TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Ballroom
Galveston Island Convention Center
5600 Seawall Blvd.
Galveston, Texas

March 12, 2009
12:42 p.m.

MEMBERS:

C. KENT CONINE, Chair
LESLIE BINGHAM-ESCAREÑO
TOM CARDENAS
SONNY FLORES
JUAN MUÑOZ
GLORIA RAY

STAFF:

MICHAEL GERBER, Executive Director

I N D E X

P R O C E E D I N G S

MR. CONINE: Good afternoon. Welcome to the board meeting of the Texas Department of Housing and Community Affairs on March 12, little bit after noon. But I -- and we apologize for that. But we have been touring the hurricane damage here in Galveston and have come to appreciate the hard work and efforts that the Galvestonians have put into a very bad situation and hope that we can participate -- can you hear me? -- in helping them improve the quality of life around here for a bunch of Texans who have been put in a real bad sort of way. There are some Galveston officials here with us.

Mike, you want to handle the introductions, please?

MR. GERBER: Sure. Let me just start by saying how pleased we are to be in Galveston. It's a really wonderful chance to start, really, the partnership that we're going to have over the next several years in the rebuilding of this community.

Want to especially thank Steve LeBlanc, the City Manager, who's been a tremendous host to us. We also want to thank Jeff Sjostrom from the Economic Development Foundation here in Galveston, who's been very, very instrumental in helping our -- with our visit. And also

Sterling Patrick, who heads up Community Development here in the city, has also been very, very helpful in making our visit today very productive.

We'd like to invite any of them or any representatives of the City of Galveston who'd like to speak. We've gotten some good briefings this morning. But if there is anyone from Galveston who would like to speak, this is your city and since we've been dealing with those disaster issues kind of first thing this morning, we'd like to invite you to continue that discussion with the board publicly if there's anyone who'd like to come forward.

If not --

MR. CONINE: Well, not.

MR. GERBER: If not, Mr. Chairman --

MR. CONINE: We -- again, we thank the City of Galveston for their hospitality this morning. Let's give them a round of applause for the effort they're doing.

(Applause)

MR. CONINE: Hope to see some houses going up here very soon.

All right. Let me call roll right quick and make sure everybody is here.

Leslie Bingham?

MS. BINGHAM-ESCAREÑO: Here.

MR. CONINE: Tom Cardenas?

MR. CARDENAS: Here.

MR. CONINE: I'm here. Juan Muñoz?

MR. MUÑOZ: Here.

MR. CONINE: Gloria Ray?

MS. RAY: Here.

MR. CONINE: Sonny Flores?

MR. FLORES: Here.

MR. CONINE: All here and accounted for.

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes, sir.

MR. GERBER: If I could interject, I'd like to also just extend a warm welcome to Tatiana Oria who is here with us. Tatiana is the staffer for State Representative Yvonne Davis, who is the Chair of TDHCA's Oversight Committee, the House Committee on Urban Affairs.

And, Tatiana, where are you and --

MR. CONINE: Where did she go?

MR. GERBER: Here she is.

MR. CONINE: There she is.

MR. GERBER: Great. Welcome. We're glad you're here.

MR. CONINE: Thank you for being here.

(Applause)

MR. CONINE: Okay. As customary, we do have a little bit of public comment at the beginning of the meeting here for those who would like to comment on just about anything you'd like to talk about. If you haven't signed the witness affirmation form please do so and you can either speak now or speak later on at a particular agenda item.

First public commenter I have is Ms. Cynthia Bast.

MS. BAST: Good afternoon.

MR. CONINE: Hello.

MS. BAST: Cynthia Bast of Locke Lord Bissell & Liddell. Thank you very much for the opportunity to bring this issue to your attention. I'm here on behalf of a number of the 2008 tax credit applicants who were on the waiting list and received forward commitments of '09 tax credit funds. Though -- at the time, which was in November, those deals were given six months to close, which seemed like a very reasonable time frame.

However, there have been with some of these deals delays in underwriting. Some of the deals we are working with have, in fact, just received their underwriting reports and have not even yet received their final commitments of tax credits. Without those commitments they have not been able to go out and syndicate. They haven't been able to move forward without the firm knowledge that the tax credits would actually be available.

And so with about two months to go that May deadline is untenable for many of these projects. So we are asking for some consideration of an extension of that deadline to allow those deals to stay alive. We also want to make sure that they don't fall out because if they were to fall out then perhaps they wouldn't have '08 awards and they wouldn't have '09 applications and we wouldn't want them to fall out of being available for the ARRA funds. So we hope that you will make that part of your consideration. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Bert Magill?

Bill Fisher after that.

MR. MAGILL: Thank you, Mr. Chairman, Board, Executive Director. I'm Bert Magill and I'm one of the beneficiaries of the Board's approval of the forward commitments for 2008. And since that approval I have been working diligently on putting my development together, getting zoning, having a couple of predevelopment meetings with the City of Fort Worth, signing the election form that the State sent me in November, updating the application in December, accepting the real estate analysis report of the credits and the underwriting and have worked diligently with getting financing.

And I'm pretty ready to go. But I'm lacking one thing. And that is a commitment. And I would like to request the Department expedite getting the commitments out and then, as we just heard, we've got 60 days to the May 15 deadline, which is pretty tight, knowing that usually these commitments have some sort of conditions on them. So if the Board would consider looking at some possible extension to give us more time past the May 15 deadline and consideration in next month's April board meeting would be greatly appreciated.

MR. CONINE: Any questions of the witness?

MR. CARDENAS: Yes, sir, Mr. Chairman.

MR. CONINE: Yes?

MR. CARDENAS: Excuse me. How much more time would you estimate you need?

MR. MAGILL: Well, I'm pretty fortunate. I pretty much have everything in line, not knowing what the conditions might be on my commitment. My financing's in line. I always do have to go get a building permit before I can close my construction loans. Usually sometimes those building permits take at least 60 days themselves. So 60 to 90 days would be greatly appreciated and would do me -- I would -- I'd probably need less than 90 days. But I know that there are some others out there that would probably need a full 90 days past that commitment date.

MR. CARDENAS: Thank you.

MR. CONINE: I got a question of staff.

Tom, you want to comment on the underwriting and commitment letters issue? And for the rest of the Board and myself information, how many are we talking about?

MR. GOURIS: Tom Gouris, Deputy Executive Director for Programs. I believe there are eight that weren't posted as of day before yesterday -- eight that were remaining that -- eight underwriting that haven't been posted. I think three of those were about to be posted. And there -- the five remaining were supposed to be done this week. So we should have them all done this week. I believe that those underwriting reports would contain all the conditions plus the -- that are typical in the commitment, other than that standard commitment conditions that are in every transaction.

So I think for the most part right now we have a good handle on what those conditions would be; we have a good handle on what the amounts would be. I can check in and find out what else got posted today. But I haven't done that yet.

MR. CONINE: How -- what's the total universe that have the May 15 deadline? Do you remember?

MR. GOURIS: There are 20 -- how many forms were there? Yes. I think there were 22 originally and I think two of them were not recommended and have since not moved forward with their appeal.

MR. CONINE: Okay. Any other questions of Mr. Gouris?

Yes, Sonny.

MR. FLORES: Mr. Gouris, what about the -- we got 60 days. He's talking about May 15, I thought, was the date mentioned. So aren't we cutting it a little close here?

MR. GOURIS: Well, they've known for several months now that they're in line for an allocation and to -- what they need to do to move forward with the allocation. I think we've encouraged them to keep moving and we've been communicating with them about issues about as they come up with underwriting. So, you know, I don't think there's any new news for them not to be moving forward.

MR. FLORES: What if the deadline needs to be extended? Is that an administrative function or is that a function of the Board?

MR. GOURIS: The deadline was set by you all.

MR. FLORES: So --

MR. CONINE: Reaching back to --

MR. FLORES: -- obviously, we set the deadline, we can change it.

MR. GOURIS: Uh-huh.

MR. FLORES: However, there's only one board meeting between now and then more than likely.

MR. GOURIS: Well, and if I recall, the original deadline that was proposed was even shorter. I think this -- the whole idea of a forward commitment was proposed by Representative -- in a letter from Representative Menendez and there was a real short -- think it was even --

MR. CONINE: Ninety days, I think.

MR. GOURIS: -- 90 days from that point with no other conditions. And so the Board extended that right there at that point because we wanted to make sure that they had time to figure out if they could move forward because these had been -- these deals, you know, weren't anticipated to move forward up until that point in time. So you all acted to extend it to May 15 to give time for them to do all sorts of things, including underwriting, but a lot of other things, too.

And we have made a pledge to try to get the underwriting by, I believe it was, the 1st of February. We've fallen a little short of that and I apologize. But there have been a couple of things going on. So --

MR. CONINE: Extenuating circumstances.

MR. GOURIS: Yes.

MR. FLORES: Our next board meeting is probably six weeks from today. Do you think all these letters will be out by then?

MR. GOURIS: Yes, sir.

MR. FLORES: Okay. Thanks.

MR. CONINE: Any other questions of Mr. Gouris?

(No response.)

MR. CONINE: Thank you.

MR. GOURIS: Okay.

MR. CONINE: Bill Fisher?

MR. FISHER: Good morning, Chairman Conine, Vice-Chair Ray. Bill Fisher, Odyssey Residential. Board members, good morning. I need your help. I have a $416,000 problem that I need the Board's help with. And it's a difficult economy. And in addition to that, if you're not aware, most of our investors are having significant financial problems. My investors have been AIG, which, of course, we read about every day, and Related Capital, which was delisted here about 60 days ago when their stock traded below 25 cents.

I have $416,000 in an escrow account that's to be released to our company by the end of March so long as I receive 8609s for the minimum amount, the original allocation the Board gave me in 2005 for 4 percent bond deals. If I'm able to do that the 400,000 -- $416,000 is released to our company, which will allow us to employ more Texans and pursue more projects with you. If we're unable to do that the funds will be lost. And there's no extensions, additions or waivers.

So I'm forced today to come before the Board on two partnerships where I am pending for 8609s. Both of those partnerships have agenda items today, one of which is on the consent agenda. So I'm alerting you to 1(b), which is the Villas of Winkler and 3(a), which is Marshall Meadows.

I've been in the cost cert process on Winkler since May of '08. I do believe that if Audrey Martin's group were here today they'd tell you they're certainly comfortable with the amount of credits that we'll be eligible for on Winkler as a bond project. And we are asking for a lot more than the original allocation. If it's more than 5 percent the item has to come before the Board for approval. So there will be additional action on this item at some future date.

What I need from the Board in addressing my items today is for you all to either grant me a waiver or instruct the staff as part of granting a waiver to issue my 8609s for the original amount of my 4 percent allocation from 2005 on or before the 30th of March. To ensure any additional outstanding items that the Department staff may have in following up, you know, in addition to posting an escrow, which, of course, we'd post the whole $400,000 if it was necessary because it's lost otherwise.

But in addition to that, as I mentioned, there are about a million-and-a-half dollars of additional credits over the ten years we're asking for in both projects that we would suggest you not grant today which would give you additional enforcement leverage over us to ensure that we were to comply.

What you'll hear from staff -- and so that I can alert you to the other side -- is do you have authority to do this. You clearly have authority under the QAP to grant me a waiver. And I'm asking you to do that. Enforcement. As I said, happy to -- you know, we've done escrow agreements for 8609s in the past with money. In this case we would certainly do a financial escrow or, as I mentioned, that we need additional credits and there's nearly a million-and-a-half dollars worth that we will need to get subsequent Board action that would give you another enforcement mechanism for us, in addition to those that you really already have under the existing LURA.

MR. CONINE: Need to ask you to wrap up.

MR. FISHER: Pardon?

MR. CONINE: I need to ask you to wrap up.

MR. FISHER: Am I out of time?

MR. CONINE: Yes, you are.

MR. FISHER: And there was a recent compliant audit -- compliance audit on Winkler, which I think you'll hear about from the staff. And my accounting firm is here to address that and assure you that it is -- there's nothing material. Again, it's just a timing issue. It will take 60 or 90 days to address. I'd be happy to answer any questions you'll have.

MR. FLORES: Mr. Fisher --

MR. CONINE: Questions of the witness?

MR. FLORES: Yes. Mr. Fisher, you got two items. One on the consent agenda, Item 1, the other one, as you said, Item 3(a).

MR. FISHER: Yes, sir.

MR. FLORES: There's a lot of specific here obviously that we look at. So stay handy because I think under 1(b) I don't think it's a problem. But under 3(a) we may have a problem we need to talk to you about.

MR. FISHER: Okay.

MR. FLORES: So I want to discuss that in more detail when we get to 3(a). But it looks like 1(b) is going to take care of itself -- the Winkler project.

MR. FISHER: Yes. I think to -- I would need to come off the consent agenda for 1(b) in order for you to add any waivers on to any motion to approve 1(b). So I'd be asking you all to take me off the consent for 1(b) to give you the option to act on it independently.

MR. FLORES: Thank you.

MR. FISHER: Thank you.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Don't see any.

Barry Palmer?

MR. PALMER: Good afternoon. My name is Barry Palmer. I'm with the Coats Rose Law Firm. I wanted to speak for just a minute about this same issue that Cynthia had raised earlier, the 2008 transactions that have forward commitments of '09 and the short deadline to close and to make another point about those transactions. You know, they, like all tax credit transactions out there, they're suffering from the crisis in the financial community and the decrease in equity prices that has created gaps in many transactions.

And to address that issue, you know, Congress adopted in the stimulus program, which you will talk about later today, a couple of provisions to help tax credit deals that -- the TCAP program that provides gap financing for tax credit deals.

And although I'm sure that this Board will act quickly to put that program in place, there's certainly not enough time between now and May 15 for any of those '09 forward commitments to have access to apply to that program with a May 15 deadline. So I'd like to ask the Board to consider putting on the agenda for next month an extension of the '09 forward commitments to allow those projects to have the opportunity to apply for the TCAP funding under the program that presumably will be discussed later today.

I'd also like to make one other point about the difficulty that we've encountered on closing some of these deals. While it's true what Tom said about we've known since November that we were going to get a commitment, when you're actually out there dealing with investors, trying to sign up an investor for your deal in a market where there's way more deals than there are investors, it's really hard to get an investor to commit to your deal when you can't provide them a commitment letter for your credits.

They've got all these other '08 deals out there that have commitment letters that you're competing against for the amount of money that they have available to invest in Texas. And so when they ask you to send them your commitment letter and you tell them, well, I don't have one yet it certainly puts you at a disadvantage to try to get their attention, the limited amount of attention that they've got to put on any one deal. They're just going to pass you by to go on to somebody who has a commitment letter. So that has been a real problem.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Michael Logan. He's got some time donated to him so he's a five-minuter.

MR. LOGAN: Thank you, Chairman Conine and Vice-Chairman Ray and Board. I'm Mike Logan. I'm CEO of Managed Energy Services, LLC. I live in Galveston County, live in League City, which was designated an impacted county under the proposed CDBG for Hurricanes Dolly and Ike.

As is true for many of us, we're no stranger to the ravages of hurricanes. One of our management team lost a home to Katrina. It was by the grace of God my house was preserved in League City as Ike carved its path of devastation.

My purpose in being here today is twofold, to garner more information about rebuilding plans, objectives and efforts and offer the services of MES in aiding those efforts in every possible way. By way of introduction, Managed Energy Services is an alternative energy and green building consulting and engineering firm with offices in League City, Texas, and Norton, Ohio. A recent experience would probably serve well in building a thumbnail portrait of what we do.

At the request of a Louisiana Parish official's group, Managed Energy recently developed a fully-comprehensive turnkey plan for rebuilding of a parish devastated by recent hurricanes, including economic development. Not only did we outline viable, immediately deployable strategy that addressed key issues facing that parish, but we also amassed a contingent of superior channel partners who could work with us on project fulfillment. By employing a strategic deployment approach that affiliates our channel partners as needed, MES's position is to cost effectively provide as much or as little assistance as may be needed by the surrounding communities and residents.

We would very much welcome an opportunity to partner with the state and local authorities of Texas, including housing authorities, TDHCA, bringing our collective resources and competencies to bear in helping to rebuild these communities.

MES's stable of capabilities and core competencies include clean up and debris removal, water and mold mitigation, certified formaldehyde-free mobile for temporary housing and logistics, affordable energy-efficient strong building construction of residential and commercial structures. Our technologies are designed to be highly resistant to the ravages of hurricanes and natural disasters -- civil and infrastructure, engineering and construction, lead design engineering and architecture, commercial and industrial demand side management, alternative and renewable energy, including solar, wind, plasma gasification and other technologies, green-building technologies utilizing superior state-of-the-art products and equipment.

Focusing on the immediate needs being addressed here today, MES would be very interested again in partnering with TDHCA and other government agencies, as well as other services providers in the construction of affordable single and multifamily residences that are energy efficient, incorporating the green-building amenities and technologies stipulated in CDBG, DOLLY [phonetic] and NOFA.

MES offers superior standalone technologies that range from highly advanced radiant barriers and solar-powered attic vent fans to proven solutions which deliver significant energy efficiencies to existing homes. We have the capacity to build buildings that have 4 to 8 percent heat loads. And those technologies are ours. We own them.

We would be delighted to assist. I'm much more used to and more comfortable in a private enterprise setting than I am in a governmental setting. So forgive me for reading my speech as my predecessors were able to speak from the hip.

We do know how to do this. We had $1.6 billion worth of original scoping for one of the parishes. We were selected as a candidate. And our partner in the candidate, which was the lead engineering firm, pulled out. Our attorneys advised us to do the same, which left us with an army literally of about 10,000 people that we can put to work and a variety of technologies to solve existing problems. I can build homes over on Bolivar Peninsula that will take a Category 5 head on. And I can prove it. So that's pretty much all I have to say except thanks.

MR. CONINE: Thank you.

Any questions?

MR. GERBER: Mr. Logan, I'd just encourage you, also. The Department is likely through the stimulus bill to get several hundreds of millions of dollars for weatherization. And we're going to be looking for additional talent to assist in the distribution of those funds and doing that work. You might want to visit with Amy Oehler, who's our Director of Community Affairs before you leave today to get a sense of that process. Because we're always looking for good talent to --

MR. LOGAN: Okay.

MR. GERBER: -- work with us.

MR. LOGAN: One of the things that we do have is we have found that insulation is pretty much useless. It stops the heat from entering a building and stops -- slows it down from entering, slows it down from leaving. We use our radiant barrier technology which stops energy from coming in -- almost 96 percent of the energy -- and have glazing that stops almost 97 percent while letting the lumens come in and light the building naturally. So I would be delighted to do that.

Thank you, Mr. Gerber.

MR. GERBER: Thank you.

MR. LOGAN: Thank you.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Thank you.

Barbara Crews?

Dian Groh will be right after her. Looks like Eddie will be right after her.

MS. CREWS: Okay. Well, there are several of us. And --

MR. CONINE: Welcome.

MS. CREWS: Thank you. My name is Barbara Crews. I am a former mayor in another life here. But -- and a lifelong Galvestonian. But today I am wearing the hat of a co-chair of the Galveston County Restore and Rebuild, or GCR Squared. We are a collaboration of faith-based organizations, nonprofit agencies and other entities, many of whom have had experience in disaster recovery in other areas.

One of the things that I want to do to -- in my short time is to explain the role of long-term recovery organizations, how we've been working in Galveston County, suggest some policies that you all might consider adopting to enhance recovery.

As I said, we're a collaboration. We've been -- we formed immediately after Hurricane Ike hit. We assist families in Galveston County -- that is throughout the county -- to reconstruct their homes, to rebuild their lives. Priority is given to low-income families, that is 80 percent or less of median household income, especially the elderly, the disabled and single parents.

We receive qualified individual and family cases from case management. We provide some unmet needs money. We have very effective committees working continuously on case management, on construction -- some of those folks are here who head these committees -- unmet needs, volunteer management.

We have received a million dollar grant from the Mayor White Ike Recovery Fund. 70 percent of that is being used for construction. We have 37 homes that have been completed. We have 128 homes that are ready to begin or under construction currently. We have signed memoranda of agreement with 25 organizations.

One of the things that -- one of the work products that's come out of GCR Squared is this. This is a Disaster Recovery Assistant Guide. It gets updated, if not on a daily basis, certainly twice a week. It is available for all case managers, it's available online and it's available for everyone and anyone who wants one so that they know exactly what steps to follow. It's a wonderful model. We have copies for you. We also have copies of GCR Squared fact sheets so you'll know exactly who we are and what we do.

You are going to hear some more about data and the scope of damages. You've seen that. And we thank you for taking that tour to get a feel for the devastation and the loss in the City of Galveston. And there are pockets in Galveston County, as well. The next speaker is going to give you some more information on numbers to give you a fuller picture.

And if -- is there a staff person or do you want me to -- thank you. Wonderful. So I'm now going to turn it over to Dian Groh. Thank you for your attention.

MR. CONINE: Thank you.

MR. FLORES: Thank you, mayor.

MS. GROH: Thank you. I'm Dian Groh. I'm a member of Gulf Coast Interfaith, which is a part of GCR Squared. And Gulf Coast Interfaith is a collaboration of congregations in the area. And we've been organized for four years and active in many different activities. When Hurricane Ike came we jumped at the opportunity to assist. Just -- you've seen the damage. Well, you've seen what's left. I just wanted to give you some statistics of some of the figures.

About 191,000 homes were damaged in 11 H-GAC counties according to the FEMA figures. And nearly 27,000 of these had damage greater than $8,000. And 16,000 of those are in Galveston or Galveston County. At least 60 percent of the homes in every damage category above the 8,000 are located in Galveston or Galveston County. That's a great concentration of damage and why it's really important that H-GAC appropriated 53 percent of the funding for housing assistance for Galveston and Galveston County.

We would like you to be aware that many of the people that will need help are low-income homeowners. There are over 10,000 uninsured homeowners who suffered damage. And that's in three counties, Brazoria, Chambers and Galveston. And you have the statistics so I'm not going to bore you with that. And we also would like to stress that affordable rental properties will need to be reestablished and also, Galveston Housing Authority properties. So that's basically it, a lot. Thank you.

MR. CONINE: Thank you.

MR. FLORES: Thank you.

Eddie Hilliard?

MR. SCROGIN: My name is Bernard Scrogin and I'm with Lutheran Disaster Response and I'm also part of the Galveston County Restore and Rebuild Long-term Recovery Group. Much of what we say about Galveston County and our long-term recovery organization is true of other counties that have been damaged. There are multiple long-term recovery organizations throughout the state that you have an opportunity to work with.

Ms. Crews mentioned the 37 homes that have been completed and 128 in process. That's been done by eight faith-based groups. These groups have worked not only here, but prior to Ike they did recovery in southeast Texas with Rita damage and in those counties repaired over 1,700 homes. So the groups that are working have experience. And the homes that we repair are done by city and county code so that we're working with the cities and the counties.

We would like to encourage TDHCA to set up rules through the COGs and municipalities to create programs with these following elements: First, quick repair; two, full rehabilitation of homes with major damage; three, replacement of homes which can't be rehabilitated; and four, elevation of homes as needed to avoid future flood issues.

These faith-based construction groups are a good resource because we can get a lot more done because of volunteer help. But we want you to know that we also have good relationships with local electricians, plumbers and so forth to do that work that's required by Code so that we are not violating those types of issues. We also would encourage TDHCA to establish rules which make it easy for the cities and the counties and councils of governments to contract with these long-term recovery organizations and the construction groups that are working with them.

The other issue related to this disaster and others is the whole issue of case management. These homes can't be repaired until we identify homeowners that need repairs and also to qualify them for eligibility. Right now we have over 300 families in the case management system right here in Galveston County. In addition to that, the Department of Health and Human Services has awarded a contract for a pilot project for case management in Texas. Three different organizations were awarded that contract.

For Galveston County and other counties other than Harris County and deep East Texas counties Lutheran Social Services will be managing that case management project. They plan to place at least 56 case managers in Galveston County. And with those case managers we hope that we can identify families to assess CDBG funds that are coming down.

And there are a couple of things we would encourage. We would encourage one simple application process. Whatever process you come up with we hope that it will be integrated with this pilot project so that homeowners don't have to fill out more than one application and don't have to give information over and over again. It gets frustrating and creates hopelessness. And we hope that the City of Galveston CDBG money and the Galveston County CDBG programs can work with this pilot project to integrate the outreach and the application process. Thank you.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Yes, ma'am.

MS. FANIEL: Good afternoon. Continuing --

MR. CONINE: Your name, please?

MS. FANIEL: My name is Shirley Faniel [phonetic].

MR. CONINE: I got it. Thank you.

MS. FANIEL: I'm with the Gulf Coast Interfaith, the Texas State NAACP, Galveston County Restore and Rebuild and the Texas Hurricane Relief Center that's under the National Baptist Convention. Thank you for your attention.

Our experience from dealing with families from several other events, Hurricane Rita and now Hurricane Ike -- and we have some things that we have found, lessons that we have learned. I'd like to speak with you about three of them. Number one, speed matters; outreach matters and case management support matters.

Number one, speed matters. Homes that have damaged roofs or which have been flooded will continue to deteriorate unless repairs are made immediately, quickly. Quick repair programs make good common sense to repair damaged roofs so that ongoing rains will not continue to deteriorate the property. We have found out that when this did not happen homes would have to be demolished. When they're demolished then they were replaced with smaller homes. So speed matters when covering roofs to stop deterioration from rain.

Number two, outreach matters. There needs to be extensive outreach right away to identify families who might need and qualify for assistance. These families need to be informed right away of FEMA, how to use FEMA's monies, how to document the use of the FEMA's monies, how to not duplicate services.

Above all, when providing funds and providing help people need to understand that Texas will help them so they will hold out for Texas help and support. After all, after two or three years then persons become disillusioned and will not apply for the help. So outreach matters immediately.

Third and last, case management support matters. Many families will need substantial help to complete the documentation required in the CDBG funded programs. For many, especially the elderly, the disabled, the poor, those of us who have language barriers, help is needed. Staff must work to develop a high level of trust before homeowners and individuals will begin to release to them private documentation such as deeds, social security numbers, incomes, et cetera.

The program must simplify the application affidavits so that they are understandable by people who are not familiar and who have little experience in filling out these detailed forms. Thank you.

MR. CONINE: Thank you.

MR. COMPIAN: Joe Compian with Galveston County Interfaith and committee member for the Archdiocese of Galveston, Houston, the Catholic Campaign for Human Development. Let me just continue. We've learned these experiences as a result of our effort in southeast Texas, our organizing project there known as Southeast Texas Interfaith. So to finalize, benefit levels matter.

We need to be aware that the repair and rehabilitation limits need to be high enough so that they're real options for homeowners. We have older damaged homes here. The costs associated with them are far more expensive. And so -- and yet homeowners would rather go ahead and repair their home rather than replace it with a home -- a new home of 800 to 900 square feet. So the rehabilitation limits have to be higher.

Administration matters. With the CDBG funds let's make sure that our local municipalities are experienced in managing these particular funds. There's some quite complex and difficult rules associated with them. And we want to make sure that these funds go to municipalities that know how to access and comply with the reporting requirements.

And let's not get paralyzed by fear of fraud. You all -- this is always brought up at these -- use of these monies. In our experience very few people are attempting to commit fraud dealing with the program helping to get them back into their home. Perhaps it's because many times they're dealing with individuals that they know already associated with their congregation, their synagogue or their mosque.

And let's plan now to overcome the inevitable obstacles that develop. We have identified families that are living in inherited homes that have passed from generation to generation without a deed being recorded. They'll need assistance, legal assistance to deal with these issues. Ineligible families that cannot prove how they've spent their FEMA award for home repairs and families that will drop out of a qualifying process that if it's too complex or prolonged they basically lose hope and they go on and move on.

And finally, we ask that -- work closely with long-term recovery organizations. These organizations use donated labor to repair moderately damaged homes. They know their communities. And they know the people, what the people want and need in recovery. The state-funded programs must coordinate with them so that faith-based groups are not repairing homes that the assistance program intends to fully rehabilitate or demolish. No one likes it when limited resources are wasted. And likewise, many homes with moderate damage can be fully repaired and the case closed through the efforts of long-term recovery organizations, thereby making maximum use of limited funds.

And so once again, it's been a pleasure working with a variety of individuals representing a variety of faith-based organizations. This is true community working. And if we can supplement that with government dollars we can even do more. Thank you.

MR. CONINE: Thank you.

I've got Eddie Hilliard still left, I think.

MR. HILLIARD: I have yielded my time --

MR. CONINE: Okay.

MR. HILLIARD: -- with your permission.

MR. CONINE: You have my permission.

MR. HILLIARD: Good.

MR. CONINE: Go ahead, Mike.

MR. GERBER: Mr. Chairman, if I could just interject. One of the things that's so wonderful about the way that these programs are going to be structured is, as you know and I were going to report to the Board a little later in this meeting but I'll do it now, the HUD secretary did approve the State of Texas as action plan last Friday. And the intent in that action plan is to push these dollars to local governments, to county governments, to COGs, to other groupings of governments that have capacity.

And we'll be certainly looking for evidence of capacity in the application that we'll be getting out, either tomorrow or on Monday. It's going to be a very short application. The city -- the entity will just have to report to TDHCA how they intend to use the money, what the basic parameters of the program will be. You'll set those limits. They'll be set here locally. And so you'll have full ability to tweak the program, to put key components in the program such as case work and addressing legal issues, which frankly we've struggled as we've managed part of the Rita program and there are many folks here today from some of our contractors who have done work on Rita.

I would encourage you to visit with them because we've learned a lot of lessons from that experience. And we want to provide, I think, fairly intense technical assistance as best we can to you. But what works for one community doesn't work for the other. But our intent is to address the speed issue to get those dollars in your hands and to allow you all to demonstrate great creativity and create a program that will work to restore housing here in Galveston.

And I just want to also add Galveston's a very special community. I grew up in Houston and came down here a lot. And I just want to really applaud the way you all have come together. We'd expect nothing less of Texans. But it's truly impressive to see. And you already see the results, you know, several months after the storm of how Galveston is bouncing back. And I think all of us owe you a debt of gratitude. And I just want to say thanks.

MR. CONINE: And I would echo Mike's comments.

In most cases you don't need to reinvent the wheel. We've been through this over just 30, 40 miles east of here, however far it is, and be glad to offer our staff to you, as far as the knowledge download that you're going to need to be able to pull off what you're getting ready to pull off. Keep in mind that the bugaboo here is the CDBG statutory requirements, not us. We're just the messenger. And --

But we are grateful to you guys gathering up and getting together. And you're going to -- unfortunately or fortunately, however you want to look at it, you're going to benefit from those who have suffered before you and understand the rebuilding process under CDBG rules a little better than those -- than they did when they got hit. So hopefully, that will work down here.

And let's everybody, again, thank them for all their efforts and wish them the best of luck.

(Applause)

MR. CONINE: Mike Sugrue with some time yielded to him so he's a five-minuter.

MR. SUGRUE: Hopefully, I won't need that. Good afternoon. Mike Sugrue. Good afternoon, Mr. Chair, board members and Mr. Gerber. I'm Mike Sugrue, Solutions

Plus. I came here today -- this morning to give you an update on SilverLeaf at Chandler. As you remember, that was a deal that was turned back. It was '08 credits that were returned and we tried to do a HOME-only application.

I've found out a lot of things trying to do a HOME-only application, aside from it's hard to make it work. But I found out that the parity that USDA allows with HOME funds is fine as far as USDA is concerned, but Ginnie Mae, who has to buy the loan, won't buy the loan and won't allow parity. So parity went out the window. I've since tried to run this deal as a 30-unit deal to see if I could make it work with 30 units and HOME money only and no other funds. And at that point I run into a little issue with the expense being over 65 percent of income. So I'm probably going to have to do that.

But I need you today, if you will, to ask staff to accept the amended application. We submitted an amended application at 36 units. Remember, it was 80 in the '08 round. We submitted 36. Thank goodness we didn't send the full app in because we now have to go to 30 to try to do it with HOME funds only. But this is what we talked about two or three meetings ago about how to make this work.

The income levels are such at 45-1 in Henderson

County that you just don't have enough -- if you can use the US median it would work. But obviously, we can't do that with HOME funds. So we're still trying to get Chandler some housing and Chandler people still -- they're calling me every week trying to work with me and we still have 17 people on the waiting list. Oddly enough, there's folks who need housing. So we need a little help. And if you'll just let me work with staff again we'll try to get it done.

MR. CONINE: My presumption is since he's not on the agenda for this particular item, this public comment, that would have to come on next month's agenda item? Is that correct?

MR. GERBER: Kevin?

VOICE: [inaudible]

MR. GERBER: That's correct.

MR. CONINE: The answer's yes. So would you mind letting him turn in the application and then bringing that back to us next month so you can start working on it a little earlier? Thank you.

MR. GERBER: We'll accept the application.

MR. CONINE: Okay. That is all of the public comment, I believe, that I've got in the public comment period unless someone else knows of one.

(Pause.)

MR. CONINE: I think you're marked under the agenda item. I'd be willing to bet. I haven't seen it yet. Hang on. (Perusing document.)

You want to go now, Ike? It's your choice, not mine.

MR. AKBARI: Okay --

MR. CONINE: I get to make other choices, but not this one. A few, anyway.

MR. AKBARI: Good afternoon. My name is Ike Akbari. I'm with Itex Developer in Port Arthur. He has some handout, too. I'm not sure if this has been -- you don't have -- yes.

MR. CONINE: Yes, we got it.

MR. AKBARI: Okay. Well, I'm here today to ask you to -- well, first of all, we're glad to have you in Galveston. It's probably as close as we can get to our area of Port Arthur or Orange County or Jefferson County area. We appreciate you choosing coming to Galveston, this area. Now --

MR. CONINE: They named it after you, Hurricane Ike.

MR. AKBARI: Well, unfortunately, that's the case. Okay. I'm here -- of course, we've been working with the City of Orange. As you all know, we've also worked during the Rita. We have about 115 units in Navy Park and I'm here to let you know we are -- we have great progress and we hope probably first units become on line within next 60 days. And we should be opening our -- the office probably within next 30 days. And this -- you know, the construction is going really, really good.

Now, as far as, you know, Hurricane Ike and obviously, as you know, we had a lot of damage in Orange County and working with the City of Orange and also prepared some handout and these notes, how desperately Orange County and City of Orange needs additional housing and multifamily. And because in August you probably have been informed or have seen information from Orange, from mayor and other county officials. We appreciate anything to help us to make sure we can be able to accomplish that for the low-income family. Is any question, I'll be more than glad to answer.

MR. GERBER: And, Ike, I would just mention that the Mayor of Orange, Brown Claybar, and the City Manager, Shawn Oubre were in touch this last week and have mentioned that this is the highest priority for Orange in terms of properties as they look towards the tax-credit cycle. And they're very strongly supportive of it.

MR. AKBARI: Thank you very much.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Okay. Moving on the agenda down to Item 1, which is the consent agenda item. He's got several items that you see there in front of you.

MR. GERBER: Mr. Chairman, I want to pull the one Bill Fisher was talking about. I think it's 1(b). Want to allow Mr. Fisher --

VOICE: We'll just pull out Villas at Winkler Senior?

MR. CONINE: Villas at Winkler Senior will be pulled off --

VOICE: Yes.

MR. CONINE: -- of the consent agenda. Any others that the Board desires?

(No response.)

MR. CONINE: I do have one, two, three, four, five public comments on consent agenda items. We pulled one of these so that takes care of some of them. I have three others on consent agenda items.

You're welcome to speak, if you like, David Long, Katherine Closmann and Granger MacDonald.

MR. MacDONALD: Morning, Mr. Chairman and the Board. I believe one of the items on your agenda is the TSAHC fees for bond deals today.

MR. CONINE: That's in the consent agenda, yes.

MR. MacDONALD: I'd like to speak against that. Currently, the fees that we pay TSAHC are really superfluous. They're for extra inspections. And we're talking about projects that are inspected five, six, seven times a year already and TSAHC is an unnecessary burden to most of the development community. If you all want a tax on TSAHC we -- if you want us to pay a tax to TSAHC that's what this really is.

We had one particular property in Dallas had 11 inspections in 93 days. And of all the ones that we had TSAHC said everything was wonderful. And everybody else found something they could complain about TSAHC was absolutely just a waste of their time and our time.

And I'd like to suggest that after we have the syndicator's review of a property, the upper tier investors' review of the property, the lenders review of the property, your own compliance review and audit that we just don't need anything else from TSAHC.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: David Long or Katherine Closmann?

MR. LONG: I'm David Long, Texas State Affordable Housing Corporation. And I guess what I'd like to do is follow up with Mr. Granger's comments. First, I'd like to thank the Department for the ten years of service we've had under contract with you for providing the asset oversight. The other thing I wanted to do is just apologize for my board chairman. He wanted to be here today. I'm sure you all got a copy of the letter that he sent you regarding the asset oversight. And he sends his regrets. He's an attorney with the City of Bryan and his schedule could not clear. So he asked me to come down here last minute.

With regards to Mr. Granger's comments what I would say is two things: One, we're under contract to provide this service with the Department and we do so in accordance with that contract.

The second thing I would say is that in the write-up it mentions that the corporation's opposed to this change. And I would suggest you were not opposed to the change. We agree that there needs to be a reduction in fees. And we are very amenable to working through that process to make that happen. However, in discussions with Mike Gerber, Mr. Gerber, and our staff and other people, we've determined that termination of this contract is in the best interest of all parties involved and we're very comfortable and confident that we can do that and make that transition happen.

What we would like to do, though, is in the process of making sure that there's a smooth transition and ensuring that the projects are all aware of what's going on and everything else, is that in the contract there is a 180-day termination clause. Right now to date we've completed about one-third, maybe one-half of the project reviews. Some of the projects are under the master contract that we have with TDHCA. Some of them were written where we have a contract specifically between us and the property owner.

Again, to follow up with Mr. Granger's comments, I think by allowing this transition to take place in a timely manner, allowing us to finish the projects and then use 2010 as -- 2009 as the base year for transition and start in 2010, clean -- we're not involved; we terminate all the contracts, including with your approval we would transition all of the projects, including the two contracts we have that are directly with us, terminate all the asset oversight responsibilities and allow them to go obviously through that termination back to the Department.

It's my understanding you've already made arrangements to allow the asset oversight responsibilities to be rolled up into your current reviews. So again, in agreement with Mr. Granger, there is some need to consolidate and maybe eliminate the fees or terminate the contract so that we can reduce the fee structure. But again, we would do so by allowing us to have the 180-day time frame and the contract be met so that we can conclude in a timely manner and transition not only the projects but all the paperwork and all the files that we have for these projects to be completed and transferred over in a timely manner.

And I'd also offer any opportunity to answer any questions you might have regarding my chairman's letter.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. MUÑOZ: Just so I understand.

MR. CONINE: Yes.

MR. MUÑOZ: The letter states an option of reducing -- modifying the fee. And so that's one option. Or terminating the contract.

MR. LONG: Right. We -- and we did have several discussions with staff. We met, talking about options where we would continue to service but we would still accomplish the fee reduction. We believe that the asset oversight is a -- I may be going against Mr. Granger -- but we believe the service we provide is a valuable service.

It may be something where there could be some consolidation and some reductions. And we've offered that up along with the way that we could come up with a consolidation of the fees, as well as reducing the costs. But the other alternative would just be to terminate it and move forward. And do that with all of them with 180-day conclusion.

MR. CONINE: Any other questions? My -- I mean, I would assume that staff's recommendation is following the letter of the law relative to the contract and we're not doing anything outside what the contract said?

MR. GERBER: Kevin?

MR. HAMBY: Kevin Hamby, General Counsel. Mr. Conine, you might be surprised that lawyers may disagree on how contracts read.

MR. CONINE: I'm shocked.

MR. HAMBY: In this case our goal is to get as quickly as possible to stop charging the $10,000 a year to these various properties. And so we read the contract as that currently TSAHC does all the duties that are required in the Department, as soon as it's no longer required as a duty then there's no longer a monitoring function to happen. If we wanted to terminate the contract without ending the program we would have a 180-day clause to terminate. But at this point as soon as we cease to require the program, the contract --

MR. CONINE: And my understanding is we're leaving it there in case developers want to pursue it later on --

MR. HAMBY: Correct.

MR. CONINE: -- for their own benefit. Is that correct?

MR. HAMBY: Correct.

MR. CONINE: Okay.

Any other questions of the witness?

(No response.)

MR. CONINE: Katherine Closmann -- is she here?

MS. CLOSMANN: Yes. And I've ceded all my --

MR. CONINE: Okay.

MS. CLOSMANN: -- time. Thank you.

MR. CONINE: Okay. Great.

All right. So we have Agenda Item -- the consent agenda was Item 1(b), Villas at Winkler Senior Housing pulled off the agenda. Everything else is on the consent agenda?

MR. GERBER: Mr. Chairman, I think we need to pull Item 1(i) which deals with Colonia Resident Advisory Committees. We'll deal with that next -- at next month's board meeting. We also need to remove Item 1(k). That's coming off. Meadow Park Village.

MR. CONINE: Are we going to deal with it later or are we just --

MR. GERBER: No. We're going to -- just Meadow Park Village on 1(k) is coming off under Rental Production Program, Meadow Park Village.

MR. CONINE: Okay. Strike Meadow Park Village on 1(k).

MR. GERBER: Everything else is fine. And we'll be presenting those two items that I just pulled at the next --

MR. CONINE: At the next --

MR. GERBER: -- board meeting.

MR. CONINE: Okay. Any other changes to the consent agenda?

MR. FLORES: Okay. Except you're deleting the -- oh, you're pulling 1(d) out of -- we discussed that.

MR. GERBER: 1(b), just Villas at Winkler is being called.

MR. CONINE: Just the Villas at Winkler. We left (d) on . Unless you want to pull it off.

MR. FLORES: I'm trying to pull the Villas at Winkler, which I guess is --

MR. CONINE: We did.

MR. GERBER: It's been pulled.

MR. CONINE: We did.

MR. FLORES: And what happens to 1(d)?

MR. CONINE: It's on the consent agenda.

MR. FLORES: It's on the consent agenda? Okay.

MR. CONINE: Yes.

MR. FLORES: Thank you.

MR. CONINE: Any other motion -- or request?

(No response.)

MR. CONINE: Seeing none, all those -- I need a motion, I guess, to approve the consent agenda.

MS. RAY: Mr. Chairman --

MR. CONINE: Yes.

MS. RAY: -- that we approve the consent

agenda.

MR. CONINE: Ms. Ray makes a motion to move. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Geez, never had more trouble getting a consent agenda through in my life. Now, we're going back to the one that we pulled off. And -- which was 1(b) Villas at Winkler Seniors Housing. Does staff want to make a presentation or discussion first? And then I got some public comment after that.

MR. GOURIS: Tom Gouris, Deputy Executive Director for Programs. This item has to do with an extension for the cost certification submission deadline.

MR. CONINE: The what deadline?

MR. GOURIS: The cost certification submission deadline.

MR. CONINE: Okay.

MR. GOURIS: They submitted in -- I believe it was May of 2008. It was due several months earlier than that. When we were processing the cost certs we realized they had missed the deadline so we asked them to submit an extension request and then the fee. And they did so. And so that's why this is in front of us. It does not address the issues that Mr. Fisher addressed earlier.

MR. CONINE: Okay.

George Littlejohn.

MR. LITTLEJOHN: Can I go after --

MR. CONINE: Bill Fisher.

MR. FISHER: Board members, I want to reiterate what I said earlier. I'm really here to answer any questions that you might have as a result of staff's comments. The Villas of Winkler is on the agenda. You are in a position to take action. You do have authority to grant me the waiver if you choose to do that. And I would really appreciate any consideration you could give. These are difficult economic times. We're a small company. And as I indicated before, it's a -- it's really -- it's all or none at this point. If you'd like more detail as to why we're bumping up against the deadline I'd be happy to address that.

MR. CONINE: Well, I'd probably like to hear from staff as to what the issue is. I don't know what the issue is.

MR. GERBER: Okay. We're approving -- we're recommending approval of the extension. But explain the --

MR. HAMBY: Well, there are actually two different issues. One of them is the extension question.

MR. GERBER: It's right there.

MR. HAMBY: The other one is that in our compliance rules we do not issue 8609s whenever there are issues of noncompliance. And this particular property has six findings of noncompliance at this point, and so -- primary of which is the project has failed to meet the minimum set aside requirement. Then they have several units that are listed as though they are market rate.

We actually, because we -- during the normal review process our director of PMC reviewed the listing. And their internal staff had changed some of the units that didn't qualify for low income to market-rate units on their rosters. And we went down and actually did a detailed investigation and have a fairly substantial list of properties that we don't think meet the requirements. And so we typically do not issue 8609s until such a time as the development comes into compliance.

MR. FLORES: Kevin, would you itemize the six items? Just kind of walk us through it?

MR. HAMBY: Yes. Well --

Or Gouris. It doesn't matter.

MR. HAMBY: Do you want to do it?

MR. FLORES: Just that it's a little confusing what they're saying. Because we're approving the extension. And the issue we have here, he's talking about all these other things --

MR. GOURIS: Yes.

MR. FLORES: -- in the 8609s.

MR. GOURIS: It's --

MR. FLORES: And so --

MR. GOURIS: It's a little confusing to us, as well. Because --

MR. FLORES: Well, good. Okay. See, we're all confused.

MR. GOURIS: -- we received a call yesterday saying, Hey, we need to get this also taken care of and this isn't on the agenda. So we -- you know, you all weren't prepared for this information because it was not on the agenda. But I can walk through what I understand. And our director of compliance is not here to give more detail about it. But I can --

MR. CONINE: That's why we pay you the big bucks --

MR. GOURIS: I understand that.

MR. CONINE: -- to step in her shoes.

MR. FLORES: Just kind of -- just list each item. You don't have to go into the detail of it. So we can see kind of what the problems are.

MR. GOURIS: Household above -- household income above the limit upon initial occupant -- upon initial occupancy for one, two, three, four, five, six, seven, eight, nine, ten homes -- or ten units. Unit not available due to natural disaster, at least one. Low-income unit occupied by nonqualified full-time student. At least one. Low-income unit used on a transient basis. At least one. Units not leased by December 31, 2007. And there are about 50 of those. Those are issues that we identified. That last one was an issued identified. We'll go ahead and issue an 8823 on that item. And could allocate the credit. You know, that item is an issue of noncompliance --

MR. CONINE: Is that --

MR. GOURIS: -- with the -- but the other issues are -- need to be cleared before we can issue

8609s. And that's in the compliance rules that you all established.

MR. CONINE: The last one you just mentioned about units not being occupied by a certain date that's historical is hard to be corrected, I would imagine.

MR. GOURIS: It's a -- in this case they initially identified 2000 -- it gets more complicated. They initially identified 2006 as their first year as a credit period. And when we recognized that they didn't meet the minimum set aside for that they've told us that they're going to go ahead and change that to 2007. We haven't received documentation and confirmed that. But that's an easy -- it's an easy -- it's a big deal but it's an easy fix.

The other issue with not being leased by 2007 just means that they wouldn't be able to take the accelerated credit. They'll have to take the credit on those units over the --

MR. CONINE: Okay.

MR. GOURIS: -- 15-year period.

MR. CONINE: Gotcha. We've done -- he mentioned an escrow agreement. We've done those in the past, have we not?

MR. GOURIS: Only when we were about to lose the credit.

MR. CONINE: Only when we were what?

MR. GOURIS: We were about to lose the credit. There is no motivation for the Department to enter into an escrow agreement in this count because we're not losing any of the credit allocation in this case. We've done those -- we did those for the binding agreements because those binding agreements had to be executed by the end of the year --

MR. CONINE: Yes.

MR. GOURIS: -- or those credits would no longer exist.

MR. CONINE: And speak to the hard and fast deadline, if you would, on -- I think what he's talking about, that the March 30 date.

MR. GOURIS: I'm sorry.

MR. CONINE: Speak to the hard and fast deadline he's referring to.

MR. GOURIS: That's his deadline with his private syndicator and lender. We -- our --

MR. CONINE: That's not IRS? That's not us?

MR. GOURIS: No. We were made aware of it yesterday.

MR. CONINE: Okay.

MR. GOURIS: Or I was made aware of it yesterday.

MR. CONINE: Okay.

Any other questions of the witness?

MR. FLORES: What is the escrow -- normal escrow agreement all about?

MR. GOURIS: If there's work to be completed --

MR. FLORES: Yes.

MR. GOURIS: -- we have determined what the amount of that work needed to be done in order to establish an escrow amount. And we've withheld or they've set up an escrow account to put that money -- this isn't work that needs to be completed. This is either units that have an occupied persons in them that need to be relocated and corrected. And it's going to take a little time for that to occur. If they were able to get it accomplished, you know, before the end of the month we, I'm sure, could turn it around and get, you know, get things corrected. There are also some fees --

MR. CONINE: But if he's willing to put it all up in an escrow agreement then he's got to make you happy --

MR. GOURIS: But there's not an escrow --

MR. CONINE: -- which is even tougher.

MR. GOURIS: There's not something for him to escrow because there's an amount of work that needs to be done. And --

MR. CONINE: But there's time. Right?

MR. GOURIS: For him? Yes.

MR. CONINE: Yes.

MR. GOURIS: You know, this is something that he's -- I mean, they're supposed to operate the property according to, you know, the compliance rules. They haven't. We -- they want their 8609s today or the end of the month.

MR. CONINE: Right.

MR. GOURIS: And, you know, this is a very unusual circumstance. And it would be very inconsistent with --

MR. CONINE: Who's the syndicator in this one?

VOICE: Related Capital.

MR. CONINE: Related Capital. Okay.

Any other questions of the staff? We've got one more witness behind you.

MR. HAMBY: Well, I'm not sure that we can vote on this today because it's not on the agenda. You can give him an extension. But creating an escrow fund -- or -- I mean, in essence he's asking you to waive the noncompliance by the end of the month. And that's not a board agenda item. And that's not a board item that we typically -- compliance is not an issue that comes before the board because it's an IRS standard. And so we've never, in my knowledge in the five years I've been here -- how long have I been here -- however long I've been here, we've never waived a compliance requirement before.

MR. CONINE: Understand.

George Littlejohn?

MR. LITTLEJOHN: Chairman Conine, members of the Board, Mr. Gerber. My name is George Littlejohn. I'm a partner with Novogradac & Company. We're a CPA firm. Mr. Fisher asked me to talk on the compliance issue because he forwarded me the documentation he had received from the state and asked me to help him resolve some of the issues.

When I looked at it it looked like some of the file issues, the tenant issues -- I have not looked at the files. My understanding is these were displaced Ike residences. And there may be some information that will be provided to the compliance department to mitigate against that.

As far as the units not being leased by 2007, that's really not a compliance issue. That's just -- it's just a fact that it was a elderly project, took a little longer to lease up. It just reflects how many tax credits they can take on their first year tax return. It's not a compliance issue. They're not out of compliance. It's just how many credits can they claim.

The most major issue on that list was the minimum set aside issue, which is really not much of an issue. What happened was on one of the documents submitted in the cost cert package the applicant put down the credit period as being 2006. It was never intended to be 2006. It's intended to be 2007. Under Section 42 you can either take -- start the credit period in the year the buildings are placed in service or make the election to defer the start of the credit period.

I've talked to Patricia Murphy on this issue, actually talked about it before. I knew I'd be working on it. The issue here is all that has to happen is the partnership has to elect to defer the credit period. Once they do that the issue goes away. There's no minimum set aside issue at all. Here's the chicken and egg problem. The election to defer the credit period is made on the 8609. So until the partnership can take the 8609, make the election to defer and submit it to the IRS the issue's going to be out there until that's done. So we have a chicken and egg.

MR. CONINE: Then why can't the syndicator extend his deadline to give the time necessary to get this done? Is this the case where the syndicator just doesn't want to force -- cough up the bucks and has a chance to get out?

MR. FISHER: Mr. Conine, the syndicators are going under. And we have negotiated a settlement of all of our interests and all of our bond projects with Charter -- the former CharterMac. There was originally $800,000 in an escrow for 8609s. We certainly alerted the staff and the -- in that area of our March deadline was coming. And they have been working diligently to get us to the point where we could have 8609s at the end of this month. And frankly, I think the processing is in that position.

What we are facing is the deadline cannot change. Our relationship with them is over. They will not -- it won't be changed. It's either deliver the minimum amount of credits -- I want to make sure -- just what was originally allocated. There are a million dollars more in credits I've got to come back and ask you for, which they want and is needed in the development.

MR. CONINE: Based on cost certification?

MR. FISHER: That's right. And that's what we've asked for. So again, you're giving me an interim relief here. You're -- I'm going to have to be back before you. It's really dealing with this deadline. It cannot be waived. It cannot be changed. We will forfeit the $400,000.

The compliance issues, as Mr. Littlejohn's telling you, are just the mainstream compliance issues that we address every day on properties. They review the files, they disagree with the income calculation, they want more information to be corrected. It just takes some time. Ms. Murphy, I do believe, based upon what they're telling me that she rushed out there at the end of February to do a compliance audit, even though we'd been audited the previous year and had a successful one, in theory to clear us for March. As soon as any issue came up on the files it's almost impossible to resolve it in just a few weeks.

So what I'm asking for is really not a permanent waiver of any of the issues, simply just a waiver of the application of this rule for the purposes of issuing my 8609 in time. And then I'll be back dealing with any of the issues over the next 60 or 90 days. And really, you're just granting a deferral. As I mentioned earlier, we take the 400 out of escrow with them and put it up with you. And it's just really working around this deadline.

MR. CONINE: And why can't we do that?

MR. HAMBY: Well, first, it's not on the agenda to do so. And secondly, compliance issues you can waive, I guess, your own rules that say don't issue 8609s -- if it were on the agenda you could do it --

MR. CONINE: Right.

MR. HAMBY: -- don't, you know, waive the W2 -- 8609s when you're out of compliance. But in response to what Mr. Fisher just said, Patricia Murphy went out there because they submitted bad data and went out there and did the review and checked the files and found it to be really bad. And so that's why it was done and that's why it's such a big issue. Yes, that one waiver question can be changed. But we have a lot of units that are out of sync here. And so again, foremost reason you can't do it is because it's not on the agenda for today. You didn't -- that's not how it was written up and it wasn't how it was addressed. You can give them an extension.

MR. CONINE: But the project is on the agenda.

MR. HAMBY: But that's not the question, Mr.

Conine. I mean, the question is he wants something that's out of the ordinary that the public had no notice of.

MR. CONINE: Hard to argue with that.

MR. FISHER: Well, I guess the question is then -- Mr. Hamby's also saying I couldn't be on the agenda for a compliance issue. Now, Ike Monty and another developer two years ago had a material noncompliance finding in a HOME program that came before you and you gave a waiver. I'm not materially noncompliant. It's just a matter of addressing the issues.

What normally happens in an audit? They give you notice of the audit. Three weeks or four weeks in advance. They give you a whole list of things to respond to. They come out and they do the audit. They have an exit interview. They produce a letter three weeks later. And then under the rules you have 90 days to correct the finding or show it's not correct. And you can get an additional 90-day extension. So again, it's just a timing issue. Because she's done this review just prior to the release we're in a position where there isn't an opportunity to resolve it. And as Mr. Littlejohn says, he does everyday, there aren't materially noncompliant issues.

If the ten units they're referring to would give three points for not being corrected, that would -- that's the threshold for material noncompliance. You know, my -- again, I've been doing compliance with you all for 12 years.

MR. CONINE: Right.

MR. FISHER: So again, it's a difficult economy. These investors are virtually insolvent. We have a little company that will use the money to do more affordable housing in the state. You all have the authority. I disagree with Mr. Hamby. And would really ask you to include in your motion if you are going to approve my extension instructions to staff to issue my 8609s with surety.

MR. HAMBY: A clarification point. Of course, the Ike Monty situation was on the agenda and it was a rule change because he was a minority owner that had no control over the property. And yet he was tagged on an application round for material noncompliance. So it was a substantially different matter than somebody who's in control of the property being out of compliance.

Secondly, it is a compliance question. Compliance questions are not normally brought before the Board. The only thing that would be here is a waiver of whether or not you could let him move forward, which again is not on the agenda. But compliance questions themselves as to whether or not he is or is not in compliance is not a board agenda item -- or it's not a board item.

MR. CONINE: Okay. I got the picture. We need to go ahead and have a motion on the item that's in front of us. Can I get a motion?

MR. FLORES: And that would be the item on the agenda, which is --

MR. CONINE: 1(b)

MR. FLORES: -- extends the --

MR. CONINE: The cost certification time.

MR. FLORES: Yes. I so move, Mr. Chairman.

MR. CONINE: There is a motion to --

MS. RAY: Second.

MR. CONINE: -- approve with Mr. Flores with a second from Ms. Ray to approve that. Can we ask staff to work diligently to see if he can get the 8609 between now and March 30?

MR. GOURIS: We will and we've already offered that to --

MR. CONINE: Okay. Thank you.

Any other discussion on the motion?

(No response.)

MR. CONINE: Seeing none, all those in favor signal in favor saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. FLORES: And, Mr. Chairman, that means that all the other items that Patricia brought up will not be considered at this meeting. Is that what you're saying?

MS. RAY: That's right.

MR. CONINE: Yes. I mean, we can't do anything about them based on what I heard general counsel to say. I think there's a chance that he and the staff can get it worked out between now and the end of the month.

MR. FLORES: Administratively?

MR. CONINE: Yes.

MR. GOURIS: We will work overtime to try to assist --

MR. CONINE: Yes.

MR. GOURIS: -- Mr. Fisher.

MR. CONINE: Okay. Moving on to -- past Item 1. What do you want to do?

MR. FLORES: You're past the consent agenda.

MR. CONINE: No, no, no. I'm not going to -- huh?

MR. FLORES: You're past the consent agenda. You've done Item 1. You've got a lot more to go. It's a long afternoon.

MR. CONINE: All right.

MR. GERBER: We're going to start --

MR. CONINE: Making a liar out of me from an earlier question, we're going to jump to Item 6 and 7.

MR. GERBER: We're going to do Item 6. Item 6(a) is dealing with an appeal that is no longer -- that's been pulled. So we're going to be move to Item 6(b).

Ms. Oehler, why don't you present that one? It proposes to award $900,000 of 2009 Community Services Block Grant discretionary funds to eight applicants.

MS. OEHLER: Okay. Amy Oehler. I'm the Director of the Community Affairs Division. Item 6(b) proposes to award $900,000 of the 2009 CSBG state discretionary to eight applicants. On December 18, 2008 the Board approved the NOFA and the Department released it to interested parties December 19, 2008. The Department received 35 applications by the deadline of January 20, 2009 and 29 of the applications were eligible. The maximum amount of funds requested was limited to 125,000 per applicant.

And applicants completed -- competed in one of the four categories. Projects providing assistance to services for the migrant and seasonal farm worker population; projects providing assistance and services to the Native American population; innovative or demonstration projects; or statewide initiatives.

Department staff allocated the $900,000 evenly among the four categories and is recommending funding two applications in each category. The board item has a description of the projects recommended for funding. Staff recommends approval of the awards.

MR. CONINE: Hold on. Let's see if I've got anybody who wants to talk about this stuff. (Perusing document.) No, I don't. Okay. Any questions of the staff?

(No response.)

MR. CONINE: Do I hear a motion.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes?

MS. RAY: I move staff recommendation Item 6(b).

MR. CONINE: Motion for --

MS. BINGHAM-ESCAREÑO: I'll second.

MR. CONINE: -- staff recommendation by Ms. Ray, seconded by Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: Being none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Item 7 --

MR. GERBER: Mr. Chairman, while Amy is up --

Amy, why don't you give a quick one-minute summary about what we're dealing with with weather -- some of the new funds that are coming to your area. There's a lot of stimulus money that's coming into Community Affairs dealing with hopelessness, weatherization and the Community Services Block Grant.

MS. OEHLER: Okay. Sure.

MR. GERBER: Thirty seconds.

MS. OEHLER: Okay. At 11:00 today we were made aware by the U.S. Department of Energy that we will receive $326.9 million for weatherization. Typically we receive 6 million each year. Significant increase. And we also received 40 pages of grant guidance today from Department of Energy.

MR. CONINE: Any weather stripping guys out there?

MS. OEHLER: And so we will -- actually, our staff is digesting the guidance as we speak.

MR. CONINE: How many want to be weather stripping guys out there?

(Laughter)

MS. OEHLER: And actually, on the consent agenda today it was 30 million in weatherization. So this is in addition to that. So -- we've hosted one public roundtable. We plan to host more public roundtables before we bring a proposed plan to you. The two other programs that Mr. Gerber mentioned -- the first one is the Hopelessness Prevention Program. And Texas will receive $41 million for this program. And we expect to have guidance within the week. The third program is $48 million for the Community Services Block Grant. We typically receive $30 million each year for this program. So this is in addition to that. And again, we're waiting on guidance from the U.S. Department of Health and Human Services.

MR. GERBER: I have a note that the weatherization dollars can be used for multifamily weatherization. And obviously, we want to expand that and make a real difference to those in live in rental communities.

MS. OEHLER: Yes. That's correct. Weatherization services can be provided to homeowners, as well as renters in single-family homes, multifamily and mobile homes.

MR. GERBER: And the limits have been raised from $4,000 per unit to $6,500 per unit.

MS. OEHLER: That's correct.

MR. GERBER: And they can be married up with LIHEEP funds so there's a potential to do as much as $10,000 per unit in --

MS. OEHLER: That's correct. 10,500 is --

MR. GERBER: -- weatherization work.

MS. OEHLER: -- the total that -- maximum per unit.

MR. CONINE: Hey, Amy, have we told you lately what a good job you're doing for Community Affairs?

MS. OEHLER: Thank you.

MR. CONINE: And we appreciate all your efforts in the past and look forward to your efforts coming up with this big chunk of money.

MS. OEHLER: Thank you.

MR. CONINE: Keep up the good work. Thank you.

MR. GERBER: Mr. Chairman, moving to Item 7, which is Disaster Recovery items, I'd like to just quickly go over and while Don Atwell's walking up, to talk about round two, just to give you a quick update. On round one we've completed 407 homes. We've got another 50 that are under construction. We have 65 that are under contract and six that are out for bid. Meaning that we've got more than 507 units that have been either -- that are either under bid award, under construction or completed as of March 1.

There are -- particularly at the Southeast Texas Regional Planning Commission, they've achieved some efficiencies in their program. The unit cost per house has just been less than they had anticipated. So we're going to allow them to continue -- administratively allow them to continue their contract to expend all those dollars. They think they'll be able to serve between 25 and 50 homes more and will wrap up over the summer.

I would also make note that we have drawn down a total of 62 percent of the funds that have been allocated of the 40 million that's been allocated to TDHCA. We're expecting more draws. So we'll so we'll see those numbers of percentage of funds dispersed be ticking up pretty steadily over the next several months as we work to wind down that program.

For round two before we turn to the Housing

Assistance Program we're making strong progress in the City of Houston and Harris County with their programs. We are also -- I know ORCA is also making strong progress in their restoration critical infrastructure.

With respect to the Rental Housing Restoration Program, which -- I'm sorry -- which is the apartment complexes that we are rehabilitating, we've got six of the seven under construction. Mr. Fisher has the seventh, the lucky seventh. And we're still struggling with some outstanding environmental issues and we're partnered with him to work through those issues and, God willing, we'll get through them with HUD in the next several weeks and get construction under way. With respect to the Housing Homeowners Assistance Program, Don Atwell's here to talk about that.

And why don't you tell us the good news about numbers of units?

MR. ATWELL: I will.

Mr. Conine, Mr. Gerber, members of the Board, thank you for letting me speak today. It's been a busy month since I spoke to you last. We actually have 2,108 completed applications. 1,242 of those have been determined basically eligible. There are some other documentations related to proof of ownership that may be required. But --

MR. CONINE: How many?

MR. ATWELL: 1,242.

MR. CONINE: Out of 2,100?

MR. ATWELL: Yes, sir.

MR. CONINE: Okay. Thank you.

MR. ATWELL: 1,152 of those homes have been inspected. And 814 of the applicants have a contractor assigned to them. We've met with 610 of the applicants with the home builders so they've had the meeting with the home builder and selected their home. There are 151 homes in permitting. Eighty of those have already closed. 123 are with the title company for closing. We have 54 that have permits and 35 that are currently under construction. We expect by the end of the month that that will be 91 homes that will be under construction. There's been a lot of activity --

MR. CONINE: And at what pace per week are we -- or per month, your choice -- are we getting permits issued?

MR. ATWELL: The permits right now are coming in at about -- you always ask me a number that I'm not going to have off the top of my head.

MR. CONINE: Yes. Yes, I know. I'm that way.

MR. ATWELL: That's okay. It's probably --

And, John, tell me if I get this wrong, but probably about 75 a month right now. But that's going to increase exponentially. The 610 applicants that have had their meetings with homeowners --

MR. CONINE: Right.

MR. ATWELL: -- the contractors are moving into permitting directly after the benefit selection meeting as opposed to waiting till the closing, which is what we had been doing.

MR. CONINE: So it sounds like 20 a week is kind of the pipeline right now.

MR. ATWELL: Right now. But that's going to increase dramatically.

MR. CONINE: Okay. Good. Thank you.

MR. ATWELL: There are nine contractors that are fully engaged right now on the program. We did get the release of funding from HUD for the rest of the HAP area, which is H-GAC and DECOG. We've been focused a lot -- you know, there's two sides to the equation. There is the construction side, permitting, et cetera, that we just talked about. There's also making certain that we have plenty of eligible applicants after the ones that are already moved through the process. And to date we've had about 1,176 people that haven't responded at all. We've reached out to them and said, hey, this is your last chance.

MR. CONINE: How many? Say that number one more time?

MR. ATWELL: 1,176.

MR. CONINE: Just nothing?

MR. ATWELL: Just nothing. And I think it's important to remember as we think about round two is that we took the applications that weren't served by round one. So --

MR. CONINE: Okay.

MR. ATWELL: -- it was the second time people had been reached out to, I guess. Out of that 1,176, 77 that we had not heard anything from have actually expressed interest. And we've had 138 appointments with those 77 people since we reached out to them. As the people are falling off of that nonresponsive list we're reaching out to people that had requested to be on the waiting list. On 2/6 we mailed to 563 people and said, hey, you are on the waiting list; you wanted to participate. 130 of those people have responded. And 83 of those applications are already complete.

MR. CONINE: Great.

MR. ATWELL: On 3/6 we mailed out to an additional 226 people that were on the waiting list. So there's a total of almost 800 people that were on the waiting list that we've reached out to.

MR. CONINE: How many are on the waiting list?

MR. ATWELL: Right now there's about 400 left.

MR. CONINE: 400? Okay.

MR. VIOTORE: Chairman Conine, my name's Mark Viotore. I'm working with ACS. I led the recovery coalition. One of the things to bear in mind about the people not responding is that most of these people were already sent in as applications through the Governor's Fund, as well as through the Southeast Texas Regional Planning Commission. They had an issue getting those people to comply beforehand, as well.

So the noncompliance -- ACS on their behalf received basically the toughest of the tough. The Regional Planning Commission dealt with those applications that were low-hanging fruit and, in fact, the person that dealt with that is sitting here, Amanda Bryan. She works for the Regional Planning Commission. But that's an explanation of why those people aren't responding.

MR. CONINE: My concern is not the rate of nonresponsiveness. My concern is we're ramping up the home building activity at the time where the pipeline's being depleted either by nonresponse or, you know, acceptance. And I want to make sure the pipeline is full. That's what I want to make sure. We got a -- we -- because the money's going to run out at 4,000 houses or whatever it is. So I want to make sure we've got plenty of folks that have been waiting an awful long time due to whatever situation, too many cooks in the kitchen, whatever the thing is, to be able to get -- respond. And the fact you've sent out 720 of those here recently, that's great.

MR. ATWELL: Yes, sir. We will. There's definitely two sides to the equation.

Any questions?

MR. CONINE: Any other questions of the witness?

MR. GERBER: How many can we expect to have built by the -- have under construction at the next board meeting?

MR. CONINE: You're worse than I am.

MR. ATWELL: We have projected right now 91 by the end of the month. The next board meeting is two weeks into next month? So under construction probably 130.

MR. GERBER: 130? Good. And you'll bring

pictures.

MR. ATWELL: Absolutely.

MR. CONINE: Mark, would you mind signing a witness affirmation form, please.

MR. VIOTORE: Certainly.

MR. CONINE: Thank you.

MR. GERBER: Moving on --

MR. CONINE: Any other --

Go ahead.

MR. GERBER: Moving on to 7(b), Mr. Chairman?

MR. CONINE: Okay. Yes.

MR. GERBER: This is a presentation, discussion on possible action regarding a notice of funds availability for a $58 million affordable rental housing set aside under the new funds that we've received for CDBG related to Hurricanes Ike and Dolly. Although we've not received written approval yet, we have been advised that on March 6 HUD approved Texas' Action Plan for the federal appropriation of 1.3 billion in CDBG emergency funds related to Hurricanes Ike and Dolly.

Governor Perry designated ORCA as the state agency charged with overall administration of these large emergency grants. But the Department is going to be the lead agency for administrating the housing component. In a desire to help all regions to the fullest extent possible a $58 million set aside for the restoration of affordable housing stock has been established. And this fund is not too appreciably different from the $82 million affordable housing stock restoration fund that was present under Hurricane Rita.

The initial allocation within the impacted area is based on a FEMA damage estimate. The state administered set aside will be administered solely within the disaster region and it will help to assure that Texas meets the federal requirement that's in statute that at least 10.6 percent of the funds allocated to Texas, roughly $139 million, be used for affordable housing. The difference between the 58 million and the 139 million is going to be met individually by those communities. I know Galveston will be doing some work in this area and certainly Houston and Harris County will be, as well.

Since we presented this concept at last month's board meeting the federal stimulus bill's been enacted and assuming that the funds provided for it in the stimulus bill are made available again, it appears that the $58 million set aside may assign greater priority to smaller, privately owned affordable housing rental stock in need of repair and rehabilitation.

The approach that the Department took in designing the NOFA with the broader community and of stakeholders was to establish again a regional distribution that utilizes the same percentage as the COG allocations based on damage and provides the assignment of priorities within those allocated regions, much like the Qualified Allocation Plan. So if any area is undersubscribed the remaining allocated funds would be available in the larger disaster-impacted areas on a competitive basis.

We're going to plan to hold two public roundtables in the disaster-affected areas. And the motion we're asking for today is your approval to take this NOFA forward, to hold those two roundtables and provided that there is no substantial comment that warrants us bringing the NOFA back to you based on what we hear, we'd like to go ahead because of the length of time people have been waiting go ahead and issue that NOFA again, provided there's appreciable change.

Tim and Robbye, anything you want to add?

MR. IRVINE: The only other comment I would add is that there is not a specific limit per development in the draft NOFA. And that is something that we would really need to develop as we got into the roundtables.

Because obviously, you don't want to give one area's entire allocation to one deal. And I'd also like to really thank Robbye and the Multifamily staff for stepping up and helping us draft this.

MR. CONINE: Yes, Robbye. Way to go.

VOICE: At her slack time of year.

VOICE: Two days' notice.

MR. CONINE: Any comments, Robbye, from you?

MS. MEYER: In my spare time.

MR. CONINE: In your spare time. Yes. Okay.

Any other questions of staff?

(No response.)

MR. CONINE: Seeing none, I would entertain a motion.

MR. FLORES: Move said recommendation.

MR. CONINE: Move to approve staff recommendation by Mr. Flores. Do I hear a second?

MR. CARDENAS: I second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: And our intent is to do the roundtables, Tim, in the next two weeks and one will be here in either Galveston or Houston and the other will be in Brownsville.

Moving back to Item Number 2.

MR. CONINE: I tell you what we're going to do. We're going to take a five-minute break first. And then we'll go into Item 2. I need to be able to think clearly.

(Off the record)

MR. CONINE: Okay. Moving on to Item 2.

Mr. Gerber or Mr. Irvine or whomever?

MR. GERBER: In the interest of time we'll try to stick to the three-minute limit for staff, as well.

MR. CONINE: I do have a few witness affirmations on this particular item.

MR. GOURIS: Well, let me -- Tom Gouris, Director -- Deputy Executive Director for Housing Programs. Item 2(a) is in your supplemental board materials. I wanted to provide a little background on what is going on. On February 17 of this year President Obama signed into law HR1, the American Recovery and

Reinvestment Act of 2009. The Act has at least seven major programmatic components -- you've heard of three of them already from Ms. Oehler -- that could be or would be required to be administered by TDHCA.

While the stimulus package -- it requires formal acceptance by the state -- staff has moved ahead and formed informal task force groups that have actively engaged in evaluating the program development that may be required. Programs identified address affordable housing -- affordable rental housing, homelessness prevention, weatherization, community services, homebuyer assistance and neighborhood stabilization.

This board item deals with two related items involving the Rental Housing and the Housing Tax Credit Program. These two new activities or new supplemental activities are authorized under the Act, enable recipients of tax credit allocations to move ahead even though there have been significant deterioration in tax credit markets. One of the programs is known as the Exchange program. The other one we call the Tax Credit Assistance Program or TCAP.

The Exchange program permits state housing finance agencies to exchange annual state credit ceiling and return credits from specific prior-year ceilings for cash from the Treasury under a specified formula. The amount of the exchange is 85 cents on the dollar multiplied by ten for the ten-year allocation of tax credit. This cash could be provided development and development applicants or owners of developments in progress to supplement or replace tax credits and/or other sources of equity or debt in the financing structure.

The Act limits the amount the state may exchange to 40 percent of the current 2009 regular ceiling but allows 100 percent of the return credits from the regular ceiling to be exchanged if they have not been reallocated. The Act does not allow credits associated with 4 percent bond transactions or related to special allocation for Hurricane Ike to be exchanged.

On the back of the third page of the write up for this item in the supplemental package you received you will find the current status of the 2009 allocation amounts and a comparison of the maximum potential exchange amount for the Exchange program. I can walk you through that page if you'd like so you can know exactly what I'm talking about there. Does everybody see that?

MR. CONINE: This one that looks like this?

MR. GOURIS: Yes, sir.

MR. CONINE: Okay.

MR. GOURIS: Oh, I'm sorry. The credit amount is the one -- yes, it's that one right there with the box in the bottom. Correct.

MR. CONINE: Okay.

MR. GOURIS: So you can see there are two options really shown there. There's the total allocation as it is today with $87 million dollars -- 87.7 in total tax credit allocation as opposed to the potential maximum Credit Exchange program which would include $351 million in exchange cash and $46 million in remaining credits.

The TCAP program is a different and distinct program from the Exchange program. It's an additional $148,354,769 in funds, $148 million in additional funds that would be available to the state under the Act. These funds can only be used in assisting existing 2007, 2008 and 2009 tax credit developments that have a shortfall in funding, including differences from the adverse market changes that resulted from the lower credit prices or other issues. But they have to be used for tax credits.

These funds are being distributed through HUD as HOME funds. However, they're allocated only to state housing finance agencies rather than HOME-participating jurisdictions. Therefore, they can be used in all parts of Texas, including participating jurisdictions and nonparticipating jurisdictions because the state is the only entity that's receiving these funds, not those participating jurisdictions. And therefore, the 95-5 rule won't apply.

They have to be distributed according to the regional distribution pattern in the QAP. However, a new competitive process would have to be developed to allocate these funds within that regional allocation pattern. The Department's still waiting for additional guidance from HUD to help us with the program. But we understand from indications already that the program will not mirror most of the HOME requirements and, in fact, will mirror all of the IRS requirements as created in the statute. Though there are some cross-cutting issues, environmental, Davis-Bacon labor, fair housing. Some of those cross-cutting issues that will apply to these funds even beyond what they might have applied for as for HOME funds.

This board is well aware of the current situation in tax credit markets and you have already taken extraordinary steps to try to help mitigate the situation by providing a supplemental 10 percent allocation to all 2007 and 2008 tax credit developments last November and forward allocating on 2009 credits to all the remaining 2008 applications.

Unfortunately, this has not solved all the problems. There are still some investors that have limited interest in participating in the program and so there's still transactions out there that haven't closed and transactions that are struggling to move forward.

The Exchange program and the TCAP program could be provided in -- the capital that's provided could be the form of a grant, a loan or equity. And it could substitute or supplement and further enhance the value of any remaining tax credits or could replace the tax credits, at least the Exchange program could replace the tax credits entirely.

We held a public roundtable on March 2 to solicit comments to suggest how the Department should move forward to provide funds for the Act. The most common comment was that there's just a difficulty in syndicating and in particular, there's a difficulty in syndicating transactions in rural areas and areas that -- and in projects that have -- were at risk or rehab projects.

Today staff is asking for the board to provide some guidance on how we should move forward in evaluating the various options that are available that were identified in the supplemental so that we can start to craft and put some framework to a policy that we bring back to you at a future meeting. But we're looking for some guidance and direction.

Some of the things that we need guidance on are do we want to utilize the Exchange program and/or the TCAP program and what levels of funding do we want to access and how should the funding for -- how should the Department allow specific developments to be funded and what forms that might take. Should we provide grants or loans or become an equity investor in developments? What things do you want us to pursue to evaluate to see? I think that will get us started in the conversation.

There's a recap at the very back of the board write-up that kind of gives you a quick overview of some of the key attributes of the program -- two programs.

MR. CONINE: Any other staff comments?

(No response.)

MR. GOURIS: Moral support.

MR. CONINE: Moral support. Okay. Guard your backside.

MR. GOURIS: Right.

MR. CONINE: I have a few witness affirmation forms here. Terry Anderson?

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes.

MR. GERBER: While Terry's walking up, one of the things we failed to do during the Disaster Program was to mention the departure of one of my favorite staff people, Jen Joyce has left the Disaster team. Many of you got to work with her in Multifamily when she was there for many years. And she was just a tremendous asset in our helping to be effective and shape our Rita programs. She's done yeoman's work on Ike programs, as well. Over the last several weeks and months she's really pinch-hitted. And we appreciate that. And she is just a very smart, energetic, capable and talented person, the kind of person who can sit down and in 20 minutes whip out a 30-page NOFA -- we miss those talents. Especially when we put together the $58 million NOFA that we just approved. But we are going to really miss her a lot and our loss is Resnik's gain. And I just wanted to ask everybody to just join me in wishing Jen Joyce --

MR. CONINE: Stand up.

MR. GERBER: -- well.

(Applause)

MR. CONINE: So you went and joined the dark side, did you?

MR. GERBER: And, Paul, if you steal any more of my staff that will be -- well, we'll talk about that.

MR. CONINE: Or Edwina. Where is she? There she is. You're on my list now.

Okay. Ms. Anderson?

MS. ANDERSON: Yes, sir. Good afternoon, Chairman Conine, members of the board and Mr. Gerber. I am here to talk about Action Item Number 2. And I've provided a letter that actually goes into a significant amount more detail. I am hoping that at some point the board would elect to exchange the '07 and '08 unclosed transactions.

At the end of the letter that I've provided to you is actually -- the last page actually shows the Housing Tax Credit Exchange program and the actual dollar amount of unclosed '07 and '08 transactions, what that dollar amount would do for those transactions, bringing in approximately 570 or up to $572,310,738 to the state. And that would offer a $100,996,013 savings to our U.S. Treasury and effectively prevent us from having additional dollars being presented with the tax credits.

The main issues I see with using TCAP funds for '07 and '08 developments are number one, there isn't enough capital to purchase all the tax credits awarded to create a gap. In addition, there's a strong potential loss of investors in tax credit pricing on deals that have executed letters of intent due to the timing associated with TCAP.

Placed in service deadlines for '07 and '08 developments do not allow for lengthy processes. And according to Mr. Gouris' comments at the roundtable discussion you must hold all construction activity at the point in which you contemplate using TCAP funds until those funds are awarded.

In addition, the HUD environmental review process is lengthy. Revision of the QAP in order to award these TCAP funds competitively may not favor '07 and '08 transactions. Again, I mentioned the loss and 15 percent savings to the United States Treasury, as well as the loss of the use of potential exchange dollars that are in excess of what '07 and '08 deals need. And also, there's the uncertainty of rising interest rates and what that would do to your permanent loan financing once it takes a significant amount of time to actually get these additional dollars.

Section 1602.(c)(1) of the American Reinvestment or Recovery Act actually allows TDHCA to exchange 100 percent of previously awarded deals that do not have the opportunity or have searched in good faith for tax credits. Clearly, the '07 and '08 transactions that have not closed and cannot find their equity or have lost their equity meet that requirement.

I realize that the legal determination that was presented states that under our QAP we cannot exchange the credits. However, when you're exchanging the tax credits you're not getting more tax credits. '07 and '08 transactions have already met the requirements of statute 2306 when those credits were issued in the year that they were awarded. The dollars would be coming back in the form of money, not tax credits. And those tax credits are actually -- may go away. They'd no longer exist.

So, you know, I really believe that the state has the opportunity to help out '07 and '08 deals, bring new housing on the line but most importantly, create the jobs that are necessary for many people right now. So thank you all for your time.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: David Koogler?

MR. KOOGLER: Good afternoon. My name is David Koogler. I'm with Mark-Dana Corporation. We're tax credit housing developers.

Mr. Chairman, board members, Mr. Gerber, I appreciate the opportunity to speak with you briefly today. I'll try to keep it brief. I'm just here to urge you to consider and think about a way to make the Exchange program available to the '08 credits and '07 credits.

We've got an '08 project that was awarded tax credits last year. It's right up the road in La Marque, about 15 minutes away in Galveston. It's, as they say, shovel-ready. We've purchased the land, construction plans have been approved by the city and we're ready to go. We've been working hard with tax credit investors and we've been told there's an interest. But here we are.

We don't have current pricing or commitment letter. And I'm worried that they just won't be available. Even though we are in the Houston MSA, we're supposed to fit squarely in everybody's box at the top of the list. We're not a rural project. But there are few investors right now. And those that are out there seem to only be interested in deals where CRA is needed. And so even if you're in a large MSA and the investor doesn't need CRA in that area, you may be out of luck. We're still trying and hopeful that we can get a tax credit investor to invest. But I don't know that we will be able to. So the Exchange program would be something that would be quite helpful.

We've been developing tax credit properties. I know I'm a new face to you all. But we've been developing tax credit properties since the beginning of the program primarily in Virginia. Our La Marque project will be our hopefully first project in the State of Texas. So I'd just urge you to work hard with everybody to try to find a way to make those available to '08 and '07 deals. Thank you.

MR. GERBER: Thank you.

MR. CONINE: Barry Palmer?

MR. PALMER: I'd like -- Barry Palmer with Coats Rose. I'd like to echo the sentiments of the previous speaker who said it's critical that we find a way to get the Exchange program to work for the 2008 credits, 2007. There are still, you know, a handful of unclosed deals out there.

But, you know, the actions that your board -- this board took last fall to award additional credits to the '07 deals was critical and I want to thank you for that. There were a lot of transactions that closed that wouldn't' have otherwise closed. You know, most of the deals that we were involved in -- '07 deals -- did, in fact, close because of the additional credits that you guys awarded last fall.

And I know I came before you last fall talking about how bad the equity market was and how it was the worst market I had seen since I've been in the program for 15 years. Well, now I look back on last fall as the good old days.

(Laughter)

MR. PALMER: And the situation has deteriorated to the point where a number of deals there are just no tax credit buyers at any price. The rural deals, the rehab deals, a number of new construction deals in secondary cities. If there's not a strong CRA demand there there just is not a buyer right now. You know, clearly Congress intended to allow previous year credits to be exchanged. And that's why the legislation at the federal level allows 100 percent exchange for prior year credits.

And I've seen your general counsel's interpretation that only the '09 applications qualify for the exchange, don't necessarily agree with that. But if that is, in fact, going to be the position, I would encourage all of us to get legislation passed at the state level to fix that. Because we really need that or a large percentage of the '08 deals will just not close because there's just no demand for the credits. Thank you.

MR. CONINE: Mr. Palmer, let's play

hypothetical legal ethics for just a minute. And assume we're in Texas which has the statute that it currently has. And you get a client with a -- either an '07 or '08 deal that can't close. Or throw yourself forward into July and now you got that same client with a '09 waiting list deal. Under the current scenario state statute, the waiting list is going to get preference because if there's anything left over that's who gets it.

MR. PALMER: Well --

MR. CONINE: Who are you going to encourage me to root for in that situation?

MR. PALMER: I would encourage the board --

MR. CONINE: What's fair?

MR. PALMER: -- to amend the QAP to allow for a second supplemental application round that allows people with '07 or '08 allocations to apply to exchange those under the exchange program.

MR. CONINE: Doesn't that penalize the '09 applicants?

MR. PALMER: Well, the '09 allocations -- we're already saying that the -- well, '08 credits with forward commitments I would treat the same way as an '08 allocation. And where they could -- you could exchange those -- 100 percent of those under the Exchange program.

MR. CONINE: Well, forget the Exchange program. We live in Texas. You give credits back you got to throw them into the bucket. Right? And the bucket says they fall to the next '09 on the waiting list. That's the guy you're screwing. Kinda, sorta.

MR. PALMER: You mean people who are applying in '09 --

MR. CONINE: Yes.

MR. PALMER: -- right now?

MR. CONINE: Right. Right now. That's what the statute says. And that's what the QAP says. And that's why we've taken the position we've taken it. And if you had a client that had one of those versus a client that's got one in history you'd be in rough shape.

MR. PALMER: Well, the --

MR. CONINE: Wouldn't know which one to root for.

MR. PALMER: Well, I would root for the one that can start construction the soonest, which is the '08 deals that are ready to start construction. The ones that we allocate credits to in '09, none of those are going to start construction until some time next year. And the point -- the whole point of the stimulus legislation was to put money out as quickly as possible. And --

MR. CONINE: I know a couple of guys in this room who have started with shovels in the ground within 30 days after the July allocation in previous history. So --

MR. PALMER: Yes. There --

MR. CONINE: -- they can happen quick.

MR. PALMER: There are a couple. But I only know of two of the '08 allocations that have closed so far.

MR. CONINE: My point is we're oversubscribed in '09. We know that already. We got a waiting list. Just a question of who's on it.

Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

Dennis Hoover?

MR. HOOVER: I was on for 3(b). Is this for 2?

MR. CONINE: Yes. I've got you at 2.

MR. HOOVER: Okay.

MR. CONINE: Oh, you yielded your time to Mike Sugrue.

MR. HOOVER: I did.

MR. CONINE: I'm sorry. Why would you do that?

Kenny Rogers, Mike Sugrue, come on up. And you got five minutes to talk.

Too bad about your 3(b). Well, you may have another one in the stack. I don't know.

MR. SUGRUE: Good afternoon again, Mr. Chairman, board members, Mr. Gerber. Mike Sugrue, Solutions Plus. I'll echo what everybody else is saying.

And, Kent, I'll go to your question. Why wouldn't we take the preferences the way they were awarded before? The '07s were awarded before the '08s. The '08s were awarded before the '09s. Who's ready to go? There is some idea --

MR. CONINE: It's obviously the '07 and '08s aren't. Because they haven't gotten it done.

MR. SUGRUE: Well, they're ready to go.

MR. CONINE: For whatever reason.

MR. SUGRUE: They're ready to go --

MR. CONINE: It's not their fault.

MR. SUGRUE: -- except they don't have a syndicator.

MR. CONINE: I understand it's not their fault. But the '09 deals are the ones that are more fresh, got fresher numbers. And quit trying to -- you know, moving all these moving parts to make it fit. We've tried several times. I just think it's fair just from fairness sake that the '09 guys get first shot at it. That's what the QAP says.

MR. SUGRUE: I think that -- wasn't the legislation to help stall the '07 and '08 deals --

MR. CONINE: Uh-huh.

MR. SUGRUE: -- as well as allow '09s to be exchanged? And the saga of Dalhart, if you will -- because under that scenario Dalhart goes away and the pig that I fed for so long gets slaughtered and I get no sausage. That is not a good scenario for me or for the City of Dalhart or for anything anybody wanted to do out there. We have had that property and tried to close since last June. We actually got closing documents in the title company with dates on them of January 22. The syndicator did not come up with any money. The construction owner eventually pulled their docs back.

And I was calling them two and three times a day with no return call. Finally, last Friday they called and said, You know, if you can get some of that stimulus money we don't want to lose the deal, but why don't you see if you can get some of that and take it and maybe we'll just do asset management for it.

I mean, you know, it's a typical syndicator scenario. But as you've heard, the syndicators -- there's only three investors that I know of -- well, four probably. There's Chase, there's Verizon, Capital One and B of A. Three of those are CRA clients. Citi may buy a little bit as I heard. But that's a tease. But we'll see what else is going on. That's all I have to say.

MR. CONINE: Okay. Thank you.

Mark Mayfield.

MR. MAYFIELD: Well, good afternoon. My name is Mark Mayfield. I'm with the Texas Housing Foundation of the Regional Public Housing Authority. I get kind of confused with all the moving parts and everything that goes on.

MR. CONINE: You think you do?

MR. MAYFIELD: We got an '08 deal that received a '09 forward commitment or is in line to receive an '09 forward commitment in Llano, Texas. It's 08181. And we're shovel-ready. All I have to do is take a check over tomorrow to the City of Llano and we could start work Monday morning. Everything's done. All the engineering's done. Plan review is done. Everything is done. Other than the fact that we have no investor. And nobody is looking at Llano, Texas, and deals are being cherry-picked and Llano, Texas, is at the end of the list.

If you go back to the history of this deal it began as a productivity marketing sight, productivity bond deal that didn't work because that was about the beginning of when the markets really began to fail. And so we backed it out with Johnson City. We're -- that literally under construction now about 50 percent complete with the construction of that project. But we went with a 9 percent round in Llano. And it's already all under -- everything's been done. We've already received our HOME funds for this deal. We have everything but an investor.

And the only hope that this is going to get done is through the Exchange program. It is an '08 deal. I understand the argument on the '09s and everything. It's just according to really what we want to do to -- if we want to see housing developed in Llano, Texas, or not. We're there to do it. Again, we could start Monday morning. That's how shovel-ready we are.

And so any hope that we can -- or hope and, I guess, help, also. I just received an e-mail as I was sitting there about ready to close the HOME loan. And HOME loan's not going to do me any -- the component of this -- it's not going to do me any good if I don't have an investor. And I just -- Llano's just not a taker, so appreciate any --

MR. CONINE: Mark, let me ask you a question. Do you not have an investor because you need a particular syndication rate for it to make it work? Or do you just not have an investor period?

MR. MAYFIELD: We just don't have an investor.

MR. CONINE: You can't get it done at 50 cent?

MR. MAYFIELD: No. We get a pat on the back and, You do great work and we appreciate it but we just -- you know --

MR. CONINE: Okay. That's what I needed to know.

Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. MAYFIELD: Appreciate it. Thank you.

MR. CONINE: Granger MacDonald. Boy, they're coming in right and left, folks.

MR. MacDONALD: Well, that's what you did by having a nice place, you know, far away from home. What you've been hearing about rural and exurbans is actually true. To take that a step further where Mark was, if credits were 50 cents you might be able to get somebody to play. But obviously, we haven't ever penciled those numbers because they wouldn't work. And that's the real issue in the smaller communities. Even in the non-metro areas outside of the Dallas/Fort Worth/San Antonio/Houston and Austin. You're just -- you're running into just a lack of demand.

I would hope that that would be something that we could overcome, especially in the 40 percent exchange, when you figure out how to do those allocations. Also, keep in mind in the rural exurban towns this is all going to have to be done under Davis Bacon and you can do Davis Bacon more cost effectively in the smaller communities than you can in the larger cities where there's more organized union labor.

One of the biggest concerns I see in all this is the HUD environmental standards. And I don't think any of us have gotten to the bottom of what's going to be required in that HUD environmental. What I've read is it's going to be a very time consuming process which could take as much as six months. I would hope that we could do some sort of pooled effort amongst everyone to go to HUD. We're all -- those of all of us who bought our land, for example, for '08 deals and even for some of our '09 deals are going to have to get waivers because we've already purchased the ground. That's going to be -- we need to somehow go to HUD with mass absolution or something so we can get around that.

I also think that we're going to get into a situation we need to figure out whether maybe the TCAP funds can help the '07s and '08s and how that would be applied and applied for. For example, we have one deal that I think we can get credits for. I think the number's just going to deteriorate. It's going to be in the, you know, a 60s number. So if we had some sort of help from the TCAP side we wouldn't have to do the exchange.

I really don't have a dog in the fight on whether the '08 or '09 deal is. Our '08 deal that I can't seem to get funded we filed an '09 application on at the last minute. So we're going to be kind of sitting with our feet over the fence. So I don't know how that's going to work out. But obviously, the sooner we can get to the bottom of some of these details, the better.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Benjamin Farmer?

MR. FARMER: Chairman Conine, board members, Mr. Gerber, my name is Ben Farmer. I'm a developer, owner, builder, manager. And like most of these other crazy gentleman that just came before you, we're mostly located in the rural areas. We're suffering a little bit on hard times right now. I know you all probably got a room full of people right now that are looking for that handout, looking for that help.

And we're asking for a little bit more than help. We need some special exceptions. We need consideration with this TCAP money, the grant money. I know everybody's saying that they need their own special -- but rural especially needs the help. So I'm just going to echo what all of my other partners in rural have said and we need the help.

MR. CONINE: Any questions?

MR. GERBER: Which --

MR. CONINE: Steve Moore?

MR. GERBER: Which is your project, Ben?

MR. FARMER: I'm sorry?

MR. GERBER: Which is your project?

MR. FARMER: We have a 2008 project that's Alta Vista. It's -- Alta Vista Limited. It's an 80-unit rural deal. We have some 2009s that are rural, as well. And same deal. You know, just like everyone else has echoed in this room, syndicators -- they may offer a little tickler rate. We may be able to get the paperwork in there, you know, at the application time. But they keep stalling, keep giving us, you know, maybe we'll have the fund, maybe not. And it's just going to take something a little extraordinary to get the deal done.

VOICE: Thank you.

MR. CONINE: Mr. Moore?

MR. MOORE: Thank you, board members, Chairman. I wrote out what I was going to say because I get nervous. But I'm going to try and bring in -- I bought Premier Apartments in Houston two years ago, twenty units. It's 2/3 occupied. I applied for 2008 tax credits. I would have applied for the 2009, as well if I had known. I don't know what's fair. You know, I can see my picture. You all see the big picture. I don't.

But I'd like you to know what Premier represents because I think in any fair competition it would beat out anybody in bang for the buck. I actually plan to retire after I finish renovating Premier. And I want this to be my legacy, my saving contribution. And not only in the quality of the renovation, but also in the greater contribution to the community.

I formed the Westwood Foundation, a nonprofit, which is dedicated to improving the whole community and also formed the Westwood Owners Alliance to get other owners to do like I did in the first year. I took the crime at Premier from one of the worst in the neighborhood to one of the best. I did it partly by getting the residents involved in where they live. A couple nights ago I had one of the residents call me up on my cell phone and talk to me about the property and problems that he had. That's the level of involvement I have.

There's never been anything that has kept me from being -- from going ahead with this since I got the award other than getting the tax credits syndicated. I could start quickly. I could have started quickly after I got the award but everything got bolloxed up in recalculating. I'm still ready to go quickly. I don't think it was fair that I didn't know I should have reapplied for 2009. I don't know. That's your decision.

What I know is I've got what I think is one of the best projects in bang for the buck, in terms of units per dollar. I've got the report of Mr. Sampley and his funding. And whatever you decide I hope it includes -- it will somehow include this project. Thank you for your time. Any questions?

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Donald Sampley, I believe?

MR. SAMPLEY: Good afternoon. My name's Donald Sampley. I'm with the City of Houston in the Housing Department. We in the city intend to seek some additional help at the federal level relative to the exchange of the Ike credits. We think that's probably a oversight in the rush to bring this bill to fruition. We are hopeful that we will be successful and we would like your cooperation or your support in doing that.

As you know, all of the 2008 credits in regions 5 and 6, Houston being the preponderance of those credits, were Ike credits and therefore, are not eligible. And so that gives the other 75-plus percent of the state, the 25 percent of the allocation of the credits to be allocated back into the other part. I'd also ask that if it were not successful in Ike that we give some look at how we allocate the Ike and the non-Ike credits in the 2009 round so that if we have particular projects, especially rehab projects -- and we are hoping to use our second round of disaster relief to support these projects, the massive rehabilitation projects caused by damage by Ike. That those would be allocated on the non-Ike credits. Therefore, we could exchange those credits and would make those credits an easier -- make those deals work better.

We have new projects that may be able to sell their Ike credits. We do have some market in Houston for credits but it's not very strong. I have one of the six 2008 awards that you made ready to close. I've got a second one that says he can get there but I'm not sure. And the other four I can't tell you about because they're still up in the air. So while everybody likes to tell you that the urbans are okay, I've got the biggest pile of urbans and they're not okay. Thank you.

MR. CONINE: Mr. Sampley, I saw a marketing study the other day from O'Connor that showed Houston at 88 percent occupancy in apartments. And I would have to assume they took the damaged units out of that number. Can you speak to that? Because that seems to be pretty high vacancy in a metropolitan area.

MR. SAMPLEY: Well, I think there are a lot of units that are being occupied that had there -- had we chosen to remove all occupancy permits for damaged units that wouldn't be occupied. We have 87,000 people in the DAP program in our area most of which come from this island. And that creates the demand. And we have an enormous amount of C and D product that is not fit in my mind for human occupation.

MR. CONINE: Okay. Any other questions?

(No response.)

MR. CONINE: Jeff Crozier?

MR. CROZIER: Good morning, Mr. Chairman, Board -- or afternoon, anyway. My name is Jeff Crozier and I'm the Executive Director of the Rural Rental Housing Association. I'm not going to chew the same ground that everybody else already has today.

The only thing I would add to any of it is that when my time ran out last time I was in front of you I was talking about how difficult it was to build in rural Texas. And it hasn't gotten any better. And, in fact, it's only gotten worse. We had three syndicators at the roundtable we had that said that there was no credits or no price available for rural deals in the State of Texas.

So what I'm asking for today, since you're developing a policy here, I got an e-mail that -- from -- I forgot who I got it from that said, Mr. Gerber, you and Mr. Conine had gone to Washington and found out you all had a lot of flexibility in how you all design the program to get rid of all these ARA funds. My only hope is that we don't muck it up at the state level. If we've got all this flexibility let's keep the flexibility going. So -- and if we have to fund total equity on a deal let's fund total equity on a deal. Not everybody's going to win. In some of these instances old ugly is better than old nothing.

So we need to make sure that we keep this program as flexible as we can, help as many people as we can. At the end of the day let the chips fall where they may. So that's all I got to say. Thank you.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: I don't want to muck it up, either -- George Littlejohn? -- but I typically do.

MR. LITTLEJOHN: Chairman Conine, Mr. Gerber, members of the board, I'm just here representing the industry and my clients. I had some comments. I feel like at this stage we're running into the same issue we had with the '07s. The question is can we just give the '08s enough time until the market improves. And the best way is to get them funded.

Since -- right now under current state statute they cannot turn in their credits, get exchange for new credits. One possible option may be able to use TCAP funding. And if they were able to use TCAP funding and were able to use that as either equity or forgivable loans at that point for the deals especially that can't find an equity no matter what -- rural deals -- you could fund them. If they turn in their credits those credits can then be exchanged to help '09 deals. And then you could fund all the people on the waiting list you want. So that may be one option here is to use the TCAP money the way it was intended to help the 2007-'08s stalled deals. Thank you.

MR. FLORES: Mr. Littlejohn, were they --

MR. CONINE: Excuse me. Yes, Mr. Flores?

MR. FLORES: Are you familiar with the write-up that we have here in the book --

MR. LITTLEJOHN: Yes.

MR. FLORES: You're familiar with the write-up? You're familiar with this page that has two sides of it?

MR. LITTLEJOHN: Uh-huh.

MR. FLORES: So it sound like to me you're recommending the ones on the right side as the TCAP side of it. I had a long conversation with the person who wrote this up and I'm glad to hear you say that. Because I'm sitting here a little bit confused about where we go. I was told that my job today as a board member was to kind of hone it down, make the choices less. I'm -- you certainly have the background for this thing. And I'm somewhat confused because that appears to be one of the better solutions. I know the best ones -- better solutions of the two. And your opinion matters to me and I appreciate your -- what you just said. So it's helpful to me. Thank you.

MR. CONINE: Dan Allgeier here?

MR. ALLGEIER: Thank you. I'm Dan Allgeier with New Rock. We have two '08 deals in the Fort Worth area which we're probably going to close because they have CRA investment reasons for banks to close with them. But we haven't closed. And the fact we haven't closed is because the investors really aren't closing deals. Barry said that there was two deals closed. I don't know how many '08 deals are closed. I don't think too many, certainly not compared to prior years.

My question is then we shouldn't assume that the '09 deals are going to have any more success than that. Because I don't think there's going to be money to close those deals, either. So we need to work out some way so that the deals that have been allocated credits can use some of this exchange funds and some of the other funds for gap financing so they can get closed.

If we wait till '09 we also may run into some problems with the deadline on these exchange funds. There's a January 1, 2011 deadline when this has got to be done. '09 -- I think we're going to run into some timing issues.

And the final thing is as I was driving down here I talked to an architect who's laying off all his people on Friday because he hasn't been paid on any of his deals. Fortunately, he's not our architect. But nevertheless, we need to get something done. We need to not only get housing on the ground, but we all know how many jobs this housing creates. I think we need to work. If we have to change the legislation or something we need to use some of these funds for the '07 that could get done in the time period and the '08 deals.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Cynthia Bass?

MS. BASS: I'll waive.

MR. CONINE: Okay. That's all of the witness affirmation forms I have on this particular agenda item. Staff want to follow up and just comment on what some of the people have said? Or add to or pontificate or whatever you'd like to do?

MR. GOURIS: Pontificate is something I know how to do. But I'll try to not do that. Tom Gouris, Deputy Executive Director of programs again. Someday I'll get that title right.

I think one of the comments was made with regard to the possibility of -- or one of the things that

I had said at the roundtable is that environmental issues are very significant with the TCAP funds for sure and likely, as significant with the exchange funds, although we're still trying to get that understood. And that --

Those issues are that if deals are in the midst of a transaction and they apply for TCAP funds or like, they would apply for HOME funds they typically would have to stop their activity and get that environmental clearance before they can, you know, while they're going through the award process. So we have some very serious environmental issues that we may have to address as we go down the road with both of these two programs.

The other thing that I failed to emphasize originally is the issue with regard to asset management. Both of these programs require -- have language in them that says that the state would ensure their performance through an asset management -- an enhanced -- what we believe is to be an enhanced asset management activity beyond what we do today with our compliance activity.

And we are looking toward the guidance that we'll receive on that to understand if that goes to the level of asset management that say, a syndicator would do to protect their investment. Would we need to protect the investment and satisfy some sort of obligation of the project down the road, what kind of reserve requirement would it require, what kind of security or recourse would we need to have. So these are issues that we are going to need to flush out as we get more guidance. But also, things to consider as far as the risks long term of these two programs.

That depressing part of it being said, you know, these two programs do provide some potential for relief to move transactions forward. I think that the timeliness issue is one that we can address. We probably have a little bit more time to address with these programs than we do with some of the other stimulus programs in that we already have a pretty well-organized, well-oiled machine for taking application once we get that processing moving and making the awards once we make -- take the application forward. And all we need to do is make the awards within a year. And that's -- or by the end of the year in some cases. And that's, I think, a pretty reasonable, easy thing to do. We still have lots of time to do that. So the urgency isn't quite as great here as it is with some of the other programs we're working on at the moment. There is still some urgency.

MR. CONINE: The '07 deals would be urgent, wouldn't they? Because of place in service?

MR. GOURIS: Well, if they returned and got new credits --

MR. CONINE: No, no, no. I'm --

MR. GOURIS: -- they would get --

MR. CONINE: Let's just assume we gapped it for whatever -- assume a miracle happened and they found a syndicator and we gapped it. We could do that fairly quickly --

MR. GOURIS: I --

MR. CONINE: -- could we not?

MR. GOURIS: I cannot imagine -- my own personal understanding of the -- my limited understanding of the development process --

MR. CONINE: Because see, they got '09 -- they have '09 drop dead dates. Right?

MR. GOURIS: They have an '09 drop dead date.

MR. CONINE: Yes.

MR. GOURIS: If they haven't started -- if they're --

MR. CONINE: Yes.

MR. GOURIS: -- an '07 deal and they haven't closed on their syndication --

MR. CONINE: Right.

MR. GOURIS: -- we've got some serious issues unless you want to salvage them by making them now '09 deals which we have historically not wanted to do --

MR. CONINE: No.

MR. GOURIS: -- for other reasons.

MR. CONINE: Right.

MR. GOURIS: So assumed deals are very difficult to give gap to.

MR. CONINE: Okay.

(Pause.)

MR. CONINE: Disaster relief's got an extra year.

MR. GOURIS: Yes.

MR. CONINE: Right? Okay.

MR. GOURIS: We can delve through some of the issues with the how or the sort -- the type of financing. If it's loan grant, equity. Talk about some of the things there if you want. Or if that's too premature here we can hold off on that. Kevin has some things to --

MR. HAMBY: Well, it's more so, I think, what this agenda item was posted for to ask the board for some key guidance so staff can bring you back rules that can be written up for the April 12 or April, whatever it is, meeting. And there are three or four policy decisions that this board needs to set forward for staff so that they can write up these rules. Because you are going to -- you're right, Mr. Conine, there's a timing question. And we do have to post these as rules.

And so really, the earliest you can talk about doing an award is May on all these things. And that's if you agree to the rules in April, we get them posted as kind of any emergency rule for the shortest posting period possible and then bring something back. And you're probably really looking at June before these awards can be made under just a natural timing pattern. And that's if we answer all the questions today about where you want the Exchange program and TCAP to be used, you know, what areas, you know, what kind of exchange -- how much do you want to do at all, if you want to do any of the Exchange program. I mean, these are the big questions --

MR. CONINE: Right.

MR. HAMBY: -- that need to be answered today to bring back rules in April.

MR. CONINE: Let me start, Board, if I can, because Mike and I did spend some time in D.C. at the NCSHA legislative conference. Talked to a lot of folks in other states. Gloria was there, as well. I hate to go on -- she was a valuable input into various discussions, as well.

And as most of you can imagine, the rest of the states are all over the map on this particular issue, as well. It's just too early in the process for them to have it concretely set in their minds exactly how to do the program as there are some issues that are still left to be decided, such as environmental on Exchange and some -- and other issues that some of the more high-profile accounting and legal firms that deal in tax credits almost exclusively are grappling with at the present time and trying to get clarification from either HUD or Internal Revenue.

It appears to me that we obviously have too few resources to cover everybody. And it appears to me that 100 percent of the folks are pointing at 40 percent of the solution. That therein lies the problem. Speaking for the Exchange program just for a minute, which Counsel has related to '09 transactions, there are several issues that need to be flushed out in my mind. A, there's going to be some administrative cost on our end to administer this program.

So those of you that look at 85 cents and legislation and so forth, other states that I talked to are going to go out at 70 cents or they're going to go out at 65 cents and they're going to try to stretch that 85 cent dollar as far as they can stretch it over their '09 population. So there's no guaranty that you're going to get 85 cents. So I want to make sure that rumor or myth is fully destroyed at this particular meeting. And it appears to me that the TCAP money is dollar for dollar. So if you thought 85 cents was a good deal I would imagine that a dollar is even a better deal relative to your '07 and '08 or '09 transaction.

The only way this is going to work for the best is to try to utilize as many of these funds as we possibly can on each deal. And in order for that to happen we've got to have some syndicators come to the table. We got to have those that think they might do a deal or maybe can do a deal.

And we probably -- you guys could have a discussion with them easier than I could. But it would behoove us, I think, as a Department that's trying to look over and protect as much of the assets that we can to try to prioritize GAP money for truly what it is, GAP money. If we got a syndicator in there, even if he's at 50 cents -- I don't think that's right to be at 50 cents, I think that's, you know, quote, taking advantage of the situation.

So maybe we create a structure whereby if the current proposed syndicator would find a nickel somewhere that he would get priority to GAP funds, thereby lowering the GAP, therefore, enabling the GAP money to go a little further for the next guy. I would -- and I know staff would appreciate some comments back from you guys on that sort of philosophy.

Same goes for the Exchange money for '09. If we were to prioritize '09 Exchange as fill in the gap first and having a guy move from 65 cents to 70 cents so we can fill that gap with Exchange money first it's going to go a lot further. And that's what I think this board and this Department is all about, making it go further and getting -- get out and -- especially in rural Texas where we know times are very, very difficult.

In the case where I believe that the Exchange money and the TCAP money is going to fill the whole enchilada -- and I think we'll have some of those, we won't have a syndicator involved -- it will just be the debt piece and us. Then there are partnership/ownership issues that we as a Department need to resolve. There's a matter of cash flow on the back side. There's a matter of depreciation that's out there. I have asked through one of our syndicator, David Resnik, to opine on the depreciation side on how state housing finance agencies can monetize depreciation.

I believe there's a structure out there, albeit difficult, that we could find a source of funds, again to make our funds go further, where we can monetize depreciation. I think it makes sense to take some of the cash flow and dedicate toward the Housing Trust Fund on the back end. Because we all know there are certain circumstances in the shoes of a syndicator where they have to inject cash into a deal, whether they keep the general partner or not. And we have to have a source of funds to be able to do that into the future.

Because the worst thing we could do is create a default ratio that would increase over and above what the defaults have been on tax credit projects over the last 25 years because I don't want to see this program die. And I don't want to give Congress an excuse to kill it. So we have to plan for that as a Department.

So I believe staff should probably take a hard look at the TCAP money first because -- and we need to look at '07 and '08 transactions first. And we need -- obviously, you guys need an application process for them to come in and apply for it. And I'm giving you my thoughts as to the prioritization of how that money should go out the door. And, you know, as little as possible, as much as possible. And how you prioritize that you guys got a better idea of that than I probably would. But we've had testimony today that both urban and rural deals are hard to do. And so I don't -- you know, I don't know necessarily that we should deviate from our current priority stream other than it just seems prudent to me that if there's a syndicator willing to fund some reasonable number and may go back and demonstrate to us that he's increased that offer a freckle, I think that particular project should receive the ultimate in priority.

With that -- and the other -- let me mention one other thing. I keep hearing that syndicators aren't funding '07 and '08 transactions. Yet I bet if we go up and look at the '09 applications that those same syndicators have written the same letters for some of the same people. And I'm a little bit tired of that. And I don't know what to do about it. But what comes to my mind is there's going to have to be some skin in the game for these letters that we keep getting on the applications. And if we see a repeat offender in '07, '08 and '09 that tells me a lot. So you all can take that back to the syndicators. They probably know that already. But I -- we're going to be -- I'm going to ask staff to track that information.

Because as someone said in their testimony earlier here, it makes no sense to exchange on '09 deal when the same syndicator just, you know, backed out an '08 deal. That -- to me, that's not quite fair. And I know the syndicators got problems and issues and everything else. But I also know that they're not standing in a soup line, either.

I'll open the floor for other discussion to the board. Any other comments?

Gloria, you were there.

MS. RAY: No, sir. I think --

MR. FLORES: Mr. Chairman --

MS. RAY: -- you covered it all.

MR. FLORES: I'm sorry.

MR. CONINE: Yes, Mr. Flores?

MR. FLORES: The only point I want to make is -- you know, involving these deals there's an option that we might be taking an equity position in some deals. And I -- as the state, I would certainly be opposed to that. I think it would be bad business for the state to -- so that's one of the ones that I worry about.

MR. CONINE: You're opposed to taking an equity position in these transactions?

MR. FLORES: For the state to take an equity.

MR. CONINE: So how would you propose to -- and in the event there is no syndicator how would you propose to handle the issues -- and a couple issues I brought up were depreciation and cash flow in the future?

MR. FLORES: If there is no syndicator I think we may just have to do nothing. Because for us to wind up ten years down the line with a bunch of empty apartments that a bunch of bankrupt developers is about as bad as it gets for this housing department. And that sort of could happen in this days and age.

MR. GOURIS: Can I jump in and say that --

MR. CONINE: Sure.

MR. GOURIS: -- regardless if we do it or not, if the statute requires us to do it and that's the guidance that we get and --

MR. FLORES: If the federal statute requires to do it, yes, of course.

MR. GOURIS: It requires us to do --

MR. FLORES: You haven't mentioned that. Does --

MR. GOURIS: If it --

MR. FLORES: Does the federal statute require that?

MR. CONINE: That --

MR. GOURIS: It requires us to do asset management. And what is -- and it requires us to do asset management and it's uncertain at this point whether that means taking that extra role of asset management that a syndicator might do, which would be to supplement some future payment of debt or operating expenses on a property to keep it afloat.

MR. FLORES: And asset management is not defined? Is that what it is?

MR. GOURIS: It's not defined.

MR. FLORES: Okay.

MR. GOURIS: But if it's that level of -- at that level of concern it would be --

MR. FLORES: So we may have to pay that price is what you're telling me if indeed it interprets to be as such?

MR. GOURIS: There is also potential recapture --

MR. HAMBY: That's the bigger issue.

MR. GOURIS: -- issue that --

MR. CONINE: That's the biggest --

MR. GOURIS: -- the lawyers behind me --

MR. CONINE: -- sin right there, Sonny.

MR. GOURIS: -- are concerned about. But that also is a issue if it fails and we no longer have those units and the original developer is no longer there, there's no ability for us to recapture or to repay either of these sources of funds.

MR. CONINE: You need the equity position to provide the safeguards to the Department in case of recapture possibilities. Because you ain't got enough money to pay it back.

MR. HAMBY: And part of that issue --

MR. FLORES: We don't --

MR. HAMBY: -- Mr. Flores, is that really, you're talking about if it's a $1.5 million deal, tax credit deal, someone's taking $15 million in equity -- or roughly. I mean, it could be less than that, whatever, 70 cents or whatever it is.

MR. FLORES: Uh-huh.

MR. HAMBY: And so you're either doing a large transfer of wealth there to a developer who put in the deal or if it's a public housing authority, a public housing authority could certainly take it. But you're not protecting the public interest in that piece of cash that you're sending away. And we have the recapture issue. And that's where we have a difficulty in looking at it.

And that's why we're looking at various levels to protect us.

MR. FLORES: When do we expect to get some clarification on this issue --

MR. HAMBY: I just received word --

MR. FLORES: -- from the federal --

MR. HAMBY: -- from our tax credit attorney that they do not have any date yet for the Treasury to do so. And they're not even positive how much the Treasury is going to detail whenever they do issue guidance.

MR. FLORES: Sounds like --

MR. HAMBY: Because --

MR. FLORES: -- the IRS so far.

MR. HAMBY: Well, that's what it is, yes.

MR. FLORES: Yes.

MR. HAMBY: It is.

MR. FLORES: Okay.

MR. IRVINE: This is Tim Irvine. Just to clarify on this recapture issue. We're really talking about a sort of a collection agent paradigm shift. When you are using tax credits the Internal Revenue Service is very effective at collecting obligations and file 8823s.

MR. FLORES: Well, they'll realize that on April 15, yes.

MR. IRVINE: But once you've given someone the cash and they have no skin in the game the question of how you collect is really ultimately distilled down to what have you got in your pocket and what's the property worth. And that's why the equity position, we believe, could be crucial.

MR. FLORES: Sounds like a huge headache.

MR. CONINE: Maybe that's why they pay you the big bucks.

MR. IRVINE: Huge headache but also a huge risk.

MR. FLORES: I'm waiting for my paycheck.

MR. HAMBY: Mr. Conine, could I just clarify that it sounds like under our three points that we had here that you are interested in accessing the maximum funds for both programs?

MR. CONINE: Well --

MR. HAMBY: Or did you leave that open?

MR. CONINE: -- TCAP money.

MR. HAMBY: It's a flat fee. Right.

MR. CONINE: Governor's got to accept them, number one. That's --

MR. HAMBY: Correct. Yes.

MR. CONINE: -- the first --

MR. HAMBY: Assuming -- we're all basing this on the assumption the Governor moves forward.

MR. CONINE: Right.

MR. HAMBY: But that was the issue. You want us to consider the entire option of doing the Exchange program for what we have before us? Is that what I heard? I --

MR. CONINE: No. Are you talking about Exchange now?

MR. HAMBY: Just Exchange. TCAP is we get the full amount.

MR. CONINE: Okay. On the Exchange I think the best way to do this is for the staff to continue their underwriting and processing of all the applications to, you know, give us some feedback on the syndicator issues of '07, '08 and '09 and who's doing what and who's promising what; and to go ahead and go through the award process so that we can see who winds up winning and who winds up losing.

And then the next step would be okay, which syndicator's for real and which syndicator isn't for real. And then with -- armed with all that information in August or September we'll have the ability to then peg how much of the funds, if any, we need to exchange and at what rate.

MR. HAMBY: All of it's on the table but we don't know how much of it yet is going to be used is what you're saying there? Potentially all of it could be, but if we need -- we don't need it we're not going to ask for it?

MR. CONINE: It shouldn't influence the winning and losing in July at all.

MR. HAMBY: No, it wouldn't do that. That's -- but we're just trying to get some guidance. Because we have to write the rules up.

MR. CONINE: Yes. And I'm saying let's see how everybody falls out and let's see who needs a sliver of GAP money from the Exchange and who needs the whole enchilada.

MR. HAMBY: Okay. So you want a --

MR. CONINE: And we can't do that until the awards are made in July. So it's going to be August.

MR. HAMBY: You're not looking for rules to come back to you next month then?

MR. CONINE: Not -- I don't think there's any real press for the Exchange. I think there is a real press for the TCAP.

MR. HAMBY: Okay.

MR. GOURIS: We may need to collect additional information -- we definitely will need to collect additional information from '07s and '08s for the TCAP funds. We may need to collect additional information for exchanges for this year sometime later this year --

MR. CONINE: Yes.

MR. GOURIS: -- if we pursue that. And that would be based on, you know, some direction at some point in the future about pricing. And what we'll do is we'll go back and we'll see --

MR. CONINE: About what?

MR. GOURIS: About pricing on --

MR. CONINE: Okay.

MR. GOURIS: We'll go back and see where all the pricing is for the applications that are in house and try to come back with a report on that so you kind of get a sense for who said what about pricing. But with regard to being able to then evaluate who needs what, we would need to set some sort of price. Because I doubt --

MR. CONINE: But I -- let's focus right now --

MR. GOURIS: On TCAP, yes. I got it.

MR. CONINE: Forget the Exchange fund for a minute.

MR. GOURIS: I got it.

MR. CONINE: Let's just focus on TCAP in '07 and '08. Because those are the more urgent situations in my opinion.

MR. GOURIS: Yes, I understand. I just wanted to -- I don't -- I want to be able to be prepared for when we get to August to be able to say, Okay, now we've collected the information we needed to be able to then respond in August, too so we're not then just asking for that information.

MR. CONINE: My gut is the TCAP money'll be gone by then.

MR. GOURIS: We can wait --

MR. CONINE: That's my gut. I think you ought to -- just because we've only got 148 million of it and everybody will want all of it. So, you know, I think -- and we want to get those projects started. As people said here, they're shovel-ready; We could start on Monday. I think we should try to come up with a set of rules in April for that part of the program so that we can by the May meeting go ahead and make some awards, if we can process them that fast. I don't know if we can or not. But I think we should endeavor to try to do that.

MR. GOURIS: Okay. One more on the TCAP. So structure of the financing for the TCAP? Is there --

MR. CONINE: Again, that -- if you're just doing a GAP, you know, I'm sure we'll be a loan of some sort.

MR. GOURIS: Okay.

MR. CONINE: If we're doing the full -- the whole enchilada, which in some cases we will, then it's going to -- then I believe it needs to take an equity position for the reasons just stated just a minute ago.

MR. GOURIS: But that would -- that's for the Exchange. Because --

MR. CONINE: No, no, no, no, no.

MR. GOURIS: -- we can't do TCAP to fully replace tax credit.

MR. CONINE: Well, my understanding is you can.

MR. GOURIS: I don't believe so.

MR. CONINE: I believe you can.

MR. GOURIS: Okay. Well, we'll double check that. But --

MR. CONINE: I believe you can.

MR. GOURIS: Right now I'll go with you.

MR. CONINE: The question was answered in D.C. last week that you can.

MR. GOURIS: Okay.

MR. CONINE: Not preference because it's GAP money.

MR. GOURIS: Right.

MR. CONINE: But I suspect that for a rural deal out there that can't get a syndicator we can do the whole enchilada.

MR. GOURIS: Okay.

MR. CONINE: Any other discussion issue, board members?

MS. RAY: Do you need a motion?

MR. CONINE: We don't need -- I don't think we have a motion actionable item on this one. It's just --

MS. RAY: Just guidance.

MR. CONINE: -- we got a guidance.

MR. GOURIS: If there's anything else, please feel free to share with us.

MR. CONINE: Moving on to Item 3. Mr. Gerber? 3(A).

MR. GERBER: We're going to Providence at Marshall Meadows? Or is that one pulled? Are we doing Providence?

Ms. Meyer, go ahead.

MS. MEYER: Mr. Conine, board --

MR. CONINE: 3(a).

MR. GERBER: Providence at Marshall Meadows.

MS. MEYER: -- this amendment is before you today because the -- there was a significant change in the site plan that was not approved by the board. And this amendment is also being requested after the implementation of the changes. The tax credit award was approved for 16 acres out of a 30-acre tract. And then the bond issue once was approved and closed on 16.47 acres adjacent to the 30-acre tract of the tax credit tract. The land use restriction agreement was recorded for tax credit purposes and then later was submitted to the Department for an amendment.

It was at this time that the change in the site plan was made by the Department. The change in the site was verified with the owner instead of the Department -- our records. The LURA amendment was approved internally. The significant change in the site was found at the cost certification process, which is now what we're going through. Additionally, the owner has substituted other amenities but the amenities -- four amenities that he did not provide in the application. We found those acceptable.

Staff is recommending the amendments to the application now and of -- and the board ratify the change in the site plan. However, we are recommending penalties because the requests were done after implementation.

MR. CONINE: I'm sorry. I wasn't paying attention. Is there any -- he was over here yelling -- whispering in my ear.

MS. MEYER: Please don't make me do that again.

MR. CONINE: I know.

VOICE: The site was --

MR. CONINE: 3(a). Bill Fisher's got one.

Come on up, Bill.

Sorry.

MR. FISHER: Good to see you all again. Bill Fisher, Odyssey Residential Holdings. Four percent bond project sponsored by TSAHC in response to an RFP by the City of San Antonio. It's a truly mixed-income project, 60 percent tax credit, 40 percent market rate. You know, the -- again -- well, before the adherence to obligations -- I'm really just here to address the penalty. We'd ask that the approval would be penalty free. The defense of that is really just the long list of lawyers who participated in the transaction and did not obviously understand that they needed to get other approvals. So I'd be happy to answer any questions if you have them.

MR. CONINE: And do I hear a motion or is there any other questions?

(No response.)

MR. CONINE: Motion?

MS. RAY: Mr. Chairman, I move to accept the staff recommendation without assessment of penalties.

MR. CONINE: Ms. Ray has a motion on the floor. Is there a second?

(No response.)

MR. FLORES: How many points for it?

MR. CONINE: No points.

MS. MEYER: No points.

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, if I can just interject, I mean, staff doesn't enjoy making a recommendation for penalties. If you've got --

And, Bill, you come up over -- I mean, it comes up over and over. If there's -- if you've got other deals, I mean, we'd like to work with you to try to -- and that's for the community as a whole. I mean, the last thing we want to do is impose penalties or make a recommendation to the board about penalties. If you just come and talk with us so that we can hopefully know about things ahead of time that would be helpful. It's just -- even though I know some time may have passed on some deals, if you can come to talk to us ahead of time so that we can lay a groundwork that we've -- the due diligence has been done. You know, we're not looking for reasons to ping --

MR. FISHER: And I didn't think that -- my understanding is staff really doesn't have a choice. The statute says -- and there isn't anything to do with this 06. So I always have to get up and ask that it be penalty-free. So -- you know, again, these bond projects, you know, Andrews & Kurth, Greenberg Traurig, Shackelford Melton McKinley, Proskauer Rose; the AG's in the loop, you know. If they had known then that we needed some other approval I'm sure we would have gotten it then. And we certainly don't have -- like coming before you after the fact.

VOICE: I know.

MR. GERBER: We'll try to all work together to improve that a bit.

3(b) is -- Mr. Chairman and Board, the February meeting the board approved seven global waivers for four 2007 applications. And these are listed in the board materials. But the board tabled the individual waivers to this meeting. And Robbye's going to walk us through each one of those individually.

MS. MEYER: The first one that we have you actually awarded some global issues. And I won't go through each one of those. But the first one -- back here -- the first one is Hampton Villages. And actually, that one is -- we've wiped all of those waivers off. So there's nothing to waive on those.

Canyon Retirement is the second one. The applicant is requesting the board allow the previous local political subdivision points. They received 18 points for that particular item back then. They have additional costs now and they can't -- they're -- because they have a certain percentage they won't be able to meet that percentage because the costs have increased. And they're asking the board to allow them to keep their 18 points. Otherwise, it will drop to 12.

The second one is -- they had -- they're Texas Enterprise. They were in a Texas Enterprise zone. And they are -- received four points for that. And they're asking the board to allow them to keep those four points. They're also requesting --

MR. CONINE: Well --

MS. MEYER: -- to be allowed --

MR. CONINE: Robbye.

MS. MEYER: Okay.

MR. CONINE: Hang on just a minute. I don't think there's any way we can comprehend each of these as global. So let's take them one at a time and do action on them one at a time because --

MS. MEYER: Okay.

MR. CONINE: -- it's going to take that kind of concentration for me to even think aloud.

And we have some witness affirmation forms on some of these. So if we can match up the witness affirmation with --

MS. MEYER: Okay.

MR. CONINE: -- the project as we go through them, that would be great. So --

MR. FLORES: Mr. Chairman, I also don't see any staff recommendations. Is there a reason for that?

Normally, we have them.

MR. CONINE: These are all waivers. And I don't think staff opines as to what --

MR. FLORES: I didn't hear a door slam. Maybe that's a blessing. I don't know.

MS. MEYER: The staff doesn't have a recommendation for these. It's the --

MR. CONINE: Right.

MS. MEYER: It's up to the board if you want to waive the --

MR. FLORES: Okay.

MS. MEYER: -- individual --

MR. FLORES: Okay.

MS. MEYER: -- waivers.

MR. CONINE: Okay.

MS. MEYER: Now, do you --

MR. CONINE: The first one was Hampton Villages. Is that right?

MS. MEYER: Hampton Villages. There are no waivers that need to be done for that. We've resolved all of his issues with his '09 application.

MR. CONINE: Oh, good. Okay. Okay.

MS. MEYER: So the second one is Canyon's Retirement.

MR. CONINE: Okay.

MS. MEYER: And I went through the first one. They had LPS points, Local Political Subdivision points in 2007. They have 18 points for that. Their costs have increased from 2007 to 2009. Because they are -- they have increased their percentage isn't the same so their points will drop from 18 to 12. They're asking to keep the 18 points and the board to allow them to do that.

Also, with Canyons the applicant's requesting to be allowed to qualify for the 12 rent level points since they qualified for the income points under another item. And they're also asking to keep their Texas Enterprise Zone points. They're --

Maybe this will be easier. If you'll look on the last sheet there's a matrix. This will probably be easier. It will tell you -- the first column it tells you what they got in 2007. And the second column will tell you what they would get in 2009. And the third column tells you what the difference would be for each of the developments.

MR. CONINE: Okay. Thank you. Now let's stop there --

MS. MEYER: That easier? Okay.

MR. CONINE: -- and let Diane McIver come up and opine. She's been unusually quiet today.

MS. McIVER: Man, I'm worn out.

MR. CONINE: Saving your gunpowder for this one, are you?

MS. McIVER: I'm depressed now. Diana McIver --

MR. CONINE: So am I.

MS. McIVER: Yes. Right. Diana McIver, Diana McIver and Associates, DMA Development Company. Mr. Conine, members of the board, staff, basically on the Canyons everything that Robbye has indicated are the requests that we're making. I would say at this time that the one that she hasn't gotten to yet is basically the green-building points. And we'll just concede on that item. But we would like the others. All that -- all the others were ones where we had met the objectives in the '07 QAP, you changed it slightly in the '09 QAP and things like the enterprise zone, we were there and then the enterprise zone expired this past year. So -- I'm just really available for questions.

MR. CONINE: Aren't you glad you're an '09 application right now?

MS. McIVER: Yes. I just wish I were an '09 application in a go zone or a Ike zone.

MR. CONINE: Yes. I understand. All right.

MS. BINGHAM-ESCAREÑO: Do you want action individually?

MR. CONINE: Yes. Yes, I do.

MS. BINGHAM-ESCAREÑO: Mr. Chair, I'll move that we waive the three points that Ms. McIver's requesting, the LPS, rent levels and enterprise zone.

MR. CONINE: Is there a second to that motion?

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

The next one, Miss --

MS. MEYER: San Gabriel, 07220. The same issue with Local Political Subdivision. They received 18 points for those. However, they've actually received that funding. But the funding is no longer available for their 2009 application. However, it -- they did receive it. So they are requesting that they get credit for it because they actually have it in the development. It's actually been paid off now. But they actually did receive it. So they are requesting to still receive their 18 points and they're also asking to receive the green-building points that --

Diana, do you want to concede the green building or do you want to --

MS. McIVER: Diana McIver, DMA Development. In this particular case in Liberty Hill it's new construction. And so we really worked very hard at going with the '09 QAP. And so we were able to go with three green points, not six. And so I'm not going to ask any other waiver on the green points. We'll just go with our three.

MR. CONINE: Robbye, would you clarify what you said that was there in '07 and that's not there in '07 relative to the Local Political Subdivision?

MS. MEYER: They had -- they received their funding. They've already done it. I mean, they have it. And it's in the deal.

MR. CONINE: Right.

MS. MEYER: But it's -- they've since paid it off. It was paid off with a predevelopment loan.

MR. CONINE: Okay.

MS. MEYER: So it's actually in the deal.

MR. CONINE: But relative to the point structure --

MS. MEYER: It's not in their '09 application because they would have to get another -- they would have to redo it.

MR. CONINE: But we have the same -- but we -- in the scoring criteria for the points we didn't change the points on Local -- on that one item, Local Political Subdivision from one year to the next?

MS. MEYER: No.

MR. CONINE: It's the same?

MS. McIVER: You did. Because it's a rural deal. And so we don't --

MS. MEYER: Oh, the percentages.

MS. McIVER: -- have to get the 5 percent percentage. I think we just have to get two-and-a-half percentage. So we don't need a waiver on the percentage because we're still within that.

MR. CONINE: What's the max on the '09 for that particular item? Maximum point.

MS. McIVER: Eighteen points for two-and-a-half percent.

MR. CONINE: Okay.

MS. MEYER: The -- yes. The points are still there.

MR. CONINE: So you end up at the same place?

MS. McIVER: At the same place --

MS. MEYER: Right.

MS. McIVER: -- yes.

MS. MEYER: But she would have to get the funding again.

MR. CONINE: She already got the funding.

MS. MEYER: Right.

MS. McIVER: I --

MS. MEYER: That's what I'm trying to say.

MR. CONINE: All right.

That's all the questions that I have. Any other questions?

(No response.)

MR. CONINE: Do I hear a motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: I move that the developer retain the Local Political Subdivision contribution points of 18 and the green-building initiatives.

MR. CONINE: Motion by Ms. Ray. Do I hear a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MEYER: Last one, Peachtree Senior. In 2007 we had exurban development points. In 2009 we eliminated those points. They're asking for those points to remain in effect. And they also had -- in 2007 we had third-party funding commitment points. We still have those points. Except in 2009 you can't use the same source of funding and the same funds. So if they had 700,000 in one source they would actually have -- they can't use the same 700,000 from the same source for that one point. They'd have to have additional funds. And he's just asking to have -- to be able to use the same source and same funds for the one point.

MS. RAY: Mr. Chairman?

MR. CONINE: Huh?

MS. RAY: I move --

MR. CONINE: Okay.

MS. RAY: -- that the developer retain the exurban development points and third-party funding commitment.

MR. CONINE: Motion by Ms. Ray. Is there a second?

MR. FLORES: Second.

MR. CONINE: By Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Dennis, I'm confused why I have a witness affirmation form for you on 3(b) when you weren't one of these four things.

MS. MEYER: Yes, can I back up?

MR. CONINE: Sure.

MS. MEYER: Ms. McIver just reminded me. On the -- on San Gabriel --

MR. CONINE: Yes?

MS. MEYER: -- the developer fee on the -- there's the 2 million cap issue.

MR. CONINE: Yes?

MS. MEYER: In 2007 we had the -- the developer -- one of the parties was inexperienced and they had the ability to use the inexperienced. And they had the percentage. So one developer could use the percentage. And now they're asking if both developers, now that inexperienced developer is experienced in 2009, they won't be able to put -- split the percentage. So they're asking if they could both get the same --

MR. CONINE: Can't we cross that bridge when the awards come out? Or are they going to get aced out of the awards because of that?

MS. MEYER: Well, if we run the cycle as you stated just a little bit ago, they would be -- they would have -- they wouldn't have the possibility of doing that.

MR. CONINE: Okay. So we need another -- and this is just on San Gabriel or on both of them for her?

MS. MEYER: It's just on San Gabriel.

MR. CONINE: We need another motion on San Gabriel.

MS. BINGHAM-ESCAREÑO: I'll make a motion to waive the two million cap on San Gabriel.

MS. MEYER: Just the percentage issue.

MR. CONINE: Just the percentage issue. Right.

Is there a second to Ms. Bingham's --

MS. RAY: Second.

MR. CONINE: -- motion? Second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries.

Now, I have a witness affirmation form from Dennis Hoover --

MR. HOOVER: Yes.

MR. CONINE: -- who wants to talk about something that's not on 3(b).

MR. HOOVER: My name is Dennis Hoover. And I -- this is a -- I want to talk about -- it's application number 09318, which was a '07 tax credit deal that I didn't turn in until about the end of January. I didn't turn the credits back until then. In discussions with the syndicator he says, We got a deal, I think -- you know, You go get some HOME funding to fund the gap, I can place his credits for you.

And that was his story up until about the end of January. And then he says, My investor is just -- he needs the credits but I think he's waiting for the bottom of the market and he's not going to write any checks. So he said, I can't get it done. And so I turned my credits back in, turned my HOME application back in.

And I'm asking to be included with the '07 deals and that our -- all of our fees be credited to us towards our '09 fees. And that since we missed the pre-ap -- we did the pre-ap in '07. I would like the pre-ap points. And I'll drop the green-building request. We --

MR. CONINE: Well, hang on. Hang on just a second.

MR. HOOVER: Okay.

MR. CONINE: I'm having a hard time because it's not on the agenda.

MR. GERBER: I was going to say hard to connect them.

MR. HOOVER: I apparently did get it in quick enough. I turned it in about ten days ago.

MR. CONINE: Yes. I mean, I --

MR. FLORES: Who did you turn it in to?

MR. HOOVER: To Robbye.

MR. CONINE: Robbye, you want to speak to this? I mean, I --

MS. MEYER: They weren't on the original item so they weren't --

MR. CONINE: Right.

MS. MEYER: -- so they weren't included in this -- they weren't in -- at the last board meeting they weren't included in this item. So therefore, they didn't move forward into --

MR. CONINE: I think the --

MS. MEYER: -- this board meeting.

MR. CONINE: -- ship's already left the port and the question is can you get back on the ship or not. And I know I can't do it at this meeting. You're welcome to try again next meeting. But I can't do it at this meeting.

MR. HOOVER: Okay.

MR. CONINE: Okay? Thanks.

MS. RAY: Mr. Chairman?

MR. CONINE: (No response.)

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: Would it be appropriate to direct the staff to make sure that he gets on the agenda for the next board meeting so we don't run into this problem?

MR. CONINE: Well, it looks like to me it's an '09 application that he just needs some waivers on because he was '07 and part of that group. And I would say, yes, I mean, let's throw it on there and we'll take a look at it and consider the circumstances and make a decision.

MS. RAY: Okay.

MR. CONINE: Item 3(c). Do we have any appeals?

(No response.)

MR. CONINE: Nope? Okay. Item 4(a). Who's going to do it?

Robbye? Since you're the only one here.

VOICE: Huh?

MR. CONINE: 4(a)'s withdrawn? Five is withdrawn? Man, you're making my life good. We did six and seven already. Now we're going to Number 8, Bond Finance.

Matt Pogor. Here it comes. Matt?

MS. RAY: You might become my favorite guy now.

MR. CONINE: We're getting to see a lot of him here lately.

MR. POGOR: Good afternoon, Board Chairman, members. Item 8(a) is a presentation, discussion and approval of Resolution 09-029 authorizing Department to enter into a substitutional liquidity facility provided by the Controller of Public Accounts of the State of Texas and approving amendments to the supplemental indenture for the 2006 Series H and 2007 Series A Single-Family Variable Rate Mortgage Revenue Bond. TDHCA is requesting the approval of the terms and liquidity facility to provide -- to be provided by the Controller of Public Accounts of the State of Texas. The substitute facility will replace our current standby purchase agreement with DEFA totaling $173 million of new liquidity agreements with a highly-rated liquidity provider, the Controller of Public Accounts of the State of Texas.

Staff is also requesting that the board approve amendments to the supplemental indentures for the Single-Family Variable Rate Mortgage Revenue Bond 2006 Series H and Single-Family Variable Rate Mortgage Revenue Bond 2007 A.

The amendments to the supplemental indenture would delete the requirements that liquidity agreements have a term of less than 364 days, identify the Controller of Public Accounts as the authorized provider of liquidity and make certain clarifications of the definition of maximum rate for the bonds as requested by the rating agencies. Staff is recommending approval of Resolution 09-029 Item 8(a).

MR. CONINE: Okay. Any --

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray?

MS. RAY: Do we have any public witness affirmations?

MR. CONINE: No, we do not.

MS. RAY: Then I move approval of Resolution Number 09-029.

MR. CONINE: Motion by Ms. Ray to approve. Is there a second.

MR. CARDENAS: Second.

MR. FLORES: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Thank you for getting it done. Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Opposed?

(No response.)

MR. CONINE: Motion carries. Say special

thanks to Gary Machek out there, too, for helping get that done.

MR. POGOR: Thank you very much. Item 8(b), the presentation, discussion and preliminary approval authorizing the Department to utilize available funds to provide assistance to the remaining allocation of unassisted mortgage funds on the Single-Family Mortgage Revenue Bond 2006 Series F, G and H, Program 68 and 2007 Series B, Program 70 along with the use of the First-time Homebuyer tax credit of 2009 under the American Recovery and Reinvestment Act of 2009.

Staff believes that by adding assistance to the remaining 35.7 million of unassisted funds in Program 68 and 70 those remaining funds will be quickly utilized by first-time homebuyers. TDHCA has funds available in order to provide up to 5 percent of home purchase price or a maximum of $6,000 by providing downpayment assistance or closing costs. Downpayment assistance would be provided in the form of a second lien repayable loan.

There are two sources available that Department can utilize to help families with downpayment assistance and closing costs. The residential mortgage revenue bond indenture has 1.3 million of zero percent fund loans that can be used to provide assistance with Programs 68 and 70.

Department also has approximately 1.79 million repayment loans from prior downpayment assistance programs, loans that can be used to assist families with Programs 68 and 70.

To help families repay their second lien downpayment assistance loans home buyers will utilize the first-time homebuyer tax credit for 2009 under the American Recovery and Reinvestment Act of 2009. After closing on their mortgage loan the first-time homebuyer can file for the tax credit and use the credit to pay off the TDHCA downpayment assistance loan. If the downpayment assistance loan is paid off by a designated deadline, no later than June 2010, the homebuyer pays no interest other than a modest servicing fee. If the downpayment assistance loan is not paid off in full by the deadline principal and interest payments to repay the loan over ten years begin immediately.

With the board approval -- with the board preliminary approval to provide the -- in developing the documents type of return in August of 2009 during our board meeting with a resolution that would provide first-time homebuyers with an assisted mortgage rate of 5.65 percent for Program 68 and assisted mortgage rate of 5.75 for Program 70.

TDHCA expects that with this proposed structure the remaining lendable approaches will be marketable and that TDHCA will be able to help approximately 292 first-time homebuyers in Texas fulfill their dream. Staff is recommending approval of Item 8(b).

MR. CONINE: Couple of questions, Matt.

MR. POGOR: Okay.

MR. CONINE: One, this is primarily designed to be used with this -- the rest of this bond -- this bond program, this particular, specific program and none other. Right?

MR. POGOR: Correct. Programs 68 and 70.

MR. CONINE: Okay. And we are buying down the rate on the balance of the -- of --

MR. POGOR: Right. We're buying -- we're not buying down the rate. What we're doing is giving assistance to the current rate we have in existence. We're leaving the current rate that was unassisted. Okay. The only thing we're doing to that is adding assistance to it.

MR. CONINE: Right.

MR. POGOR: We're not buying the rate down on it.

MR. CONINE: And the rate is what on this particular one?

MR. POGOR: The rate is going to be 5.75 and 5.65. So they're getting a -- with -- assistance with that very good rate.

MR. CONINE: Okay. There's two things. One, I think the structure here is good. I like what you're doing with the second. And I presume that even though we're underwriting the Fannie and -- or FHA standards on the bond side we're permitted to put a second lien on the property because we're the holder of the bond -- or because we're the bond issuer. Is that correct or not?

MR. POGOR: We're -- that's correct. We're the holder of the first lien bond. Okay? And that the second lien -- well, Ginnie and Fannie are going to have the -- they're holding the first lien. The second lien is going to be held by TDHCA.

MR. CONINE: Okay. I -- they're not -- they're shying away from those seconds these days on the -- underwriting the first. And I think you -- we need to make sure that's allowable today under today's world. It was, you know, a year ago. But --

MR. POGOR: Okay.

MR. CONINE: -- I'm not sure that they frown on that right now. So make sure we're capable of doing that. Secondly, I'd like to suggest that the two repayment scenarios you got here, there's probably a third. And that would be if the first-time homebuyer agrees to change their withholding on their W-2s they can increase their take-home pay immediately to be able to pay back the loan. So there needs to be a provision in our documents to give the buyer the choice, either they file their '09 tax return, get a lump sum and pay us off, they file their '09 tax return and do something else with the money and they pay us back ten years or they have the ability to increase their W-2, which Congress -- which the statute allows and pay us back in monthly installments on that scenario.

MR. POGOR: Okay.

MR. CONINE: Now, there is a third -- a fourth way, I guess, that this can happen. And I want to -- just -- I'll take this time now while the subject's here before we vote on this particular item to bring the board up to date. Again, discussions that Gloria and I and Mike had at NCSHA talked about the state housing finance agencies playing a role at -- in monetizing these credits, not just for our own -- the homebuyer tax credit -- not just for our own mortgage revenue bond, which we're doing here in this particular case, but also across the state.

We probably ought to do that after these two items. Can --

Kevin, is that all right if we do that? I don't want to get sideways with you. But either I'm going to do it that way or I'm going to add it as a third -- a fourth option on this -- these next two transactions.

MR. HAMBY: Mr. Conine, Kevin Hamby, General Counsel. Because we don't have it on the agenda as an independent item it does need to be added to these if that's indeed what you wanted. Because it fits --

MR. CONINE: Okay.

MR. HAMBY: -- within this framework.

MR. CONINE: Okay. The way -- the quick and easy way for the first-time homebuyer to pay us back is to file an amended '08 tax return, which is allowable under the statute.

So, Matt, we need to add that to this list that if the homebuyer, at the time they close the -- close on the house files an amended tax return for '08 will then file a -- typically you file those electronically with the short form. And most first-time homebuyers don't itemize or deduct so it's a pretty simple thing to do. And the Department can be repaid within 14 days based on the Treasury refund. And the homebuyer will assign the proceeds back over to us. If for some reason they get a refund that's greater than the $8,000 bucks then there's two places that the person -- the homebuyer can have the money wired to. So they'd wire the 8,000 to us and take the difference to them.

We had some -- Kevin and I had a meeting Monday with RSM McGladrey in Dallas, who is a accounting firm that is proposing to do a bunch of due diligence on the homebuyer prior to the closing of the home. And we think that's prudent for us to take a look at. And Kevin is going to produce some -- an RFP on the -- on that particular phase of the program.

MR. HAMBY: I think the prudent thing to do there, Mr. Conine, is to adopt rules. Because we need to have these done by December of -- December 1 of this year.

MR. CONINE: Right.

MR. HAMBY: So we're probably going to need to adopt rules saying what we would require to receive in order to monetize those. And so we'll bring you back rules in April that move that process forward more quickly, as opposed to issuing an RFP for --

MR. CONINE: Okay.

MR. HAMBY: -- any one firm to do it.

MR. CONINE: That's what we're going to do.

Sorry I didn't articulate that correctly.

So there's four -- there will be four ways for us to get paid back under what I propose is an amended motion here. Over the ten-year period, lump sum in '09 tax return filed, lump sum in '08 amended tax return filed and monthly payments based on an increase or a change in their W-2.

MR. HAMBY: Okay. Yes. Got it.

MR. CONINE: And I would also suggest that those scenarios can be used either for either of these two bond programs any other program that -- there may be a case where a homebuyer shows up with their own financing, doesn't want to use our mortgage revenue bond program for whatever reason but still wants to monetize the credit to be able to have enough money to make the downpayment and close the house.

So that being said, I will look for a motion.

MS. BINGHAM-ESCAREÑO: Mr. Chair, I'll give it a try.

MR. CONINE: Okay. Great.

MS. BINGHAM-ESCAREÑO: Move staff's recommendation with two additional options: one, number three, I guess, to change their W-2 so that they can repay us and repay the agency in monthly amounts repay; and the fourth option being the filing of an amended '08 tax return where they'd sign the proceeds of the refund up to whatever the downpayment assistance amount was.

MR. CONINE: And you're going to ask Mr. Hamby to produce the rules at the next meeting.

MS. BINGHAM-ESCAREÑO: And that we'll ask Mr. Hamby to produce the rules at the next meeting.

MR. CONINE: Is there a second to Ms. Bingham's --

MS. RAY: Second --

MR. CONINE: -- motion?

MS. RAY: -- Mr. Chairman.

MR. CONINE: There is one from Ms. Ray. Any further discussion, board members?

(No response.)

MR. CONINE: Again, I think this is a great public policy, public purpose for us. We got to move quick on this just simply because the program's only alive until December 1. If Congress does what I think they're going to do they'll probably extend that. But we'll wait and see what kind of response the public makes to the first-time homebuyer tax credit.

Any further discussion?

(No response.)

MR. CONINE: All those in favor of the motion say, aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. POGOR: Okay. Item 8(c), presentation, discussion and preliminary approval authorizing Department to utilize housing trust funds to provide downpayment assistance to eligible homebuyers in conjunction with Department's 2009 Mortgage Credit Certificate Program, along with use of the First-Time Homebuyer Tax Credit of 2009 under the American Recovery and Reinvestment Act of 2009.

In an effort to help potential homebuyers overcome the obstacles of saving up for downpayments staff is proposing a downpayment assistance program utilizing $1 million of housing trust fund. Downpayment assistance would be provided in the form of a second lien repayable loan. The funds would be available through December 1 of 2009 to eligible borrowers on a first come, first served basis and would be used in conjunction with TDHCA's 2009 Mortgage Credit Certificate Program.

Upon issuance of an MCC certificate, TDHCA staff would reserve the appropriate amount of funds up to 5 percent of home purchase price or a maximum price of $6,000 for covering downpayment assistance and closing costs. At closing the borrower's first-time home loan would close along with TDHCA's second loan downpayment assistance loan. A mortgage credit certificate would also be issued at closing. To help first-time homebuyers or to help families repay their second lien downpayment assistance loan the homebuyer will utilize the first-time homebuyer tax credit of 2009. The second lien downpayment assistance loan would be repaid the following year from the homebuyer's files for tax credit for the 2009.

If the downpayment assistance loan is paid off by the designated -- no later than June of 2010 the homebuyer would pay no interest on the loan and would only pay for modest servicing fees. If the downpayment assistance loan is not paid in full by the deadline the principal and interest are repaid over a ten-year period beginning immediately.

It is anticipated that the final details of this program would be brought back to the board on April 23, 2009 board meeting for final board approval.

Mr. Chairman, do you want to add the other two --

MR. CONINE: Yes, sir. I would.

MR. POGOR: Okay. And also with the changing maybe the W-2s to modify a payment, as well as the filing of an amendment of their '08 tax return and rules change, as well?

MR. CONINE: Not on that -- well, yes. That's going to cover this, too, for sure.

MR. POGOR: Okay.

MR. CONINE: You bet.

Any -- is there a motion?

MR. FLORES: So move.

MR. CONINE: Motion by Mr. Flores. Is there a second?

MS. BINGHAM-ESCAREÑO: By Ms. Bingham. Any further discussion on this one?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, I would just note on each of these programs we're -- with the MCC program that we've got out now we're doing some targeting to veterans. We will probably look at each of these programs that we've just talked about for downpayment assistance to other priority populations like veterans, maybe teachers, maybe law enforcement and firefighters, as well.

MR. CONINE: Okay.

MR. FLORES: Thank you, Matt.

MR. CONINE: Thank you, Matt. Good job.

MR. FLORES: Yes.

MR. GERBER: It's HOME time.

MR. CONINE: HOME time. Item 9. Hang on.

Oh, wait a minute. You're right. I think there was.

Steven Harris. I apologize. Excuse me. Have a -- hang on just a minute. Go ahead and state your name and who you're with.

MR. HARRIS: Thank you, sir. I am Steven Harris of Harris Housing Advisors. Our firm is the program manager for a number of a local mortgage credit certificate programs and, in fact, have appeared jointly with your staff to promote mortgage credit certificates generally. So appreciate the opportunity to be here with you today. We have appeared before the Greater Houston Builders Association recently, the Latino Learning Center in Houston recently and have even had the distinction of appearing jointly with your staff on the Bogany Real Estate Corner radio show. So that's some good experience.

MR. CONINE: Yes, sir. You got to watch that guy, though. He'll pick your pocket if you're not careful.

MR. HARRIS: I was happy to be here and appreciate your approval of this item. And we're here to speak in favor of this, but also to add that we really believe the downpayment component that is provided by the further tax credit is useful, not only for the Mortgage Credit Certificate Program that the Department offers, but also could be companioned with the mortgage credit certificates that we offer through other jurisdictions. And we do have a program ongoing here at the Galveston Housing Finance Corporation.

Jeff Sjostrum from the city served on that Housing Finance Corporation when they approved this Mortgage Credit Certificate Program. We also have programs in the Galveston County for the Galveston County Housing Finance Corporation, Southeast Texas Housing Finance Corporation. And Harris County has just started its fifth mortgage credit certificate of 25 million that will also be ongoing. All of those would greatly benefit from combining the advance of the $8,000 with their mortgage credit certificate programs. And we hope that can be incorporated in the plans for next month.

MR. CONINE: Well, we thank you for being out there selling the program. And it's more of an education than it is anything else. And all I can say is now is the time for the first-time homebuyer to step up and buy a home because there's so many great opportunities for them. They'll never find another year any better than this one.

MR. HARRIS: That's right. And also, if we all do our part little by little at every turn I think this economy will be better soon, as well.

MR. CONINE: That's true, sir.

MR. HARRIS: Thank you.

MR. CONINE: Sorry I missed your witness affirmation. Thank you for your testimony.

Okay. Now to Item 9(a).

MR. GERBER: Cameron Dorsey.

MR. DORSEY: Cameron Dorsey, Acting HOME and Housing Trust Fund Programs Manager. Item 9(a) has been withdrawn.

MR. RAY: 9(a)?

MR. DORSEY: 9(a) has been withdrawn so --

MS. RAY: Okay.

MR. DORSEY: -- we can go on to --

MR. CONINE: 9(b).

MR. DORSEY: -- Item 9(b). Mr. Chair and board members, on July 26, 2008 the TDHCA board approved the 2008 Rental Housing Development notice of funding availability. Subsequent to initial approval the board approved transferring all remaining funds under the 2007 NOFA to the 2008 NOFA for a current balance for approximately or just above $19 million.

To date the Department's log reflects 18 applications for a total of 26 -- a little over $26 million. Of these applications, three were awarded, two were not approved for awards at the February meeting, two applications were terminated and four applications were withdrawn. Of the remaining seven applications totaling a little over $13 million, three USDA RD developments that returned credits to be fully funded under the HOME program are being recommended today for awards totaling $5,548,464.

It should be noted that we received numerous applications under the -- in conjunction with 2009 9 percent housing tax credit applications. And it looks like we may have upwards of $28 million in applications for HOME funds.

One application for just a little over $2.9 million in HOME funding is not being recommended today due to a failure to meet the Department's feasibility criteria. We did receive an appeal for that application yesterday so it will probably be heard at the April board meeting.

If the recommendations herein are approved a balance of approximately $11,312,060 remains in the NOFA to consider for award recommendations for HOME funding requests that are currently under review.

Staff recommends that the board approve the awards as detailed in the award recommendations log attached in your board book, subject to conditions in the underwriting reports and amendments to the existing HOME contracts, if applicable.

MR. CONINE: Okay. I have one witness affirmation form, looks like from maybe the one that didn't get approved. Noor Jooma?

MR. JOOMA: Chairman Conine, members of the board, Mr. Gerber, my name is Noor. And I'm here on behalf of 08154, Mineral Wells Pioneer Crossing. And as Mr. Cameron Dorsey said, that there's an appeal pending on it. So I'd like to request that this be presented ta the next board meeting.

MR. DORSEY: Okay.

MR. JOOMA: Thank you.

MR. DORSEY: Great.

MR. CONINE: Thank you.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: I move staff's recommendation.

MR. CONINE: Move staff recommendation on Item 9(b). Is there a second?

MS. BINGHAM-ESCAREÑO: Second.

MR. CONINE: Second by Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Any opposed?

(No response.)

MR. CONINE: Motion passes. 9(c).

MR. DORSEY: 9(c) is presentation, discussion and possible approval of request for amendments to HOME program contracts/loans from the following list. We only have one today.

Mr. Chair and board members, Windvale Park

Apartments is a 76-unit multifamily development that received a 9 percent housing tax credit allocation and a $1.5 million HOME award in 2005. The HOME loan was underwritten and approved by the board with a zero percent interest rate and 30 year amortization. The owner also received a binding agreement for additional credits from the 2008 ceiling.

The owner has completed cost certification for Windvale and the 8609s were issued in January of 2008. Subsequently the owner has communicated with staff on several occasions regarding changes to the Public Housing Authority's utility allowances that have caused a significant decrease in potential rental income for the property. The owner has indicated that without a change to the terms of the Department's HOME loan the property will not be able to operate viably for the long term.

At the February 5 meeting the owner asked that the board consider a loan modification based on these circumstances. And the board has directed staff to evaluate the owner's request.

The owner's request reflects a modification of the existing $1.5 million loan to dramatically reduce the overall debt service to the property. The HOME loan would be modified to reduce debt service from $50,000 annually to $12,000 annually and the remaining debt would effectively become a nonamortizing zero percent or deferred forgivable loan. The owner has also proposed at -- that this be made effective November 1, 2008 -- I believe that's the date at which the utility allowances were effective and so payment was due and they probably didn't have that cash -- and that the structure be reviewed annually to determine if other solutions to repayment may arise in the future.

The Real Estate Analysis Division has completed an evaluation of the owner's request which indicates unsatisfied operating deficits with conventional debt service and $50,000 and an annual HOME loan debt and reflects an average -- reflects a debt coverage ratio of .78. This confirms the owner's assertions regarding the effective infeasibility of the development under the current structure.

Staff has provided the board with potential options. First, do not restructure the HOME loan in the -- the existing structure will remain in place. Effectively do nothing. Two, modify the loan to a deferred forgivable structure with forgiveness at the end of the 30-year term. That's -- modify the entire 1.5 million to be a deferrable loan. Three, modify the loan as requested to reduce the overall debt service to 50,000 -- from $50,000 to $12,000 annually and the remaining debt would become a nonamortizing zero percent loan.

Option 2 provides for a significant shift from the expectation of full repayment to full forgiveness. While the property's projected cash flow provide few alternatives it has been the board's policy to require repayment of HOME loans on multifamily developments except in limited circumstances. If the development -- if the board approves Option 2 or 3 the development team will continue to be able to participate in the Department's programs without penalty because the owner is current on payments as of the posting of the board book. And I have heard no differently as of today.

In addition to the two appeals on -- oh, I'm sorry. Those appeals were pulled. The developer had two appeals. But those are no longer on the agenda.

Modifying the board-approved loan structures as proposed can only be done at the board's discretion pursuant to Title 10 of Texas Government Code 2306.146. However, staff provided those options. So we're not providing an affirmative recommendation of any kind, we're just providing those options.

MR. CONINE: Would you like to say something before the witness -- before the public witness --

MR. GOURIS: Yes. I would. Tom Gouris, Deputy Executive Director for Programs. Just to reiterate and clarify kind of the options here. This is a precedent setting -- potentially precedent-setting event.

MR. CONINE: Are we assuming -- you assuming we don't understand what he said? Is that what I'm hearing you say?

MR. GOURIS: No. I'm just wanting to make sure that the options are clear.

MR. CONINE: Go ahead.

MR. GOURIS: That we could either leave the loan the way it is and require him to continue to make these payments. We're in secondary position. He'll have to deal with us as a potential foreclosure issue, which is a -- you know, an issue of itself. There's a first lien there that he's going to have to make -- continue to make payments on. And to the extent that he can make payments to us, he does. And since he can't, we have to do some sort of workout with him.

Second option that he's -- is to provide some sort of deferred forgivable situation for him or some sort of a deferral and cash-flow situation. Those are very difficult to manage and monitor, cash-flow loans are. We could do a bullet loan at the end with the recognition that there might be need for some forgiveness because may not be any value there at the end. So there is just a few options there. But we're kind of going out of step in order here. He's asked to bring it forward to us -- to you all before we really kind of push the envelope on what a workout would be with this transaction. He's asking for the workout before he's not able to make the payments or --

MR. CONINE: Yes. That's okay. There's nothing wrong with that. That works, man. That works. Okay.

Emanuel Glockzin.

MR. GLOCKZIN: Chairman Conine and members of the board, Mr. Gerber, I'm Emanuel Glockzin, the developer of Windvale Park Apartments. Also, Windvale Park's general partner is a nonprofit CHDO, along with me as a 49 percent general partner. And so I'm here to answer any questions on the options that Cameron Dorsey had talked about and Tom Gouris. We would be satisfied with Option 2 or Option 3 at the board's discretion, some type of action on this matter. Any questions?

MR. CONINE: Yes. I have a question on -- I don't have a question to you. I have a question of Mr. Gouris --

MR. GLOCKZIN: Oh.

MR. CONINE: -- which might not surprise you. On number 3 -- the option 3?

MR. GOURIS: Uh-huh.

MR. CONINE: You've obviously re-underwritten the project to say it can pay 12 today. Is that correct? Instead of 50?

MR. GOURIS: Yes. That's right. Yes.

MR. CONINE: And if we chose that particular option it says the debt would become a nonamortizing zero percent loan. So where do the 12,000 -- what does the 12,000 go to if you have restructured the note to be nonamortizing and zero percent? Is it just going to principal reduction in general?

MR. DORSEY: Yes. I mean, we would effectively break those. So --

MR. CONINE: And why wouldn't we do a cash-flow mortgage instead of a fixed 12,000?

MR. DORSEY: Well, a cash-flow mortgage historically, you know, are -- if you look at the performance of our cash-flow portfolio it's really fairly poor. We haven't received payments on like, 75 percent of our cash-flow portfolio ever.

MR. GOURIS: A funny thing happens to a transaction when it's a cash-flow basis. There just isn't any.

MR. CONINE: It gets loaded up with expenses.

MR. GOURIS: So we -- the $12,000 was set at a one-ten debt coverage ratio. That's on page 10 of the underwriting evaluation. And so it was a one-ten debt coverage ratio. We thought we could get $12,000 a year out of the transaction.

MR. CONINE: Well, the flip side, what happens when good times come for whatever reason ten years from now and it's got 20,000 instead of 12?

MR. GOURIS: Well, we could do a reset at some point. We've tried -- we've done a variety of things in the past to try to address these kinds of transactions where there is a need for a repayable piece or ability to reduce some portion repayable and a big chunk that's not repayable.

MR. CONINE: Okay.

MR. GOURIS: The problem sometimes is, is if it's a five-year, a ten-year, you know, reset sometimes that reset becomes a bullet --

MR. CONINE: Chances are expenses are going to go up more than rents, anyway. So, you know, I understand.

MR. GOURIS: Okay.

MR. CONINE: Any other questions of staff or the witness?

VOICE: Bad choices.

MR. CONINE: Do I hear a motion?

(No response.)

MR. CONINE: I'll make the motion. Option 3.

MS. BINGHAM-ESCAREÑO: I'll second the motion.

MR. CONINE: Ms. Bingham approved a second option 3. Is there any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. BINGHAM-ESCAREÑO: Mr. Chair?

MR. CONINE: Yes?

MS. BINGHAM-ESCAREÑO: I'd just like to say, too, that I think I agree with you that it's -- the board's much more inclined to explore these things when they're brought to us when somebody's still current and trying to work out their obligations.

MR. CONINE: Especially if underwriting has gone through and re-evaluated --

MS. BINGHAM-ESCAREÑO: Yes.

MR. CONINE: -- the mistake they made initially and said --

MS. BINGHAM-ESCAREÑO: I didn't say that.

MR. CONINE: I did.

MS. BINGHAM-ESCAREÑO: The minutes will not reflect that I said --

MR. GOURIS: I might announce for the record that we have employed a new director of real estate analysis. Brent Stewart has joined us and he'll be available at the next meeting and every other meeting for your pleasure.

MR. CONINE: So he's going to have to cover your mistakes.

MR. GOURIS: Yes, sir.

(Laughter)

MR. CONINE: Item 10, Mr. Gerber.

MR. GERBER: Last item, Mr. Chairman, is the Texas Neighborhood Stabilization --

MR. CONINE: Unless you're going --

MR. GERBER: -- Program.

MR. CONINE: You're going to do this, too?

MR. GERBER: I'll cover it.

MR. CONINE: All right.

MR. GERBER: The Neighborhood Stabilization Program, as you know, is a HUD-funded program authorized by the Housing and Economic Recovery Act of 2008 which was passed last summer as a supplemental allocation to the Community Development Block Grant Program through an amendment to the existing State of Texas 2008 CDBG Action Plan.

The propose of the fund is to stabilize neighborhoods that have been significantly impacted by foreclosure activity by providing for the acquisition, rehabilitation or redevelopment and resale of foreclosed or abandoned residential properties. You will recall that this amendment was approved by the board in December and HUD subsequently approved the plan on January 30 and late last week sent the Department an executed funding agreement for $101.9 million.

HUD's execution of the agreement starts the 18-month clock ticking that we have to ensure that all the funds are allocated to specific projects. The plan calls for Department to work with the Office of Rural Community

Affairs to develop a NOFA which provides access to funds for cities, counties and nonprofits in several groupings.

There will be a $51 million direct pool for the 25 highest need areas that have a specific allocation of funds based upon formula determined by need. There will be a $31 million select pool which ORCA will administer which 78 additional high-need counties that are eligible for allocations of $500,000 each will be made available to receive. We will also contract for a limited $10 million pool for very specific land banking activities with the Texas State Affordable Housing Corporation.

The staff has held or attended several input sessions on the plan and held an input session on the NOFA just last week. And the summary of that input is available in the materials that are provided in your board book. Tom Gouris has been working on this extensively and Rob Stevenson has been leading the charge as the acting manager of the NSP program.

And, Rob, anything you want to add to inform our board members about this pretty exciting program?

I think we do have some public comment on it, as well.

MR. STEVENSON: Rob Stevenson, acting NSP manager. I'm not sure I can quite read Tom's scribble for his speaking points. So I'll let him go ahead and give that and I'll back him up.

MR. GOURIS: Just wanted to note a couple of things that have been brought up in the comments that we've heard and you'll hear, I'm sure, again today. One of the main issues is that the -- has to do with how the Department is going to allocate the funds to subgrantees. And we have recommended that that be done in the form of a loan to be repaid to us in most instances in order for us to be able to track and monitor program income.

There's a number of reasons why we want that program income to be tracked. The biggest one is that HUD requires it. And that we would be liable if that program income wasn't used for eligible activities after the fact. Another significant issue is that admin fees can be drawn on that program income when it's reallocated if the state is doing the reallocation. But if that program income stays at the local level and is recycled not only would we have to monitor that, but the local entity would not be eligible for any admin fees, nor would we be eligible for any admin fees to monitor and track that recycled activity.

In addition, we think that this is a pretty exciting program. It's been a very difficult program because it's new to us and it's a new activity and it might not fit exactly what the state's needs have been, as far as foreclosure mitigation are concerned. It's really a after foreclosure has occurred kind of program. But it's given us some real challenges.

And one of the great things that we've tried to come up with is a really innovative and a very fair tool to provide financing for these transactions at the back end. And that is a zero percent 30-year permanent financing tool that can be coupled with downpayment assistance to provide very, very affordable housing for folks at 50 percent and below. And so we're really excited about that tool. And we think that that tool is one that matches pretty much anything that's out there, other than an absolute -- other than absolute deferred forgivable loan.

MR. CONINE: And I would echo Tom's comments, is this is a block of dollars that we can recycle time and time again and help ten Texans as opposed to just one. And that's tremendous leverage in today's world. So --

We've got several witness affirmation forms here. Barbara Smith?

Nancy Mikeska is next after Barbara.

MS. SMITH: I'm Barbara Smith. I'm the

Executive Director for a local Habitat for Humanity affiliate in Montgomery County. We also have a speaker who will speak on behalf of the state Habitat organization. But I'm speaking for our affiliate.

I noticed you mentioned that this innovative idea of recycling these mortgages. Habitat's been doing that since the 1970s with a zero interest loan that we give to the homeowners based on money that we raise from donors. Homeowners have a zero interest loan that's usually about 20 years. So they get -- that money gets recycled a little bit quicker than that. And we have quite a bit of experience managing these mortgages.

I don't know what the state's experience has been. I'm not that familiar with the programs. You may have done this in the past. But I can tell you that managing mortgages for families in the 50 percent median income range and lower is a challenge. We've been doing that in our -- nationally but in our affiliate even for a very long time. One of the neat things that Habitat does is that it's a partnership. So not only is that money recycled, that relationship continues.

We provide a lot of support through volunteers and others for those families. We do a lot of teaching. I know that you require some basic classes on mortgage.

We teach a lot in addition to that and become long-time partners for those families.

So to me, with that background it makes a lot more sense rather than having that money be recycled through the state, again with admin fees coming off of that, that we take that in the form of a grant and continue maybe in a special account -- there are lots of ways to set that up -- but that that money continues to be recycled.

We don't need to get the admin money a second time. I don't care if we get that or not. But we can keep recycling that money and reusing it. Now, it's going to be over a little longer time period. So that's my first point.

The second thing is we are looking at -- I'm specifically looking at an area where development was begun several years ago in a working class neighborhood. And there is basic infrastructure in place. There's the silt fences and the water and sewer stubs and a lot done. And that developer would really like to help Habitat to acquire those lots at a greatly reduced, below-market price.

This would be an ideal kind of thing that we could do for that and then develop and put houses on there, either using the money from the state or using money that we raise. But a three-year zero interest loan to turn that around is really just not enough. In order for that to work for us it would need to either be a grant or -- and with -- we'd be glad to monitor -- that we're going to put families -- that is what we do. We put families at 50 percent of median income. That's our -- that's what we do. But we could certainly monitor in whatever way you needed to do that. But put those families in there over a period of time.

I drove by those lots just last Sunday and there's some mattresses -- it's beginning to become a dumping ground. And they're nice lots. They should be used. And they're not going to be if organizations like Habitat can't have access to it.

We would like to work in partnership with both our city and our county. And we have representatives from community development from both the city and county here. We have a good working relationship. We worked on projects before. And they would like for us to do this low-income piece and we would like to do it. But the way this is written right now I don't see how we can.

MR. CONINE: Well, thank you for your --

Any questions of Ms. Smith before I fire away?

(No response.)

MR. CONINE: I would suggest -- and you'll be hearing from, I think, one of the speakers here in a minute is from TSAHC who's going to get the $10 million land-banking fund to administer under their scenario, which will give you longer time -- longer periods of time to do lots and land banking like you were suggesting. So we have --

MS. SMITH: We actually --

MR. CONINE: -- carved a piece out for that. And we believe that, you know, that will take care of that particular need. Maybe not. There's never enough money. Okay? But it will take care of some.

MS. SMITH: Okay. Thank you.

MR. CONINE: You bet.

Nancy?

MS. MIKESKA: Good afternoon, Chairman and board members and Mr. Gerber. Thank you for giving us the opportunity today. It's been a long day.

My name is Nancy Mikeska and I represent the National Community Development Association Region 6 and I am the Chairman of the Board of the Directors for Region 6. I also work for the City of Conroe, which is just north up that way. So I'm glad to be down here in

Galveston. I've been in Galveston in the good times. I've been down here since the hurricane and I'm glad to be back today. And I'm glad that you're here because that shows your concern for our area down here. And we're glad that you came down to see for yourself what's going on in Galveston.

I think I have provided to you a petition that has gone through Region 6 members. Region 6, of course, encompasses five states. But particularly, I'm here today representing our community development association groups that are here in Texas. And the petition is about the Neighborhood Stabilization Program.

And, Mr. Chairman, to use your words, we hit some bugaboos. I love that -- bugaboos.

The loan requirement is really causing a major problem for our association and for what we do every day. And we are the community development providers that are actually on the streets. We are the ones that are actually there helping the food bank folks and helping community centers and building homes and working with Habitat and all of our other partners. And so it's very important that we have a voice in the way this is going to be administered.

And when we came to Austin originally for the roundtable we were not aware that it was going to be a loan program. And all of a sudden when the NOFA came out we were pretty much put on notice that this had turned into a loan program. And we have been very active since that time.

For some of my associates a loan program might work. There are some larger communities that you do not see on that list of the petition such as Houston and Dallas because they receive direct allocations. But for those of us who didn't, we are on that list, such as Amarillo, Lubbock, those folks. We are on that list because we want to be able to have a local voice in determining whether or not a loan would work for our program.

And in some cases there are cities that have loan programs set up and that might be a workable situation for them. In other cities to set up an entirely new loan program would be very difficult. It would be staff intensive and not cost effective. And we want that to be a local decision. But pretty much we're asking for you to make this a grant program and those who want to apply under a loan situation that they be allowed to do that in their application. And you could rank that however you chose.

And if you look down the petition we've got signatures from just about everybody. I don't think I need to read those for you because I know you've all seen it. We have several others here today that have actually joined the petition. And City of Beaumont is here. City of Galveston. We -- several others that have joined the petition. We have a pastor's group represented here today. We have a nonprofit group here today that is on the petition, as well. And so we would really ask for you to consider that.

The other item that we would like for you to consider is that when you have excluded from the low-income statistical data the large revitalization projects and also the demolition, that causes another issue. Because when we're trying to do large revitalization many times those are shelters, those are transitional housing facilities, those are single-room occupancies. And those are low-income people. And we feel like those should be counted in the low-income stats that we would be reporting to TDHCA so that you could have a better view of what those dollars actually went for. It didn't seem reasonable that we would exclude those types of projects.

For instance, in the City of Conroe for demolition much of that is done in extremely low-income areas where we have dilapidated houses where crack heads are actually smoking crack at night. And we'd like to tear some of those down and revitalize some of that area. And that's an extremely low-income area. And so you should be able to get that good picture. When you see that data you should have a real accurate picture of who you're actually helping with these funds. And we would like you to consider that.

And also, the petition speaks about collaboration and the requiring of collaborative. I would just like to say for the record -- and I'm sure we're recording here today -- that community development groups across Texas, all of the entitlement cities and counties, we collaborate all of the time. We cannot write a five-year plan without collaboration. So that requirement really wasn't necessary.

And in some cases we have entitlements where you would be granting the funds. And those entitlements have been using CDBG dollars for a long period of time. And they have reporting requirements in the CDBG programs that we would always be able to report to you. So we're not having a problem in statistically reporting because we do that every day as we work with CDBG.

And the bottom line is we just feel like the program should be very similar to CDBG. Congress allocated the money under the CDBG program. And that's what it is. And somebody said to me that it was like CDBG. Well, it's like CDBG because it's pretty much a supplement to the CDBG program. And as all of you know, CDBG is the most flexible program that is out there. And that's why it's in there. And that's why it's in the hands of local control.

And back from where your cities are, your folks are down there deciding what do they need in El Paso, what do they need in Lubbock. And those are decisions that are made at the local level and then the statistics reported up the chain. And that's a good way to work with it and that's the way it should be.

And we don't feel like the people that didn't get direct allocations should be held to any additional standards or any other requirements that might bugaboo or kill the program because it's just more burdensome than it could be productive. And I think the whole intent was that we get these funds out to the people that need it the most. And that's why we're here today. And I really appreciate your time. And I'd be more than happy to answer any questions.

MR. CONINE: I appreciate that. Again, I would articulate that what we're trying to do is stabilize foreclosed neighborhoods in various cities and counties all over the state. To me, that means primarily you're going to buy a foreclosed house, you're going to put somebody in that foreclosed house after you fix it up a little bit probably and they're going to have a great deal. Probably use the homebuyer tax credit. Probably use our MCC certificates. Who knows what they're going to use. And that doesn't take three years. But you can do that over a three-year period.

So instead of having grand programs that take five years to do we would encourage the applicants here to do smaller scale stuff and do the actual buy the foreclosed homes and fix them up and put them in the homebuyers hands, which is a short-term operation. That doesn't take three. And you can turn the money over several times in a three-year period. Bring it back to us then we can dole it out again. And -- because if it worked and you got success stories then we can do it again and again and again, multiple times.

And that's what we think is best -- at least this board member does, anyway -- to get multiple turns on the money. And -- because you don't get opportunities like this from the federal government very often. And that's why we've taken the particular position we have. In addition to the fact that we, you know, are responsible for how it's spent and got to pay it back if someone doesn't do right. So that's, at least, our motivation on our end.

MS. MIKESKA: And I would just ask you to reconsider that decision. I know that that was your position.

MR. CONINE: Right.

MS. MIKESKA: Obviously, that was in the NOFA. But again, I am representing the groups across Texas and we want to utilize this money. We want to have access to this money. And just taking what you said, Mr. Chairman, and saying if we got those funds and we bought a foreclosed home what some of us intended to do -- well, we were trying to use some of the housing vouchers to put those recipients of those vouchers into the homes, getting them off of those voucher roles so that people who desperately need those vouchers could get a voucher. Because in my city there's a two-year waiting period just to get a housing voucher.

MR. CONINE: Well --

MS. MIKESKA: And when a person loses their home for whatever reason, circumstances beyond their control, you know, if we can recycle and get two people, one on the voucher and one into a home then we've really done something with the money that's very important to our communities.

And a grant program is no different than any other type of program. It's just recycling there in the community rather than recycling around through the state. And when we send it back to the state there's no guaranty if we're going to get any money the next year because we're going to be competing again the next year. So you've sent back all of that. And if you're not funded the next year again you don't have any way to monitor the stuff that you got the first year because the money went back to the state.

So if it's in the local hands you have an opportunity manage your funds in a more efficient way. And we would sincerely ask you to reconsider that decision.

MR. CONINE: Well, my understanding -- the program has a carve-out position for zero-interest 30-year loans. So you'd have the ability to do that if you so choose with this money. And there's also a second batch of it. You can go competitively -- can bid for. This isn't the only NSP money that's out there.

MS. MIKESKA: Well, I would just say that in doing some research I think Texas is one of three states that is asking this to be a loan-type program or is varying from the actual HUD guidelines. And I think that we don't want to single ourselves out. You know, just this afternoon Governor Perry rejected $555 million in federal dollars because of all the strings that were attached to it. And honestly, that's the kind of way this is going. There's so many things attached to it that we would really like to just be able to -- free to use that in our communities as our local decisions are made.

MR. CONINE: And we -- as you said, we have great flexibility up here, fortunately. And if we put the RFP out and nobody comes and get it we'll make -- we'll change our minds. But if somebody comes and gets it then there's going to be demand that that sort of money will be attractive.

MS. MIKESKA: And Mr. Gouris met with me last week and he did kind of indicate that.

MR. CONINE: Uh-huh.

MS. MIKESKA: And I think that's certainly one way to go. I would just say that, you know, that's a lot of time that we would have already passed by that the money could have been on the streets. And the money was originally intended to get out there to the people who need it the most. So I just sincerely ask you to reconsider. And I would say that a -- in closing, I would say that a very famous person once said that it -- there is always time to do the right thing. So that's what I would say as I depart. Thank you --

MR. CONINE: Thank you.

MS. MIKESKA: -- so much.

MR. CONINE: Appreciate it.

MS. MIKESKA: Thank you.

MR. GERBER: I'd just note for the board that I think Texas is one of the first states to move forward with its Neighborhood Stabilization Program grants. And we will know in --

How soon will we know whether or not we have applications or not?

MR. CONINE: Sixty days?

MR. GOURIS: Yes, less than 60 days. The NOFA will be published probably early next week and that will start up a 30-day clock for folks to submit applications. And so by the next board meeting we'll have a sense of -- an excellent sense for how many applications we've received and what sort of demand there is.

MR. CONINE: Eugene Bauer?

MR. BAUER: Thank you, sir, and board members. I appreciate the opportunity to speak with you. My name is Eugene Bauer. I'm the Executive Director for the Fort Hood Area Habitat For Humanity, which has a service area of Bell, Coryell and Lampasas Counties in Texas. And I'm also the spokesperson and representing Habitat Texas, which is an association that represents 87 affiliates throughout the state.

Very first thing -- and please don't let my brevity detract from the sincerity of the thank you that Habitat extends to this board and especially to the staff. The board establishing policies for partnerships where we can work together and that staff especially. I can't tell you the number of times and the many different agencies -- that many different Habitat affiliates that have received benefit from the staff. And we thank you all very much.

But obviously, I'm here similarly to some of the previous applicants. And I would tell you that we have been assured -- okay -- Habitat National has been assured by HUD national -- okay -- that at the end of this month these requirements that staff has mentioned will be much more clearly defined and the opportunity to make this a loan will be left to the state.

Now, obviously, HUD establishes those rules.

There's some interpretation of those rules right now that seem to prohibit that. We are assured by the national HUD representative that that will change at the end of this month and that it will be clearer to the state that you can make it a -- or excuse me -- make it a grant and that we can retain the program income.

Now, I want to be very specific that my comments are specifically about those homes that will be done for families of 50 percent of the AMI or less. Okay? Now, to give your -- Mr. Chairman, some real numbers to look at -- okay -- if you got a $101 million in this program -- this is what you got. Okay. Now, out of that 101 million your own document says that you're going to do -- 35 percent of them are going to be for low income.

So 35 percent of 100 million -- okay, with 101 million if we use just for argument's sake, for ease of mathematics -- let's say it takes us $100,000 per house to buy it, fix it, resell it. Just on average throughout the state. Okay. Some will be much less, some will be more. That's 1,010 houses, okay, at 100,000 each.

MR. CONINE: Uh-huh.

MR. BAUER: With the state's identifying 35 percent of those being low income, that's 353.5 houses that are going to be for low income. Might be more than that. But it's going to be 353,000 -- or 353.5 houses that will be done for low income. If it's a zero interest mortgage then you're going to get $277 per mortgage back over the next 30 years.

MR. CONINE: Uh-huh.

MR. BAUER: That's -- for 353 houses that's $98,000 a month. That's 1.2 million. Now, with that 1.2 million you got to create an entire new department to service mortgages. We have an awful lot of experience servicing mortgages for low-income folks. A much different proposition than it is in a tradition mortgage setting.

Now, that 1.2 million, some of that's going to be chewed up in the administration of it. Yes, it would be returned to the state. And, yes, it could be reallocated. But let's say that a million of that will be reallocated, which I think is generous. I think your administration's going to be more than 200,000. But let's say that it's a million. Then you can do ten more houses.

That same million in Habitat hands in that -- in one year can produce 26 houses. Not just ten. We can produce 26 in a year. And the most important part is when we receive that mortgage payment we put that money back to work the next month. Not a year later and have to go through an application process. That's how we're able to do 26 houses because we leverage those funds with locally-produced funds. We mix those together and do more faster.

I know I'm out of time. I hope you ask some questions because I've got plenty more I could say. Not the least of which I'm thinking today is maybe I need to learn how to build houses with weatherstripping.

MR. CONINE: Yes. I'd be -- I'd get in that business for sure.

MR. BAUER: Yes, sir.

MR. CONINE: Oh, I understand what you're saying and can appreciate your point of view if all the demand in the world were in the little pot of the world that you control. But what we have to answer to is the State of Texas. And over time the demand for low-income housing folks may move and shift. And if we got the money back we can meet that demand and that shift rather than leave it in your local Habitat office. So that -- therein lies the mentality that we have.

MR. BAUER: And it will shift faster at 26 houses a year than ten.

MR. FLORES: He's not going to give up.

MR. BAUER: No. That's not my mission, sir. I'm a retired soldier. I got a mission.

MR. CONINE: Thank you for --

MR. FLORES: Before you go --

MR. CONINE: -- your testimony.

MR. FLORES: -- as a matter of curiosity, the work, that you do is it mostly for the military families?

MR. BAUER: At Fort Hood?

MR. FLORES: Yes.

MR. BAUER: Actually not, sir. We have a few veterans. But the vast majority of the soldiers -- and I'm extremely thankful to say -- I mentioned I'm a retired soldier myself. My first monthly paycheck was 245 bucks. But our soldiers are paid much better nowadays. They don't fit the low-income model that you might have associated with a -- young private gets pretty good nowadays.

MR. CONINE: Right.

MR. BAUER: Yes. So they don't fit the low-income model. We have a few veterans, you know, that prior military and now have gotten out and have jobs and are in the low-income arena. But not that many.

MS. BINGHAM-ESCAREÑO: Thank you.

MR. CONINE: Thank you.

MR. BAUER: Thank you.

MR. CONINE: Dr. Joanna --

DR. DUCHARME: Ducharme.

MR. CONINE: -- Ducharme.

DR. DUCHARME: [inaudible] Louisiana.

MR. CONINE: It's almost as bad as Conine.

After that, David Danonfelter [sic] and Jimmy Shoemaker.

DR. DUCHARME: Thank you again for this process of being able to come and talk to you today. And I also wold like to thank your staff again. I've dealt almost exclusively with Rob Stevenson. And he has been both patient and helpful, which are my two absolute favorite qualities in a staffer. So thank you again as we're working through these issues.

I was going to come and talk about the loan structure. I'm not going to beat you over the head with it. I would like to point out that it does hamper the smaller jurisdictions and limits our abilities to do some of the most critical work that we have identified on the local level.

In regards to the management of the program income, in listening to the comments Mr. Gouris made I'm hearing about, Oh, well, you know, we got to figure out how to track this; we've got to figure out how to make sure that the local jurisdictions are doing it right because we answer to the state and we answer to the feds.

As an entitlement jurisdiction in Montgomery County, I answer to the feds 15, 20 times a day. Those of us who run entitlements, many of the people in this room, we live and swim in program income issues every single day. We know how to do it. So to me, this sounds like a training issue. And training issues are easily and quickly resolved. You learn how to do it. You get training. You get training from the experts. And so I would challenge you to please not set policy that creates a short-term solution to a long-term issue.

I'm a big believer in loans. When I'm dealing with for-profit developers it goes out as a loan and it comes back with money for me, program income. When I do economic development activities it goes out as loans and it comes back as loans. In dealing with nonprofits we have cash-flow issues, we have mission issues and we have expertise. And especially in the smaller jurisdictions it is very hampering to have a loan structure with nonprofits, especially one with a short turnaround such as three years. With the program income we can recycle that back to the street, as my predecessor said, much faster and more efficiently and more effectively than the state can do that.

I have a couple of new topics for you.

MR. CONINE: Good.

DR. DUCHARME: I'm asking specifically that you reconsider the limits on public service facility funding. I was not aware until I went to the public hearing last week that only just a very small pot of money, just a couple of million dollars statewide, is set aside for doing the public service pieces allowed in that big, horrible, overly-regulated CDBG pot. I've talked to several jurisdictions who've been thinking about doing programs such as homeless family shelters, transitional housing and in our county we were looking at trying to bring in for the first time ever residential treatment for substance abuse.

I would challenge you to think of the original rules and the original language of this grant, which talks about mediating foreclosure crises long-term. And homeless shelters are certainly something that's coming to the forefront as people are evicted right out of the their houses due to foreclosure. Those are still going to be problem people in our areas. And substance abuse treatment is also a very needed thing because that is a huge contributor to a lot of the foreclosures that we see.

And we would like to be able to address that as a form of housing.

If the pot's too limited we're not going to be able to create any of these long-term infrastructure ways of addressing the foreclosure crisis in our area. And it's going to continue to emerge and emerge and emerge long after these funds are gone.

My last comment, in speaking to what Nancy was speaking about collaboration, we do all collaborate. We know how to do it and we do it well. I believe in collaboration. I've been in nonprofits most of my career. In fact, by the way, my specialty is in -- as a turnaround specialist for nonprofits. So usually if I'm here it means something's going horribly wrong.

The problem that we're seeing with the collaboration rules in the NOFA are that it requires naming a lead agency, a single lead agency. And while Nancy and I work together every day and I work with nonprofits and work with agencies everywhere and we all play well together, our elected officials, believe it or not, don't always want to give up some of their power.

And to tell the City of Conroe City Council that they have to name the Montgomery County Commissioner's Court the lead agency and fiscal agent to have control over their money ain't happening. And the Commissioner's Court is not going to tell the City Council, you know, Okay, you be in charge. And that is outside of the control of community development departments. We have no ability to change that. So please consider the realities of the elected world when you're thinking about any modifications to this NOFA. That's it.

MR. CONINE: Montgomery County's going to get a million seven directly.

DR. DUCHARME: I know.

MR. CONINE: Good.

DR. DUCHARME: I hope we're able to figure out a way to spend it.

MR. CONINE: Sounds like you got to get the county commissioners and the Conroe City Council together. They kind --

DR. DUCHARME: That would be --

MR. CONINE: -- of like oil and water?

DR. DUCHARME: -- bucking 300 years of tradition in Montgomery County.

MR. CONINE: Tom, do you want --

Or, Rob, you guys want to speak to that last issue she brought up and explain why --

DR. DUCHARME: Oh, is this where the arguing starts again?

MR. CONINE: No, no, no, no, no. No arguing here.

MR. STEVENSON: Thank you, Joanne. I would just like to point out -- oh, now I'm losing my mind completely. What was your last point, Joanne, about -- oh, the lead agency.

A lead agency is only required in a joint applicant situation. But we do not require lead agency -- it -- we do give extra points for it. We do require collaboration. And the Federal Register notice HUD did put out it did show that it wanted to see collaboration among the various eligible entities. But any city within Montgomery County and Montgomery County itself could apply for the funding, as well as a nonprofit with permission of those entities.

MR. GOURIS: Just a tag on here. The issue would be that if they both applied for the million dollars that's available for Montgomery County, if both the -- Conroe and Montgomery County did, we'd have to figure out which one should get it or how much they should get. And so what we were trying to do is get them to collaborate with each other so they could say, Okay, you take half-a-million; we'll take a half-a-million. And we'll set up separate applications or we'll set up joint applications. But that level of collaboration was what we were looking for.

MR. CONINE: Okay.

MR. STEVENSON: One other quick point on the public facilities. We will allow public service in both facilities but it can't count towards the 25 percent requirement to be set aside for 50 percent and below AMI. So that's what we limited there.

MR. CONINE: Thank you.

DR. DUCHARME: I'm just wondering. One last note on the collaboration. Nancy and I got together after the last hearing and over beer and nachos we worked out our priorities and who was going to apply for what. We were invited to apply for more than what we had originally been allocated so that there would be justification in second rounds since there may very well be a lot of money left on the table after the first round. So it's the question not of collaborating. It's the question of designating a specific governing body as the lead. Thanks.

MR. CONINE: Got to be a parent in the room somewhere.

David Danonfelser. I probably missed that -- misspoke.

MR. DANONFELSER: No, you did very well, actually.

MR. CONINE: Okay. Good.

MR. DANONFELSER: Chairman, Board, Mr. Gerber, David Danonfelser [phonetic] with the Texas State Affordable Housing Corporation. I'm just here to -- really don't have many comments, other than we thank Mr. Gerber inviting us to collaborate on this project.

Many months ago when the first roundtable was held he asked us to look at developing a land-bank program. Luckily, we had already developed a land-bank program. And so we were able to try to fit -- what we're trying to do is fit a square peg in a round hole right now. But we're doing a lot of great work with Tom and Rob and the other staff members at this point. We hope to have an agreement and a contract in place in the coming month so we can go ahead and launch our program get land-banking services out there for the local communities and nonprofits, as well.

MR. CONINE: Great.

Any questions?

(No response.)

MS. RAY: Thank you.

MR. CONINE: Thank you.

Jimmy Shoemaker, the last but not least public speaker.

MR. SHOEMAKER: I just thank you for having an opportunity. I've never done this before. I'm just a citizen of Montgomery County and I read in the newspaper about some possible money for our county and investigated a little bit. And well, here I am. I'm in -- kind of in the trenches in this issue that I'm going to talk about that may make some sense to you. And I may be way out of line. I don't know.

But it's said, Without a face to reason seldom will real change occur. In Conroe, Texas, this morning a 28-year-old mother of two woke up with a spirit of impending doom. Across the country bankers woke up with that same spirit of impending doom. Yet in contrast, I believe many of us in this room with an opposite spirit. The spirit of impending opportunity.

The powers that be in Washington have sent grant money, bottom-up change money, not only to the young mother in Conroe, the Wall Street banker, but also to every one of us who will be affected by their restoration. In part the neighborhood stabilization in Montgomery

County means stabilizing that young momma.

You see, that young mom needs somewhere to go with a dirty little problem. She's an addict and she's an alcoholic. And Montgomery County Community Development Department has identified a residential treatment center for Montgomery County as a top priority, just as Washington has identified the banking system as a top priority.

I do not know if there are residential treatment centers for misguided bankers that work. But I do know there are residential treatment centers for alcoholics and addicts that work. And we don't have a single one in Montgomery County.

I understand the funds -- or I understood the funds for the neighborhood stabilization program were sent to the state as nonrecourse money, as grant money. Yet it is my understanding today that somewhere in the transference within the state, from the state level to the county level it's become loan money, money with recourse. If this is the case I believe the spirit of the funding is being violated.

I do not know if it's a simple case of the big dog taking the bone away from the little dog or if the board truly believes that in their heart a nonprofit residential treatment program or a Habitat for Humanity program can really pay back all these monies in three years.

You know, I'd just please ask you to maybe honor the spirit of Washington's intent by restoring the community stabilization funds back to grant status and Montgomery County away from loan status. Please allow a place to be built where that young Montgomery County mother's spirit of impending doom will have a chance to become a spirit of impending opportunity. Let that young mother and the hope that the building of a residential treatment center represents become the face that causes real change to occur in our community.

I don't know if there's a way that you guys can say, Okay, these nonprofit deals, it looks like worthwhile effort -- I heard -- I didn't understand much of what was going on here today. I'm sitting here -- you know, maybe there's some way that some of this money can be set aside for a place where a young mother -- and this is a real young mother -- she's -- that's a face. My wife and I are in the trenches out there. Okay? We don't have one up there. And they need.

And somehow that is going to come back to us. It may not be sent back to the fellows to recycle every three years. But if somehow you can set aside some of this money and say, You know what, this money doesn't come along very often and let's look at it if there's a worthwhile program there. Thank you.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes, Mr. Gerber?

MR. GERBER: If I can just interject a little bit of perspective. And I appreciate what you're saying. I appreciate the very hopeful message that you gave. And I think all of us in this room want to address the needs you're talking about. And I would encourage you to look at a Department program called the Emergency Shelter Grants Program. The state normally gets about $4.8 million in that program. We've just received word that we're going to get an additional $41 million for that program. So that might be something -- and that's a grant program -- that the county might wish to apply for.

On the housing side in virtually all programs HUD has really worked hard to encourage states to provide loan -- to make its -- the products that are using their funds, HOME funds, some CDBG and a myriad of other HUD programs, to make them loan funds with the idea that they get -- that they revolve many times and help many more people through the repayments of those loans. And our board has taken that to heart. And we've been able to help many, many more Texans over time because of that policy.

That said, at different points when things have not worked the board has also gone back and re-reviewed it and in certain instances when you don't have applicants or you don't have people who can make the program work at the levels you're trying to target and push the funds down to, they have come back and they have been willing to hear again from the community as a whole as to how that program should be reshaped.

And I think just to give us -- because we're all interested in moving these dollars quickly, they've been out there for a long time and we all want to make a difference in our communities and address the foreclosure crisis, we would certainly like to keep in close touch with you. I hope you'll make a good-faith effort to look at the NOFA in the form that the board approves it in and see if you can make it work for your communities.

And if for some reason you can't, I hope you'll continue to talk to the board and to staff to let us know the problems and pitfalls that you're experiencing. Because we want this to work for all Texans. But we want to help as many Texans as we can. I know that there's a lot of frustration. And I appreciate the candor.

I also want to provide some perspective just in terms of who we're talking about. You know, Habitat, Montgomery County, these are large, sophisticated organizations. Habitat's the 16th largest home builder in the United States -- 14th, I'm sorry -- 14th largest home builder in the United States. Montgomery County is one of the largest counties in -- they've got some means there. Let's see what they can make work to maximize the use of those funds.

Because we want to help that momma but we also want to help ten other behind her if we can. So let's see what works and then let's come back. But we're going to know quick. And we want to move these dollars quickly and we want to meet the obligations that we have to get all these funds fully obligated within that 18-month time frame. So staff is very calibrated to that. And we look forward to working with you to that end and having that -- those ongoing discussions over the next several months. I appreciate you all being here. And I just wanted to --

MR. CONINE: Thank you for coming.

MR. GERBER: -- know that.

MR. CONINE: Appreciate it.

I have no more further witness affirmation forms on whatever that agenda item -- 10. Any further discussion or do I hear a motion?

MS. BINGHAM-ESCAREÑO: Move staff's recommendation.

MR. CONINE: Motion to move staff's recommendation to publish the NOFA on the Neighborhood Stabilization Program. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. I have a question. Or I have a issue. On page 7 under Homebuyer Assistance on -- we're going up to 128 percent AMI and we're offering up to 50 percent of the price on the home as homebuyer assistance. I think that's a little heavy, a little rich for my blood.

And I'll articulate hopefully, a ridiculous scenario. But this is one I can see happening. If you're in a $50,000 median income county in Texas and you can go 120 percent of that so now you're at $60,000 worth of income that person can certainly qualify for $150,000 loan roughly. And we can then come behind them with $150,000 worth of homebuyer assistance because it's 50 percent of the purchase price. So that $60,000 person a year just bought a $300,000 home that was foreclosed on, which is really probably a $500,000 home. And I just think that's too rich.

And what would be staff's response to a reduction in that 50 percent down to 10, 15, 20, some number that's a little more reasonable? And oh, by the way, the homebuyer assistance money doesn't come back to us. It's gone. Right?

MR. GOURIS: That's correct. The homebuyer assistance does not come back --

MR. CONINE: Right.

MR. GOURIS: -- to us. It would make -- it might make it more difficult to serve those lowest income folks because they wouldn't have the difference in -- to make up or the Habitat to -- others would have to come up with another source of funding for that --

MR. CONINE: Okay. Then maybe the language should say 50 percent or not to exceed X amount of dollars. Would that be better?

MR. GOURIS: Sure.

MR. CONINE: To take care of the lower-income folks?

MR. GOURIS: Sure. What would you --

MR. CONINE: Is 50,000 a good and round number?

MR. GOURIS: 50,000 works.

MR. CONINE: That may be too much. That's a $100,000 house.

MR. GOURIS: I responded too quickly then. Let me think about that for a second.

MR. CONINE: I mean, a 50 percent median income folk -- they're not going to be able to buy a hundred -- I guess they might qualify for a hundred.

MS. BINGHAM-ESCAREÑO: It's going to cost them --

MR. CONINE: Yes, they could. They -- I mean --

MR. GOURIS: I think that's a --

MR. CONINE: They'd get a $50,000 loan, wouldn't they?

MR. GOURIS: From us.

MR. CONINE: Let's just add the language limiting it 50 -- to a max of 50,000. I got a feeling the money's going to fly out the door at that rate. And I -- it scares me. But we can see what happens.

MR. GOURIS: Okay.

MR. FLORES: So what are you suggesting then, Kent?

MR. CONINE: Well -- hang on just a second.

This is homebuyers assistance between 50 and 120. This isn't getting down to the low income.

MR. GOURIS: No. It -- the homebuyer covers both. We separated the next sentence. We talk about --

MR. CONINE: Less. Okay. Less than AMI.

MR. GOURIS: Yes.

MR. CONINE: All right.

MR. GOURIS: So it deals with both. So what you were suggesting is just add to the end of that paragraph, Not to exceed an amount of $50,000 per household. Not to exceed $50,000 per household. Much more generous than most of our other downpayment assistance programs. But this is a very different pool and group that we're trying to serve. And based on --

MR. CONINE: The average median income in the state is 40-something? Mid-40s? Counties all over the state? That right? I'm not going to be far off.

MR. GOURIS: Yes. You're not far off.

MR. FISHER: I'd say it's probably 48,000.

MR. CONINE: Yes.

MR. FISHER: In our three counties it's 52,000.

MR. CONINE: Yes. There's some that are ten out in West Texas. So --

I -- 50's just too much. Too rich for me to be giving away.

MR. GOURIS: Appears you're negotiating with yourself here.

MR. CONINE: Yes.

MR. GOURIS: But you're going in the right direction. Sorry.

MR. CONINE: Let's set it at 30 --

MR. GOURIS: Okay.

MR. CONINE: -- and see what happens. I think that that will --

MR. GOURIS: Well --

MR. CONINE: -- make me sleep a little easier at night.

MR. GOURIS: -- that's where our OCI program is. And that's --

MR. CONINE: Excuse me?

MR. GOURIS: That's where our OCI bootstrapped activity is. And that's --

MR. CONINE: Don't confuse my head. It's already got --

MR. HAMBY: OCI is a loan program. This is not a loan program, is it?

MR. GOURIS: Yes. There's a loan associated with -- I mean, it --

MR. HAMBY: If it's a loan program that -- there's no way they can qualify for under $50,000 homebuyer assistance.

MR. GOURIS: It's the other --

I'm good with 30. Okay.

MR. CONINE: I'd -- do we have a motion on the floor? We don't even have a motion --

MS. BINGHAM-ESCAREÑO: Oh, I said --

MS. RAY: Yes, we do.

MR. HAMBY: We do have a motion on the floor.

MR. CONINE: Oh, okay. We got the maker of the motion and --

MS. BINGHAM-ESCAREÑO: Do I --

MR. CONINE: -- the second here?

MS. BINGHAM-ESCAREÑO: -- amend myself? Or --

MR. CONINE: Accepting that as an amendment?

MS. BINGHAM-ESCAREÑO: I accept it.

MR. CONINE: Okay. Any other discussion from the board?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. That concludes today's board meeting. Want to thank everybody for being here. Thank the City of Galveston again for their hosting. They did a fabulous job.

Thank you, staff, for setting all this up and traveling and so forth. I know it was tough to do but we got an opportunity today to see what our good work is going to be able to do. And I think that's really important.

We stand adjourned.

(Whereupon, at 5:13 p.m., the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Galveston, Texas

DATE: March 12, 2009

I do hereby certify that the foregoing pages, numbers 1 through 234, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Leslie Berridge before the Texas Department of Housing and Community Affairs.

3/17/2009
(Transcriber) (Date)

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