

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

November 10, 2016  
9:17 a.m.

MEMBERS:

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

TIMOTHY K. IRVINE, Executive Director

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER	8
ROLL CALL	
CERTIFICATION OF QUORUM	
CONSENT AGENDA	
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS: EXECUTIVE	9
a) Board Meeting Minutes summaries for the meetings of August 25, 2016, and September 8, 2016	
LEGAL	
b) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning The Landing Apartments (HTC 060416, CMTS 4419)	
c) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Second Adams Corporation (HTC 94018, CMTS 1217)	
d) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Second North Corporation (HTC 94001, CMTS 1201)	
e) Presentation, Discussion and Possible adoption of a Corrected Agreed Final Order concerning Missouri Street Residence (HTC 93143 / CTMS 1177), correcting technical errors in an Agreed Final Order approved by the Board at its meeting of October 13, 2016	
HOUSING RESOURCE CENTER	
f) Presentation, Discussion, and Possible Action on the draft 2017 State of Texas Consolidated Plan: One-Year Action Plan	
COMMUNITY AFFAIRS	
g) Presentation, Discussion and Possible Action on the 2017 Section 8 Payments Standards for the Housing Choice Voucher Program ("HCVP")	

- h) Presentation, Discussion, and Possible Action to adopt a resolution regarding Designating Signature Authority and superseding previous resolutions in this regard

#### ASSET MANAGEMENT

- I) Presentation, Discussion and Possible Action regarding Material Amendments to the Housing Tax Credit Land Use Restriction Agreement
  - 95039 Dayton Park Apartments Dayton
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  - 11405 Buckeye Trail Commons II Dallas
  - 14209 Riverside Village Rio Hondo
  - 14226 Art at Bratton's Edge Austin
  - 15071 Residences at Abbingtion Hill of Brownsboro Brownsboro
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  - 15241 Trails of Brady Brady
- k) Presentation, Discussion, and Possible Action regarding Amendments to HOME Direct Loan Terms
  - 1001576 Trails at Carmel Creek Hutto
- l) Presentation, Discussion and Possible Action regarding Placed in Service Deadline Extensions
  - 14087 Cypress Creek at Joshua Station Joshua
  - 14113 Avenue Terraces Houston
  - 14145 Glenwood Trails II Deer Park
  - 14148 Greens at Brentford Mission Bend
  - 14291 Cypress Creek at Wayside Houston
  - 14292 Cypress Creek at Parker Boulevard Royse City

#### MULTIFAMILY FINANCE

- m) Presentation, Discussion, and Possible Action on Determination Notice for Housing Tax Credits with another Issuer
  - 16433 Housing First Oaks Springs Austin
  - 16439 People's El Shaddai Village Dallas
  - 16440 St. James Manor Dallas
  - 16443 Villages at Fiskville Austin

- n) Presentation, Discussion, and Possible Action on the Re-issuance of Determination Notice for Housing Tax Credits with another Issuer  
15409 Pleasant Hill Village Apartments  
Houston

#### BOND FINANCE

- o) Presentation, Discussion, and Possible Action on Resolution No. 17-007 Granting Preliminary Authorization for the Issuance, Sale, and Delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2017 Series A (Tax-Exempt) (the "2017A Bonds") and Single Family Mortgage Revenue Refunding Bonds, 2017 Series B (Tax-Exempt or Taxable) (the "2017B Bonds") and Authorizing the Selection of Underwriters for the 2017A Bonds and the 2017B Bonds
- p) Presentation, Discussion, and Possible Action regarding Resolution No. 17-008 authorizing application to the Texas Bond Review Board for reservation of the 2016 single family private activity bond authority carryforward from the Unencumbered State Ceiling

#### HOME AND HOMELESS PROGRAMS

- q) Presentation, Discussion, and Possible Action on Awards for the 2016 HOME Investment Partnerships Program ("HOME") Notice of Funding Availability ("NOFA") for Single Family Non-Development Programs

#### RULES

- r) Presentation, Discussion, and Possible Actions on: first, an order adopting the repeal of §10.614 (concerning Utility Allowances); and, second, an order adopting new §10.614 (concerning Utility Allowances) and directing that these be published in the *Texas Register*
- s) Presentation, Discussion, and Possible Action on an order adopting actions to 10 TAC Chapter 1, Administration, including the: 1) adopted repeal of §1.3, Delinquent Audits and Related Issues; 2) adopted repeal of §1.21, Action by Department if

- Outstanding Balance Exists; 3) adopted new §1.21, Action by Department if Outstanding Balance Exists; 4) adopted repeal of §1.302, Previous Participation Reviews for CSBG, LIHEAP, and WAP; 5) adopted repeal of §1.303, Previous Participation Reviews for Department Program Awards Not Covered by §1.301 or §1.302 of this Subchapter; 6) adopted new §1.302, Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter; and 7) adopted new Subchapter D, Uniform Guidance for Recipients of Federal and State Funds; and directing that they be published for adoption in the *Texas Register*
- t) Presentation, Discussion, and Possible Action on an order adopting actions to 10 TAC Chapter 2, Enforcement, including the: 1) adopted amendment in Subchapter A, General, of §2.102, Definitions; 2) adopted repeal of Subchapter B, Enforcement Regarding Community Affairs Contract Subrecipients; and 3) adopted new Subchapter B, Enforcement for Noncompliance with Program Requirements of Chapter 6; and directing that they be published for adoption in the *Texas Register*
- u) Presentation, Discussion, and Possible Action on an order adopting new 10 TAC Chapter 6, Community Affairs Programs: Subchapter A, General Provisions; Subchapter B, Community Services Block Grant ("CSBG"); Subchapter C, Comprehensive Energy Assistance Program ("CEAP"); Subchapter D, Weatherization Assistance Program ("WAP"), and directing that they be published for adoption in the *Texas Register*
- v) Presentation, Discussion, and Possible Action on an order adopting new 10 TAC Chapter 7, Homelessness Programs: Subchapter A, General Provisions; Subchapter B, Homeless Housing and Services Program ("HHSP"); and Subchapter C, Emergency Solutions Grant ("ESG"), and directing that they be published for adoption in the *Texas Register*

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- ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:
  - a) Report on the Department=s 4th Quarter Investment Report in accordance with the Public Funds Investment Act ("PFIA")
  - b) Report on the Department=s 4th Quarter Investment Report relating to funds held under Bond Trust Indentures
  - c) Report on the Section 811 Project Rental Assistance Program
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  - b) Presentation, Discussion, and Possible Action to adopt the 2017 Multifamily Programs Procedures Manual 102
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 16502 Freedoms Path at Kerrville  
 Kerrville

ITEM 6: RULES

- a) Presentation, Discussion, and Possible 178 Action on an order adopting the repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and an order adopting the new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and directing its publication in the *Texas Register*
  
- b) Presentation, Discussion, and Possible 140 Action on orders adopting the repeals of 10 TAC Chapter 10 Subchapter A, concerning General Information and Definitions; Subchapter B, concerning Site and Development Requirements and Restrictions; Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules; and Subchapter G, concerning Fee Schedule, Appeals, and Other Provisions; and orders adopting the new Subchapter A, concerning General Information and Definitions; Subchapter B, concerning Site and Development Requirements and Restrictions; Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules for Applications; and Subchapter G, concerning Fee Schedule, Appeals, and Other Provisions; and directing their publication in the *Texas Register*
  
- c) Presentation, Discussion, and Possible 197 Action on order adopting the repeal of 10 TAC Chapter 10 Subchapter D concerning Underwriting and Loan Policy and an order adopting new 10 TAC Chapter 10 Subchapter D concerning Underwriting and Loan Policy and directing its publication in the *Texas Register*

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS --

EXECUTIVE SESSION 125

OPEN SESSION 125

ADJOURN 207

P R O C E E D I N G S

1  
2 MR. OXER: Good morning, everyone. I'd like to  
3 welcome you to the November 10 meeting of the Texas  
4 Department of Housing and Community Affairs Governing  
5 Board.

6 We begin with roll call, as we do. Ms.  
7 Bingham?

8 MS. BINGHAM ESCAREÑO: Here.

9 MR. OXER: Mr. Chisum is not here today.

10 Mr. Gann?

11 MR. GANN: Here.

12 MR. OXER: Mr. Goodwin?

13 MR. GOODWIN: Here.

14 MR. OXER: Dr. Muñoz?

15 DR. MUÑOZ: Present.

16 MR. OXER: And I'm here, so that gives us a  
17 quorum, we're in business.

18 So today, in honor of today being the birthday  
19 of the United States Marine Corps in 1775, we're going to  
20 ask our Marine Corps Veteran, Dr. Muñoz, to lead us in the  
21 pledges.

22 (Whereupon, the Pledge of Allegiance and the  
23 Texas Allegiance were recited.)

24 DR. MUÑOZ: Semper fi.

25 MR. OXER: Have we got any guests here today,



1 Michael? Is Bobby here today? Hey, Bobby, you're here,  
2 good. Always glad to see notice taken from the Governor's  
3 Office. We seem to have attracted a lot of attention  
4 today.

5 MR. IRVINE: And there's also Tim Stostad from  
6 Senator Zaffirini's office.

7 MR. OXER: Tim Stostad. I take you'll be  
8 making comments here in a minute. Just recognize and say  
9 hi. Appreciate Senator Zaffirini's interest.

10 With that out of the way, let's get to work  
11 here. We've got a lot to do today. On the consent  
12 agenda, any Board member wish to pull any item from the  
13 consent?

14 (No response.)

15 MR. OXER: It looks like most of today's agenda  
16 is consent.

17 Stella, do you have something you want to say  
18 on the consent? Okay.

19 Anything to pull? Motion to consider?

20 MS. BINGHAM ESCAREÑO: Move to approve the  
21 consent agenda.

22 MR. OXER: Which item is it, Stella? Get to  
23 the mic. Good morning.

24 MS. RODRIGUEZ: Good morning.

25 MR. OXER: So far.

1 MS. RODRIGUEZ: It's just a compliment I want  
2 to give.

3 MR. OXER: Well, then say that right now.  
4 Let's get this started early and right. We've got 20 or  
5 30 minutes if you really want to talk about compliments.

6 (General laughter.)

7 MS. RODRIGUEZ: Greetings, Chairman Oxer,  
8 members of the Board, Mr. Irvine. For the record, my name  
9 is Stella Rodriguez with the Texas Association of  
10 Community Action Agencies.

11 On behalf of our network, I want to take this  
12 opportunity to say thank you to Brooke Boston and staff  
13 for listening to our network during the staff draft and  
14 the official public comment period of the rules pertaining  
15 to Chapter 6, Community Affairs. She and staff didn't  
16 just listen, but they questioned and sought input during  
17 the process. We believe the rules that you have before  
18 you are the result of teamwork benefitting our communities  
19 and our clients. Thank you.

20 MR. OXER: Good. We appreciate your comments.  
21 We're always anxious to hear the pluses. I'd like to  
22 think that we make more than the minimal effort to reach  
23 out to the community to engage comments, and we think that  
24 that improves the quality of the output of the agency as  
25 well.

1 MS. RODRIGUEZ: Absolutely. We appreciate it.

2 MR. OXER: Thanks for your comments.

3 Now we'll hear a motion to consider.

4 MS. BINGHAM ESCAREÑO: Move to approve the  
5 consent agenda.

6 MR. GOODWIN: Second.

7 MR. OXER: Motion by Ms. Bingham, second by Mr.  
8 Goodwin to approve the consent agenda. No request for  
9 public comment. Those in favor?

10 (A show of hands.)

11 MR. OXER: And opposed?

12 (No response.)

13 MR. OXER: There are none.

14 That gets us through the first two or three  
15 pages. Item 3, our first report item. Cathy.

16 MS. GUTIERREZ: Good morning. Cathy Gutierrez,  
17 Texas Homeownership Division director.

18 I'll follow up that compliment with some  
19 exciting news to share with you today on our Homeownership  
20 Division. Today we are again bringing to you the  
21 quarterly reports on activity in Texas Homeownership  
22 Division. The reports provided to you in your Board  
23 packet cover loan purchase activity through August 31.  
24 Today I wanted to give you an update on more recent  
25 activity and the activity that we have seen in the program

1 since the program change in master servicer.

2           During the September 8 Board meeting, Monica  
3 Galuski, our Bond Finance Division director, provided an  
4 update on the selection of master servicer for the  
5 Department's Single Family Mortgage Loan Purchase program.

6           On October 1, Idaho Housing and Finance Association began  
7 providing the services as master servicer for the My First  
8 Texas Home TMP-79 program. The Bond Finance Division and  
9 the Texas Homeownership Division staff had approximately  
10 five weeks to transition from the previous servicer, U.S.  
11 Bank, to our new servicer, Idaho HFA, and I'm happy to  
12 announce to you today and to provide you an update that  
13 the transition was a huge success. We had a lot of effort  
14 from our staff in making that transition a success, and it  
15 was very well received by our lender partners in the  
16 community, so we're happy to say that that's been done.

17           The change in master servicer allowed TDHCA to  
18 make modifications to the program which provided  
19 additional opportunities for low to moderate income first-  
20 time homebuyers. The Bond Finance team was able to  
21 consider the economic benefits that came along with the  
22 change in master servicer and apply additional savings to  
23 the borrower through lower interest rates and lower costs.

24           So as it relates to interest rates, I wanted to  
25 give you an update on where we are with that. Yesterday

1 we had our rate and we had, since the change in master  
2 servicer, interest rate at 3.625. We did see a slight  
3 increase in rates this morning, so we did have to increase  
4 that just a little bit, but with the 3.625 interest rate,  
5 borrowers were able to receive 4 percent of the loan  
6 amount to assist in meeting their down payment and closing  
7 cost needs. Several months ago, the loan structure would  
8 have been at least 50 to 100 basis points higher, or  
9 around 4.375 to 4-1/2 percent to cover all of our costs.

10 Today's lower rates translate to substantial  
11 savings for a first-time homebuyer, so when we're looking  
12 a 3.625 compared to maybe 4-3/8 to 4-1/2, you're looking  
13 about a \$75 savings in mortgage payment on \$150,000  
14 mortgage loan at today's rates, versus the previous rates  
15 or rates for similar options. \$75 quickly adds up.  
16 That's a huge savings for a first-time homebuyer that  
17 translates to \$900 on an annual basis, \$4,500 over a five-  
18 year period, and about \$9,000 over a ten-year period, so  
19 definitely some savings there.

20 In addition to lower rates and costs,  
21 programmatic changes were made with respect to program  
22 overlays. Under the previous master servicer structure,  
23 the minimum borrower FICO credit score requirement was 640  
24 with a one percent penalty against the loan amount for any  
25 loans with a FICO score between 640 and 660. In an effort

1 to continue to serve borrowers within the lower FICO  
2 range, the Department absorbed the one percent penalty  
3 which allowed these borrowers the ability to net the total  
4 amount of assistance under the program and not pay any  
5 additional costs. However, in order to make the program  
6 work, the overall interest rates for all borrowers would  
7 have to absorb that cost.

8 As master servicer, Idaho HFA has a lower  
9 minimum borrower FICO score, 620, with no additional  
10 penalty. This change has allowed the Department to  
11 continue to offer financing to underserved credit markets  
12 and expand the homeownership for those low to moderate  
13 income first-time homebuyers that meet the credit  
14 requirements of a standard mortgage loan product, such as  
15 an FHA loan, but could not access various down payment  
16 assistance programs due to the previous master servicer  
17 credit overlays. So a lot of the programs that are  
18 available here in the state were utilizing the services of  
19 U.S. Bank as master servicer and had the minimum 640 FICO  
20 requirement or overlay, and with the change in master  
21 servicer, it's given us the ability to lower the FICO  
22 score requirement.

23 Again, the reports presented to you today  
24 reflect purchase activity through August 31, 2016. The  
25 most recent loan activity, September through November,

1 will be reported on the next quarterly report. These  
2 reports are specific to closed purchase loans and do not  
3 reflect loan reservations. For a comparison of loan  
4 reservations over the last 12-month period through  
5 September 30, the daily loan reservations under the  
6 program average at approximately \$975,000.

7 MR. OXER: So we round it up to a million.

8 MS. GUTIERREZ: About a million a day. Right.

9 With an average FICO of 684. Since October 1, or the  
10 effective date of the master servicer, the daily loan  
11 reservation average has increased to approximately \$1.8  
12 million, with an average FICO of 675. It's a pretty  
13 significant increase in volume, about 61 percent increase,  
14 and we expect our average daily production to continue to  
15 grow. After a little more than 30 days, we are already  
16 seeing the results in the form of almost twice the dollar  
17 volume and slightly lower average borrower FICOs.

18 During the transition, the Homeownership  
19 Division staff and the loan acquisition lender on-boarding  
20 team with Idaho HFA, conducted five webinar trainings for  
21 our lender partners. Training participation exceeded our  
22 expectations. We had just short of a thousand  
23 participants in our trainings, which is quite a bit.  
24 Prior to the change in master servicer, TDHCA had  
25 approximately 100 approved lenders, with 25 of those

1 lenders responsible for about 90 percent of the program  
2 activity.

3 To be approved to originate under the revised  
4 program as of October 1, lenders were required to go  
5 through an approval process with Idaho HFA, which included  
6 reviewing audited financials, insurance policies, and  
7 licensing information, and complete the process with the  
8 execution of a mortgage loan purchase agreement. To date,  
9 approximately 61 lenders are approved with the new  
10 servicer, including all 25 that were responsible for the  
11 previous loan activity, the 90 percent of the previous  
12 loan activity.

13 The response and feedback from our lender  
14 partners has been overwhelmingly positive, as evidenced by  
15 the increase in loan originations since October 1, even  
16 with 40 percent smaller number of current approved  
17 lenders. But we are still working with lenders and still  
18 getting lenders approved and transitioned over to the new  
19 servicer.

20 A couple more things I want to mention.  
21 Homebuyer education continues to be a key and critical  
22 component of home buying and remains a requirement of the  
23 program for program participation. In addition to  
24 information received through a homebuyer education course,  
25 TDHCA and our new master servicer have created and



1 customized a welcome packet that is provided to each  
2 homebuyer after loan closing. The informational packet is  
3 designed to answer common questions about their home loan  
4 and help clarify the home mortgage process. Included in  
5 the packet is information on how, when and where to make  
6 their monthly mortgage payment, how to access a online  
7 borrower portal to make their payment, where to view  
8 account information such as loan balance, escrow balance,  
9 estimated property taxes and property insurance, tips on  
10 household budgeting which we think is really important, a  
11 glossary of loan terms and policies and information on who  
12 to contact if the borrower faces a hardship or  
13 circumstance that may result in some difficulty in making  
14 their mortgage payment.

15 An enhanced loan structure of lower interest  
16 rates, lower costs and expanded flexible underwriting  
17 requirements, combined with the streamlined simplified  
18 shorter purchase processing timeline and online tools and  
19 resources, make buying, selling and closing a home under  
20 the My First Texas Home program an efficient, affordable  
21 and sustainable option.

22 In closing, I would like to thank the Texas  
23 Homeownership Division, the Bond Finance Division, and our  
24 sister agency and new partner, Idaho HFA, for all the work  
25 put into making this transition such a success. I'd like

1 to extend our appreciation to all of our lender and  
2 realtor partners for their continued support of our  
3 programs and their patience during this transition, and  
4 most importantly, for bringing the dream of homeownership  
5 to Texans across the state.

6           Additionally, the Texas Homeownership Division  
7 is extremely thankful to you, our Board, and our executive  
8 team for the support of our homeownership programs. It is  
9 really exciting to be a part of a team and an agency that  
10 is so focused on our mission, and I do think we're doing  
11 great things here. The change has been welcomed, well  
12 received, as I mentioned, and we're excited about what's  
13 to come. So I'll leave that with any questions that you  
14 might have.

15           MR. OXER: Any questions from the Board, any  
16 comments from the Board? I have a couple, but go ahead.

17           MR. GANN: We really enjoy this kind of report,  
18 so appreciate it.

19           MR. OXER: Good news is always good news.

20           MS. GUTIERREZ: Good news is always good.

21           MR. OXER: So we made the transition, the  
22 Homeownership Division is a sparkling example of the  
23 agency's commitment to those that are a part of our client  
24 community. You've got people that are lower FICO scores  
25 but also not just offering this to them but offering them

1 that in the education to bring that FICO score up so they  
2 can score better on the next one.

3 MS. GUTIERREZ: Yes, sir.

4 MR. OXER: We have more money available, more  
5 houses available, and as evidenced by the uptake rate on  
6 this, the daily rate on this, there is a lot of need that  
7 we're apparently meeting.

8 MS. GUTIERREZ: Yes, sir.

9 MR. OXER: I don't hear anything bad in any of  
10 this, so congrats to you. I think the Board would join me  
11 in saying good job.

12 MS. GUTIERREZ: A lot of effort by both our  
13 Bond Finance team and our Homeownership team, partners,  
14 the agency executive team, everyone. So thank you.

15 MR. OXER: And pass along this Board's  
16 gratitude and thanks and appreciation to the board of the  
17 Idaho agency. They understand what we're up against, so  
18 as an agency providing that loan servicing, they see what  
19 we're up against and they have a different set, perhaps  
20 more subtle influences that they're responding to that  
21 makes it fit a little bit better.

22 MS. GUTIERREZ: It's a great partnership for  
23 sure.

24 MR. OXER: It is that. Thank you very much,  
25 Cathy. It's a great report.

1 MS. GUTIERREZ: Thank you.

2 MR. OXER: Tim.

3 MR. IRVINE: And let it never be forgot that  
4 when you peel out your General Appropriations Act, we are  
5 an economic development agency, and I think it's so  
6 wonderful that this particular engine is finding that  
7 final homeownership for something that's the result of  
8 development and investment and jobs, and it's just  
9 fantastic.

10 And I'd also like to say you, Cathy,  
11 individually deserve a tremendous amount of credit. I  
12 know you spend phenomenal amounts of time working these  
13 relationships with our lenders and with others and working  
14 closely with Monica to keep everybody informed and  
15 compliant and moving along crisply. So thank you.

16 MS. GUTIERREZ: Thank you.

17 MR. OXER: And thanks for that. And it's  
18 evident, my observation from up here and my involvement  
19 with the agency, it's evident that everybody seems to work  
20 together pretty well, we've got a pretty well oiled  
21 machine here. Happy with that. Nice ship you've got  
22 there, Captain.

23 MR. IRVINE: Thanks, Admiral.

24 MR. OXER: All right. Let's get to some hard  
25 parts here. Raquel.

1 MS. MORALES: Good morning, Chairman Oxeer,  
2 members of the Board. My name is Raquel Morales. I'm the  
3 director of the Asset Management Division.

4 The next item is item 4, which is presentation,  
5 discussion and possible action regarding a material  
6 application amendment for application number 15251, Case  
7 Verde. If you remember, this item was presented to you  
8 last month at the October 13 meeting but the application  
9 asked that the Board table any decision on the matter in  
10 order to provide additional consideration for staff's  
11 consideration.

12 Just as a quick recap, Casa Verde submitted a  
13 competitive tax credit application in 2015, they submitted  
14 under the at-risk set-aside and qualified as an at-risk  
15 location based on its status as a development proposing to  
16 demolish housing units that are owned by a public housing  
17 authority, in this case, the Laredo Housing Authority, and  
18 receive assistance under Section 9. The application for  
19 Casa Verde proposed to build 152 total units, of which 138  
20 of those would be relocated public housing units that were  
21 going to be demolished in an existing public housing  
22 development known as Russell Terrace. Additionally, 25  
23 percent of the new units at Casa Verde, or 38 units to be  
24 specific, were to retain public housing operating subsidy.

25 So last month staff presented the applicant's

1 amendment request and staff's recommendation at that time  
2 was to deny the amendment and we also recommended  
3 rescission of the tax credits based on the circumstances  
4 that changed with Russell Terrace, in particular, that HUD  
5 had not approved their demolition plan for the existing  
6 public housing development.

7 After the Board meeting, on October 20 the  
8 applicant submitted a revised amendment request, still  
9 seeking a waiver or amendment to replace the public  
10 housing operating subsidy for the 38 new units at Casa  
11 Verde with RAD financing, and the public housing authority  
12 also clarified its intent with Russell Terrace,  
13 specifically to demolish 100 units at that time. In  
14 subsequent correspondence with staff, they have now  
15 indicated that they will demolish 138 units -- that number  
16 has kind of been a moving target but I think we're at 138  
17 now.

18 Subsequent to that, in an email to me on the  
19 25th of October, they forwarded an email that they had  
20 received from HUD -- and I believe that's available on  
21 page 1224 of your Board book -- and in that email, HUD  
22 states -- I'm just going to read something from parts of  
23 that email from HUD: "Under the RAD program, a PHA has  
24 the flexibility to renovate an existing site or to  
25 demolish and build back onsite or offsite, subject to

1 further HUD review." The email from HUD goes on to state,  
2 as well, that: "HUD does not require that the PHA obtain  
3 approval at the time of application or award, instead,  
4 each PHA is allowed time to assemble an appropriate  
5 financing plan. So while the Laredo PHA does not yet have  
6 an approved financing plan to demolish 138 units, such  
7 authority would be granted if they presented a feasible  
8 financing plan."

9 The Board item was published in the Board book,  
10 it still recommended denial from staff of the application  
11 amendment, however, since posting of that recommendation,  
12 I understand the Department has had additional  
13 conversations with the applicant which has led the  
14 Department to reconsider its position on this matter,  
15 particularly that it would provide an affirmative  
16 recommendation on this amendment to allow it to move  
17 forward and to continue qualifying as an at-risk  
18 application, subject to the applicant making the following  
19 confirmations/commitments to the Board:

20 One, that 138 units would be demolished at  
21 Russell Terrace, which is what they told us originally in  
22 2015, so we're just asking them to keep to what they said  
23 they were going to do originally; two, that 138 units  
24 would be reconstructed at Casa Verde; three, that the new  
25 tax credit units at Casa Verde, that a portion of those

1 units, or 38 specifically, would retain public housing RAD  
2 financing as it's provided for in our rule; and also, that  
3 the applicant confirm today that they will receive all  
4 necessary HUD approvals to do what they want to do and  
5 move forward with their current position to demolish 138  
6 units, that they get all necessary HUD approvals, in  
7 particular, the HUD approved financing plan to do that  
8 demolition, and that the complete demolition of the 138  
9 units at Russell Terrace be carried out prior to  
10 submission of the cost certification for Casa Verde.

11 If the applicant can make those commitments to  
12 the Board today and confirm those items, then the  
13 Department would affirmatively recommend their request.

14 MR. OXER: List those again, please.

15 MS. MORALES: That they will demolish 138 units  
16 at Russell Terrace, which is what they said they were  
17 going to do originally; that they will reconstruct 138  
18 units at Casa Verde; that a portion of the units at Casa  
19 Verde, 38 units in particular, would retain RAD financing;  
20 and that they would receive all necessary HUD approvals to  
21 move forward with this plan with their current  
22 representation to us to demolish 138 units, and that the  
23 complete demolition of the 138 units be carried out before  
24 they submit cost certification for Casa Verde to the  
25 Department.



1 DR. MUÑOZ: I'm assuming that they're going to  
2 affirm what you've represented.

3 MS. MORALES: I believe they will. I talked to  
4 their counsel yesterday.

5 DR. MUÑOZ: But who will monitor this  
6 documentation that is to be received?

7 MS. MORALES: The Department, staff will.

8 DR. MUÑOZ: Okay. So at some point in time in  
9 the future.

10 MS. MORALES: Because the recommendation in the  
11 Board book still recommended denial, we can place some  
12 timing. I think that was discussed when we discussed this  
13 matter and the additional information they provided. If  
14 we can put a timing on when we want to get these HUD  
15 approvals, that would be easier for staff to monitor, if  
16 they could get the necessary HUD approved financing plan  
17 to demolish 138 units, as they represented, in 30 days.  
18 We're obviously still concerned with the timing, we're in  
19 November, this is a '15 deal, they have to place in  
20 service by the end of next year.

21 Last month, Mr. Doak Brown, who is a consultant  
22 with the Laredo Housing Authority, came up and spoke to  
23 the Board and said that they have no problem meeting that  
24 deadline. I spoke with Doak again yesterday, he provided  
25 me with an updated construction schedule that indicates

1 that they'll be able to meet that federal deadline.

2 DR. MUÑOZ: I'm comfortable with the due  
3 diligence that you're prepared to enact in order to assure  
4 the Board, the agency that these concessions that they're  
5 prepared to accept are completed and the original intent  
6 of the project is sort of fulfilled. Also, this to me  
7 strikes as a very elegant solution. Initially you say no;  
8 they say if we would do these things, you do our due  
9 diligence and reach a conclusion that yes, this is  
10 acceptable; and then you place deadlines when this  
11 information has to be in your office in order for you to  
12 be assuaged that everything is compliant and appropriate.  
13 I just want to recognize I think an important project  
14 shouldn't be threatened because some kind of understanding  
15 within reason can't be reached.

16 MR. OXER: Any questions?

17 (No response.)

18 MR. OXER: For everybody sitting there on the  
19 front row, which one of you can speak unilaterally for the  
20 project? I wanted an answer to that question, we're going  
21 to get there, but we want to know who we're talking to  
22 when we're talking.

23 MR. CEBALLOS: Jose Ceballos, with the Laredo  
24 Housing Authority. I'm the chair of the board of  
25 commissioners.

1 MR. OXER: Hold your point, just stand there  
2 for a second. Okay? You're the target right now. So  
3 given that that's the case, and Raquel, you're saying that  
4 if they say all those things, if he says yes, they'll do  
5 that and agrees to that list, then what you're  
6 recommending is that our motion would be to deny the staff  
7 recommendation which is currently to deny the approval or  
8 deny the amendment. Is that correct?

9 MS. MORALES: That's correct.

10 MR. OXER: Is everybody clear on that?

11 MR. IRVINE: Actually, I would clarify that. I  
12 think that the motion would be based on a revised staff  
13 recommendation to approve the amendment because the law  
14 requires that.

15 MR. OXER: That's why I was trying to make sure  
16 we get this right procedurally. That's why we have good  
17 lawyers up here, I've got to tell you.

18 DR. MUÑOZ: So Jose, if you deny or approve,  
19 either way, you win.

20 (General laughter.)

21 MR. OXER: It's an interpretation thing.

22 So Raquel, you're essentially amending, based  
23 on communication you've had since that. Is there any  
24 requirement that that be posted, or is this just an item  
25 to be considered, it can be modified?

1 MR. IRVINE: I think that the Board transcript  
2 will reflect the revised recommendation.

3 MR. ECCLES: It's still within the scope of the  
4 posting.

5 MR. OXER: I want to make sure that was clear.  
6 It's within the scope of the posting so we don't have any  
7 question of being able to modify the staff recommendation.

8 MR. ECCLES: The only point that I would bring  
9 up is this is an application amendment. What is being  
10 amended to say what?

11 MS. MORALES: At this point, if the applicant  
12 can confirm the items that I just stated, then the  
13 amendment would be to allow that 25 percent of the units,  
14 or 38, that the financing for those 38 units at Casa Verde  
15 go from being public housing operating subsidy to RAD.

16 MR. OXER: Okay. Go ahead, Beau.

17 MR. ECCLES: Well, my understanding of the  
18 amendment was also a shifting over to RAD.

19 MS. MORALES: Right. I just said that, they  
20 would go from public housing operating subsidy to RAD  
21 financing for the 38 units.

22 MR. ECCLES: Okay. But besides that, he  
23 application is essentially stating the same now that the  
24 138 units --

25 MS. MORALES: Right. If they could confirm the

1 items that I stated, the Department is stating that they  
2 are still qualified as an at-risk application and can move  
3 forward.

4 MR. ECCLES: And those conditions are  
5 essentially being added into the application itself.

6 MS. MORALES: Correct.

7 MR. OXER: What he's about to agree to, your  
8 points are an amendment to the actual application to do  
9 all the demo, the reconstruction, and move 38 to RAD.

10 MS. MORALES: Yes.

11 MR. ECCLES: Okay. That's what I wanted to  
12 clarify. Thank you.

13 MR. OXER: We're good on that legally,  
14 Counselor? Okay.

15 Just as an inquiry, you're prepared to say yes  
16 on all those.

17 MR. CEBALLOS: Yes, we're prepared to say yes.

18 MR. OXER: Given that that's the circumstances,  
19 under the modified staff recommendation for item 4 --

20 DR. MUÑOZ: Jose, you heard staff refer to  
21 trying to establish some timelines, some deadlines, and  
22 you're comfortable with that, we don't have to determine  
23 that right now, but you're comfortable with the spirit of  
24 meeting with staff and trying to establish some reasonable  
25 deadlines for documentation.

1 MR. CEBALLOS: Absolutely comfortable with it.

2 It may take us more than 30 days --

3 MR. OXER: Not deadlines, they're milestones.

4 MR. CEBALLOS: -- it may take us a little more  
5 than 30 days to get a finance plan back from HUD.

6 DR. MUÑOZ: You all will work that out.

7 MR. CEBALLOS: But we will work that out.

8 MR. OXER: It may take more than 30 but it  
9 shouldn't take 90.

10 MR. CEBALLOS: We'll do our best to come back  
11 quickly with the finance plan approval.

12 MR. IRVINE: If the Board believes that 90 days  
13 is an appropriate outside horizon, I would suggest that  
14 any motion include that 90 days to get that done.

15 MR. CEBALLOS: Rod Solomon is our consultant  
16 working directly with the HUD office. Rod, what are we  
17 looking at?

18 MR. OXER: Get on the mic, get on the record.

19 MS. BINGHAM ESCAREÑO: Do you want the motion?

20 MR. OXER: We haven't got one, we're soliciting  
21 input at this point to modify the motion.

22 MR. SOLOMON: First, thank you for getting us  
23 to this point so that we can have this discussion, staff  
24 as well as the Board.

25 MR. OXER: You've got to say who you are. We

1 know who you are but she's got to know who you are.

2 MR. SOLOMON: Rod Solomon, representing the  
3 Laredo Housing Authority.

4 I think that that time, having worked with HUD  
5 on many RAD transactions around the country, I think that  
6 timing is very tight.

7 DR. MUÑOZ: Ninety days?

8 MR. OXER: Thirty or ninety?

9 MR. SOLOMON: Ninety even is tight. I would  
10 hope that we could get six months; if we can't get six  
11 months, then whatever as close as you can give us. We  
12 have to formulate the plan, there are many HUD  
13 submissions, HUD has to agree to the plan, and of course,  
14 I'm trying to give the Laredo Housing Authority  
15 flexibility, but I would hope that however much  
16 flexibility the Board can fathom. We're going to comply  
17 with everything but I think we need some time given that  
18 we're working with HUD and we've got to formulate this  
19 whole plan and then get HUD to agree to it.

20 DR. MUÑOZ: That kind of complicates my  
21 understanding, though, Rod, because if you're talking  
22 about a certain date in service and we're going to go six  
23 months before we have this documentation.

24 MR. BROWN: Doak Brown with Brownstone.

25 Let me clarify. This is the financing plan for

1 the housing that the housing authority wants to rebuild  
2 onsite, it doesn't have anything to do with the Casa Verde  
3 application. It wouldn't slow down construction on Casa  
4 Verde, it has to do with only how they plan on rebuilding  
5 on the Russell Terrace site.

6 MR. OXER: So basically your project will  
7 continue to progress.

8 DR. MUÑOZ: I see the E-D going like this, so  
9 what am I misunderstanding?

10 MR. IRVINE: I believe it's fundamental to the  
11 at-risk character of this transaction that it involve  
12 either rehabilitation or reconstruction, and for it to  
13 involve reconstruction, that means that the units are  
14 being replaced with the new construction need to be  
15 demolished. So in order to retain the characteristics of  
16 an at-risk transaction, it needs to have that; in order to  
17 retain the characteristics of a RAD conversion  
18 transaction, it needs to be okay with HUD.

19 MR. CEBALLOS: Maybe we agree on when we submit  
20 the plan to HUD. Would that be satisfactory so that you  
21 feel confident that we're going to submit a document.

22 MR. OXER: You'll forgive us if we don't have a  
23 lot of confidence in HUD. Okay?

24 MR. IRVINE: Here's my concern, straight up  
25 concern. What happens if you get into all of this and you



1 can never secure that HUD consent? Is this Board going to  
2 then say: Well, we just really can't approve cost  
3 certification.

4 MR. OXER: Speaking, Rod Solomon.

5 MR. SOLOMON: Yes. I don't have a good answer  
6 for why that's all fine, but we are committing to do this.  
7 There was that situation even with the original  
8 application in that the original application said that  
9 units were not going to be demolished until Casa Verde was  
10 completed, to prevent displacement, really, so that  
11 residents could move directly from Russell Terrace to Casa  
12 Verde. Again, we understand the concern. I think if  
13 there's some more time than 90 days that you could give  
14 us, that would be helpful. I would think I could say that  
15 we'll work within the parameters that you think you need.

16 MR. IRVINE: And I completely get the URA  
17 concern, that you don't need to tear down units and kick  
18 people out until you've got a new place to put them. I'm  
19 concerned with the characterization of this as a compliant  
20 RAD at-risk deal.

21 MR. CEBALLOS: Jose Ceballos. 120 days, is  
22 that reasonable?

23 MR. OXER: 120 days, that's what you've got.  
24 Not to submit, that's to get approval. One of you is  
25 going to be camped out in Fort Worth.

1 MR. CEBALLOS: Fortunately, he's in D.C.

2 MR. OXER: Somebody ought to be knocking on  
3 their door tomorrow morning, I'm guessing.

4 Are we clear on what we're looking for? Got  
5 120 days on the approval. Raquel, you're taking notes.  
6 Right? You know what this is all about.

7 You're agreeing to all those components, Jose.  
8 Right?

9 MR. CEBALLOS: Yes. We've got those.

10 MR. OXER: We trust Raquel and the staff, trust  
11 me. We're going to line up on her side and start shooting  
12 if this doesn't work well.

13 Given that, can we hear a motion to consider?

14 MS. BINGHAM ESCAREÑO: I'll make the motion.  
15 I'd like to make a motion to approve staff's  
16 recommendation to approve the material amendment requested  
17 for Casa Verde.

18 MR. OXER: As modified.

19 MS. BINGHAM ESCAREÑO: As modified. And that  
20 it include the five conditions as stated by staff, to  
21 include receipt of HUD approval within 120 days.

22 MR. ECCLES: Approval to demolish?

23 MS. BINGHAM ESCAREÑO: The HUD approval is for  
24 the demolishing --

25 MR. ECCLES: The finance plan.

1 MR. OXER: It's for the financing plan.  
2 Because their project is going to continue, it's the  
3 financing plan we're working on. Is that clear? Are you  
4 good with that, Counselor?

5 MR. ECCLES: Yes.

6 MR. OXER: All right. Motion by Ms. Bingham.  
7 Is there a second?

8 MR. GOODWIN: Second.

9 MR. OXER: Second by Mr. Goodwin. We've had  
10 all kinds of conversation about this.

11 MR. LYTTLE: Mr. Chairman, I have got two  
12 legislative letters to read into the record on this issue.

13 MR. OXER: Good. Let's hear them.

14 MR. LYTTLE: The first is from State  
15 Representative Tracy King. It reads:

16 "Please accept this letter of continued support  
17 for the 2015 low income housing tax credits awarded to the  
18 Laredo Housing Authority Casa Verde Apartments project.  
19 WE all agree that the proposed new affordable housing  
20 development would be beneficial to the Laredo area. With  
21 this in mind, I respectfully request TDHCA take another  
22 look at the application and additional information  
23 submitted to be sure all available options were considered  
24 for this project.

25 "I appreciate the dedication of the TDHCA staff

1 and the hard work that they do to assist our offices on  
2 these local projects. Again, thank you for your time and  
3 attention to this matter.

4 "Sincerely, Tracy O. King."

5 The second letter is from Senator Zaffirini.  
6 I'll read it, and then I know her staff member wanted to  
7 make just a brief comment following the letter.

8 "Thank you for your commitment to providing  
9 critical affordable housing in our communities. We are  
10 writing to you again to urge, as we did in October 2016,  
11 that the Texas Department of Housing and Community Affairs  
12 continue to support the 2015 low income housing tax  
13 credits awarded to the Laredo Housing Authority Casa Verde  
14 Apartments project.

15 "We have reviewed both TDHCA staff's Board  
16 action request and the Laredo Housing Authority's November  
17 2 letter to you. We respectfully disagree with staff's  
18 conclusion that the tax credits must be rescinded because  
19 the units at Russell Terrace public housing development  
20 will be replaced twice. What's more, the concern  
21 expressed in your October 6, 2016 replay to us that the  
22 Russell Terrace units no longer will be demolished, has  
23 been addressed the LHA's agreement to demolish 138 units  
24 there and the statement from HUD's director of  
25 transaction's division that administers the rental

1 assistance demonstration that LHA may take this action  
2 under its RAD approval.

3 "The applicant was awarded tax credits for 138  
4 units and will demolish 138 public housing units at  
5 Russell Terrace and replace 38 of them, or 25 percent of  
6 Casa Verde's 152 total units, with RAD units at Casa  
7 Verde. This is the same in all material respects as the  
8 original application except for the substitution of RAD  
9 for public housing units at Casa Verde, the change the  
10 TDHCA has previously allowed.

11 "The original application states that 138 units  
12 are proposed to be demolished at Russell Terrace. Any  
13 additional demolition is immaterial under the law as long  
14 as the number of units proposed to be demolished is the  
15 same number as the number of units proposed to be  
16 reconstructed with housing tax credits. TDHCA staff's  
17 conclusion that 100 of the Russell Terrace units will be  
18 replaced twice fails to take into account the fact that  
19 the RAD subsidy is a rent subsidy, it does not provide  
20 funding for the reconstruction of units. As was proposed  
21 in the original application, the Russell Terrace units  
22 will be demolished separately after completion and initial  
23 occupancy at Casa Verde.

24 "Any units that LHA plans to reconstruct other  
25 than at Casa Verde are irrelevant because LHA must

1 identify development funding other than tax credits from  
2 the at-risk set-aside to accomplish that construction. In  
3 fact, a similar construction effort could have been  
4 undertaken if the original public housing proposal had  
5 gone forward and HUD likely would have provided a similar  
6 level of subsidy. TDHCA was correct that this possibility  
7 was not relevant to the original award of tax credits and  
8 it is not relevant simply because RAD is being substituted  
9 for public housing.

10 "TDHCA staff raises other concerns regarding  
11 HUD's final approval of the LHA demolition proposal and  
12 the at-risk statute PHA plan requirement. LHA has shown  
13 that HUD's approval for the demolition in the RAD context  
14 is much more flexible than in the context of a mixed  
15 finance proposal for public housing. The at-risk  
16 statute's requirements are prospective: proposed to be  
17 demolished or disposed of by a public housing authority,  
18 receive assistance or will receive assistance through  
19 rental assistance demonstration, and they are being met.  
20 The statute's PHA plan requirement has also been met. In  
21 response to a staff inquiry, LHA reported that it's 2014  
22 and 2015 PHA plans included plans to convert public  
23 properties to RAD, and the recent 2016 plan significant  
24 amendments specifically covered Casa Verde and Russell  
25 Terrace and discussed how this clearly meets the statutory

1 requirement.

2 "Based on our extensive research and review, we  
3 legislators who represent the City of Laredo agree  
4 strongly that the Casa Verde continues to fully meet the  
5 at-risk requirements. We also believe that in view of the  
6 placed in service deadline for this project, TDHCA's  
7 deliberation of this matter must conclude with a favorable  
8 decision at its November meeting if LHA is to proceed.  
9 Accordingly, we urge TDHCA to approve at that meeting  
10 LHA's amendment originally filed in July to substitute RAD  
11 for public housing units at Casa Verde so that this  
12 valuable affordable housing resource for Laredo will not  
13 be lost.

14 "Very truly yours, Judith Zaffirini, State  
15 Senator, and Richard Raymond, State Representative."

16 MR. OXER: Good. Thanks, Michael.

17 Tim, did you want to make an addition to that  
18 or supplement that?

19 MR. STOSTAD: Good morning. Timothy Stostad  
20 with Senator Zaffirini's office.

21 I just wanted to provide a little bit of  
22 context. That letter was based on the Board  
23 recommendation as it appeared previously before it was  
24 amended this morning.

25 MR. OXER: We recognize that there's some

1 subtle nuances in there that don't apply to the new  
2 edition.

3 MR. STOSTAD: Right, it was superseded. But as  
4 a procedural matter, we just wanted to get it in the  
5 record so that's why we had it read in.

6 But I have nothing to add, other than that the  
7 senator continues to support the project and we support  
8 the staff recommendation as amended this morning. Thank  
9 you very much.

10 MR. OXER: Great.

11 Gentlemen, you can sit down, but thank you.

12 MR. CEBALLOS: I just want to thank you and  
13 thank the staff for all their work. I know it's been a  
14 long process, but we appreciate your time and dedication  
15 in working with us. Thank you.

16 MR. OXER: Great.

17 MS. HENDERSON: Peggy Henderson, TDHCA,  
18 registering public opinion on agenda item 4, project  
19 number 15251. We have 15 opinions against this item.  
20 Would you like me to read each name?

21 MR. OXER: Just the names.

22 MS. HENDERSON: Just the names?

23 MR. OXER: You don't have to read all the  
24 comments. You just have the names listed. Right?

25 MS. HENDERSON: Yes, sir.



1 MR. OXER: Let's be clear on what they're  
2 against, they're against the denial.

3 MS. HENDERSON: They're against staff's  
4 recommendation.

5 MR. OXER: As originally posted in the Board  
6 book but not as modified currently.

7 MS. HENDERSON: I won't make an assumption for  
8 their registered opinion.

9 MR. OXER: Would that be correct?

10 MR. CEBALLOS: (Speaking from audience.)  
11 That's correct.

12 MR. OXER: This is a procedural question. I  
13 think you can see where this is going. Do you really want  
14 to register that? That's the right answer.

15 So we'll recognize that there were 15 comments  
16 that were opposed to the original staff, but as modified  
17 that everybody is satisfied where this is going, including  
18 the Board. Given that that's the case, we're going to  
19 hold off on registering all those.

20 We have a motion by Ms. Bingham, second by Mr.  
21 Goodwin to approve staff recommendation as modified today  
22 in transcript in this meeting. There's no other  
23 questions.

24 Raquel, do you have anything to say?

25 MS. MORALES: Just a clarification for my

1 purposes. 120 days is the deadline that's been put forth,  
2 that's fine. We will do what we need to monitor that  
3 progress on both the new construction application as well  
4 as the demolition plan for Russell Terrace. If in 120  
5 days they don't have the approved financing plan, do you  
6 want this matter brought to you again? Do you want to  
7 know?

8 MR. OXER: Yes.

9 MS. MORALES: And then I just want to emphasize  
10 the importance of construction status reports moving  
11 forward. This is one of the big reasons why we have that  
12 interval, why we emphasize the need to get those timely so  
13 that we can monitor that progress, and then in  
14 conjunction, monitoring how they're going along getting  
15 the financing plan.

16 MR. OXER: For purposes of fleshing out this  
17 scheduling on this, I want to know what are the interim  
18 reports. Because here's what we don't want to have  
19 happen, guys, we don't want to come up here and 119 days  
20 from now you say, well, we can't do this. That's not  
21 going to happen because we're going to know like every 15  
22 days where you stand on all of this. Right? Shake your  
23 head, Doak. We're going to know that. Right?

24 MS. MORALES: Like I said, it's already in rule  
25 that we get construction status reports every quarter

1 after they submit 10 percent test, they did submit timely  
2 on their extended deadline.

3 MR. OXER: This is a special request that what  
4 we want is status reports --

5 MS. MORALES: Just reiterating the rule, make  
6 sure you get those in so that we can monitor this  
7 progress.

8 MR. OXER: This is a special project, special  
9 consideration for a project, and as a consequence of that,  
10 because of the timeline on it, quarterly is not going to  
11 do you any good on 120-day clock. It's up to you, Raquel  
12 will tell you when they're going to be, but we want no  
13 more than every month, or no less than at least once a  
14 month, so that way you've got at least four reports in  
15 there about where we stand. That way you'll know where  
16 they are as this thing progresses.

17 MS. MORALES: Yes.

18 MR. OXER: Is that clear for the record?  
19 That's a clarification on the schedule.

20 Are we good on that, Counselor?

21 MR. ECCLES: Yes. We still have a motion.

22 MR. OXER: I know. I'm just making sure we're  
23 clear on that motion and what the details are.

24 MR. IRVINE: Might I add a comment?

25 MR. OXER: Always, Counselor.

1           MR. IRVINE: I think that the at-risk set-aside  
2 is probably one place where creativity is not a good idea.  
3 I think when you bring in an application under the at-  
4 risk set-aside, you need to be very crisp in fitting your  
5 application into the statutory and rule-based  
6 requirements, and no matter how laudable, changing your  
7 ideas to create more units has the risk of changing the  
8 characterization of the deal. And I'm sorry that we can't  
9 use this as an opportunity in some respects to create more  
10 units, but that's just not what the at-risk set-aside was  
11 created to do.

12           I also just want to state preemptively, from a  
13 staff perspective we really don't want to see someone  
14 trying to fit this into a force majeure request sometime  
15 late next year as completion of construction is in peril.

16           These are not matters that were outside anybody's  
17 control, you've always had the power to do what you said  
18 you were going to do.

19           MR. OXER: Everybody got it? Okay.

20           Now we have a motion outstanding, motion by Ms.  
21 Bingham and a second by Mr. Goodwin. We've accepted  
22 public comment, there's no request from staff for  
23 additional comment. Right, Raquel?

24           MS. MORALES: Right.

25           MR. OXER: Those in favor?

1 (A show of hands.)

2 MR. OXER: And opposed?

3 (No response.)

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

5 Good job, guys. I wouldn't be late.

6 And for those 15 of you who came and registered  
7 your comments, we appreciate your input and hope you  
8 recognize the effort that the staff made to come to an  
9 accommodation with this applicant. Thanks to everyone how  
10 participated.

11 Marni.

12 MS. HOLLOWAY: Good morning, Chairman Oxer,  
13 members of the Board. My name is Marni Holloway. I'm the  
14 director of the Multifamily Finance Division.

15 Item 5(a) is presentation, discussion and  
16 possible action on a determination regarding eligibility  
17 under 10 TAC 10.101(a)(4), related to undesirable  
18 neighborhood characteristics for the Pointe at Crestmont  
19 in Houston. This application proposes the new  
20 construction of 192 units serving the general population.

21 The development site currently consists of an abandoned  
22 308-unit multifamily development that was damaged by  
23 Hurricane Ike in 2008.

24 A 4 percent housing tax credit application was  
25 initially submitted to the Department on May 13, and was

1 subsequently terminated due to failure to disclose the  
2 presence of undesirable neighborhood characteristics. A  
3 new application, which included the required disclosures,  
4 was resubmitted to the Department on June 24.

5           Initially, upon initial submission of the  
6 application, the boundaries of the property included  
7 several pipelines on the southern end, one of which  
8 carried propane, however, the site boundaries in the  
9 purchase agreement have been adjusted such that the  
10 pipelines are not actually on the development site any  
11 longer and do not constitute an undesirable feature under  
12 10 TAC 10.101(a)(3) which would render the site  
13 ineligible.

14           The site has several undesirable  
15 characteristics, and while mitigation to address some of  
16 these issues has been submitted to meet the letter of the  
17 rule, there remains a confluence of concerns related to  
18 the general welfare and safety of prospective tenants of  
19 the proposed development. So of those undesirable  
20 characteristics, it is located in a census tract and  
21 within 1,000 feet of a census tract where the Part 1  
22 violent crime rate exceeds 18 per 1,000 persons, it is  
23 located in the attendance zone of a middle school and a  
24 high school, neither of which achieved a 2015 Met Standard  
25 rating, and the development site is within 1,000 feet of

1 blight.

2           Regarding the blight, a multifamily  
3 development, known as Park Terrace Apartments, which has a  
4 number of boarded and vacant buildings, is within 1,000  
5 feet to the south of the proposed development. The  
6 condition of this property was not disclosed by the  
7 applicant, but when questioned, they conducted research  
8 and contacted the owners of that property, who, as it  
9 turns out, is in the process of rehabilitation and some of  
10 the units have already been rented. This information is  
11 confirmed by the housing department at the City of  
12 Houston, and your Board book includes a letter from the  
13 current owner and some photos of the rehabilitation that's  
14 underway, and staff believes that the information  
15 presented is sufficient evidence of mitigation that the  
16 Park Terrace Apartments should not be considered blight in  
17 the context of this application.

18           Immediately adjacent to the proposed  
19 development is an abandoned multifamily property known as  
20 Crestmont Village. This development was ordered by the  
21 courts to be closed in October of 2015 due to its  
22 deteriorated condition and continued unrepaired code  
23 violations. Information provided by the applicant and the  
24 City of Houston indicate that the property has been  
25 purchased and the new owner intends to redevelop the

1 property as senior housing in the future. That is a  
2 private party so, of course, we have no ability to make  
3 that happen or assure that that's going to happen. But  
4 what we do have is information from the City of Houston  
5 that they are planning to demolish the buildings that are  
6 there now and will be taking a demolition contract to  
7 their city council no later than November 30. They  
8 anticipate completing demolition of the Crestmont Village  
9 no later than the end of the year.

10 So they are planning to demolish, but the 2016  
11 rule states that acceptable mitigation would go beyond the  
12 securement or razing and require the completion of a  
13 desirable permanent use of the site on which the blight or  
14 abandonment is present. For the 2017 rule, we've modified  
15 that requirement so now it says: acceptable mitigation to  
16 address extensive blight should include a plan whereby it  
17 is contemplated that a responsible party will use the  
18 property in a manner that complies with local ordinances.

19 So the demolition of the property would meet the letter  
20 of the 2017 rule.

21 Regarding schools, the proposed development is  
22 located in the attendance zones of both a middle school  
23 and a high school that did not achieve 2015 Met Standard  
24 ratings. The Thomas Middle School did meet standard for  
25 2016 and in past action the Board has found that if a



1 school met standard for 2016, the increased rating was  
2 sufficient to support a reasonable expectation that the  
3 school would have a Met Standard rating when the  
4 development is placed in service and that's considered  
5 acceptable mitigation.

6 Sterling High School did not achieve the Met  
7 Standard rating for 2013, 2014 or 2015. The applicant has  
8 provided information regarding programs that are underway  
9 at Sterling, including and open enrollment early college  
10 high school. This differs from other early college high  
11 schools that we've discussed in that it is open enrollment  
12 and there is no limitation on attendance. Construction is  
13 underway at the school as a result of bond funds and we  
14 have a letter from Dr. Samuel Sarabia of Houston ISD, who  
15 is the chief school officer of Houston ISD, which provided  
16 information on efforts underway to turn the school around.

17 In 2016 the performance rating indicates that  
18 Sterling High School missed the Met Standard rating by one  
19 point under Index 4. The increased rating, along with the  
20 information from Houston ISD, leads staff to believe that  
21 Sterling High School will have a Met Standard rating by  
22 the time the development is placed in service.

23 The final undesirable neighborhood  
24 characteristic is the crime rate. The threshold  
25 measurement in rule is Part 1 violent crimes exceeding 18

1 per 1,000 persons annually, as indicated by Neighborhood  
2 Scout. It's important to note that this is just a  
3 trigger. We acknowledge that Neighborhood Scout is an  
4 imperfect tool but it's the only tool that we have. You  
5 know, if the only tool you have is a hammer, everything  
6 looks like a nail. But what we look for in rule, once  
7 that trigger is reached, is what is the actual data on the  
8 ground. So according to Neighborhood Scout, the Part 1  
9 violent crime rate for this census tract is more than 36  
10 per 1,000 persons annually. The development site is  
11 located within 1,000 feet of a census tract where the Part  
12 1 violent crime rate, according to Neighborhood Scout, is  
13 28.59.

14 The applicant provided crime data from the  
15 Houston Police Department based on the police beat in  
16 which the proposed development is located, consistent with  
17 acceptable mitigation under the rule. Calculations of the  
18 actual crime rate by the applicant and staff are provided  
19 in your Board book. Staff acknowledges that our numbers  
20 differ slightly from what was provided by the applicant,  
21 but we believe that the message is clear in that these  
22 crime rates are not decreasing. Staff cannot identify a  
23 downward trend that would lead to a reasonable expectation  
24 that the crime rate would be at a further reduced level by  
25 the time Pointe at Crestmont is placed into service. The

1 current crime rate is 15.1 Part 1 crimes per 1,000 persons  
2 annually.

3 The applicant contends that the redevelopment  
4 of the subject property, in addition to the adjacent  
5 abandoned and blighted property, will contribute to  
6 remediation efforts to reduce the crime rate in the area.

7 The applicant has indicated that security features will  
8 help serve to further deter crime on the property, and  
9 with the exception of a police substation they are  
10 planning, the security features are really considered  
11 common amenities typical at any multifamily development.

12 Staff acknowledges that the mitigation provided  
13 by the applicant to support their claim that crime does  
14 not rise to the level of concern that warrants  
15 ineligibility and that the crime rate as reported by  
16 Neighborhood Scout is not an accurate reflection of and  
17 this is acceptable mitigation that conforms to the rule.

18 A site visit on June 7 prompted staff to  
19 further review the crime statistics specific to this  
20 neighborhood. A review of the instances of violent crimes  
21 for the first half of 2016, as reported by the Houston  
22 Police Department, revealed that on average there were  
23 approximately 20 violent crime incidences per month within  
24 the police beat that contains this development. Among  
25 these instance in early 2016 were two murders in March and

1 June, the other crimes include aggravated assault, robbery  
2 and rape. The locations are not limited to a residence or  
3 the abandoned properties, but include area parks, streets  
4 and businesses, including a child care facility.

5 We have received a letter from the City of  
6 Houston Housing Department that speaks to a multifamily  
7 task force convened at the mayor's request which is  
8 designed to focus on the most dangerous and poorly managed  
9 apartment complexes in the city. This task force will  
10 identify those multifamily complexes with high crime rates  
11 and focus on crime reduction at specific developments, one  
12 of which is a development three blocks from our proposed  
13 site on Selinsky Road. While this is a step in the right  
14 direction in combating crime in the area, the multifamily  
15 task force is considered a pilot program, the efforts and  
16 results of which have yet to be seen.

17 Staff does not believe, based on all for the  
18 aforementioned information, that crime in the area at this  
19 point in time has been demonstrated to show the type of  
20 downward trend necessary and to reasonably expect that it  
21 will not negatively impact the quality of life of  
22 prospective tenants in a safe affordable housing  
23 development. When evaluating the mitigation provided as a  
24 means to find the development site eligible, the rule  
25 includes mention not only of the nature and severity, it

1 also includes mention of a reasonable expectation. These  
2 are how we get to those mitigation measures that say that  
3 it's okay.

4 So staff believes that while there is still  
5 reason for concern regarding the crime based on continuing  
6 violent crimes in the neighborhood, and while there is an  
7 initiative in place to address the crime, it has not been  
8 in effect long enough to indicate it will successfully  
9 reduce the crime rate to a level that does not warrant  
10 concern. This development would be the first new  
11 multifamily development in the area that is struggling  
12 with undesirable neighborhood attributes and can be  
13 likened to a first money in project which would be  
14 inconsistent with prior policy directives issued by this  
15 Board.

16 Staff believes that absent a reasonable  
17 expectation relative to crime reduction, such undesirable  
18 characteristic fails to meet the criterion relative to the  
19 nature and severity of the crime, and therefore,  
20 recommends that the development site should be considered  
21 ineligible under 10 TAC 10.101(a)(4) of the Uniform  
22 Multifamily Rules.

23 MR. OXER: Any questions?

24 MS. BINGHAM ESCAREÑO: Yes, sir.

25 MR. OXER: Ms. Bingham.

1 MS. BINGHAM ESCAREÑO: Hey, Marni. So on the  
2 Met Standard school, just so I understand, so Thomas  
3 Middle School made it for?

4 MS. HOLLOWAY: For 2016.

5 MS. BINGHAM ESCAREÑO: Okay. And then Sterling  
6 is the high school and it hasn't made it consecutively  
7 several years.

8 MS. HOLLOWAY: This would be the fourth year  
9 that it has not met standard.

10 MS. BINGHAM ESCAREÑO: But they're turning it  
11 into an early college high school, or at least part of it,  
12 and that has open enrollment as opposed to some of the  
13 other discussions we've had in the past.

14 MS. HOLLOWAY: Exactly. And Sterling missed  
15 Met Standard by one point this year, so they're showing a  
16 trend upward.

17 MS. BINGHAM ESCAREÑO: Trend upward. Okay.

18 And then on the property that's been closed  
19 that's adjacent, our old rules actually said that those  
20 kind of properties had to be repurposed, and our new rules  
21 says that if it's demolished. The wording gives a little  
22 bit more latitude to repurposing it appropriately.

23 MS. HOLLOWAY: It does. The new rule  
24 acknowledges that -- and this is a perfect example -- the  
25 city is doing what they can and they're going to demolish

1 it, but the city or our applicant are not able to  
2 influence redevelopment of a privately held property.

3 MS. BINGHAM ESCAREÑO: Okay. And then on the  
4 crime rate, so obviously of concern, but what I heard you  
5 saying about the violent crimes was that they in  
6 aggregate, or what it looked like was those violent crimes  
7 weren't necessarily happening in this property or the  
8 adjacent property, more in parks and streets.

9 MS. HOLLOWAY: It's the entire area. Yes.

10 MS. BINGHAM ESCAREÑO: And then did you say  
11 that the police are planning on being on site, that  
12 there's a station planned for somewhere in that area?

13 MS. HOLLOWAY: The applicant plans to include a  
14 police substation on the property, and this is part of the  
15 evidence that they are presenting of mitigation of the  
16 concerns over the crime rate.

17 DR. MUÑOZ: Hey, Marni, can I follow up to  
18 that? If you have a substation, does that then obligation  
19 law enforcement to utilize it?

20 MS. HOLLOWAY: I do not believe that it does.  
21 I'm not able to answer that question; I'm sure that  
22 somebody will.

23 MR. OXER: Raise your hand if you plan to  
24 address that one. Okay.

25 MS. BINGHAM ESCAREÑO: And then can I just ask

1 one more question.

2 MR. OXER: Absolutely.

3 MS. BINGHAM ESCAREÑO: So I'm assuming we  
4 crossed the bridge of the revitalization plan, so we were  
5 good with that from the very beginning.

6 MS. HOLLOWAY: We've actually spent a lot of  
7 time on this one trying to get to an eligibility  
8 recommendation and just could not make it there with this  
9 crime issue.

10 MS. BINGHAM ESCAREÑO: Okay. I think that's  
11 it. But I mean, first money in, we've talked about that a  
12 lot. But relative to the violent crime, when we hear from  
13 somebody in a minute maybe about the commitment of the  
14 city to this area, there may be an opportunity to hear.

15 MS. HOLLOWAY: Well, and that's why we wanted  
16 to bring this item to the Board so that you could gather  
17 all of that information.

18 MR. OXER: Staff has obviously an obligation to  
19 follow the rules, as we've stated, and we have the  
20 latitude, as I've often said lightly, it's rarely applied  
21 occasionally to overturn those, but we've got to have some  
22 real good reasons to overturn that, and that's why we're  
23 looking for this evidence. Okay? I don't want anybody to  
24 ever think that we're trying to stop any project, but  
25 we're trying to make sure that the ones we do, meet the



1 requirements we have of safe and affordable housing. The  
2 safety part is particularly important, you know, crime is  
3 one of those issues.

4 Do you have a comment there, Mr. E-D?

5 MR. IRVINE: Actually, it was a question. You  
6 said that this was damaged by Hurricane Ike. Right? And  
7 this is maybe not a question for you but more for the  
8 development team whether they had approached the  
9 possibility of accessing CDBG disaster recovery funds.

10 MS. HOLLOWAY: As I understand it, disaster  
11 recovery funds will be used for the demolition of the  
12 existing property.

13 MR. OXER: Did you have a thought, Juan?

14 DR. MUÑOZ: Well, I punched out of my Board  
15 book so I'm just going to try to recall. If there's a  
16 chance for somebody to respond, I recall that the one  
17 point that the high school didn't meet its improvement  
18 plan had to do with its score on literacy.

19 MS. HOLLOWAY: It was post-secondary readiness.  
20 It was that Index 4.

21 DR. MUÑOZ: But I think it had to do with their  
22 test scores, the EOC having to do with literacy. I'm just  
23 curious how many ELL students that they might have at the  
24 high school. I suspect it's pretty high and it could  
25 impact their score in that particular area of English

1 literacy skills. So that over time can be improved, as I  
2 recall the math scores being improved.

3 MS. HOLLOWAY: Yes. And clearly the school  
4 district is putting a tremendous amount of effort into  
5 improving the school. They have a Teach-Its grant which  
6 is helping to fund the early college program. They also  
7 have an aviation program which is basically a vocational  
8 education.

9 DR. MUÑOZ: An aviation curriculum that they  
10 receive some sort of grant to expand, I think, their  
11 facility for the delivery of that curriculum.

12 MS. HOLLOWAY: Right. So I think that there  
13 are some good things going on in the school and it is  
14 trending upward, and that's why staff is recommending that  
15 that not be an ineligibility issue for this development.

16 MR. OXER: Okay. So with respect to the staff  
17 perspective as it stands with respect to the rules, you're  
18 pretty good on the schools, you're getting there on the  
19 schools?

20 MS. HOLLOWAY: Yes.

21 MR. OXER: The blight, we've got some latitude  
22 based on that, you're getting there. These sites for  
23 these and rebuilding these locations that were already  
24 there is an issue to start with, so the blight is  
25 something -- staff has reasonable confidence that the

1 blight is or will be addressed timely.

2 MS. HOLLOWAY: Yes.

3 MR. OXER: Crime is an issue. The pipeline  
4 aspect of it is addressed through the --

5 MS. HOLLOWAY: Because of the way that the site  
6 was redrawn for the purchase agreement, the propane  
7 pipeline is now off of the property so it no longer  
8 triggers that undesirable site.

9 MR. OXER: Right. So what this really comes  
10 down to is the crime component.

11 MS. HOLLOWAY: Yes.

12 MR. OXER: All right. I'm anticipating that  
13 we're going to have, as evidenced by the participation  
14 we're expecting up here, considerable commentary, so I'm  
15 going to exercise the chair's discretion. We're going to  
16 take a 15-minute timeout of break since we've been in our  
17 chairs here since a little after 9:00. Currently it is  
18 10:24, let's be back in our chairs at 10:40.

19 (Whereupon, at 10:24 a.m., a brief recess was  
20 taken.)

21 MR. OXER: Let's come to order, please. You  
22 can continue your conversations but please do so out in  
23 the hall.

24 Are there any other questions for Marni from  
25 the Board?

1 (No response.)

2 MR. OXER: Now, everybody sitting up here in  
3 the front, I want you to take note this is a procedural  
4 thing we do because we have to have a motion to consider  
5 and then we have to consider the staff recommendation, so  
6 this is not a final review.

7 Anything to add, Marni?

8 MS. HOLLOWAY: Not at this time.

9 MR. OXER: Okay. Staff recommendation is to  
10 deny --

11 MS. HOLLOWAY: Staff recommendation is to  
12 determine the site ineligible.

13 MR. OXER: As a consequence of these issues  
14 we've talked about, and you've sort of gotten around as we  
15 talked about schools, the blight, the pipeline, and the  
16 pipeline meets the letter of the rule, we don't have to  
17 deal with that. Crime is the issue.

18 MS. HOLLOWAY: Yes, it is.

19 MR. OXER: So what we really want to know from  
20 comment that we're going to hear is have they got anything  
21 that's going to fix this.

22 That being the case, we'll hear a motion to  
23 consider from the Board. This is noting that staff  
24 recommendation is to find this site ineligible at this  
25 time.

1 MR. GANN: I'll move staff's recommendation.

2 MR. OXER: Okay. Motion by Mr. Gann. Do I  
3 hear a second?

4 MR. GOODWIN: Second.

5 MR. OXER: Second by Mr. Goodwin.

6 We'll have public comment. Barry, it looks  
7 like you're up first.

8 MR. LYTTLE: J. Paul, did you want me to read  
9 the letter?

10 MR. OXER: I'm sorry. Hold your position  
11 there. Yes. Thank you, Michael.

12 MR. LYTTLE: Thank you, sir. This is a letter  
13 to the Board from Houston City Council Member Dwight  
14 Boykins, District D. It reads as follows:

15 "Thank you for consideration of the Pointe at  
16 Crestmont redevelopment application. I regret that I  
17 cannot be there in person to speak in front of you today.

18 "As you know, this application proposes the  
19 redevelopment of a former multifamily housing development  
20 that has been vacant for many years. The surrounding  
21 neighborhood supports this project, and as the elected  
22 city council member for District D, I strive to be  
23 responsive to the needs of the community.

24 "I understand that your Department has concerns  
25 regarding this application due to crime. It might be

1 helpful to outline the events occurring in the community  
2 that will contribute to its continued positive change and  
3 ultimately make this a stronger and safer community.  
4 While this might not be a so-called high opportunity area,  
5 according to your Department, this is not an area of no  
6 opportunity. This area needs and deserves new safe and  
7 affordable housing as much as any other area of Houston.

8 "The Pointe at Crestmont is located in the  
9 Crestmont Park section of Houston. While your funding  
10 will contribute to positive change in the area, it is not  
11 the first positive change and it will not be the last.  
12 Significant public and private investment is being made in  
13 this neighborhood. Construction is nearing completion on  
14 the community's new \$72 million Sterling High School  
15 campus within walking distance of the proposed  
16 development. There are newly built single family homes  
17 with granite countertops being sold within 1,000 feet of  
18 the development site for over \$135,000.

19 "Street and drainage projects are underway to  
20 improve infrastructure. Specifically, in the last two  
21 years the City of Houston has completed or has allocated  
22 over \$10 million in street and utility improvements in the  
23 immediate area of the Pointe at Crestmont. New owners  
24 have purchased existing apartment complexes and are  
25 investing millions of dollars into rehabilitation.

1 Specifically, your staff has confirmation of \$11 million  
2 in private funding being invested into the apartment  
3 complex renovation directly to the south.

4 "Additionally, my office has allocated \$305,000  
5 of my council district budget towards community  
6 improvement efforts, including \$170,000 for three  
7 community liaisons within the Department of Neighborhoods  
8 specifically for neighborhood inspection and monitoring  
9 within District D, \$100,000 for the Houston Police  
10 Department overtime pay for fiscal year 2016, and \$30,000  
11 for fiscal year 2017. I can confirm that your  
12 participation in this development will not be the first  
13 investment in the area.

14 "I have reviewed the crime statistics released  
15 by the Houston Police Department for this area and see  
16 that they do not show a decline from 2014 to 2016. When  
17 analyzing the data, a significant amount of crime was and  
18 is occurring in a small number of apartment complexes.  
19 The City of Houston closed a high crime apartment complex  
20 next to the Pointe at Crestmont and will be demolishing  
21 the vacant buildings. Another complex located south of  
22 the site with significant crime has new ownership who has  
23 recently instituted 24-hour guarded gate access, installed  
24 new lighting and has committed to providing the safest  
25 housing in the area.

1 "Two other complexes in the area will be the  
2 focus of the new multifamily task force. As requested by  
3 the mayor's office, this initiative is headed by the  
4 Housing and Community Development Department and will  
5 include five city departments, including the Houston  
6 Police Department. This task force will use enforcement  
7 and incentives to improve dangerous apartment complexes.  
8 Reducing crime at these apartment complexes which have the  
9 most concentrated incidents of crime will reduce crime in  
10 the overall neighborhood. While the crime statistics show  
11 room for improvement, the city is implementing strategies  
12 to address crime and I urge you not to disregard this  
13 neighborhood.

14 "Crestmont Park is no longer an overlooked  
15 neighborhood and the City of Houston is working to better  
16 this area. Please recognize the opportunity in Crestmont  
17 Park and join the City of Houston in participating in the  
18 Pointe at Crestmont development.

19 "Sincerely, Dwight Boykins, Houston City  
20 Council, District D."

21 MR. OXER: Thanks, Michael.

22 Barry.

23 MR. PALMER: Barry Palmer of Coats Rose.

24 As you see, we have a number of speakers so I'm  
25 going to keep my remarks short. I know you're primarily



1 concerned with hearing more about crime and we have  
2 Captain Campbell from the Houston Police Department to  
3 address that.

4 I was glad to see Council Member Boykins make a  
5 number of excellent points in his letter about all the  
6 other things that are going on in this neighborhood and  
7 how this would not be the first dollars in, that there's a  
8 \$72 million new state of the art high school under  
9 construction, walking distance from this property where  
10 our kids would get to go to high school.

11 You heard that this property, Crestmont, became  
12 vacant after Hurricane Ike. Well, Hurricane Ike was in  
13 2008, so that property has sat there vacant and rundown as  
14 blight in the community for eight years now, and the City  
15 of Houston, together with a private developer, has put  
16 together a plan with 4 percent tax credits. These are not  
17 9 percent tax credits, this is a 4 percent deal, so  
18 there's nobody standing behind us that is going to use  
19 these funds if it doesn't go forward, that either this  
20 happens or the money goes unused.

21 The City of Houston has committed \$5 million to  
22 this project of their own money, as well as committing to  
23 demolish the apartments next door that are vacant. So  
24 there would be close to 500 vacant blighted apartments  
25 torn down and replaced by 192 state of the art new

1 construction tax credit units with a police substation in  
2 the property.

3 I'd like Captain Campbell from HPD to talk  
4 further about the efforts of HPD in this area.

5 Thank you.

6 CAPT. CAMPBELL: Good morning. Kenneth  
7 Campbell, Houston Police Department. I've been a captain  
8 over that area that we're talking about for the past  
9 couple of years.

10 I guess you want to know about crime, huh?

11 MR. OXER: That seems to have nicked the  
12 trigger her on our concerns, so yes, we'd like to hear  
13 what you've got to say on it.

14 CAPT. CAMPBELL: Excuse the word trigger there  
15 too.

16 MR. OXER: Got it. Purposefully said.

17 (General laughter.)

18 CAPT. CAMPBELL: So anyway, looking back at it,  
19 as far as the numbers that have been produced, I can bring  
20 you data and numbers all day long that will show a  
21 different perspective. It depends on how you interpret  
22 the data. I ran even specific stats just for Selinsky  
23 itself, which is the street we're talking about, and we've  
24 seen a downward trend as far as our Part 1 violent, we've  
25 seen a downward trend on our just Part 1 nonviolent, and

1 quite a bit different picture than what I've seen in some  
2 of the documentation I read.

3 DR. MUÑOZ: Over what period of time? When you  
4 say downward trend, is that a downward trend in the last  
5 two weeks or in the last six months?

6 CAPT. CAMPBELL: 2014, '15 and '16. I have  
7 stats on year-to-date comparison '15 versus '16.

8 DR. MUÑOZ: Downward trend over that year.

9 CAPT. CAMPBELL: Yes, sir. Specifically on  
10 Selinsky. I'm not going to give you a whole bunch of  
11 numbers, because like I say, one thing we found also, I  
12 can change the data and I can go one day different on the  
13 time period from another day and I can make my percentage  
14 drop 52 or 72 percent, depending on how you're looking at  
15 it. And if you're specifically looking at one crime,  
16 maybe murder, let's just say, overall we have reduced it,  
17 overall it has slowed down.

18 Now, I will say this, some of the stuff that  
19 we've been practicing over this past couple of years now  
20 has been running kind of a three phase approach, and what  
21 we do is we're working on specific crime analysis, data-  
22 driven research. So when you take the area as a whole,  
23 yes, sometimes you might see a spike in crime, but we try  
24 to find the actual hard target areas through our data-  
25 driven analysis. So we're looking at time of day, day of

1 the week, most likely when the ag robbery is going to  
2 occur, sexual assaults. We had a serial rapist who we  
3 recently arrested who was working in one area and then  
4 committing the crime in the other are, so it was skewing  
5 the stats for two different sides of Houston, different  
6 things like that.

7 But basically we do the data-driven research  
8 and then we go out and we do hard target enforcement, and  
9 that's our phase two. And after that we implement a phase  
10 three which is an evaluation where we go over our stats,  
11 we adjust, we kind of keep our program fluid, and then we  
12 also do a community outreach to get more presence in the  
13 area. So for a while, like you know, back in July-August  
14 area, officers were being targeted by criminals by fairly  
15 large numbers and so we wanted to be sure we made it safe  
16 before we went out there on horseback or bicycles and then  
17 went to the parks and all that, and we've seen a really  
18 good result of that.

19 Also, in this program and in our initiatives  
20 that we have, we've partnered with federal law  
21 enforcement, so we've had ATF, FBI, DHS, DEA, all of us  
22 working in coordination. So we have regular meetings  
23 where we're meeting and we're conducting operations  
24 through the use of federal -- without saying too much, we  
25 get a lot of good help from those guys.

1 Another thing that you've got to take into  
2 account --

3 MR. OXER: The real issue is you're focusing a  
4 lot intellectual and human capital on helping solve this  
5 issue.

6 CAPT. CAMPBELL: Yes, sir. And like the letter  
7 said, Council Member Boykins, from the City of Houston  
8 Council, they actually gave our department over \$100,000  
9 to use towards overtime funding. Mayor Turner for the  
10 City of Houston --

11 DR. MUÑOZ: Do you mind if I interrupt?  
12 Captain or Chief?

13 CAPT. CAMPBELL: It's captain, sir.

14 DR. MUÑOZ: I'm sorry to interrupt. But is  
15 that overtime going to be dedicated? I mean, if that's  
16 overtime across the entirety of the force or is that  
17 overtime for this specific geographic location?

18 CAPT. CAMPBELL: The overtime from Council  
19 Member Boykins, which is about 130- we've spent so far and  
20 we'll still using some of it, specifically for District D,  
21 specifically for 14 district for Sunnyside area. And so  
22 that's been a help. Plus, the mayor has overtime that has  
23 been distributed throughout the department that's used for  
24 law enforcement purposes, and our chief is dedicated to  
25 supplementing the funds. We just recently acquired over

1 \$80,000 for the next couple of months to go into the  
2 holiday time, and then we have other events that come up.

3 But I feel personally that the city and the  
4 department is backing law enforcement efforts very well  
5 right now in the area, and I feel confident that we will  
6 be able to continue to do well on fighting crime and  
7 deterring criminal activity. You understand a lot of  
8 times the overtime funding is specifically valuable  
9 because it allows for basically full-time proactive  
10 policing, so I don't have to use that overtime to just go  
11 answer 911 calls, we can use that for investigations, hard  
12 target initiatives.

13 We have special units that are assigned to the  
14 southeast patrol station which covers this area. Those  
15 units are meant to do full-time proactive work. We have a  
16 tactical team that goes out and does full-time tactical  
17 work, and then we also have a crime reduction unit that is  
18 citywide for the Houston Police Department, and the crime  
19 reduction unit will sometimes come and supplement. So if  
20 we have a spike in crime, we can take our tac team and the  
21 crime reduction unit, which we have done before, and we  
22 can amass the area very quickly with an additional 40 to  
23 60 officers specifically in that area to deter criminal  
24 activity.

25 MR. OXER: Go ahead, Juan. I've got another

1 question.

2 DR. MUÑOZ: Captain, you heard earlier, I  
3 suspect, about a substation being incorporated, so I've  
4 asked the question, I've heard this before that a facility  
5 exists but it doesn't necessarily compel your agency to  
6 utilize it.

7 CAPT. CAMPBELL: Well, as far as a substation  
8 out of the apartment complex, no, it doesn't compel us to  
9 have to use that particular facility. What happens is  
10 it's kind of a community policing effort and our officers  
11 are more likely to go by there, do their reports, because  
12 our laptops are mobile and they come out of the cars now.  
13 They can go into that workroom and do their report, take  
14 information. It causes the officers to be in that area  
15 more often than other areas.

16 DR. MUÑOZ: Here's what I'm asking, Captain.  
17 You said it would cause the officers to more likely  
18 utilize that space. What I'm asking, more likely is not  
19 definitive. Would they? Would there be some directive,  
20 some encouragement officially from your office to say,  
21 Hey, there's a facility, we want to make sure it's used,  
22 make sure if you're in the vicinity to go by there, be  
23 visible, utilize that space that's been created for this  
24 purpose?

25 CAPT. CAMPBELL: Yes, sir. I would support

1 that to the troops. When I was a patrolman, I used at  
2 another apartment complex on the north side, we used to go  
3 there all the time and do our reports, and management was  
4 very friendly, they provided water, just kind of say, hey,  
5 come on in, get your work done. And also, we've had in  
6 the area other areas where we've had officers and they've  
7 deterred crime because they were already at the apartment  
8 complex and were able to apprehend suspects who were  
9 engaged in criminal activity at that time.

10 DR. MUÑOZ: The presence is a deterrent.  
11 Right? So when they see the room being used occasionally.  
12 Right?

13 CAPT. CAMPBELL: Right. And just to reiterate,  
14 this apartment complex, along with the one next door, the  
15 one next door was in deplorable condition and it's now  
16 been shut down, but this was just festering and harboring  
17 a criminal element to come there. We had some narcotics  
18 dealings that were going on over there and it was almost  
19 set up as a drive-through at the one next door, and the  
20 apartment complex we're talking about, the Pointe, getting  
21 to be rebuilt, it's high weeds and grown up and people  
22 were going over there and it's hard for us to conduct law  
23 enforcement in there. We do. And by it being shut down,  
24 I think it really would help us getting stuff cleared out.

25 MR. OXER: Basic target hardening.



1           CAPT. CAMPBELL: Yes, exactly. And we've found  
2 too, with proper fencing and we have couple of model  
3 complexes we've noticed literally within the area, similar  
4 to what Council Member Boykins listed in his memo, that if  
5 you have security who's actually monitoring who's coming  
6 in and coming out, the crime is extremely low in those  
7 particular units. So if they can deliver a decent  
8 product, it would help us, it would help us allocate our  
9 resources to deter and fight criminal activity in areas  
10 all surrounding that area, as you're saying hard targeting  
11 and whatnot.

12           MR. OXER: You know, of course, we have to  
13 consider the safety of the members of the community, the  
14 residents who would be in these facilities that we're  
15 supporting the construction, but we also want to see that  
16 they're an integrated component of the larger policing so  
17 that it's not an island, nor do I suggest that they are.  
18 I'm just saying we're looking at it in the context that  
19 this is a regular part of it. I personally believe there  
20 is a lot to be said for mowing the grass, fixing the  
21 windows, and putting fence up to make sure who's coming in  
22 and out. That's like a little sunshine and bleach to  
23 clean the place up.

24           CAPT. CAMPBELL: Sure. The broken windows  
25 theory goes a long way.

1 MR. OXER: Exactly. To my mind, this is headed  
2 in the direction that we'd like to see it got, but if you  
3 have some other comments. We typically run on a clock on  
4 these, but this is an important project or an important  
5 component of the discussion on a project that we hope can  
6 be an exemplar for others that we do later on.

7 Did you have a comment, Tim?

8 CAPT. CAMPBELL: I'm sorry.

9 MR. OXER: Go ahead, Captain.

10 CAPT. CAMPBELL: I would note that there's a  
11 lot of areas in this particular side of town that are  
12 being rebuilt and getting fixed up, and it's one small  
13 step at a time, basically, I don't think it would be an  
14 island. There's different pockets all throughout here  
15 that are flourishing and starting to come up. I think the  
16 council member is dedicated to coming up here, I think the  
17 police department is extremely dedicated to providing  
18 services, and I have to add, too, the community is behind  
19 it.

20 When we shut down the Crestmont Village one,  
21 which is the apartments next door to that, HPD was out  
22 there, we were helping unload water and food trucks and  
23 helping people, but the community and the church down the  
24 street, they really pulled together about finding  
25 placement for other people. I think this is a good

1 example of community policing and community effort trying  
2 to improve the area. It might take a while but I believe  
3 that HPD can help a lot with getting this done as far as  
4 the criminal side. As far as the numbers, like I said,  
5 I've got pages of stats but I'm not going to bore you with  
6 numbers.

7 DR. MUÑOZ: Hey, Captain.

8 CAPT. CAMPBELL: Yes, sir.

9 DR. MUÑOZ: You've been to this neighborhood,  
10 you've walked up and down that street?

11 CAPT. CAMPBELL: I've been there a lot.

12 DR. MUÑOZ: You've seen those weeds with your  
13 own eyes.

14 CAPT. CAMPBELL: I know exactly. The complex  
15 is painted green, there's not any windows left. They've  
16 got wrought iron fencing going around the property but  
17 it's been damaged and bent open for people to get in and  
18 get out. Even when we were shutting down the complex next  
19 door, we actually stationed units in the complex and we  
20 stationed them at all four corners and in between, with  
21 minimum two men in each patrol car for safety. They  
22 started boarding up from the back, so they started  
23 boarding up units from the back and trying to shut them  
24 down, and then also trying to find placement for people  
25 that were having to move out, and there were people coming

1 in and tearing the boards down and trying to move in the  
2 middle of the night. So that's why the police, we sat out  
3 there for the residents' safety, as well as the people  
4 that were trying to come back in. It was a long time, it  
5 took from like August till almost November before we had  
6 everybody placed at a different location.

7 MR. OXER: So this is not the old one next door  
8 that's been shut down and gone, this is the one we're  
9 talking about.

10 CAPT. CAMPBELL: The one we're talking about.

11 MR. OXER: So Barry, this one is not occupied  
12 now. Right?

13 CAPT. CAMPBELL: Right.

14 MR. PALMER: No. Ours is the place that's been  
15 closed for a number of years but the one Captain Campbell  
16 is talking about is the one next door to ours.

17 MR. OXER: Barry, you've got to say who you  
18 are.

19 MR. PALMER: Barry Palmer with Coats Rose.

20 MR. OXER: We know who you are but she has to  
21 know who you are.

22 CAPT. CAMPBELL: And to clarify, Kenneth  
23 Campbell again.

24 MR. GANN: I had a question.

25 MR. OXER: Mr. Gann.

1 MR. GANN: Number one, are these the same  
2 owners that own the project now that's going to be torn  
3 down?

4 CAPT. CAMPBELL: I can't answer that question,  
5 I'm not sure who the owners are.

6 MR. PALMER: No. The new developer has nothing  
7 to do with the previous owners.

8 MR. GANN: The point I'd like to make -- not  
9 Barry, it's going to be another one on the police officer,  
10 the captain -- that 36 percent is more than twice our  
11 minimum acceptance, so there must really be a lot of crime  
12 out there. Do you know where it's really coming from?

13 CAPT. CAMPBELL: Well, like I said, I don't  
14 necessarily agree with the Neighborhood Scout report. Do  
15 I know where the crime is coming from?

16 MR. GANN: We have to have some level to start  
17 with.

18 CAPT. CAMPBELL: I understand that.

19 MR. OXER: To answer that question, I'll make a  
20 point to address that one, at least to describe my  
21 understanding of it. The Scout report is not an up or  
22 down vote, it doesn't quality, it doesn't disqualify, it  
23 simply says if it's above what our indicated criteria are,  
24 that means we need to take a little closer look, and that  
25 closer look includes going locally as opposed to this

1 nationally reported, going locally to get the data that  
2 you're talking about, and the investment of the  
3 intellectual capital and the effort in improving the  
4 neighborhood that you've indicated.

5 MR. GANN: I'm agreeing with that, but some of  
6 my situation and problems with that is why did it take  
7 eight years to get this rolling. Do you know why they  
8 didn't clear that?

9 CAPT. CAMPBELL: To answer your first question,  
10 yes, we know where the crime is coming from and it moves.

11 So it's like any kind of nuisance or problem, once you  
12 conduct enforcement in that particular area, it's going to  
13 move. Now, do we know the area it's going to move within?  
14 Yes. And like I said, we do that through our phase one of  
15 our initiatives and we do the crime analysis and figure  
16 out exact locations, time of day. We have people working  
17 with us in the community, people working with federal  
18 entities that are helping us as well, and we get a lot of  
19 information and intel.

20 As far as why this didn't happen from '08, Ike  
21 hit in '08 and there were already problems with the  
22 complex in question at that time, and there's a lot of  
23 residual from '08 from Ike that took a long time to come  
24 to fruition as far as rebuilding and coming back. But I  
25 don't know why it took that long for it to come about now.

1 I know that the property in question is particularly bad  
2 because I believe it harbored a refuge for criminals to  
3 live and criminal activity that was also occurring out of  
4 the combination with the other complex. So when you have  
5 both properties in question, it really created for a  
6 really mass area, very large size area for criminal  
7 activity to occur and also for them to hide. So that's  
8 why I kind of talk about both all in the same as one, I  
9 think they contributed to the numbers increasing over  
10 time.

11 MR. OXER: Any other questions, Tom?

12 MR. GANN: No.

13 MR. OXER: Thank you, Captain.

14 Do you have a question, Beau?

15 MR. ECCLES: Just really quick, the statistics  
16 you brought with you that show a downward trend, you said  
17 that those were crimes on Selinsky Road, or are they  
18 around Selinsky Road? Because the statistics that I think  
19 the Department was using were based on census tracts.

20 CAPT. CAMPBELL: I have ones that are  
21 specifically on Selinsky that show a downward trend, I  
22 have ones for the -- within that local area for that  
23 station we have five beats that are in 14 districts, so  
24 it's 14-10, 14-D20, 14-D30. 14-D40, that district and  
25 beat, there's a downward trend, which would be that area

1 that encompasses the specific complex that shows downward  
2 trend in Part 1 violent and nonviolent crimes.

3 MR. ECCLES: How big is that area that you're  
4 talking about, that beat?

5 CAPT. CAMPBELL: Well, my station covers two  
6 districts, it's 13 and 14 districts which covers 51 square  
7 miles, and so you take at least half of that, about 25  
8 square miles and divide that by five, so you're looking at  
9 five to ten square miles. And don't quote me on that  
10 exactly, but I'm just trying to give you a rough idea to  
11 maybe help paint a picture.

12 MR. OXER: And staffing amongst that would be  
13 what?

14 CAPT. CAMPBELL: For the two districts, 13 and  
15 14, the station that I oversee operations has just under a  
16 couple hundred officers at it, and then we put a very  
17 large portion of our staffing towards the 14 district  
18 which is our heavier side as far as activity.

19 MR. OXER: We have -- or at least I have a  
20 comparison for a project that we did have an opportunity  
21 to address that was in San Antonio, it's called Wheatley  
22 Courts, and the chief, four stars, showed up and he was  
23 saying he was putting the effort into it. But one of the  
24 questions I had, I gather there are some residents here  
25 from this particular area. Raise your hands if you're



1 from that area. Glad to see you. Appreciate your coming  
2 over from Houston. That's where I come from, by the way.

3 I don't know if you know Doug Brinkley over in Fort Bend  
4 County and Sugar Land, but he's my guy like you. Okay?

5 The question I have in there and you've said  
6 that you participated and supported the residents, several  
7 of the residents of Wheatley Courts, and it was a  
8 reconstruction project, came up and said we needed this,  
9 there's crime. And my single question, they had others,  
10 but my question was: What are you as the residents doing  
11 to improve the safety of your own home? I know, watching,  
12 you've got to do that, and we'll get there, don't worry  
13 we're getting there, but that's a question that's coming,  
14 so be ready to answer it. All right?

15 CAPT. CAMPBELL: Also, as a note, sir, as far  
16 as improving the safety of your home we've put together  
17 some awareness campaigns we've done in that area where  
18 we've actually gone out and helped them install  
19 reinforcing their locks, fire detectors. We did a big  
20 public news thing on that but we're still continuing that  
21 where we go out and we partner with churches to help get  
22 things done as far as taking care of crime prevention  
23 measures for their homes.

24 MR. OXER: It's a sad thing that we have to do  
25 that with such intensity in so many locations, but it's a

1 fact. Okay? So we can either ignore it exists, or we can  
2 address it and fix it. That's one of the questions that  
3 comes up. I think we're adequately satisfied, I certainly  
4 am, that this is not going to be the first money in and  
5 there's a sufficient concentration of law enforcement that  
6 is there and will continue to be there, and there has been  
7 sufficient investment -- and we'll hear from Mr. Mudd here  
8 in a minute -- of the city's resources and certainly  
9 Councilman Boykins' resources there to make sure that this  
10 is going the direction we want to go.

11 And I'm happy to see that it's a 4 percent deal  
12 because we've got a lot of 4 percent money left over,  
13 folks, we need to be doing some more of these. Okay?

14 Do you have anything else?

15 CAPT. CAMPBELL: No, sir.

16 MR. OXER: We appreciate your comments and glad  
17 you're here.

18 CAPT. CAMPBELL: Thank you, sir.

19 MR. OXER: Any other comments from the Board?  
20 Any questions?

21 (No response.)

22 MR. OXER: Mr. Mudd, did you have some  
23 thoughts? I'll ask you first thing to say who you are and  
24 how you represent so we put it on the record, and then  
25 have at it.

1 MR. MUDD: Good morning. My name is Richard  
2 Mudd. I'm a manager at the City of Houston's Housing and  
3 Community Development Department. It's a pleasure to be  
4 here today, Chairman Oxer and members of the Board, so  
5 thank you for allowing me to speak.

6 The City of Houston is committed to addressing  
7 the blight affecting the community surrounding the  
8 apartment complex formerly known as The Bridge of  
9 Crestmont, located at 5638 Selinsky Road in Houston,  
10 Texas. In 2013, the city filed a lawsuit against the  
11 Village of Crestmont which resulted in an agreement  
12 directing the property owners to bring the complex up to  
13 code and abate criminal activity on the property.

14 After the owners failed to comply with this  
15 agreement, the city sought and was granted a contempt and  
16 enforcement order. This order required the complex to be  
17 vacated by October 2015, and now a proposal to demolish  
18 the Village of Crestmont complex is scheduled to go before  
19 Houston City Council on November 16 of this year. We  
20 believe the demolition of this property, scheduled to  
21 occur on December 3, would provide significant benefits to  
22 the surrounding community.

23 In addition, at the mayor's request, the city  
24 has assembled a multifamily task force comprised of staff  
25 from five different city departments. This task force is

1 part of a pilot program to identify the most dangerous and  
2 poorly managed apartment complexes in the city, and to  
3 take swift and targeted actions towards remediation. An  
4 apartment complex near the Village of Crestmont will  
5 likely be included in this pilot program which involves  
6 both enforcement action and incentives aimed at reducing  
7 crime and improving property management and living  
8 conditions.

9 The city also expects this area to benefit from  
10 significant private and public investments aimed at  
11 revitalizing the surrounding neighborhoods. Sterling High  
12 School, located within one mile of the Village of  
13 Crestmont, is expected to complete a new \$72.3 million  
14 campus in 2017. In addition, a private developer has  
15 notified the city of its intention to invest \$11 million  
16 in private funds to rehabilitate a nearby apartment  
17 complex and provide greater services to the area. The  
18 city will continue to work with this developer and other  
19 private investors to explore additional opportunities that  
20 will benefit the wider community.

21 Finally, Mayor Sylvester Turner's Blue Tarp  
22 Initiative is also investing in single family home  
23 rehabilitation in this area. This initiative targets  
24 homes with roof tarps due to past storm damage, and the  
25 city is committed to repairing these roofs by December 31,

1 2016. Please note that six households in the same zip  
2 code as the Selinsky property are expected to participate  
3 in this program and three roofs have already been  
4 repaired.

5 Chairman Oxer and members of the Board, I thank  
6 you for your time.

7 MR. OXER: Appreciate your comments, Mr. Mudd.  
8 Any questions from the Board?

9 (No response.)

10 MR. OXER: Thank you, sir.

11 MR. MUDD: Thank you.

12 MR. OXER: I do have one question, I just  
13 thought of something. We're building a \$72 million high  
14 school. How big is it going to be, how many students,  
15 estimated?

16 MR. MUDD: Unfortunately, I don't have that  
17 answer.

18 MR. OXER: Anybody got any idea? Any staff got  
19 any sense of how big that might be or would be? I don't  
20 have a sense of it.

21 SPEAKER FROM AUDIENCE: I'd say about 6,000.

22 MR. OXER: Okay. Thank you, Mr. Mudd.

23 MR. MUDD: Thank you.

24 MR. CAVE: Good morning, Chairman and the  
25 Board. My name is Charles Cave. I'm a resident of

1 Crestmont Park. I moved there in 1978 and I've been a  
2 resident since. And I just wanted, before I get started,  
3 to urge you all to exercise your discretion to overcome  
4 the waiver and push this project forward. And before I go  
5 further, I also want to just introduce you again to the  
6 folks who came with me from Crestmont Park, our neighbors,  
7 our homeowner and our stakeholders. And if you would  
8 stand, please.

9 MR. OXER: Rise up, everybody, stand up and  
10 show us who you are. We appreciate you coming over.

11 MR. CAVE: So that's to let you know that we're  
12 really seriously concerned about improving our  
13 neighborhood.

14 And speaking directly about the crime -- by the  
15 way, my kids have gone to school in the neighborhood, my  
16 wife is a retired teacher, she taught at the neighborhood  
17 schools, so we're a part of Crestmont, it flows through  
18 our veins, and so we feel very confident and comfortable  
19 to talk about this subject. I'm also president of our  
20 Crestmont Park Civic Association, I've been so for the  
21 last twelve years. I've been involved in the organization  
22 for about the last 28 years of my residency there. And so  
23 here's some of the things that we're doing about crime.

24 Number one, we've started our Citizens on  
25 Patrol which is a program that comes out of Houston Police

1 Department. It empowers citizens to patrol the  
2 neighborhoods and to report crime to the police  
3 department, who then responds, and because of this, our  
4 neighborhood gets a little bit higher priority response  
5 because of our Citizens on Patrol. It's been going on  
6 about four years now, we have about ten citizens that do,  
7 on average, about one hour a week of patrolling.

8           Number two, HPD has a program called PIP that  
9 stands for Positive Interaction Program. It meets once  
10 monthly, the second Thursday of the month at the command  
11 center where Captain Campbell resides. And that's an  
12 opportunity for us as citizens which we participate to go  
13 meet the command staff, meet the patrol officers, get a  
14 chance to give them our criminal issues, and they also  
15 give us information about crime prevention, et cetera. So  
16 we participate actively in that as well.

17           We also have a storefront that's not very far  
18 from us, it's on Reed Road. We had a very good ongoing  
19 relationship with the officers there. Lieutenant Young is  
20 the officer there, and they occasionally come to our civic  
21 meetings and kind of enlighten us of crime issues in our  
22 neighborhood as well. And because it's a storefront, they  
23 work Monday through Friday, we can also call on them on  
24 specific community issues that we come in contact with  
25 that they can deal more proactively with and not go

1 through the 911 system or the non-emergency system.

2 We also participate in National Night Out. We  
3 had it the first Tuesday in October.

4 MR. OXER: First Tuesday in October. I was  
5 active on mine.

6 MR. MUDD: Yes, sir, absolutely. We had a  
7 great crowd to turn out, we had about 50 people there,  
8 served some food, we had some candidates come by and  
9 speak, and Councilman Boykins sent one of his persons from  
10 his office to be involved as well.

11 We also have patrol by a constable in the area,  
12 Constable 7, May Walker. She provides frequent patrols in  
13 the area and throughout the community.

14 Also, a part of crime control is also making  
15 sure that our youth have things to do and are preoccupied  
16 and that their busy minds don't focus so much on crime or  
17 things that they shouldn't become involved in.

18 MR. OXER: It's not the busy minds, it's the  
19 idle hands.

20 MR. MUDD: Absolutely, absolutely. So we have  
21 some great programming in our community park, we've got a  
22 youth football program that operates out of there, we have  
23 ongoing activities that go there, and also, we're getting  
24 ready to bring in some computer labs, et cetera. So we're  
25 very active, we meet once a month. Our Council Member



1 Boykins, who comes to our meetings quite often, he says --  
2 we have about 40 or 50 people usually -- that we're one of  
3 the most populated civic clubs in the area in his  
4 district. That's him saying that, of course.

5 And so I guess in conclusion, we're really  
6 excited about all the development that's going on. We  
7 feel that one of the key components also of crime  
8 prevention is good housing, and we think that this project  
9 will help in that regard.

10 MR. OXER: That's okay. Please continue.

11 MR. MUDD: As you already heard, we have a new  
12 development just a thousand miles -- excuse me, a thousand  
13 feet down the way that are homes that are selling for  
14 \$135,000.

15 MR. OXER: It only seems like that.

16 MR. MUDD: It does. So a lot of good things  
17 going on around us. We have the attention and clear  
18 support of our council member and city council, HPD. So  
19 in that regard, we would urge you all to consider these  
20 issues, and therefore, waive the crime issue as an issue  
21 for this project going forward.

22 MR. OXER: Great. Mr. Cave, thank you for  
23 coming.

24 Are there any questions?

25 DR. MUÑOZ: I have a question, sir. Why has it

1 taken so long? I appreciate that the area was damaged by  
2 the storm, it's been unoccupied since '08. What's taken  
3 so long to generate this degree of sort of activity an  
4 interest and visibility? What you're describing is all  
5 very positive and favorable, obviously. Why didn't it  
6 happen four years ago, five years ago, six years ago? You  
7 obviously have a very supportive community of friends in  
8 your neighborhood, there's obviously a desire for this to  
9 have happened. Back to my colleague on the dais's  
10 question, why did it take so long?

11 MR. CAVE: Well, largely, I would say that this  
12 is an issue that we did not have direct control over,  
13 because obviously to do a project or to mitigate abandoned  
14 apartments takes a developer, takes money and commitment  
15 from the city, and unfortunately, due to other priorities  
16 within the city, we were not able to garner the support  
17 we've gotten now.

18 And I've got to tell you, one of the most  
19 significant improvements has been the election of Council  
20 Member Dwight Boykins. He has come in and made a huge  
21 difference in terms of rallying his support and city  
22 resources, and this developer to come in and initiate this  
23 project.

24 I hope that answered your question.

25 MR. OXER: Good. Thank you, Mr. Cave.

1           Any other comments? Happy to have you come up  
2 here. I think we're going in the right direction here.

3           DR. SIMON: Good morning, Mr. Chairman and  
4 Board. I'm Dr. Murphy Lee Simon, Jr. I'm the pastor of  
5 Bethel Institutional Missionary Baptist Church. Many of  
6 the people that you see here today are members of our  
7 church, and I think I'm going to be able to answer your  
8 question.

9           I want to give you a good idea of where we are.  
10 There is a cross at Selinsky and Martin Luther King. On  
11 that corner is a brand new Exxon station. We own the  
12 vacant property right next door to it, then our church  
13 campus, and right next door are those green dilapidated  
14 apartments that have been wiped away since Ike. On the  
15 other side of those are the Crestmont Park Apartments.

16           MR. OXER: So this is not in a hood, this is in  
17 your hood.

18           DR. SIMON: This is right next door. Yes, sir.  
19 And we have members that have been in this neighborhood  
20 that have made investments in this neighborhood for over  
21 40-50 years. It is a neighborhood that has nurtured a  
22 Hall of Fame Canadian football player, it's nurtured  
23 doctors, lawyers, teachers that have come back to Sterling  
24 High School to teach. I myself grew up on the other side  
25 of Cullen and our community has also nurtured me and

1 helped me grow when I came to the church eight years ago,  
2 the church nurtured me as I went through my masters and my  
3 doctoral studies. What we do do is we are investors in  
4 the souls of the people there in the Crestmont Park area  
5 of town.

6 Now, you've got to understand there's a  
7 difference between South Park and Crestmont Park. When  
8 you get to Belfort, you're entering into the South Park  
9 addition of this area which has to be about, I would say,  
10 four miles down Martin Luther King. You have a high  
11 concentration of crime there. In the Selinsky-Martin  
12 Luther King area, there's not a high concentration of  
13 crime there. I'm there many times at night. We did have  
14 a situation after Ike, with the church being next door, I  
15 mean, literally the only thing that separates our property  
16 and those apartments is the wrought iron fence that's  
17 there. Ike as able to destroy the apartments and didn't  
18 touch the church. Not only did it not touch our church,  
19 but it destroyed the Crestmont Park Apartments.

20 To answer your question, what happened is we  
21 had some slum lords in the neighborhood. They took the  
22 money, they did not make the repairs, and over eight  
23 years, those apartments have slowly deteriorated and it's  
24 a haven for any such crime that we can imagine. One of  
25 the things that we have done is we prayed and we hoped to

1 God that we never find a young girl that has been raped or  
2 murdered in those apartments because they've been  
3 neglected.

4 MR. OXER: So basically it took from 2008 to  
5 2013 for the city to bring down the heat.

6 DR. SIMON: Well, let me help you with that.  
7 About three or four years ago, I did a report with the  
8 Isaiah Factor, and I called the city out on this because  
9 we were patiently waiting but nothing happened. Soon as  
10 we began to start talking about it, we got some action  
11 from the then councilwoman, Wanda Adams. That's when we  
12 became privy to what's happening at the Crestmont Park  
13 Apartments. What was happening at the Crestmont Park  
14 Apartments is the same thing, the slum lord. He took the  
15 insurance money and never fixed the place, so we had a  
16 high crime area.

17 We then went in and we forced the city to start  
18 dealing with the situation because the slum lord took the  
19 money and did not pay the electricity bill, so we had  
20 people that were in the dark. Our church fed them every  
21 day, our church partnered with the city to get programs to  
22 find them new places to live so that they could have a  
23 better opportunity at life. We were able to get those  
24 apartments closed down, and now, thankfully, they're going  
25 to be destroyed.

1           So what we have here is we talk about the test  
2 scores of the schools, we talk about what's happening, we  
3 talk about the morale, but what we have are children that  
4 are seeing a light of hope but they have to walk past the  
5 darkness of death in order to get to school. And when  
6 they get to school and come from school, we're saying go  
7 learn, go be the best that you can be, but then when you  
8 walk right past his darkness of death, they're saying it  
9 doesn't matter because is this where I'm going to end up.

10           So what I'm saying is, and I know we're short  
11 of time, what we're asking is this, it's real simple,  
12 we're not asking for a handout, but what we are asking you  
13 to do is to invest in this community, just as this  
14 community has been investing in the souls that we care  
15 for.

16           Thank you for your time, and may the Lord our  
17 God bless you.

18           (Applause.)

19           MR. OXER: I might offer this comment, Dr.  
20 Simon. I have to say I spend a lot of time up here, but  
21 it is woefully apparent to me that you spend a whole lot  
22 more time behind that podium than I do.

23           (General laughter.)

24           DR. SIMON: Yes, sir.

25           MR. OXER: I appreciate your enthusiasm and

1 that of your congregation that has joined you, and I think  
2 we're going to be able to find some resolution to this  
3 issue.

4 DR. SIMON: Thank you, sir.

5 MR. OXER: Just for the record, when you're  
6 passing that plate around, you pass it down that way,  
7 don't come up here with it. We're going to do our part  
8 but I just want to get the check, you know what I mean.

9 (General laughter.)

10 MR. OXER: Anybody else? You hear where this  
11 is going? You're welcome, we're happy to have you if you  
12 want to say anything.

13 MR. ANDERSON: I'll say it real quick. My name  
14 is Lloyd Anderson. I'll tell you a little bit about  
15 myself.

16 MR. OXER: I pity you for having to follow Dr.  
17 Simon.

18 MR. ANDERSON: I know. That's why I was  
19 hesitating, that was my hesitation. I'm like, really,  
20 you're going to put me behind him?

21 (General laughter.)

22 MR. OXER: You're a brave soul, I've got to  
23 tell you right there.

24 MR. ANDERSON: Just to tell you real quick who  
25 I am. My name is Lloyd Anderson and I grew up in the

1 Crestmont Park area just a few blocks down from that  
2 particular project we're talking about, Crestmont Pointe.  
3 1995 I joined the Houston Police Department, so I've been  
4 21 years as a police officer. I went to Frost Elementary.  
5 We've been hearing the name Sterling High School, I  
6 finished from Sterling High School. Not only myself but  
7 Clyde Drexler finished from Sterling High School.

8 MR. OXER: The Glide.

9 MR. ANDERSON: Clyde the Glide finished from  
10 Sterling High School, walking distance from the  
11 apartments. Yolanda Adams, the gospel singer that won  
12 many Grammy Awards, also finished from Sterling High  
13 School. Zena Garrison -- I've got them written down.

14 (General laughter.)

15 MR. ANDERSON: Zena Garrison, professional  
16 tennis player, who also finished from Sterling High  
17 School.

18 MR. OXER: What they're trying to say it ain't  
19 where you come from, it's where you're going that matters.

20 MR. ANDERSON: That's it. And myself, who  
21 finished from Sterling High School in 1983, but not only  
22 am I a Houston police officer, I also have a nonprofit  
23 called 713 Ministries, based on the area code at that  
24 time, where we go into the apartments right down the  
25 street and we do after school programs, we do computer



1 classes for adults, we do all type of activities so that  
2 those kids and those residents know, like you said, it  
3 ain't where you come from, it's where you're going. We  
4 try to remove the whole broken window theory.

5 I'm also contacting former residents of that  
6 area that grew up over there and saying, hey, many, let's  
7 come back, let us come back. We just have celebrated 50  
8 years of Sterling being built, we had our 50-year, and a  
9 lot of people was there and I was able to say, hey, we  
10 need to come back and give back to where we come from and  
11 don't just depend on those who are left, it's our  
12 responsibility as well to give back.

13 And we're looking to team up with those at  
14 Pointe to do everything I'm doing to over at Villa  
15 Americana Apartments, 5901 Selinsky. We're looking to do  
16 all type of computer classes, after school programs,  
17 mentorship. We teamed up with Boys and Girls Club -- we  
18 didn't mention that. There's a Boys and Girls Club right  
19 down the street from that as well, so with the Boys and  
20 Girls Club, the apartments we're going to be working with  
21 in that area, Pastor Simon's church, we're going to make  
22 Selinsky look real good.

23 Thank you for your time.

24 MR. OXER: Thank you, Mr. Anderson.

25 (Applause.)

1           MR. OXER: And if you want to speak, you can  
2 come up here, we're happy to have you come up and speak,  
3 but I'll just offer up this comment. You're looking for  
4 investment, there's money being put into that, but it's  
5 apparent to me that nothing changes and the investment of  
6 money is irrelevant unless there's a change of thinking.  
7 The first change has to come in the way you see yourself  
8 and see your community, and that's evident that that's  
9 occurred.

10           If you'd like to speak, ma'am, we'd love to  
11 have you comment.

12           MS. BUHL: Thank you. My name is Odeal Buhl.  
13 I am a teacher, I taught school for 41 years.

14           MR. OXER: Did you have this young man in your  
15 class while you were there?

16           (General laughter.)

17           MS. BUHL: No. But I moved into Crestmont  
18 addition November 29, 1969. I have been there ever since.  
19 I joined Bethel Baptist Church April 17, 1972. I have  
20 been there and Bethel has been an inspiration in the  
21 community. We have had, as he said, Clyde belonged to our  
22 church, his mother and I are good friends, as others he  
23 had mentioned came through our area. Ninety percent of  
24 the children that have gone through Bethel Church have  
25 gone to college, out and making a livelihood in society,

1 are great participants in society. I thank my pastor and  
2 all of the members.

3 I retired in 1987 with 41 years of experience,  
4 I nursed my husband and my mother during that time. When  
5 they passed on, I helped to take care of my grandchildren  
6 and great grandchildren. They're all in college,  
7 finished, have good jobs. And since that time, volunteer  
8 at my church to tutor. I tutor children free of charge  
9 and they are going on. This summer I helped a young man,  
10 he was failing in government of Texas. I said, Well, a  
11 lot of the laws have changed but bring your textbook and  
12 I'll help you. So he came back and he called me and said,  
13 I made an 80. I said, If you made an 80 at TSU, you're  
14 doing a good job.

15 (Applause.)

16 MR. OXER: Thank you, Ms. Buhl. Ms. Buhl, if  
17 you could just sign in and tell us who you are, please, so  
18 we can get that on the record.

19 All right. Let's get a summary review here.  
20 It seems like we have a motion from Mr. Gann, a second by  
21 Mr. Goodwin to approve staff recommendation which was to  
22 find this site ineligible. It occurs to me that Mr. Gann  
23 and Mr. Goodwin might be willing to reconsider that. Or  
24 not, it's up to you.

25 MR. GANN: I'm really not. That crime rate is

1 just way too high, as far as I'm concerned.

2 MR. GOODWIN: I'm willing to reconsider and  
3 withdraw my second.

4 MR. GANN: I can withdraw my motion, if you  
5 like.

6 MR. OXER: Mr. Goodwin, you're withdrawing your  
7 second. Did I hear this correctly?

8 MR. GOODWIN: I am.

9 MR. OXER: And Mr. Gann?

10 MR. GANN: I withdraw my first.

11 MR. OXER: There you go. Given the  
12 circumstances, we'll now have a motion to consider on this  
13 particular item.

14 DR. MUÑOZ: What would the motion be?

15 MR. OXER: The motion would be to deny staff  
16 recommendation on this item which was to find the site  
17 ineligible which would, in effect, find it eligible based  
18 on the commentary and the testimony that we've heard.

19 MS. HOLLOWAY: Yes.

20 MR. OXER: Is that correct, Marni?

21 MS. HOLLOWAY: That is correct. Denial would  
22 be to find the site eligible so that we would move forward  
23 with the process to bring it back next month -- hopefully  
24 next month if we can get it all together, for a 4 percent  
25 award.

1 DR. MUÑOZ: I move to find the site eligible  
2 and deny staff recommendation.

3 MR. OXER: Motion by Dr. Muñoz to deny staff  
4 recommendation and to find this site eligible for 4  
5 percent financing.

6 MS. BINGHAM ESCAREÑO: Second.

7 DR. MUÑOZ: Based on the testimony that's been  
8 provided.

9 MR. OXER: And second by Ms. Bingham.

10 We heard public comment. Is there anybody else  
11 who wants to say anything on comment? I'm going to tell  
12 you like I tell some of the other folks that show up here,  
13 you've got to look where this is headed. Do you really  
14 want to say anything else? I'm happy to have you say  
15 anything you want, but it's leaning the right direction  
16 for you.

17 Marni, do you have anything else to add?

18 MS. HOLLOWAY: Other than I need to work on my  
19 presentation skills.

20 MR. OXER: I think all of us just had a lesson.

21 MS. HOLLOWAY: Yeah, we did.

22 (General laughter.)

23 MR. OXER: Dr. Simon, we appreciate you being  
24 here.

25 All right. Motion by Dr. Muñoz, second by Ms.

1 Bingham to deny staff recommendation on this item and to  
2 find this site eligible for consideration for 4 percent  
3 financing. Those in favor?

4 (A show of hands.)

5 MR. OXER: Those opposed?

6 MR. GANN: No.

7 MR. OXER: No by Mr. Gann. The item is four to  
8 one, it's approved.

9 (Applause.)

10 MR. OXER: Good job, Marni. We're going to  
11 come see you down there, we want to see that area. Just  
12 like Wheatley Courts, we're not going to ignore this,  
13 we're not just dumping the money in, we're going to see  
14 what comes down there. Okay?

15 While we appreciate your enthusiasm, I would  
16 ask you to be quiet because we have other items to  
17 consider as you move on.

18 Marni, next item, 5(b).

19 MS. HOLLOWAY: Item 5(b) is presentation,  
20 discussion and possible action to adopt the 2017  
21 Multifamily Programs Procedures Manual. Texas Government  
22 Code Chapter 2306.67022 requires the Board to adopt a  
23 manual to provide information regarding the administration  
24 and eligibility for participation in the Housing Tax  
25 Credit Program. The manual as presented in your Board

1 book is not complete, it includes general information and  
2 headers for information that we will be filling in after  
3 the rules have been adopted and approved by the governor.

4 The manual will be published on the Department's website  
5 no later than the date that the Uniform Multifamily Rules  
6 and QAP are filed for publication in the *Texas Register*.

7 Staff is recommending that the Board approve  
8 the 2017 Multifamily Programs Procedures Manual as  
9 presented in your Board book.

10 MR. OXER: Any questions from the Board?

11 MR. GOODWIN: Move approval.

12 MS. BINGHAM ESCAREÑO: Second.

13 MR. OXER: Motion by Mr. Goodwin, second by Ms.  
14 Bingham.

15 DR. MUÑOZ: I have a question. Any substantive  
16 changes to this manual right now, any significant changes?  
17 Because I looked through it, I get it, it's not complete.

18 MR. OXER: Any big diversion from last year?

19 MS. HOLLOWAY: There was some big swings in  
20 editing from last year but at this point it's really about  
21 administrative issues. For instance, we made sure that  
22 this year the manual is very clear about submission, how  
23 to submit an application to the Department and a few other  
24 cleanup items like that.

25 MR. OXER: You're basically buffing and

1 polishing the edges on this, making it smoother, faster,  
2 sleeker and easier.

3 MS. HOLLOWAY: Right. The real meat of it is  
4 when we start marrying it up to the rules and the  
5 application and start dropping in information under those  
6 tab headings.

7 MR. OXER: So we're adopting this with the idea  
8 that it's still in process.

9 MS. HOLLOWAY: Yes.

10 MR. OXER: Any other thoughts, any other  
11 questions?

12 (No response.)

13 MR. OXER: Okay. I had a motion by Mr.  
14 Goodwin. Did I hear a second from you?

15 MR. GOODWIN: I made the motion.

16 MR. OXER: I know. Motion by Mr. Goodwin. Who  
17 seconded?

18 MS. BINGHAM ESCAREÑO: I did.

19 MR. OXER: All right. Motion by Mr. Goodwin,  
20 second by Ms. Bingham. There's no request for public  
21 comment. Those in favor?

22 (A show of hands.)

23 MR. OXER: Opposed?

24 (No response.)

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



1           It looks like you're the big winner, Marni, you  
2 get to stay.

3           MS. HOLLOWAY: Okay. Item 5(c) is  
4 presentation, discussion and possible action on timely  
5 filed appeals under the Department's Multifamily Program  
6 Rules. This item involves Freedoms Path at Kerrville,  
7 which was previously awarded 9 percent housing tax credits  
8 for the development of 49 units in 2013, so this was a  
9 2013 deal.

10           They have applied for additional funds under  
11 the deferred forgivable loan set-aside under the 2016-1  
12 Multifamily Direct Loan NOFA. That application was  
13 received on January 4 of 2016; that's the day we opened  
14 for applications. The application was received on the  
15 same day as four other applications within the same set-  
16 aside during the regional allocation formula period, which  
17 expired on January 29. So we were still working within  
18 the RAF on the multifamily loans the same way we work  
19 within the RAF on 9 percent credits.

20           The application requested \$980,000, more than  
21 the amount available for Rural Subregion 9 in which the  
22 development site is located. The four other applications  
23 received on that same day requested less than the amounts  
24 available in their subregions and were awarded funds under  
25 the deferred forgivable loan set-aside earlier this year.

1        Approximately \$142,000 remain in the set-aside and that's  
2 not sufficient to meet the applicant's request.

3                The applicant has submitted an appeal seeking  
4 the reallocation of unused funds under the general set-  
5 aside in the 2016-1 NOFA to the deferred forgivable loan  
6 set-aside in order to award this application, so moving  
7 dollars from one set-aside to the other. They assert that  
8 the 2016-1 NOFA did not sufficiently describe the RAF in  
9 order for them to understand that they were limited to the  
10 amount available in their rural subregion. The amounts  
11 available in each subregion were published in the NOFA.  
12 The applicant actually had to add the amounts published  
13 for rural and urban subregions in order to arrive at the  
14 amount they contend should have been available to them.  
15 It should also be noted that as the successful applicant  
16 for competitive housing tax credits in 2013, the applicant  
17 is familiar with allocations to subregions in Texas.

18                If the RAF limitations were removed, the  
19 application still would not have been competitive due to  
20 scoring under Section 5 of the 2016-1 NOFA. Had  
21 competitive scoring been applied, which would have been  
22 the case if we hadn't had this RAF issue to begin with,  
23 this application would have scored last for the five  
24 applications received on January 4. On February 5, staff  
25 spoke with the applicant -- this was after the RAF period

1 had ended so we're at collapse -- and let them know that  
2 funding the application under the deferred forgivable set-  
3 aside was unlikely, although a final decision had not been  
4 made at that point since no applications had been awarded.

5 The applicant sent a letter on February 17,  
6 appealing staff's belief that the application was unlikely  
7 to be funded under the set-aside. So we hadn't taken an  
8 action but the applicant sent a letter saying, hey, wait.

9 On February 23, the executive director responded in a  
10 letter reiterating the reasons why the application was  
11 unlikely to be funded and informing the applicant of the  
12 opportunity to explore options outside of the deferred  
13 forgivable set-aside. On March 3, the applicant requested  
14 that the application be considered under the general set-  
15 aside, while requesting some repayable loan provisions  
16 outside of the provisions of the 2016-1 NOFA.

17 Real Estate Analysis has found the application  
18 to be infeasible within the parameters of the general set-  
19 aside. REA also considered parameters outside of the NOFA  
20 in an effort to find an avenue to provide funding to this  
21 applicant. While the do not recommend conclusion of the  
22 REA report is technically the trigger for this appeal, the  
23 applicant is questioning staff administration of the NOFA  
24 rather than the conclusion of the REA Division. That's  
25 why I'm standing here and not Brent.

1           Staff does not recommend reallocating those  
2 funds for two reasons. First, applications can no longer  
3 be accepted under the NOFA, so other applicants who may  
4 have submitted an application had they known that  
5 additional funds would be available are not able to apply.

6           Secondly, two other applications remain on the waiting  
7 list under the deferred forgivable set-aside after  
8 Freedoms Path, and reallocating funds within the NOFA at  
9 this point for this application would have ramifications  
10 for those applications, as well as potential applications  
11 that were not submitted since applicants believed that  
12 this type of waiver under the NOFA was unlikely.

13           Staff recommends denial of the appeal on the  
14 grounds that staff did properly apply the regional  
15 allocation formula provisions of the 2016-1 NOFA, and  
16 there are insufficient funds available to make the  
17 requested award. Any questions?

18           MR. OXER: Questions from the Board?

19           (No response.)

20           MR. OXER: Can I have a motion to consider  
21 then?

22           MS. BINGHAM ESCAREÑO: I move to approve  
23 staff's recommendation.

24           MR. OXER: Motion by Ms. Bingham to approve  
25 staff recommendation on item 6(a).

1 MR. GANN: Second.

2 MR. OXER: And second by Mr. Gann.

3 Tamea, do you have a comment?

4 MS. DULA: I do. Good morning. Tamea Dula  
5 with Coats Rose. Nice to be with you today.

6 Tomorrow is Veterans Day and that means that  
7 today is a very opportune day to come to you on behalf of  
8 the Freedoms Path at Kerrville, which is a 49-unit  
9 supportive housing development in Kerrville for disabled  
10 veterans. I invite you to look in your supplemental Board  
11 book at all of the beautiful photographs of this project  
12 so that you know what we're talking about. It's in the  
13 supplemental Board book under 5(c).

14 This project is located in a high opportunity  
15 area. The poverty rate is 12.4 percent, substantially  
16 less than 15 percent. The median income of the area is in  
17 the second quartile. It is located on the campus of the  
18 Veterans Administration Hospital. The project got tax  
19 credits in 2013. Now, this project is dealing with a  
20 lease from the VA, and as we all know, that takes time  
21 when you're working with the Veterans Administration.

22 They also had some difficulties with an  
23 unexpected decision by the City of Kerrville to take a  
24 water tower out of commission because of backup of  
25 chemicals in the water from that tower. As a result, the

1 project had to be effectively redesigned because they had  
2 to bring water in from a different location. During that  
3 period that the project was being redesigned and get back  
4 to the point where they could consider a closing,  
5 construction costs rose substantially because this was the  
6 time of the West Texas oil boom and we had people rushing  
7 to West Texas to build housing for all of the oil workers  
8 out there.

9           When we got to the point that they were going  
10 to close, there were funding gaps. A 2013 tax credit deal  
11 has to be placed in service by the end of 2015. At the  
12 end of 2014 they still hadn't closed. They got the  
13 general contractor, the design consultants to agree to  
14 basically defer a substantial portion of their fee.  
15 Additionally, they got Bank of America to agree to close  
16 on that basis, on the promise that they would continue  
17 looking for fees to close this gap.

18           They talked with the TDHCA about this gap and  
19 were encouraged to seek HOME funds because Kerrville, with  
20 a population of less than 25,000 people, is not a  
21 participating jurisdiction, it has no HOME funds or any  
22 other HUD funds on its own account available to make  
23 grants or deferred forgivable loans to projects such as  
24 this. So there are no more soft funds available in the  
25 city. The city was able to get together \$200,000 which

1 they gave as a local political subdivision contribution in  
2 order to get the points to get the tax credits awarded,  
3 but there's no more money available there.

4 So we have the TDHCA as the state agency for  
5 the benefit and with the mandate to serve non-  
6 participating jurisdictions. This is a non-participating  
7 jurisdiction. In 2015, this project owner applied for  
8 HOME funds in the 2015 NOFA. Problem: when the NOFA came  
9 out, it turns out that if you'd received assistance within  
10 the past five years, you were ineligible for that NOFA.  
11 Then you started seeing Mr. Craig Taylor appearing here at  
12 the Board meetings on basically a monthly basis to provide  
13 some insight into what is necessary with a supportive  
14 housing project, and especially a small supportive housing  
15 project. And in 2016, after much discussion by Mr.  
16 Taylor, and I think that contributed to the thought of  
17 having a deferred forgivable loan set-aside in 2016, \$3  
18 million was devoted to that purpose.

19 This project applied on the first day that  
20 applications were accepted. Problem: when they were told  
21 that they were unlikely to be funded, the found, number  
22 one, that the staff was interpreting the rules of the NOFA  
23 that the funding had to be within the subregion because  
24 there was a reference to the RAF. And the last page in  
25 the materials provided here is the last page of the NOFA

1 and it shows the RAF distribution there which shows that  
2 the rural subregion for Region 9 is only entitled to  
3 \$430,000. The NOFA also contained a provision that you  
4 could not make application for less than \$500,000 or more  
5 than a million. This application was sized at \$980,000  
6 which was what was needed in order to pay off these people  
7 who had deferred their fees in order to get the project  
8 done because they believed in the project.

9 If you look at the NOFA and if you look at the  
10 letter of appeal that's included in the supplemental Board  
11 book, the NOFA talks about there has to be enough money in  
12 your region. The region is both rural and urban and there  
13 was sufficient money in the region, there was like \$1.7  
14 million in the region when you add it all up. But with  
15 only \$430,000 in the rural subregion, they couldn't even  
16 apply to be in the first cut and their application  
17 wouldn't even be considered until the statewide collapse.

18 At that point, two applications from the City  
19 of Houston and two applications from the City of Austin,  
20 both of which are participating jurisdictions, and all  
21 four of which applications had substantial deferred  
22 forgivable debt already in them, as well as grant funds,  
23 they sucked up all the money because they were able to  
24 apply for more than \$500,000 but less than the subregion  
25 limit, and so they were in the first priority. They took



1 all the money, there's \$142,000 left.

2           So when they were notified that there was  
3 little likelihood of being funded, we filed an appeal  
4 based upon the interpretation of the NOFA. That appeal  
5 was never dealt with, but there were conversations with  
6 staff, and the applicant was encouraged to consider the  
7 possibility of moving their application to a different  
8 set-aside. And so they did so because the executive  
9 director indicated that some of the agricultural  
10 applications had been able to meet the requirements of the  
11 general set-aside, they requested that their application  
12 be considered in the general set-aside.

13           And it was there as application number 2 on the  
14 list in terms of the priority of receipt, and all of the  
15 ones that had 2016 credits were considered first, and  
16 finally in August and September, this application started  
17 to be considered from underwriting status, and  
18 underwriting said, You can't qualify, you don't have  
19 enough income because if you're in this set-aside it's 3  
20 percent interest, 30-year amortization, you can't qualify.

21           So here we are kind of a double catch-22 for  
22 two years running now and this is a project, it's  
23 supportive housing, it is not permitted by the TDHCA rules  
24 to have any foreclosable permanent debt or any non-cash  
25 flow debt, so truly getting into the general set-aside was

1 not a good idea, especially when underwriting said, We  
2 can't consider terms other than were published in the  
3 NOFA.

4 Sao today we're coming to you and saying the  
5 Board reserved the right in the NOFA to change the terms  
6 of the NOFA, it's in there, black and white, and we're  
7 asking that the Board exercise its discretion to do so.  
8 And we suggest that the easiest best way to do this that  
9 can benefit this project and keep it operating is to  
10 allocate some of the substantial monies that the staff  
11 says is still available back to the deferred forgivable  
12 loan set-aside so that this project can indeed be funded.

13 Do you have any questions? If not, Mr. Craig  
14 Taylor would like to speak.

15 MR. OXER: Okay. You mentioned, Tamea, that  
16 the appeal was never dealt with?

17 MS. DULA: Right. An appeal was filed. As  
18 staff pointed out, no definitive action had been taken at  
19 that time. They hadn't been told that they were being  
20 considered ineligible or anything like that, and so the  
21 appeal was not dealt with. So that's why we are harkening  
22 back to the February 17 appeal letter that was filed,  
23 which is attached to the appeal that's in your Board book.

24 MR. OXER: Okay. Any questions?

25 Marni, can you address this appeal question or

1 process or schedule or calendar?

2 DR. MUÑOZ: And Marni, help me understand, I  
3 mean, I'm reading more was requested than was available.

4 MS. HOLLOWAY: In the subregion.

5 DR. MUÑOZ: And I'm hearing there's plenty  
6 available, plenty of money available, and even some kind  
7 of proposal to move money into and at this point in time  
8 change this NOFA. Can we even do that?

9 MS. HOLLOWAY: The Board does have the  
10 ability to --

11 DR. MUÑOZ: Talk about the money first.

12 MS. HOLLOWAY: So you'll recall that the 2016-1  
13 NOFA was divided into four set-asides. The first one was  
14 the CHDO set-aside so that's HOME funds, \$3,236,344. The  
15 deferred forgivable loan set-aside, which is the one that  
16 we're talking about right now, was \$3 million. You'll  
17 recall from our conversations last year when we first  
18 published the NOFA that that deferred forgivable loan set-  
19 aside is funded with interest payments that are received  
20 on TCAP repayments. That's how we are funding that  
21 deferred forgivable set-aside so that we can continue to  
22 have those funds available and we're not depleting our  
23 pool. \$4 million was set aside for the 4 percent housing  
24 tax credit layered new construction awards. The balance  
25 is considered the general set-aside, \$12,872,752 was

1 originally allocated.

2           There is sufficient funds left in the general  
3 set-aside to make an award of \$980,000, but those funds  
4 are in the general set-aside which carried terms,  
5 requirements for payable debt --

6           DR. MUÑOZ: Which they can't.

7           MS. HOLLOWAY: -- at 3 percent over 30 years.

8           Our conversation with Mr. Taylor and Scott  
9 Deaton on February 5 was saying, okay, it's not likely  
10 that you're going to get an award. The letter that we  
11 received said, This is an appeal for assistance in  
12 connection with the denial of funding. The letter that we  
13 sent back said, We've received your letter, and went on to  
14 describe that the likelihood of receiving funding was very  
15 low. At that point we had not taken an action that was  
16 appealable under the rules. So I think to say that the  
17 appeal wasn't dealt with is not how I view it because what  
18 we did is we said, Okay, let's look at this other way that  
19 we may be able to make this happen for you.

20           I think it's important to point out that, yes,  
21 there are notes to the contractor and I believe the  
22 architect totaling \$461,000. That's what was presented to  
23 us in the application. The balance of funds is \$518,000  
24 which would be developer fee. I think it's also important  
25 to point out that this property is open, operating and

1 there are folks living there. So yes, there is this  
2 concern with financing but veterans are still being housed  
3 in this property.

4 MR. OXER: So absent the change in financing on  
5 this, what's our interpretation, what's the agency's  
6 interpretation of the impact to the project?

7 MS. HOLLOWAY: The impact?

8 MR. OXER: They're trying to make sure funds  
9 get moved. If we move those funds, where does that money  
10 go to, what happens to that money?

11 MS. HOLLOWAY: What happens to the money?

12 DR. MUÑOZ: If we move it from the general set-  
13 side.

14 MR. OXER: Into the deferred.

15 MS. HOLLOWAY: Into the deferred forgivable.

16 DR. MUÑOZ: Which has a percentage repayment of  
17 3 percent. Right?

18 MS. HOLLOWAY: It would go from the 3 percent  
19 at 30 years to a deferred forgivable structure.

20 MR. OXER: So basically we can say -- come on,  
21 Megan, get up here and help us out.

22 DR. MUÑOZ: And have we ever done that? I  
23 mean, this is a new one.

24 MS. HOLLOWAY: Not that I know of. And as I  
25 described to you earlier, there are a couple of really

1 important things to consider prior to taking this action.

2 One is other applicants --

3 DR. MUÑOZ: Two other. Right?

4 MS. HOLLOWAY: There are two downstream still.

5 There's a third that originally came in looking for

6 deferred forgivable funds that has successfully moved on

7 to general set-aside. So other applicants would expect

8 the same consideration, I believe.

9 MR. OXER: Their expectation.

10 MS. HOLLOWAY: And moving funds from general

11 set-aside to deferred forgivable at this late date means

12 that folks who potentially would have applied, other than

13 the two that are in line right now, didn't.

14 DR. MUÑOZ: And they're going to say to us?

15 MS. HOLLOWAY: Wait, I didn't know that waiver

16 was available; you should give me some money too.

17 DR. MUÑOZ: And you were derelict in not

18 informing us that this was a possibility.

19 MS. HOLLOWAY: And as I said, the language in

20 the NOFA, as Tamea described, the Board does have the

21 ability to do this. It's not my recommendation that you

22 take this action.

23 MR. OXER: Okay. Megan.

24 (General talking and laughter.)

25 MS. SYLVESTER: This gets really, really into

1 the weeds about --

2 MR. OXER: What, again?

3 MS. SYLVESTER: Yes -- about how you distribute  
4 funds under a NOFA. Megan Sylvester, Legal Services.

5 So our method of distribution from HUD is  
6 through a NOFA and though this particular NOFA distributed  
7 funds both from TCAP, which have some lingering federal  
8 requirements but are mostly state funds, and the HOME, you  
9 have to treat the NOFA as a distribution of what would be  
10 required under that method of distribution that we told  
11 HUD. The NOFA gives you the ability to waive provisions  
12 but the ability is to waive provisions to amend a NOFA  
13 while it is still open. The NOFA is no longer open.

14 MR. OXER: So we don't actually have the  
15 capacity to change it if we wanted to because it is  
16 closed.

17 DR. MUÑOZ: Because there's a passage  
18 apparently that gives us the authority were it open.  
19 That's your point, right, it's not anymore?

20 MS. SYLVESTER: It is not anymore. And to  
21 amend a NOFA, you would have to reopen a NOFA and you  
22 might have the ability to do that, but then you have to  
23 reopen it for everyone, not just for this applicant.

24 MR. IRVINE: Would you have the authority to do  
25 that at this meeting under this posting?

1 MS. SYLVESTER: No.

2 Are there any further questions?

3 MR. OXER: I'm trying to look at an assessment  
4 of this. Even if we were inclined to consider this, even  
5 if we wanted to do what you said, Tamea, which I'm not  
6 saying, but even if that were an inclination, we actually  
7 don't have the capacity at this point, according to what  
8 you think.

9 MS. SYLVESTER: It would be my legal  
10 recommendation that you not do that.

11 MR. ECCLES: Beyond that, it would require we  
12 put out another NOFA which is not listed for this meeting.

13 MS. SYLVESTER: Right. Or reopen this NOFA,  
14 which is not an action you can take under this agenda item  
15 as posted.

16 MR. OXER: So do this -- come on, Tamea, you'll  
17 have your shot. Don't go away, Megan. So right now as  
18 it's currently posted, we don't have the option to reopen  
19 this, and since the NOFA is closed, we don't have the  
20 capacity to go back and restructure that without reopening  
21 it, advertising to everybody that they had the access to  
22 this.

23 And fundamentally, there was a deferred  
24 forgivable loan, there was basically what I call a hard  
25 real estate based on cash flow that Brent says it's got to



1 meet this 3 percent, 30-year amortization schedule. They  
2 applied for this one, it's not there. There's a lot of  
3 money sitting there, but they couldn't meet those  
4 requirements, they could meet the deferred forgivable but  
5 now the door closes and they can't get there. Am I  
6 getting this generally right?

7 MS. SYLVESTER: I think you would need to speak  
8 to Underwriting regarding whether they could get there for  
9 the deferred forgivable.

10 I also want to say that the application as  
11 presented and the costs which they seek to be reimbursed  
12 for is not an eligible HOME cost at this point.  
13 Basically, because they've already closed on their debt,  
14 this would be basically a refinancing, and that is not an  
15 eligible item unless you do it as part of a rehabilitation  
16 under the HOME program, and it is a statutory limitation.

17 MR. OXER: Okay, we've got that.

18 Tamea, do you want to have one more thought, a  
19 quick shot?

20 MS. DULA: Yes. Tamea Dula, Coats Rose.

21 MR. OXER: Marni, you're next.

22 MS. DULA: Let me point out that we filed an  
23 appeal on February 17 while the NOFA was still open. We  
24 saw what had happened. This project, which is in a non-  
25 participating jurisdiction, was unable to compete because

1 there was not enough funding in the subregion to let it  
2 file the minimum application that was permitted under the  
3 NOFA. Okay? You're not allowed to apply for less than  
4 \$500,000, there was only \$430,000 available. Okay?

5 We pointed out at the time that in the NOFA  
6 itself it states: Any complete applications received  
7 during the period of the RAF will be prioritized to the  
8 extent the funds are available both in the region and in  
9 the set-aside under which the application is received. If  
10 multiple applications are received in the region, then  
11 score will be used as a determining factor affecting  
12 priority of the application. If insufficient funds exist  
13 in a region -- not a subregion, a region -- to fund all  
14 applications, then the oversubscribed applications will  
15 wait for the collapse of funds by region, be combined with  
16 other applications received by the deadlines and as  
17 described by additional priority levels below.

18 So the NOFA calls out that it has to be  
19 considered on a regional basis. There was \$1.7 million  
20 available in the region.

21 We also have a legal opinion from the Law Firm  
22 of Broad and Cassel, dated December 30, 2015 -- I think  
23 that this was provided to the TDHCA staff -- which says  
24 that the HOME funds would be permissible during the year  
25 after the construction completion.

1                   "The project was completed on December 29,  
2 2015, the partnership is applying for HOME investment  
3 partnership funds to pay eligible costs under 24 CFR, Part  
4 92. There's nothing in 24 CFR, Part 92 which expressly  
5 prohibits an award of HOME funds after a project has been  
6 completed. In fact, had HOME funds previously been  
7 committed, 24 CFR, 92.502(d)(2) expressly allows  
8 additional funds to be committed to a project for up to  
9 one year after project completion. As such, it appears  
10 that the HOME funds may be awarded to a project post-  
11 completion to pay eligible costs so long as other  
12 requisite HOME requirements can be met."

13                   So if you chose to fund from HOME funds, Broad  
14 and Cassel, which is a very reputable national law firm,  
15 says that it is supported. If you choose to fund with  
16 TCAP funds, then this is not a problem because TCAP funds  
17 are not subject to the same strictures as are HOME, except  
18 to the extent that this Board chooses to make them so.

19                   MR. OXER: Thanks for your thoughts.

20                   Marni, do you have something you wanted to say  
21 on this?

22                   MS. HOLLOWAY: The language that Tamea was  
23 reading to you earlier about the RAF, on Section 3 Set-  
24 asides which is where we describe which funds are  
25 available and which set-asides, it starts with: All funds

1 will be subject to the regional allocation formula, the  
2 RAF, located in attachment A, until January 29 of 2016,  
3 which includes the subregions. So I think that this  
4 region versus --

5 MR. OXER: Region versus subregion.

6 MS. HOLLOWAY: And I explained to you earlier  
7 that the applicant was, in fact -- and you know this was a  
8 successful applicant for 9 percent tax credits and is  
9 familiar with our regional allocation formula and the  
10 subregions that we use.

11 MR. OXER: Okay. Here's what we're going to  
12 do, I and I think some others would like to have some  
13 legal counsel on this, so we're going to -- I know you're  
14 going to be excited about this, Tamea, but you'll just  
15 have to wait. Okay?

16 Craig, you'll have time.

17 We're going to go into an executive session. We  
18 have some things to consider in our exec session in  
19 addition to this, so I want to hear some comments from  
20 counsel on this one, so everybody be still for a second.

21 The Governing Board of the Texas Department of  
22 Housing and Community Affairs will go into closed or  
23 executive session at this time. The Board may go into  
24 executive session pursuant to Texas Government Code  
25 551.074 for the purposes of discussing personnel, pursuant

1 to Government Code 551.071 to seek and receive the legal  
2 advice of its attorney, pursuant to Texas Government Code  
3 551.072 to deliberate the possible purchase, sale,  
4 exchange or lease or real estate, and/or pursuant to  
5 Government Code 2306.039(c) to discuss issues related to  
6 fraud, waste or abuse with the Department's internal  
7 auditor, fraud prevention coordinator, or ethics advisor.

8 The closed session will be held in the anteroom  
9 of this room, John H. Reagan Building Number 140. The  
10 date is November 10, 2016, the time is 12:13. So we'll be  
11 right back there, we're going to have lunch as well.  
12 We've got a bit to go through, get some counsel on this,  
13 let's be back in our chairs at 1:30.

14 (Whereupon, at 12:13 p.m., the meeting was  
15 recessed, to reconvene this same day, November 10, 2016,  
16 following conclusion of the executive session.)

17 MR. OXER: All right. The Board is now  
18 reconvened in open session at 1:37. During our executive  
19 session, the Board did not adopt any policy, position,  
20 resolution, rule or regulation, or take any formal action  
21 or vote on any item.

22 Okay. Marni, we're back to your item, I  
23 believe. Is that correct?

24 MS. HOLLOWAY: Yes, sir. Item 5(c).

25 MR. OXER: Okay. And Megan gave some

1 suggestions that under this particular NOFA, given the  
2 particular circumstances, given where we're at, we don't  
3 exactly have a whole list of viable options in terms of  
4 how to resolve it under this NOFA. Is that a fair  
5 statement, Megan? You can just say.

6 MR. ECCLES: That's based on the comments made  
7 out here.

8 MR. OXER: Correct. Based on the comments made  
9 here, our legal inquiry was in terms of the -- let's just  
10 say we had a legal inquiry, let's just say it that way.  
11 Is that the right way to say it? Can't talk about the  
12 exec session.

13 All right. So an option or some options in  
14 this, we have a prospect of having a new NOFA, we have a  
15 prospect of an additional NOFA, we have a new NOFA coming  
16 up, we'll have one that you would present in December.

17 MS. HOLLOWAY: Yes.

18 MR. OXER: So I'll try to summarize on behalf  
19 of the Board, at least my perception. What we'd like the  
20 staff to do is take a look at the NOFA that's coming, the  
21 one that is the 2017-1. Right?

22 MS. HOLLOWAY: Yes.

23 MR. OXER: That's more or less the identifier  
24 on it, and see whether or not there is an opportunity or a  
25 capacity where we have some structure to create in that

1 NOFA some mechanism to address those unfunded  
2 applications, or the ones that were not funded or  
3 successful under this NOFA, under the 2016 NOFA, and see  
4 if there's a way we can make this work.

5 MS. HOLLOWAY: Okay. We certainly can look at  
6 that. Of course, before committing to anything, we need  
7 to discuss further with Megan what we can and can't do.

8 MR. OXER: I understand that, and we want to  
9 see whether or not we can do it, which, of course, we'd  
10 like to see every effort made. So what I'm saying, Tamea,  
11 is we're trying to figure this out. Okay? So I gather  
12 that since this facility, Freedoms Path, we've got folks  
13 staying there now, so it's there, it's working. This is  
14 one of the ones we're trying to thread the needle here to  
15 make sure that this funding -- our process and procedure,  
16 sequence of events is appropriate and that we have the  
17 funding in the right spot. So between the TCAP and the  
18 HOME funds, we're trying to see whether it is additions on  
19 this coming NOFA, if we need to have a separate NOFA. I  
20 think we'll, in a moment, ask for a motion from the Board  
21 to consider deferring this item until next meeting to see  
22 if you can put that together.

23 MR. ECCLES: I don't think there's a motion to  
24 defer.

25 MR. OXER: No, there's not a motion to defer.

1 Maybe that's the wrong term because that has legal  
2 implications. Okay? But right now under this item,  
3 there's a staff recommendation.

4 MR. IRVINE: I think that this item is couched  
5 as an appeal, and even though these ancillary issues have  
6 been brought in, it's essentially an appeal of an  
7 underwriting determination, and I guess you could take  
8 action on that appeal. But other than that, all I think  
9 that is really warranted is just general guidance or  
10 request to the staff to develop the next NOFA.

11 MR. OXER: Well, as inarticulately as I could  
12 possibly be and confusing, I tried to just do that. My  
13 mathematical nerd speak was showing up in that one. We'd  
14 like to see if you can figure out a way to do this, and  
15 you'll have a second here in a second, Tamea, hold on.

16 I'm getting a signal from the dugout so  
17 everybody sit still for a second.

18 MR. IRVINE: Unless the applicant has something  
19 further to say on this, I would think that any action here  
20 would just be simply action on the appeal.

21 MR. OXER: On this item as presented.

22 MS. HOLLOWAY: Yes, on this appeal, and then,  
23 of course, we'll take Board direction to go back and take  
24 a look at what could be done with another NOFA or a future  
25 NOFA for these applications that are on the waiting list



1 at this point.

2 MR. OXER: Okay. But we haven't had yet --  
3 have we had a motion on this item? We have not had a  
4 motion on this item. Correct? Yes, we have, 6(a). Say  
5 it again, Peggy.

6 MS. HENDERSON: Ms. Bingham motioned and Mr.  
7 Gann seconded.

8 MR. OXER: And let the record reflect that Ms.  
9 Bingham has departed to make her transportation, and we  
10 are four. We'll have to recall the motion and restate it  
11 formally. That said, we remain at quorum.

12 There was a motion by Ms. Bingham and second by  
13 Mr. Gann to approve the staff recommendation on this item  
14 which was to deny this appeal.

15 MS. HOLLOWAY: Yes.

16 MR. OXER: But in doing so, what we were trying  
17 to do was figure out a way that we could satisfy their  
18 needs without compounding the errors in this NOFA as it  
19 currently exists. Perhaps we should have the restatement.

20 MR. GOODWIN: Since Ms. Bingham isn't here, do  
21 we need to restate the motion?

22 MR. OXER: I think that would be appropriate.  
23 Don't you, Counsel? Okay, so Mr. Gann, I'm assume you'll  
24 offer your second if we have a motion?

25 MR. GOODWIN: I would move we accept staff's

1 recommendation.

2 MR. OXER: Mr. Goodwin steps in for Ms.  
3 Bingham. Motion by Mr. Goodwin and second by Mr. Gann to  
4 approve staff recommendation on this item. You've made  
5 your comments. Anything else to add to it right now,  
6 Marni?

7 MS. HOLLOWAY: No.

8 MR. OXER: Tamea, one more shot, 60 seconds,  
9 please.

10 MS. DULA: Tamea Dula, Coats Rose.

11 I thank you for trying to figure out a way to  
12 accomplish the goal. I wanted to make two points,  
13 however. One is that no developer fee has been paid with  
14 regard to this project. As presented in the underwriting  
15 report, it talks about additional developer fee, but  
16 that's additional developer fee vis-à-vis potential  
17 eligible basis, it's not additional in the pockets of the  
18 developer, the developer has not been paid. And the  
19 second item I wanted to say is to reiterate that this was  
20 not an appeal of an underwriting determination, it was a  
21 reiteration of the appeal in February of the methodology  
22 for the deferred forgivable loan process.

23 Thank you.

24 MR. OXER: The executive director says thank  
25 you for that correction. But at any rate, it does

1 constitute an appeal, not of the real estate analysis but  
2 of the procedural administration of the rule. Right?

3 MS. DULA: Yes, it does constitute an appeal,  
4 although I do not know that we have yet to accept through  
5 the underwriting that occurred last week. Had an event  
6 that from the staff's point of view constituted a  
7 determination which would trigger an appeal. And the NOFA  
8 is now over, et cetera, so we're having to base it upon  
9 the February appeal.

10 Thank you.

11 MR. OXER: All right. Anything to add to that,  
12 Marni? Are you good?

13 Okay, Brent. You didn't think you were going  
14 to slip up there and not get noticed, did you? How many  
15 scenarios did you look at this for Real Estate Analysis?

16 MR. STEWART: I believe three. Brent Stewart,  
17 Real Estate Analysis.

18 We looked at it three different ways, and the  
19 underwriting do not recommend was based on the terms that  
20 are outlined in the NOFA, 3 percent, 30-year.

21 MR. OXER: That was on the general set-aside  
22 out of that NOFA, as opposed to the deferred forgivable  
23 bucket.

24 MR. STEWART: That's right. And there's some  
25 issues here with, you know, there's some issues in the

1 rules with respect to supportive housing and some of the  
2 underwriting exceptions it gets versus some of the thing  
3 related to the loan structure in the NOFA versus whether  
4 it's supportive housing. There's kind of a collision of  
5 different things occurring here, and the scenarios that we  
6 ran included we underwrote as under the NOFA, we  
7 underwrote it as if it were zero percent soft pay debt,  
8 and based on the cash flows, we could get none of those  
9 scenarios to work. We worked with the applicant on  
10 various scenarios. We've yet to get to one that actually  
11 works under the rules, so there would need to be some  
12 additional rule type of exceptions or something that would  
13 go along with trying to fit that under the NOFA.

14 I want to clarify, though, that the information  
15 that we have says that in the development cost schedule  
16 between the original underwriting and the underwriting  
17 today, the total amount of developer fee went up based on  
18 higher costs, not just eligible basis but actual costs.  
19 And so of the \$980,000 that's in this request, a portion  
20 of that is to pay for additional developer fee based on  
21 the increased costs.

22 MR. OXER: What's the difference? What's the  
23 step up in the developer fee, more or less?

24 MR. STEWART: So the total amount of the  
25 developer fee previously underwritten, the total amount of

1 the developer fee was \$1.17-, so a million one seventy.  
2 The new developer fee amount is a million six thirty.  
3 Previously, the amount of deferred fee was \$414,000, and  
4 as underwritten with the higher fee, higher equity and  
5 this \$980-, there's \$26,000 that's deferred. So I  
6 understand that there have not been checks cut to the  
7 developer, but there's a bit portion of this new money  
8 that's going to pay for new developer fee based on the  
9 higher costs that they incurred. Does that make sense?

10 MR. OXER: Yes.

11 DR. MUÑOZ: Say that again.

12 MR. STEWART: Costs went up.

13 DR. MUÑOZ: Costs went up so the developer fee  
14 goes up.

15 MR. STEWART: The developer fee goes up.

16 MR. OXER: Because it's a percentage of the  
17 cost basis.

18 MR. STEWART: So of this money --

19 DR. MUÑOZ: Of this money or of this potential  
20 money?

21 MR. STEWART: Yeah, potential money.

22 DR. MUÑOZ: There you go.

23 MR. STEWART: So of the \$980,000, \$518,000 is  
24 going to the developer fee.

25 DR. MUÑOZ: More than half.

1 MR. STEWART: That's right.

2 MR. OXER: Craig, do you have something you  
3 want to add?

4 MR. TAYLOR: Oh, yes, sir.

5 MR. OXER: Your turn.

6 MR. TAYLOR: Thank you very much. Craig  
7 Taylor, Communities for Veterans. I've missed you guys,  
8 it's been a while now.

9 MR. OXER: We remember. Freedoms Path hasn't  
10 been off of our radar for very long, you know that.

11 MR. TAYLOR: Yes, sir.

12 I'm very much confused by the comments that we  
13 just heard, so let me state the facts. I've been in front  
14 of you before. We have received zero dollars for  
15 developer fee, nothing, so we have worked five years on  
16 this project and received nothing for it. We got it built  
17 and we got it built by three things happening. Bank of  
18 America wanted to make sure there was enough money in the  
19 budget to cover construction costs, so they actually  
20 increased the amount that they paid for the equity so  
21 there would be enough equity coming into the project  
22 during construction that we could complete construction.

23 The second way we got there was by getting some  
24 of our professionals, primarily our design team, because  
25 of additional costs to defer \$461,000 in payments. Bank

1 of America wanted to make sure that that was delimited and  
2 quantified, so they asked that notes for those amounts be  
3 entered into. These are not mortgages, these are not  
4 debts that are tied to the property, these were  
5 partnership notes to vendors that we were asked to execute  
6 on behalf of Bank of America so that it wouldn't be an  
7 open-ended thing subject to liens and so forth, and so we  
8 did that, \$461,000.

9 The third thing was Bank of America agreed to  
10 close and we agreed to go forward with the project with  
11 100 percent deferral of our developer fee, 100 percent.  
12 So all of that was predicated on the idea that we could  
13 come back and ask this agency for additional money. And I  
14 could go through the litany, and that's why I've been in  
15 front you all time and again, about all the various  
16 options and efforts we've made attempting to get that  
17 funding, and we still haven't.

18 So if the \$980,000 is received, \$461,000 goes  
19 to pay the professionals who helped us get this project  
20 done, and \$519,000 goes to pay us a developer fee. And  
21 gentlemen, I have been as transparent and clear about that  
22 as I could be from the get-go. Your rules say that a  
23 developer fee on this project can go to 20 percent on a  
24 small project in a rural location, so when the numbers are  
25 done for cost certification and so forth, 20 percent of

1 the total development cost is a new number, it's not the  
2 \$1.1 million it was before, it's some new number, \$1.6  
3 million or whatever. But it is patently wrong to make  
4 even any suggestion that the money that this \$980,000  
5 represents would somehow go into our pockets beyond the  
6 first payment of a developer fee on this five-year-old  
7 project of \$521,000.

8 I mean, there is no other way to cut this,  
9 that's exactly what would happen with the \$980,000. If  
10 there is that much money, it doesn't even matter if it  
11 goes into basis, it can't be paid. There's not enough  
12 money in the cash flow even to show that that can be paid.

13 Thank you very much.

14 MR. OXER: Thank you, Craig.

15 MR. GOODWIN: I have a question. So if you  
16 receive the \$519,000, is the book closed on the remainder  
17 of the developer fee?

18 MR. TAYLOR: No, sir. It becomes a deferred  
19 developer fee, and like with any other property, you have  
20 15 years through the life of the property, even though  
21 we're now into the first year, we're past that already.  
22 So you have 15 years to see that that gets repaid.

23 What happens if it goes into eligible basis,  
24 and your folks could tell you better than me, is that if  
25 it never gets paid and it's needed to perfect the credits,



1 then the syndicator asks the developer to pony up the  
2 money so that money can then be paid back to you and you  
3 get it into eligible basis. The problem with doing that  
4 is it creates phantom income, you loaned the money and you  
5 then paid yourself back, and now you've got to pay taxes  
6 on the money that just got paid back.

7 MR. OXER: That you just had before you gave it  
8 to yourself.

9 MR. TAYLOR: Yes, sir. So we don't think we  
10 have an eligible basis problem, it is just what was  
11 allowed based on the 20 percent. But they've run the cash  
12 flow analysis. There's not enough cash flow in this  
13 property to show that in 15 years that deferred developer  
14 fee can be paid. Whether it's \$1.1 million or \$1.6  
15 million, it's just not there. So the issue for us is we  
16 get this money now, and you didn't ask, I need to shut up,  
17 maybe, but if you want to know what will we do if this  
18 doesn't happen, the project is built. We've already, in  
19 trying to meet underwriting, we've cut our services budget  
20 out there and we would take whatever cash flow we have, we  
21 would pay off the vendors so they don't sue us, and we  
22 would then try and pay whatever developer fee we could at  
23 a cash flow down the road.

24 That's just not right. Nobody out here, none  
25 of your stable of developers would have done this project

1 and not gotten paid. It has nothing to do with whether  
2 we're for-profit or nonprofit or whatever, we need to be  
3 paid for our services, and unfortunately, in a way, guys,  
4 you are the only pot of money, that's why we keep coming  
5 back.

6 But anyway, that's just the God's truth.

7 MR. GOODWIN: If we figured out a way to in the  
8 future get you this \$980,000, would you agree to say the  
9 \$519- was your payment in full.

10 MR. TAYLOR: I'll have to talk to my boss and  
11 our accountant to make sure.

12 MR. GOODWIN: Just curious. There's no legally  
13 binding thing, just curious.

14 MR. TAYLOR: That's above my pay grade, that's  
15 not a decision I can make.

16 MR. OXER: Did you get paid for this?

17 MR. TAYLOR: Not yet.

18 (General laughter.)

19 MR. TAYLOR: That's an interesting suggestion,  
20 but I can't give you an answer on that, sir.

21 DR. MUÑOZ: That was a very helpful  
22 explanation. I just wanted to thank you.

23 MR. OXER: Last comment, Brent.

24 MR. STEWART: I'll wait until it comes back.

25 MR. OXER: All right. We had a motion by Mr.

1 Goodwin, second by Mr. Gann to approve staff  
2 recommendation on item 6(a).

3 MS. HOLLOWAY: No. 5(c). Let's not get ahead  
4 of ourselves.

5 MR. OXER: 5(c). That's wishful thinking, I  
6 guess, if we were that far along.

7 MS. HOLLOWAY: Actually, I would be fine with  
8 moving forward on that particular motion.

9 MR. OXER: Okay. Tamea, you're satisfied you  
10 had your say?

11 MS. DULA: Yes.

12 MR. OXER: Craig, you okay?

13 MR. TAYLOR: Yes, sir.

14 MR. OXER: All right. Motion by Mr. Goodwin,  
15 second by Mr. Gann to approve staff recommendation on item  
16 5(c) which would deny this appeal. Let's take care of  
17 that one first. Those in favor?

18 (A show of hands.)

19 MR. OXER: And opposed?

20 (No response.)

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

22 Now, staff directive/directions from the Board  
23 is to take the coming NOFA and see whether or not we can  
24 work out some way to make this fit.

25 MS. HOLLOWAY: Yes, sir. We will do that.

1 MR. OXER: And for those that were unfunded for  
2 this sort of thing because we really don't want to look at  
3 opening up all of this, but we want to find those  
4 applications that were not funded that have these kind of  
5 issues and see if we can satisfy this because we really  
6 want to make sure that this works. So we'll wait for you  
7 at the next meeting under the draft NOFA 17-1 to see if we  
8 can accommodate their interests in some fashion, whether  
9 it's possible. You understand this ain't no primrose  
10 path, it has some rocks in it. So see if you can make  
11 this work, see if you can come back to us and tell us  
12 something that makes that work.

13 DR. MUÑOZ: Minimizing the stones on the road,  
14 given the nature of the population being served in this  
15 assisted living for veterans -- as I receive messages on  
16 Marine Corps birthday and pictures of Chesty Puller,  
17 famous Marine.

18 MR. OXER: Semper fi.

19 Okay, 5(c) is complete. Thank you. And for  
20 the record, we are going to see you back, Craig.

21 Marni, 6(a).

22 MS. HOLLOWAY: 6(a) is presentation, discussion  
23 and possible action on orders adopting the repeal of the  
24 2016 sections of Chapter 10 and adopting the new 2017  
25 Subchapter A concerning general information and

1 definitions, Subchapter B concerning site and development  
2 requirements and restrictions, Subchapter C concerning  
3 application submission requirements and eligibility  
4 criteria, Board decisions and waiver of rules for  
5 applications, and Subchapter G concerning fee schedules,  
6 appeals and other provisions, and directing the  
7 publication in the *Texas Register*.

8           The Uniform Multifamily Rules in Chapter 10  
9 contain eligibility, threshold and procedural requirements  
10 relating to applications for multifamily funding. The  
11 provisions in this chapter apply to all fund sources  
12 utilized by the Department to assist multifamily  
13 developments. We are presenting the proposed final rule  
14 after the proposed draft new Chapter 10 was published in  
15 the September 23 issue of the *Texas Register*, we've  
16 received public comment, reviewed it and provided reasoned  
17 response by staff. We have made some limited changes to  
18 the rule as a response to comment and correct some errors.

19           Let's note that this item that we're discussing  
20 right now does not include Subchapter D relating to  
21 underwriting. Brent is going to discuss that later.  
22 Subchapter E, post-award and asset management  
23 requirements, will be discussed next month, as will  
24 Chapter 12, which is the multifamily housing bond rules  
25 and our new multifamily direct loan rule, also will be

1 next month.

2           So I'm just going to run through and tell you  
3 some of the highlights of what's happened as a result of  
4 public comment. For Subchapter A, we have modified  
5 several definitions as the result of public comments; we  
6 have not struck any or added anything new, of course.

7           Subchapter B concerns site and development  
8 restrictions and standards, and this subchapter garnered  
9 the most public comment by far. There are two items  
10 within Subchapter B that a lot of people are interested  
11 in, and I'm sure some of these folks are going to talk  
12 about. Undesirable site features, one of the  
13 recommendations that we are making is that for historic  
14 preservation projects they have a path to exemption of the  
15 undesirable site features, just as rehabilitation of a  
16 affordable housing projects do.

17           A number of commenters requested that the  
18 distance from a railroad be left at 100 feet where it was  
19 last year. You'll remember we talked about that 100 feet  
20 quite a bit one day. It's important to note that none of  
21 the commenters provided data that indicates is an  
22 appropriate measurement to protect the health and safety  
23 of tenants. HUD considers noise at 65 decibels to be  
24 acceptable, above 75 decibels it is unacceptable. The 500  
25 feet presented by staff is the result of information

1 published by the U.S. Department of Transportation,  
2 Federal Railroad Administration which describes the noise  
3 at 500 feet from a suburban grade crossing with horns at  
4 approximately 65 decibels, so at that acceptable HUD  
5 level. The same website says that at 100 feet from that  
6 same crossing, the noise level is at 80 decibels which is  
7 louder than standing a mile and a half from the end of  
8 Runway 22-R at Kennedy Airport.

9 We had originally proposed a half mile  
10 distance. That is the evacuation zone in cases of  
11 accidents with trains bearing petroleum products. We're  
12 going to continue to look at that one and may bring it  
13 back next year if we can find more supporting data.

14 There was also a great deal of comment  
15 regarding undesirable neighborhood characteristics, so the  
16 Crestmont project that we talked about earlier today.  
17 It's important to note that undesirable neighborhood is  
18 not a full stop, as we found out today; rather, it is a  
19 threshold at which both the Department and the applicant  
20 take a closer look at the proposed site. Most of the  
21 developments we saw in the past year with these  
22 characteristics were among the 52 4 percent applications  
23 we evaluated. Just like the four applications on the  
24 consent agenda today, all had undesirable neighborhood  
25 characteristics that staff was able to get to that

1 mitigation, and then Crestmont -- which we all discussed  
2 and learned a lot about presentation skills.

3 MR. OXER: Boy, did we.

4 MS. HOLLOWAY: Boy, did we. I asked why they  
5 don't applaud when I talk.

6 MR. OXER: They said amen to that.

7 (General laughter.)

8 MS. HOLLOWAY: Just as with these five  
9 applications, no final decision regarding eligibility is  
10 made by staff. Any applicant with a site that staff  
11 cannot recommend as eligible will have an opportunity to  
12 address the Board with their evidence and perspective.  
13 Yes, applicants proposing these sites have to do some more  
14 work, and admittedly, this past year it took us a while to  
15 get to a standard for the evidence of mitigation that was  
16 needed, and a couple of applicants suffered through that  
17 process with us.

18 A number of commenters suggested removing  
19 Neighborhood Scout as a tool for measurement of crime  
20 rates, but no alternative was presented to us. Staff is  
21 aware of the limitations of that website. We don't ever  
22 just use the Neighborhood Scout number, we just use that  
23 Neighborhood Scout number to trigger a further look.

24 With this proposed rule, we have made several  
25 important changes from last year to undesirable



1 neighborhood standards. We have removed the environmental  
2 items; these are handled by an environmental site  
3 assessment, so including them here is duplicative. We've  
4 clarified the requirement for disclosure of schools.

5 DR. MUÑOZ: Hey, Marni. Can I go back to the  
6 crime thing?

7 MS. HOLLOWAY: Yes.

8 DR. MUÑOZ: Name that service again.

9 MS. HOLLOWAY: Neighborhood Scout.

10 DR. MUÑOZ: Is that fairly reliable? That's  
11 where we get that number of 18.

12 MS. HOLLOWAY: That's the problem it's not.

13 DR. MUÑOZ: Because the problem is if you put  
14 it in there and you refer to it, it kind of gives it the  
15 appearance of credibility and then we have this captain  
16 coming up saying this is what I do every day and this  
17 isn't accurate.

18 MS. HOLLOWAY: And this is a conversation  
19 that's been ongoing. We have not been able to find, and  
20 no one has presented us with, a substitute that works  
21 statewide. For instance, the City of Houston publishes  
22 crime data. You can go to the City of Houston Police  
23 Department website and pull up all the data for a beat and  
24 you can get down to addresses and everything else. Other  
25 police departments do not. So Neighborhood Scout

1 functions as a trigger and that's all that it is. That's  
2 all that it is, it's just a trigger for we need to look at  
3 this again, we need to gather that local data, we need to  
4 look at whether or not crime rates are increasing or  
5 decreasing.

6 DR. MUÑOZ: Well, I guess I'd say, by the same  
7 token, if it's not reliable and if it's not reliable and  
8 it says a 20 and maybe it's not reliable if it says a 42.

9 MS. HOLLOWAY: That's true. And it could be  
10 that it's not reliable when it says 10.

11 DR. MUÑOZ: That's right. I get it, there is  
12 no apparently reasonably acceptable substitute at the  
13 moment, but if we're going to make this something that can  
14 make a project eligible or ineligible, we should provide  
15 something a little bit more reliable. I don't have an  
16 answer, by the way.

17 MR. OXER: Well, providing something more  
18 reliable would mean that there would be something more  
19 reliable that's out there, which I gather it's not at this  
20 point. Is that right, Marni?

21 MS. HOLLOWAY: We have not been able to find  
22 anything and the development community has not been able  
23 to find anything either.

24 MR. OXER: So what you're saying is this is bad  
25 radar, but absent this, we're flying in the dark.

1 MS. HOLLOWAY: Right.

2 MR. OXER: That's one more you can add to your  
3 list.

4 (General laughter.)

5 DR. MUÑOZ: Either way, you might hit the  
6 mountain.

7 MS. HOLLOWAY: You might.

8 MR. OXER: But at least on the first one you  
9 would know you're going to.

10 MS. HOLLOWAY: At least you'd know what was  
11 coming, you could duck.

12 We've also clarified the requirements for  
13 mitigation on all the undesirable neighborhood  
14 characteristics and we're creating a disclosure package  
15 that will simplify the process for applicants and staff.

16 There was some comment received regarding the  
17 removal of this item. It's important to repeat that the  
18 vast majority of applications impacted by this rule are  
19 submitted to the 4 percent program where competitive  
20 scoring does not drive site selection.

21 Subchapter C is application submission  
22 requirements, ineligibility criteria, Board decisions and  
23 waiver of rules for applications. There was also a good  
24 deal of comment in this subchapter received on  
25 administrative deficiencies. We had suggested the

1 deficiency period to three days, and response to comment,  
2 we are leaving it at five days which is what it was last  
3 year.

4 By far, the most comment was received regarding  
5 Section 811 to this subchapter from the QAP as a scoring  
6 item. This change was made in response to agreement  
7 amongst the attendees at one of the monthly planning  
8 meetings. Many commenters suggested that it be moved back  
9 to the QAP, but staff doesn't believe that we have the  
10 ability under the Administrative Procedures Act to make  
11 that change. We have changed the requirements for the  
12 number of units to the lower of ten units or 10 percent in  
13 order to not negatively impact smaller developments.

14 There were several comments on Subchapter G  
15 requesting clarification of fees, and staff has made  
16 changes in response to those comments.

17 Staff is recommending that the final order  
18 adopting the repeal of 2016 10 TAC Chapter 10 and the  
19 final order adopting the proposed new 10 TAC Chapter 10,  
20 Subchapters A, B, C and G, concerning the Uniform  
21 Multifamily Rules be adopted, together with the preambles  
22 as presented.

23 MR. OXER: And to be clear, this is item 6(b),  
24 not 6(a). Is that correct?

25 MS. HOLLOWAY: No. This is 6(a). 6(b) is the

1 QAP

2 MR. OXER: I was just trying to make sure if  
3 there was a question that came up.

4 MR. ECCLES: I think actually the chair is  
5 correct that this is on the agenda as 6(b).

6 MS. HOLLOWAY: Are you sure? Let's be clear.

7 MR. OXER: Let's be clear.

8 MR. IRVINE: That's what it says in the  
9 supplemental posting.

10 MS. HOLLOWAY: It is. I apologize.

11 MR. OXER: No apology necessary.

12 MS. HOLLOWAY: This is 6(b). I didn't realize  
13 that the order was different, I was just thinking Chapter  
14 10, Chapter 11.

15 MR. OXER: Your mistake would be to presume  
16 that there was some logic to our approach to this. Is  
17 that what you're saying?

18 (General laughter.)

19 MS. HOLLOWAY: Yes. My apologies.

20 MR. OXER: No problem. To be clear for the  
21 record, this is 6(b).

22 MS. HOLLOWAY: Yes.

23 MR. OXER: And all those things that you said,  
24 of course, apply only to 6(b).

25 Questions from the Board? Motion to consider?

1 MR. GOODWIN: So moved.

2 MR. OXER: Motion by Mr. Goodwin to approve  
3 staff recommendation on item 6(b).

4 DR. MUÑOZ: Second.

5 MR. OXER: A second by Dr. Muñoz.

6 Okay, Walter, you're up.

7 MR. LYTTLE: Mr. Chairman, I have a legislative  
8 letter also to read. Do you want me to do that first or  
9 after everybody comments?

10 MR. OXER: Let Walter take of it and we'll get  
11 to you next.

12 MR. MOREAU: Walter Moreau, the director of  
13 Foundation Communities.

14 I think we found a quirk or something weird,  
15 and we mainly develop affordable housing in Austin so that  
16 would be appropriate.

17 MR. OXER: That would be a weird quirk.

18 MR. MOREAU: Exactly. One of our state reps is  
19 resigning, there will be a new election, we probably won't  
20 have a state rep and that covers most of the urban core of  
21 Austin, so we can't get a letter March 1. I just want to  
22 be really sure in the rules that there's some provision  
23 for an extension of that deadline so that whenever the new  
24 state rep is elected --

25 MR. OXER: Is that a QAP comment?

1 MR. MOREAU: I think it's a rule comment.

2 MS. HOLLOWAY: That's actually a QAP comment.

3 MR. IRVINE: It's a 6(a) comment.

4 MR. MOREAU: I'm just as confused.

5 MR. OXER: That's what we've started. That's  
6 all right. Make your comment and it will be retroactive.

7 MR. MOREAU: Whether it's rule or QAP, it makes  
8 us nervous because we expect that seat to be vacant on  
9 March 1, and we want to make sure there's some --

10 MR. OXER: Accommodation to that circumstance.

11 Okay. Message received.

12 MR. MOREAU: Thanks.

13 MR. OXER: Thanks.

14 Regarding item 6(b), everybody clear, 6(b).

15 MR. LYTTLE: Mr. Chairman, did you want me to  
16 read this in?

17 MR. OXER: Hold on.

18 MR. LYTTLE: This is 6(b).

19 MR. OXER: Yeah, 6(b). Michael, you're up.

20 MR. MOREAU: So this is the QAP.

21 MR. OXER: no.

22 MR. LYTTLE: Walter, it's my turn.

23 (General laughter.)

24 MR. OXER: Is somebody pumping gas in here or  
25 something? We've got to sit down and let Michael talk for

1 a minute. Hold still. You in the middle, your name is  
2 what?

3 MR. MARKS: Scott Marks.

4 MR. OXER: Scott, be quiet and stand still.  
5 Michael.

6 MR. LYTTLE: "We write to you today concerning  
7 the proposed changes to Texas Administrative Code Section  
8 10.101 pertaining to the 2017 Multifamily Rules.  
9 Specifically, we are concerned about Subsection  
10 10.101(a)(2)(G) of the proposed rules. This subsection  
11 relates to undesirable site features of a proposal to  
12 determine if a project is eligible for support from the  
13 Texas Department of Housing and Community Affairs.

14 "Currently, these rules establish a two-mile  
15 zone around a nuclear generation facility as an  
16 undesirable site feature, and accordingly, makes  
17 development projects within this zone ineligible for  
18 funding from TDHCA. As we understand the proposed rule  
19 changes, the Board is expanding this zone from the current  
20 two miles to ten miles from all nuclear generation  
21 facilities. While we applaud the decision of the Board to  
22 allow review of projects within the proposed zone, we do  
23 not believe expanding the exclusion zone from two to ten  
24 miles is good public policy, nor does it reflect the  
25 safety of Texas's nuclear generation facilities and the



1 neighborhoods surrounding them. Furthermore, we would  
2 like to see concrete reasoning behind this proposed rule  
3 change before the Board takes an action to expand the  
4 eligibility zone.

5 "The U.S. Nuclear Regulatory Commission, NRC,  
6 is the federal entity charged with ensuring the safety of  
7 the nation's nuclear power plants. The NRC works closely  
8 with our Texas Commission on Environmental Quality to  
9 regulate and monitor the radiation levels from Texas's  
10 nuclear generation facilities. This federal and state  
11 cooperation guarantees a layered protective system.  
12 Recently, the NRC requested the National Academy of  
13 Sciences design a study to determine whether there was  
14 increased cancer risk to residents near nuclear energy  
15 facilities. This research effort follows a comparable  
16 study by the federal government in 1990. That study was  
17 not able to identify any increase in cancer mortality  
18 risk.

19 "After much collaboration, the NRC decided to  
20 cease work on the new study, deeming it impractical for  
21 this study to scientifically prove or disprove any  
22 increased cancer risks associated with radiation levels  
23 from our nuclear generation facilities.

24 "The preliminary research developed by the NAS  
25 study did establish the average amount of exposure of

1 radiation released at nuclear plants is .009 millirem which  
2 is less than one percent of the levels of naturally  
3 occurring radiation in the environment of 300 millirem of  
4 exposure for the typical citizen. In fact, the NRC sets  
5 an individual exposure limit for members of the public of  
6 100 millirem per year from any and all licensed uses of  
7 radioactive material. The U.S. Environmental Protection  
8 Agency sets an additional environmental radiation safety  
9 standard of 25 millirem per year for any member of the  
10 public from any nuclear power plant operations. These  
11 levels are continuously monitored by the plant operations,  
12 NRC, EPA and TCEQ to verify compliance with the strict  
13 exposure levels.

14 "To provide a frame of reference of these  
15 levels, in March 2009, the National Council on Radiation  
16 Protection and Measurements issued a report called  
17 "Ionizing Radiation Exposure of the Population of the  
18 United States" that determined medical radiation exposure  
19 within the U.S. population has increased since the early  
20 1980s because of the increased use of radiation-based  
21 imaging procedures, including computed tomograph, known as  
22 CT scans, or CAT scans. The NCRP reported that the  
23 average annual medical radiation exposure for Americans  
24 has increased to 620 millirem from 360 millirem over the  
25 period. We do not believe our state's hospitals or

1 imaging centers create "an undesirable site feature" and  
2 given the comparable radiational exposure limits, we do  
3 not believe our nuclear generation facilities do either.

4 "Finally, the operators of our state's nuclear  
5 generation facilities have to develop detailed emergency  
6 plans for each facility. These plans must be reviewed and  
7 approved by the NRC and the TCEQ and become part of the  
8 operating license for the facility. The plans not only  
9 have to have ensured monitoring compliance but they also  
10 have to include evacuation procedures in the event of an  
11 accident for all population centers located within five  
12 miles of the plant. As a result, the operator of the  
13 Comanche Peak Power Plant already has to ensure safety of  
14 all citizens within five miles of the plant as part of its  
15 license to operate.

16 "We appreciate your review of TDHCA's lending  
17 and grant provisions located near the site's nuclear  
18 facilities. We support ensuring taxpayer dollars do not  
19 go to projects that will not support TDHCA's goals or  
20 appreciate over time because the surrounding neighborhood  
21 is an undesirable location. We commend you for looking at  
22 the area around nuclear plants but we believe expanding  
23 that zone from the current two miles to ten miles is too  
24 far and does not reflect the operation realities of our  
25 nuclear facilities. Because of the information provided

1 above, we suggest no expansion changes until there are  
2 proven studies that demonstrate this is the safest policy  
3 change for Texans.

4 "Again, we appreciate your efforts to expend  
5 taxpayer resources strategically to develop high quality  
6 affordable housing which allows Texas communities to  
7 thrive, and we understand your proposed changes to the  
8 Texas Administrative Code 10.101(a)(2)(G) seek to ensure  
9 that mission. We, however, believe it is an unnecessary  
10 change at this time and request that you continue to look  
11 at this issue more closely before adopting this rule  
12 change.

13 "Thank you for our service and consideration of  
14 these thoughts.

15 "Signed Respectfully, Senator Brian Birdwell,  
16 Chairman, Committee on Nominations; and Representative Jim  
17 Keffer, Chairman, Natural Resources."

18 MR. OXER: Thank you, Michael.

19 MR. MOREAU: I had one other quirk and it is in  
20 the rules. There's a unit and development features menu,  
21 so in the QAP to score points you have to include things  
22 off this menu, like high speed internet, 100 percent  
23 masonry, 30-year roof shingles or metal roof. This is  
24 really in the weeds, but all of our recent affordable  
25 housing developments in Austin are on smaller sites,

1 Homestead, Live Oak, Cardinal Point, our Bluebonnet  
2 Studios on South Lamar. To look like all the conventional  
3 market apartments, we are doing a three or four story  
4 design with more of a flat roof and what we put on is a  
5 not inexpensive TPO membrane roof. It's more highly  
6 reflective and better for green building. You can put the  
7 air conditioning units for safety and maintenance on the  
8 roof, it accommodates solar panels, but we can't get the  
9 points for that even though we believe it's as good or  
10 better than, from a resident's perspective, a shingle  
11 roof. It's a quirky thing.

12 MR. OXER: Getting in the weeds is what this  
13 discussion is about, so comments accepted.

14 MR. MOREAU: Thank you.

15 MR. ECCLES: I have just a quick clarification.  
16 Had you made that comment during the public comment  
17 period?

18 MR. MOREAU: Yes. And the draft rules exclude  
19 TPOs and we'd like to change that to include, with the  
20 same 30-year warranty.

21 MR. OXER: And not that we ever want to  
22 limit -- that's not true -- there are times when we want  
23 to limit compounding and adding new things. We're to the  
24 point now we've got to get this written, get it done, put  
25 it in the rules. So what it really gets down to is we've

1 got to talk about the things that have been considered,  
2 been a part of the discussion, we can't start anything new  
3 now. So as long as that was a part of the discussion  
4 before. Is that basically correct, Counselor?

5 MR. ECCLES: Sure.

6 MR. MOREAU: Thank you.

7 MR. OXER: All right. Scott. Thank you for  
8 being so patient.

9 MR. MARKS: Sure. Scott Marks with Coats Rose,  
10 and I'm here speaking on behalf of 28 housing authorities  
11 that submitted comments on the undesirable neighborhoods  
12 rule, and TAAHP also submitted at least similar comments.

13 We presented Plan A and Plan B in our comments.

14 Plan A is just to remove the undesirable neighborhood  
15 characteristics rule, and I'd like to talk first about  
16 that before talking about more refined comments on the  
17 rule. We've been told that this rule arises an allegation  
18 of affirmatively furthering fair housing, so TAAHP looked  
19 at the ten largest states in the country to see if any  
20 other state has a rule that makes sites ineligible because  
21 of these types of undesirable neighborhood  
22 characteristics, and we didn't find any other state that  
23 makes it a threshold requirement.

24 In fact, we found almost the opposite.  
25 Pennsylvania, for example, awards points if your site is

1 likely to decrease the level of crime in the neighborhood.  
2 So to the extent that the argument is that there is a  
3 federal statute that requires this, the ten largest  
4 states, other than Texas, I guess, don't see that  
5 obligation, or at least in their rules they don't have a  
6 similar rule.

7 Another point I'd like to make in favor of Plan  
8 A before we move to Plan B is that I understand that there  
9 hasn't been a site yet that's been deemed ineligible under  
10 the undesirable neighborhood characteristics. So there's  
11 been a lot of blood, sweat and tears that the development  
12 community has put into making their arguments under the  
13 rule, there's been a lot of state resources that's been  
14 involved in looking at these sites under the rule, but I  
15 don't know that there has been a site yet that has been  
16 deemed ineligible under the rule. There have been sites  
17 where people have lost site control, developers have lost  
18 site control because they were wrangling over crime  
19 statistics and things of that nature, and they lost site  
20 control for their site.

21 So those are my arguments in favor of Plan A,  
22 removing the rule altogether.

23 Plan B is to make some changes to this rule on  
24 why --

25 DR. MUÑOZ: I'm sorry to interrupt. You said

1 to remove undesirable characteristics altogether.

2 MR. MARKS: Neighborhoods. So we would still  
3 have the undesirable site features which are within a few  
4 hundred feet of railroads and things of that nature, but  
5 this kind of what many people call the social engineering  
6 of the undesirable neighborhoods, the crime, the blight.  
7 These could be arguments for investing in a neighborhood.

8 DR. MUÑOZ: Things we heard this morning.

9 MR. MARKS: Exactly. Removing that undesirable  
10 neighborhood characteristics rule is Plan A that the  
11 housing authorities and TAAHP commented on.

12 Plan B is to take out some of the aspects of  
13 the rule such as crime and on schools. And crime, a few  
14 things about that. Neighborhood Scout is a paid  
15 subscription, so developers actually have to use their  
16 credit card and get a paid subscription to this website.  
17 A few years ago I understand that TDHCA tried to buy the  
18 data from Neighborhood Scout and couldn't buy it, and part  
19 of the reason the Department tried to do that is that it's  
20 not transparent, we can't see what's behind that score,  
21 and so it's very difficult, as you saw this morning, to  
22 make these arguments about crime when we don't even know  
23 what we're rebutting, we can't see what the boundaries are  
24 for the neighborhood or many of the other aspects of  
25 Neighborhood Scout.



1           And there's also just a policy question. In a  
2 lot of these neighborhoods, kids are living there, we saw  
3 that this morning, they're already living there, and to  
4 say that the Department doesn't as a policy matter want to  
5 invest in neighborhoods where children are already living  
6 and where maybe there is high crime but there's also  
7 really crummy housing. Why don't we do something about  
8 the housing, and there are lots of studies that show that  
9 that may reduce crime and it's certainly going to help the  
10 kids who are already living there, so to take out crime  
11 altogether and Neighborhood Scout.

12           And then this last thought on schools, to focus  
13 on elementary schools only, not middle schools and high  
14 schools. Middle schools and high schools take out huge  
15 swaths for big cities and they're not neighborhood  
16 schools, they're much larger geographic areas. And then a  
17 lot of developers have pointed out that the children who  
18 live at the tax credit sites tend to be elementary school  
19 kids anyway, it's rare for them to be middle school or  
20 high school students.

21           Thank you for your attention.

22           DR. MUÑOZ: I've got a question. So you're  
23 suggesting that we be sort of inconsiderate of crime rates  
24 as they're currently being reported in these  
25 neighborhoods.

1 MR. OXER: In Neighborhood Scout.

2 DR. MUÑOZ: As they're being reported through  
3 this particular paid service, and remove middle and high  
4 schools from consideration of the kind of educational  
5 efficacy that exists in these neighborhoods. By your own  
6 argument, though, you say we'll consider only elementary  
7 schools because most of the kids in these homes are young.

8 Does the laws of development get suspended or don't they  
9 eventually become middle and high school kids? Don't they  
10 matriculate to other schools?

11 MR. MARKS: Yes.

12 DR. MUÑOZ: And the argument about high  
13 schools, yes, some high schools might attract some  
14 students from outside of the neighborhood, but that  
15 wouldn't necessarily be the case for middle schools.

16 MR. MARKS: And Dr. Muñoz, as we saw in this  
17 last 9 percent round, tax credits went to the suburbs and  
18 to the far flung areas and not to the cities, and so we  
19 have maps that we've prepared that show just a large part  
20 of the city of Austin, the city of Houston are ineligible  
21 because of the schools, because the middle and high  
22 schools. And when you look at those maps and you think  
23 about whether it would be better to build tax credit  
24 housing there or in some of the far flung areas where the  
25 tax credits have gone, it's hard to make an argument that

1 a kid is better off in a far flung area.

2 DR. MUÑOZ: I'm not prepared to make that  
3 argument either, but your argument is that we be  
4 incognizant of the low performing schools in the  
5 neighborhood. That doesn't strike me as a reasonable  
6 argument either.

7 MR. MARKS: So an elementary school has small  
8 attendance boundaries that tend to be a neighborhood. It  
9 is called the undesirable neighborhood school, and so you  
10 would think that you would have criteria related to the  
11 neighborhood. But middle schools have a very large  
12 attendance boundaries; many, many neighborhoods are  
13 covered by middle school attendance boundaries, and high  
14 schools the same. So to say that such a huge geographic  
15 area is undesirable because of a public middle school.

16 DR. MUÑOZ: I'm going to look into that point  
17 of the middle school. I think the issue you raised is  
18 fair with respect to the high school. You may be right  
19 and I'm just not aware of sort of how that gets defined,  
20 but I'll ask the question about that.

21 MR. MARKS: Thank you.

22 DR. MUÑOZ: I appreciate your patience.

23 MR. OXER: Thanks, Scott.

24 Janine.

25 MS. SISAK: Good afternoon, everyone. I'm

1 Janine Sisak. I'm here today on behalf of the TAAHP as  
2 the QAP chair.

3 TAAHP did use kind of Scott's markup to the  
4 undesirable neighborhood features part of the Multifamily  
5 Rules in submitting our comments, so we are in large part  
6 in agreement with many of the arguments that Scott raise.

7 However, for me, I just wanted to provide a little kind  
8 of on-the-ground reality check for this. This particular  
9 provision I think is more problematic for 4 percent deals.

10 As Scott mentioned, the 9 percent program isn't really  
11 serving the urban areas right now, so we're left with the  
12 4 percent housing tax credit as the tool to serve those  
13 areas which have the largest population of people in need  
14 of this type of housing. And so to have this very robust  
15 yet subjective threshold rule, when none of the other  
16 larger states in the country have anything like this, I  
17 think deserves a higher level of scrutiny than we've given  
18 it.

19 We took a lot of time to mark up this  
20 provision. Again, Plan A was removal, Plan B was a  
21 markup, and unlike a lot of provisions of the Multifamily  
22 Rules and the QAP, a lot of our changes in this particular  
23 section were not addressed or accepted, and so many  
24 people, as Marni noted so many people commented on the  
25 section, when we first had a draft, so much conversation

1 dealt with this section. And we're just not seeing enough  
2 change here, we'd like to see more change in this section.

3 And it's not about giving developers kind of unfettered  
4 access to go to the worst neighborhoods in urban areas.  
5 That would be a bad investment for us as private  
6 developers, we would have a hard time getting investors  
7 and lenders to go into these neighborhoods.

8 It's more of kind of the process and how  
9 bloated this rule has gotten over the years and kind of  
10 the devil in the details, and we talked a lot about it  
11 with Neighborhood Scout, the school data is also  
12 problematic, and what happens is just we get caught in  
13 this process and it takes time. We spent how long, two  
14 hours this morning on that deal. It's an important  
15 conversation, I'm glad that we're having it, but as Scott  
16 mentioned, time kills bond deals. Bond deals you need  
17 high rent, you need a hot market, you need a QCT. Some of  
18 these QCTs in these urban areas are at-risk because  
19 they're gentrifying so quickly.

20 So if you hold up a bond deal for a couple of  
21 months, kind of arguing these subjective things when I've  
22 heard from other people -- I personally have never gotten  
23 into one of these scenarios with staff -- but this concept  
24 that a craft deal is like a little bit of a moving target  
25 I think is the problem. I can't speak for the room, but I

1 personally don't think that there's anything wrong with  
2 the concept behind this policy. It's how it's written in  
3 a five-page rule and how it takes so much staff time and  
4 also developer time and money. I mean, Joy spent \$75,000  
5 getting through this process on one of her deals. And so  
6 that's the problem I really see and we really need to make  
7 some more changes here.

8 So those are my comments. Thank you for your  
9 time.

10 MR. OXER: Thanks, Janine.

11 Sarah.

12 MS. S. ANDERSON: Sarah Anderson, S. Anderson  
13 Consulting. And I'm actually just here to make one  
14 comment and this is my own personal comment, and it has to  
15 do with Neighborhood Scout.

16 One, I'd like to thank staff for listening and  
17 doing some of the research on Neighborhood Scout. They  
18 did put in the provision that allows us to bring in local  
19 data. We actually -- I can't say we but a person who  
20 works with me actually called and spoke with the CEO of  
21 Neighborhood Scout. She found the anomalous data for an  
22 area in rural that had almost no crime rate in real terms  
23 but because of the way that they extrapolate and they do  
24 projections, showed it to be over the 18 threshold which  
25 made absolutely no sense. And she went through, she spent

1 days going through their online technical support and  
2 ended up literally calling the CEO on this, who verified  
3 that they do strange extrapolations with their data in  
4 some areas and said, yes, that there were going to be  
5 problems.

6 So I think that as long as you guys are looking  
7 and understanding that there are problems and you allow us  
8 to come in, I think hopefully everybody here will be able  
9 to bring data that will show if there isn't a problem,  
10 they can show real data. And so I'd like to thank staff  
11 for doing that, and I just wanted to reiterate that even  
12 the owners of Neighborhood Scout will tell you that it's  
13 not that they're just taking data and reiterating it, that  
14 they're actually manipulating it to fit boundaries and to  
15 do things and there will be anomalous responses.

16 DR. MUÑOZ: But Sarah, to your point, just this  
17 morning is a perfect example of a reported number that was  
18 discussed, debated, additional evidence, the captain came  
19 in, it was reinforced, and a different outcome.

20 MS. S. ANDERSON: And what you guys did today I  
21 think is exactly what the rule allows and I think is very  
22 fair.

23 MR. OXER: And the point about, just to  
24 reiterate this, at least my understanding of it,  
25 Neighborhood Scout is not there as a disqualifier, it's an

1 indicator of a need for closer consideration.

2 MS. S. ANDERSON: Absolutely. And I think that  
3 the language change completely reflects that and I think  
4 what you did today reflects, and hopefully the development  
5 community will understand what they've seen today shows  
6 that this isn't 18 and you're disqualifying.

7 DR. MUÑOZ: A closer look at where these  
8 projects are being placed, the desirability, the  
9 characteristics and the general likelihood for success  
10 living in those neighborhoods.

11 MS. S. ANDERSON: Right. And I think short of  
12 doing what Scott says and getting rid of all of it, I  
13 appreciate the ability to have a dialogue on it.

14 Thank you.

15 MR. OXER: Thanks for your comments.

16 Bobby.

17 MR. BOWLING: I'm Bobby Bowling. I'm the  
18 president of TAAHP and I'm a builder-developer from El  
19 Paso.

20 I wanted to go back to the school issue and I  
21 wanted to add some more testimony to the debate about the  
22 high school. I think that's an excellent point that Scott  
23 made and the way that he made the analogy about the  
24 neighborhood being more in tune with an elementary school  
25 boundary and then gets larger with a middle school and



1 then really in some cases very huge for a high school.  
2 And I want to make sure that the data that we look at from  
3 TEA differentiates between the way the scores are for  
4 elementary, middle and high school as well.

5           So we're tied to a score and it's not that  
6 difficult for the elementary schools to beat the state  
7 median because it's more heavily weighted on attendance  
8 and participation amongst the elementary school kids, and  
9 it gets a little away from that and more on testing with  
10 middle school, and at the high school level becomes almost  
11 entirely test-driven. And so again, when we've got in  
12 some instances -- you heard this morning there's a high  
13 school that's going to have 6,000 (sic) students.

14           And I also agree with what Scott is saying  
15 about the vast majority of our kids are elementary school  
16 children, and to your question, Dr. Muñoz, well, don't  
17 they progress. I mean, ideally in our program in El Paso,  
18 we're trying to get these people into homeownership at  
19 some point. So they come in as a young family, as a young  
20 couple and they've got young children, hopefully they're  
21 making it through with our social services and our  
22 programs and our homebuyer counseling and our credit  
23 counseling that we're able to sell them a home by the time  
24 their children are high school children. So it's not as  
25 important what the high school is if we have one out of

1 100 units with a high school kid but yet we have maybe 70  
2 or 80 with elementary school kids.

3 So I think it's something that needs to be  
4 looked at. If you're going to reopen that, I want to just  
5 provide that testimony and support you on that. The  
6 elementary school is way more important than the high  
7 school or the middle school, and I would advocate that you  
8 have testimony, you have good reasoned comments from the  
9 development community and not that much objection to  
10 taking the high school out of the formula. It limits us  
11 on the sites we can get, like Janine testified to. In El  
12 Paso Independent School District, sometimes we have one or  
13 two high schools that meet the criterion, and it just  
14 limits where we can go, it's not a good utilization of tax  
15 credit dollars, and we have to pay more for those sites if  
16 there's only five of them in the whole city.

17 So I wanted to provide that testimony. Thank  
18 you.

19 MR. OXER: Good. Thanks, Bobby.

20 MR. ALLGEIER: Dan Allgeier, speaking on behalf  
21 of Texas Rural Housing Association today. I want to  
22 reiterate the high school issue. Particularly in a rural  
23 area, a high school may cover half the county, not just  
24 the town and certainly not the neighborhood.

25 And secondly, Neighborhood Scout our research

1 would indicate that they use a very small amount of data,  
2 particularly in rural areas, to come up with their  
3 percentages. Sometimes they don't really have data to  
4 work with, and as a result, yeah, I don't know of a better  
5 way to start but we need to look and see if there's a  
6 better one.

7 MR. OXER: Okay. Thanks, Dan.

8 DR. MUÑOZ: Marni, I'm going to say that I  
9 think in the case of rural communities, at least in terms  
10 of the high schools, that's something that we should  
11 really look at. I've got friends that live in towns like  
12 Crosbyton or Ralls and Lamesa and they've got kids coming  
13 from way, way out, Tahoka. And so if you put a little  
14 development somewhere, the kids that feed into the high  
15 school, they might be 15 miles away. I hadn't thought  
16 about rural towns.

17 MS. HOLLOWAY: And I think it's important to  
18 remember --

19 DR. MUÑOZ: You're hearing this theme over and  
20 over. Right?

21 MS. HOLLOWAY: Right. But the other part of it  
22 is this is undesirable neighborhood characteristics, this  
23 isn't QAP scoring, and we've done some new things with  
24 scoring in the QAP, and yes, there's a bunch of comment  
25 about that. And again, undesirable neighborhood

1 characteristics is not a full stop.

2 MR. OXER: And there is an appeal process.

3 MS. HOLLOWAY: And we talked today about  
4 Sterling High School and how it has gone through this  
5 progress and it's getting better. And I would imagine in  
6 the case of a rural high school, part of that conversation  
7 would be, look, these kids are coming from all over the  
8 place.

9 DR. MUÑOZ: This was my way of bringing you up  
10 to the mic, Marni, given that there's clearly a theme from  
11 the comments with the schools and with the crime rate.

12 MS. HOLLOWAY: Yes.

13 DR. MUÑOZ: This is my way to bring you up and  
14 provide some proactive remarks.

15 MS. HOLLOWAY: Can I answer any other  
16 questions?

17 MR. OXER: Thanks, Marni.

18 Terri. You know --

19 MS. T. ANDERSON: Yes, sir, Chairman Oxer, as I  
20 hang my head low.

21 Good afternoon, sir. Thank you Board members.

22 Terri Anderson, Anderson Development and Construction. I  
23 do apologize for telling Chairman Oxer earlier that I had  
24 no comments.

25 So I just have a brief comment, and that is as

1 we're looking at neighborhood characteristics and  
2 features, and the group that we heard from earlier today  
3 from Houston, and we're going and essentially -- I hate to  
4 use the term redlining but that's almost what it is when  
5 we're discussing crime, we're discussing schools, there  
6 are plenty of neighborhoods within the State of Texas that  
7 need safe, decent and affordable housing. And for the  
8 people who live there, I think they definitely deserve an  
9 opportunity to live in neighborhoods they're comfortable  
10 with, and it's difficult when you have a particular  
11 governing board or a staff that isn't necessarily living  
12 in their neighborhoods or experiencing the things that  
13 they're experiencing.

14 I understand the responsibility we all feel to  
15 make sure we're developing in areas that are going to be  
16 successful and the residents are going to be successful,  
17 but I'd like for us all to keep in mind, certainly in the  
18 rules and certainly in threshold, when you put certain  
19 criteria in the rules that preclude particular types of  
20 development, the necessity for appeal to go into those  
21 neighborhood, those neighborhoods that are being left  
22 behind, in my opinion at this point, should have more  
23 consideration and not explicitly be precluded.

24 MR. OXER: Good comment. Thanks, Terri.

25 MS. T. ANDERSON: Thank you.

1 MR. OXER: Mr. E-D.

2 MR. IRVINE: Actually, I have several comments.

3 In a moment I'm going to read another letter into the  
4 record, but I'm going to borrow a page from a former Board  
5 member's book, Mark McWatters, who said, Always go back  
6 and reread the statute. And the statute doesn't talk in  
7 terms of safe, decent and affordable housing, it talks in  
8 terms of a decent, safe, affordable living environment.  
9 And I think that it's very important to think of the  
10 environment in which we are putting housing and making  
11 sure that it meets those statutory attributes.

12 I think that Marni's point about it not being a  
13 full stop that you have a disclosable undesirable  
14 characteristic is really key and essential, but staff is  
15 absolutely committed to engaging in whatever process we  
16 need to to help work through these issues so that when we  
17 make Board recommendations to make awards, we're confident  
18 that it lines up with those statutory policies.

19 I'm dismayed that somebody would blow through  
20 \$75,000 trying to work through these issues, and I  
21 certainly pledge to you, call us, let's meet and let's  
22 figure out the most expeditious way to get to the bottom  
23 line of whether your trip wire that you've hit is  
24 something that you can get past. And quite honestly, from  
25 a staff perspective, we think it's a fairly easy formula.

1 We are not the experts on education, we are not the  
2 experts on safety. Bringing in expert opinions from  
3 school administrators, from law enforcement officials and  
4 so forth, that's the way that we get to the place where we  
5 have documented bases for comfort in making  
6 recommendations to you.

7 MR. OXER: Go ahead and I'll make a few  
8 comments.

9 MR. IRVINE: And I'm sorry if it's a cumbersome  
10 process. I think that the process does look a lot  
11 different in the proposed rules, and this is a continuum.

12 We don't want to be making radical changes, we want to be  
13 making incremental changes so that we have something that  
14 makes sense from year to year and is easily  
15 understandable.

16 As for the letter I want to read into the  
17 record, it's hard to read off my little teeny tiny phone.

18 This is from State Representatives Larry Phillips, Byron  
19 Cook, Drew Darby, Trent Ashby, DeWayne Burns, Travis  
20 Clardy, Chris Petty, Drew Springer, Gary VanDeaver, and  
21 John Raney.

22 "Dear Mr. Irvine, We were recently made aware  
23 of proposed changes to the criteria for the affordable  
24 housing tax credit program administered by TDHCA. As  
25 representatives of many historic and small and mid-size

1 cities, we're concerned with two sections specifically.

2 "The first is that under the draft 2017  
3 Qualified Allocation Plan, cities with a population under  
4 100,000 are not eligible to receive any points for the  
5 concerted revitalization plan."

6 We've addressed that issue; that's treated  
7 separately in the QAP. But he does go on to indicate:

8 "Also of concern is the separation of  
9 requirement for rail lines from 100 feet to 500 feet.  
10 Many downtowns in Texas were centered around a rail line  
11 and the increase in the separation unduly disqualifies  
12 potentially important projects in our cities. With the  
13 recent interest in down revitalization across the nation,  
14 we in Texas should not discourage downtown housing  
15 projects where appropriate.

16 "Accordingly, we respectfully request the TDHCA  
17 Board reopen the comment period to accept this letter and  
18 to revise the proposed rules as discussed herein.

19 "Thank you for your consideration."

20 Signed by the members I named.

21 MR. OXER: All right. Thanks, Tim.

22 Marni, anything else on 6(b), as I recall?

23 MS. HOLLOWAY: No, sir, I have nothing else.

24 MR. IRVINE: Would you like to say anything on  
25 that issue about the representatives' request to address



1 the railroad separation?

2 MS. HOLLOWAY: Well, I explained earlier  
3 staff's reasoning behind the 500 feet. I would also  
4 remind you that we have added historic preservation as a  
5 potential exemption from that requirement, so that those  
6 small towns or small cities or anywhere else that when  
7 you're working on revitalizing these older areas, there is  
8 a path to not have these vehicles stop.

9 MR. ECCLES: And there's something about  
10 ordinances that allow for closer development. Is that  
11 part of it as well?

12 MS. HOLLOWAY: That's part of the rule and that  
13 was in the draft and it's continued through to the final.

14 MR. IRVINE: And how about rehab deals?

15 MS. HOLLOWAY: The rule as it sits allows for a  
16 path to exemption for affordable housing projects that are  
17 being rehabilitated. And that's from last year and  
18 probably many years before.

19 MR. OXER: We post this, we adopt this, we're  
20 basically posting it into the *Register*. Right?

21 MS. HOLLOWAY: Chapter 10, the section we're  
22 discussing right now, along with the QAP, will go to the  
23 governor by November 15. The governor has a couple of  
24 weeks to review, make any changes. Once the governor  
25 approves the final, at that point we will publish in the

1     *Register.*

2                   MR. OXER: Any other questions from the Board?

3                   (No response.)

4                   MR. OXER: Regarding item 6(b) on the rules,  
5 motion by Mr. Goodwin, second by Dr. Muñoz to approve  
6 staff recommendation on item 6(b). There's been public  
7 comment. There's no request for additional comment.

8 Those in favor?

9                   (A show of hands.)

10                  MR. OXER: And those opposed?

11                  (No response.)

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

13                  Good job, Marni. 6(a).

14                  MS. HOLLOWAY: Item 6(a).

15                  MR. OXER: I'll give you the option. The chair  
16 has the option to change the order.

17                  MS. HOLLOWAY: I appreciate you taking care of  
18 me on that one.

19                  Presentation, discussion and possible action on  
20 an order adopting the repeal of the 2016 10 TAC Chapter 11  
21 and adopting the new 2017 10 TAC Chapter 11 concerning the  
22 Housing Tax Credit Program Qualified Allocation Plan.

23                  The Department is required by Section 42(m)(1)  
24 of the Internal Revenue Code and Texas Government Code  
25 2306.67022 to develop a Qualified Allocation Plan that

1 establishes the procedures and requirements relating to an  
2 allocation of housing tax credits. The Board approved the  
3 proposed new QAP at the September 8 meeting, and it was  
4 published on the *Texas Register* on September 23 for public  
5 comment. In keeping with the requirements of the  
6 Administrative Procedures Act, staff has reviewed all  
7 comments received and provided a reasoned response to  
8 those comments. Texas Government Code 2306.6724(b)  
9 requires that the Board adopt and submit to the governor a  
10 proposed Qualified Allocation Plan no later than November  
11 15.

12 More than 70 commenters participated in the QAP  
13 public comment process this year. I need to say publicly  
14 in front of everyone that Teresa and Shay rock, they  
15 absolutely do.

16 (Applause.)

17 MS. HOLLOWAY: And Patrick helped. They  
18 gathered all of these comments, read through all of them,  
19 summarized them, provided responses, worked like fiends,  
20 and I am so honored and I am so glad they did it.

21 So as you will recall, during 2016, staff met  
22 monthly with stakeholders to gather input for the 2017  
23 QAP. A number of topics were discussed, but the bulk of  
24 the conversations were around the opportunity index and  
25 educational excellence. As a result of those

1 conversations, a number of changes have been made to the  
2 2017 QAP draft in order to promote dispersion of  
3 affordable housing, including dispersion into new areas of  
4 high opportunity, areas undergoing concerted plans of  
5 revitalization, historically underserved areas, and a new  
6 initiative, dispersion into urban core areas undergoing or  
7 having the potential for gentrification.

8           So a couple of highlights. We increased the  
9 threshold poverty rate for the opportunity index which  
10 increased the number of eligible census tracts just at  
11 that level, going from 15 percent to 20 percent. We  
12 increased eligible census tracts by 18-1/2 percent. We've  
13 added an option for third quartile census tracts to  
14 potentially access opportunity index points that has added  
15 up to 666 census tracts. We have also added an option to  
16 the concerted revitalization plan that now allows sites in  
17 those neighborhoods to gain additional points if they have  
18 some of the features of the high opportunity area and that  
19 effectively evens scoring between opportunity and  
20 concerted revitalization. The new menu of 15 options for  
21 gaining maximum opportunity index points should allow for  
22 a broader range of sites.

23           We have decoupled opportunity and educational  
24 quality as a direct result of stakeholder input, and we've  
25 regionalized scoring and acknowledgment of the differences

1 across the state. Our research indicates that 77 percent  
2 of the schools that meet educational quality scoring  
3 criteria are in high opportunity areas, but that also  
4 means that 23 percent of the schools are not in high  
5 opportunity areas but they can still get educational  
6 points. This creates a potential that concerted  
7 revitalization or urban core areas may be able to access  
8 those points. We've added a menu of options to  
9 educational quality in order for developments to maximize  
10 points in that area.

11 A number of the comments we received were too  
12 big of a swing to be considered changes for 2017. These  
13 comments and our own observations will be the basis for  
14 the 2018 QAP planning process which we will start in  
15 December by meeting to lay out the agenda for the next  
16 year.

17 So working through the comments that we  
18 received, just some highlights, there was a great deal of  
19 comment on tiebreakers, and as a result, moving to the  
20 final we have removed one of the educational quality  
21 tiebreakers and we have excluded urban core from  
22 tiebreaker in the at-risk set-aside. We have narrowed the  
23 number of undesirable neighborhood characteristics that  
24 must be disclosed at pre-application to those items that  
25 are easily discerned with an internet search. We've

1 clarified the new tenant services item.

2           There were a number of requests for  
3 clarification of opportunity index items which we have  
4 tried to provide, along with some requested adjustments to  
5 distances. One menu item regarding nearby retail centers  
6 was struck as it really needs further development before  
7 we use it for scoring.

8           There continues to be a great deal of comment  
9 regarding educational quality. We've added clarification  
10 in response to the large number of comments that continue  
11 to express concerns. We've lowered the total point value  
12 on educational quality to three, so it was five points,  
13 we're taking it down to three points, we're making that  
14 recommendation.

15           We have lowered the population limit for the  
16 highest scoring underserved area item so that smaller  
17 cities are able to access that item, and we have expanded  
18 the cities that qualify for the proximity to urban core  
19 item and again excluded it from at-risk set-aside. We've  
20 added some clarifying language from the state  
21 representative item, and the population threshold for  
22 concerted revitalization has been removed which speaks to  
23 the letter that Tim just read to us.

24           These rules involve incremental yet significant  
25 changes. We believe that thoughtful and steady us of

1 incremental improvement is preferable to sweeping change,  
2 providing greater opportunity to examine the effects of  
3 each change to see if it produced the desired outcome in  
4 the desired amount, or if additional adjustments are  
5 warranted. This approach also ensures that if some change  
6 produces an undesirable outcome, we have optimal  
7 information on how to make that correction for the 2018  
8 QAP.

9 Staff recommends that the final order adopting  
10 the repeal of 10 TAC Chapter 11 concerning the Housing Tax  
11 Credit Qualified Allocation Plan and the final order  
12 adopting the new 10 TAC Chapter 11 concerning the Housing  
13 Tax Credit Program Qualified Allocation Plan be approved  
14 as presented.

15 MR. OXER: Any questions from the Board?

16 (No response.)

17 MR. OXER: Motion to consider.

18 MR. GOODWIN: Move staff's recommendation.

19 MR. OXER: Motion by Mr. Goodwin to approve  
20 staff recommendation.

21 MR. GANN: Second.

22 MR. OXER: And second by Mr. Gann.

23 Tracy did you want to say something on this  
24 one? This is on the QAP. For the record, this is 6(a),  
25 the QAP.

1 MS. FINE: Sure. Tracey Fine with National  
2 Church Residences, and I really appreciate the open  
3 dialogue that staff has allowed throughout this past QAP  
4 creation.

5 And I have a very minor comment and it has to  
6 do with the rural concerted revitalization plan targeted  
7 to the rural areas. In this last draft, the year that you  
8 needed to have built your project to qualify, you did move  
9 it up 59 1985 which is 32-year age to get our building  
10 qualified, and I was going to ask that we could move that  
11 to a 25-year look-back. Twenty-five years would be 1992.

12 Twenty-five years is not an arbitrary number. Twenty-  
13 five years is when major systems in multifamily buildings  
14 really start to break down.

15 Fannie Mae has an estimated useful life chart  
16 for multifamily properties and I pulled some of those  
17 major systems off and I just wanted to highlight them:  
18 Pavement 25 years, vinyl siding 25, exterior stucco and  
19 composite wood 20, roofing 25 years, exterior doors 25,  
20 all exterior amenities such as tot-lots, swings, pools and  
21 kiosks by up to 25 years, exterior lighting 25 years, hot  
22 water systems 15, furnace 20, boiler room 20 to 25,  
23 elevator equipment 25, emergency generator 25, smoke and  
24 fire detection systems 15, common area fixtures 10 to 20,  
25 unit fixtures 10 to 20.



1           Systems really start to break down between 20  
2 and 25 years, so I don't want to wait too long to have  
3 these properties eligible to access these really important  
4 revitalization plans, so I just ask that the qualifying  
5 year be moved to only 25 years to 1992 as opposed to 1985.

6           MR. OXER: Okay. Thanks for your comment.

7           You guys up here on the front row, do all three  
8 of you have something to say? Janine, you go first.

9           MS. SISAK: We're going to be quick too.  
10 Janine Sisak, again, from TAAHP QAP committee.

11           I really appreciated Marni's rundown of the  
12 changes we made and the process of the roundtables. I  
13 think that was a really fair assessment that we've made  
14 kind of small, incremental changes. The roundtables were  
15 really geared towards those topics that she mentioned, and  
16 then late in the day, the ICP litigation was dismissed and  
17 at that point I, in my role as the TAAHP QAP chair,  
18 started pushing for more than small tweaks to the QAP. I  
19 mean, I feel like this is the time. You guys know I was  
20 here last time pushing for educational quality to be  
21 removed altogether. And mostly because this framework  
22 that we have of HOA and undesirables and schools, it's  
23 just still leaving urban areas that are good strong areas  
24 that are undergoing gentrification, it is leaving them  
25 behind, and this tweaked QAP is still leaving large swaths

1 of our cities, good neighborhoods that cannot compete.

2 So in looking forward to next year, we really  
3 need to look at HOA again. We did pick up some census  
4 tracts, quite a number or census tracts, as Marni noted,  
5 but most of them are large census tracts on the outlying  
6 parts of town with not a lot of population, so therefore,  
7 these are not the areas of greatest need. Yes, we're  
8 picking up census tracts, we're not picking up the right  
9 census tracts. So I think we need to look at that closely  
10 for next year.

11 The second is schools. I really appreciate the  
12 consideration given to lowering the educational quality  
13 points to three, especially in conjunction with the urban  
14 core points. I think that's a step in the right  
15 direction. We still need to look really closely at  
16 charter schools and Choice districts because without those  
17 issues being addressed, again, large, large portions of  
18 Dallas ISD, San Antonio ISD, Houston ISD, Austin ISD, they  
19 cannot compete. We need to really figure out a way to do  
20 that. I know it's challenging but I'm sure we can get  
21 there. Again, going back to the undesirable, I think  
22 there's too much focus on middle and high schools in the  
23 school choice.

24 And then deconcentration and dispersion, again,  
25 I like the urban core points but they're offset by the

1 deconcentration or dispersion points for census tracts  
2 that don't have tax credits because that's always going to  
3 favor the most outlying areas.

4           So as I said to Tim last week, I hope the  
5 incremental changes kind of result in some urban deals  
6 this year. I'm willing to kind of see what happens, I'm  
7 also willing to work closely with staff if the result  
8 isn't achieved to kind of get us there next year. All  
9 this stuff looks really good on paper, but on the ground  
10 I'm still a little skeptical that we're going to get to  
11 where we need to get. So again, I'm committed to working  
12 with everyone to get there next year, get closer to the  
13 desired place next year.

14           Thank you very much, and thanks to staff.

15           MR. OXER: Thank you for your thoughts.

16           Okay, Sarah.

17           MS. S. ANDERSON: Again, Sarah Anderson. This  
18 time I'm wearing my that as representative for Texas  
19 Coalition of Affordable Developers.

20           And we'd like to start off with just a big  
21 thank you. The processes can always be improved, but I  
22 can tell you that at the end of the day you're probably  
23 seeing the fewest number of comments here at the end, and  
24 really we're talking about next year. So we had several  
25 comments between the draft and this one that came out, and

1 I feel like the most important ones were addressed and we  
2 feel like the QAP is very workable. So thank you. Tim  
3 met with us separately, we've met with staff, we did  
4 public comments, and we feel like we did our part and I  
5 feel like it was listened to. So thank you.

6 The only comment related to this QAP, and I'm  
7 not asking for a change, but I do want to bring it as  
8 we've seen the final changes and we see where scoring is  
9 going to lead us, I did want to point out that essentially  
10 what this QAP does is says that your biggest priority is  
11 going to be historic preservation this year. Now, I don't  
12 know if that was an intended or unintended, but when you  
13 work through the QAP and when you start looking at scoring  
14 and what way you're going to go, that ends up being the  
15 deal breaker, and that essentially happened when we  
16 lowered the school points.

17 So again, I don't have a dog in this fight one  
18 way or the other but I think it's important to note that  
19 that was the end result of changes. I think that's fine,  
20 but I think that as we look at this, it may be something  
21 for next year that that may not be what we want the top  
22 priority to be. Maybe we won't have that many at the end  
23 of the day that come in, but I do think that I wanted that  
24 in front of you and knowing it as we go forward and that  
25 maybe next year that won't be the direction that we want

1 to go.

2 Thank you.

3 MR. OXER: Thanks for your thoughts.

4 MR. GUTTMAN: I'm think I'm the only one that  
5 has to look this up. John Guttman, JAS Development  
6 Company.

7 I just have one quick comment today that I'd  
8 like to make regarding changes to the latest draft of the  
9 QAP under the opportunity index scoring. As Marni  
10 mentioned, one of the key concerns throughout the  
11 roundtables this summer has been opening up new areas for  
12 development, and I think they've done a tremendous job  
13 with the new opportunity index, the scoring items, how  
14 they've redrafted the scoring and tiebreakers, but in this  
15 latest draft, as it reads, third quartile areas are not  
16 able to score the full seven points.

17 As it's broken out, Part A allows you to score  
18 two points and then Part B allows you to score a total of  
19 five points, so a third quartile site would only score up  
20 to six points. I would just request that staff either  
21 return to the previous draft of how the language read for  
22 the opportunity index, or add language which would allow a  
23 site that's scores only one point in Part A to score up to  
24 six points for a maximum of seven.

25 MR. OXER: Good. Any questions?

1 MR. ECCLES: Was this a comment that you made  
2 during the public comment period, or is this new?

3 MR. GUTTMAN: This is a new comment. I don't  
4 know if anybody made comment to this during the public  
5 comment period. It was only I noticed the change from the  
6 previous draft to the new draft.

7 MR. OXER: This addresses an item that is in  
8 the new draft.

9 Shay, have you got something to say on that?

10 MS. GAMBLE: Shay Gamble, administrator for the  
11 Housing Tax Credit Program.

12 The comment focused on the fact that the  
13 language in that Section B was unclear as far as how the  
14 scoring could be done, and so what staff did was try to  
15 clarify the language, and I think that what this commenter  
16 is saying is that in making that clarification, it is  
17 equally unclear. So I think that's what he's saying, but  
18 there was a change made to that section based on public  
19 comment.

20 MR. OXER: Okay, good. Thanks.

21 MS. SISAK: I think this is really important.  
22 I'm sorry. Can I not?

23 MR. OXER: Yes. You need to say who you are  
24 first.

25 MS. SISAK: Janine Sisak, again.

1 I think the intent, though, was always to have  
2 those two scenarios score the same, so I think there's a  
3 drafting problem in the current draft.

4 MR. OXER: Okay. Message received. You guys  
5 got that. That's a thought on the current draft so it's  
6 not a new comment.

7 MR. ECCLES: So this would be like a drafting  
8 thing that could be done after adoption, or is there  
9 language that would fix this right now that you'd like to  
10 propose?

11 MR. IRVINE: Two ways you could address it.  
12 You could either make something up on the fly and probably  
13 sit down with the folks that had made the comment and see  
14 that everybody agrees on how it works, or the Board could  
15 give general direction in its resolution authorizing staff  
16 to refine it reflect an intent.

17 MR. OXER: Here's the chairman's thought on it.

18 Shay recognized that there's some lack of clarity that  
19 could probably be polished, so what I'm going to suggest  
20 is that staff take that, figure it out, and in between now  
21 and when you ship it over to the Governor's Office, you  
22 address whatever way you can to clarify that.

23 MS. HOLLOWAY: Yes. The intent was not to  
24 limit those third quartile census tracts to six points.

25 MR. OXER: So we're basically taking John's

1 point.

2 MS. HOLLOWAY: I'm seeing where the issue is  
3 here and we absolutely will make that clear.

4 MR. OXER: Got it.

5 Terri, not once but twice.

6 MS. T. ANDERSON: Not once but twice. I won't  
7 sing Three Times a Lady, so we're just going to keep it at  
8 twice and that's it. Terri Anderson, Anderson Development  
9 and Construction.

10 I did want to take the opportunity to thank  
11 staff and compliment them for allowing us to have so many  
12 meetings for the 2017 draft QAP. And the one suggestion I  
13 would have is that when we go into the 2018 draft work  
14 sessions that we actually have a draft of the proposed  
15 changes so we can review it and we can understand what's  
16 in there so we can look at it on a global basis instead of  
17 just small bits and pieces as we go along.

18 And I did make the comment earlier but the one  
19 item that remains under opportunity index which gives me a  
20 little bit of consternation is the fact that the third  
21 quartile census tracts that abut either first or second  
22 quartile census tracts that are either two miles away from  
23 the border or are separated by physical barriers or other  
24 natural barriers are excluded from the ability to receive  
25 points. And that continues to be a concern for me because



1 I do believe it still fits within the general redlining  
2 provisions of either a census tract is eligible for points  
3 or it isn't eligible for points, and those points  
4 obviously translate into lending and investment.

5 So as a state, I would hope that we're  
6 certainly more interested in looking at census tracts that  
7 either eligible or ineligible as opposed to neighborhoods  
8 that may sit on the opposite of the river or the opposite  
9 side of the railroad tracks which historically have been  
10 very discriminatory for minority neighborhoods.

11 MR. OXER: Message received. Thanks for your  
12 comments.

13 MS. T. ANDERSON: Thank you, sir.

14 MR. OXER: Marni, you're good on all this then?

15 MS. HOLLOWAY: Yes, sir.

16 MR. OXER: You've taken notes, you're working  
17 on all those points.

18 MS. HOLLOWAY: Yes. We will make the changes  
19 directed to the opportunity index, the description of the  
20 threshold items in order to clarify that the maximum score  
21 under this item is seven point, no matter how the  
22 threshold is reached.

23 And we will most certainly take into  
24 consideration, as we move into the 2018 planning session,  
25 the comments and concerns that were raised. I'd like to

1 remind everyone that we have a new staff person. Patrick  
2 is going to be devoting his time to those real-time  
3 updates but also to coordinating that effort and making  
4 sure that we're all using the very best data and sources  
5 as we're making decisions.

6 MR. OXER: Good. Welcome to the team, Patrick.

7 With regard to item 6(a), do you have anything  
8 else you need to say on this item?

9 MR. IRVINE: Actually, can we have a quick  
10 sideline conversation?

11 MR. OXER: Yes. So how about those Cubs?

12 (General laughter.)

13 MR. OXER: We are taking a brief timeout for  
14 the E-D and counsel to counsel.

15 (Pause.)

16 MR. OXER: Okay. With respect to item 6(a),  
17 motion by Mr. Goodwin, second by Mr. Gann to approve staff  
18 recommendation regarding the QAP, we've heard public  
19 comment, there's no request for more public comment.  
20 Motion by Mr. Goodwin, second by Mr. Gann to approve staff  
21 recommendation. Those in favor?

22 (A show of hands.)

23 MR. OXER: And those opposed?

24 (No response.)

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

1           Brent, you get the last shot -- I'm sorry --  
2 next to last.

3           Hold on, Brent. I've got something I need to  
4 take care of here.

5           With respect to item 6(b), Marni, the one we  
6 just took care of, there was the component of the nuclear  
7 plant distance and we didn't exactly address that.

8           MS. HOLLOWAY: So the ten-mile measure that is  
9 suggested by staff, we received one comment or a couple of  
10 comments and the comment from the legislators. They're  
11 all related to one piece of property that's within nine  
12 miles of a nuclear plant. Please keep in mind that there  
13 are only two nuclear plants in the State of Texas. Ten  
14 miles is considered the plume exposure pathway radius from  
15 a reactor in an emergency planning zone by the Nuclear  
16 Regulatory Commission. So this is not about daily  
17 exposure to radiation, this is about a safe distance in  
18 case of an accident. We do not recommend a change based  
19 on the comment.

20           MR. OXER: So the NRC, Chairman Klein, Dale  
21 Klein, who's the chairman of the NRC, basically is telling  
22 all the nuclear reactor operating utilities they've got to  
23 have a safety plan for everybody within five miles, if I  
24 recall your earlier commentary.

25           MS. HOLLOWAY: There's a five-mile zone that I

1 believe is the most intense, and then there's this ten-  
2 mile zone. And there's actually a 50-mile zone but that  
3 seems a little excessive for purposes of this rule. And  
4 yes, nuclear plants will have emergency plans, but this  
5 plume exposure pathway radius seems, from our research and  
6 form information that's posted on the NRC's website, to be  
7 sort of the key measurement.

8 MR. OXER: Okay. This is not an arbitrary  
9 number, this is a number you have data to backup and  
10 process and thinking logically. And I understand that  
11 whatever we say will exclude that area inside that.  
12 Fundamentally, we can say it's not about where the  
13 absolute line is on the safety risk, nor do we think that  
14 it's going to be absolutely safe anywhere.

15 MS. HOLLOWAY: Or eleven miles.

16 MR. OXER: Exactly.

17 MS. HOLLOWAY: This the data that we have, the  
18 information that we have available to us from the Nuclear  
19 Regulatory Commission, and in their FAQ about emergency  
20 preparedness and response.

21 MR. OXER: Does any Board member want to offer  
22 any other consideration for that item with respect to  
23 safety on the nuclear facilities? Otherwise, it's been  
24 voted on. If you do that, if you want to offer anything  
25 else, we have to reconsider that item.

1 (No response.)

2 MR. OXER: Okay. Everybody is good on that  
3 one.

4 Brent.

5 MR. STEWART: Brent Stewart, Real Estate  
6 Analysis.

7 So this is the remaining part of Chapter 10,  
8 this is Subchapter D which is the Real Estate Analysis  
9 rules. Presentation, discussion and possible action on  
10 ordering a final adoption of a repeal of the existing  
11 rules and adopting the new rules concerning the  
12 underwriting and loan policy, and directing those final  
13 rules in the *Texas Register*.

14 On September 9, the Board approved the proposed  
15 repeal and new underwriting and loan policies that were  
16 published in the *Texas Register* for public comment.  
17 Fifteen commenters provided comments regarding the  
18 proposed new rules which are included in your Board  
19 writeup, along with the reasoned responses for each.

20 Kind of in summary, there are two comments  
21 related to debt coverage ratio issues, two related to the  
22 methodology of valuating acquisition costs that are  
23 determined and used in the tax credit sizing, three  
24 comments related to developer fee issues, one comment  
25 related to the treatment of allowable reserves, again used

1 in the tax credit sizing, and there were five comments  
2 related to the market study rules, and they were kind of  
3 technical comments. Staff has evaluated each of these and  
4 has provided reasoned responses in your Board book.

5 Before we get into that, I wanted to emphasize  
6 that the basis of the REA rules is to size credits  
7 appropriately and ensure that transactions are at least  
8 preliminarily, based on information known today, feasible.

9 Pursuant to IRC 42(m)(2), the Department is legally bound  
10 to allocate tax credits in an amount no more than  
11 necessary to make the development financially feasible.  
12 Part of that determination requires that the Department  
13 determine the reasonableness of developmental and  
14 operational costs of the project.

15 Chapter 2306.6701 requires the Department to  
16 administer the Tax Credit Program to maximize the number  
17 of suitable affordable residential rental units added to  
18 the state's housing supply. The impact of providing more  
19 credits than needed on one transaction affects the amount  
20 of tax credits available for other applications. Over-  
21 sourcing one provides fewer units for others.

22 So one of the comments related to debt coverage  
23 ratio was to allow for an increase in debt coverage ratio  
24 for properties that have 80 percent or greater Section 8  
25 units. Staff provided a reasoned response there, but

1 basically, the rules already provide for an exception to  
2 debt coverage when there's more than 50 percent of the  
3 units covered with Section 8 vouchers, so we didn't  
4 recommend any changes to that section.

5           The other comment related to DCR is with  
6 respect to limiting the amount of deferred developer fee  
7 on direct loans, and while we agree that limiting that  
8 developer fee issue is probably an issue that warrants  
9 some discussion, we kind of feel like that's outside the  
10 bounds of where we can go with this year's rules. Also,  
11 the direct loan rules are out for comment now, and some of  
12 that may be appropriate for discussion in that rule as  
13 well.

14           Acquisition from seller without current title,  
15 this one staff ended up pulling in total the proposed  
16 language. This proposed rule related to situations where  
17 there's an intermediary buyer-seller where the  
18 intermediary is purchasing the land from the current  
19 title-holder and selling it to tax credit applicant, and  
20 both of those contracts are simultaneous close and  
21 contingent upon one another. And we've seen stations  
22 where --

23           MR. OXER: Is it a back-to-back swap without  
24 any escalation in it, or do they have that step up?

25           MR. STEWART: Step up. And clearly there's

1 appropriate situations where that step up is certainly  
2 valid, legitimate reasons for that. There could be  
3 scenarios where they're entitling the property, there  
4 could be a host of scenarios. And I think that's kind of  
5 part of what we wanted to drill down on. We have seen  
6 situations where it's hard for us to understand that  
7 situation.

8 So with respect to this year's rules, in this  
9 final version of the rules we have pulled that proposed  
10 language out.

11 MR. OXER: It can be modified next year as  
12 needed.

13 MR. STEWART: We'd like to explore it. Yes,  
14 sir. And again, it kind of gets back to keep in mind that  
15 rule would not be limiting anybody's sales price. All  
16 that rule is doing is saying this is the amount that we  
17 would use in the tax credit sizing, which again, I just  
18 talked about Section 41(m) and our statute about sizing.  
19 We're not going to be dictating what somebody can or can't  
20 pay on a transaction.

21 The other comment related to developer fee was  
22 that basically we allow for a 20 percent developer fee on  
23 the building acquisition basis on RAD transactions. This  
24 issue was discussed last year, the same comment was  
25 discussed last year, and the response last year was



1 there's no relationship between the value of a building  
2 and what somebody should be paid a developer fee. A  
3 developer fee is for risk, it's for work, it's for a lot  
4 of things, but it's not tied to the value of a building.  
5 So last year what we said was let's bump it from 15  
6 percent to 20 percent on eligible basis. We felt that  
7 would accommodate somebody for working harder on a RAD  
8 transaction than they might work on another type of  
9 transaction. So that's what we did last year. This year  
10 it's back to we would request 20 percent on the  
11 acquisition basis of the building and staff just has  
12 recommended no change to the rule on that.

13           There was comment about reserves which was  
14 basically lenders will require reserves in situations  
15 where it's a project-based Section 8 property and there's  
16 a big difference between that and the tax credit rents,  
17 for example, and what they want is a reserve for some  
18 period of time that covers that difference in case  
19 something should happen to the Section 8 contract. We  
20 acknowledge that those reserves exist and that lenders  
21 require them, but those aren't something that staff feels  
22 like should be funded with tax credits, it can be funded  
23 through other means.

24           The market study section, there's comments  
25 related to primary market area, secondary market areas and

1 some data that we were requesting from both of those, that  
2 after talking through with the market analysts kind of  
3 realized that the extra work that goes into that may not,  
4 at the end of the day, prove up totally useful. So we've  
5 pulled those out.

6 So probably the biggest issue has related to  
7 value estimates on public housing transactions going  
8 through a RAD conversion. And the issue is when you have  
9 a related party sale, a public housing authority is  
10 selling it to a partnership of which it is the general  
11 partner, the controlling partner, and you're taking a  
12 public housing property that has no income, therefore, you  
13 can't value that, there's nothing there, so what value do  
14 you use to transfer that asset from public housing  
15 property to a tax credit property. And so the two choices  
16 really are do you do that based on restricted rents, what  
17 the future restricted rents would be, or can you do it on  
18 what the market rate units would be if that property had  
19 no restrictions on it at all.

20 When we worked on the Austin transactions, we  
21 had quite a bit of discussion over that issue, and staff  
22 came down to kind of accepting the concept that there is  
23 an opportunity cost for the housing authorities on these  
24 RAD transactions. They could, under various scenarios,  
25 certain scenarios, ask HUD for approval to sell those

1 public housing properties into the market unrestricted and  
2 take those funds and the RAD contract and go do another  
3 property that's unrelated to it. And if they choose to do  
4 that, they would achieve a market value based on market  
5 rents for that property.

6 Under the tax credit scenario, the property at  
7 the end of the day is going to end up with the RAD rents  
8 or tax credit rents, whichever one is in control, so  
9 they've given up this opportunity to realize the cash  
10 that's in the value between the restricted rent value and  
11 the market value. There was a theory that was thrown out  
12 there that was kind of the point in time theory that we  
13 had a hard time getting our heads around, but when we kind  
14 of realized that the opportunity cost kind of approach  
15 made some sense, that's how we ended up getting  
16 comfortable with the Austin deals.

17 So now it comes down in the rule as published,  
18 the draft as published basically said we're going to use  
19 the restricted rent valuation. Between that point in time  
20 and today, we've dealt with the Austin deal and come to --  
21 you know, we learned. So we have changed the language  
22 that allows the use of the market rents in valuing the  
23 properties, and we've asked that when that appraisal comes  
24 in that establishes that value, that that appraisal be  
25 reviewed so that we're making sure that the value we're

1 using is appropriate in, again, sizing the tax credits.  
2 We are not going to tell the housing authority the price  
3 to actually transfer the property into a LIHTC  
4 partnership, all we're doing is coming up with a value  
5 that we're going to use to size the tax credits in that  
6 transaction.

7 The last item is 10.307(a)(2) is the direct  
8 loan requirements, and you'll see in the rules that that  
9 has been struck completely because those provisions have  
10 been transferred over to the new rule which is  
11 specifically related to direct loans. So stricken from  
12 REA, put in the new rule, changed and what happens through  
13 public comment on the new rule for direct loans.

14 So that's the REA rules for 2017.

15 MR. OXER: So staff recommends approval as  
16 you've described?

17 MR. STEWART: Yes, sir.

18 MR. OXER: Any questions from the Board?

19 MR. GOODWIN: Motion to approve staff's  
20 approval and recommendation.

21 MR. OXER: Motion by Mr. Goodwin to approve  
22 staff recommendation on item 6(c) on the REA rules. Do I  
23 hear a second?

24 DR. MUÑOZ: Second.

25 MR. OXER: Second by Dr. Muñoz. There's no

1 request for public comment.

2 Motion by Mr. Goodwin, second by Dr. Muñoz to  
3 approve staff recommendation on item 6(c). Those in  
4 favor?

5 (A show of hands.)

6 MR. OXER: Opposed?

7 (No response.)

8 MR. OXER: There are none.

9 MR. STEWART: Thank you.

10 MR. OXER: Good work, Brent. Thanks.

11 All right. We are now at the point where we  
12 will accept public comment on matters other than those  
13 items for which there were posted agenda items. This is  
14 for the purpose of building future agendas. Do we have  
15 any request for public comment?

16 (No response.)

17 MR. OXER: There's nobody up here.

18 Any of the staff? You guys get to come up here  
19 and say anything you want, in addition to the happy hours,  
20 you can say anything there too.

21 Ms. Holloway.

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

24 We will be holding a public hearing in this  
25 room 15 minutes after the Board meeting ends in order to

1 take public comment on the Multifamily Direct Loan rule.  
2 We are currently accepting written comment. This is an  
3 opportunity for anyone who wishes to provide verbal  
4 comment. Nancy is going to stick around and record it all  
5 for us.

6 MR. OXER: Great. Thank you.

7 Do you have any comment, Tim?

8 MR. IRVINE: No.

9 MR. OXER: Any of the rest of the staff,  
10 anybody else in the audience, any of the staff or members  
11 of the Board have comment to make?

12 (No response.)

13 MR. OXER: Once again, as chairman I get the  
14 last word. It's a lot of work we do here and we grind  
15 this awfully fine, but it's worth doing and it's worth  
16 doing right.

17 So that said, I'll consider a motion to  
18 adjourn.

19 MR. GOODWIN: So moved.

20 MR. OXER: Motion by Mr. Goodwin to adjourn.  
21 Do I hear a second?

22 MR. GANN: Second.

23 MR. OXER: Second by Mr. Gann. No public  
24 comment required. Those in favor?

25 (A show of hands.)

1 MR. OXER: Those opposed?

2 (No response.)

3 MR. OXER: There are none. We stand adjourned,  
4 folks. See you next month.

5 (Whereupon, at 3:30 p.m., the meeting was  
6 adjourned.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board  
LOCATION: Austin, Texas  
DATE: November 10, 2016

I do hereby certify that the foregoing pages, numbers 1 through 208, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

\_\_\_\_\_  
(Transcriber) 11/16/2016  
(Date)

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