

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

9:30 a.m.
Thursday, May 21, 2009

Ric Williamson Hearing Room
D.C. Greer Building
125 East 11th
Austin, Texas

MEMBERS PRESENT:

C. KENT CONINE, Chair
LESLIE BINGHAM-ESCARREÑO
TOM GANN
GLORIA RAY

STAFF PRESENT:

MICHAEL GERBER, Executive Director

AGENDA

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PROCEEDINGS

MR. CONINE: Welcome to the Board meeting of the Texas Department of Housing and Community Affairs for May 21. Let me call the roll right quick. Leslie Bingham?

MS. BINGHAM-ESCARREÑO: Here.

MR. CONINE: Tom Cardenas will not be here with us. I am here. Tom Gann.

MR. GANN: Here.

MR. CONINE: Juan Munoz will not be here. Gloria Ray.

MS. RAY: Here.

MR. CONINE: We have got four of us present, which is a quorum, thankfully. Okay. Getting started, most of you being around the housing industry realize that June is Home Ownership Month. And to that effect, we have a resolution that I am going to ask Mr. Gerber to comment on and read, please.

MR. GERBER: Mr. Chairman, we are delighted that once again we are joining in the national celebration of June as National Home Ownership Month. And we are providing a resolution for this Board to sign. And it follows the resolution that has been issued by Governor Perry, in acknowledgment of Home Ownership Month. And I will just read a couple of the key provisions of it.

That says, that whereas home ownership is undeniably the most fundamental aspiration of most Texans, and not only is home ownership the American dream, it is the dream of many Texans to own their piece of our

great state; and whereas home ownership has a profoundly positive impact on individuals, families and communities; and whereas home ownership is not only the primary means of accumulating wealth for many Americans, but it is also the intangible force that binds neighbors and communities together, the Texas Department of Housing and Community Affairs and the State of Texas are committed to helping as many low to moderate income Texans as possible purchase a home and maintain home ownership.

And it will be signed by each of you. And we will do many activities throughout the month of June to acknowledge that. But we will start off here in just a moment by celebrating two homeowners who have come to receive their mortgage credit certificates in just a moment.

But we hope that members of the affordable housing community who are engaged in home ownership activities will join in the Department as we begin this celebration. And we look forward to various events that show really that there are many programs and resources out there to help low and moderate income Texans achieve the American dream. So with that, Mr. Chairman, we will begin passing around the resolution to Board members for signature.

MR. CONINE: We probably need a motion, if we could to approve the resolution.

MS. RAY: Mr. Chairman, so moved.

MR. GANN: Second.

MR. CONINE: Motion by Ms. Ray. Second by Mr. Gann. 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: The motion carries. I parenthetically, I would say that there is absolutely probably not a better time that I have seen in a long, long time to buy either your first home, or to buy a home just in general. So I sure hope we can continue to get the word out on various programs that we administer and do. You have got a couple that we are going to recognize now. So go right ahead.

MR. GERBER: We do. Mr. Chairman, I am really glad that today we are going to recognize two recent homeowner borrowers that have utilized TDHCA's Texas Mortgage Credit Certificate Program. The Department began administering the program in June of 2008. And this past February made available an additional \$30 million in mortgage credit allocations.

A mortgage credit certificate, or an MCC is a federal income tax credit that is designed to allow borrowers to write off a portion of their annual interest paid, up to \$2,000 per year. And the credit is good for as long as the borrower occupies the home as their principal residence. The credit has the potential of saving the MCC holder thousands of dollars over the live the loan, up to \$60,000 on a 30 year mortgage at \$2,000 a year.

And since 2008, TDHCA has issue 305 MCCs totaling more than \$11.5 million. To qualify for the program, a homebuyer must not have owned a home within the last three years, and has to meet various program income and purchase price limit guidelines. But in addition, borrowers can further benefit from the home buying process by filing for or receiving the recently approved federal first time home buyer tax credit, up to \$8,000. So marrying that program up with the MCC program means potentially a \$68,000 tax credit benefit to that family over the life of the loan.

There are two homeowners that have taken advantage of this here in the Austin area. Russell Forester, who worked with, who was homeless here in Austin, and his family. I would like to ask Russell to come forward.

Alisa Hernandez with Prime Lending was their mortgage partner. And I would like to ask Alisa to come up as well. And Tim and Emily Martinez, I believe are from Round Rock. And Amanda Stewart with MSH Mortgage was their lender.

I would like to ask all of those folks to come forward and snap some pictures with us. We have got a couple of gifts for you, and invite the Board to come on down and join up.

(Whereupon, photos were taken.)

(Applause.)

MR. GERBER: Here is the certificates themselves. You need those for the IRS. So here.

MR. CONINE: Got to keep the IRS happy.

MR. GERBER: We appreciate you all joining in on that. And again, home ownership is very much a part of TDHCA's mission and we look forward to others in this room working with us in the month ahead, and in the years ahead, to try to expand home ownership and expand opportunities and stability for Texas families.

MR. CONINE: Great. Thank you, Mr. Gerber and again, congratulations to those two folks, and again, for everyone who takes advantage of home ownership in the State, especially over the next month, as we celebrate home ownership in the State of Texas.

For those of you looking at the agenda, you see where we were going to recognize Sonny Flores for his service on our Board. Sonny is ill today, and not to be with us. So we will push that forward to the next meeting, where we can get him over here, and recognize his service. Now we will go the public comment period of the Board meeting.

MR. GERBER: Sir, could I interject one other thing I wanted to make mention of, just before we get started here. There is a group of people here in the Department who have come to the Board meeting today with the Section 8 program, the Housing Choice Voucher Program. I want to take them all, and to recognize the staff and the manager of this program.

They recently received a high performer rating from HUD on the Housing Choice Voucher Program, which is a high honor to achieve, a high designation to achieve. The Department administers a total of 900 vouchers in 41 Texas counties. These allow very low income families to choose and lease decent and affordable privately owned rental housing. It is really important to

note the accomplishment of the six very dedicated staff members in the Community Affairs Division who have worked on this program on a daily basis.

And I want to just acknowledge Willie Fae Hurd, who is the manager, and ask the staff to stand. Willie Fae Hurd is the manager. And Willie Fae is back there. Helen Barrera, Ana Salinas, Julie Staten, Michelle Perales, and Barbara Howard are also, a number of them are here as well. And I really want to congratulate you guys. It is a tough program, and you serve us well.

And we are really thrilled to have that designation. It is just a great acknowledgment of your hard work and commitment to the Department. So if you will all join me in applauding this --

Thank you all.

MR. CONINE: You want to do the consent. Okay. We are going to do the consent agenda first, so we can get some stuff moving in another part of the city today. All of you can see, on item 1 of the agenda, what is there. I do have a witness affirmation form on like, 1-H, that I can tell. Let me call on this witness to testify.

SPEAKER: (No audible response.)

MR. CONINE: Okay. You are going to pass? Great.

MR. GERBER: Mr. Chairman, we need to ask, are there any questions or comments regarding the consent agenda from any members of the public before the Board votes on it. Is that correct?

(No response.)

MR. CONINE: Okay. I will entertain a motion to pass the consent agenda.

MS. BINGHAM-ESCARREÑO: Move to approve the consent agenda.

MR. GANN: (No audible response.)

MR. CONINE: Motion and a second. 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: The motion carries. Now we will go to the public comment period. We get to hear from those who want to address the Board.
Steve McHale.

MR. MCHALE: Good morning.

MR. CONINE: Good morning.

MR. MCHALE: My name is Steve McHale. And I want to thank the Board to allow me to speak this morning. I am the President of Village of Oak Lake, and an 18-year resident. I am also here to introduce the United 77498 that make up approximately 5,000 homes in a surrounding areas. I am here to oppose project number 09-166, Goldshire Properties development on Old Richmond Road in Sugar Land. This is my second meeting, having attended the first hearing held in Houston on April 13.

The residents in this area do recognize the need for affordable housing. And my goal here today is to make the Board aware of some additional items. Last month, some of our residents of United 77498 spoke concerning the property on Old Richmond Road, in the middle of Village of Oak Lake and they addressed some points.

Today, I want to add another point to those concerns. Not only am I a homeowner, but I am also a private pilot, and a member of the Aircraft Owners and Pilot's Association, or better known as AOPA. As a member, I contacted them because of the close proximity of the property that would be directly under the glide, approach glide slope of Runway 17 at the Sugar Land Airport. Even though Sugar Land Airport is not a commercial airport, it serves the major reliever airport hub and has a state of the art control tower.

My concern is that a high density multifamily project that Goldshire Properties would want to build there would encroach the safety of aircraft on approach. I have flown the approach many times before, as a pilot, and I would be concerned if an engine failure would occur at a critical time. The Sugar Land Airport has a noise abatement procedure for pilots in place too.

If the Goldshire Townhomes were to be built there, there is no way that pilots could abide to this rule, as there are over 200 takeoffs and landings per day, and 85,000 yearly operations. At any given time during the day, small and large corporate jets fly over the property at approximately four to 500 feet of altitude. I have a map of the approach to Runway 17 and a location of the property which is attached to my speech.

As I am speaking today, AOPA is sending a letter to the Texas Department of Housing and Community Affairs that opposes this project too, and addresses the concerns I mentioned previous. Because of this, I am asking that the Board taking consideration of the safety of the future residents on the ground and allow the tax credits to be awarded to another development that would be better suited elsewhere in the state. I thank you for your time and consideration.

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

(No response.)

MR. CONINE: Okay. Wayne Chandler.

MR. CHANDLER: Good morning.

MR. CONINE: Good morning.

MR. CHANDLER: Thanks for your time. My name is Wayne Chandler. I am President of Fort Bend County municipal utility district 41 which virtually surrounds the proposed Goldshire Townhomes project 09-166. I have lived in Village of Oak Lake near there for 15 years.

And I am here to represent United 77498, a ground of neighborhoods with a total of more than 5,000 homes which strongly oppose this project. All of these neighborhoods are within a mile or so of the Goldshire project. All of us in United 77498, our zip code is 77498 recognize that many communities need affordable housing. But this is Goldshire site is a terrible location for the well-being, safety, education and convenience of the 150 families who would live there.

First of all, it is in an unincorporated area where residential

construction absolutely is not subject to county, building or fire codes. Fort Bend County has adopted state codes for electrical, plumbing, heating and air conditioning. But the Fort Bend County Fire Marshall, Vance Cooper states that it is incredible that residents are not subject to county and fire and building inspections.

These projects need to be built in incorporated areas where it would be subject to strict regulations for the safety of all of the residents. Entrance to this proposed site will have a 28-foot single entrance and exit off a narrow Old Richmond Road. It would be extremely difficult for school busses, emergency vehicles, fire trucks, furniture trucks, any of these to negotiate turns in and out of this street.

And there would be 150 families going in and out with their vehicles too. It is a bad location. This Goldshire site isn't in any municipal utility district. My MUD 41 and all nearby MUDs have stated that they cannot possibly provide water or sewage treatment to this area. All of our MUDs in this area are aware of the Texas Commission on Environmental Quality's mandate for all areas to convert from groundwater to surface water.

The Fort Bend County subsidence district was formed 20 years ago, 1989 to direct this conversion. And the North Fort Bend Water Authority which includes ours and 30 other MUD districts in our area has a goal of converting to surface water by the year 2013. This Goldshire site would be subject to these same mandates. Goldshire would be required to submit a formal groundwater reduction plan and be using surface water by 2013.

Representatives of United 77498 plan to be back in front of this

Board on June 25 with detailed authentic documentation to cover the many other reasons why this Goldshire site is a bad location. Thanks for listening.

MR. CONINE: Any questions?

(No response.)

MR. GERBER: Mr. Chairman, I would just interject that it is really important for staff to have an opportunity, sir, to evaluate all of the materials. As you have information, please feel free to forward it to our team so that we can give it a thorough review. We appreciate your coming to visit. Thank you.

MR. CONINE: Juan Villarreal.

MR. VILLAREAL: Good morning, Chairman, Board members. And again, I thank you for the opportunity to speak in this public forum today. My name is Juan Villarreal. And I have been a resident in the Village of Oak Lake subdivision for 15 years.

I begin by asking each of you a question. Have you driven down Westport in Sugar Land lately, and seen the yellow signs? You probably haven't. But they read, Oppose Goldshire Townhomes. These signs were posted by a grassroots organization named United 77498.

I am a member of United 77498. I am also a water Board member for MUD 41. We are here to provide this Board with additional information to assist your decision in regarding tax credits for the Goldshire Townhome development project, 09-166. As you have heard before, 77498 is a collection of 5,000 residents from eleven surrounding subdivisions who have united in opposition to this 150 multifamily unit by co-developers, Goldshire

Developers LLC and SGI Ventures. The location site is 6827 Old Richmond Road. It is a two lane road.

This project is not only completely out of character with the immediate surrounding residential neighborhoods, but would also have a negative impact on anyone who travels on Old Richmond Road. And the reason is, this road will eventually cause imminent congestion, poor road conditions and safety concerns for all residents. The drainage ditches on Old Richmond Road are up to six feet deep on either side.

There are no sidewalks for residents to walk on. Obviously a new development and increased employment creates more traffic. But please consider the additional impact on school and public transportation. Disrupting neighborhoods by increasing traffic, attempting left turns across two way streets and curb cutting for entrances or exits too close to congested intersections which will create additional danger to a known dangerous road.

United 77498 will remain vigilant, will continue to display an overwhelming opposition to this project, and will continue encouraging letter writing and signing petitions in opposition to this project. Our presence here today demonstrates our united efforts. We traveled this morning at 5:00 in the morning to get here to speak to you all. And we are very serious about educating you on other things in our subdivision so that you will make the right decision.

Growth is good for Sugar Land. But there is a greater responsibility for the developers to do it the right way. To enhance the neighborhoods and not destroy them. I encourage and solicit this Board to

carefully consider the facts presented by the residents today and again on June 25. Please vote no on project 09-166.

United 77498 respectfully requests that the Board please do what is right for your neighborhoods, and find a more suitable location to build the 150 unit family home housing project. It just -- I was very moved by what this Board does in providing low income housing. And we are here to support everything that you all do.

But at the same time, we want to be here, so you all can hear us and our side. Because most of the time, you see an application, and that is all you see. So we want to just provide additional information. Thank you.

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

(No response.)

MR. CONINE: Matt Malcolm? Walter Moreau will be next.

MR. MALCOLM: Good morning. My name is Matt Malcolm. I work for the national accounting firm of Resnick Group here in Austin. And I basically just wanted to take time to introduce myself, and also share a little bit of information with you. I think I was raised proper and told that you don't go to somebody's house without bringing something.

So I thought I would share a little bit of information, recent information from the IRS that is pretty relevant to developers, tax credit developers. There was a recent private revenue ruling, that -- which of course, developers can't specifically rely on. But it provides a little bit of guidance as to what the IRS is thinking, and what it relates to are land improvement costs, or what I would call infrastructure improvements for things

such as roads and sewers and utility hookups that typically local municipalities require of tax credit developers, or developers in general, to hook up their particular project to that city.

In the past, I think it was really unclear as to what the IRS position was on whether those costs could be included as eligible basis type costs. The Revenue ruling that was issued towards the end of April actually clarifies their position and that so long as those costs are incurred as it relates to connecting that project to the city, that those costs can be included as eligible costs.

So again, our developer friends and clients can't necessarily specifically rely on this revenue ruling, but what they have got now is the general guidance of, this is what the IRS is thinking. And it should be pretty helpful as our developer clients have to incur these costs in order to build their projects.

MR. CONINE: Does that include offsite as well? Okay. Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. HAMBY: Just for clarification, that is a private letter ruling, not a revenue ruling.

MR. CONINE: Right.

MR. HAMBY: Okay.

MR. MOREAU: Walter Moreau, the Director of Foundation Communities. I really appreciate the opportunity to share a little information

about our current tax credit application, 09-130, the M Station Apartments. We are super excited about this new family community. It is really our dream project.

Our mission is housing and services and putting those two together. Right now, we don't know where we will shake out in terms of the scoring and rankings. We may come back in July for forward commitment request.

MR. CONINE: I am shocked. Go ahead.

MR. MOREAU: Just to give you a warning. I don't want to scare you. I wanted to point out some of the things at M Station that make it great. You can see the site in the middle. We love this location, because the neighborhood supports us. Austin Heights, Rosewood to the north, Cherrywood to the south, Chestnut and McKinley Heights.

We are two blocks away from Campbell Elementary, which is an exemplary rated school. This is an area that is just a mile from UT, a couple of miles from downtown. And it is gentrified. So the thousand square foot homes sell for \$250,000. And I think the neighbors recognize this is -- they know our track record, and we can do some affordable housing.

We are going to build an onsite learning center for kids. And part of the dream is to do onsite licensed child care. And we are working with open door preschool to run that, which is just a great amenity. Right at the train station across the street, the Sustainable Food Center is building their new headquarters and teaching kitchen to teach healthy cooking and nutrition. And a two acre community garden which is going to be kind of a model

community garden.

Peoplefund is building their small business support center. And the Austin Children's Museum has donated land for a science workshop annex. That is all right across the street. It is a transportation rich neighborhood.

You can see all of the amenities you can walk to; the bike lanes that criss-cross. The busses stops surrounding the area. And train stop is right across the street. This might not be a very Texan thing, but we really want to design a site where if you don't have a car, or if you don't want to have to have a car, you don't have to. There is lots of ways to get around.

I think I will stop there. We are just really excited about the opportunity to build in this location, with so many great education resources and so many transportation options so close. Let me introduce the next speaker. Sunshine Mathon is our design development coordinator. And he wanted, we wanted to highlight the green features. We are pushing the envelope in terms of green building opportunities.

MR. CONINE: Sunshine?

MR. MATHON: It is.

MR. CONINE: Your parents did that to you?

MR. MATHON: They did. Born in '71.

MR. CONINE: Good. I understand. At least I am old enough to understand.

MR. MATHON: So, yes. My name is Sunshine Mathon, and I am the design and development director at Foundation Communities. Thanks

for providing us the opportunity to speak about our project. We are really excited about it.

As Walter mentioned, we are looking to push the green agenda pretty hard on this project. We want to make a really deeply green community. And we are not doing so because we think it is hip or we think it is in fashion. We are doing it because we think it actually makes -- and we know from experience that it makes strong financial sense for us as a long term non-profit owner.

We are going to own this property for 50 years. We have a choice; pay now, or pay out of the nose later. And we also, from a mission perspective, we want to not only provide affordable housing but we want to provide housing that has very low utility costs, multiple transportation options to minimize those costs for folks, child care onsite, et cetera.

Additionally, we feel like this is an opportunity to really lead by example. This is a first in many different ways. With Austin's new transit oriented districts that are being developed around the train stations with the new Metro Rail, this would be the first truly affordable development in any of those TODs. So we are kind of setting a standard there.

This would be the first LEAD certified project for a tax credit in Texas, tax credit project in Texas. This would be a first LEAD certified multifamily project in Austin. And for us as well, even though we have significant green building experience with our past projects, this would be our first LEAD project as well.

Now the matrix in front of you can be a little overwhelming. It

reflects some considerable effort on our part to kind of coordinate the four different certification programs that we are pursuing. And I think at the very least what it shows, and I realize that there is a lot of detail in there, which we are not going to go into right now, but at the very least what it shows is that building green is not just about some throwing up some solar panels or throwing in low flow toilets, which of course, those are important things to do. They are part of the puzzle.

But it just makes common sense from a building science perspective to look at the project in a comprehensive total and look at each of the different line items that potentially contribute to lower utility costs, lower maintenance costs, higher durability, et cetera. For example, you know, we all know that what that you can lower your utility costs by mitigating irrigation needs in a development.

But in going through this process, the structure of pursuing LEAD or the other programs, allows you to pursue other building science issues that you may not otherwise do, how to deal with water intrusion, minimize the chance of mold, et cetera, et cetera. Those are all important pieces. And the bottom line; save money.

Now four is a lot of different -- there are four different programs here that we are pursuing, and that is a lot. But they all actually contribute both either financially and/or programmatically to the development.

LEAD for affordable housing, most of you are familiar with LEAD for the most part, probably. But LEAD for affordable housing is a recent development in the last year or so. In partnership with the Home Depot

Foundation, they provide some funding to offset some of the costs for LEAD. And it is designed specifically for affordable housing projects. We believe that we can achieve gold certification at this stage, based on our current assessment.

The Austin Energy Green building program, as part of smart housing in the city which provides incentives for affordable housing, we are required to pursue the green building program and we believe we can hit a four star rating, which is the highest for any affordable multifamily product in the city. Enterprise green communities is a checklist designed specifically for affordable housing, developed by the Enterprise foundation, and like I said, it lines up directly with LEAD at this point, LEAD for affordable housing.

This would be our third green communities project, but our first as new construction. And the Texas QAP, the TDHCA QAP of course, has some included green criteria for this time around, and we think it makes perfect financial sense to pursue those goals and get the extra credits.

All of that said, I would like to just leave with the recognition that I think we all share a similar goal, which is, we want to provide high quality, durable and healthy affordable housing for low income Texans. And we believe that these green agenda items actually facilitate all of those goals. Those are really important. And we don't only believe that, but we know that from experience.

And we are pushing the envelope a little bit more than we have in the past, partially as an internal exercise, and partially because we believe it fundamentally makes a difference for our future residents. And it makes

common sense I think, from a financial sense. That is it. Any questions?

MR. CONINE: Is this, it is a new construction, right.

MR. MATHON: Correct.

MR. CONINE: And two or three story?

MR. MATHON: It would be three and four.

MR. CONINE: Three and four story. Have you had a chance -- are you far enough along where you can put a number on what you think the green initiative is costing you, over and above what I would consider standard construction in today's world?

MR. MATHON: We have actually had some discussions with underwriters at TDHCA to try to figure out those numbers.

MR. CONINE: He doesn't know anything.

MR. MATHON: And we are still working on those numbers, but we -- from our past experience, having done pretty green projects but are rehab, not new construction, our experience is that we have got, when you look at the payback period, as long term owners, within a five to ten years, we make up all of those initial costs pretty quickly. And then from that point on, we are sailing free.

MR. CONINE: Would you keep us posted on, as you get further along? I would just like to know. Because you are obviously going through to the Nth degree if you will, or the Mth degree, to make this super green. And I just would like to see where this, if normal construction costs are \$75 a foot, how much is this one going to be?

MR. MATHON: Sure. Absolutely.

MR. CONINE: I would like to know. Thank you.

MR. MATHON: Thank you.

MR. CONINE: John-Michael Cortez?

MR. CORTEZ: Greetings, Commissioners. Thank you for the opportunity. I am here to speak also on the proposed Foundation Communities, M Station project. I am addressing you today from several perspectives; my own perspective of course. First and foremost as a neighbor. My wife and I live three blocks away from this proposed project, and this is the exactly the kind of development that we want in our neighborhood.

We want a mixed income, mixed use development that is sustainable. My wife and I, God willing, hope to start a family very soon. And we definitely want to get on the list now, to take advantage of the great child care that will be available there, because we do not currently have that in our neighborhood. Many of my neighbors also have young children or are just now starting families. And I am sure they would like to take advantage of that as well.

I am very familiar with Foundation Communities. Several of their exceptionally well run projects here in the Austin area, and my wife and I have full faith and confidence that this will be similarly well run. And so we are very excited about that. I would also address you today as my perspective.

I am an employee of our local transportation authority. And I am also predominantly a transit user. My wife and I bought our house in that neighborhood expressly because of the rich transit access. And I take full advantage of that. And I firmly believe -- of course, I am not here to tell you

your business, but locating affordable housing in this kind of area is exactly what state and local government should be doing.

Because it is not really about affordable housing, it is about affordable living. And as you probably well know, low income families are often spending more on transportation than they are actually spending on housing. And that is likely due to most affordable housing being located in areas that are far off from jobs and services. M Station is an ideal remedy to this probably. The residents, hopefully my future neighbors will have great access to transit near thousands of jobs and rich services, which will enable them to lower, as I have my personal transportation costs, which increases my ability to do things like pay my mortgage.

I am actually in graduate school. I can afford that because we don't have to have a second car. We can actually save money and plan to have a family, because of the rich transit access. I think projects like this, quite frankly are the best bang for the State's housing buck.

Finally, I would address you from my perspective. I was fortunate to be elected last year to the Board of Trustees of Austin Community College district. And again, one of the reasons why my wife and I decided to live in that neighborhood is because of the rich access to educational resources.

As Mr. Moreau mentioned, two blocks away from this project is Campbell Elementary, a blue ribbon and recognized school. And I know my wife and I and my neighbors are very excited about that. And these neighbors will be able to take advantage of that.

I also have to brag that this proposed project is within walking distance of Austin Community College's Eastview campus, which is one of the premier credit and workforce training centers in the country, I would like to say. We have one of the best allied health training in the state there. We also have a workforce center on our campus. And these are all services that the folks in M Station will have access to, to enrich their lives, and provide better opportunities for them and their family.

So with all of that said, and probably a number of other reasons I can't fit into three minutes, I am resoundingly in favor of this project, and appreciate your consideration of this application. Thank you.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you. David Marquez?

MR. GERBER: Mr. Chairman, we are having a little problem with our timer system. So if people would just be sensitive to the three-minute time rule.

MR. CONINE: Got it.

MR. MARQUEZ: Good morning, Mr. Chair, Board. Anyway, I kind of come up here with my hat in my hand. And I am here during the public comment, because I might not be here for item 8A, which is Oasis at the Park. This is a project that had received in previous Board meetings the waiting list. And we received a 2009 forward commitment. But it was subject to underwriting. And underwriting has been pretty difficult.

And so in the process of underwriting, the City of Corpus Christi

had come before the Board and said they were behind the project. And we have actually been funded. And so the non-profit now owns the building. This is an SRO of a building that is for an adaptable reuse. And so we have had our problems and it has been hard to get the information that the staff has wanted. But -- and I understand all of that.

But what I am asking today is that we be allowed at least to have an extension until the Board decides what they are going to do with the May 15th people. Because the City has actually given us the money. We know own it. We are in the throes of actually preparing the plans and specs is what we really need to be able to find out where the costs are.

And that is one of the biggest questions, is how much is this adaptable reuse going to cost? And even though we did not prepare a property condition assessment, which is not required by the QAP, I don't really know if that would really tell us. We actually need a full set of plans. The city is paying for that full set of plans. And again, they gave us the money for it.

So I think the city of Corpus is behind the project. The mayor was up here, I believe in a previous meeting. And we just need the time to put it together. And so we just ask for the Board to just give us the extension that we need, the same extension that May 15 folks are going to receive, or not receive today or in the next meeting. So that is all I have.

MR. CONINE: Any questions?

MR. MARQUEZ: Thank you very much.

MR. CONINE: Thank you. Steve Moore.

MR. MOORE: Good morning.

MR. CONINE: Good morning.

MR. MOORE: I have known Walter for 15 years. I feel a little humbled going after him. But I think I also have something important to say. I am Steve Moore, the owner of Premiere Apartments in Housing. And if I get a change to renovate the property, I also have made considerable efforts to make it as green as possible.

But I am here to share with you what your customers want more than anything, except an affordable rent. And it is not amenities. It is not even green building. I hope that you can some day figure out how to give points or added funding for crime reduction. Premiere has low crime because we follow just three rules. We control property access. We screen applicants and we get rid of the bad actors who get past our screening.

I recently got up at 3:00 a.m. to check on a single lady new renter who had frequent visitors. After watching her drug sales at the back door, we videotaped her and got her arrested. We have stopped other crimes because our residents, especially the kids come and tell us what is going on at the property.

Neighborhood owners are starting to follow Premiere's leadership, because Premiere's low crime statistics has given us a decent renting rate to good residents. We began handing out a list of Westwood neighborhood crime statistics, which we compiled from the police records, and we have asked the City of Houston to publish this list with all of the names revealed.

I handed out the list. You all have it there. You can see, I am

chicken to actually put the real names on there, justifiably. But I know that the other apartment owners cannot afford to ignore potential renters whose top priority other than out of rent which they can afford is in deciding where to rent is low crime.

TDHCA can help get a nationwide paradigm shift started, if you can somehow figure out how to allocate points or funding for properties who achieve low crime statistics well below their neighborhood average. Please think about how you might someday accomplish this. Meanwhile the current tax credit investors. They want new construction. They don't want great for the neighborhood renovation projects like Premiere. So as of now, we have no hard funding commitment. Thank you for your time.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Ann Denton.

MR. DENTON: Good morning, Mr. Gerber, Mr. Chair, Board members. Thank you for the opportunity to speak. My name is Ann Denton. I am a private citizen, volunteering as a member of the disability advisory workgroup, which advises Mr. Gerber and staff on issues related to housing for persons with disabilities. And I am here today to speak against a requested waiver of the integration policy that is Item 7B.

We, as you know, your integration rule is solidly based in law. It is grounded in the Americans with Disabilities Act. It has -- the Fair Housing Act has implications for integration and the Olmstead Supreme Court decision solidly supports the community integration of persons with disabilities. The

proposed project does not really supply any kind of a justification that would justify granting the waiver, so we are opposed to it. I am happy to answer any questions about that.

I also want to take part of my three minutes to say, that I would like to commend the Texas Department of Housing and Community Affairs for its very rapid response to the HUD stimulus money. We are receiving from the Department of Housing and Urban Development a lot of funding across the Board. Much of it will benefit persons with disabilities. Much of it will benefit persons who are homeless.

And the staff of the agency has done a tremendous job in pulling it together in a really short period of time, and they are doing, what they are doing is timely, effective and creative. And I want you to know it. Thank you.

MR. CONINE: Great. Thank you. David Wittie.

MR. WITTIE: Good morning. My name is David Wittie. I am with Adaptive Texas. I am a community organizer of persons with disabilities on the issues of housing, access to transportation and access to the community at large. I appreciate Ann Denton's comments about the integration of persons with disabilities, because it is a reminder that that is the law, the law of the land.

It has been for ten years, 15 years, 20 years, even going back to Section 504 of the 1973 Rehabilitation act, and that is so many years ago, I can't even count them. In my life, I have experience, I have lived in dormitories at the University of Texas. I have lived in a nursing home during a

recovery. I have even lived in a single resident occupant apartment complex right here in Austin.

And most of those places that I have lived, in those locations were due to the limited choices and opportunities that I had in my life at that time. The populations of the dorm, the nursing homes, and the single SROs, all share the common narrow demographic populations. There was some commonality of the persons, interests and needs and what it amounted to basically was tantamount to segregation.

But it was a choice that I made, and it was a choice that those people made, and I suspect that most of the people when I got to know them made those choices due to the very same limited options and opportunities they had in their life at those times, those hard times. In my life I have also lived in apartment communities and houses that I have shared with friends.

And I currently live in a low income housing tax credit with Section 8 voucher. I experience a diversity and a wider range of people with ages and interests. And we share values and stronger communities. We build a community because we nurture each others needs in a variety of ways. It is good for me.

And it is good for my neighbors to see that a persons with disability can live right beside them, in the community. And we share a stronger community that way. Thank you for your time.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Jennifer McPhail.

MR. MCPHAIL: I am Jennifer McPhail. I am also with Adaptive Texas and also very much against 7-B. Any waiver of the integration mandate would segregate me further. Even though I live in an apartment complex that is integrated, I still experience segregation every day in my life in various forms. And it doesn't matter how often you experience it. The pain of it never goes away.

The humiliation and the disrespect that you receive from other people never goes away, no matter how proud you are of the way you are, and how self accepting you are, when policies undermine your individuality, and say to the rest of the world that you should be separate, then you are encouraging discrimination. You are encouraging bigotry. And that is the reason why integration should be your mandate.

Because we all are equal. We all are the way we are supposed to be. And there is a beauty in our differences. And to undermine that, and to go back on those policies that promote that, the nobility of that policy, you are just slapping people in the face. I have helped people transition from nursing homes back into the community.

Someone who is very dear to me, was the first person I ever helped. I helped him back in 1996. His name is Herb Teat. He was the grandnephew of Dolph Briscoe. He lived since '96 in his own apartment, integrated in the community. He had short-term memory loss, so he had a great deal more challenges than the average person.

But there was a beauty in watching him interact with his neighbors on his porch. And there is a beauty and a purpose in having

Sunday night dinners with him, and watching him play with the neighbor kids, riding on the back of his chair. We would have missed all of that, if they weren't required to integrate people in the community.

People are very casual about these waiver requests, not thinking about how it impacts the entire community that they serve. I think you need to do that as public policy makers. Thank you.

MR. CONINE: Thank you. Any other questions?

(No response.)

MR. CONINE: Russell Harris, do you want to speak now or at the agenda item?

MR. HARRIS: (No audible response.)

MR. CONINE: He is not speaking is what I heard. At either place, I guess?

MR. HARRIS: No, thank you.

MR. CONINE: Okay. Chan Pak.

MR. PAK: Thank you, Chairman and Board members. I am Chan Pak. I am the developer of Villas on Raiford, Carrollton Senior Housing LP. And I have been dreaming about ten years about building a senior apartment complex in Carrollton. So the City 100 percent is supporting that project, that we 2007 tax credits. Then your members owed to me the 2007 late November.

So I have a 2007 and 2008 tax credit. And at that time, the economy I think was pretty good. But actually, we tried to the renting with [inaudible]. At that time, the economy has turned bad. And I did not make

encroaching with the syndicator. So I have nothing but good intentions for this project.

And also my consultant Ted Anderson, and everybody involving worked here, it is supposed to be the project happened. And I come to here, asking to you today, to asking, your only consideration to exchanging my 2007 tax credit program and second, to find a way to process the plans as it stands faster. Project that the 2007 tax credit have found impassible or very difficult to find anyone interested in them.

At this point in time, no one is going to buy 2007 tax credit. Every project that has been tax credit had gone through the application process, and each project was only over the tax credit after TDHCA determined that project was worthy of the tax credit.

I pray that you too, get with this, with the program and the financial assistance, they need to so -- they can provide the home and low income families for our citizens and the job. What the project needs to be obtained financial assistance as quickly as possible.

MR. CONINE: Go ahead and wrap up if you would.

MR. PAK: May I do that?

MR. CONINE: Yes. Go ahead and finish it up.

MR. PAK: Okay. Yes. We do not need to go through another application process and wait for the funding. A lot of this project is way behind schedule. And it has only hurt this project to continue to wait while TDHCA decides how to implement the fund from the stimulus package.

The best solution is to provide the fastest financial assistance,

would be to allow the project to exchange their 2007, 2008 tax credit directly to the Government. I am the only one, do that -- leads to my dream and goal, and people see that on all the waiting that project and please help me and thank you.

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

MR. CONINE: Okay. Yes, Ms. Bingham.

MS. BINGHAM-ESCARREÑO: Just so that I understand, is there a way that we can get a copy of Pak's statement?

MR. CONINE: I don't know if there is a copy machine around or not, or if he is willing to share.

MS. BINGHAM-ESCARREÑO: Would leave a copy?

MR. PAK: Yes.

MS. BINGHAM-ESCARREÑO: Thank you.

MR. CONINE: Okay. Thank you.

MR. PAK: Any questions?

MR. CONINE: No questions. Thank you.

MR. PAK: Thank you.

MR. CONINE: That concludes the witness affirmation forms for the public comment period, that I have. The rest of them I have are for the specific agenda items. So we will close public comment for that, for the public comment period.

And I am going to switch over to jump around a little bit Board. If you don't mind, I am going to go to Item 7B, so we can make a decision on

that, and get some folks moved on. So Mr. Gerber would you make that presentation?

MR. GERBER: Sure. Mr. Chairman and Board members, the inducement resolution 09-032, for Willow Oak Apartments was approved by the Board at the April 23 Board meeting. It was mentioned at last month's meeting. If the application moves forward, the Board may need to grant a waiver of the Department's integrated housing rule. It was found at 10 TAC Section 1.15(c)(1).

It is the request of the applicant to have the waiver granted prior to moving forward with the bond reservation and submission of the complete tax credit and bond application. The proposed ten unit new construction development in Tarrant County has been presented to staff as an assisted living development licensed by the Department of Aging and Disability Services with participation in their community based alternatives program.

The CBA program is an alternative to placement in a nursing home facility that is administered by DADs. If the development is licensed as an assisted living facility, person care services must be offered. DADs cannot guarantee that they will be able to refer 100 clients which would provide a stable funding source for the mandatory services. It is anticipated that only people who need these types of services would choose to live at this property.

The residents who do not receive financial assistance through DADs will have to pay for the service program out of pocket. It seems reasonable to conclude that for the development to be feasible with the

population targeted, the goal would be for all of the units to be occupied by persons who need personal care services. And that the majority of these residents would qualify as having a disability.

This may be in conflict with the intention of 10 TAC 115.(c)(1) of the Department's integrated housing rule which states that a housing development may not restrict even a majority of the units in a development to people with disabilities, or people with disabilities in combination with other special needs populations. The applicant is requesting the waiver today in order to move forward with the development with the full consent of the Department, rather than waiting to create a structure that may not be acceptable at some point in the future.

Staff does not recommend a waiver of Board policy or Board adopted rules, particularly in this case, where it is an advance of a conclusion that such a waiver is the only option. I would also mention that we have presented this issue to the disability advisory work group of which several members have already spoken, and we are appreciative of their comments and review of this matter.

MR. CONINE: Okay. With all of the -- I don't have any other public comment forms, I don't believe. You do have one? Well, come on up and speak and I will find it here, in a minute. If I don't find it, I will have to --

MR. MITCHELL: I was a little late getting here from Arlington. I am sorry. But I did turn one in.

MR. CONINE: There it is.

MR. MITCHELL: I am the developer, and this is an assisted --

I am Vaughan Mitchell. Excuse me. I am Vaughan Mitchell. My address is 801 East Avenue H, Arlington, Texas. And I am the developer. But the proposed development is an assisted living facility. And the services that will be provided in this facility will be assisted.

Please let me say, optional services that are available for the residents, will be assistance with dressing. Assistance with bathing, weekly house keeping. Weekly linen service. Three meals daily. We will have an institutional kitchen there. Scheduled activities. Medication reminders, and assistance with scheduled transportation. We have no medical or no nursing care. But it is an assisted living.

Now my read on the integrated housing rules are -- it is not designed for the type facility that I am proposing. It very plainly states that if I have a senior in my population, it is a senior population on my application, it is automatically, maybe not waived, but it doesn't affect it in any way. I originally started out on this as a senior. It will be senior, frail, elderly people that will be moving there.

A lot of the people will be moving from my independent senior deals there in White Settlement. They get to the point that they don't need nursing care, but they need more care than what is available for them in the independent living.

But when I started, I had a meeting with DADS, the Department of Aging and Disability Services. And I will have Medicaid waivers from them. I get approximately \$1,850 a month from them for providing these services that I just mentioned. DADS requires that I can't age restrict. I can't restrict it for

age.

I restrict it for people that are disabled on certain acuity level needs. That is the only restriction that I can have on it. So it had to be a family. And when I moved it to family, is when this Integrated Housing Rule came up as a question.

Now one thing, in reading the Integrated Housing Rule, and I would like you all's opinion on this, it very plainly states in here that I shall provide no more, this is what I am wanting to get waived, no more than 18 percent of the units set aside exclusively for persons with disabilities. I am not doing that. I am building it, all is handicapped. The entire development is for handicapped with all handicapped units.

But I will market to the world. Not just the disabled people. I will market to everyone, whether they are handicapped or not. They can live there. Now whether they choose to or not, that is their option. But I just don't see that the guidelines are set up for an assisted living type facility, which is what I am proposing. Any questions?

MR. CONINE: Would you like to comment? Stand by. Kevin wants to say something.

MR. HAMBY: Okay. Kevin Hamby, General Counsel for the Board of the Department. I know our rules say that you can waive this rule. I don't believe that you can waive this rule. I believe that it is unconstitutionally broad and vague, if you provide a waiver. I don't believe there is a waiver that this Board can provide.

Whether or not it will ultimately meet the test is a different

question. But I don't believe at this time, that there is any relief that you can grant, unless you change the rules between now and the time that this development goes in. You can change the rule, and modify it completely. But just an outright waiver, I don't believe you have that authority.

MR. CONINE: Okay. Thank you. Mr. Mitchell.

MR. MITCHELL: Yes.

MR. CONINE: The physical characteristics, you said 100 percent handicapped.

MR. MITCHELL: Yes, sir.

MR. CONINE: Is that correct?

MR. MITCHELL: Yes, sir.

MR. CONINE: And then I thought I heard you say that you were going to market to any and everybody.

MR. MITCHELL: I will.

MR. CONINE: So what is it that you are asking us to waive?

MR. MITCHELL: The rule that says 18 percent --

MR. CONINE: But if you are not --

MR. MITCHELL: No more than 18 percent of the units of the development set aside exclusively for persons with disabilities. Now, I didn't -- I have been studying this for a long, long time. That missed me until this morning. I was back here in the room, back here in the back, talking to another fellow. And he said Mitchell, I don't know if you need a waiver of the Integrated Housing Rule because of the way Paragraph (1)(a) is written. But I am marketing it to everybody.

MR. CONINE: From what I heard, I don't think you do, either, if it --

MR. MITCHELL: I am on your side.

MR. CONINE: Okay.

MR. MITCHELL: Please, yes. I mean, I am not trying to make jokes or anything.

MR. CONINE: No action required?

MR. GERBER: Counsel?

MR. HAMBY: (No audible response.)

MR. CONINE: We don't have any action required, then. It has been a nice informative session.

MS. RAY: Yes, it has.

MR. HAMBY: Well, I think the original question from the staff point of view was that there may be some underwriting concerns because it won't underwrite unless --

MR. CONINE: That is a different question. That is a completely different question.

MR. HAMBY: There is no action. I don't think there is a relief that you can grant here today.

MR. CONINE: Good to see you.

MR. MITCHELL: Thank you, sir.

MR. CONINE: We are going to take a five minute break.

(Whereupon, a short recess was taken.)

MR. CONINE: Come back to order if we can. Everybody take

a seat. Thank you. Okay. Moving back to Item 2A, Mr. Gerber.

MR. GERBER: Mr. Chairman and Board members, Item 2A is a presentation and discussion on the monthly status report on the implementation of the American Recovery and Reinvestment Act. And Brooke Boston, our Deputy ED for community based programs will present.

MS. BOSTON: Thank you. Brooke Boston with the Department. I would like to just give you a brief update. The first few things I am going to mention are Department wide or across all of the ARRA funds. We are making a lot of progress. We have firmed up budget and staffing structures, not necessarily fully staffed yet, but knowing where we are with the number of FTEs, what the budgets look like, on weatherization and HPRP, which are two of the fast moving ones right now.

And then we have affirmed that for two of them, CSBG and the different tax credit programs that, excuse me, for the homebuyer tax credit program, that we will not necessarily be adding any staff and that is, we have talked that through. We have worked out how we are going to do that with existing staff. We are in the midst of finishing that same process, of firming up what those structures will be and budgets for TCAP.

Tax credit exchange and NSP. We have filled one position in NSP. Well, we have the manager and then we filled another one, and the employee will be starting on Tuesday. And then we have two postings for that right now, for specialists. So we will probably be pretty more significantly ramped up in the next three or four weeks.

We have been looking into space options so that as we start

filling all these positions, we have some where to put them. And so I know Mike and Tim have been working on getting that firmed up. We also have had a very thorough discussion internally now on the IT needs associated with this.

And we see three primary changes or developments that we are going to be working on, thanks to Brenda and Curtis' leadership, which are a new consolidated recovery act reporting system which will actually be a tool that provides what we are intending to be relatively real time status on where we are with units, money, expenditures, performance benchmarks on each of the different posts of money. A recovery act job reporting tool which will be web based and down to the sublevel, so they will so they will report that up on a periodic basis, whatever requirement we tell them, and they will be trained on how to use that.

And then the last would be just everything associated with our normal systems for a contract management, application intake, monitoring, loan servicing, compliance, all of that. Those are all being updated.

And ISS is helping us identify, to make sure that we are meeting each of the federal requirements, what do we need to do to all of our current systems. So obviously, that is no small undertaking. And then we are in the midst of drafting request for proposals for some of the services that we know are going to be cost cutting or cost multiple activities.

And then just on a program by program basis, very quickly, I would like to mention that we have filled a position in the Community Affairs Division which is going to be overseeing several of these ARRA activities. The

manager for Community Services is Stewart Campbell, who has been with us about six months, and now he has taken on this additional role, and we are very excited about that. In that role, he will be overseeing the Homelessness Prevention and Rapid Rehousing funds.

That, the apps are due to TDHCA, the NOFA is out. The app is into HUD from us. And then the applications from applicants are due to us on May 29th. And then we will be bringing awards to you guys in July or August at the latest.

Weatherization, the NOFA, which includes how the current network applies to as well, we have it tiered so that they current network, who of course, has been doing this for awhile, for years. It doesn't have the same extensive application submission as the newer communities, or non-profits who haven't done this before.

Those will all be due in mid-June, and we have been getting feedback from TACAA this week. They have had their conference. And we have been getting feedback from them on the NOFA, to make sure we have had some good vetting with it.

MR. GERBER: And of course, all of the weatherization dollars are contingent upon the Department of Energy approval, which we still have not yet gotten, but expect to receive in the next two or three weeks.

MS. BOSTON: Yes. Definitely. And then with CSBG, we are submitting our plan to HHS by the end of this month. And in that case, because we are using our existing network, there is not actually any Board action that needs to come back. We are just going to use the existing formula

to the existing network, and we will just move forward with contracts.

And then for TCAP and tax credit exchange, obviously you will hear quite a bit about that today elsewhere on your agenda. The homebuyer tax credit, you have something else on your agenda today.

And then I would just like to brag that with the neighborhood stabilization money, which is under HERA, but we are including it in these updates for you guys, the apps came in. We were over subscribed. We have requests for 148 million which we are thrilled about. And we are in the midst of application review. And we will probably bring those awards to you guys in June, and then we will have workshops in July to get the money out.

And NSP II, which is under ARRA, those applications are due to HUD on July 17th. And we are still awaiting. They have a pretty technical methodology that they are using for evaluating tracts. And you can only apply for funds based on certain tracts and the actual tract lists are not out by HUD yet. And so as soon as we see that, then we will be able to piece together what we think a good proposal and submission would be. That is it.

MR. CONINE: Okay. I do have one witness affirmation form. Ann Lott? I guess I have got more than one. I have got two.

MS. LOTT: Good morning, members of the Board.

MR. CONINE: Thank you.

MS. LOTT: My name is Ann Lott, and I coordinate the housing initiatives for the Inclusive Community Project. ICP is a Fair Housing and civil rights organizations whose mission is among other things, to work toward the creation and maintenance of racially inclusive communities. I would like to

speak to Item 2A on your agenda.

And while I appreciate that the Board is not going to take any action on the neighborhood stabilization program today, I wanted to express for the record a concern regarding one of the provisions outlined in the Notice of Funding Availability. TDHCA states that its mission is to help Texans achieve an improved quality of life through the development of better communities.

TDHCA has been instrumental in providing assistance to help improve the quality of life for families living in economically distressed and low income neighborhoods. I am particularly appreciative of the assistance provided in the transformation and revitalization of low income communities within the City of Dallas. You have a very worthwhile mission. And it is one that I completely agree with.

The Neighborhood Stabilization Program offers yet another opportunity for you to continue your mission of achieving an improved quality of life for individuals living in low income areas. I would like to call to your attention however, that NSP also allows eligible applicants to focus its attention not just on low income neighborhoods, but on individuals with low incomes. ICP submitted a grant proposal that is rather unique, I believe, in that it focuses on individuals instead of the neighborhoods, by providing low income families the opportunity to live in Collin and Denton counties.

On May 11th, the Department sent ICP a letter advising us that our application was deficient because ICO failed to include a letter of consent from any unit of the local Government. And I would like to bring to the Board's

attention that was not an oversight on the part of ICP. We did make every attempt to get the letter of consent.

We actually requested such a letter from seven cities and five of the cities in Collin County, and two of the cities were in Denton County. And although none of these cities applied for the direct funding on their own, all but one city in Collin County refused to provide us with a letter of consent. We will be supplementing our application for Collin County to cure this deficiency.

Unfortunately, we have been unable to get any letter of consent from any city in Denton County. And therefore, I would like to bring to your attention that ICP has submitted a request for waiver to the TDHCA, requesting the Department to waive this particular provision of the NOFA. I am almost finished. The request was made when the application was submitted in April. And another request will be made specifically as it applies to Denton.

I believe the Board has the discretion to waive this requirement, because number one, it is not a provision under the program required by Congress. And number two, if ICP's application for funds in Denton County is denied, then Denton County will be under subscribed. And it is our understanding that only one other entity applied for funding in Denton and we are perfectly willing to reduce our application so that the funding falls in line with the total application allowed for Denton.

And if our application is denied, then the money is going to be redistributed and go to another county, even though the Department determined that Denton had a direct need for the funding. So the Department

giving full force to this requirement for local authorization in this particular instance will allow a predominantly jurisdiction to, with little affordable housing for low income families, to exclude families of color that would be served by ICP's clients.

And when the time is ready for you to take action on this agenda, I strongly urge you to promote and affirmatively further Fair Housing by waiving the local authorization requirement as it relates specifically to Denton County. And I do thank you for your consideration.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. GERBER: Thank you, Ann.

MR. CONINE: Thank you. R.J. Collins.

MR. COLLINS: Mr. Chairman and Board members. My name is R.J. Collins, and I live here in Austin, Texas. I wanted to -- I have a request which will be short, that on the agenda, you have the TCAP proposed policy. And I believe you have a timetable of sometime between now and the end of July on the housing tax credit exchange program.

My request is that number one, these equity tax credit transactions are probably the most complicated and complex real estate transactions you can have. In the times that we are in now, they are triply complex. And then when you add to that the program demands of HUD through the exchange program, I would request that the Board allow the staff between now and the time you take up a policy to have an open workshop with developers and the public or whoever wants to come to talk about this issue,

because it is very complex. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Okay. Moving on to Item 2B. Mike. Mr. Chairman and Board members, Item 2B is a presentation, discussion and possible action to adopt a plan that has been submitted to HUD regarding the Tax Credit Assistance Program or TCAP. And Tom Gouris our Department E.D. for housing is going to walk through a slightly lengthy, lengthier presentation, and would draw your attention to some of the slides that will appear as he walks through it.

MR. CONINE: Magically.

MR. GOURIS: Thank you. Tom Gouris, Department Executive Director for Programs. I am going to do a presentation here that is going to go backwards a little bit in time, because I think it is important to know where we have been before we move forward to see where we are going.

The tax credit program as a matter of background, the tax credit program provides a right to reduce future tax liability to developments willing to reserve units and restrict rents for tenants whose household income is less than 60 percent of the area median income in an area where the development exists. This right to reduce future taxes or tax credit is granted, and the property is held accountable for a period of 15 years, though in most instances, the credit is accelerated, and the full accelerated amount is able to be used annually for ten years.

The credits however. are far more than could be used by the

property itself to offset its own income. They are purposely made this way by Congress to generate investment in the development. Developers convert these tax credits into equity by forming limited partnerships, and sell off the majority of the ownership of the property to investors, most often through syndicators.

Investors buy into the partnership primarily to use the allocated tax credit against their own income tax liability. The investment in tax credit is not the only form of financing that assist a developer. The developer can also use cash flow from the property to ascertain a loan to help support the property.

In a typical tax credit structure, the developer or sponsor owns a controlling interest in the general partner. The general partner owns a very small interest in the partnership and makes all the day to day development and operating decisions at the property. They are held accountable by limited partners led by the syndicator.

The limited partner has no day to day control, but can remove and replace the general partner usually through a special limited partner. The syndicator will monitor the development with extensive asset management activities, up to and including providing for the funding of operating deficits when needed. They do this because the lender, who has no direct ownership in the development can foreclose on the partnership, on the partnership's interest in the property.

And the lender may also have an asset management or oversight function on the property, but this is typically during the construction

phase. But these asset management activities are critical to the project's success.

So the developer requests credits from the Department. The rights of the credits are transferred to the partnership and sold to the syndicator, who distributes them to one or more investors. The investor, investment becomes the equity in the partnership and the general partner provides guarantees to the lender during the construction. Yes. It looks kind of complicated, I know.

MR. CONINE: At least I have a better understanding of your mentality.

MR. GERBER: Was it supper last night.

MR. GOURIS: Yes. The problem is, is that what we have had is investors, we have had a lot of investors participating in the program over the years. But what has happened quite frankly is that some of our biggest investors, Fannie and Freddie, the GSEs, who probably had 40 to 60 percent of the market at the peak have left the market. And so now, we are left with a much simpler flow, but a much more troublesome one, because we don't have folks investing in these projects.

So as a result, the demand from the top tier of investors has declined and so has the price. So let's look at how the equity in a transaction affects the financial picture. This is an example of a 200 unit urban development about \$16.3 million in total development costs.

The first column shows the typically 9 percent transaction, where about 70 percent of the costs of the project is coming from the equity. It

is about \$11.4 million. That allows the debt that is needed to support the property to be fairly low and at \$4.6 million, the NOI support for that is about \$150 per unit, per month.

So the amount of rent in excess of the expenses on a 9 percent tax credit transaction is going to be relatively low. On a 4 percent bond transaction, the second column there shows the debt structure to be over 50 percent of the transaction. The equity is much more reduced, because they only get 4 percent credits. And therefore, and because the debt is so high, the NOI support for that transaction is considerably higher; about double, \$300 per unit.

But most of those bond transactions need some other sort of soft support to help them work. And in fact, most of them only work in large metro areas where the rents are considerably higher than in the smaller rural areas.

The third example there is a development without any tax credits. And you can see the debt structure there. It is much, much higher, and it requires a much more NOI support meeting. That without the tax credit program, the tax credit program works because it reduces the debt burden on the property and therefore, lower rents can be charged. And that is the point of that slide.

Well, as I mentioned to you, the problem has been that pricing, syndication pricing has declined over the past year. This is sort of what happened in 2008. In January we were looking at 95 cent credits, and most of the maximum allocation was \$1.2 million. And this example, we used a \$1.2

million credit amount. In September, it was well known by then that pricing had dropped. So that \$1.2 million only earned an 80 cent credit.

So the equity went down from \$11.4 million to \$9.6 million, and that increased the soft costs that were needed, the soft financing that was needed. To a point where these transactions weren't working. This Board in November took the very brave action of saying hey look we want to try to fix this. And we want to see if we can shore this up, well before the ARRA stuff came out.

And said, we can take advantage of the 9 percent applicable percentage, and we can take advantage of the fact that costs have gone up a little bit, and recost these things, provide a 10 percent cushion. And we provided an additional credit amount in this example of \$180,000 in additional credit, which increased the equity back up to not quite where it was, but to a point where the soft financing that is required for a developer fee or what have you, was reduced to a place where the deal still made sense.

But that is not the end of the story. Because pricing continues to drop. And by February you know, many people have indicated and now too, probably pricing for a deal that hasn't closed has probably dropped to 70 cents which again, with the same amount of credit, it made the equity piece fall off.

So, in comes the American Recovery and Reinvestment Act which has provided the states with two tools to try to assist closing the equity gap for these developments. The Tax Credit Assistance Program provides \$148 million to new funds to the State of Texas. And this is a program we are going to talk about mostly today. The funds from this program can be in the

form of grants or loans, and if they are returned to us, they have to be used as TCAP funds until 2012, or until we finish the contract with HUD which will probably be around that time frame.

After that, they become unrestricted as far as TCAP but still have to be restricted to be used for affordable housing. So if we position these funds as loans that are repaid, even if they are repaid without interest, or just that they are repaid, it provides us with a pot, a fairly significant pot of funds to fund, Housing Trust Fund or other tax credit activities in the future. That is a unique opportunity for the state.

The second program is sometimes called the Section 1602 program or sometimes called the exchange program or the grant program. That program we are going to bring to you next month, or in the coming months. And that program is different, because it doesn't allow, it appears at this point that it only allows grants to be provided to subgrantees or sub awardees. And so we won't have that ability to replenish or recycle the funds.

That program allows the state to return credits that aren't being used or have been returned to the Treasury. We can return them to the Treasury and get 85 in cash. So the amount of that program depends on how much we give back to Treasury.

But again, we are going to focus on the TCAP program today, because it provides us with the widest opportunity to maintain some if not most of the tax credit investors in the Texas program. And because of the strong asset management function, that portion of the partnership has been so

important to us.

There are three items that actually you are looking at today. Item 2B is a formal TCAP submission packet, or what we are calling the plan that is going to HUD that has to be provided to HUD by June 3rd. They have provided us a notice on May 4th and we have 30 days to turn around and have five days of public notice for it, which we started last Friday. This meeting will get more public comment. Once that plan is finalized, we will submit that to HUD and that is how we will request the \$148 million.

Item 2C is a second item for your consideration. And that is a brief policy document that outlines how we are going to move forward with the TCAP program. And then Item 2D is actually the more lengthy supplement to the policy, that provides a detail on administration. And that is something I think we can continue to tweak and adjust as the Board sees fit, or if you give the discretion to the executive director to do that, that would be helpful. So we can keep the program moving.

Let me go on and talk to you about the four major incentive pieces in the TCAP program as we have presented it. And based on the discussions we have had with you in the information gathering sessions that we have had with the public, we have developed this, a program that focuses on deals that are most ready to proceed, or shovel-ready deals, so that they can move forward as soon as possible.

In addition to providing some scoring points for tax credit applications that originally scored well, and additional points for developments located in rural areas, the scoring criteria emphasizes deals that can close with

a higher syndication price and a higher equity amount than previously projected. And then there is also three scoring initiatives to hopefully help deals close on their financing. The effect of the price incentive and the other three incentives are reflected on this chart.

The first column reflects the pricing incentive, and it illustrates that a deal that does better in price and equity that was provided in November, so instead of the 80 cents that we saw earlier, if they were able to get 82 cents, they would be able to get a little bit more, \$11.4 million in equity. And this deal would be able then to request the TCAP funds for the rest, for the soft financing, and they would score 100 points for this increase in equity, because it is a small increase from what they had in November.

The larger the increase, the more points they would score. This new financing structure would be reunderwritten to determine the terms of the TCAP funds, if there was a need for a repayment and we would also try to create a situation where any cash flow that was available would be returned, it would be available to be returned to refinance this transaction.

The second column reflects an equity bridge initiative. This initiative would provide a loan equal to from one to five years worth of credit syndication proceeds that would be repaid in years six to ten of the credit period. I am sorry. I keep going backwards.

This slide kind of shows what that repayment would look like, if half of the anticipated tax credit proceeds were provided as a TCAP loan. Initially, the top chart shows TDHCA investment of \$5.5 million and the syndicators initial investment of \$5.5 million. The syndicator begins to take the

credits at \$1 million a year, a little over that. And then in year six, when they take their \$1 million in credit, they would repay \$1 million of the loan to TDHCA. So it would be a wash for them.

The beauty of this program is that we are proposing it to be at zero percent loans. And that would reduce the initial investment and thereby dramatically increase the yield to the investor, since they don't have to pay for the credit up front. It also would provide a solid source of repayment for the loan, and thereby provide the state a future renewable funding source, heretofore not available in the program. This initiative also keeps the current effective asset management process focused on the syndicator and limited partner.

The third column reflects the debt replacement initiative. This initiative would provide a permanent loan replacement that would be repaid over the same term as the first lien or original financing. In this example, the Department would contribute half of the anticipated loan amount, as a second lien fully amortizing the loan and this shows the repayment on that.

This loan replacement policy would provide, we believe it would provide a lower risk to the syndicator because of the second lien position of a larger proportion of the initial debt. So there would be less likelihood of foreclosure for the property. And so we think that that would be an enhancement to the syndicators' interests in the project.

Again, this would provide a recovery to the Department. It would make the construction loan and the syndication easier to achieve. And it would again, keep the asset management process focused on the syndicator

and limited partner.

The last initiative is the credit replacement initiative. This initiative would provide permanent replacement funds for tax credit equity. This will not be a full replacement of the tax credit syndication, as the guidance this far has emphasized that some credits must remain in the transaction in order to be eligible TCAP. This is a little bit different for the exchange in that an exchange can be done, the full amount of the credit doesn't need to stay in the transaction.

But for TCAP, some amount of tax credits must stay in the transaction. This column really reflects what is most likely to be what is reflected in the exchange program, except for there will be a little bit more replacement and a little less tax credit equity. It is likely and we would attempt to attach to some cash flow from the property, to see if there is some cash flow available from the property.

And we may enter into some sort of equity arrangement with the property. But it is very likely that after 15 years, after the first 15 year compliance period, we would defer and forgive the remainder of the investment. So this investment looks like this, the TDHCA would put in \$10 million up front, and we get potential cash flow.

This is the least prioritized scoring item on the TCAP program as it is proposed. And it provides the Department or state with the most risk, because of the removal in effect of the syndication which effectively removes that strong partner we have in the asset management activity. So the intent of the proposed TCAP program is to bring back the investors that have left the

program into the Texas tax credit program, making it more attractive for investors, and making the tax credit program here in Texas more attractive than it is in other states.

There are a couple of drafting errors that we notice. Yes, we like that slide. There are a couple of drafting errors, and we just ask that the policy had one, and I think that the numbering and the supplement was off. You know, we have moved as quickly and expeditiously, but we would just ask that we be allowed to make those typographical errors as they come up, as we move forward. But I don't know. I think we need to take each item separately. But I can answer questions on each piece or on all three, as you like.

MR. CONINE: Let's do take things as a group, so we can talk about B, C, or D at this point. And then we will go through the public comment and let everybody comment on what they have seen. And then we can open it up for questions. How is that.

MR. GOURIS: Great.

MR. CONINE: Are you finished?

MR. GOURIS: I am done.

MR. CONINE: Okay. Thank you. Any questions of Tom, before we hear some public comment? Debra Guerrero? Jim Brown, you are next.

MS. GUERRERO: Thank you very much, Mr. Chairman. And just very briefly, and Board members, we appreciate all of the hard work that went into the policy and shovel-ready, maximizing the equity pricing, all of those characteristics and elements that we are working so hard to make sure

are done through our developments throughout the State of Texas.

But the one thing that I will tell you is what we are looking for in terms of success. I am sorry. Did I say I am Debra Guerrero with the NRP Group. I apologize, Kevin. The one thing that we are, that we desperately need, and that we are asking all of our entities and our partners throughout the State of Texas whether they be cities or counties and HOME monies and soft monies that are available. Is that those monies truly be gap financing, and they truly be soft.

And I know that we were before you at our last meeting talking about what those terms are on the gap financing that exists, and we just want to make sure that we follow what HUD pretty much said when describing this TCAP program which was that this Tax Credit Assistance Program provides grant funding for capital investment and low income housing tax credit projects. So asking for the repayment through net cash flow, zero percent interest rates, no debt coverage ratio tests that blow us out of the water, those are the things that we are looking for with TCAP and we appreciate your consideration in the flexibility on whether it is a project by project basis or the policy itself that this truly be gap financing. Thank you.

MR. CONINE: Thank you. Jim Brown.

MR. BROWN: Mr. Chairman, members of the Board, I have practitioners from TAAP who will follow me, so I will not, I will dispense of my testimony, and allow those who are effective with the program to testify on behalf of the issues in which they are concerned.

MR. CONINE: Thank you. Bobby Boling.

MR. BROWN: Your prayers have been answered.

MR. CONINE: Thank you.

MR. BOLING: Good morning, members of the Board and Mr. Chair. I have gone through the -- Bobby Boling from El Paso, Tropicana Development, Tropicana Building Corporation. The supplemental information to the Board policy, I have got some specific items I would like to address and bring to our attention with what I have gone through so far.

Number one, you have a grid on page six and maybe staff can answer this. Maybe there is a good answer for this that I just haven't thought of. But on the table two, equity bridge loan points, I am wondering why those are descending like an escalator there on that step system.

I would propose that you carry those five point increments on the two tenths, three tenths, four tenths and five tenths, the way you have done on the one tenth, to provide us more options for better scoring on our applications that we are about to send to you. I can't really think of a reason why you wouldn't want those other ones paid early and provide incentive as you would on the one tenth.

The next one that I have, I have a real concern talking with my syndicators and investors and just kind of knowing the market and being in this business for the last ten years. On page two of this supplement, it is actually item under equity bridge loan initiative B, and then ii(b)(2), you have an item that is called security for the loan. And this language really concerns me, let me just read it.

The Department may require a guarantee from the investor

limited partner, of repayment of any loan made under this initiative, regardless of any event of default or foreclosure on any obligations entered into by the partnership. I believe this paragraph and even though the word may is there, I don't know what the conditions would exist where the Department would enforce that provision. But this would be making this a full recourse loan against investor limited partners.

And I can just tell you from my practical experience, of course this has only been a proposal since Friday. But I think that is going to be very hard to accomplish. As Tom put up there, and you very succinctly explained, we have a very limited pool of capital now, a very small supply of capital. And the ones that are out there are driving pretty hard bargains. And I very seriously doubt that they are going to be willing to take on full recourse against them or their entity for this loan.

I think you have plenty of mechanisms in which to enforce the equity bridge program. I think you could penalize developers, the way you do with compliance issues and things like that. You could bar someone from the program. I understand there are some risks out there. And you want to secure yourselves against getting that loan paid back.

But as a practical matter, the limited investment partners always require us, the general partner to guarantee them against basically any risk anyway, including the risk of recapture of the credits. So I think some kind of specific requirement of that on the investment limited partner is going to make this option very difficult to access. I have two more points, if you could indulge me, Mr. Chair.

MR. CONINE: Okay.

MR. BOLING: I don't notice a reference to the regional allocation formula. And this might not be such a big concern because there is so many points that you can get. Maybe it doesn't matter. But we are all starting with a base score, going into this application round. And just to bring to your attention, you probably already know this.

Those of us with lower incomes and rent levels as set by HUD in the area median family income levels are at a disadvantage from getting as many points on a statewide scale as some of the higher income areas, especially along the border. El Paso's median family income is roughly half of what Austin's is. So that is what the whole reason for the Regional Allocation Formula being put into place in the first place, anyway. And my final point is I believe that you should have some other types of incentives in here for developers that are eligible for this funding, that don't exercise the TCAP.

For example, I have talked to a couple of other developers. I have got a couple of deals that I think I am going to be able to fund without assistance. And it has been real hard and a lot of work to try to get that done in the last twelve to 18 months.

So I would appreciate for there to be some recognition or some incentive for developers that are able to do that, maybe in future QAPs or maybe in this application round. So those are my comments, unless there is any questions.

MR. CONINE: Any questions of the witness?

(No response.)

MR. BOLING: Thank you.

MR. CONINE: Thank you. Pat Barbolla.

MR. BARBOLLA: My name is Patrick Barbolla from Fort Worth, Texas.

Chairman Conine, members of the Board, I appreciate this opportunity to speak with you this morning. I believe I will take three minutes, although I believe Mr. Dennis Hoover has yielded me two more. But I will try to keep it under, definitely under five, no more than three.

I commend the staff for coming up with the policy in such a short time. However, I think the Board should have a dual goal in drafting this policy. It is one to maximize the resources for the production of affordable housing within the next two years, while providing equality of opportunity for funding for rural areas.

I think when you look at my comments, you will find that all of my comments are directed towards this. I will skip over most of the comments, since I have given you written material. I ask that you consider that. And also provide it to the Board members who are not here today.

First under eligible applicants, just a quick thing. It may be an oversight or maybe it was intentional. I think you need to make sure which properties are eligible. And to me, it should be only the properties that are eligible that were properties for 2007, '08, '09 that have not closed their syndication. Because if they have closed their syndication, they are prima facie evidence that they do not need this type of housing, or this additional assistance.

There should be an exception though, for those properties, if there are any. I know there are some in other states, where the syndicator has closed up front, and the investors have defaulted. And there can be an exception for that.

Second, the definition of rural areas. Under the definition that is in policy, we do have a provision of anyone that has been awarded under the 13 rural subregions, there is another property that should be considered, and those are the rural development properties that have received and will continue to receive financing from USDA 515 program.

Second, at risk developments. The comments, the policy is silent on any additional points or preferences for at risk developments. And maybe that is an oversight. But I believe under state law, it would be required to be under here somewhere. I am an attorney, but I am not issuing an opinion on it. But I will leave that to staff to consider.

At one time in discussing with the staff, they said, well really, at risk properties do not need it, since they generally can score competitively. Well, first, they have their separate set aside, because past Boards have decided at risk deals and USDA deals cannot score competitively. I went back and took a look at 2008 deals. And in general, what I call the new construction traditional, everybody other than at risk, they score 6 percent higher.

And in a plan where one point can make a difference, 6 percent or twelve points is substantial. So I think there should be a way to add additional points for at risk deals.

Next, I think consideration should be given to spreading the

funds over as many properties as possible. In a way, and I have attached an Exhibit A to the plan, to basically, you should go through and fund, figure out which properties need it less. Do the properties that need a million or less. Then go to million to two million. Then to three million to four million and then above four million. You could actually brace it down into additional ones.

Keep the point totals, but kind of start with the higher points at one million, then go down. And the same thing, and probably the most interesting point, right now the bridge equity loan or the permanent loan replacement, equity risk reduction is on parity with the tax credit replacement points. I think additional consideration needs to be given to priority for the tax credit replacement points.

And here is the reason. Yes, the goal, one goal of this plan can be to obtain funds for future resources for the state. I think that is commendable and many times, for years, that is why I have supported loans over grants in different types of programs. But let's take a look at what we have under traditional property that has say, \$100,000.

And for every \$100,000, let's say we take that property and we look at the equity loan or permanent loan replacement program. You give it \$700,000. Yes, you would get it back the money over time. Preferably within, you know, 15 years. Even if it is the equity risk reduction, you would get \$700,000 back over time.

But let's say that person would also be willing to take \$100,000 of tax credits. Give it back to the Department. In exchange, they would receive a \$700,000 loan. That money would be repaid over time. At some

time in the future. But in addition, the Department would have \$850,000 of exchange funds to be used for what I call 2009 deals. It may include 2008, depending on what the Legislature does in the next ten days under Representative Menendez' bill.

I think these are points that need to be considered. I know Tom has stated that he thought the Tax Credit Replacement Program would be more risky for the Department. But I think right now, we have a superior compliance monitoring department. And actually, I think that would be less risk, with a Tax Credit Replacement Plan than you would have under a bridge equity loan without guarantees from the syndicator or the investor limited partner.

One final point, tiebreakers. As drafted, the tiebreaker is based on percentage of total development costs as requested. I think it may be time to go back and give first consideration to the tie breakers that were utilized in the Qualified Allocation Plan, which would be basically rehab first, then the cities that have the lowest per capita average tax credit units, and the third tie breaker is the amount of tax credits per square foot of net rentable area.

The final point, and in a way it goes back to this hope and a prayer that when the funds are repaid, it can be used by the state. I think that is a laudable goal, but I think the Board cannot really -- before you make a decision over one type of plan, whether it is equity bridge loan, Tax Credit Replacement, or permanent loan replacement, I think you need to understand that you may say that when the Department gets its \$148 million back, we are going to use it for affordable housing.

To me, under the Texas Constitution, there is no guarantee. It is subject to appropriation every year. To me it is the same way the license plates or the Parks Department. You know, people bought license plates to support the parks. That money is still sitting today in the General Treasury. So there is no guarantee. We cannot have a revolving fund.

And thank you for your time. If you have any questions, I stand available to answer them.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. BARBOLLA: Thank you.

MR. CONINE: Tamea Dula.

MS. DULA: Good morning. I am Tamea Dula. I am an attorney with Coates, Reyes in the Houston office. And I have four comments to make with regard to the TCAP program. First of all, what this industry is true gap financing. None of the initiatives that are presented are actually gap financing. Equity does not accrue interest, and it does not have a set repayment schedule. None of the initiatives have those characteristics.

What we really need is to have the TCAP funds put into the project, in the form of a 30 year loan that is at zero interest, and payable solely out of a percentage of the net cash flow. That will more closely approximate the equity cushion that appears in all of Tom's graphics.

My second comment is that under the federal requirements, 4 percent tax credit will qualify for the TCAP program. And we would like to ask

that the policies specifically state that any tax credit deal that has a reservation, and anticipates getting its determination notice by September 30th of this year, be qualified to participate in that applying for the TCAP financing.

My third comment goes to the equity bridge loan initiative. This is an initiative that is just not going to work. If it is a requirement that the limited partner provide a guarantee, a full personal guarantee of the repayment of that debt. It is not going to work.

Equity investors are not in the business of providing personal guarantees for the projects that they invest in. At most, they will sometimes their limited partnership interests in order to secure a debt. But they do not give personal guarantees. This is an initiative that will have no takers if that is a requirement.

My final comment has to do with the Hurricane Ike tax credit deals. Almost all, if not all of the projects in Regions 5 and 6 have their tax credits derived from Hurricane Ike recovery statutes. HUD has made a determination that Hurricane Ike tax credits will not qualify you for the TCAP program.

So each of these projects, in order to participate in this financing, will need to have some nominal allocation of regular Section 42H tax credits. Perhaps as little as \$10 a year for ten years. But we feel that they deserve to participate in this program, and we ask that you do that. That is all of my comments. Are there any questions?

MR. CONINE: Any questions?

(No response.)

MS. DULA: Thank you.

MR. CONINE: Thank you. Granger McDonald.

MR. MCDONALD: Thank you, Mr. Chairman. My name is Granger McDonald. I am from Kerrville, Texas. I will make this real brief, because I think a lot of these comments are getting redundant. Again, I feel the same way Ms. Guerrero did about gap financing. This needs to be more on the grant basis, or at least a zero interest soft loan and not hard debt in most instances.

If we are getting a reduction in tax credits, lets say to 60 cents, that doesn't help us to have hard debt, because the project won't pencil out, if it has that much more additional hard debt. Also, I want to agree with Mr. Boling's comments about the equity bridge loan requirements. The investor limited partners will not provide a guarantee on these repayments. That is, that is going to be a non-started. And we have to be very cautious not to let that get in.

Thirdly, I would like to bring up the fact that I would like to see us consider the TCAP funds to go in up front. Equity is priced about on when their money is due in. And credit prices will vary as much as three to four cents, depending on when the limited partner has to put his funds up.

So if we could get the TCAP money up first, instead of the 25, 50 and 100 percent as stated in this, I think we could all get a better price on our credits, it would allow the TCAP money to go further because there wouldn't be as much of it, because you get a better equity price. So I would recommend that we have those funds go in earlier.

And finally, I would like for us to adhere to the regional allocation program. This will be especially beneficial to the smaller communities and the more rural regions. I think that you are, as we all know, are not competitive with the major cities. Any questions? Thank you.

MR. CONINE: Thank you. Jeff Crozier.

MR. CROZIER: Good morning, Board. My name is Jeff Crozier, and I am the Executive Director of the Rural Rental Housing Association. Just like our neighborhood organizations a little while earlier, I will have to always bring up the big three of more traffic, more crime and impacting schools. I wouldn't be a good little executive director if I didn't come up and talk about leveling playing fields and all of this other kind of good stuff. So I am here following what Granger and all of the others have said. And I am going to be very quick.

My only comment, one of my main comments that we have in this program, or this TCAP proposal that we have is, when there is something that doesn't quite work right in the tax credit world, we always say, okay. We will fix it next year when the new QAP comes out. Well, unfortunately in this program, we don't have a next year to go fix it. So we need to make sure we get this done right the first time. And I think that some of the comments that were made earlier will help get that done right the first time.

A lot of this stuff, I admire the staff for coming up with such a great plan so quickly. But there are just so many questions. We don't understand really a lot of what is going to happen at the end of the day. I certainly am all for the Regional Allocation Formula, but I am also, we need to

have, maybe if there is some kind of set-aside, we can set up for rural versus the urban, like just follow the Tax Credit Allocation plan, X amount of credits or dollars are set aside. That way, those properties from what I am seeing here, a lot of rural deals are going to be inherently behind the eight ball.

Because if you do, if this program was designed to be gap financing, and that is priority number one, which is listed in the program, a lot of the rural deals are not going to be able to participate. There is just no syndicators out there for rural. So we are going to come in priority four. The money will be used up by the time we get there.

So Regional Allocation Formulas or set asides would be more preferable for us. Once again, the other thing that we are missing out here, and maybe by design, we don't know this yet. Because the exchange program, the rules, we have not seen the exchange program. Maybe rural, in the grand scheme of things, rural is better fitted for the exchange program. And if that is the case, that is great. I mean, we don't mind that.

I mean, all we have in front of us today is the TCAP rules and somehow the rules don't just quite fit to some of the rural properties. So just keep that in mind as we are going through this process, that we don't mind the fact that the way the program is -- we applaud the staff for coming up with what they have done.

But I think the statements that were made by others before me are very apropos, and they need some look see into this program. Thank you very much. Any questions?

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Mike Sugrue. Toby Williams will be next.

MR. SUGRUE: Good morning, Mr. Chair, Board members.

MR. CONINE: Good morning.

MR. SUGRUE: Mr. Gerber. My name is Mike Sugrue from Gunbarrel City. I am actually here today in my capacity as President of TAAP. And the comments, I want to say two things.

One, I want to applaud the staff for coming up with such an involved program in such a short period of time. I think a lot of thought has gone into it. Obviously, I have learned this morning through a little conversation that there is more flexibility than appears on this paper as well. And I think this could be important going forward, that we keep flexibility in it.

I will second many of the comments that are made, having been in the syndication business for so long, and I know that there are some here. You won't get a guarantee. But I think you can get a pledge of equity. I think if you delay their equity by putting TCAP in up front, it will increase their yield. It may increase the price.

But if it is all about yield, and that is where the investors are coming from now. Without yield, they are not going to put their money in anyhow. If we increase their yield, we probably can get them to pledge that money to the deal versus a pure guarantee.

The other thing, one of the comments that was made here, is that yield enhancement should result in stabilization of pricing, and could lead to higher pricing of the market expectation if yield is exceeded. That is an

inverse relationship. If yield goes up, price goes down. That is just the way it happens. Price will not go up by increasing yield. An increased yield will produce a lower price.

I agree with what Mr. Crozier said, and I hardly ever agree with him. But I know that there is not enough money to go around. And I believe the exchange program is where most of rural is going to have to sit anyhow. And we just have to wait for that, until we see what legislation does. But I thank you for giving me the opportunity to speak.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Toby Williams.

MR. WILLIAMS: Chairman, ladies and gentlemen of the Board, my name is Toby Williams. I am with the Mark Dana Corporation out of Spring. I appreciate the opportunity to come before you and speak today. We submitted written comments in regards to the TCAP policy earlier this week, to the staff. And I have provided a copy of that for you. I won't talk about all of the points that we made there.

I am going to speak briefly, just about the TCAP eligibility threshold. According to the policy, it provides that federal law developments awarded, Go Zone and Ike credits are not eligible for the TCAP funds. It is our understanding that all of the 2008 Region Five and Region Six projects were awarded the Ike credits. And we believe that a large number of the 2009 credits are also going to be awarded the Ike credits.

Given the policy that you set forward, none of these projects will

be available for the TCAP funds. HUD has stated on its general questions and answers website, if the only source of credits for a project is the Gulf Opportunity Zone or Midwestern Disaster Area housing credits, it is not eligible for a TCAP project, because these credits were not awarded under Section 42H of the IRC.

However, a project that has been awarded GO Zone or Midwest credits can be eligible for TCAP program if the project has also been awarded tax credit allocated under 42H standard tax credits. State agencies can allocate 2009 standard tax credits until September 30 of 2009 to projects which have already received an award of GO Zone or Midwest housing credits, thus making the project eligible for TCAP funding. A state housing credit allocating agency could provide a nominal amount of 42H credits concurrent with the award of a TCAP grant to a project which already has been awarded GO Zone or Midwest housing credits.

HUD has suggested a method whereby projects that only receive non-Section 32H tax credits can be eligible for the TCAP funds. We would urge you to adopt this procedure and enable the projects that received only the Ike funds to be eligible for the TCAP funds.

Another item that I would like to bring to your attention, we have been made aware of. There is a number of states, other states that are permitting developers to submit TCAP applications with multiple options for the structuring of the points category. And then allowing the developers to rank those in order of their preference. We would encourage the Board to adopt this procedure in allowing the developers to maximize the impact of the funds.

Thank you.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you. Sarah Andre.

MS. ANDRE: Good morning. It is technically still morning. My name is Sarah Andre. I am here in my capacity today as a consultant. I am not representing any particular project, just providing insight based on my experiences. I too want to commend that staff. I think there is a lot of creativity that has gone into this policy.

And I would like to just state that I most definitely support your adoption of the policy today. However, I would like you to encourage staff to or empower them to make some tweaks, many of which you have heard already today.

First and foremost, I would just suggest that the priorities for this program be consistent with the QAP. The TCAP policy does mention and reward rural developments. But there is no specific mention of that risk developments, there is no specific mention of rehab projects. God help you if you are a rural rehab. There is no money out there for you. Those should be prioritized by the Department. A few small tweaks. We really need to amend the definition of a good faith effort to include rejection letters or emails from syndicators. Right now it talks about having an LLI.

Well, if you have no syndicator, you have no LLI, and we need some way to show that we have made a good faith effort to get investment, but no one is interested. So that needs to be tweaked. And many syndicators, in

case you don't already know this, are very reluctant to write rejection letters, unless the Department has somehow specifically requested that in its policy. So I would just like to see a slight change there.

The threshold documentation also includes debt and equity commitments. We need to just be assured that NA is an okay response to that, if you don't have -- if you are going for the exchange, you don't have debt and equity letters, or you don't have equity letters.

And then finally, I really strongly urge the Department's underwriting to be consistent or mirror the syndicator and debt providers underwriting. Some of the things you see right now consistently, we are being underwritten with rents that are 10 percent below tax credit rents. And that obviously affects how much debt you can have, how much equity you need, other specific examples, where I would like for departmental underwriting to mirror what you see in the marketplace are the percent of preferred developer fee, and then the amortization periods.

Because some of the Department's underwriting is more generous, which is great, but it also means in theory you can have more debt, but nobody is going to give you that amount of debt. You just end up with a conflict . So I would like to see that. And that is it. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Dan Algeier.

MR. ALGEIER: I am Dan Algeier with New Rock Companies. I sent this around to our offices. And we have got offices in Florida and Georgia

and other states. And they really were impressed with this. They kind of wish you guys would come work in some of the other states, because at least you have got a plan that might work.

There is a golden rule, that is, he who has the gold makes the rules. Investors have the gold. We need to remain flexible because we don't know what they are going to do, what they are going to buy. They are not going to sign personal guarantees, I can tell you that. We can do regional allocations if you choose, but I am not sure that is going to solve any problems, because frankly, some folks aren't going to get on the boat. There is not enough money out there, no matter what we do.

We have got \$145 million here. That is still not going to do every deal. That is just the realities of it. And finally, please consider a point bonus for at risk projects. You all give at risk priority. Remember the golden rule. They are not that interested in new construction right now. They sure aren't interested in rehabs. Thanks.

MR. CONINE: Thank you. That concludes the public comment on this agenda item number two. We plan on doing an executive session/lunch. And based on what -- a couple of these comment letters are pretty lengthy. Would you like to comment on anything you just heard from anybody, or would you rather --

I think what we are going to do is go ahead and do the executive session now, and give staff time to digest some of what you heard. And then come back and vote on this particular item after the executive session. So unless you would like to say something now. Is there anything

you would like to say now in response to any of that, or do you want to wait afterwards?

SPEAKER: (No audible response.)

MR. CONINE: Okay. Why don't we go into executive session then, now. And I am going to tell you, it will be, you know, probably an hour. We will shoot for 1:00 coming back in session. So you guys can go eat and we will see you then.

MR. GERBER: On this day, May 21, 2009, the regular meeting of the governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session as evidenced by the following, a) an opening announcement by the Presiding Officer's designee that the Board would begin its executive session today May 21, 2009, at 11:55 a.m. The subject matter of this executive session deliberation is as follows: a) the Board may go into executive session and close its meetings to the public on any agenda item, if appropriate and authorized by the Open Meetings Act, Texas Government Code Chapter 551, b) the Board may go into executive session pursuant to Texas Government Code for purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, or c) consultation with an attorney pursuant to Section 551.071(a) of the Texas Government Code, 1) with respect to pending litigation styled, Rick Sims versus TDHCA filed in Federal District Court, 2) with respect to pending litigation styled, Inclusive Community Project, Inc., versus Texas Department of Housing and Community Affairs, et

al., filed in Federal District Court, 3) with respect to pending litigation filed, M.G. Valdez, Limited, versus TDHCA filed in District Court, Hidalgo County, 4) with respect to EEOC claim from Don Duru, 5) with respect to any other pending litigation filed since last Board meeting, 6) potential sale of the Agency-owned real estate and or sales of loans.

(Board met in executive session from 11:55 a.m. to 12:58 p.m.)

MR. CONINE: Back in session from our executive session.

You get to read something?

MR. GERBER: I do.

MR. CONINE: I'm sure glad you get to read it.

MR. GERBER: Mr. Chairman, as your designee, the Board has completed its executive session of the Texas Department of Housing and Community Affairs on this date, May 21, 2009, at 12:58.

MR. CONINE: Okay. Mr. Gouris.

MR. GOURIS: Yes.

MR. GERBER: Did I miss something, Mr. Hamby?

MR. HAMBY: Actually, I believe you had to have the line in there that no action was taken at that meeting.

MR. GERBER: No action was taken at that meeting.

MR. CONINE: You have to read your lines here. It's like a school play.

MR. GOURIS: I wanted to point out a couple of things and try to address some of the questions that were answered and then hopefully I addressed them. You can stop me at any time. But the driving premise for the

program is to maximize the efficient use and get as many deals as possible to get done. We want to keep as many credits and deals as possible in trying to get higher prices the way we were trying to do this.

There was a comment about the yield and pricing and how that worked and what we were trying to say is that if the market demands a 15 percent yield and this structure provides an 18 percent yield, the equity bridge structure, for example, might provide -- or better, then the investor, one, is going to be more willing to do that deal because it's better than the yield in the market, and, two, they might be willing to provide a higher price. And that's the whole kind of concept or premise that we're trying to work from.

And then, there's several comments about the gap and that we're not addressing the soft financing that's necessary. Well, again, we're trying to shrink that gap by getting the price up, and to the extent that price can't be built up, the point structure that's there emphasizes getting the price up, emphasizes getting the tax credits in the deal, and as a least priority, allows for the credits to effectively be replaced or be substituted at lower -- because they are at lower prices.

So there is the opportunity for the gap to be filled; it's just not the highest priority because it's the least efficient of the funds from a statewide perspective.

There are a couple of things that I wanted to point out -- that I wanted to say that -- you know, the Treasury's given us some guidance but there's still some -- and HUD has given us some guidance on both programs. But there's still some things that are unresolved that may impact how we can

-- some of the issues that might -- some things might be adjusted down the road because of that.

For example, eligible basis is one issue that we're struggling with and whether or not we can claim eligible basis kind of transactions, credits and provide TCAP for the same eligible basis is a question we have posed to HUD and we haven't received a response yet.

Let's talk a little bit about the question with regard to rural points and preferences. I think we had, and actually the RAF kind of comes into this as well. I think we had originally contemplated that since these transactions have all been through a RAF in the year that they're awarded that they would not necessarily have to go through the RAF again. It sounds to me like there's a pretty strong sentiment to go through a RAF process and restrict these funds in the same way that the actual tax credits are restricted.

So we potentially could set aside 15 percent of the total off the top for at risk. Of that -- actually, 5 percent would be set aside for USDA, then the remainder of the 15 percent would be set aside for at risk off the top. And then set aside 20 percent of what's left for rural in a set-aside and then run the RAF based on the '09 -- same as the '09 allocation except take into consideration all of the forwards that weren't included when the '09 RAF was run and include those to the extent that they're still in play, depending on what we do on 6(c) later today. So I think that's an option that we could certainly do.

There was a comment about if it would be allowed to put in multiple applications with a different option for each application, and we don't

tend to allow applicants to put in multiple applications in the 9 percent round for the same site; I don't think it makes sense for us to do that with this because then they'd be just gaming the system and we wouldn't know which one was the real application.

We want them to go and get their best deal and bring their best deal back that scores the highest points that they have to balance. Again, the whole premise is that we're putting the burden back on the developer and the syndicator to get the best investors to come to Texas.

I think the whole premise is that if across the country there's only 30 to 60 percent of the equity investment left that we want more of that to come to Texas, and some of that is not going to be necessary because it's going to be converted to exchange for other states so they're not going to need to go to the other states. Some of it even in Texas might be converted to exchange and we won't need it. So we want to maximize what's left to come here by providing the highest possible incentives for investment.

There was a comment made about the money might not come back to the department, or -- if it's returned as a loan. Well, federally, it has to go back once to be used for affordable housing. And then the second time it comes back it can be used for any purpose. The other thing is that it won't come back -- we won't start getting that back until 2012, and by then I would expect that someone would say, Hey, let's make sure and statute that. The state has the right to continue to use these for these purposes. Of course, I'm not lobbying by saying that; I'm just saying that someone might want to say that.

There's a comment about underwriting being consistent with the syndicator and lender's information. We always try to do that but that's really an underwriting rule issue and I don't think we're here to modify the underwriting rules. We certainly always are going to look to the information that's provided. You know, obviously, if -- I think it may take longer than we've laid out in the time frames for putting approvals in, but I think the Department staff has always been willing to look and reasonably consider information from syndicators and lenders.

And a lot of that has to do with who's driving the ship. Someone mentioned that the investors have the gold and they certainly do when it comes to the investment and the tax credit. You know, it's a marriage though, and we've got some gold to work with here too, so -- but we will work with folks, I'm sure.

Guaranty the equity bridge. I think that was a "may" for a reason and I think again it's a negotiating tool. I think we certainly can adjust that to be a written agreement to support or, as was suggested, a pledge of the partnership interest.

Good faith effort was -- someone made a comment on that as to we've asked to have documentation of some paid expenses for that good faith effort, and the reason there is every year there's some deals that really give us terms sheets that really are just pie-in-the-sky. And the whole idea here is for deals that are shovel-ready, that are really ready to proceed, and but for the fact that their equity partner just walked away or weren't able to provide, I think. And we would want to see us stand pretty firm on the good

faith effort issue. But that's just my thought on that.

The reason the points drop off, again, in the scoring is precisely -- we ran a number of scenarios and calculated out what that would look like. The reason they drop off is because we really are trying to incentivize transactions to get paid, to pay back sooner, with higher points transactions that need less TCAP money to get higher points. The more TCAP money you need, the longer it takes to repay or the less likely that you get repaid, the lower the point structure is, and that's sort of the whole premise of the thing.

Tie-breakers -- similarly, we're fine with going to the QAP tie-breaker, the tie-breakers in there but the one we created was for that same purpose is to try to make it more efficient.

TCAP funds being put in front of other funds, that issue is -- the TCAP program's a reimbursement program so we won't be able to go in front. One of the other sad elements of this program is that there are no admin funds for the department to actually administer this program so we're really -- it's a strong effort to try to keep this as simple possible, even though the scoring thing seems complicated, it's pretty straightforward and simple and it'll be easy to score. It won't take a lot of additional resources and a lot of additional time.

Similarly, we want to keep the draw processes and those things to a minimum if at all possible because the Department is going to have to do this out of the funds it already has and not going to be able to add any staff for the extra workload. Typically, we don't have that kind of workload with the tax credit deal, don't have draws and touching the deal many times in between. So we try to limit that.

The Ike credits, I think that's an issue that we don't need to discuss in this. I think we need to bring that up, and we will bring that up as an item for the next Board meeting, assuming that y'all want us to do that. That's something that -- we need to find a mechanism to be able to potentially provide regular credits to the transactions that got Ike credits. And there's some discussion with IRS we need to have about how we do that.

There was a comment about 4 percent deals being eligible. And I think that they are eligible. I think one of the things we should have some concern about is that we don't have a rash of bond transactions that are suddenly applied for to get to the tax credit, or the TCAP money associated with -- that would happen right now. So I think we're really looking at bond deals that are in the pipeline right now and not deals that haven't yet applied, so I'd be cautious about that.

Just for a kind of an update on where the '07 round is -- what we know of the '07 round, is that of the 58 deals that were '07 deals, exclusively '07 deals, 40 of them have told us they've closed; 12 have told us they've not closed, or we think they have not closed; and six have not closed because they've got a place in service extension. So not -- we're talking about 18 deals, we think, that have not closed.

Now, some of those that have closed may have closed in a way that doesn't mean they're really closed. And so I wouldn't suggest that they're ineligible for accessing the TCAP funds, but I think we'd look at that on a case-by-case basis and see what they said they closed at and what they're now saying they need to make their deal work as we evaluate them.

I think those are the points that we picked up on. I'm sorry that that's not in a list of -- Okay, we need to add this piece and add this piece, and we can come back and do that but I wanted to get those thoughts out and then get --

MR. CONINE: The only amendment language that I picked up through that conversation was going back to the RAF and doing the rural set-aside within the RAF, at risk and rural. Is that correct? That's pretty much what, I don't think.

What'd you say about the 4 percent deals, one more time?

MR. GOURIS: They're eligible now; they're not eligible; they're just not specifically discussed as being in each of the things we don't emphasize now. We don't want to overly emphasize them so that folks go out and put in a bond application today for a deal just to get to the TCAP and the credit on a deal that's not any more shovel-ready than the host of deals that we have been working with since '07 and '08.

MR. CONINE: But they are eligible and --

MR. GOURIS: But they are eligible.

MR. CONINE: And did you scour the two letters that were submitted because those were obviously thought out and articulated in a letter format too voluminous for me to handle right now but --

MR. GOURIS: Yes. I think we covered those issues generally. I think the big issues were the Ike -- getting some Ike help.

MR. CONINE: Right.

MR. GOURIS: And there was some discussion about the good

faith effort again.

Requiring a position in the partnership agreement was something that was commented on in one of the letters. And I think that is a to-be-determined kind of issues as well, I think. It sorts of depends on what's submitted. If a transaction comes in with 10 percent of the credits left in the deal and we're going to take on 90 percent of the credit syndication price with the credit replacement program, I think we would need to evaluate how we could enter into that in a partnership form rather than strictly a loan form, if we can. Be we still have some evaluation to do on that piece.

MR. CONINE: Remind me when the application deadline is.

MR. GOURIS: Right now, it's proposed -- I think the 17th of July.

(Pause.)

MR. GOURIS: Well, '07-'08s close on the 17th of July. Right?

VOICE: Yes.

MR. GOURIS: And then '09s would open on the 1st of August.

MR. CONINE: So we're going to have our June meeting and, theoretically, we're going to handle exchange policy at that time before the application deadline for TCAP, which is good.

MR. GOURIS: Yes. Okay.

MR. CONINE: Okay.

MR. GOURIS: Then, we will.

MR. CONINE: I'm just trying to think out loud here a little bit.

MR. GOURIS: We would obviously like the shot heard round

the world to be that Texas is providing a really, really good investment opportunity for folks who want tax credits and that everybody in this room and every syndicator that might be here about this is drumming that beat and pounding on doors to try to get investment to come here and to get these deals done ahead of other states and other places.

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

MS. BINGHAM-ESCARÉÑO: Mr. Chair, is there a need in the terminology change related to guaranty versus pledge or whatever we figure out, or is that something we can work on later?

MR. GOURIS: I think the may language is soft enough that we don't need to do that.

MS. BINGHAM-ESCARÉÑO: Okay.

MR. GOURIS: But we can if you'd like.

MR. CONINE: Yes. I'm okay with the may language. Any time you're going to require future payments in the 6th, 7th, 8th, 9th year -- you want to make sure we get paid. That's my biggest fear right now. And we need a mechanism to make sure that happens, whatever form that eventually takes.

MR. GOURIS: I think -- any other questions?

(No response.)

MR. GOURIS: I think we could take a motion that would include all three items, 2(b), (c) and (d), unless counsel tells me otherwise with the amendment that --

MR. HAMBY: Just make sure that the policy is adopted and

that everything else is consistent with that is kind of how the motion should be made.

MR. CONINE: Say that again.

MR. HAMBY: That the policy and 2(c) -- I believe the policy is 2(c), isn't it? That 2(c) is your driving force behind those and that the plan and the regulations behind those are consistent with your policy that you're adopting today.

MR. GOURIS: Okay.

MR. CONINE: They are, with the amendment of the rurals, rural preference.

MR. GOURIS: And the RAF and at risk set-aside. Correct?

MR. CONINE: Yes. Any other -- do I hear a motion to that effect?

MS. BINGHAM-ESCARÉÑO: We move --

(Pause.)

MR. CONINE: With an adoption of the use of the Regional Allocation Formula the set-asides required under the 2009 QAP Regional Allocation formula would be, including those transactions that were allocated as forwards that are still alive after today. So that we rerun the RAF in essence and then --

MS. BINGHAM-ESCARÉÑO: Mr. Chair, I move that.

MR. CONINE: Moved by Ms. Bingham. Do I hear a second?

MS. RAY: I second.

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

Seeing none, all in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed.

(No response.)

MR. CONINE: Motion carries.

MS. BINGHAM-ESCARÉÑO: And just great work --

MR. CONINE: Yes, great work, staff.

MS. BINGHAM-ESCARÉÑO: -- on this last part.

MR. CONINE: Good job.

Item 3(a), Mr. Gerber.

MR. GERBER: Ms. Newsom, why don't you come on forward and walk us through the disaster recovery items.

MS. NEWSOM: Mr. Chair and Board members, I'm Sara Newsom.

VOICE: Welcome back.

MS. NEWSOM: Thank you very much.

VOICE: Good to see you.

MS. NEWSOM: Thanks. 3(a) is an update from the Disaster Recovery Division on the progress of the CDBG housing activities under round 1. Round 2 of the CDBG funding, as well as the status on the FEMA Affordable -- well, actually it's the Alternative Housing Pilot Program.

For Round 1 I'm pleased to report that the COGs have completed assistance to a total of about 463 households to date and another 24 are under construction. They've drawn down about 68 percent of their

award amounts and they're 32 homes under contract that are getting ready to start construction. So that makes -- there's one that out for bid, so that's 520 homes that are either done or are in the works to be done, so that's good.

Deep East Texas COG has completed all their contracted homes and are working on completing final draws and contract close-out activities. HGAC and the East Texas Regional Planning Commission should complete their construction activities by the end of October of this year.

For Round 2 we've had several significant advances so we're proud of those. The City of Houston expenditures are at 68 percent for that \$42 million allocation that they received for the housing safety component and the police department so that they are drawing about 99 percent of that award.

The apartments to standards program component administered by the Houston Department of Housing and Community Development was also allocated \$20 million and they've designated two multifamily projects that they are rehabbing and those are Fondren and Regencies. They've expended about 37 percent of their funding on that project, so that's moving forward.

The Harris County program has expended about 15 percent of their \$21 million allocation under their five program components that they had designated the funds for.

On the multifamily side in Houston, on September 13, 2007, TDHCA Board awarded 81.1 million to repair or rebuild affordable multifamily projects by the storm, by Hurricane Rita. And construction work, once completed -- they'll be about 813 rental units that are in much better shape than they were right after the storm. The specifics are in your Board book on

those seven projects, so you can look at that.

Don Atwell with ACS is here to provide us with an update on the HAP program so we'll --

MR. ATWELL: Good night, Mr. Gerber, members of the Board. Good afternoon.

MR. CONINE: Good afternoon.

MR. ATWELL: First, I'll say it's so much nicer to come here when I can report on lots of houses being constructed.

VOICE: How many have you built?

MR. ATWELL: There are 291 under construction. We'll be over 300 by the end of this week. And one of the contractors actually started 16 homes this week and they framed three houses in one day, so these guys can move quick once they get started. And we've finally gotten them started.

As far as the pipeline that moves into the construction piece, there are 2,698 applications that are complete. We're still processing a wait list; those are moving through much faster than the original applications, partially because we've changed the process. We're sitting down with people individually and walking them through the applications. Partially just because this population seems to be a little bit more motivated to move through the process.

As far as eligibility's concerned, 1,775 people we determined eligibility on. We've done environmental clearances are 984. 416 closings have been held. And as I just mentioned, 291 starts. At the last Board meeting there were 136 starts, so we had a 155 since the last Board meeting,

so 39 a week which is slightly better than the 30 to 35 I had promised.

We're going to continue to push to do even more than that. And to that end we've been in the process of doing a solicitation. We had eight contractors respond to that that are interested in participating in the program. Those proposals came back in yesterday. There are four contractors from Houston; two from Texas, in general; and then, two from out of state. And a couple of those are large-volume builders so there should be significant additional capacity there.

As far as funds spent, we've either distributed or requested \$8.9 million. There is \$56.3 million that has been allocated to contractor homes; 911 have been assigned. And we expect -- I'm sort of jumping around; I apologize -- that the new contractors will be in full production no later than July 1. That's all I have.

Any questions?

MR. CONINE: Any questions for Mr. Atwell?

(No response.)

MR. CONINE: Thank you for your progress. Sounds great.

MR. GERBER: Don, I just want to mention that I know we've had conversations about making sure that the quality stays high in this program and the expectation that -- or what we've placed on each of our homebuilder partners, that they know that they are working for the State of Texas. And the state's expectation is that they build a very high-quality product that is what they submitted to us and that we're holding them to it and I have Shaw's here and John Moody's here and we're vigorously inspecting to

make sure that they're compliant with that. But we -- I know you're paying careful attention to that and appreciate that.

MR. ATWELL: We are. We actually had a contractor meeting with all of the contractors on Tuesday, and quality was a big part of the focus of that meeting. And it is definitely at the top of the list.

MR. GERBER: Okay.

MR. CONINE: Great. Thanks.

MR. GERBER: 3(b) is the Hurricane Ike and Dolly action plan. Sara, you want to --

MS. NEWSOM: Pardon me?

MR. GERBER: 3(b), item 3(b).

MS. NEWSOM: 3(b) is yes -- action plan. March 31, 2009, ORCA executed a grant agreement with HUD excepting the State of Texas \$1.3 billion in CDBG disaster recovery funds. This represents the first portion of the funds appropriated for Ike and Dolly. Of this amount we anticipate about \$650 millions to be available to TDHCA to administer housing programs.

We've executed an MOU with ORCA which will enable us to access the funds, including the funds for administration of the grant. We're working on a staffing plan to get this program up and running. The administration of the housing programs will be as follows: a formula to allocate the funds among disaster-impacted regions was developed using FEMA data on the damage estimates and in the impacted counties as of December 1, 2008.

The COGs for the impacted counties were assigned the

responsibility of determining how the funds would be allocated through a method of distribution or an MOD. And the primary intent of this MOD process was to identify the recipients of the CDBG funds, determine the allocation amounts to each based on objective and variable data, and to determine the allocation between the housing portion and the non-housing portion. TDHCA will be doing the housing portion and ORCA will administer the non-housing portion.

These methods, these MODs, were due February 20 and the deadline was extended until June 29 for all regions and we expect or anticipate that six of the eleven COGS in the regions affected will have subrecipients to receive housing allocations. And there will be about 20 of the subrecipients that we'll be working with.

To date, only the Houston-Galveston group has received approval of their MOD and which will allow Houston and Galveston to go ahead and submit an application for funding of the housing projects. So we have reviewed Houston's application and that will come up under a different section of this, of 3.

The other COGs are still working on their MODs and they're all in process in varying degrees and we expect those will be up and approved fairly shortly. Once the MOD's approved through ORCA and through us, they'll be able to submit their applications for our review and approval.

MR. GERBER: But the deadlines to get those MODs submitted are -- is being set by ORCA.

MS. NEWSOM: Correct.

MR. GERBER: So we're waiting for ORCA to move that forward and so as soon as -- but we have submitted our application to every potentially eligible applicant that's out there, that's on the website, so they know as soon as their plan gets approved by ORCA that they then need to fill out our very short application and submit that to us, which is what Houston has done since the Houston-Galveston Area Council's plan is the only one that today has formally approved by HUD.

Southeast Texas Regional Planning Commission, I believe, is under way as well with HUD and we're expecting applications to be coming in from them shortly as well.

Anything else you want to add real quick on Ike and Dolly?

MS. NEWSOM: The second component is that \$58 million multifamily, and we're putting a NOFA out and we'll bring that up at the end of this also.

MR. GERBER: Okay. So then moving on to the first applicant, which we're really delighted for Ike funds. I think this is the first major award that we're making which is moving to item 3(d) which is Hurricane Ike housing assistance program award to the City of Houston. The City is going to be -- is eligible to receive under the plan, again, chose by the COG and certified by ORCA, \$87,256,565 of which --

MR. CONINE: Did you skip 3(c)?

MR. GERBER: I'm sorry. Let's go to 3(c).

MR. CONINE: Got to watch him sometimes -- my job, you know.

MR. GERBER: Well, since they flow could we go to (d) and then we'll go right back to (c).

MR. CONINE: Sure.

MR. GERBER: Okay. City of Houston's going to be using \$62 million for multifamily approximately, a little over \$20 million for single family, again for that full \$87 million. Donald Sampley, I know, is here to talk about the City of Houston's plan but we've been working with them; it's well thought out. We'll be providing technical assistance and training.

But in general our contract with the city will look similar to contracts that we've had in place with the City of Houston before. They run a large, sophisticated program. We're looking to them to show real leadership and step up as I know they always do on these things, and in large part indemnify the state for any errors or issues that come up, but we're working with the mayor's office in that regard.

So we would be asking the Board's approval on the motion to ask approval to go ahead and give clearance to the award of \$87,265,565 for the City of Houston, first Ike award.

MR. CONINE: I do have a witness affirmation form from Donald Sampley.

(No response.)

MR. CONINE: No? What if I want to ask you a question?
Good.

Could you enlighten us a little bit on basically how you came up with the multifamily/single family split. I know you had just tons of damage

down there but can you just give us a two-minute version of that?

MR. SAMPLEY: Yes, sir. I'm Donald Sampley and I'm assistant director of housing and community development for the City of Houston. About 55 percent of the population of Houston is renters. And I would assume of our low and moderate-income population that number is closer to 85 percent. The way that we can get the most benefit to the most people quickest is through major rehabilitation in our Apartments to Standards Program.

We put an RFP out in early December. We extended it for one month to May 1. For this \$62 million for multifamily, I have in excess of a hundred millions' worth of applications that are being reviewed. For us it's somewhat easier to rehab and administer going at 200 and 300 units at a time as opposed to the very detailed work it takes to do a \$30,000 rehabilitation where we have been doing that ongoing from the beginning.

We used our tax increment reinvestment zone money to put roofs on houses when FEMA wouldn't give us any money to do that, rather than go to the Blue Roof Program. We spent a couple of hundred thousand dollars doing that. We are now doing emergency repair we did as well as major repair in all of these areas using our existing CDBG funds. These funds we'll just pick in that program as we expand it and expand our staff to do it.

Of that, we also have a down payment assistance program for those who've had their houses destroyed and want to move into a different area, that, along with their insurance and their FEMA, should be able to allow them to move into a new house and [inaudible] very insistent about that.

We've asked for flexibility about spending this money. We're anxious to put it out and put it on the ground as fast as we can.

MR. CONINE: And the City of Houston is making sure that this is going toward hurricane-damaged properties and not just properties that need rehabilitation in general. Is that correct?

MR. SAMPLEY: I think all of the properties that we've looked at to date have some level of hurricane damage. We are not just repairing hurricane damage.

MR. CONINE: Right.

MR. SAMPLEY: We're not sure that you go spend \$2,000 a door to repair the damage on a property that falls down.

MR. CONINE: I understand.

MR. SAMPLEY: And do we're spending on an average of \$20,000 a door to give it a 20-year life, which we think will add to stabilized neighborhoods and good places for people to live, as opposed to just putting lipstick on the pig and moving on.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you for your clarification.

I guess I would entertain a motion now on the acceptance of the Houston plan.

MR. GANN: I so move.

MS. RAY: Second.

MR. CONINE: Motion by Mr. Gann; second by Ms. Ray. Any

further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, going back real quickly to Item 3(c) which is dealing with the discussion about an RFP for temporary housing and rapid deployment in response to disasters contingency contract. This is in response to a request from the governor that TDHCA develop a temporary housing program for rapid deployment to follow a disaster. TDHCA would accomplish this task in conjunction with the Governor's Division of Emergency Management municipal and county leadership.

The temporary homes would include travel trailers and manufactured homes that could be deployed at regional staging areas on private property sites or group sites. We issues an RFP for manufactured housing units and staff is currently in the process of reviewing those responses.

A second phase focuses, though, on travel trailers and we're working with the Governor's Division of Emergency Management right now to look at incorporating victim relocation services and maybe a hotel-motel program. And obviously, there's a lot of overlap on that with FEMA, but travel

trailers proved to be a very significant issue with Hurricane Ike and we're looking to figure out a way that the State of Texas can fill in where FEMA leaves off or might not be able to perform because of other issues to have a pre-existing set of travel trailer contracts.

So we're working on that very aggressively right now with Chief Colley at the Division of Emergency Management and hope to see an RFP either issued by us, or by us in conjunction with the Governor's Division of Emergency Management probably in the next week to ten days.

Moving on then to Item 3(e). Ms. Newsom?

MS. NEWSOM: 3(e) is a request to adopt a policy regarding receiving disaster housing assistance when the rehab cap is exceeded when we have historic designation. And what we're seeing is these houses that have some historic significance, the cost to rehab is exceeding that \$40,000 cap that we've put in place, and we're asking for a policy that would allow us to make decisions and move forward.

Policy to maintain the current rehab cap that would not exceed -- that's what we're doing now. Every time the cap is exceeded by the \$40,000 cap it comes to the Board for their approval. So we're asking either that we keep that in place and, if the rehab costs exceed the \$40,000, that the residents find the balance to fund those additional costs necessary to restore it to the historic standard or providing the funds themselves. Or we would allow them -- we would replace their house with a house within the established cap.

MR. GERBER: This is a particularly hard case because we know in one instance we have a house that would -- if we were to do the

restoration right, could go well beyond \$125,000.

MS. NEWSOM: Actually, we have one at 168.

MR. GERBER: 168. And as much as we feel that need, the decision of this Board earlier on was, given the immense amount of need out there and the very limited funds, was to keep the renovation cap at 40,000. So staff's recommending maintaining that. If the house can be -- if other funds can be given -- and we've been working with the Historic Preservation Commission, that's great. But we're not possible than [inaudible] we'd ask to keep it limited at 40,000 and then offer them a new home.

MR. CONINE: The change in policy is, they can use our 40 plus whatever they need --

MR. GERBER: Yes, sir.

MR. CONINE: -- whereas before they couldn't -- we couldn't even give them the 40.

MR. GERBER: Correct.

MR. CONINE: Right. Okay? I got it.

MS. NEWSOM: We have nine that are up here right now that are in your Board book.

MR. CONINE: Do I here a motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray.

MS. RAY: I move staff's recommendation.

MR. GANN: Second.

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

Gann? Any further discussion.

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. NEWSOM: We have another issue. In December the Board, the TDHCA Board, approved a \$10,000 cap on costs that exceeded the rehab cost to address local code requirements such as water wells and septic systems, et cetera. We're finding that those costs are exceeding that \$10,000 caps in some instances. We've got about 26 on our list right now where the cost has exceeded the \$10,000.

Much of the time the additional items can be achieved for that \$10,000, but on those that don't, we are asking for the Board to adopt a policy. And there's a couple of options that we'll put forth. One is to grant the TDHCA Executive Director the authority to evaluate and grant an increase on a case-by-case basis based on an executive team review.

The second option would be raise the cap to accommodate all circumstances; or three -- third option is to keep the policy in place, which requires Board approval if the costs exceed the \$10,000 approved cap.

MR. CONINE: Could I suggest a fourth?

MS. NEWSOM: Absolutely.

MR. CONINE: How about if we do what we just did with the rehab money and say they can take the 10,000. And then if it's above that, raise -- go out and raise it themselves.

MS. NEWSOM: We could have some problems there --

MR. CONINE: Okay.

MS. NEWSOM: -- because it's local code issues that are requiring these -- maybe it's a septic system that costs more than a normal one, or whatever it might be. And we --

MR. CONINE: And we're dealing with the low-income folks, of course.

MS. NEWSOM: And with low-income folks that may not have the capacity to come up with those.

MR. CONINE: Okay.

MR. GERBER: Don or Kelly, would you guys like to add to it.

MS. CRAWFORD: Kelly Crawford. If they couldn't come up with that then we wouldn't be able to serve them at all --

MR. CONINE: Right.

MS. CRAWFORD: -- because we wouldn't be able to bring it to the standard that was necessary.

MR. CONINE: Okay. That's why I have you guys around because I have crazy ideas sometimes.

All right. Any discussion, questions?

Ms. Ray?

MS. RAY: Mr. Chairman.

MR. CONINE: Yes.

MS. RAY: I think, as I perceive that, rather than an either/or, I would like to recommend staff approve all of the suggestions, one through three, to grant the executive director the authority to evaluate the need on a case-by-case basis; raise the cap to accommodate the particular need above \$10,000 -- I take that back.

Number one and number three, the executive director to evaluate and grant increase on a case-by-case basis based on the executive team review; in any cases above \$10,000 it would come back to the Board for consideration.

MR. CONINE: Okay. Do you want the executive director to make the decision and report back to the Board or do you want the executive director single --

MS. RAY: I would like the executive director to have the authority up to \$10,000.

MR. CONINE: Well, they've got that now. Right?

MS. NEWSOM: Yes.

MR. CONINE: They have that already.

MS. RAY: So the recommendation is to have the executive director approve them all with the executive team?

MR. GERBER: Case-by-case.

MR. CONINE: On a case-by-case --

MS. RAY: On a case-by-case basis.

Then, why would we have --

MR. CONINE: And then I like what you said though --

MS. RAY: -- recommendation number three?

MR. CONINE: -- is number three, Let's report back to the Board any of those cases that come about.

MS. RAY: That's my motion.

MR. CONINE: That okay with you?

MS. RAY: I will accept that change in my motion.

MR. CONINE: Great. Items 1 and 3, basically.

Any further discussion on -- well, we need a second for that motion.

MS. BINGHAM-ESCARREÑO: Second.

MR. CONINE: Second by Ms. Bingham.

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.

MS. NEWSOM: 3(g) is a request to establish a policy regarding how to proceed when a hold harmless agreement cannot be obtained from an existing lien holder on a home in the Sabine Pass or the Homeowners Assistance Program half under Rita Round 2.

What's happening is that we are requiring, if there's an existing lien on the property requiring the lien holder to grant us permission to demolish the house and they also provide us -- they provide us with an agreement that says they won't sue us if we do something wrong.

MR. CONINE: Destroy the collateral.

MS. NEWSOM: Destroy their collateral.

MR. CONINE: There you go.

MS. NEWSOM: They can't collect it. Right?

MR. CONINE: Sorry old lien holders.

MS. NEWSOM: That's right. And we have been working towards educating the lending community about this. We've made some tweaks to our form and we've gotten some acceptance so we're hopeful that it will catch on and everyone will sign it. But there are about 70 houses in the pipeline that are held up because of the lien holder failure to provide us with a hold harmless agreement.

So we're asking that --

MR. CONINE: Can I ask a question?

MS. NEWSOM: Absolutely.

MR. CONINE: Are they held up by the concept or are they held up by the legal language?

MR. HAMBY: Yes.

MR. CONINE: That's about the clearest answer you've given.

MR. HAMBY: You phrased the question right for once. It's a little bit of both. The hold harmless, of course, under Texas law we can't

destroy their collateral or else we're taking the risk that we'd have to repay the entire first lien holders collateral if they came after us. That's obviously something we don't want to you.

And in addition to that, because of the way that loans are done today, you frequently have services. You have --

MR. CONINE: Secures it.

MR. HAMBY: -- the second seller and then the actual person who has the lien still listed on the property. And so we also ask for some indemnification language which is the legal language that's made them nervous. We've agreed to modify that to say that we're not asking you to indemnify us against everything; we asking for the indemnification for anybody in your stream. And so some of it is just --

MR. CONINE: What would be the average size loan on these 70 that you're looking at?

MR. HAMBY: 30,000 or less. I mean, the houses we're tearing down are not -- I mean, they're probably overloaned as it is. And we're actually building them back \$85,000 of collateral.

MR. CONINE: Yes. But I wouldn't be as worried about it if it was only one or two, but 70 people not getting a chance to rebuild their home bothers me.

MR. HAMBY: Well, it does indeed, and that's why we've come forward. But the problem is, we do take on the risk entirely for the collateral or for the lien if we tear down their home and somebody objects. Actually, we probably --

MR. CONINE: You know where I'm heading with this.

MR. HAMBY: I know exactly where you're heading and it's a two-to-three-million dollar decision.

MR. CONINE: Right.

MR. HAMBY: That's the reason it's here is because we can certainly do that. It was one of those things we originally discussed a little bit about whether or not we should send something out and provide notice. And in my opinion if you're going to send out the notice and you're not going to wait for it to come back, it's better just to ignore the whole thing and move on and take the risk, if you want to make that, again, two-to-three-million dollar decision because HUD won't pay us for those. And so we'll be taking it out of Housing Trust Fund.

MR. CONINE: Right.

MR. HAMBY: Or out of federal money.

MR. CONINE: Well, I was going to suggest you go buy the notes, too, but I mean, it's --

MR. HAMBY: Well, we could also do that but I don't think we're looking to be the lenders on these. Most of them are going to be home equity loans. They're going to have to transfer across if they borrowed and in a home equity they had some sort of line of credit or they did something cross-collateralized with a car, or something like that that they have a lien on it. And so that's where we're going to end up with those issues.

I will say that in the past week or so they've been feeding me people who have not signed. And we've been able to walk them through it by

talking to their counsels.

MR. CONINE: Are they names we'd all recognize probably or are they --

MR. HAMBY: City -- and a lot of them are small banks, you know, that this is not something they do because a lot of them are CRA-type loans because they were in lower-income areas and so they've done them as part of their CRA issues.

MR. CONINE: That makes me even madder.

MR. HAMBY: Well, I -- part of it is just working the list to the extend that we can but it's one of those risk decisions, risk-reward decisions, if we -- we probably shouldn't go in and destroy somebody's collateral when they've given us notice that they have rights to it. But at the same time, it's either going to pour these people out of the program or we're going to have to just basically spend time milking it.

MR. CONINE: Got it.

Any further questions of the counsel?

MS. BINGHAM-ESCARREÑO: Can I just get an idea? Seventy out of how many, the 400-and-something, or 70 -- what's the denominator?

MR. CONINE: 3,000 applications through the --
Don?

MR. ATWELL: Actually, about 30 percent of the homes end up needing the hold harmless agreement. The average time to resolve it is 47 days right now. That's a little bit skewed longer that it should be because we've had some that have been there since day one. So it probably takes

about 30 days to resolve these on average and about 30 percent of the applicants are affected.

VOICE: Don, that's --

MR. ATWELL: Correct. We have -- right now, there's three I believe that have just said, no, we're not going to go forward. They typically get resolved; it just takes quite a while.

MR. CONINE: It's a lot of -- yes, it's high maintenance. Lawyers can be high maintenance, you know.

VOICE: But they're okay people, too.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray.

MS. RAY: I have discussion on that item.

MR. CONINE: Okay.

MS. RAY: I am opposed to -- well, it's not arbitrary, but for any reason, excluding an eligible homeowner from having their home repaired. We're in the business of providing housing for low-income Texans. Since the collateral that we would be providing would exceed the cost of the loan, I would rather lean toward seeing TDHCA accept the risk, recognize it's going to be a small percentage than even considering throwing homes out of the program under any circumstances.

MR. HAMBY: Ms. Ray, Kevin Hamby again. I think the issue there is that even if we rebuild the collateral, unless they agree to it, it doesn't take the place of their collateral.

MS. RAY: I see.

MR. HAMBY: And so whenever somebody goes and checks, it might not be their record, and somebody else may loan money on that same house so that they couldn't do it for what? -- three years? Is that what our block is. Three years. And so you end up where you've destroyed the other person's collateral. And so it doesn't necessarily transfer that way unless they agree to it.

MS. RAY: In your recommendation it says, in the alternative TDHCA could forgo obtaining leases and accept the risk that -- do you have comment on that?

MR. HAMBY: That is the two-to-three-million dollar option we're talking about that is --

MR. CONINE: I think that's what she's suggesting.

MS. RAY: I'm suggesting that we take the risk.

MR. HAMBY: And you can do that. I don't know how much litigation we'd get out of that at all. I can't tell you that because, you know, (a) half these people probably don't even know they have the collateral and that's probably some of the delay. You know, they probably have purchased other banks and they didn't even know they had these loans still. You know, some of these services [inaudible] goes to a different area.

And that's one of the things we find in a lot of our programs. So there may not be any risk there at all. It just -- as an attorney it goes against your instincts to ignore somebody's properly filed liens.

MR. CONINE: And another attorney behind you.

MS. RAY: Whom I can't wait to hear from.

MR. IRVINE: Tim Irvine, chief of staff, regrettably, also an attorney. If we don't remember these homes what we're going to have is a lender who's out there with destroyed collateral anyway, a Texas who has no safe, decent place to live, and money that we still need to get out under Rita Round 2. So I think it's very important to look honestly at what the result would be if we continue to hold the line and require these releases and indemnifications.

I do agree with Kevin that's it's probably better if you're not going to be getting these releases and indemnifications, not even to ask for them in the first place. But I just think it's good, prudent business to ask for them, and if the lender doesn't provide some response within some reasonable time, I think at some point you need to say, All right, do we want staff to proceed or do we want to just say, Let's right this one off and move on to the next one.

MR. HAMBY: Mr. Atwell just reminded me. There's a lot of these are personal liens so they're family members who have loaned or something that aren't signing.

MR. CONINE: Really?

MR. HAMBY: That's what I understand. And so they're not -- some of the more difficult ones are not banks that we're getting. We've had some of those but so in that case they're more likely to have an issue with it.

MS. RAY: Uh-huh.

MR. HAMBY: That they'd be more like to -- because it's personal to them. So I don't know how that factors into the mix, but it's --

MR. GANN: Mr. Chairman, I am curious to know what do you think of the individuals that are apparently paying these notes, what is going to be their mind set when that house is torn down, and they think they don't owe any money on the house any longer?

MR. HAMBY: Well, of course, we tell them that they are still going to -- everything else is the same. Everything is required to be paid. I mean, we certainly don't indicate at all that they shouldn't repay. But of course, human nature is human nature.

MR. GANN: But that would facilitate some of those problems, though.

MR. HAMBY: It would.

MR. CONINE: We have an appraisal process somewhere in the middle of all of this, in the existing --

MR. HAMBY: We still require the amount of damage to rehabilitate so it is a cap on how much we are going to -- I don't believe we have an appraisal itself. It is the amount of damage that we are going to rehabilitate. That is the only appraisal that we have.

MS. RAY: Mr. Chairman, as I read the staff recommendation, it looks like the staff, the staff gave us two alternatives. Remove the people from the program, if we can't get the hold harmless lien from the valid lien holder. Or in the alternative, TDHCA could forgo obtaining releases and accept the risk. My motion is to accept the recommendation that says in the alternative, TDHCA could forgo obtaining releases and accept the risk.

MR. CONINE: That is a motion. Is there a second?

(No response.)

MR. CONINE: I will second it. Any further discussion?

MS. BINGHAM-ESCARREÑO: Just a question. So that is across the board forgo obtaining the releases, or do as Mr. Irvine suggested and continue to make the ask.

MS. RAY: I am not saying -- my motion, to clarify my motion is to go through the actions of ask. If you cannot get the hold harmless agreement --

MR. CONINE: How many days?

MS. RAY: Within 60 days.

MR. CONINE: Is that a fair number?

MS. RAY: Within 60 days.

MR. CONINE: Okay.

MS. RAY: Then we will accept the risk. I really believe in the long term that there is going to be very little risk out there, since the collateral is going to be much more than the original collateral. And I think that our legal ramifications are going to be very limited. And it also supports providing safe, habitable housing for Texans.

MR. CONINE: Let me ask one more question. The lienholder here, would we ever have or do you know of one of the 70 cases or so that you have got where the amount of the lien would exceed the value of the new home that was being put on the ground?

MR. ATWELL: Don Atwell. No, sir. I am not aware of any, but I can check. But I am not aware of any.

MR. CONINE: You know, that is a subjective decision again. But if that were the case, I might have an issue, relative to that. But if they are all 30,000 or \$40,000 or whatever you are putting a 75 to \$100,000 house on the ground, I can't imagine anybody would have a problem with that.

MR. HAMBY: The only caution I would have on this is basically, if you make this as a policy, I don't know why we would bother to send out the liens, because I don't think anybody would sign one, from that point forward. I mean, it is, because --

MR. CONINE: Well, they are not sitting in the room, listening right now.

MR. HAMBY: Yes. That gets around pretty quickly. Whenever, just like anything else we do. Whenever you give somebody an out, that they don't have to commit anything --

MR. CONINE: But Kevin, I would still rather have the -- try to get the document, because 90 percent of them are going to sign it and send it back. Okay. There is a motion. It has been seconded. 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: The motion carries.

MS. NEWSOM: Three H is to determine how the remaining funds from the Sabine Pass set-aside should be addressed, and to consider an amendment to the State of Texas action plan for CDBG disaster recovery to allow a reimbursement compensation program. Under Rita II, there was a \$12 million set-aside for Sabine Pass that allowed us to rehabilitate, reconstruct or to elevate homes to a desired height.

And there is about \$5 million of uncommitted funds currently. And we would like to have one last call to those that need assistance to do -- put that in place. And to provide funds to those that have already been reconstructed or rehabbed, to harden their homes against future storm events such as adding storm shutters, on windows of the elevated homes, which could mitigate future storm damage and to also go back to those residents that had already provided funds to rehab their homes at their own expense to go back to them if they are income eligible and reimburse them for that expense.

That reimbursement would have us -- would require us to go to HUD for approval and preliminary visits with HUD. They don't seem to have any opposition to that.

MR. GERBER: This approach is consistent with the Governor's directive to spend \$12 million in Sabine Pass, working towards the restoration of that unique community that was so hard hit.

MS. NEWSOM: Correct.

MR. GERBER: For us to keep those dollars there.

MR. CONINE: Yes. But I am having a hard time grappling with the person three counties over that isn't going to get help because we ran out

of money. You know, and here, we are just trying to burn \$5 million in a way that may or may not be -- it certainly isn't going to change any new lives by spending this five million in this particular way. I am really having a hard time with that.

MR. GERBER: I think the intent, Mr. Conine, would be --

MR. CONINE: I heard you say the word Governor too, but I am still having a hard time with it.

MR. GERBER: I think the -- there are a lot of -- it is a poor community. There are a lot of needs there. And I think the intent is to try to address more of those needs. I don't know that at the end of the day that we are going to be able to fully spend \$12 million there.

And I agree with you that the goal should not be to spend \$12 million on useless things. But I think there are other things that staff is trying to get at, that we can do to help harden -- for example, our houses, the houses that we built, we had two on the ground, I think, in Sabine Pass. They -- Don, correct me if I am wrong -- but those held up. Those were two success stories in Sabine Pass.

There may be other things that we can do to help harden homes and give that community a better chance at being viable when the next storm comes. It is just a unique community on this little barrier island. Well, it is not a barrier island, but it kind of juts out there. And it is just extremely vulnerable.

MS. NEWSOM: What has happened, we have elevated these houses twelve to 14 feet in the air, there is not a porch around all of it. So

there is -- someone would have to hang from a rope to put a storm window up, on three sides of these houses. And we have got elderly residents that have voiced concerns that they can't do that. So it was a suggestion from the community that they be allowed, or we be allowed to expend funds to provide things like shutters for those windows.

MR. GERBER: Mr. Chairman, would it be helpful if we were to come back at the June meeting with some more specific details of what exact -- with a more detailed list of what we would --

MR. CONINE: Yes. We need to have some more conversations about this one.

MR. GERBER: We will table this one.

MR. CONINE: Can I get a move to table until the next meeting.

MS. RAY: So moved, Mr. Chairman.

MR. GANN: Second.

MR. CONINE: A motion and a second. Any further discussion?

(No response.)

MR. CONINE: Well, there is no discussion. All those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Thank you.

MS. NEWSOM: The last one. On February 5th, the Board meeting, the staff presented an update to the disaster recovery funds for Ike and Dolly, and requested the Board's approval to forward a draft, forward and

drafting a Notice of Funding Availability for the \$58 million of multifamily rental funds. We held two round tables to discuss with the stakeholders, and received input. And we have drafted a NOFA that is ready for you to approve, so we can get out.

MR. CONINE: I have a witness affirmation form here from Mr. Robert Onion. In the spirit of old home week.

MR. ONION: Good afternoon. Robert Onion, Odyssey Residential. What I wanted to draw your attention to is on page 2, under number two, the allocation of CDBG funds, paragraph a. And I think what we have is too many affordable in there. If you will read, it says that these recovery funds have been set aside solely for affordable rental housing activities to restore the affordable housing rental stock that was damaged, depleted or destroyed.

As I read that, that would mean that these funds would only be available for apartments that were affordable prior to or when they were damaged. And I don't believe that that was the intent. That it is supposed to be for multifamily property. And so if you eliminate affordable next to housing rental stock, that that would allow a regular multifamily property to utilize these funds and then become affordable.

MR. CONINE: Okay. Any questions of the witness?

(No response.)

MR. CONINE: Staff response?

MS. NEWSOM: Yes. We were just --

MR. GERBER: Take out one affordable?

MS. NEWSOM: Take out affordable?

MR. CONINE: The first affordable, right?

MS. NEWSOM: The first affordable.

MR. CONINE: Okay.

MS. NEWSOM: On page 2. The second affordable. I am sorry.

MR. CONINE: The second affordable.

MS. NEWSOM: Right.

MR. CONINE: Excuse me.

MS. NEWSOM: Affordable rental housing activities to restore the -- take that affordable housing rental stock. There is another issue that we need to take care of. And I -- keep going? It is in 9A, the last paragraph.

We have made this a first come first served rather than a competitive process for the applications. So about halfway down that last paragraph, or that first paragraph on page 7, if you have the same copy I do, we need to remove language that says, then for competitive applications under the NOFA, five points shall be deducted from the selection criteria score, and on to the end of that sentence.

MR. CONINE: Okay. Two changes in the NOFA. Any further discussion?

(No response.)

MR. CONINE: Or do I hear a motion?

MS. BINGHAM-ESCARREÑO: Move to approve with those two changes noted.

MS. RAY: Second.

MR. CONINE: Motion by Ms. Bingham, and a 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: The motion carries. Item 4.

MR. GERBER: Item 4, Cameron Dorsey.

MR. DORSEY: Hi. Cameron Dorsey, acting HOME programs manager. Mr. Chair, Board members, Item 4A is HOME awards. At the April 23, 2008 Board meeting, the Board approved applications for all of the remaining funds that were available under the 2008 single family NOFA. Under this NOFA, just a 28,373,445 in project and administrative funds were awarded to 81 viable applications since December 18, 2008. These funds will be used to assist 591 households access safe, decent and affordable housing.

At the time of the April Board meeting, one application for the City of Charlotte, application number 2008-0159 was pending an application termination appeal. The application from the City of Charlotte was terminated on April 8, due to a failure to provide match in accordance with the NOFA's threshold requirement. On April 15, 2009, the applicant appealed this decision

to the executive director due to the language in the NOFA being unclear regarding whether the provision of match was a threshold requirement or just one of the options with which the threshold score could be attained.

On May 1, 2009, the executive director granted the applicant's appeal, due to the fact that this application was in process of appealing the termination, it was not included in the award recommendations for the April 23 Board meeting. Therefore staff recommends that this application be awarded \$375,000 in project funds and \$15,000 in administrative funds under the Owner Occupied Housing Assistance Program, and the Department will utilize funds from the declined and/or deobligated funds to fund this application fully.

The City of Charlotte proposes to assist five households whose incomes are at or below 30 percent of area median income as defined by HUD. Staff recommends that the Board approve an award for the City of Charlotte as detailed in the Board book. If we do it this way, obviously, we would break this item into two pieces.

MR. CONINE: Okay. Do you want to go ahead and handle this one now, is that what you are saying?

MR. DORSEY: Yes. We can, or I can move on and we can do all of the recommendations at once.

MR. CONINE: Let's go ahead and do it now.

MS. RAY: Mr. Chairman, I move staff's recommendation to consider the City of Charlotte.

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

MR. GANN: Second.

MR. CONINE: Second my Mr. Gann. 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: The motion carries.

MR. DORSEY: Okay. Next, under the same item are awards from the persons with disabilities NOFA. On September 4, 2008, the Board approved the Notice of Funding Availability for the housing programs for persons with disabilities which made available 1.5 million. This open cycle NOFA makes funds available to applications on a first come first served basis until May 29, 2009, which is obviously just in about eight days.

To date, three applications totaling 766,301 in project funds and 45,979 in administrative funds have been received under the tenant based rental assistance program. One application has been terminated, and two applications, totaling \$600,000 in project funds and \$36,000 in administrative funds are being recommended for funding today, which results in assistance for 73 households.

The persons with disabilities tenant based rental assistance program provides eligible households with rental subsidies, including security and utility deposits for a period not to exceed 24 months. Tenants must earn 80 percent of AMI or less, participate in a self-sufficiency program, and meet

all program eligibility requirements. Additionally, 90 percent of the households assisted with respect to TBRA units must have incomes at or below 60 percent of AMFI.

The applications have been reviewed by the compliance and asset oversight Division and no issues of material noncompliance, unresolved audit findings, or questioned or disallowed costs have been identified. If the NOFA recommendation is approved, sorry. If the award recommendation is approved, a total of \$900,000 in funds will remain in the NOFA and available until May 29. Staff recommends that the Board approve awards for Community Partnership for the Homeless, and San Antonio Metropolitan Ministry as detailed in the Board book.

MR. CONINE: Do I hear a motion?

MR. GANN: I move.

MR. CONINE: Motion by Mr. Gann.

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. 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: The motion carries.

MR. DORSEY: All right. Item 4B is Housing Trust Fund

program award recommendations. A Notice of Funding Availability for \$1 million for the 2009 Texas Veterans Housing Support program was approved by the Board on December 18, 2008. Consistent with the 2009 Housing Trust Fund annual plan. The NOFA allows applications for funding on a statewide, first come first served basis, and established a submission deadline of May 1, 2009.

The Department received four applications requesting a total of \$959,995 in project funds, and \$40,000 in administrative funds funding, for a total of \$999,995 of funds requested; just \$5 short of what the NOFA was for. On April 23, 2009, the Board approved awards totaling 499,995, leaving \$500,005 available. If the application being considered today is awarded, the recommended \$250,000 in Housing Trust Funds, \$250,005 in funds will remain available under the NOFA.

MR. CONINE: Do I hear a motion?

MS. BINGHAM-ESCARREÑO: So moved.

MR. CONINE: Sorry to cut you off.

MR. GANN: Second.

MR. DORSEY: That is all right.

MR. CONINE: Moved by Ms. Bingham, seconded by Mr. Gann.

Any further discussion?

(No response.)

MR. CONINE: All those in favor, say aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. DORSEY: Okay. I have got the Rental Production Program awards.

MR. CONINE: All right.

MR. DORSEY: A Notice of Funding Availability for 2,594,000 for rental production was approved by the Board in September of 2008. The NOFA allows applications for funding on a statewide first come first served basis and establishes a deadline, and established a deadline of April 6, 2009.

The Department currently has six applications, totaling 1,535,000. Two of these applications for \$1 million are being recommended today. One of these applications, for Meadow Park Village was tabled by the Board at the April 23, 2009 Board meeting due to the applicant's concerns that the loan terms would not be viable.

The chief concern was that the interest rate of 5 percent as recommended by staff could not be supported by the properties operations and that only a zero percent interest rate and some loan forgiveness would be necessary. After additional evaluation, the underwriting report continues to indicate that the applicant's expenses of \$6,051 per unit are substantially higher than should be expected of a comparable tax exempt property in this market, and thus, staff continues to recommend the repayment at 5 percent.

Should the Board choose to accept that the applicant's operations will not allow repayment at the recommended terms, staff recommends that the Board consider a \$500,000 loan structured with a 26

year amortization and term which is consistent with the existing first lien, and a zero percent interest rate. This structure would allow for full principal repayment over the same remaining term on the first lien debt.

Additionally, based on the applicant's pro forma, this structure would result in a DCR, debt coverage ratio of 1.12, which is slightly below the Department's established minimum of 1.15. However, using the underwriters pro forma, it would yield a debt coverage ratio of 1.59, which is higher than the Department's maximum of 1.35.

We can take that one -- there may be some public comment on that one. Or I can finish off this item. There is a second development that is being recommended.

MR. CONINE: There is public comment. Ray Lucas.

MR. LUCAS: I really just wanted to know if you wanted some info about the project. My name is Ray Lucas, representing Housing and Community Services. Would you like some information about the project?

MR. CONINE: Yes. I mean, I have got -- you are signed up to speak, and someone granted you some time, so you have got five minutes to tell us whatever you would like to tell us.

MR. LUCAS: Okay. Mr. Chairman, staff, Gil Piet, the Executive Director of Housing and Community Services out of town, so I drew the short straw, and I am filling in for him. This project went through mark-to-market, this 36 unit project. It is 100 percent Section 8.

When HUD goes through the mark-to-market program, they pretty much structure the way they want the property to operate; what the

expenses are going to be, what the reserve for replacement is going to be. What the new debt service is going to be. And then expect the owner to operate that property in accordance with that restructuring. Following that restructuring results in a limited amount of cash flow to service, debt service.

And so that is how we have ended up with our analysis of what the property can service. I don't find fault with what the staff is doing, as far as their models of how they see properties to operate. Our problem is that with HUD, they have a spec with this particular property, they have an operating scenario that they have approved as part of the mark-to-market.

Somebody once said, what is the skin in the game on this. Last year, out of \$336,000 worth of rental income, 230,000 was subsidy that HUD was providing to the residents of that property. If you take that over 26 years, that is going to be 5.8 million that HUD is going to provide to the residents of that property, to operate in accordance with how they want it operated. They also wrote off about \$900,000 or assigned that to housing, if housing would come in and take the property, at the time the property was acquired. And then originated a new loan for repairs of \$685,000.

When they do these mark-to-markets, sometimes there is a shortfall. And they will ask the new owner, do you want to take the property, knowing there is a shortfall in overall repairs that need to be done. And do you have the capability to go find additional funds? And that is why we are in front of you today, is to plug that gap on repairs, that the property needed.

The alternative solution that the staff has come up with, is workable for us. We think it is workable for HUD too. We will have to get

HUD's approval on this, once it is approved by the Board.

The original underwriting analysis, I am certain would not be acceptable to HUD, because of their mark-to-market restructuring plan, because it has got 100 percent Section 8 on the property, more than 50 percent of the residents are at 30 and below. The rest are at 50 and below. That is why we are able to offer 40 percent of the residents at 40 below and 60 percent of the residents at 50 and below, as far as income restriction. Let's see if there is anything I missed. No. Is there any questions?

MR. CONINE: Any questions of the witness?

MS. RAY: What I understood you to say as you were winding down your comments, that you were in favor of the staff's recommendation pending approval by HUD. Is that what I understood you to say?

MR. LUCAS: Right. The alternative recommendation that they made.

MS. RAY: Right. Okay.

MR. LUCAS: I thought they did a really good job with that, personally.

MS. RAY: Given that, Mr. Chairman, is there another comment?

MR. CONINE: Yes. I have a question of Cameron. The original recommendation of the 5 percent interest on the NOTE was recommended by staff after reviewing it a second time.

MR. DORSEY: Uh-huh.

MR. CONINE: Why would staff say that the expenses that you

lay out in the report here would directly violate the HUD mark-to-market contract. Did you have the advantage of looking at that?

MR. DORSEY: Well, we don't have the mark-to-market contract that say they have to operate the property this way. We don't have the benefit of that. I think it is --

MR. CONINE: Why don't we?

MR. DORSEY: I am not sure that they have a contract that says they -- they have to get approval for how they change the operations. I think the problem is that they would have to go get approval for the debt to come in with a 5 percent interest rate, and the speculation is that there is no way HUD would agree to that.

MR. CONINE: So it seems --

MR. DORSEY: They like that it operates with high expenses, because it allows the property to provide supportive services.

MR. CONINE: So then it would seem to me that we would submit it with the 5 percent, and then get something back in writing from them at that point, that says we can't do it this way.

MR. DORSEY: We can certainly pursue it that way. The alternative that we propose could have gone that direction, as well. I mean, from staff's perspective, the property should be able to operate at a much lower expense level, and that is the reason for staff's recommendation. And we can certainly bring it back to the Board if you all wish, once we know that HUD has formally denied accepting a 5 percent interest rate on the second lien, Housing Trust Fund loan.

MR. CONINE: Mr. Lucas, your comment?

MR. LUCAS: Yes. When they do a mark-to-market restructuring, they do a very extensive operating model of how they want the property operated, starting with you know, problems they saw with the property and how it operated in the past. And then every expense item on how you are going to operated it, and then a 30 year pro forma with all of these different categories. And what is left after debt service.

Each year, the management company has to respond to OHAP, the one that administers that program, as the variances between how the property has operated, you know, those particular line items. And so if they were to operate differently, they would have to get approval from HUD in order to do it. And given the detail that they have done, the mark-to-market plan, and the fact that this work that we are doing isn't going to change where we could say, this is going to make it more efficient because of this particular or that particular thing is the problem we are facing.

MR. CONINE: But again, the problem I have is that you are not just a little bit over, you are way over. And I am not so sure that HUD doesn't need a little bit of a push back here, if that is the case. And this would be a method to flush it out, from where I am standing. Because I am looking at your expenses versus what TDHCA, staff has recommended, which is still fairly high in the industry. I mean, 4,800 units, pretty high in the industry. But it is a small project, 36 units, and I kind of understand why. But --

MR. LUCAS: Again, going back to the amount of money HUD is putting into this, their position will be that that is what they are paying for is

that level of service to the project. I had the opportunity to bump into the head of OHAP the other day, and I mentioned this project to him. And he said he would be glad to get involved if they need to. But they were just going to be looking at their model, and what is available. You know, at the bottom of that --

MR. CONINE: But for HUD to exceed industry standards by 50 percent is a little -- it is interesting to me.

MR. LUCAS: I would be glad to send you the model, so you could see it.

MR. CONINE: Well, staff needs something in their hands. They don't -- they obviously --

MR. LUCAS: I have offered to send it. I have actually send sections of the model to them, so they could see these particular -- it is a really big spreadsheet with many worksheets in it. So I have sent them the worksheets that were applicable for this. It actually shows those operations . Actually, most of the mark-to-markets that they do at 50 units and below have this level of expenses associated with them.

MR. CONINE: Well, in '07, '06, you were at 166,000. And in '07, you were at 195,000. And you say it is going to be 217, and we are saying it should be 175. And that is a significant different to me.

MR. LUCAS: Some of the problems in that earlier years was they had a staffing problem at the property, once they got through mark-to-market. And so the inability to find quality maintenance folks on those properties that caused that drop in the expenses.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you. Do I hear a motion? Or I guess, are you finished with your comments?

MR. DORSEY: Yes. We can take this property and then we can do the next one as a separate, since there might be a dichotomy.

MR. CONINE: Okay.

MS. BINGHAM-ESCARREÑO: Sir, just one more.

MR. CONINE: Sure.

MS. BINGHAM-ESCARREÑO: Sir, is time of the essence, or is it worth tabling for you to get the documentation?

MR. DORSEY: I am not sure that we are going to get the documentation that we need. You know, staff's recommendation comes from the perspective that we simply can't justify recommending a really low interest loan to support a property that is operating at a level that we would consider inefficient.

MR. CONINE: This is kind of like cooking spaghetti and throwing it on a wall, and see if it is ready or not.

MS. RAY: It sticks, right.

MR. CONINE: I would recommend, let's do what staff has recommended to do and if you get negative feedback from HUD, and you get more documentation, bring it back to us. We can modify it later on. Can I get a motion?

MS. BINGHAM-ESCARREÑO: All right. I can make that motion.

Motion staff's original recommendation to the 5 percent interest.

MR. CONINE: Motion by Ms. Bingham.

MS. RAY: Second.

MR. CONINE: And seconded by Ms. Ray.

MS. RAY: Yes.

MR. CONINE: Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All right. Let's take a five minute break, please.

(Whereupon, a short recess was taken.)

MR. CONINE: Sorry to interrupt you during your presentation, but Nature called.

MR. DORSEY: No worries.

MR. CONINE: We can now hear you a whole lot more clearer.

MR. DORSEY: Great. We have one last development, or application to award under the Housing Trust Fund awards, which is Item 4B. The second development recommended for funding is the Willows Apartments. That is a recommendation of a \$500,000 award. We only have \$300,000 left in that NOFA.

So staff is recommending that \$200,000 of the available balance under the Housing Trust Fund be utilized to fully fund that application. It is Housing Trust Fund only transaction. Staff recommends approval of that

application.

MR. CONINE: Okay. Do I hear a motion?

MS. RAY: So moved. Mr. Chairman, I move staff's recommendation.

MR. CONINE: Motion by Ms. Ray.

MS. BINGHAM-ESCARREÑO: 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: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. DORSEY: Great. Under Item 4C, we have three NOFAs for approval. The U.S. Department of Housing and Urban Development recently released the program year 2009 formula grant amounts for the Home Investment Partnership Program. The Department will receive 43,933,530 which reflects a 9.7 percent increase in funds from 2008. Staff currently anticipates receiving the 2009 funding approval and grant agreement from HUD within the next several days.

And in order to expedite release of these funds, staff is presenting these NOFAs to you today. Each NOFA is recommended for

approval subject to execution of that grant agreement.

The first NOFA is for 25,923,970. It is our single family NOFA, which includes the Owner Occupied Housing Assistance Program, Tenant Based Rental Assistance Program, and Homeowner Assistance Program.

The second NOFA is for rental housing development and it includes set asides for just general rental housing development which is \$5 million, and available for non-profits or for profits. It can be layered with 9 percent credits or 4 percent credits. We also have a set aside specifically for CHDO rental housing development. And that amount is \$5,590,030 and we have \$1 million set aside for persons with disabilities.

The third NOFA is \$1 million from the 2009 HOME funding for Colonia Model Subdivision Program which is combined with \$2 million from previous years that had been set aside. All of these NOFAs are being, were developed in accordance with the 2009 consolidated plan that the -- the annual action plan that the Board approved last November. And I can go into more detail if you all have questions. Staff recommends approval of all three NOFAs.

MR. CONINE: Any questions of Mr. Dorsey? If not, I will entertain a motion.

MS. RAY: Mr. Chairman, I move staff's recommendation on all of the NOFAs.

MR. CONINE: Ms. Ray moves.

MR. GANN: Second.

MR. CONINE: Mr. Gann seconds. 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: The motion carries. Thank you, Cameron. Go on to Item 5A. Mr. Irvine.

MR. IRVINE: It relates to the replacement of DEPFA as a liquidity facility with the controller of the currency. And Matt Poger, Director of Bond Finance will present this item.

MR. POGER: Good afternoon, Board members.

MR. CONINE: Good afternoon.

MR. POGER: Matt Poger, Director of Bond Finance. Board, Chair. Item 5A is presentation, discussion and approval of Resolution 09-040, authorizing the Department to enter into a substitute liquidity facility provided by the Comptroller of Public Accounts of the State of Texas. For the 2004 Series A junior lien, the 2004 Series B, the 2004 Series D, the 2005 Series A, and the 2005 Series C single family variable rate mortgage revenue bond, and approving amendments to their supplemental indentures, approving reoffering documents, cancelling bond and swap insurance, and the amendments to swap agreements were applicable along with changes to the remarking agent of the 2005 Series C single family variable rate bond, and amendments to the 2004 Series D single family variable rate mortgage revenue remarketing agreement.

The Board approved replacing one of our two liquidity providers DEPFA with the Comptroller of Public Accounts of the State of Texas. And on March 12 of 2009, and on March 26 of 2009, that transaction was very successful. Staff is now requesting approval of terms of substitute liquidity facility to be provided by the Comptroller of Public Accounts of the State of Texas to replace standby purchase agreements with our second liquidity provider, Dexia totaling \$189 million.

With the approval of this resolution, TDHCA anticipates the remaining Dexia bank bonds to be remarketed on June 17, 2009, and remarking rate with the Comptroller as liquidity provider will be much improved. This resolution also addresses approving amendments to the supplemental indenture, approving reoffering documents, cancelling bond and swap insurance and amendments to the swap agreements where applicable, along with the change in remarketing agents for the 2005 Series C, single family variable rate mortgage, taxable mortgage revenue bond, and amendments to the 2004 Series D single family variable rate mortgage revenue remarketing agreement. Staff is recommending approval of Resolution 09-040, Item 5A.

MR. CONINE: Okay. Thank you. Matt, any questions? Have you run this by our bond counsel, and is she okay with all of this?

MR. POGER: Yes, she is.

MR. CONINE: That is good. I am glad to hear that. Do I hear a motion?

MS. BINGHAM-ESCARREÑO: Move to approve.

MR. GANN: Second.

MR. CONINE: Motion to approve by Ms. Bingham. Second by Mr. Gann. 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: The motion carries.

MR. POGER: Thank you.

MR. CONINE: Five B.

MR. POGER: Item 5B. Presentation, discussion and approval of statewide monetization of the first time home buyer tax credit under the American Recovery and Reinvestment Act of 2009, authorizing the Department to utilize a portion of the Supplemental Bond Contingency Reserve Fund to provide statewide down payment assistance to eligible first time home buyers.

In an effort to help Texas families take advantage of the tremendous opportunity made available by recent Congressional action, and to help them overcome the obstacles of saving up for a down payment, staff is proposing a statewide down payment assistance program utilizing up to \$5 million in Supplemental Bond Contingency Reserve Fund. Down payment assistance would be provided in the form of a second lien repayable loan. The

funds would be available only on qualified purchases made by December 1, 2009 to eligible buyers borrowers on a first come first served basis.

Since the Department has limited funds available to set aside for this purpose, and to serve the maximum number of consumers with the greatest benefit, a structure that results in borrowers repaying the Department as promptly as possible will enable the Department to reuse rapid funds or repayment funds enabling other Texans to take advantage of this beneficial program. To this end, TDHCA is proposing to provide second lien loans up to a maximum of \$7,000 to assist in covering down payment assistance and closing costs.

A \$250 administrative fee will be charged to ensure the maximum number of consumers take advantage of the program, borrowers will be given an incentive to repay the loan assistance by offering zero percent interest for the first 90 days. Additionally, program materials would be provided, as a clear, easy to follow guidance and to help the consumer obtain these credits so that they may be repaid very quickly.

In order for families to take advantage of the program, repay the Department, borrowers must be eligible to claim the federal first time home buyer tax credit and may do so by completing an IRS Form 5405 and filing an amendment to the 2008 IRS tax return. Tax returns are generally processed within eight to twelve weeks, and will give the borrower sufficient time to repay the TDHCA down payment assistance loan and take advantage of the early repayment incentive.

As payoffs are received, TDHCA will recycle these funds in the

program. If the down payment assistance loan is not paid in full within 90 days, a loan term will be two years with a 10 percent interest rate. Using this scenario, a homebuyer purchasing a \$120,000 home would have a second lien mortgage of approximately \$323 per month.

The program is intended to allow for the consumers to take advantage of this recent legislative change by receiving a short term loan in conjunction with any first time loan, enabling them to access this credit in a manner that will be used to as a down payment assistance, thereby making home ownership possible. Staff is recommending approval of Item 5B.

MR. CONINE: Okay. Any questions?

MR. GANN: Move approval.

MR. CONINE: Motion to approve by Mr. Gann. Is there a second?

MS. BINGHAM-ESCARREÑO: Second.

MR. CONINE: Second by Ms. Bingham. 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: The motion carries.

MR. POGER: Thank you. Item 6A. Looks like Robbye is up.

MR. CONINE: Uh, oh. Time out. I forgot to call on somebody who wanted to speak on Item 5B. Steven Harris, are you still here?

(No response.)

MR. CONINE: He is gone. Okay.

MS. MEYER: Mr. Chairman, Board. Item 6A is the amendments for the Housing Tax Credit Program. The first item is Lakeside Senior Community. You heard this amendment last month. I am sure you will remember it well. This amendment was brought before you in April.

However, the owner had received numerous complaints, and we also heard a letter from Representative Crownover that was read at the Board meeting, which asked the Board to delay that amendment for further investigation under those accusations for the complaints of the tenants. The amendment requested involved the delivery of fewer restricted units than was originally proposed.

The owner cited a number of additional features that were built that were not originally proposed. Those additional features included granite countertops in the kitchen, wall mounted granite shelves over the pedestal sinks in the bathrooms, enclosed spa, dual flush toilets, tile walk-in showers, tankless recirculating water heaters, decorative concert pull deck, faux wood blinds, card control access into the club house, irrigation system for landscaping and 126 additional parking spaces.

The final sizes of the units were built larger than originally proposed, and the total net rentable area actually built was 12,000 square feet larger than originally proposed. Staff from the Compliance Division did

reinspect the property on May 1, at the Board's request, and the owner was present on that day of inspection and is actively working with the residents, as well as the Department to resolve the tenant's concerns as well as the deficiencies in the inspection report.

Those deficiencies are due on July 3, to the Department. Staff is recommending the approval of the request, because of the reduction in the units, would not have impacted the original decision, any allocation of credits. In addition, the extra amenities, and the increased net rentable area provides some measurable compensation for the reduction in the two units.

Staff further recommends the issuance of the IRS forms 8609 to be held until all issues of the development are corrected to the satisfaction of the Department. Staff recommends the assessment of appropriate penalties because the request is being made after the implementation of the amendment.

MR. CONINE: Okay. I have two witness affirmation forms on this item. First is George Kay, I believe.

MR. KAY: Hello. Good evening.

MR. CONINE: Good evening.

MR. KAY: My name is George Kay.

MR. CONINE: Good afternoon, I hope, still.

MR. KAY: I am from Corinne, Texas.

MR. CONINE: Yes.

MR. KAY: I have a few things here.

(Pause.)

MR. KAY: There are several physical problems with the Trails of Sanger, another property owned by Richard Shaw. The property is also a tax credit property. I have previous expressed my concern.

MR. CONINE: Hang on just a second.

MR. KAY: Yes, sir.

MR. CONINE: Did you just start talking about a totally separate property than the one we are discussing here?

MR. KAY: Yes, sir.

MR. CONINE: Well, you can't do that.

MR. KAY: Okay.

MR. CONINE: It is not on the agenda.

MR. KAY: Yes, sir.

MR. CONINE: So you just need to, whatever comments you have, if you can keep them pertaining to either this project or Mr. Shaw, that would be helpful.

MR. KAY: Yes, sir. The only thing is, I found that Ms. Crownover had wrote a letter.

MR. CONINE: Uh-huh.

MR. KAY: With the concerns about the Lakeside Manor Property.

MR. CONINE: Uh-huh.

MR. KAY: And I am a previous employee of the Trails of Sanger.

MR. CONINE: Okay.

MR. KAY: And we have had the exact same, a lot of the same problems with that property as what is going on with the Lakeside Manor. And I thought that it would pertain to this.

MR. CONINE: We just want to hear about Lakeside Manor.

MR. KAY: Okay. Well, I don't know anything about that property.

MR. CONINE: Okay. Then I will have to ask you to sit down.

Thank you.

MR. KAY: Thank you.

MR. CONINE: Richard Shaw.

MR. SHAW: Good afternoon, Mr. Chairman.

MR. CONINE: Good afternoon.

MR. SHAW: Board. I am Richard Shaw with Outreach Housing. And I am really amazed at some goings on. You know, frankly, I have been in this business, as most of you know, for many years. And I invite you, any of you, Kent, I would be happy to take you on a tour of that property or any property, any day of the week.

We have one particular tenant at the Lakeside Property who apparently, if he has a problem, instead of calling the office to get it repaired, he calls Myra Crownover. And how he knows her, I don't know. We have met with her on a couple of occasions at the site.

I have personally gone out there and toured the property with her. She seemed very happy with everything, when we took her around there. The only question that kept coming up was the commodes.

I guess I made an error when I built that property. I decided to put in low water consumption, dual flush commodes, which cost us a lot more, as you folks know, than putting in regular commodes. We have some 220 odd commodes on the property.

Since that property was opened, we have had work orders in nine instances on commodes. Five of them were improper things flushed down them. Two of them, the commodes were actually faulty, and we replaced the commodes. One instance, we had a sewer line that had some concrete during construction that got into it, which we remedied.

The rest of it, the other couple were just very minor little things that are normal things that were taken care of within a day or so. I have here, a signed affidavit from every resident on that property, as of about two weeks ago, stating that they don't have, nor have they had problems with their commodes. I would be glad to let you have them.

You know, I don't know why Myra Crownover has been so involved in this property. It is a nice property. We have had a few problems with our handicapped access, which we are getting taken care of. We have that resident there, who thinks that he runs the property. I mean, he has actually gone out and put up railings along walkways on his own, that were -- we have had to take down, because they are liable to us. If someone got hurt, we would have a problem.

MR. CONINE: Richard, about how long ago was it that you took Ms. Crownover to the site, to the project.

MR. SHAW: Oh, gosh. It was close to about -- right after the

first of the year.

MR. CONINE: Okay.

MR. SHAW: And I have not heard a word from her, since then.

MR. CONINE: Okay.

MR. SHAW: You know, this gentleman who just came here, it is amazing to me that he knows of Myra Crownover. He worked at a property in Sanger, Texas, which is not even in her district. He never was on that Lakeside property.

And it seems that she is going around trying to find things wrong all over. He was terminated for non-performance on the property he was on. And if he would have done his job, and corrected the things that he was given a list to correct, as opposed to minding everyone else's business, maybe the things would have gotten repaired better that needed to get repaired. And I don't know how he knows anything about the Lakeside property; he was never there.

All I can say is, those of you who know me, know that we are going to do anything that it takes to have a first class property for people to live. If we make mistakes in construction, we will correct it. I write the checks, and I pay for it. You know, we are not infallible. I am glad to answer any questions.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your testimony.

MR. SHAW: Thank you.

MR. CONINE: Staff has made a recommendation. Any -- do I hear a motion?

MS. BINGHAM-ESCARREÑO: I will move staff's recommendation and an assessment of one point penalty.

MR. CONINE: Ms. Bingham makes a motion. Do I hear a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. 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: The motion carries.

MS. MEYER: Mr. Chairman, Board, the next one is Chateau Village, 08-195. This owner is requesting to be released from a condition of the commitment notice that was requiring the development cost certification, provide evidence of the receipt of a 50 percent tax abatement for the Harris County Central Appraisal District. Staff is recommending the approval of the amendment.

MR. CONINE: Do I hear a motion?

MS. BINGHAM-ESCARREÑO: So moved.

MR. CONINE: Is there a second?

MR. GANN: Second.

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

(No response.)

MR. CONINE: All those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. MEYER: Mr. Chairman, 6B is a discussion of Housing Tax Credit appeals. And we have none of those for this month. So we will move on to Item 6C.

(Simultaneous discussion.)

MS. RAY: How did that happen?

MS. MEYER: Presentation, discussion and possible action regarding 2008 forward commitments for tax credits. Mr. Conine and Board, at the November meeting, the Board awarded forward commitments of 2009 funds to all of the remaining applications on the 2009 waiting list, subject to the applicants ability to close the financing on the transaction by May 15 of 2009.

Applicants are not required -- they are required to provide documentation of the closing. They are not required to provide documentation of the closing until June 1, though several have indicated to staff that they have closed. We have one, two, three, four that I know of that have closed. One that I know that hasn't. And we have seven that are pending.

MR. CONINE: How many?

MS. MEYER: Seven.

MR. CONINE: So there are seven left over.

MS. MEYER: There are seven that I don't know of. There are several here in the audience, so they can probably verify for you whether they have or not.

MR. CONINE: But as far as your records are concerned, there are seven projects left over.

MS. MEYER: That we do not know.

MR. CONINE: Okay. All right.

MS. MEYER: All have requested extensions, with the exception of one, in the past.

MR. CONINE: Now you have got me confused.

MS. MEYER: Okay. They all requested extensions.

MR. CONINE: How many is the total universe? Was it 18?

MS. MEYER: Twelve.

MR. CONINE: Twelve.

MS. MEYER: Originally, it was 22, but they have slowly fallen off.

MR. CONINE: Okay. So we have got twelve left.

MS. MEYER: We have twelve remaining.

MR. CONINE: And you think five of them have closed.

MS. MEYER: We have four that I know closed, one that I know hasn't. And then we have seven that I am not sure of.

MR. CONINE: Oh, that you hadn't heard about. Okay. All

right.

MS. MEYER: Correct.

MR. CONINE: Great. Okay.

MS. MEYER: Staff delayed the issuance of the commitment notice until all of the underwriting reports were complete and all of the commitment notices could be released at the same time, thereby keeping all of the applicants on the same playing field and the same time line. All of the commitment notices, with the exception of two were sent to the applicants on March 31.

The expiration of the commitment notices was April 10. Applicants were required to meet the conditions set forth in the commitment notice and pay all of the fees. All of the applicants that were recommended for funding have accepted and returned their commitment notices, and paid their fees, though several have requested extensions, and all of them have, with the exception of Oasis at the Park which is an appeal that is pending this afternoon, staff is not making any recommendation on a blanket extension for these.

MR. CONINE: Okay. But as we heard earlier, the TCAP submission deadline was what, July 17.

MS. MEYER: The 17th.

MR. CONINE: Okay. All right. I do have a couple of folks that would like to visit with us. Ike Monty.

MR. MONTY: Mr. Chairman and Board, just respectfully requesting, of the afternoon is long, that we be granted an extension based on

the turbulence in the market. We have spent obviously a lot of money keeping these deals alive, and in these economic times, we would appreciate you all granting us the chance to fight another day.

MR. CONINE: How much time do you think you need to get it closed?

MR. MONTY: I would say that realistically, December. Based on what we have heard today, it sounds like December 31 of this year is about the right time. Because by then, you should know what kind of funding you have received, either on the TCAP or the exchange funds. I wasn't prepared to answer the question, but that is kind of the --

MR. CONINE: I wasn't prepared to ask it, either. Any other questions of the witness?

MR. MONTY: Thank you very much.

MR. CONINE: Thank you. Scott Marks.

MR. MARKS: Hello. My name is Scott Marks. I am with the Coates, Rose Law Firm. And I am speaking with you today about the Huntington forward commitment.

MR. CONINE: We get everybody but Barry Palmer today. We didn't get Tony, I guess. Tony is not here. Okay. Go ahead.

MR. MARKS: So, I am talking today about the Huntington which is a forward commitment. And this is a transaction that has significant investor appetite. You know, we have an investor identified, and a developer with a really strong track record. We can get this closed, but it needs some additional time.

First, let me just talk briefly about the developer, Mark Musemeche. He has successfully developed 13 tax credit developments. And one of those is the Tuscany Park at Buda, which is right next door to the one that he is developing with this forward commitment. That has been completed. It is 20 percent leased up in the first month. Gardens at Sienna was an '08 transaction. We closed that in the past month. There was a strong investor appetite for that transaction and for his development product.

And there have been some infrastructure delays. Mr. Mismeche has spent more than \$100,000 on pre-development expenses. The land seller has built roads and utilities to the property which have now been completed. And of course, the main reason that we were asking for the additional time is the drop in credit pricing from the high 70s at the time of application to the high 60s now.

And so this property really needs to go in, and have an opportunity to access the TCAP program to fill a fairly small gap. And then it will be able to close.

MR. CONINE: Okay. Any other questions of the witness?

(No response.)

MR. CONINE: Thank you. Noor Jooma.

MR. JOOMA: Good afternoon, Chairman and members of the Board. I am one of those that has a deadline for May 15, and I would like to ask for an extension. I got my commitment on April 27, and I have paid all my dues. So I would like to be part of that extension, if any granted by the Board.

MR. CONINE: Okay. Any questions of the witness?

(No response.)

MR. CONINE: Thank you. Staff, where did Robbye go? There you are. If the Board were willing to grant -- be willing to grant an extension to these, how much time do you think they need, in order to go through the process, as you currently envision it? Give me a recommendation of what date you would set?

MS. MEYER: We were just arguing about that. If you put them on the same time frame as all of the '09s, then you would need to put them on with a commitment with '09 round. So whenever we send out commitments with the rest of the '09s, then that would be late August. But you are looking at the fallout with all of the '09s.

MR. CONINE: Right.

MS. MEYER: These, you made a decision that they needed to move forward.

MR. CONINE: Right.

MS. MEYER: You know, so it is --

MR. CONINE: We have additional facts and programs and money and everything else since then, though.

MS. MEYER: That being the case, then would say in all fairness, then you would put them on the same track as all of the other '09s, and treat them as an '09 application. So that would be whenever we do commitments, which is usually, those commitments go out about a week to ten days after we make awards at the end of July. And so they come in ten days after we send out the commitments. So usually, the last week of August is

when that would -- those commitments would all be due.

MR. CONINE: But have they not all sent back in their commitments?

MS. MEYER: They have all sent in their commitments.

MR. CONINE: Yes.

MS. MEYER: But then you would know what all the fallout is for '09.

MR. CONINE: Right.

MS. MEYER: So you would know what that universe, that complete universe would be.

MR. CONINE: So if I said something like September 30, you would be okay with that? Does that give you enough time?

MS. MEYER: Yes. You would know what that fallout is.

MR. GOURIS: Are they eligible for TCAP?

MR. CONINE: Excuse me?

MR. GOURIS: Are they eligible for the TCAP?

MR. CONINE: Would they be eligible for TCAP. Is that the question? I would say they would. Just off the top of my head.

MS. MEYER: Well, the question is, are they eligible for the --

MR. CONINE: We can't determine the exchange, because we haven't -- we are waiting on a few other things to happen.

MS. MEYER: It wouldn't be the '07 or '08 TCAP. It would be the second round.

MR. GOURIS: So then, setting it with a date that is consistent

with the TCAP deadline or a TCAP award date, anticipated award date might be the right deadline for that.

MR. CONINE: Well, you are going to know by July 17 whether they want it or not.

MR. GOURIS: Right. And we will know, hopefully we will bring awards to you by the September 3rd meeting.

MR. CONINE: Right.

MR. GOURIS: If you don't, you could consider extending their date again from that point.

MR. CONINE: I would say September 30th is a pretty good date. Do I hear a motion?

Ms. Ray?

MS. RAY: Mr. Chairman, I move that the May 15 date be extended to September the 30th.

MR. CONINE: Do I hear a second?

MS. BINGHAM-ESCARREÑO: 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: All opposed?

(No response.)

MR. CONINE: The motion carries. We are on Item 7A. Ms. Robbye.

MS. MEYER: Mr. Conine and Board, the Department issued tax exempt bonds for the acquisition and rehabilitation of Center Ridge Apartments in 2006. The property is located in Duncanville, containing 224 units, and the rent roll as of April 10, 2009, indicates the property is 87 percent occupied.

Under the bond documents, the reimbursement agreement between the owner and Fannie Mae indicated the termination date of the agreement to credit-enhance the bonds was October of 2008. October 1, of 2008, and it was subject to one six-month extension to April 1, 2009, which was granted. Fannie Mae provided for one additional six-month extension, which would take the termination date through September 1, of 2009, with another extension allowed, if requested.

However, the current [inaudible] lender on the transaction, Greystone Servicing Corporation, notified the borrower in March 2009 that they are unwilling to continue to participate in the transaction and provided limited insight to the borrower on the justification. To avoid redemption, the current construction phase, credit facility provider, Columbus Bank Trust Company will purchase the bonds in lieu of redemption. They have agreed to purchase and hold the bonds until October 3, 2009.

On or before October 3, 2009, the borrower will seek to refinance and or refund the issuance with a new dust lender to ensure the credit enhancement. The first supplement to the indenture proposes that that

the monthly interest payments be made to the trustee, to the bond holder. While the bonds are being held by Columbus Bank and Trust Company, the definition of interest payment date would be modified from May 1 to November 1 each year, beginning November 1, 2006 on monthly payments as of April 1, 2009.

Staff is recommending the Board approval of the amendment as stated in the first supplement to the trust indenture for Center Ridge Apartments, Series 2006.

MR. CONINE: Any questions? Motion for approval by Mr. Gann. Is there a second?

MS. BINGHAM-ESCARREÑO: Second.

MR. CONINE: Second by Ms. Bingham. 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: The motion carries. Item 8A. Grant Stewart. Where is Grant?

MR. GOURIS: Guess what. You get me again.

MR. CONINE: Is he back working?

MR. GOURIS: He is.

MR. CONINE: Okay.

MR. GOURIS: I hadn't had enough time up here today, so I figured -- Tom Gouris, Deputy Executive Director for Housing.

MR. CONINE: You don't want us to vote on that, do you?

MR. GOURIS: Please no.

MR. CONINE: Okay. Go ahead.

MR. GOURIS: Chairman and Board members, Item 8A is a presentation, discussion and possible action for a 2008 competitive housing tax credit underwriting appeals. This is from last fall's forward commitments. The following appeal was from last November.

All of the other 2008 applications have been underwritten in accordance with the 2008 QAP and real estate analysis rules. Additionally, all applications were underwritten with information contained in the original application and updated syndication commitment letters that were submitted by each applicant by December 1, 2008.

This transaction has to do with Oasis at the Park, it is not being recommended for funding, due to the fact that the underwriters expense to income ratio exceeds the Department's 65 percent per unit expense to income ratio per the 2008 real estate rules and guidelines.

MR. CONINE: By how much? Just to save me from looking it up. But I will look it up if you force me to. Is it a penny over? Is it a dollar over?

MR. GOURIS: No. It is pretty significant.

MR. CONINE: Okay.

MR. GOURIS: We are at 84 percent; they are 89 percent.

MR. CONINE: Okay.

MR. GOURIS: Part of the reason is because they --

MR. CONINE: This is the SRO that Mr. Marquez spoke to us about earlier, today.

MR. GOURIS: Right. And they have a portion of supportive housing funds, but not the entire amount of supportive housing funds. So they do not meet the exemption for the 65 percent expense to income ratio. That is required under Section 132(i)(7)(B)(iv).

Additionally, the subject application was submitted as an adaptive reuse development, and proposes to convert an existing warehouse facility into supportive housing development. The Real Estate Analysis Division's ability to underwrite the construction costs associated with this type of development relies heavily on information provided by the applicant, that is supported by design and engineering consultants.

Without some level of detailed plans and specifications however, deriving an adequate cost assumption, an estimate is difficult if not impossible for the applicants, consultants or for their area staff. Staff reviewed the application beginning in July of 2008 and since this time, has requested on several occasions additional information necessary to complete the underwriting analysis. Including the voucher commitments relating to long term viability and the PCA for the cost estimates.

On April 29, 2009, the applicant submitted an appeal to the underwriting recommendation and requested that staff continue to evaluate the

application without denial until the issues for which the application is not recommended could be worked out. We spent a year trying to work out these issues, and we have not been able to get the information to be able to do that.

The applicant did not contest that the development did not satisfy Department's feasibility requirements. Rather, the applicant has just requested additional time to gather information previously requested and required in the application. Staff doesn't recommend the appeal.

MR. CONINE: Okay. I have no other witness affirmation -- tell me. What is the problem in getting you the information you need?

MR. GOURIS: Well --

MR. CONINE: I am not sure I understand this.

MR. GOURIS: First off, he wasn't sure what -- he wasn't clear on what he was going to do. And second off, he doesn't have all of the financing, all of the voucher financing he needs to make the deal work. He has a portion of it, and the rest, he thinks he will get two years hence. So he is not ever going to be able to comply with that, to get out of the 65 percent expense to income ratio.

As far as the construction costs, we are still trying to move forward on that issue, and in essence, he doesn't have a really a good set of plans, or even a reasonable set of plans to have an expectation of what the costs would be. His original costs came in. We compared them to what it would cost to build it new.

And then he came back with -- we asked him for a PCA. He

came back with -- they came back with PCA costs that were like, a million dollars less. And then he came back with another PCA estimate that was a million dollars more than his original costs. So there is this huge range of costs that it could be.

Now he is in the process, because he has gotten the city funds, to actually do the architectural work that he needs to do to figure out what the real costs of the project are going to be. And certainly, that is a great thing for him to do. And once he gets that accomplished, it would be a great time for him to apply for the tax credit program or whatever other funding source he might want to apply for from the Department.

But in the meantime, we are going to be holding off, and practically speaking, he is going to be looking at an exchange project for funding for this transaction. It just really wasn't put together when he applied for it last year, and but for the grace of God and the ability to get a forward commitment, it is still alive.

MR. CONINE: But he doesn't have an '09 application in this round, does he?

MR. GOURIS: I don't believe so.

MR. CONINE: This project hadn't been resubmitted for '09.

MR. GOURIS: I don't believe so. But if legislation passes, and he has got his stuff together, and he applies for exchange funds, and he is eligible to apply for exchange funds, you know he --

MR. CONINE: He has still got the other problems of high expenses.

MR. GOURIS: Well, he does. But he can, if his plan is to continue to work with us to get those resolved, he will have time on his own time, instead of holding up -- what this does is, it holds up a piece of funds, tax credit funds for this deal, instead of the next deal this year, that is looking for funds in Corpus.

So his competitors were here earlier. And they have deals that they want to see get done in Corpus.

MR. CONINE: Right. Any other questions of the witness?

(No response.)

MR. CONINE: On the one hand, I have empathy for the fact that it is an SRO. The City has finally gotten on board. It is you know -- it always takes way too long with David. But he is slowly getting there. And if we knock him out, he is out of luck.

If we grant him an extension, he at least has got a shot at it. But we are robbing from the other folks who are in line in that particular region. So that is -- you wanted to say something?

MR. GOURIS: Might I just add one bit of information? We have been holding folks accountable this year to transactions that are materially incomplete. And those that have been materially incomplete, we have sent terminations on.

They have had the opportunity to correct those things and/or actually not -- they have been terminated, and then they have come back and corrected those things. When they haven't corrected all of those things, that we have held firm to the termination, and the Board has held on terminations

for '09 transactions with far less things missing. This transaction has far more things missing, and would have been terminated as an '09 application.

MR. GERBER: We have been extremely liberal in trying to work with folks.

MR. GANN: Mr. Chairman, I recommend we deny.

MR. CONINE: Motion to deny. Is there a second?

MS. BINGHAM-ESCARREÑO: Second.

MR. CONINE: Second by Ms. Bingham. 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: The motion carries. Mr. Gerber, Executive Director's report. Tell us about the world of affordable housing.

MR. GERBER: Well, a couple of items in the back of your Board book for your review, I would commend to you. Beyond that, there is not really a whole lot to report beyond what you already know. So we have been here all day. I would suggest we adjourn until June 25.

MR. CONINE: We stand adjourned. Thank you.

(Whereupon, the meeting was concluded at 3:20 p.m.)

CERTIFICATE

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: May 21, 2009

I do hereby certify that the foregoing pages, numbers 1 through 166, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy King before the Texas Department of Housing & Community Affairs.

5/27/2009
(Transcriber) (Date)

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