was received by the Department. It could have been anywhere within the Department.

So, I hope you can see why staff recommended -

MR. RUMSEY: That is incorrect.

MS. ANDERSON: Wait. Let's not -- I am going to ask that we not have a debate between the staff and the applicant. Okay. If we need to ask you a question, Mr. Rumsey, we sure will. Okay.

MS. JOYCE: And I am certainly not meaning to imply that at all. It's just that we didn't know.

MS. ANDERSON: So what we know is that something was signed for from this applicant in the mail room --

MS. JOYCE: Correct.

MS. ANDERSON: -- on the morning of the whatever.

MR. CONINE: The receipt I am looking at says: Attention, Brooke Boston.

MS. JOYCE: Oh, it might have. We didn't have that in our -- in multi-family.

MR. CONINE: I am going to withdraw my motion to deny it. I am withdrawing my motion.

MS. ANDERSON: Do you want to make another one?

MR. CONINE: Yes. I move that we approve the

appeal.

MR. BOGANY: Second.

MS. ANDERSON: I am not trying to be unduly slow here, but since this is the first time that this board has seen these documents. We didn't have these a week ago. So has everybody reviewed the documents?

MR. CONINE: It's just a matter of a lost piece of paper.

MS. ANDERSON: I just want to make sure that -

MR. GORDON: I have one question of the staff, I guess. We don't have anything in our files or your files that refutes what the applicant is saying is that correct?

MS. JOYCE: Unfortunately, no.

MR. GORDON: Okay. That is good. Thank you.

MS. ANDERSON: Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. 04188, Ambassador North Apartments.

MS. CARRINGTON: And for the board's information,

and the public's information, this is the last one.

MS. ANDERSON: There is a lot of comment on this.

(Discussion was held off the record.)

MS. ANDERSON: So, Ambassador North.

MS. CARRINGTON: The staff's presentation on Ambassador North. This is an application that was terminated.

It is a rehabilitation of an older property. And the reason that the application was terminated is because there is a requirement in the Qualified Allocation Plan that the project may not have more than two bedroom -- no more than 45 percent of the unit mix can do two-bedroom units.

And in this case, more that 45 percent of the development was going to be two-bedroom units and, see, I remember correctly on this one. Did it also include a combination of rehabilitation and new construction?

MR. WITTMAYER: Yes.

MS. ANDERSON: Okay. So, it is a combination of rehabilitation and new construction. So because of the new construction component of it, we applied the no more than 45 percent of the two-bedroom mix to the eligibility for this development.

MR. CONINE: What did the new construction component, how did it break out. Forgetting the combination

of the new with the old?

MR. WITTMAYER: Chris Wittmayer. There were 20 additional units added of new construction. They were all one bedroom. The QAP requirement says that any development involving new construction has to meet these bedroom percentages. So the issue is, this is kind of in the middle ground.

It is not all rehab. It is not all new construction. We have got 20 new units. It is up to the board to determine whether or not they are required to meet the bedroom mix in those circumstances.

MS. ANDERSON: Ready for public comment?

MR. CONINE: Yes.

MS. ANDERSON: John Shackelford? The next person will be Amay Inamdar. I called you so that you can be staged and ready. Because we have been at this a long time, and nobody has had lunch, us or y'all. Mr. Shackelford, if you would proceed.

MR. SHACKELFORD: Thank you. And Madam Chair, members of the board and Ms. Carrington. So we just want to highlight the things that are in our appeal letter back to the Department. This is, as was stated by Wittmayer, a sort of a unique situation we had here, where we have a equity rehab application. It involves only the addition of 20 new

units to it.

Our argument is essentially that under the QAP, I am not trying to be cutesy here with the board by any means, but there is no definition under the QAP for what new construction constitutes. If you have a rehab project, and you are putting in a new clubhouse, does that constitute new construction that would then make the developer have to comply with the bedroom mixed percentages of the QAP? It is merely adding a new maintenance facility.

Again, I suggest to you that I don't think that was what was intended by the board under new construction.

And I think we have a unique situation here that was maybe not contemplated, where we don't have a defined term of new construction when it was used in the QAP here. And we would respectfully ask the board to reinstate the application of this particular applicant.

MS. ANDERSON: Thank you. Sir, I am sorry. I keep messing this up. Mr. Inamdar. And the next person will be Robert Cash.

MR. INAMDAR: Madam Chair, members of the board. My name is Amay Inamdar, and I am with Creative Choice Homes, the proposed developer for Ambassador North Apartments, application 04188. I am here today along with several supporters to contest the two assessments behind the

termination to be addressed further by other supporters.

The first issue concerning the unit mix restriction of two-bedroom units to 45 percent of total units applies for developments involving new construction. We respectfully contend that the phrasing of this rule suggested that it applied only to new construction developments. Ambassador North is an existing community with 60 two-bedroom and 40 one-bedroom units. A 60 percent two-bedroom mix. We are adding a net gain of 14 one-bedroom units for a final mix of 60 two-bedroom and 54 one-bedroom units.

This is an improvement from 40 percent two-bedroom to 47 percent two-bedroom. There is no additional land to build further one-bedroom units, nor would it have been economically feasible or marketwise to demolish two-bedroom units to achieve the required mix. I respectfully contend that our application would hence be terminated for rehabbing an existing community and improving the unit mix as close as possible to the QAP desired mix.

I do not believe that was the intent of the rule.

The second issue, Ms. Anderson, which you didn't bring up, but was in Ms. Carrington's letter, concerns the one-mile rule. Ambassador North is within one mile of an existing tax credit project. Can I address that at this point?

Again, we contend the term "construct a new

development" not only firmly led to the interpretation that this was applicable only to new construction, but I also testify that during the Austin workshop hosted by the TDHCA staff, I was explicitly told by staff members that this did not apply to acquisition rehab properties. We surely never would have considered such an investment in time, capital, and energy had this not been the case. I also ask the board to take into consideration one final thing: the overwhelming support this project has received from residents, community members and legislators.

MS. ANDERSON: I ask you to wind up, sir.

MR. INAMDAR: Yes, ma'am. A small representation of which left Houston at 5:00 this morning to be here today. Could I ask that they please be allow to stand and be recognized?

MS. ANDERSON: Yes.

MR. INAMDAR: Thank you.

MS. ANDERSON: Thank you for being here.

MR. INAMDAR: Thank you very much for considering these appeals.

MS. ANDERSON: Mr. Cash? And the next person will be Lee Arrington.

MR. CASH: Hi.

MS. ANDERSON: Hi.

MR. CASH: I'm Bob Cash. I am chief of staff for State Representative Kevin Bailey. Representative Bailey asked me to read you this letter. "Dear Members of the Board: I am writing in regards to the appeal for housing tax credits by Creative Choice Texas for the rehabilitation of Ambassador North Apartments complex, located at 8210 Bohm Road in Houston.

"The existing complex is located in my legislative district, and is in serious need of rehabilitation. I am appalled that the TDHCA staff has determined that this project is ineligible for further consideration. Rehabilitation of aging apartment complexes is rare. Yet, if we are going to reverse the blight in my district and have a coherent plan for sustainable economic development, we must have rehabilitation of existing aging complexes.

"This applicant moved aggressively to reduce crime at the complex and to stabilize the deteriorating structures.

They reached out to the community and elected officials with a positive vision of promise for restoration of an old deteriorating property. This is rare in my district. The plan for economic rebirth capture the imagination of the community.

"Longtime residents, seeing the obvious changes brought about by Creative Choice in addressing criminal

activity at the complex began to believe that a new day was at hand. The letter dated July 2, 2004, from executive director Carrington states that it should also be noted that the proposed development is located within one mile of a development that has received an allocation of HTCs for new construction during the three-year period preceding the date of the application round began.

"I find it curious that Ambassador North Apartments project has been singled out when a separate application for HTCs, namely Oxford Place on the approval list is located within the one-mile radius of Arbor Oaks, the development referred to in Ms. Carrington's letter. Both the Arbor Oaks and Oxford Place are new construction, while Ambassador North is an existing complex, which more readily meets the standards the HTCs were established for.

"Furthermore, in a letter I have received from Houston Mayor Bill White, the City's priority as addressed in the City's Annual Consolidated Plan is rehabilitation of existing housing stock, rather than new construction."

MS. ANDERSON: Sir, I need to ask you to wrap up.

MR. CASH: "I would urge the board to carefully consider the Creative Choice Texas and overwhelming support from me, Senator Mario Gallegos, and the community as a whole. Sincerely, Kevin Bailey." Thank you.

MS. ANDERSON: Thank you, sir.

MS. ARRINGTON: Lee Arrington, Northline Park Advisory Council. I would like to use my time to give these exhibits and then the balance of my time I would yield to Paula Parshall.

MS. ANDERSON: Paula? Thank you, ma'am.

MS. PARSHALL: Good afternoon. I am Paula Parshall, president of the Northline Park Advisory Council. We are here today to support application number 04188, Creative Choice and their contribution to the preservation of affordable housing. Our community supports affordable housing. During the 2004 tax cycle, we have diligently worked, as you can see, on seven applications, and this is the paperwork, the most that any other neighborhood has ever received in the City of Houston.

Out of the seven applications, we voted in favor of a new multi-family facility and two rehabilitations, one of them being Ambassador North. Furthermore, we are cognizant of your one-mile rule, clearly stated in your QAP, and totally understood that only one applicant could be selected. Community members voted overwhelmingly to support Ambassador North on Thursday, February 26.

Furthermore, not only does this project have solid community support, but it also has the support of local

officials and of course, our state rep and our state senator.

This facility is 40 years old. It is in deplorable state, as you can see from Exhibit 1 that we have given you. It is a blight to our community and a hazard to the residents who live there.

Creative Choice has truly exemplified the desire to build a partnership with our community. They contacted us and our officials early in January to introduce themselves and their proposal. It was evident that Creative Choice wanted to become familiar with our community and its needs. A letter of community support, which was sent to TDHCA, which scored a total of twelve points was signed by eight community civic organizations.

And I want to point out those are officers of those organizations. It is not just one, it is eight civic organizations which, again, have total community support. We took our role as participants in quantifiable community participation very seriously.

We have worked diligently to evaluate each application. It would make a mockery of the very system you created that we attempted to work within, if you rejected this application that we so strongly support. We plead with you to honor our wishes and vote to fund application 04188 and the preservation of affordable housing. Thank you.

MS. ANDERSON: Thank you. Ms. Hall? Mr. Hall?
And next will be Mr. Sanchez.

MS. HALL: My name is Ilta Hall. Because I grew up in the same neighborhood, I remember when Ambassador North Apartments were new. It was a busy place filled with families and single working people. By the time I attended junior high nearby, children were instructed not to walk near these apartments because undesirables had moved in, and the complex was beginning to look rundown.

When I bought my home in the area, I continued to avoid Ambassador North because I didn't like what I saw.

The apartments were starting to deteriorate and police cars were out front and were commonplace. There always seemed to be trash outside, as well as junky cars and suspicious characters. As time passed, I noticed more decline at the apartments.

Then last year, a co-worker told me about her friend who had asked her to check on his apartment at Ambassador North while he was gone, and she shared with me about the problems she saw. Not long ago, my co-worker told me that changes were taking place at Ambassador North. Many problem tenants were gone, and a security guard was patrolling the property.

She found out that Creative Choice had proposed

a revitalization project to rebuild, repair and improve this complex. I had an opportunity to tour the complex, and I discovered that the apartments were in poor condition. There were flooding and drainage problems in the courtyards, rotten walkways and stairs, and leaning carports.

The children's playground was overgrown and the equipment in ruin. Individual apartments had leaking pipes, mold and mildew, worn filthy carpet and safety hazards. There was standing water that had soured and turned green. Families living there should not have to tolerate such conditions that threaten the health and welfare of their families.

Creative Choice has a big job on its hands, but they seem willing to tackle this project, and work with the community to bring positive changes and help restore the neighborhood that I knew as a child.

MS. ANDERSON: We need to ask you to wrap up.

MS. HALL: I want to see Creative Choice be granted tax credits to revitalize Ambassador North Apartments and make the complex a good place for families to live.

MS. ANDERSON: Thank you very much. Mr. Sanchez?

MR. SANCHEZ: Good afternoon. My name is Joseph Sanchez and I am here to ask you today to give Creative Choice the funding they need to rebuild the apartments to make it a better place for me and my family to live and also the other

residents of the Ambassador North Apartments.

MS. ANDERSON: Thank you. Thanks very much. Okay.
Questions for staff?

MR. BOGANY: A question. What, after reading through the appeal, Mr. Wittmayer, is the issue the one mile, or is it the 20 new units. Because it seems like in the past we have voted on units to be constructed that were being rehabbed and I think it was in the City of Dallas. I thought we voted on something that was being rehabbed and they were sprinkling in some new units in there. What is the real issue?

MR. WITTMAYER: There has been a lot of comment on various issues, but the appeal has to do with the bedroom mix.

MR. BOGANY: Okay.

MR. WITTMAYER: Do they have an eligible bedroom mix? The requirement of the QAP is that any development involving new construction has to meet the bedroom mix. Staff determined that this was kind of a unique situation. We have got some number of additional new units, also with rehabilitation. And they determined that did involve new construction.

Now ultimately, it is up to the board to construe the QAP as to whether or not it is required that they meet the QAP bedroom mix, or because of the unique facts here,

whether it is not required. A separate issue not involving this appeal has to do with the one-mile one-year rule. And I understand that there is another competing application and only one of the two can be funded because of the one-mile one-year. But that will just be resolved based on whoever has the best score and whoever rises to the top and gets the allocation, ultimately.

MR. BOGANY: Okay.

MS. ANDERSON: I have a question for Mr. Shackelford. The letter from the executive director denying the appeal notes that you were given a deficiency notice on May 26, and that informed of this issue, and that in your deficiency response, you chose not to remedy the situation. Can you explain to me why that is? Or maybe I shouldn't have asked for you.

MR. SHACKELFORD: It's really more of a business issue, but as I understand it from Mr. Inandar, it is the economics of rehabbing the development to make it comply with the bedroom mix percentages was not economically feasible.

MS. ANDERSON: Okay. Thank you. I got the answer I needed, thank you.

MR. INAMDAR: Okay.

MS. ANDERSON: Do you have some questions?

MR. BOGANY: Ms. Carrington?

MS. CARRINGTON: Yes, sir.

MR. BOGANY: Are we saying that because these units are being constructed that it throws the bedroom mix off. If it was just left alone and just completely rehabbed it would be okay?

MS. CARRINGTON: If it was 100 percent rehabilitation with no new construction, then we would not have had the percentage requirement on the bedroom sizes. But because it involves 20 units of new construction, then we felt like the requirement in the QAP limiting the number of, in this case, two-bedrooms to 45 percent did apply.

MS. ANDERSON: If it was all acquisition rehab, would the one-mile rule apply, and the requirement for HOPE VI funds apply?

MS. BOSTON: To clarify, there is two one-mile rules. The one-mile three-year rule is only applicable for new construction and so no, if we are talking the one-mile three-year. If it were purely acqui-rehab, it wouldn't apply.

The one-mile one-year, which actually is in play this year for this specific one is not specific to new construction or rehab, which means that it applies universally to everyone.

So, if this gets reinstated and is put on the list, then only this one or another one that is on the list will

get an award. But that is really not totally germane to the decision.

MR. BOGANY: Have we ever had an instance like this where we had a rehab and new construction all kind of mixed in at one time. It looked like we did a project in the City of Dallas.

MS. BOSTON: We have. They are not uncommon. This is the first year where it has triggered some of our potential ineligibility issues or ineligible building types to come into play.

MS. CARRINGTON: This is the first year of the QAP that we have had the restrictions on the number or the percentage of units per bedroom size.

MR. SALINAS: These units are not in use right now, are they?

MS. BOSTON: Excuse me?

MR. SALINAS: They are not in use right now?

MS. BOSTON: I don't know if they are occupied right now, or not. Their property, is it occupied?

MR. SHACKELFORD: It is occupied.

MS. ANDERSON: Mr. Bogany?

MR. BOGANY: I'd like to make a motion that we approve the appeal on Ambassador North Apartments. And one of the reasons: we are here to try to provide affordable

housing and if you have also got a blight in the community, and I know what the rules of the QAP, and this is sort of unusual to me. But I feel that as though we can't do anything but help that community by putting those 20 units there. And also rehab the properties.

And it still has to go through the same scoring process and it may make it. It may not. But I would hate to kill it here and, well, I'll give it an opportunity because we are trying to improve that community and those apartments.

And 20 units, new units in there can't do anything but help.

And I would just really truly like to see it going through the process. And that is why I would like to make that motion.

MR. GORDON: Second.

MS. ANDERSON: Discussion? Questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: We are going to take a ten-minute break. We can't wait any longer to take a break. But let's make it ten minutes and then we'll come back and pick up the agenda. Thank you.

(Whereupon, a short recess was taken.)

MS. ANDERSON: Today, there have been several times where there were QCP appeals, the quantifiable community participation, where the board, I believe -- but I just want sort of a nod from everybody, that we accepted certain of the neighborhood organizations letters.

And so the question, just the staff has asked for clarification is whether you want the staff to evaluate whether the letters qualify, or is that what the board determined, and therefore you just want the staff to score the letters? And I believe it is the second option. I have one nod, two nods, three nods. Okay. Does that clarify it for you? It is to score the letters.

MR. WITTMAYER: To score the letters. Yes, ma'am.

MS. ANDERSON: Okay? Thank you. Okay Grace at Commons 04224.

MS. CARRINGTON: Las Villas De Magnolia.

MS. ANDERSON: Did I skip one? I'm sorry.

MS. CARRINGTON: Yes. And this transaction based on the appeal, based on what I have. Okay, I'm sorry. Never mind.

MS. ANDERSON: Okay. 04224, Grace of Commons.

MS. CARRINGTON: Okay. The last one, then. The Grace of Commons. Commons of Grace Senior is the last appeal

that we have. And the appeal, at least as written in the book related to the subsidy letter, the commitment letter from the City of Houston. And the staff had previously denied that.

They were also appealing their seven pre-application points, and I would presume, although I always hate to do that, but I think that when the board acted earlier, you all did take these, and basically said that would apply to all of the applications who had been denied these points.

MS. ANDERSON: Yes, we did. So the remaining issue is?

MS. CARRINGTON: There really is no remaining issue. If we reinstate the points for the commitment letter, then they will therefore receive the seven points for the pre-application.

MS. ANDERSON: Okay. So I have several witness affirmation forms on this. Do you want to testify?

VOICE: We don't need to talk to you.

MS. ANDERSON: Okay. Thank you very much. That was the right answer. Okay. The only two items on item 2a, I have witness affirmation forms from Mr. Dick Kilday and Mr. Les Kilday. Right. We are going to go ahead, and then they can testify if they want. So, item 2b is the issuance of determination notices on tax-exempt bond transactions with

other issuers. First item is 04427, Rosemont at Old Manor in Austin, Texas. Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair. This is a new construction of 250 units. The issuer on the transaction is the Travis County Housing Finance Corporation.

It is a family transaction. And the staff is recommending an allocation of tax credits in the amount of \$906,289. This is a Priority One A transaction.

Fifty percent of the units will be set aside for rent caps at 30 percent of area median family income and the remaining 50 percent will be set aside with rent caps at 30 percent of 60 percent of area median family income. And you do have on your tax credit summary page indication of support or opposition on this transaction, support from the state representative, the state senator, the county judge and other elected officials in the area.

MR. GONZALEZ: Move we approve it.

MS. ANDERSON: Is there a second?

MR. SALINAS: Second.

MS. ANDERSON: Questions? Discussion? I have several -- go ahead, Mr. Bogany. I have several witness affirmation forms.

MR. BOGANY: I guess I'll wait to hear what the witnesses have to say.

MS. ANDERSON: Great. Thank you. Craig Alter? The next person will be Jerry Wright.

MR. ALTER: Good afternoon, board. Craig Alter with Southwest Housing. I just want to state that we have individuals here who are ready to respond to any questions you might have; otherwise, we'll reserve all the time that you need for your consideration.

MR. BOGANY: I have a question. With the slowness of the apartments right now, with it being very soft, how do you feel that this is going to work? I know that in the market study at first it didn't. There was some things in the market study that did not come through. The units were kind of skewed through the market study, and I guess the market person went back and redid the study, and took some units out that might have been closer, whatever, to this particular project. And with the softness of the apartment market in Austin, how do you feel that this is going to be a success?

MR. ALTER: All right. Well, we feel very strongly that this particular submarket is a very strong submarket for this product. And to specifically answer that, I would like to get Charles Heimseth with Capitol Market Research up here. Charles?

MR. HEIMSETH: My name is Charles Heimseth. I

am the president of Capitol Market Research. And I did the initial feasibility analysis for this project. And I am an Austin-based real estate consultant. We do periodic surveys here in Austin twice a year. And we just most recently finished our survey in June of 121,000 units, 554 apartment communities.

And the Austin market, is, in my opinion, on the rebound. For the last 18 months, we have had steady increases in occupancy. And we are currently at 90.3 percent occupancy.

We have kind of passed over that magic 90 percent mark. And the pipeline is relatively sparse. There are very few projects under construction and planned in the near term, and it is our firm opinion that since occupancy is a leading indicator, that the market is poised for a turnaround. If you couple that with the job growth that we have experienced for the last five months here in Austin, it is my very strong opinion that the market is on the rebound.

MR. BOGANY: Okay. Thank you.

MS. ANDERSON: Mr. Alter, I have one question for you, please sir? Our underwriting report notes that the housing tax credit allocation subject to receipt of a revised rent schedule that lowers the rents to at or below the 50 percent level. Is Southwest Housing prepared to agree to that as a condition of moving forward?

MR. ALTER: Yes, ma'am.

MS. ANDERSON: Thank you. Do you have a question?

MR. BOGANY: I have a question.

MS. ANDERSON: Okay.

MR. BOGANY: Tom, in regards to the market study, did you get one earlier, or did the original market study come in, and looking at the marketplace in Austin, that it fit all the criteria that we normally have that we need?

MR. GOURIS: The initial market study?

MR. BOGANY: Uh-huh.

MR. GOURIS: It did not meet what we felt like was all the criteria that we needed. And we went back to the market analyst and we asked them to clarify some things that we felt like.

MR. BOGANY: Okay. How did he clarify and what did he do?

MR. GOURIS: Well, we met with him, and he provided additional information with regard to the number of comparable units in that market area. The number of market units that were in that market area. He also revised some of his demand numbers based on some calculation errors that he found and we agreed that those appeared to be worthy changes.

MR. BOGANY: So you looked at the study and said, oh, this doesn't work. Then you met with them and said, hey,

we need some clarification on some things. And now that they have clarified, that you were okay with the market study?

MR. GOURIS: Well, we had better information with regard to the demand for units in that area. We felt like that market study did not support the proposed project as originally proposed with 60 percent units, because we felt like there was competition with the market units in the area that were priced at the same level as their 60 percent units would be priced.

Therefore, we felt like there was a problem with the market and saturation in that 60 percent income level and rent level. And subsequently, we worked through some of the discussions about what could satisfy that, and we realized that if the project was dedicated to 100 percent at 50 percent income level, those market consideration, market concerns wouldn't be affected because tenants at the 50 percent level wouldn't be able to afford to live at these market-rate units that were affordable to 60 percent.

MR. BOGANY: So they basically made them, lowered the rents to make them more affordable to those that are at 50 percent level. I guess what I am getting to is that I bring you a study. I do my market analysis and you say, well, this doesn't really look right, and it doesn't fit. And then I go back home and I say, okay, let me fix it up and see what

I can do to make it fit. So then I pull out things and add things and pull out things to try to make it work. And I don't know if that is the spirit of what we are trying to do.

And considering that the market is still soft. And it may be rebounding here. But I am just trying to get some idea to make sure that you are okay with the numbers.

But I can move things around and make anything work, and any market analyst if he gets one shot and it doesn't go through, he can always go back and re-analyze it and make it work. And I am just trying to make sure that you are okay with that.

MR. GOURIS: We are okay with it. The way that we have outlined it here, we are okay with it. That is a problem for us, obviously, to re-trade transactions or to re-deal the transaction. We prefer to get a transaction that is ready to go and doesn't have any of these issues. The time frame -- see, this is a bond transaction, not a 9 percent transaction and the time frames and the way the bond program works, it historically worked, is that it is continually evolving. The transaction continues to evolve.

And we could take a hard-line approach and say it is what it is when we get it, and that is all that it is, or we can take a more flexible approach, which is what we tried to do with the bond transactions and try to figure out

is there a way to make this, to see that we can see some mitigation to see that this transaction works.

MR. BOGANY: And what they did was lower the rents?

MR. GOURIS: What they did was lower the incomes.

They actually already had, when the way this came to us is that they had already proposed to rent at this lower level.

They hadn't proposed to rent to this lower level of income level for half of the units. Because that would give them the ability to raise rents up and be competitive with these market units. That is why they were, that is why the thought-process came about to be, well, if we restrict them out of these lower income levels, then we wouldn't ever be in competition with those market units.

MR. BOGANY: All right. Thank you.

MS. ANDERSON: Any other discussion? We have a motion, right?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Heatherbrook Apartments in Port Arthur, from the Port Arthur Housing

Finance Corporation is the issuer. 04430.

MS. CARRINGTON: This is the proposed rehabilitation of 256 units in Port Arthur. It is a family transaction. This property was built in 1984. There is a housing assistance payments contract on this property for all 256 units. They have chosen the same priority, 1A, which is 50 percent of units that cap rents at 30 percent of 50 percent AMFI.

And also the second part, 50 percent of units that cap rents at 30 percent of 60 percent AMFI. Their direct construction costs, hard costs on this are going to be a little over \$10,000 a unit. And the staff is recommending a tax credit allocation amount in the amount of \$421,398. And basically, no letters of support or opposition, but a certification from the director of City Planning, the City of Port Arthur that says it is consistent with the local consolidated plan.

And on this particular development, the only conditions that we have are the conditions that you always see on a bond transaction. And that is that we are looking for an executed agreement with a qualified service provider and should the terms or rates of the proposed debt change, that we would want to be notified of that, so that we could see if any change was warranted in our credit amount.

MR. BOGANY: Move for approval.

MR. GORDON: Second.

MS. ANDERSON: Any discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Now, we move to item 3, presentation, discussion and possible approval of programmatic items. The first one is -- Susana, do we need to do the bootstrap awards today, or can these be deferred to the -

MS. GARZA: These are awards for August 31.

MS. CARRINGTON: The bootstrap awards. This is a self-help program using sweat equity. They are loans. The amount of money that the Department provides is \$3 million on an annual basis to very low-income families, and they are families who are at 60 percent or below of area median family income. Our loan cannot exceed 30 percent -- \$30,000 per unit. They can combine our loan with other funds. However, the combined loans cannot exceed \$60,000.

We are required by our statute to make available

3 million per year for this program and where this 3 million is coming from is out of the Housing Trust Fund program. And we really have two components to this recommendation. The first is that at least two thirds of the awards or 2 million be available for owner/builders whose property is located in an area that is eligible to receive funds under the Water Development Code, and that is basically housing properties that are along the Texas-Mexico border.

The remainder of the funding, which is one third, can be made available to department certified nonprofit owner-builders statewide. We are recommending 11 applications to you all today. We actually received 13 applications that exceeded about 4.4 million.

If you go to the second page of your board summary, you will see those applications organized by the two-thirds that are located in the economically distressed counties, mainly all on the Texas-Mexico Border, and then the one-third that qualify for the state applications. And then the two that staff is not recommending. So we are recommending approval of these 11 applications for funding under our 2004 Texas Bootstrap Loan Award program.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Thank you. Okay, do you have

something you would like to say, Susana?

MS. CARRINGTON: Did I miss something, Susana?

MS. GARZA: I just need to make a correction.
We got in 11 applications and we are recommending nine.

MS. CARRINGTON: Excuse me. Thank you.

MS. ANDERSON: Okay. And I have a question for you. The El Paso Association of Adult Educators. Can you just tell me very briefly what qualifies them to participate in this program, because I don't -

MS. GARZA: They do self-help housing, and their financial design met all of the criteria. The program design did as well. They are leveraging resources and they have done self-help in the past.

MS. ANDERSON: In housing?

MS. GARZA: Housing.

MS. ANDERSON: Okay. Thank you very much. Any other questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 3b.

MS. CARRINGTON: The next item for your consideration is to file a request to the Texas Bond Review Board for reservation of private activity bond authority. This is for our 2004 bond authority for our single-family program. And we must by resolution, which is attached in your book, make this application, submit this reservation to the bond review board requesting this private activity bond authority.

We are requesting \$165,151,534. And this application and resolution must be to the bond review board prior to August 15 of 2004. You will be seeing from us later in this year a proposal, or several proposals on how we will be recommending that we utilize this bond authority for single-family, but right now this is requesting our reservation.

MR. BOGANY: So moved.

MR. GONZALEZ: Seconded.

MS. ANDERSON: Discussion? Questions? For the record, the resolution number, Ms. Carrington?

MS. CARRINGTON: 04050.

MS. ANDERSON: Thank you. Hearing no discussion or questions, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 3c, Ms. Carrington?

MS. CARRINGTON: The next two items for your consideration, we will take separately, but 3c and 3d are both connected to the restructuring of our single-family program, which was 57A. And the first action that we asking you to take under 3c is to allow the staff to terminate the requirement that a portion of these funds, actually that \$10 million of the original amount under 57A include the Fannie Mae expanded approval program.

It has been a component of this bond program for two years now, and you can see at the bottom of the summary page, that the lenders have originated about 500,000 when we finish those loans that are in the pipeline. So we have 9.5 million of these funds that are still unused at this point.

Having this provision in 57A is creating a real drain in negative arbitrage on this particular bond issue and we are also, as we are recommending the elimination of the Fannie Mae expanded approval program, we are telling you that we are replacing that with another product that Fannie Mae has called My Community, which basically achieves what

we were attempting to achieve under the expanded approval program. Yet, the restrictions and the requirements are a little less onerous.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Questions? Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 3d.

MS. CARRINGTON: Mr. Johnson, did I leave anything out on 3c?

MR. JOHNSON: No, ma'am.

MS. CARRINGTON: Okay.

MS. ANDERSON: I asked him to come up just because I want us to be ready so we can --

MS. CARRINGTON: Okay. Thank you. And I note that we do have Mark Vanderlinden in our office from the Fannie Mae regional office in Dallas, and we have been working with him on the replacement to the expanded approval program with this My Community program. On 3d, as we are restructuring

57A, we want to make two recommendations to this board, and that is, number one, eliminate the down-payment assistance that we had with this program, which was up to four points?

MR. JOHNSON: Four points, yes ma'am.

MS. CARRINGTON: Four points? Thank you. And then we were also requesting to reduce the interest rate of this program which is at 5.9, and the board had previously taken some action to reduce it down to 5.9. And what we are recommending that this rate go down further from 5.9 to 4.99 so that we would eliminate the down-payment assistance component. The interest rate would be at 4.99.

We have noted for you in your write-up that we had 70 million of 4.99 funds about three months ago, I guess, four months ago, that had no assistance with it. And our lenders have originated almost all of that 4.99 percent money.

So we are very comfortable that with having the remainder of 57A out, at 4.99, that it will allow our lenders to originate these funds. Byron?

MR. JOHNSON: Byron Johnson, director of bond finance. One clarification, as we would like to get approval to go down as low as 4.99. We feel that 4.99 is what the market clear in rate, but we have had some movement in the markets recently. The market has been very tumultuous. So we may even to get down to a 5.20 or 5.15 and still have the

money move out. We're still looking at that, but we don't want to set it specifically at 4.99 but have the flexibility to go down to 4.99.

MS. CARRINGTON: Thank you, Mr. Johnson.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: And the resolution is, and I know Elizabeth is on vacation this week, but whoever is supposed to look at this, the resolution, is it clear to go down to what you just said about maybe only going to 5? I mean obviously.

MR. GORDON: Yes, it does.

MS. CARRINGTON: As low as. Yes.

MS. ANDERSON: Okay. I have two questions. One is from the original rate, when we did the reduction to 5.9. But what did that cost the agency, and similarly, what does this rate reduction from 5.9 to 4.99 and we have to buy, and again, I am using layman's terms, but sort of buy-down these bonds. I'd like to know the financial impact of these decisions.

MR. JOHNSON: To go from the 6.65 to the 5.9 rate previously, and I am speaking off the top of my head, but it was approximately a million dollars. One or two million dollars. To go from the 5.90 down to 4.99, we estimate that

it would take approximately, it would be in the range of 1.6 to \$2-1/2 million. And what we have done is built into the resolution up to amounts. So it is not-to-exceed amounts.

MR. GORDON: So that would be your worst case, then if it went all the way down?

MR. JOHNSON: Yes, sir. What we have done is built into the resolution that there is no more 2.1 million of the zero percent funds, and another 3-1/2 million of cash available.

MR. GORDON: Okay.

MS. ANDERSON: Would you repeat that? How much bond, and how much was in cash?

MR. JOHNSON: 2.1 million zero.

MS. ANDERSON: Okay.

MR. JOHNSON: 3.5- in cash. But those are not-to-exceed amounts.

MS. ANDERSON: Okay. Any other questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Thank you Mr.

Johnson.

MR. JOHNSON: Thank you.

MS. ANDERSON: Item 3e.

MS. CARRINGTON: Item 3E has been deferred for later.

MS. ANDERSON: Sorry. You are absolutely right.

Okay, item 4. Presentation, discussion and possible approval of department rules. Item 4a is adoption of an emergency amendment to the 2004 QAP and rules.

MS. CARRINGTON: Two actions.

MS. ANDERSON: I'm sorry. I think I have just my tabs in the wrong -- we need to make sure that everybody has that.

MS. CARRINGTON: Ms. Boston, may I ask you to come on up as we begin to talk about, really, the two actions that we are discussing under 4a and 4b? The first would be to adopt an emergency amendment to the 2004 housing credit Qualified Allocation Plan that would ensure compliance with the Attorney General opinion, GAO-0208.

And then the second part of this will be to approve that proposed amendment for public comment to the '04 QAP to ensure compliance with the Attorney General opinion. So first, adopt my emergency amendment, and then second, approving the publication of that amendment to go out for

public comment. And I would like to ask Ms. Boston to go through the amendment with the board.

MS. BOSTON: Okay. At the June 28 board meeting, we had the list that we provided as a handout on the day of the meeting had reflected five revisions to the scoring structure. The first chunk of the amendment, that is shown in the black line QAP that you have in front of you were indeed the written tax that supports the changes that we had presented at that meeting. Those were that for leveraging, originally, the points had been a max of nine, and we revised it up to a max of 14. That was to make sure that it scored, basically fell between the 4th and 6th items as the highest scoring item, because prior to that revision, it did not fall in the right place.

And then four items, transitional housing, affordable housing needs score. Kind of casually turn to exurban points, which are development location points, and mixed income. Those all were interspersed within the nine, and they needed to be removed and made lower. Those adjustments were also made.

Since we provided your board book to you, we subsequently were revisiting the language and determined or recommending as part of our black line QAP today with amendments that one other change be made, and that is a handout

that I believe that Dolores has made sure that you all have and it is handed out to the public as well. Everybody should have one.

The new change is that we would be adding a new item, and it is for rent levels of the unit. When we had drafted the original QAP, we had, based on the way the program operates, we had combined the two scoring items. The third highest-scoring item was supposed to be the income levels of the tenants, and the seventh highest-scoring item was supposed to be rent levels of the tenants. Because of the way we operate our program and even monitor for long-term compliance, we basically handle incomes and rents the same.

So for instance, if the family has to have incomes at 50 percent, the rent is also at the 50 percent level. Because of that, we had drafted the QAP in a way that these were very much enmeshed, combined into the writing. If you look at the language of the exhibit which you have in front of you, it is the part that says proposed revisions to the QAP for emergency amendment and addition to the proposed revisions in the board book. And if you even just kind of peruse through the language in paragraphs 12A through C, you can tell that we use rents and incomes very much together.

That is why they were together originally; however, in going back, we felt like we could make an attempt at more thoroughly meeting the requirement of meeting the Attorney General opinion and the legislation if we created an item that was purely designated as rent level.

Now, I will be the first to tell you that it is a mostly a mathematical computation that gets us to this point where it falls in the right range. We haven't created a new policy. We haven't changed the scoring structure that people applied under. What we have done is because they were meshed together in the first exhibit and that low-income targeting exhibit already. That was Exhibit 12 and 13, and it was for a combined total of 20 points.

That needed to still be at 20 points, so that it stayed as the third highest-scoring item. So the only way to kind of resolve the rent issue and have this new seventh high-scoring item was literally to create a new item and add more points. Our suggestion is to do just that. To create a new scoring item.

It is specified as rent levels of the units. It is tied inextricably to the low-income targeting exhibit. And we have done it as a proportion. So if, for instance, an applicant, you were eligible for up to 20 points for low-income targeting. If an applicant had gotten 16 points,

that would have been 80 percent. So we are saying, okay, commensurately, for this rent exhibit, you would get 80 percent, because you have already represented how you are handling your rents through the application that you turned in originally.

And so in that case, because we are proposing a max of ten and apply 80 percent, they would get 8 points. We have this black-lined in the handout for you. I have preliminarily -- we do not have any lists, but I can preliminarily tell you from the list we gave you on the 28th, if I were to implement this, and account for the fact that we have had a couple of withdrawn applications, keeping in mind our database is cumulative.

I can't tell it to retroactively show some instances and not others. So if you account for the fact that we have had a few withdrawals. There were a couple of appeals at the executive director level that had point changes since the meeting on the 28th that would also be reflected in this. But it is my -- in my review, we would be only negatively impacting four developments and we would be positively impacting five developments by making this change in addition to the other black line that we had already proposed.

MS. ANDERSON: Questions?

MR. GORDON: What is the purpose of this additional change? Is there a compliance?

MS. ANDERSON: Compliance with 264.

MR. GORDON: Okay.

MR. BOGANY: Brooke, I have a question. The gentleman earlier who spoke several times mentioned that he thought it should be 3-6-9 on the leveraging site. What is your take on his thoughts on that? And why didn't we do it like that? I just heard why you did it the way you did it, but I am just curious to see why you didn't you go that way?

MS. BOSTON: 369 was what it was before, and we had to increase it to make it consistent. We could have, we had to go above twelve points. We could have gone to 13, I suppose, but again, in our perspective that wasn't really easily divisible or anything like that. So we went up to 14. And you know, it was just we were from primarily eyeballing and looking at what proportionately looked like percentage-wise panned out.

We just as easily could have, it looks like one gentleman handed me earlier one where it looks like he is proposing that we do 5-9-14 because he feels like that is more proportional. That's fine. To some degree that's true, I think. As Mr. Conine said, it just depends on how you look at the map. And the gentleman earlier wasn't wrong, and I'm

not either.

MR. BOGANY: Okay. So the two projects where we were talking about leveraging earlier on their appeals, if we adopted your appeal, would those two projects be knocked out, or would they come on board as being recommended?

MS. BOSTON: I am glad you asked that. I can't speak to those two exact deals, but I can explain kind of what the dynamic was that was occurring. When we first released our recommended revisions at the last board meeting, you may remember that John Garvin with the Texas Affiliation of Affordable Housing Providers got up and he made a comment that he felt like this wasn't fair for people who had gone after low-income targeting points, because now leveraging was getting a competitive edge.

And the logic behind this was when we released the QAP originally, we said that we really want everybody to go out and get money. If you go out and do it, and you do 30 percent unit with it, we will give you up to twelve points. If you get the money and you aren't willing to do 30 percent units, we will give you up to nine points.

So we kind of gave that edge, if you had the money to do low-income targeting. But what happened when we added these leveraging points back, is all of a sudden we said, even though some of you all went after the greater number

of points, we are now basically boosting up the leveraging folks above that. Which obviously has appeared unfair.

And our only reason for not suggesting changing it at the time is that we didn't want to see everything kind of unravel into a snowball effect of all the things we could change with the scores. In this case though, by approving this new change, it actually bumps up the low-income targeting or rents above it, so to speak, and does rectify that. Now I can't say that on those two specific deals it will have that impact, but in a general sense, it will.

MR. BOGANY: Okay.

MS. ANDERSON: We have public comment on this item. Actually, it is on item 4, and I don't know which elements apply to 4 zone. Mr. Robert Joy?

MR. JOY: The handout that Brooke was commenting to was one that I had just given her, and here is a copy of it for you. As I look at the scoring breakdown in descending order of points this morning, I notice that under red levels, it says proportionally. Under housing needs scores, it says proportionally.

However, under leveraging and mixed income, there is no proportional and I have done a calculation on a proportional allocation with the new points. I understand why Brooke went to the 14. She had to. The AG said so.

I can see why she tried to go to 4-8-14 but I feel that it puts people at a disadvantage that did those lower levels.

They should be getting a proportional advantage too. And what I am asking for is for you to be fair, and equitably proportionally allocate the adjustment. Thank you.

MR. SALINAS: Is it fair to change the rules right now?

MS. ANDERSON: That is what we are doing. We actually are adopting and we were in the process of adopting an emergency rule. And what the discussion is, is what the content of the rule is going to be. Mr. Ken Smith?

MR. SMITH: Good afternoon, my name is Tim Smith. The question I have, I guess would be for staff, if this rule was adopted, would developments that were serving units at 30 percent qualify for these points, even if the subsidy points did not qualify?

MS. BOSTON: Good question. The answer is, what we did is we -- yes and no. A direct answer. Because the 20 points total for low-income targeting are a combination of both 30 percent points and 40 and 50 percent points, if for instance, someone had requested let's say, twelve points for the 30 percent units, and because they couldn't get the subsidy, we gave them a zero.

But then let's say they got eight points for the

40 at 50, they get the -- but whatever proportion eight is of 20 is what they would get on this new exhibit. So they would get credit for the 40 and 50 percent units, but not for the 30s since you didn't have the subsidy. Is how we have done it so far.

And I would also like to note, we did -- I kind of had it on my radar that if this gets approved for the folks who are getting their subsidy points reinstated, for instance, because of the Houston letters or something like that, they obviously will get this based on their reinstated score.

MS. ANDERSON: Do we have a motion?

MR. BOGANY: I move that we accept staff's recommendation.

MR. GONZALEZ: Second.

MS. ANDERSON: Questions? Discussion? I want to -- and I think the development community understands and hopefully appreciates how the department is trying to work very hard to be completely consistent with 264.

And I regret that this is another change in the rules. Even subsequent to the Attorney General, and that the changes we make to the rules of the road on the 28th, but we feel that we have an overriding obligation to be consistent with 264, and this is the best way that we know that the staff has told me that they know of, how to achieve

the consistency with 264 for 2004.

For 2005, as you all are well aware of, the QAP is not done, it is not even in draft form. There is a lot of opportunity to guide the agency and this board, as we prepare the 2005 QAP. So I just wanted to be clear that this is an effort to be consistent with 264, consistent with the Attorney General statute, and do it in a way that -- because we didn't have a separate application area for rent levels, the staff considered a range of possibilities.

My understanding that this was what they think is the best solution. And I just want to be on the record with that. Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 4b, proposed amendment for public comment to the 2004 housing tax credit QAP.

MS. CARRINGTON: What this item is doing is asking for the board's authorization to approve an amendment that would be identical to the emergency amendment that you just

approved. And that that would be publicized for public comment and after receiving public comment, staff will bring the rule back to the board.

MR. SALINAS: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Let's go to that item quickly.

MS. CARRINGTON: Yes. We will move to item 5.

MS. ANDERSON: Like 60 seconds, please. Item 5c.

MS. CARRINGTON: And there is one of the transactions on the three with the Department as the issuer that I know has an absolutely immediate closing date. That is item 5c, in your tab. This is Sphinx at Delafield Apartments. This application would be for 11,500,000 in tax-exempt bonds, which is what the resolution says. Your agenda has a number that is less than that.

This application is a priority one A. We are

recommending both the issuance of the tax-exempt bonds, not-to-exceed \$11,500,000. And an allocation of low-income housing tax credits at \$729,073. On the summary page, on the housing tax credit, you can see that it has support from Senator West, Representative Terri Hodge, and is consistent with the City of Dallas's consolidated plan. There are some conditions to the issuance of the bonds and the credits on this transaction.

They are fairly standard, perhaps with the exception of the acceptance of the noise study from ESA inspector by bond closing. The rest of them are support services and should the terms or the rate of the debt change, that the Department must be notified.

MR. GONZALEZ: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion? Questions? I have two witness affirmation forms. I don't think they are still here. Hearing no discussion or questions, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Thank you.

MS. CARRINGTON: I do suggest we probably go back

to 5a and 5b since they are also bond transactions and they may indeed have the same kind of issues. Maybe not.

MS. ANDERSON: Well, we are about to lose a quorum. So I guess my question is, when do these bonds close?

MS. CARRINGTON: 5a is Post Oak East Apartments.

VOICE: Twenty-seventh.

MS. CARRINGTON: The 27th, okay.

(Discussion was held off the record.)

MS. ANDERSON: When does the reservation expire?

VOICE: They always --

MS. ANDERSON: That is not my question. What is the date?

(Discussion was held off the record.)

MS. ANDERSON: I had forgotten how to add.

MS. CARRINGTON: She got bad advice from the executive director. Would you like me, Madam Chair, to do 5a?

MS. ANDERSON: Yes.

MS. CARRINGTON: Post Oak East Apartments. This is to be located in Fort Worth, Texas. It is new construction. The bond issuance amount would be in an amount not-to-exceed 13 million. There is a taxable piece to this of 700,000. Bedroom configuration is one and two bedrooms.

And this application is in the priority one B,

which would be setting aside 15 percent of the units at 30 percent of AMFI and the remaining 85 percent at 60 percent of AMFI. It is a variable rate transaction that was underwritten initially at 4 percent. At conversion, it will be -- it was underwritten at a blended rate of 6.127. We do have behind Tab 3 the tax credit recommendation amount, which is \$632,137. There is a note from the City of Fort Worth that is consistent with the consolidated plan.

The conditions on this development are located on page -- behind Tab 5. And there is a possible redemption of bonds that may be up to 1.1 million at conversion to permanent. We also need a flood hazard mitigation plan that would document the reclamation on the floodplain work, on the onsite work.

And there was a public hearing on this transaction.

If I remember correctly, there were very few people who showed up at this public hearing. We had two people who attended.

No one spoke in opposition. You do have a copy of that TEFRA hearing with you, and staff is recommending both the issuance of the tax-exempt bonds in an amount not-to-exceed 13 million and a taxable piece of 700,000 and then tax credits in the amount of \$632,137.

MR. GONZALEZ: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion? Questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The last multi-family for your consideration is behind Tab 5b. It is Churchill at Pinnacle Park Apartments. It is 200 units. It is new construction. It will be one, two and three bedrooms. A priority one transaction. Fifty percent of the units at 50 percent of AMFI and 50 percent of them at 60 percent of AMFI.

This one does have 40-year bonds attached to it. They are a fixed rate that were underwritten at 5.25 initially, and then 6.55 per annum. We are recommending a tax credit allocation in the amount of \$615,327. The underwriting conditions on the development only related to if the debts or the interest rate should change, that the transaction would need to be reevaluated.

This was also a transaction that had basically a few people attend the public hearings, not much public comment. Two people attended. Two people supported. And

we do have support letters from Senator Royce West, the state representative, the county commissioner and the city councilman in this area. So we are recommending both the issuance of the bonds and the 10,750,000 in bonds and tax credits in the amount of 615,327.

MR. GONZALEZ: So move.

MR. BOGANY: Second.

MS. ANDERSON: Discussion? I am sorry. I have one quick question. This setup where this developer is paying property taxes, and I am just confused, because I see that the development team that the owner of the general partner is a nonprofit, and so I guess my question is, what recourse does the nonprofit have as the 100 percent owner of the general partner, once this is built. What are their options in terms of obligations to continue paying property taxes versus being a nonprofit and attempting to take it off the rolls?

MR. GOURIS: Tom Gouris, director of real estate analysis. My understanding is that they have the ability to request an exemption, a 50 percent exemption. We have got no information that they are planning to do so, but if they do, it would improve their debt service coverage ratio, but this is a very tight transaction.

It will write at a 110, and so I don't have the numbers in front of me, but I don't think that is going to

be significant enough to go above our maximum debt coverage ratio. Because I think we would probably still be in the same spot. So it improves the cash flow for the property in that, and that so aggressively that we just wanted to say something about it.

MS. ANDERSON: It wouldn't take it above --

MR. GOURIS: 130. I had run the numbers recently, but I believe we checked on that.

MS. ANDERSON: Okay. Thank you. Any questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Oh, I'm sorry. We're going back to 4c?

MS. CARRINGTON: Yes, ma'am. 4c is requesting the board for the final approval of a new Title 10, Part 1, Chapter 1 under 1.17 of the Texas Administrative Code on department policy concerning alternative dispute resolution and negotiated rulemaking. The board approved the draft rule for alternative dispute resolution and negotiated rulemaking at its May 13 board meeting. That draft rule was published

for comment in the Texas Register.

The Department received no comments based on their draft rule, so what we are asking you to approve today is a rule that is consistent with Senate Bill 264, which requires the adoption of such a rule, and has not changed since the rule was approved by the board as a draft on May 13.

MR. SALINAS: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Questions? Discussions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. 4d?

MS. CARRINGTON: The final rule for the board's approval today is an amended rule for public comment procedures and topics at public hearings and meetings. This amendment will be included as Title 10, Part 1, Subchapter A, Section 1.10. The board has previously looked at this rule. It was in actually February of 2004, and the rule is published in the Texas Register. Subsequent to that final approval, the board made a minor revision to the rule.

We then published it again in the Texas Register. We did not receive any comments after the board made their comments, and what you have as attachment A, which are final version that you approved back in March, and then B, attachment D is the black line version of the amended rule which was the change that you all approved and there is one change to that, and it is under item E, related to topics.

And what you did was add some language. It is item number ten. It says any matter considered by the board to be relevant to the approval decision and in furtherance of the Department's purposes and policies of Chapter 2306, Texas Government Code. And that is under the heading of topics that the department shall consider the following topics in relation to a proposed housing development. The board made a change. It went out for public comment, no comments. We are asking you to approve it now again, as a final rule.

MR. SALINAS: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Questions? Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 6a, Mr. Dally.

MR. DALLY: Good afternoon, Madam Chairman, board members, Ms. Carrington. As you remember at the last meeting, I brought you a first draft of this operating budget for 2005.

This is the updated draft that we are bringing to you today for possible approval. You will note, we first have a graph showing our methods of finance.

Essentially, that is about what you saw in the last presentation. However, we did do some minor changes to this, and I will go over the details of that shortly. The page 1 and page 2 are essentially in the same formats, letting out the objects of expense and the methods of finance there on page 1. Then page 2 gives you a comparison of last year's budget to this year's budget, showing you some of the dollar changes and percentage changes.

We have a new page 3. And this brings you, and shows you a comparison between the '04 and the '05 budgets by each of the division areas. It also shows you the dollar changes, percentage changes and then in the far columns, we show some of the FTE changes.

The budget that I brought to you last week, we had about \$447,000 less than the prior year. That was due

to the fact that we had pulled off the bond review board fees that we had put in that original budget, thinking that we had those appropriated to us. We later learned that we didn't.

This one now has gone down \$319,000. So in the interim, we have added in the net, \$115,000 to this operating budget.

The largest change was a \$75,000 increase in the single-family production budget, and that will be paid entirely by HOME funds, but it is to remediate some findings that we had with about 23 properties that were associated with the TSAHC portfolio over the last year, and what we are proposing to do is to go out with third parties and make final assessments on what it will take to bring those properties up to code.

We also had a minor change. We have eliminated one FTE in the human resources area. We have got some new legislation talking about lowering our ratios of staff to HR. That lowered our costs about \$42,000. We then added one FTE in my area, in the loan-servicing area, and that person will be doing, largely focusing on the delinquencies within our portfolios on those special loan portfolios. They will also be charged with working on and bringing in the collections on our housing fees. Those are falling behind.

Are there any questions at this point, with this

budget? Oh, one other thing I want to add. There is funds in here, and we do intend to have a directors' and officers' liability policy. It will have \$10 million limit, \$100,000 deductible and an estimated \$77,000 premium. Questions?

MS. ANDERSON: Do we have a motion? We do approve this.

MR. BOGANY: I move that we approve the 2005 draft operating budget.

MR. GONZALEZ: Second.

MS. ANDERSON: I have one question, since you brought it up, about delinquent housing fees. I trust, and I hereby make sure ask that we make sure that before we redefine the list on the 28th of July, that nobody is eligible to be on that list, if they have got delinquent fees, as we have done before.

MS. BOSTON: Right. Oh, yes.

MR. DALLY: Yes.

MS. ANDERSON: Any other questions or discussions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. DALLY: Thank you. Then if you will turn to Tab 6b, this is the small subset budget that is required by statute for the housing finance. This is made up entirely of some of the fees that the Department collects. That total is \$11,225,372. It is broken up among the four different divisions of the department. This is a raise of about \$10,000 and it is related to that FTE position on collections.

MS. ANDERSON: So we're saying we're going to pay someone \$40,000 to collect 10,000?

MR. DALLY: No. This is the portion from the fees to pay that salary. Some of the rest of that salary is going to be paid from HOME funds and other funds. No, they are going to more than cover their salary in the coming year.

MS. ANDERSON: All right.

MR. BOGANY: I would like to move that we approve the 2005 draft housing finance operating budget.

MR. SALINAS: Second.

MS. ANDERSON: Discussion, questions?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. DALLY: Then behind Tab 6c is the third-quarter investment report. And I am going to just hit the highlights here. It did decrease in total by about \$27 million, however, it does reflect issue of single-family issue of about \$180.7 million. And there are five new multi-family issues over this last quarter of about 66 million.

The makeup of the portfolio is 48 percent mortgage-backed securities. 37 percent are GICs [phonetic] and investment agreements, 10 percent are repurchase agreements, and 5 percent fall into the other category. I will point out that we had 32 million in purchases, this quarter, which is almost double what we did last quarter.

This is talking about our new single-family originations. Likewise, we had about 36 million in maturities.

Those are the re-fis. Those are the things that are people paying off their high loan rates. The market value of this portfolio did decrease \$17.7 million. And that is due because of the bump up in interest rates.

Since we were at about 5.76 at the end of February, the beginning of the quarter, the mortgages had jumped up to 6.4 by the end of May. I think they had settled down just a little bit, but they were at a peak there, in May. Are

there any further questions?

MR. BOGANY: I'd like to move that we approve the third quarter investment report as stated.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. DALLY: Thank you.

MS. ANDERSON: No more items. I do want to thank particularly -- you particularly get a gold medal now. And I am sorry we didn't do this earlier in the day, over the course of the day, we have several guests with us, and two of them, I really ought to put on my glasses.

Is that Scott? Who is by Lisa? That is not Scott.

Okay. So, we had Beau Rothchild from Urban Affairs Committee, Scott Sims from the Speaker's Office, Jeremy Mazur from Representative Caligari's office and Lisa Gonzales from Governor Perry's office, and Lisa is still here. And we appreciate it. She is tenacious. And Senator Madla sponsored

for us, and we are very grateful to him for the use of this room.

I don't believe there is any further business to come before the board. Can I entertain a motion to adjourn?

MR. GONZALEZ: So moved.

MS. ANDERSON: Second?

MR. BOGANY: Second.

MS. ANDERSON: All in favor?

(A chorus of ayes.)

MS. ANDERSON: Opposed?

(No response.)

(Whereupon, the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: July 8, 2004

I do hereby certify that the foregoing pages, numbers 1 through 286, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

(Transcriber) 07/14/2004
(Date)

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